

PRESTON CITY COUNCIL

PLANNING COMMITTEE meeting 13th February 2020 (SESSION 3)

LATE CHANGES LIST

Listed below are changes to the list of planning applications made as a result of additional information received since the publication of the agenda.

Housing provision section and conclusions of reports

The reports that refer to paragraph 12 of the Framework state that where a planning application conflicts with an up-to-date development plan, permission should not be granted. However, the word 'usually' is missing from that sentence. Paragraph 12 actually states: "permission should not *usually* be granted".

The reports refer to an appeal decision in the administrative area of South Ribble, a Council that shares its housing supply policy, being Core Strategy Policy 4, with Preston and Chorley. The appellant in that appeal has applied to the high court to challenge the appeal decision. The appellant, now the Claimant, contends that the decision is flawed and contains multiple errors. Notably, amongst other things, the Claimant considers the Inspector should have applied the tilted balance for very much the same reasons this Council had been doing prior to 20th December 2019. The Claimant considers the decision should be quashed. It is therefore up to the Committee how much weight it attaches to the South Ribble appeal decision. It could take the view it should be given limited weight in view of the challenge or alternatively it could take the view it should be given full weight until the challenge has been resolved. The committee report was prepared before the challenge was issued and so the South Ribble appeal decision is given full weight in it. The recommendation is made on that basis. Officers consider that is how the Committee should proceed.

A legal representation has been received in connection with item 4m) but the points therein would apply generally to all of the applications on the Agenda. It is claimed 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decision relates to an appeal in a separate administrative district; the tilted balance still applies if CS Policy 4 is out of date and the decision has been challenged.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 20 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 this Agenda, 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 this Agenda;
- Accordingly, the appropriate course is for the applications 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. Further, and more importantly, the planning system remains plan-led, a point reiterated in the National Planning Policy Framework; and
- 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.

Agenda Item 4I: 06/2018/0732

Land to the rear of 126A Whittingham Lane, Broughton

Pages 249 – 274

Changes:

Section 3.5 Consultation responses

Whittingham Parish Council – Object to the application, details of which can be summarised as follows:

- The benefits of increasing the five year supply did not significantly and demonstrably outweigh the loss of rural villages;
- The application is contrary to Policy 1 of the Core Strategy;
- Whittingham is not a sustainable location due to the lack of supporting infrastructure;
- The proposal is contrary to Policy EN1 of the Local Plan and would harm the rural character of the countryside; and
- Whittingham Hospital should be completed in its entirety before other sites are considered for future development.

A supplementary statement supporting the application has also been received from the applicant, the contents of which can be summarised as follows:

- The period for submitting representations expired after the publication of the committee report, therefore all representations have not been duly considered;
- The Council has determined it has a 5 year supply of housing without any consultation as required by the Framework and the NPPG and as such, this decision does not have any weight in decision making;
- The appeal decision at Chain House Lane should not be used for the purposes of determining planning applications in Preston as the Inspectors conclusions are considered to be flawed;
- The consultation on the revised Memorandum of Understanding (MoU) only concluded on Monday 13th January 2020 and it is premature to apply its conclusion for development management purposes as representations need to be duly considered;
- The application should not be re-considered at the 13th February committee and should continue to be handled in accordance with the previous resolution to approve until the three Council's (Preston, South Ribble and Chorley) have taken the necessary consultation on the emerging local plan and it has the necessary weight to be used for decision making in accordance with paragraph 48 of the Framework;
- The Council has continued to apply Policy 4 and the 2017 MoU following the Broughton appeals in April 2018 and there is no reason why the conclusions of the Inspector in the South Ribble appeal now justify or should change the position adopted by Preston until 20th December 2019;
- The City Deal is a significant material consideration and has been used to justify the continued use of Policy 4 of the Core Strategy (Housing Supply) despite the introduction of Local Housing Need (LHN). Applying the LHN ignores the obligation the City Deal has placed on the City Council and its commitment to it. The housing requirements of Policy 4 (Housing Supply) must therefore continue to apply;
- The Council is applying a "policy on" housing requirement without having undertaken the necessary consultation, sustainability assessment, assessing reasonable alternatives and independent examination. Dealing with strategic matters via a Memorandum of Understanding is directly contrary to the Framework and PPG;
- If the Council was to adopt the "policy off" requirement (241 dwellings per annum) Policies 1 and 4 are out of date due to the significant change in distribution from that in the adopted Development Plan. Therefore even with a 5 year supply based on LHN the titled balance is engaged;
- The development has been assessed as introducing no harm to the semi-rural character of Broughton and it would comprise an extension of the existing built form;
- There would be benefits in terms of the delivery of affordable housing, market housing, green infrastructure alongside biodiversity enhancements;

- There would be no site-specific harm in terms of the local road network, highway safety, residential amenity, ground conditions, air quality, flood risk and drainage, education provision, energy efficiency and waste management;
- The Section 106 agreement is at an advanced stage whereby it could be executed immediately after a resolution to grant planning permission; and
- The site is to be taken on by Stewart Milne who have a proven track record in terms of the delivery of new housing across the region.

Officer comment

- All representations received by the Council up until the publication of late changes have been fully considered and addressed;
- The recently updated five year supply position issued by the Council has not, at any point, been suggested to be in the form of an annual position statement. Such a process, as prescribed in national policy and guidance, must be ultimately determined by the Secretary of State, and carries with it a 12 month protection period whereby an authority's five year supply position cannot be challenged. The Council has not pursued this approach, as such, its five year supply position is challengeable;
- The Chain House Lane appeal decision is the most recent appeal decision issued by the Planning Inspectorate in Central Lancashire which has a significant bearing on the housing land supply position of all three authorities, as the Inspector states in Paragraph 34 of the Appeal Decision. Paragraph 37 of the Appeal Decision sets out the Inspector's reasons for arriving at the conclusion that the standard method of calculating local housing. Until this appeal decision is set aside by a Court Decision the Council is entitled to have regard to it;
- The Council's updated five year supply position is not based on the proposed re-distribution contained within the revised Memorandum of Understanding (rMOU). Therefore the Council is not acting prematurely in this regard. The Council issued statement includes a five year supply calculation against the rMOU for information and to provide applicants and developers with all the information available. The objections to the rMOU are therefore considered irrelevant to the consideration of this planning application, as they will be considered as part of the Council decision to adopt, or otherwise, the rMOU;
- 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 has necessitated the Council to reflect on its position. 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 previously;
- 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; and
- 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.

No change to the recommendation.

**Agenda Item 4m: 06/2018/0884
Bushells Farm, Mill Lane
Pages 275 - 298**

**Changes:
Section 3.5 Consultation responses**

Whittingham Parish Council – Object to the application, details of which can be summarised as follows:

- The benefits of increasing the five year supply did not significantly and demonstrably outweigh the loss of rural villages;
- The application is contrary to Policy 1 of the Core Strategy;
- Whittingham is not a sustainable location due to the lack of supporting infrastructure;
- The proposal is contrary to Policy EN1 of the Local Plan and would harm the rural character of the countryside; and
- Whittingham Hospital should be completed in its entirety before other sites are considered for future development.

One further letter of objection has been received. This letter raises a point already summarised in the main committee report, and no additional issues are raised.

A letter supporting the application has also been received on behalf of the applicant, the contents of which can be summarised as follows:

- The Council should not rely upon, and give significant weight to, the assessment made by a single inspector on housing land supply issues – that is a matter for the emerging local plan process;
- The appeal decision relates to a separate administrative area, and should not be used to justify the housing land supply position in Preston;
- It is a material consideration that the appeal decision is subject to a further appeal to the Planning Court;
- The application has already been approved by the Planning Committee but remains undetermined, and should still be determined in accordance with the presumption in favour of sustainable development, taking account of the tilted balance;
- Policies 1 and 4 of the Core Strategy should be considered out of date, and therefore the tilted balance should be triggered;
- There has not been a material change in site specific circumstances since January 2019, and it would be perverse and unreasonable for the Council to take a different stance now;
- The application would provide for a higher number of affordable dwellings than the policy requirement, and the joint applicant is a affordable housing registered provider;
- The development would provide quality on-site public open space;
- The site lies outside of the Area of Separation, and therefore is a logical extension to the village, having links with the existing settlement;
- The development would provide benefits through improved pedestrian links, community parking and green infrastructure;

- The development would deliver air quality improvements;
- The impact on landscape character, visual amenity and residential amenity have been found to be acceptable;
- LCC Highways concluded there would be no significant adverse impacts as a result of the proposed development, and the development would secure an improved bus service in the village;
- No unacceptable ecological impacts have been identified, with no objections from Greater Manchester Ecology Unit subject to mitigation measures;
- All trees are to be retained where possible, with no objections from the Council's Arborist;
- The site is situated within Flood Zone 1, with no objections from the Lead Local Flood Authority or United Utilities;
- The applicant has agreed to the provision of an education contribution as requested by County Education;
- The proposed development would exceed Building Regulations in terms of energy efficiency, and would be in line with Council policies on this issue;
- There are no archaeology concerns within this development; and
- The benefits of the scheme appear to be largely downplayed within this Committee report. The 45% affordable housing provision is clearly not a generic benefit to be expected from any major housing development, likewise the open space provisions and community parking provision go beyond what would be expected to be generic.

Officer comment

- The Council's updated five year supply position is not based on the proposed re-distribution contained within the revised Memorandum of Understanding (rMOU). The Council issued statement includes a five year supply calculation against the rMOU for information and to provide applicants and developers with all the information available. The objections to the rMOU are therefore considered irrelevant to the consideration of this planning application, as they will be considered as part of the Council decision to adopt, or otherwise, the rMOU;
- 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 has necessitated the Council to reflect on its position. 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 previously;
- 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 5 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; and
- 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.

No change to the recommendation.

**Agenda Item 4n: 06/2019/0752
Land at Cardwell Farm, Garstang Road, Barton
Pages 299 - 322**

Changes:

Supplementary statements supporting the application have also been received from the applicant, the contents of which can be summarised as follows:

- The period for submitting representations expired after the publication of the committee report, therefore all representations have not been duly considered;
- The Council has determined it has a 5 year supply of housing without any consultation as required by the Framework and the NPPG and as such, this decision does not have any weight in decision making;
- The appeal decision in South Ribble should not be used for the purposes of determining planning applications in Preston as the Inspectors conclusions are considered to be flawed;
- The consultation on the revised Memorandum of Understanding (MoU) only concluded on Monday 13th January 2020 and it is premature to apply its conclusion for development management purposes as representations need to be duly considered;
- The application should not be re-considered at the 13th February committee and should continue to be handled in accordance with the previous resolution to approve until the three Council's (Preston, South Ribble and Chorley) have taken the necessary consultation on the emerging local plan and it has the necessary weight to be used for decision making in accordance with paragraph 48 of the Framework;
- The Council has continued to apply Policy 4 and the 2017 MoU following the Broughton appeals in April 2018 and there is no reason why the conclusions of the Inspector in the South Ribble appeal now justify or should change the position adopted by Preston until 20th December 2019;
- The City Deal is a significant material consideration and has been used to justify the continued use of Policy 4 of the Core Strategy (Housing Supply) despite the introduction of Local Housing Need (LHN). Applying the LHN ignores the obligation the City Deal has placed on the City Council and its commitment to it. The housing requirements of Policy 4 (Housing Supply) must therefore continue to apply;
- The Council is applying a "policy on" housing requirement without having undertaken the necessary consultation, sustainability assessment, assessing reasonable alternatives and independent examination. Dealing with strategic matters via a Memorandum of Understanding is directly contrary to the Framework and PPG;
- If the Council was to adopt the "policy off" requirement (241 dwellings per annum) Policies 1 and 4 are out of date due to the significant change in distribution from that in the adopted Development Plan. Therefore even with a 5 year supply based on LHN the titled balance is engaged;
- The development has been assessed as introducing no harm to the semi-rural character of Barton and it would represent an extension of the built form rather than creating an isolated and detached form of development in the open countryside, and would not extend beyond the most eastern part of the existing settlement boundary;

- There would be benefits in terms of the delivery of affordable housing, market housing, community building, children's play areas, green infrastructure, large areas of open space, alongside biodiversity enhancements in comparison to the existing;
- There would be no site-specific harm in terms of the local road network, highway safety, residential amenity, ground conditions, air quality, flood risk and drainage, education provision, energy efficiency and waste management;
- Indicative floorplans and elevations of the proposed community building have been provided to show that this facility would include a multi-use purpose hall, changing rooms, office, meeting room and toilets. The indicative plans show a building circa 3,500sqft however this could be increased or reduced subject to further discussion with the Council. The building would provide a wide range of opportunities for community events and groups e.g, Beavers, Guides, football teams, further education classes and leisure activities. The intention is for the facility to be transferred to the Parish Council or the Local Authority, or otherwise to a third party. Alternative management arrangements could be put in place for the maintenance of the building going forward;
- The southern part of Barton will accommodate a substantial number of new residents, alongside existing ones. As such the proposed community building, and associated play facilities, has the potential to act as a hub for the community and that the only other such facility within Barton is located to the northern part of the village and some distance away offering facilities that need not be replicated through this development;
- A Unilateral Undertaking (UU) has been submitted which reflects the changes/suggestions made by the Council. This UU could be issued on the same day, or immediately after, a resolution to grant planning permission by the Committee;
- The site is under option to Wainhomes (NW) Ltd, a national housebuilder with a proven track record in terms of delivering homes in the Preston area. If approved a reserved matters application would be progressed quickly; and
- Phase 1 land already benefits from the grant of planning permission for up to 55 dwellings (06/2018/0238) where access would be via Woodlands Way to the south. When considering this application (April 2018) several Members expressed their preference for the site to be accessed off the A6 (Garstang Road). The applicant took these views into account and the current application proposes to access the site via the A6 with no vehicular access off Woodlands Way. The applicant has a fall-back position to develop Phase 1 as approved under 06/2018/0238.

Officer comments

- All representations received by the Council up until the publication of late changes have been fully considered and addressed;
- The recently updated five year supply position issued by the Council has not, at any point, been suggested to be in the form of an annual position statement. Such a process, as prescribed in national policy and guidance, must be ultimately determined by the Secretary of State, and carries with it a 12 month protection period whereby an authorities five year supply position cannot be challenged. The Council has not pursued this approach, as such, its five year supply position is challengeable;
- The South Ribble decision is the most recent appeal decision issued by the Planning Inspectorate in Central Lancashire which has a significant bearing on the housing land supply position of all three authorities, as the Inspector states in Paragraph 34 of the Appeal Decision. Paragraph 37 of the Appeal Decision sets out the Inspector's reasons for arriving at the conclusion that the standard method of calculating local housing. Until this appeal decision is set aside by a Court Decision the Council is entitled to have regard to it;
- The Council's updated five year supply position is not based on the proposed re-distribution contained within the revised Memorandum of Understanding (rMOU). Therefore the Council is not acting prematurely in this regard. The Council issued statement includes a five year supply calculation against the rMOU for information

and to provide applicants and developers with all the information available. The objections to the rMOU are therefore considered irrelevant to the consideration of this planning application, as they will be considered as part of the Council decision to adopt, or otherwise, the rMOU;

- 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 has necessitated the Council to reflect on its position. 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 previously;
- 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 5 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;
- As such, 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;
- As detailed in the committee report the proposed community building, and development as a whole, is contrary to the policy. Furthermore no specific need has been demonstrated for the community building in this location and therefore very little, if any, weight should be given the provision of this community building in the consideration of this application. Any benefit from the provision of the community building would not outweigh the conflict with the most important policies of the development plan as set out in the report; and
- The Council confirm receipt of the Unilateral Undertaking and acknowledge that the UU states that should neither Barton Parish Council or Preston City Council be willing to take ownership of the community building, the owner will remain liable for the ongoing operation, management and maintenance of the community building for a minimum of 20 years.

No change to the recommendation

Agenda Item 4o: 06/2019/0886
Land to the north of Jepps Lane, Barton
Pages 323 - 346

Changes:

The Tree Preservation Order (No.6/2019) on land north of Jepps Lane has now been confirmed.

A supplementary statement supporting the application has also been received from the applicant, the contents of which can be summarised as follows:

- The Council Housing Land Supply position should not rely upon, and give significant weight to, the assessment made by a single inspector on housing land supply issues;
- The appeal decision relates to a separate administrative area, and should not be used to justify the housing land supply position in Preston;
- The appeal decision is still subject to challenge under s.288 of the Act and hence it premature to place any reliance on the conclusions of this appeal at this time;
- The application has already been approved by the Planning Committee but remains undetermined, and should still be determined in accordance with the presumption in favour of sustainable development, taking account of the tilted balance;
- The Council's decision to shift to using the standard method derived housing requirement of local housing need of 241 dwellings per annum is directly contradictory to the statements made by the City Council up until December 2019;
- The Inspector gave only limited weight to the City Deal in their consideration of the appeal, however the City Deal has been a crucial economic driver which has been accepted by Preston City Council and to revert to the standard method derived local housing need would not go anywhere near to meeting the obligations accepted through the City Deal. It is clear that the City Deal is an important consideration which should be given significant weight in the determination of applications for housing in Preston;
- In the absence of an appropriate review of housing requirements through the local plan process, the requirement laid down in Policy 4 of the adopted Core Strategy should continue to be used for the purposes of development management and the "tilted balance" should continue to be engaged with the application approved;
- The Committee report provides a misinterpretation of the implications of the Council's rationale in utilising local housing need as a minimum requirement figure. By utilising the local housing need figure instead of the figure set out in Policy 4 of the Central Lancashire Core Strategy, the Council has acknowledged this policy to be out of date. Moreover, given the significant change in the distribution of housing evident between Core Strategy requirements and the individual local housing need figures across the Central Lancashire area, it is also evident that Core Strategy Policy 1 is out of date. As is it considered by the applicant's agent that these policies are out of date, it is their opinion that the tilted balance in Paragraph 11(d) of the Framework remains engaged;
- If the Council were to seek to apply a modified local housing need requirement figure, as is proposed in the 2019 Memorandum of Understanding, this would further compound the issues and would represent a "policy-on" requirement figure which would have legal implications until such time as these figures had been properly tested alongside the evidence base upon which such distribution was based;
- In the absence of a full review of housing requirements through a local plan process, housing requirements in Core Strategy Policy 4 should continue and under such circumstances there is a shortfall in the five year housing supply. Alternatively, if it was deemed appropriate for the Council to base the housing requirement on the unadjusted local housing need, this would render the policies which are most important for determining the application out of date. In either of these circumstances the tilted balance in Paragraph (d) of the Framework should still be engaged and the application approved as per the resolution of the December Committee;
- The impact on landscape character, visual amenity and residential amenity have been found to be acceptable;
- LCC Highways concluded there would be no significant adverse impacts as a result of the proposed development, and any impacts would be sufficiently mitigated by

conditions and a planning obligation requiring a £157,000 contribution to the A6 Strategy and sustainable transport improvements;

- No unacceptable ecological impacts have been identified, with no objections from Greater Manchester Ecology Unit subject to mitigation measures;
- All trees subject to TPOs would be retained and integrated into the development;
- The site is situated within Flood Zone 1, with no objections from the Lead Local Flood Authority or United Utilities;
- The applicant has agreed to the provision of an education contribution as requested by County Education;
- The proposed development would exceed Building Regulations in terms of energy efficiency, and would be in line with Council policies on this issue;
- There are no archaeology concerns within this development subject to conditions;
- The development would provide quality on-site public open space;
- The development would provide the full policy compliant amount of affordable housing which is material benefit;
- The developer (Story Homes) will deliver the development in the short term; and
- The December 2019 Committee report provided an assessment of the potential technical and environmental impacts arising from the proposed development, in addition to the benefits of the scheme. This has been largely repeated in the February Committee report, although the section relating to economic, social and environmental aims set out in the Framework has not been repeated and the latest report acknowledges the benefits of the proposed development could achieve only some of the three overarching objectives of sustainable development, whilst attaching only limited weight to these. The points made in the December Committee report, in relation to sustainable development, remain wholly relevant to the determination of this application and therefore the development of this site constitutes sustainable development in the context of the Framework.

Officer comments

- The Chain House Lane decision is the most recent appeal decision issued by the Planning Inspectorate in Central Lancashire which has a significant bearing on the housing land supply position of all three authorities, as the Inspector states in Paragraph 34 of the Appeal Decision. Paragraph 37 of the Appeal Decision sets out the Inspector's reasons for arriving at the conclusion that the standard method of calculating local housing. Until this appeal decision is set aside by a Court Decision the Council is entitled to have regard to it;
- The Council's updated five year supply position is not based on the proposed re-distribution contained within the revised Memorandum of Understanding (rMOU). The Council issued statement includes a five year supply calculation against the rMOU for information and to provide applicants and developers with all the information available. The objections to the rMOU are therefore considered irrelevant to the consideration of this planning application, as they will be considered as part of the Council decision to adopt, or otherwise, the rMOU;
- 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 has necessitated the Council to reflect on its position. 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 previously;
- 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 5 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; and
- 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.

No change to the recommendation

APPENDIX TO LATE CHANGES SESSION 3

(This appendix contains the complete versions of all representations received between 20th December 2019 and 12th February 2020, which have been summarised in late changes)