

AN APPEAL IN RESPECT OF PROPOSED RESIDENTIAL DEVELOPMENT OF LAND  
AT CARDWELL FARM, BARTON, PRESTON.

OPENING STATEMENT OF THE LOCAL PLANNING AUTHORITY

1. The Council opposes this appeal because it is contrary to the Development Plan, there are no material considerations that indicate that a decision otherwise than in accordance with the plan ought to be taken and the most important policies of the Development Plan are up to date and deserve significant weight in determining the appeal.
2. A principal issue in determining the appeal is the question of housing land supply. There is considerable common ground on the details of the rival calculations. The sole point of difference between the parties is the requirement figure against which supply should be tested. The relevant five year period is agreed to be 1<sup>st</sup> October 2020 to 30<sup>th</sup> September 2025.
3. The Appellant's position is that the figures in Core Strategy policy 4 ought to be used. There is agreement that, if that is the basis for calculating requirement, the five year requirement figure, taking account of past shortfalls on a *Sedgefield* basis, and the appropriate buffer, produces a requirement figure of 3,617 units.

4. The Council's position is that the Local Housing Need figure for the LPA's area, calculated using the standard method, should be used. On that basis, it is again common ground that the five year requirement figure would be 1,313 units.
5. There is also common ground that the deliverable five year supply is 3,581 units. On that basis, the Appellant's case is that the deliverable supply is 4.95 years and the Councils is that there is a 13.6 year housing land supply.
6. The Appellant's use of the Core Strategy figures is predicated on an argument made by Mr Pycroft that the process of arriving at and agreeing a Memorandum of Understanding between the Council, South Ribble Borough Council and Chorley Borough Council ("MoU1") in 2017 amounted to a review of the core strategy figures which found them not to require updating and so footnote 37 of the NPPF and the PPG guidance require the Core Strategy figures to be used.
7. The Council accepts that the process of arriving at MoU1 can be treated as a review within the scope of footnote 37 of the NPPF. But it does not follow that that means that the Core Strategy figures should be used to calculate requirement nearly three and a half years later. The reasons why the use of the figures in policy 4 of the Core Strategy is wrong will be explored in detail in the evidence. For the purposes of opening, it suffices to say that the Appellant's argument relies upon an over-literal interpretation and application of the PPG, ignores the events and significant changes in circumstances which have happened since MoU1 was adopted and is an approach which would produce inconsistency for testing supply across the Central Lancashire Joint Plan area, given PINS' recent approach to that

issue in another appeal in Chorley. The Appellant's approach requires adhering to the outcome of a review whatever may have happened since, which is absurd.

8. Instead, LHN should be used to assess supply in Preston. That would accord with the approach in the NPPF. It would properly take into account the changes which have occurred since that review took place and would provide consistency.
9. The Council will be inviting the Inspector to conclude that there is a very healthy deliverable supply in Preston of 13.6 years.
10. If the Council loses that argument, and the requirement is found to be the higher CS figure, then the Council has clearly accepted that it would not be able to resist the appeal as, if there was no five year supply, the harm caused by the scheme would not significantly and demonstrably outweigh the benefits, given the weight which would need to be afforded to housing delivery in that scenario.
11. The Council recognises that a lack of deliverable supply is only one way in which the tilted planning balance can be triggered. It is therefore necessary to consider whether the most important policies for determining the appeal are out of date because they are inconsistent with the NPPF. There is also common ground as to which the most important policies are. They are Core Strategy policies 1 and 4 and Local Plan policies AD1(b) and EN1. The Council accepts that CS policy 4 is out of date as it is inconsistent with the NPPF. The other three policies are not out of date. The reasons why those policies are not out of date will again be explained in the evidence, but none of them conflict with the NPPF and none of them constrain housing delivery. The key point is that whereas in Chorley, the use of

LHN produces and increased requirement which that Council cannot deliver whilst adhering to its settlement boundaries and restricted approach to the release of safeguarded land, Preston's LHN figure is lower than the Core Strategy figure. The Local Plan's settlement boundaries, and different development management approaches within and beyond them, were designed to accommodate the CS requirement. Having a lower requirement figure to meet means that the boundaries will not constrain delivery, but make it easier to meet needs. The logic for finding settlement boundaries which depend upon the Core Strategy figures out of date in Chorley is simply absent in Preston. Collectively, the most important policies for determining the appeal are not out of date.

12. There is thus no route into the application of the tilted planning balance in this case.
13. Mr Harris seems to have become a late convert to an argument based on policy MP of the Core Strategy but not, it appears, the updated version of it in policy V1 of the Local Plan. His argument is only partly formed as it is not developed in his evidence, but rests on a fundamental error of interpretation and failure to recognise that both policies conflict with the approach in the NPPF and are thus out of date.
14. As for the overall planning balance, Mr Major has taken into account all of the benefits which the appeal scheme would bring. He has ascribed justifiable amounts of weight to them all.
15. On a conventional section 38(6) balance, those benefits do not outweigh the harm that would be caused by not following the plan-led system and by allowing development to proceed in a location at the bottom of the settlement hierarchy and in conflict with the

locational strategy in Core Strategy policy 1 and beyond settlement limits, in circumstances where there is a 13.6 year supply. Put another way, the benefits are not material considerations which indicate that a decision other than in accordance with the plan ought to be made.

16. If the tilted balance applies for non-supply reasons, the Council's position is that the outcome need not be as would be the case if it applied by reason of the absence of a 5 year supply. If the Council is delivering ample supply, there is no reason to ascribe reduced weight to development management policies which will not constrain delivery. Adhering to the settlement hierarchy, locational strategy and adhering to a restrictive approach to development beyond settlement limits is still important and the policies designed to secure adherence to such matters deserve significant weight. The harm caused by permitting unnecessary in development in breach of the development plan would in those circumstances, significantly and demonstrably outweigh the benefits.

17. The upshot is that if the Council's case on housing land supply is accepted, the appeal ought to be dismissed.

MARTIN CARTER

Counsel for Preston City Council

9<sup>th</sup> February 2021

Kings Chambers

Manchester – Leeds – Birmingham.