

Reporting to Planning Committee Meeting to be held on: 5th November 2020	Electoral Ward Affected Preston Rural East
Report submitted by: Director of Development and Housing	
Application Number: 06/2018/1157	

1 Summary

1.1 Land adjacent 329 Preston Road, Preston, PR2 5JT

Outline planning application for 30no. dwellings and associated infrastructure with access from Preston Road (all other matters reserved)

Applicant	BCA Management Ltd
Agent	Smith & Love Planning Consultants
Case Officer	Ben Sandover

2 Decision recommended

Refusal

2.1 Reasons for refusal

1. 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. 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 Policy EN1 of the Preston Local Plan 2012-26 (Site Allocations and Development Management Policies).

3 Information

This application was previously presented to the Planning Committee on 13th February 2020, recommended for refusal. The Planning Committee resolved to defer the application, pending a site visit to be undertaken by members of the Committee, which was due to take place on 30th March 2020. However due to the social distancing restrictions imposed by the Government prior to 30th March 2020 in response to the Coronavirus pandemic the site visit was cancelled. In lieu of a site visit Members will be shown a video of the site and its surroundings. The application is returned to the Planning Committee with the same recommendation for refusal as proposed on 13th February 2020, but the report has been updated to include events since February which need to be considered.

Prior to 13th February 2020 this application was originally presented to the Planning Committee on 5th March 2019, recommended for approval. At that time the application was recommended for approval because the Council could not demonstrate a five year supply of deliverable housing land. In such circumstances the National Planning Policy Framework states that the development plan policies most important for determining applications for new housing are out of date. Hence the policies most important for determining the application, namely Core Strategy Policies 1 and 4 and Local Plan Policy EN1, were afforded little weight and it was considered, in applying the tilted balance, that the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits of the proposed development. The Committee resolved to approve the application subject to conditions, and a Section 106 Obligation being secured for providing on-site affordable housing, education provision, and the future management of the public open space.

On 13th December 2019 the Planning Inspectorate issued its decision in relation to an outline planning application for up to 100no. dwellings at 'Land to the South of Chain House Lane, Whitestake, Preston' (Appeal Ref: APP/F2360/W/19/3234070) within the administrative area of South Ribble. The Inspector dismissed the appeal, and, in doing so, undertook a comprehensive analysis of the housing land supply position in South Ribble. Given the nature of the joint strategic plan-making arrangement within Central Lancashire, the Inspector undertook this analysis mindful of the fact that the conclusions drawn '*may have consequences for decision making by neighbouring authorities*' - Preston being one of them.

At paragraph 37 of the decision the Inspector indicated "having regard to paragraphs 33, 73 (and footnote 37) and 212-213 of the Framework, as well as paragraph 062 (Reference ID: 61-062-20190315) of Planning Practice Guidance, the housing requirement contained within Core Strategy Policy 4 is out of date on several counts, as follows;

- i. The policy is over five years old.
- ii. The 2017 Memorandum of Understanding (and the Strategic Housing Market Assessment leading up to it) did not properly constitute a review of Policy 4.
- iii. The significant change resulting from the introduction of the standard method in the 2018 Framework.

The Inspector went on to conclude, at paragraph 37 of the appeal decision, that the standard method of calculating local housing need should be used for the purposes of the

appeal. The Inspector also indicated, at paragraph 33 of the appeal decision, she was satisfied that if Preston applied the standard method to its housing need now, it too would be able to demonstrate a five year supply. Paragraph 004 (Reference ID: 68-004-20190722) of Planning Practice Guidance states for decision-taking purposes, an authority will need to be able to demonstrate a five year housing land supply when dealing with applications and appeals. They can do this in one of two ways:

- using the latest available evidence such as a Strategic Housing Land Availability Assessment (SHLAA), Housing and Economic Land Availability Assessment (HELAA), or an Authority Monitoring Report (AMR);
- 'confirming' the 5 year land supply using a recently adopted plan or through a subsequent annual position statement (as set out in paragraph 74 of the National Planning Policy Framework).

Using the latest available evidence, in January 2020 based on the standard method of calculating local housing need the Council considered that the minimum annual local housing need figure for Preston would be 241 dwellings per annum. Against this minimum requirement, the Council was satisfied that it could demonstrate a five year supply of deliverable housing land when account is taken of completions and planning permission granted up to 1st April 2019.

In view of the above rationale, the application was returned to the Planning Committee on 13th February 2020 to consider the planning application afresh before a decision was issued because the policies of the development plan most important for determining the application need not be considered to be out-of-date, hence the tilted balance referred to above would not apply. Committee resolved to defer the application for a site visit.

Separately, and away from this application, the appellant in the Chain House Lane appeal applied to the high court to challenge the appeal decision on five grounds. On 18th February 2020, this Council received confirmation that the Secretary of State agreed that the decision should be quashed on the basis of one of the grounds of the challenge only, with a date set for a court hearing on 17th June 2020. As such for this application, it was agreed between the Council and the applicant this application remain underdetermined until the judgement of the Chain House Lane challenge was handed down. This judgement was handed on 21st August 2020 quashing the appeal decision on part of one of the five grounds.

Prior to the judgement of the Chain House Lane challenge, 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 (MOU) became effective. The MOU, 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 MOU, 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 1st 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 1st 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.

Following the handing down of the judgement of the Chain House Lane challenge, 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.

This committee report reconsiders the proposed development in view of the above changes.

3.1 Location

The application site is an existing plot of land comprising open green field, approximately 1.18 hectares in size. The site is bound to the south by Preston Road, to the west by the Grimsargh Reservoirs Biological Heritage Site, to the east by existing residential development and to the north by open fields. The site lies beyond the eastern edge of the settlement boundary of the village of Grimsargh. The whole of the site is defined as Open Countryside, also falling within the Area of Separation, as identified on the Policies Map of the Adopted Preston Local Plan 2012-2026 (Site Allocations and Development Management Policies).

3.2 Proposal

The application seeks outline planning permission for the erection of 30no. dwellings with the matter of access applied for only. Matters of scale, layout, appearance and landscaping would be reserved. Access to the site would be obtained off Preston Road to the south. Illustrative details indicate that this would run to the west of the site, then running centrally to the east, with shared access roads running north and south through the site.

The indicative layouts show a mix of semi-detached, terraced properties, and 3no. detached bungalows. The applicant has indicated the bungalows would target those over 55 years of age. 35% of the dwellings on the site would be affordable housing. The applicant has submitted an indicative site plan, indicating how the site could be developed with an area of open space to the north west of the site, a pond to the north east, and an attenuation pond to the centre.

3.3 Relevant planning history

None of relevance.

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 17 – Design of new buildings

Policy 19 – Areas of Separation and Major Open Space

Policy 21 – Landscape character areas

Policy 22 – Biodiversity and geodiversity

Policy 24 – Sport and recreation

Policy 27 – Sustainable resources and new developments
Policy 29 – Water management
Policy 30 – Air quality
Policy 31 – Agricultural land

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

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 EN4 – Areas of Separation
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 Documents (SPD)

Affordable Housing
Design Guide
Open Space and Playing Pitch

National Planning Documents

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

The Community Infrastructure Levy Regulations 2010 (as amended)

3.5 Consultation responses

County Highways – No objections to the proposed development, subject to conditions requiring a scheme for highway works within the adopted highway, the new estate road and access shall be constructed to base course level, and the access shall be paved, prior to the commencement of other development. The proposals should have a negligible impact on highway safety within the vicinity of the site, and the visibility splays demonstrated are acceptable. Further information regarding the turning facility for the servicing of the attenuation pond is acceptable. The submitted swept path analysis appears acceptable providing it can be implemented.

Parks and Streetscene (Landscape) – The site is visible from the highway and neighbouring properties given the topography of the site. The provision to retain all boundary hedges and trees, and providing planting to provide privacy and ecological enhancements is welcomed. Root Protection Areas of some trees may be within the hard surfaced areas, and therefore adjustment or hand dig techniques would be necessary, to be confirmed by the Council's Arborist. Additional hedgerow and tree planting to the site

frontage would be welcomed, and hard and soft landscaping should be included to define the entrances. The attenuation pond and open space could be better positioned to realise amenity value. Further details regarding hard and soft landscaping are required, and material choices should create a place which are locally inspired.

Parks and Streetscene (Trees) – No objections to the proposal. The proposal does not impact on any of the current tree stock, and no trees of value are to be removed. The Tree Protection Plan submitted would need to be implemented prior to construction.

Natural England – No comments to make on this application.

Environmental Health – No objections to the proposal, subject to conditions requiring site investigation, risk assessment, remediation and verification should contamination be encountered, submission of a Construction Environmental Management Plan including details of asbestos removal, and provision of electric vehicle charging points.

United Utilities – No objections subject to conditions requiring foul and surface water to be drained on separate systems, and provision of a surface water drainage scheme. Informatives recommended regarding ownership rights of overflow pipes across the site, regarding the easement which crosses the site, adjacent reservoir, and raw water main at north edge of site.

Lead Local Flood Authority – No objections, subject to conditions requiring an appropriate surface water drainage scheme, no occupation of the development until completion of a sustainable drainage scheme and a management and maintenance plan, and a surface water lifetime management and maintenance plan.

Greater Manchester Ecology Unit – No objections to the proposal. Recommends conditions which requires the following: submission of a licence or otherwise for the pond to avoid harm to great crested newts; full surveys of the ponds should be provided to inform levels of mitigation for great crested newts; method statement to avoid damage to the Grimsargh Reservoirs Biological Heritage Site; no works to trees or shrubs or hedgerows should take place during the bird nesting season unless bird nest surveys have been carried out; and a detailed landscape and environmental management plan to be submitted at reserved matters stage.

Waste Management – No objections to the proposal. Note that roads should be made to adoptable standards to allow use by large refuse vehicles. Unclear whether turning heads are of sufficient length to accommodate these vehicles. Provides advice regarding refuse collection for specific plots.

County Education – Seeks financial contribution toward 11no. primary school places. No contribution is sought towards secondary school places.

Grimsargh Parish Council – The Parish Council support this application, which would provide much needed affordable homes and bungalows. Do not think speed bumps are necessary within the site. Important that development ensures continued management of

habitats within the adjacent Biological Heritage Site (wetlands). Supportive of the intention to design the homes to support local people, with a connection to the local area.

Publicity

Four letters of objection have been received. The main points are summarised as follows:

- The development would prejudice the adjacent nature reserve/Grimsargh Wetlands.
- The impact upon drainage may be unacceptable, given the flood risk of the area.
- The development would result in creeping urbanisation.
- The proposed road and development is too close to the boundary of the wetlands site, occupying a valuable wildlife corridor.
- It is critical that wildlife corridors are conserved as they bring benefits for animals and for humans, as biodiversity of the area is improved.
- The proximity of the development could damage Grimsargh Wetlands through noise and traffic pollution. The natural environment should be at the heart of this development and the current plans are in urgent need of modification. A buffer zone should be established between the Wetlands and the proposed development.

A legal representation was received in connection with item 4m (application ref: 06/2018/0084 – Bushells Farm) of the 13th February 2020 Planning Committee agenda and it was considered that the points therein would apply generally to all of the applications on the same February agenda, including this application. Even though item 4m (application ref: 06/2018/0084 – Bushells Farm) has now been determined (refused planning permission) the legal representation remains relevant and claims that reliance on the decision in connection with Land to the South of Chain House Lane would be perverse, irrational and potentially subject to legal challenge for the following reasons: the Council cannot adopt a revised five year housing land supply in advance of the emerging local plan; that decision relates to an appeal in a separate administrative district; the tilted balance still applies if CS Policy 4 is out of date and the decision has been challenged.

Officer comment:

- The Council does not accept that its approach in bringing the matters on the Agenda back to the Committee is legally flawed. The Council's five year supply position prior to 20th December 2019 was based on the Broughton appeal decisions issued in April 2018. The Council, at that point, based their decision on five year supply on a single Inspector's interpretation of the status of Core Strategy Policy 4 and the 2017 Memorandum of Understanding. At no point since that time have applicants, developers or agents suggested that was a legally flawed position to take. Indeed, the Council believe that was the most credible and robust position to take at that time, based on the most up-to-date relevant appeal decision. The Council now seeks to take the same approach, based on the most up-to-date relevant appeal decision and the introduction of the standard methodology in national policy;
- The Council does not accept that its position is legally flawed because it relates to an appeal decision in a separate administrative district. The suggestion here therefore, the Council assumes, is that this makes it of less relevance and significance. The Council fundamentally disagrees with this position. The legal representation fails to set out the full facts in this regard. Not only is the appeal

decision within a neighbouring local authority, it is a neighbouring authority which is within the same housing market area as Preston, and which is a partner authority in strategic plan-making and has been for a considerable time. The conclusions made by the Inspector in the Chain House Lane appeal decision relate to a joint strategic policy, Core Strategy Policy 4, adopted by both Preston and South Ribble Council's (as well as Chorley) in July 2012. As confirmed in paragraph 33 of the appeal decision, the Inspector made her conclusions fully in the knowledge that there may be consequential impacts on decision-taking by neighbouring authorities. Indeed, the Council believes that to not give the appeal decision necessary weight in decision-taking would be a legally, and ethically, flawed approach;

- The Council's five year housing land supply is fluid, it's updated annually. The Council do not 'adopt' it, it's a monitoring arrangement. In terms of the figure the Council is assessing its supply against, the Council is following the guidance in the National Planning Policy Framework, which confirms that the Local Housing Need figure should be used when the strategic housing land supply policies are more than five years old;
- The Council has not sought to conduct a wholesale review of its approach to decision making as suggested or to pre-empt the review of the local plan;
- When initially considering the applications (on the 13th February committee agenda) during previous committee meetings some members of the Planning Committee expressed their frustration that they could not give the relevant policies of the development plan the weight they would have preferred to give them. However, they were advised that it would be difficult to defend reasons for refusal based on the policies of the development plan because the Council could not demonstrate a five year housing land supply and having regard to the 'tilted balance'. They were also referred to a couple of appeal decisions in 2018, in connection with two prior refusals by the Council;
- The rationale for the appeal decision in connection with Land to the South of Chain House Lane can be contrasted with how the Committee was advised previously. Had the Committee been advised that there was a reasonable argument that following the change in circumstances since those earlier appeal decisions in 2018, most notably the introduction of the standard method, the Council could demonstrate a five year housing land supply, there is a reasonable prospect the Committee might have come to a different decision on some of the applications (on the 13th February committee agenda) during previous committee meetings;
- Accordingly, the appropriate course is, and was on 13th February 2020, for the application/s to be referred back to the Planning Committee so that the Committee can be advised that there was and is a reasonable option available to them;
- There is a real danger that if the applications were not to be reported back to the Planning Committee in these circumstances, the planning permissions based on the earlier resolutions might be subject to legal challenge by interested third parties. Moreover, there is a reasonable prospect those challenges would succeed

if the Council had ignored a material consideration;

- The Council has never made the concession that CS Policy 1, CS Policy 4 and LP Policy EN1 are in conflict with the National Planning Policy Framework. CS Policy 1 and LP Policy EN1 accord with the general principles of the National Planning Policy Framework. From the Council's perspective CS Policy 4 also does as the housing requirement exceeds the Local Housing Need figure, that perhaps is not the case for Chorley, but the aggregate figure for Central Lancashire exceeds the aggregate Local Housing Need figure;
- Officers do not accept the "tilted balance" continues to apply because the figures in CS Policy 4 are out of date. That is not the position taken by the Inspector in connection with Land to the South of Chain House Lane and other recent appeal decisions in Preston. Further, and more importantly, the planning system remains plan-led, a point reiterated in the National Planning Policy Framework;
- So far as the legal challenge to the decision letter is concerned, the Council is entitled to have regard to the decision until it is set aside. The Council cannot simply ignore the appeal decision or hold its own decision making in abeyance pending the outcome of a challenge that may or may not succeed. The applications are being referred back to the Planning Committee because the decision suggests there is a reasonable argument that the Council is able to demonstrate a five year housing land supply. That is considered to be something the members of the Planning Committee should be made aware of as there is a reasonable prospect, had they been made aware of it when considering the applications the first time, it might have had a material impact on the decision making of the Committee.

Two letters supporting the application have been received from the applicant, the contents of which can be summarised as follows:

- The standard methodology does not truly reflect the needs of Preston City Council moving forward, and is not reliable. The purported supply should therefore not be afforded full weight as a material consideration;
- The site is well contained, and appears as a site lying within the village rather than beyond its settlement limits. The development of land to the south for housing will cement the site's relationship with the built form of the village. The site would not result in any visual or physical encroachment into the wider Open Countryside, nor is it viewed as an extension to the village as it already feels part of the village;
- The context of the site set it apart from other typical edge of settlement sites and there is no justification to consider all the greenfield sites under determination at this Committee as equal;
- The site is clearly deliverable and would make a valid contribution to the supply of new homes, which is a Government priority in accordance with the Framework;
- The development would provide affordable homes, which should be given significant weight in the determination of the application;
- Sustained economic growth as part of the City Deal and job creation are material to the determination of this application and should be afforded weight;
- The Central Lancashire Authorities review of the Core Strategy is the proposed place to consider housing land supply and the redistribution of housing targets

- across the CLA with scrutiny by an independent inspector;
- The challenge to the appeal decision of December at Chain House Lane in South Ribble calls into question the conclusions reached by the Inspector;
 - Policies 1 and 4 of the Core Strategy should be considered out of date, and therefore the tilted balance should be triggered, regardless of the purported 12.6 year housing land supply;
 - There is no policy in the development plan designed to meet the assessed housing needs of older people, and therefore the tilted balance should be engaged;
 - Irrespective of the debate surrounding housing targets, there is a clear case for determining the application as a departure from Policy EN1 of the Local Plan, given that the village is a sustainable location for residential development and the site clearly forms part of the village envelope, especially considering development to the south has now begun construction;
 - Agenda Item 4c (application ref: 06/2018/0885 – Land of Riversway/west of Dodney Drive) of the 13th February 2020 agenda is considered to have comparative circumstances to this application, whereby it also lies within the Open Countryside. Those similarities are that the rural character of the site is not distinctive; the site has no tranquil or aesthetic appeal; and the loss of the site cannot be more harmful than the development to the south of this site, which is currently under construction;
 - The site is flat and adopts an unkempt appearance. With the topography of the site and the open land to the north, together with the trees along that boundary, it is considered that there is no visual or physical connection to the open fields to the north, and the site is so well contained it feels as if it were lying within the village rather than beyond its settlement limits;
 - Images are provided demonstrating how the surrounding context has dramatically changed since the application was originally recommended for approval, with the Story Homes development and associated access to the south giving an urbanising effect on the eastern edge of the village;
 - Members and officers should undertake a site visit prior to determination.

Officer comment

- The legal representation and letters referred to in this section of this report relate to the Council's position regarding its five year supply at the time of 13th February committee meeting i.e. regardless of whether the solus standard methodology figure or the redistributed figure contained within the draft rMOU was used, the Council could comfortably demonstrate a five year supply of deliverable housing land against the minimum local housing need. Whilst the Chain House Lane decision remains a significant material consideration in the determination of the application, the approval of the rMOU by all three Central Lancashire authorities has now become the key material consideration relating to the matter of housing land supply. The rMOU came into effect in April 2020 and as such the Council's five year supply position is now based on the rMOU and the subsequent Statement of Common Ground published in May 2020.
- The Council's position remains that Policy 4 is more than five years old, and is no longer a true reflection of Preston's minimum housing requirement;
- The Council has, since April 2018, been acting in accordance with the consequences of the Broughton appeal decisions, when it was decided that the Council could not demonstrate a five year supply of housing land. The Chain House Lane appeal decision necessitated the Council to reflect on its position, hence why

this application was returned to the Planning Committee on 13th February 2020. As stated above in April 2020 the rMOU came into effect and there is now a reasonable argument the Council can demonstrate a five year supply of housing land using the standard method and this is material to the decision making process. Further, it conflicts with the advice given to the Committee in March 2019;

- Whilst the Council remain committed to the City Deal, this is unrelated to the Council's five year housing land supply position. National policy and guidance is clear that the standard method does not provide the Council with a housing requirement, merely a baseline to measure five year supply against, much like it is used to measure the Council's performance through the Housing Delivery Test. The Council has not, at any point, suggested that adopting the standard method to calculate its five year supply position is a declaration that this figure is the Council's housing requirement;
- The Council considers the agent to be incorrect in suggesting that the development plan policies are out of date, requiring the application of the tilted balance. Paragraph 11 (and footnote 7) are engaged in circumstances where a Council cannot demonstrate a five year supply of deliverable housing land. Equally, Paragraph 73 (and footnote 37) does not suggest that a housing land supply policy which is over five years old creates a situation whereby the development plan as a whole is out-of-date. The planning system is still plan-led as set out in the committee report. This is reiterated in the Framework. Moreover, the position as put by the agent conflicts with the position taken by the Inspector in the Chain House Lane decision;
- It is considered, the tilted balance is not currently engaged and a standard planning balance exercise is engaged;
- It is acknowledged there would be site specific benefits of the proposal as mentioned in the committee report and the supplementary supporting statement. However, those benefits are not considered to outweigh the conflict with the most important policies of the development plan as set out in the report.

3.6 **Analysis**

Principle of proposal

The application site consists of open countryside outside of the defined village settlement boundary which distinguishes between the built-up elements of the village and the surrounding countryside, as identified on the Policies Map of the Preston Local Plan (PLP). Core Strategy (CS) Policy 1 relates to all types of development, seeking to focus growth and investment on well located brownfield sites, identified strategic locations and other main urban areas whilst protecting suburban and rural areas. The hierarchical sequence for locating development puts other places, including small villages, at the bottom of the hierarchy where development is expected to be small scale and limited to appropriate infilling, conversion of buildings and development to meet local need unless there are exceptional reasons for a larger scale redevelopment scheme.

The application proposes up to 30no. dwellings on a greenfield site outside of, but adjacent to, the village boundary of Grimsargh. The application site is not a well located brownfield site, an identified strategic location, within a Key Service Centre or main urban area. Other places, being open countryside locations, such as the application site, are at the bottom of the hierarchy, where Policy 1(f) directs development to be typically small scale and limited to appropriate infilling, conversion of buildings and proposals to meet local need, unless

there are exceptional needs for a larger scale redevelopment scheme. The application does not propose any of the development listed in Policy 1(f) therefore it is considered the development would be contrary to Policy 1 of the Core Strategy.

Policy EN1 of the Local Plan seeks to protect areas of open countryside from unacceptable development which would harm its open and rural character and limits development to that which it is needed for the purposes of agriculture or forestry or 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 (the actual policy wording is silent on this matter).

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.

Policy 31 of the Adopted Core Strategy seeks to protect the best and most versatile agricultural land (Grades 1, 2 and 3a) to achieve full potential of the soil. The application site has previously been in agricultural use. The applicant has confirmed that the land is classified as Grade 3b, therefore the loss of agricultural land at this location would not lead to the loss of the highest value of agricultural land. The application therefore would not conflict with Policy 31 of the Adopted Core Strategy.

The principle of the proposed development at this site would be contrary to Policy 1 of the Adopted Core Strategy and Policy EN1 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 then considered against material considerations which are considered further within the 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 (MOU) became effective. The MOU, 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 MOU, 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, save for Policy 4 of the Core Strategy, 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.

Following the handing down of the judgement of the Chain House Lane challenge, 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.

Impact upon the Area of Separation

The site is identified as falling within an Area of Separation, where the requirements of Core Strategy Policy 19 and Local Plan Policy EN4 apply. These policies aim to avoid the merging of settlements and the prevention of any harm to the effectiveness of the gap between settlements. Proposals that lead to a risk of settlements merging will be resisted. Policy EN4 further states that proposals will be assessed in terms of their impact upon the Area of Separation, including any harm to the effectiveness of the gap between settlements and also the degree to which the development would compromise the function of the Area of Separation.

The site is situated beyond the eastern boundary of the settlement of Grimsargh. The nearest residential settlement to the east of Grimsargh is Longridge, and to the west, the urban area of Preston. The main expanse of the area of separation is to the north and west of the application site. The nearest settlements in these directions are Goosnargh and Whittingham, with the latter being the closest lying approximately 2.4km from the site. It is considered that the proposal would not significantly encroach into the Area of Separation between Grimsargh and Longridge, or between Grimsargh and the urban area of Preston or Goosnargh and Whittingham. The development would in effect result in a continuation of development of the village of Grimsargh in an eastern direction. It would not narrow the gap between Grimsargh and Goosnargh to the north, and would not result in a physical merging of settlements.

The built environment to the west of the site is suburban in terms of character and appearance, and an extant outline application for up to 150no. dwellings exists to the south west of the site, across Preston Road (ref: 06/2014/0902), with development having recently commenced. It is considered that this development proposed under the current application would also result in a suburban appearance and that subject to appropriate design, materials and landscaping which would be secured at reserved matters stage should outline permission be granted. There would be no significant change in character, and no unacceptable impact upon the identity or local distinctiveness of Grimsargh. It is therefore considered that the proposal would not conflict with the above policies or detrimentally impact upon the Area of Separation.

Visual impact on the open countryside and landscape character of the area

The supporting text to PLP Policy EN1 states that it is important that these areas (open countryside) are protected from unacceptable development which would harm its open character (the actual policy wording is silent on this matter). The Framework says 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. It 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. CS Policy 13 requires development to conserve and where possible enhance the character and quality of the landscape. CS Policy 21 does not have the objective of preventing development in principle. Instead it seeks 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 site would be located adjacent to the settlement boundary of the village of Grimsargh, and would be opposite proposed residential development to the south of the site (explained in further detail above). Although the proposed development would clearly extend the volume of built development adjacent to Preston Road, there are existing residential properties which lie along the northern side of this highway, with a built-up frontage adjacent to the highway. Although the proposed development would run to the rear of the existing dwelling which fronts the highway, no. 329, it would in visual terms primarily fill the gap between nos. 323 and 339 Preston Road. Therefore, although the proposal would result in the loss of greenfield land, it would not break out significantly beyond the built form into the open countryside particularly when viewed from public vantage points to the south. The development therefore complies with CS Policies 13 and 21.

Affordable Housing

Core Strategy Policy 7 sets a target of 35% affordable housing from market housing schemes in rural areas on sites in or adjoining villages which have a suitable range of services. The Affordable Housing SPD provides advice on how the Council’s affordable housing policy is to be implemented, stating 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 an alternative provision.

As the application proposes up to 30no. dwellings, affordable housing provision is required, and as the site lies within a rural area and adjoining an existing village the required provision would be 35%. The applicant has provided a planning statement which details proposals for the provision of affordable housing, but it is noted that the layout is indicative at this stage. The applicant has however confirmed that the development would provide 35% affordable housing provision as required by policy, with at least 70% of the units to be social rented or affordable rented. This provision would be secured by a planning obligation, should the application be approved. It is therefore considered that the application complies with the Affordable Housing SPD and Policy 7 of the Core Strategy.

Traffic and Highway Safety

Local Plan Policy ST2 requires that proposals show that they would not prejudice road safety or the efficient and convenient movement of all highway users and would make

appropriate provision for public transport and for access by foot or cycle. Core Strategy Policy 3 also promotes sustainable travel. The Framework similarly seeks development to promote sustainable patterns of travel and also states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

The applicant has submitted a Transport Assessment seeking to demonstrate that the local road network can accommodate the development. County Highways has confirmed they have no objections to the proposed development, and is of the opinion that the proposals should have a negligible impact on highway safety within the immediate vicinity of the site. The sustainable location of the site is noted, with bus stops situated close to the site providing services to surrounding villages and to the city centre, reducing reliance upon the private car.

County Highways has confirmed that the submitted visibility splays are acceptable, ensuring adequate highway safety, and they have confirmed that internal movements and servicing are acceptable, following submission of additional information. Subject to a number of recommended planning conditions being imposed should the application be approved, County Highways consider that any upgrades to the site entrance to Preston Road can be provided adequately. On the basis of the above the proposal satisfies the requirements of Core Strategy Policy 3, Local Plan Policy ST2 and the Framework.

Design and layout

Core Strategy Policy 5 seeks efficient use of land, stating that development densities should be in keeping with local areas and have no detrimental impact on the amenity, character, appearance, distinctiveness or environmental quality of an area. Core Strategy Policy 6 seeks to improve the quality of housing by, amongst other things, facilitating the greater provision of accessible housing and use of higher standards of construction. Core Strategy Policy 17 states that the design of new buildings is expected to take account of the character and appearance of the local area, including siting, layout, massing, scale, design, materials and landscaping. Local Plan Policy EN9 states that applications will be approved where they accord with the principles and guidance set out in the Central Lancashire Design SPD which stresses the importance of good design and of setting out design principles and aspects of good design. In addition, Core Strategy Policy 26 requires the reduction of crime and improvement of community safety. The Framework states that planning should always seek to secure high quality design that responds to local character and distinctiveness. The National Design Guide states that the long-standing, fundamental principles for good design are that it is: fit for purpose, durable; and brings delight.

The applicant has submitted an indicative site plan, indicating how the site could be developed with an area of open space to the north west of the site, a pond to the north east, and an attenuation pond to the centre. The submitted Design and Access Statement indicates that the proposed scheme would offer a variety of house types, with differing aspects contributing to the internal layout. The indicative layouts show a mix of semi-detached, terraced properties, and 3no. detached bungalows. When viewed from public vantage points, primarily along Preston Road to the south, the indicative layout indicates that the three bungalows to the front of the site would retain an active frontage to this highway, adjacent to the existing property no.329 Preston Road. The density of development would be 25 dwellings per hectare, which is considered to be acceptable given the context of the surrounding area. This outline proposal would not conflict with Core

Strategy Policies 5 and 17, Local Plan Policy EN9, Design Guide SPD, National Design Guide and the Framework.

Impact on residential amenity

Paragraph 17 of the Framework states that one of the core principles of the planning system is to seek a good standard of amenity for all existing and future occupants of land and buildings. CS Policy 17 and PLP Policy EN9 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.

Issues relating to impacts on privacy, overlooking, loss of light and overshadowing cannot be properly assessed at this stage, and would be done so at reserved matters stage should this application be approved. The indicative site plan seeks to demonstrate that the proposed development could be satisfactorily accommodated on site without having any unacceptable adverse impacts upon residential amenity. Given the size of the site and the number of units proposed it is considered that an acceptable layout could be achieved to satisfactorily safeguard the amenities of existing and future residents.

Environmental Health officers note that a Construction Environmental Management Plan should be submitted prior to any works commencing, in order that the impact of noise during construction is adequately mitigated against. A condition to secure this could therefore be imposed should the application be approved.

Education

CS Policy 14 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 has requested a financial contribution towards 11no. primary school places. No contribution has been sought towards secondary school places. Should the application be approved, the funding could be secured through a Section 106 Obligation. On this basis, the proposal accords with the above policy.

Open space provision

Core Strategy Policy 17 states that the provision of landscaping and open space should form an integral part of new development proposals, including enhancing the public realm. CS Policy 18 seeks to manage and improve environmental resources through the protection and enhancement of the natural environment. CS 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.

Local Plan Policy HS3 states all new residential development resulting in a net gain of five dwellings or more will be required to provide sufficient public open space to meet the recreational needs of the development in accordance with standards set out in the Open Space and Playing Pitch SPD.

The Framework states that access to high quality open spaces and opportunities for sport and recreation can 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 and access.

Local Plan Policy HS3 and the Central Lancashire Open Space and Playing Pitch SPD set out the minimum local standards and how they will be applied, along with accessibility and qualitative assessments, to determine the amount of new open space and playing pitch provision or appropriate financial contributions required from new residential developments. On-site provision for children/young people would not be required as the development would be below the 100 dwelling threshold level and the financial contribution for off-site provision would come via the Community Infrastructure Levy charge on the development.

The illustrative layout indicates that there would be areas of open space provided within the site, although it is unknown at this stage how the final layout would be laid out at reserved matters stage, if the application were to be approved. The management and maintenance of the greenspace could be secured through a Section 106 obligation, should the application be approved. Subject to this requirement, the application accords with the above policies and the Framework.

Ecology and trees

CS Policy 22 and PLP Policies EN10 and EN11 seek to conserve, protect, and enhance the biological and geological assets of the area, including protected species. Paragraph 109 of the Framework states that the planning system should contribute to and enhance the natural and local environment by minimising impacts on biodiversity and where possible providing net gains.

An Ecological Appraisal has been submitted with the application, which has been reviewed by Greater Manchester Ecology Unit (GMEU). GMEU note that there is a great crested newt pond immediately to the north of the development, and a second pond on the site assessed as having high potential for great crested newts. No surveys were carried out as the pond to the north has been recently surveyed for another development, and the presence is accepted. GMEU note that surveys will most likely be required for the purposes of obtaining a licence from Natural England, and to ascertain whether the small pond on site is also a breeding pond. The indicative layout indicates a new pond and habitat creation for great crested newts along the northern boundary which is likely to be adequate, dependent on the findings of the surveys and the licensing process from Natural England. GMEU recommend a condition requiring a licence issued by Natural England to be submitted prior to works commencing, or evidence that a licence is not required. This condition is not considered to meet the six tests, given the licensing process for such works is carried out and is required under separate legislation (Regulation 55, of the Conservation of Habitats and Species Regulations 2017). An informative could therefore be imposed, if planning permission were granted, to remind the developer of their duty. Further, GMEU recommend full surveys of the ponds are provided at reserved matters stage in order to inform any mitigation measures for great crested newts, and a condition to this effect could be imposed, if the application were approved.

Grimsargh Reservoirs, a Biological Heritage Site, lies immediately adjacent to the site along the western boundary. GMEU note that the site is separated by a hedge and embankment, and therefore direct impacts upon the reservoirs are unlikely. However, they consider that the main risk would be during construction from accidental impacts caused by machinery, and a condition requiring a method statement proposing avoidance measures could therefore be imposed.

GMEU note the proposed retention of boundary hedgerows on site, although appreciate that this layout is only indicative at this stage. A condition could be imposed in order that any trees, shrubs and hedgerows are not removed during the bird nesting season, without a prior survey undertaken and approved.

GMEU consider that given the low ecological value of the site, retention of the main features of ecological interest (hedges and trees), and provision of the proposed ponds and habitats for great crested newts, there would be no net loss and potentially net gain. However, as this is an outline application and the value of the site may change for great crested newts following the required surveys (above), it is recommended that a landscape and environmental management plan shall be submitted at reserved matters stage should this application be approved, in order to provide details of an ecological mitigation area for great crested newts, and mitigation for any loss of hedgerows and bird nesting habitat.

Concerns were raised by Grimsargh Wetlands Trust (outlined within Section 3.5 of this report). It is considered that the mitigation measures and advice provided by GMEU, as the statutory ecology consultee to the City Council, is adequate and subject to conditions the impacts upon ecological matters could be successfully mitigated.

The Council's Arborist notes that the land is currently an area of open space comprising low to moderate value trees on the perimeters. The Arborist notes that the application does not impact on any of the current tree stock, and there are no trees of particular value to be removed. No objections are raised by the Council's Arborist, who notes that the tree protection plan submitted as part of the application needs to be implemented, which would ensure protective barriers are in place during construction to protect trees on site. A condition to secure this could be imposed.

Should this application be approved, subject to the above recommended conditions, it is considered that the tree proposals are acceptable and ecological matters could be adequately addressed, according with the above policies and the Framework.

Ground conditions

Local Plan Policy EN7 state that proposals should ensure that contaminated land and other risks are considered and addressed through appropriate remediation and mitigation measures. The Framework states that where a site is affected by contamination, responsibility for securing a safe development rests with the developer/landowner. The National Planning Practice Guidance (NPPG) also states that local authorities should use conditions to secure the adequate remediation of contaminated land.

A desk top study (phase 1 assessment) has been submitted with the application. The Environmental Health officer has advised that if during site preparation or development works contamination is encountered, or is suspected in areas where it had not been anticipated, then a scheme for detailed investigation, risk assessment, remediation and verification shall be submitted to the Council for verification. This could be secured by condition if the application were approved. The site is capable of being safely developed and the proposal would comply with the above policies and the Framework and the Guidance.

Flood risk and drainage

Core Strategy Policy 29 seeks to improve water quality, water management and reduce the risk of flooding. The Framework states that when determining planning applications, Local Planning Authorities should ensure flood risk is not increased elsewhere.

The site is situated in Flood Zone 1 (low probability of river flooding i.e. less than a 1 in 1000 annual probability) where there is a low risk of flooding. The Lead Local Flood Authority has raised no objections subject to conditions requiring an appropriate surface water drainage scheme, no occupation of the development until completion of a sustainable drainage scheme and a management and maintenance plan, and a surface water lifetime management and maintenance plan. United Utilities has recommended conditions requiring foul and surface water to be drained on separate systems, and submission and subsequent provision and management of a surface water drainage scheme. These conditions could be imposed should the application be approved. Furthermore, United Utilities note the applicant may not have ownership over overflow pipes that pass through the site, and note an easement which crosses the site which may affect development. Relevant informatives could be utilised in order to inform the applicant of these responsibilities. As such, the proposal would comply with the above policies and the Framework.

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. This could be secured by condition if the application were approved and as such, the application would accord with Policy 27 of the Core Strategy.

Air Quality

Core Strategy Policy 3 supports the use of alternative fuels for transport purposes and the supporting text refers to enabling the use of alternative fuels for transport purposes such as electric vehicle charging stations. Core Strategy Policy 30 seeks overall improvements in air quality through delivery of Green Infrastructure initiatives and through taking account of air quality when prioritising measures to reduce road traffic congestion. Paragraph 124 of the Framework requires that planning decisions should ensure that any new development in Air Quality Management Areas (AQMAs) is consistent with the local air quality action plan.

The impact of the development on the air quality in the area is likely to be minimal. Notwithstanding this, the Environmental Health officer recommends mitigation against the potential increase in traffic pollution. A condition could be imposed requiring dwellings be fitted with an external electric vehicle charging point, where this can be satisfactorily

provided i.e. where there would be a dedicated garage, driveway or parking area. On this basis, the application accords with the above policies.

Waste

The National Planning Policy for Waste states that proposals should make sufficient provision for waste management and promote good design to secure the integration of waste management facilities with the rest of the development. It suggests that this should provide for the discrete provision of bins.

Consultation has taken place with the Council's Waste Management officers, who note that all roads within the development must be made to adoptable standards to accommodate refuse vehicles. Waste Management officers note that, from the indicative layout, it is unclear whether the turning heads are of a sufficient length to accommodate these vehicles, and raise other concerns regarding the layout. Should the application be approved, details of the layout of the site at reserved matters stage would allow further consideration of those matters.

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 delivery of affordable housing, a financial contribution towards providing school places and the provision of open space within the site are necessary to make the development acceptable in planning terms, the obligations are 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).

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 (Core Strategy Policy 4) is more than five years old, and no review of this policy has been undertaken since its adoption in 2012, as such Core Strategy 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 five year supply of housing against the standard methodology it is considered all other relevant policies (i.e. all but not Policy 4) 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 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.

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 Policy EN1 of the Local Plan, 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. 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 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 five year supply 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 are 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 Policy 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 Policy 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**

Additional information was requested from the applicant to address highway concerns and the internal layout was subsequently amended.

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.

This application was originally presented to the Planning Committee on 5th March 2019, recommended for approval. At that time the application was recommended for approval because the Council could not demonstrate a five year supply of deliverable housing land. In this case the policies most important for determining the planning application, namely Core Strategy Policies 1 and 4 and Local Plan Policy EN1, were afforded little weight and it was considered, in applying the tilted balance, that the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits of the proposed development. The Committee resolved to approve the application subject to conditions, and a Section 106 Obligation being secured for providing on-site affordable housing, education provision, and the future management of the public open space.

The Chain House Lane appeal decision (referred to above) necessitated the Council to reflect on its position, hence this application was returned to the Planning Committee on 13th February 2020. Furthermore following approval by all three Central Lancashire authorities, the MOU came into effect in April 2020. An updated Statement of Common Ground was issued by the Central Lancashire authorities in May 2020. The MOU and Statement of Common Ground ensure that, in advance of the review of the Local Plan, the aggregate minimum local housing need across Central Lancashire is delivered, in accordance with the Framework. Against the MOU and Statement of Common Ground, the Council can now demonstrate a five year supply of deliverable housing land. The policies of the development plan most important for determining the application need not now be considered to be out-of-date and therefore carry full weight (with the exception of Policy 4 of the Core Strategy), hence the tilted balance referred to above would not apply. The planning application has been reconsidered in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, which is a standard planning balance.

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. Paragraph 12 of the Framework states that where a planning application conflicts with an up-to-date development plan, permission should not usually be granted.

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 ecology, protected species and their habitats due to mitigation measures that could be secured by condition. 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.

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.

In light of the Judicial Review claim to the rMOU, the claimant's interpretation of national planning policy and guidance has been considered. However 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 Policy 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.

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

3.9 Recommendation Refusal.