



## Appeal Decision

Inquiry Held from 12 to 15 November 2019

Site visit made on 14 November 2019

**by S Hunt BA (Hons) MA MRTPI**

Inspector appointed by the Secretary of State

Decision date: 13<sup>th</sup> December 2019

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**Appeal Ref: APP/F2360/W/19/3234070**

**Land to the South of Chain House Lane, Whitestake, Preston**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Wainhomes (North West) Ltd against the decision of South Ribble Borough Council.
  - The application Ref 07/2018/9316/OUT, dated 4 December 2018, was refused by notice dated 27 June 2019.
  - The development proposed is Outline planning permission for up to 100 dwellings with access and associated works.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. It is noted that a more detailed site address has been set out in Council documents including the Decision Notice. Notwithstanding this, I find that the slight difference in how the site address is stated has no substantive impact in defining the location of the proposals therefore I have referred to the address as stated on the original application form.
3. The application was made in outline form with all matters reserved except for access. Details of appearance, landscaping, layout and scale are therefore not considered in this decision. An amended access plan (ref. SCP 18355/F02 Rev B) and corresponding illustrative layout (ref. 1638WHD/CHL/IM01 Rev B) have been submitted which relate to a minor alteration to the access to avoid a tree on the neighbour's boundary. They have been agreed by the Council and the Highway Authority. As the revised plans do not substantively alter the proposals, and would not prejudice the interests of interested parties I have accepted them.
4. Following the submission of an Air Quality Assessment the Council agreed to withdraw the third reason for refusal. Insufficient evidence in relation to air quality therefore no longer forms one of the main issues, and the main parties did not give evidence at the inquiry on this matter. However I note that air quality remains a concern for a number of local residents.
5. A completed agreement under Section 106 of the Town and Country Planning Act (S.106) was submitted at the inquiry, and a Community Infrastructure Levy (CIL) Compliance Statement was submitted by the Council. The S.106 makes provision for 30% affordable housing and on-site public open space, and

contributions to off-site play space, mobile speed indicator devices, cycle lockers at a local railway station, and travel plan monitoring. I am satisfied that the agreement would accord with the tests set out in the Community Infrastructure Levy Regulations and have had regard to its' provisions in the consideration of this appeal.

### **Main Issues**

6. The main issues in this appeal are:
- i) The South Ribble Borough Council housing requirement and whether a five year supply of deliverable housing land can be demonstrated by the Council; and
  - ii) Whether the proposed development would prejudice the Council's ability to manage the comprehensive development of the wider area of safeguarded land within which the appeal site is located, with particular regard to policy G3 of the South Ribble Local Plan 2015.

### **Reasons**

7. Section 70(2) of the Town and Country Planning Act 1990 requires regard to be had to the provisions of the development plan, so far as material to the application, and to any other material considerations. Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that if regard is to be had to the development plan for any determination then that determination must be made in accordance with the plan unless material considerations indicate otherwise. The National Planning Policy Framework (the Framework) is such a material consideration.
8. The development plan for the area comprises the Central Lancashire Core Strategy (CS), adopted in July 2012, and the South Ribble Borough Council Local Plan (SRLP), adopted in July 2015. The appeal site forms part of a larger site *S3: South of Coote Lane, Chain House Lane, Farington* which is identified as Safeguarded Land on the adopted Policies Map. Policy G3 of the SRLP, in relation to safeguarded land, is the only policy cited in the two remaining reasons for refusal. Policy 4 of the CS is also directly of relevance in relation to the housing requirement and calculation of the five year housing land supply.

### *Housing Requirement*

9. Policy 4 of the 2012 CS sets out the housing requirement for the three Central Lancashire authorities; Preston, South Ribble and Chorley, which form one Housing Market Area (HMA). A figure of 417 dwellings per annum (pa) is specified for South Ribble at part (a) of the Policy, and parts (b) to (d) relate to review of housing delivery performance, and ensuring that a five year supply and sufficient housing land is identified by site allocations. Related to this, the Appellant's evidence refers to Appendix D of the CS and Appendix 7 of the SRLP which set out the performance monitoring framework, specifically those performance indicators which relate to the housing requirement. The supporting text to Policy 4 of the CS explains that the housing figures stem from the now revoked 2008 Regional Spatial Strategy (RSS). I note that the evidence for those figures dates from several years earlier (2003).
10. Paragraph 73 of the Framework requires local planning authorities to identify and update annually a supply of specific deliverable sites sufficient to provide a

minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where those policies are more than five years old. There is no doubt that the strategic policies within the 2012 CS are more than five years old.

11. Footnote 37 to paragraph 73 gives the proviso '*Unless these strategic policies have been reviewed and found not to require updating*'. The footnote also clarifies that where local housing need is used as the basis for the assessment, the standard method should be used for calculating the supply, as set out in national planning guidance.
12. A key point of dispute in this appeal relates to whether such a review of strategic policies has taken place, and therefore whether the figure in Policy 4 of the CS should continue to be used to calculate the five year housing land supply in the Borough. The Council's evidence suggests that the standard method should now be used instead, at 206 dwellings pa (216 pa with the 5% buffer confirmed by the Housing Delivery Test). South Ribble's 2019 Housing Land Position Statement (HLPS) gives both scenarios<sup>1</sup>.
13. The differences between the two methods of calculating the requirement, and the main parties' positions on the housing land supply is summarised in the table below.

	<b>2012 Core Strategy Policy 4</b>		<b>2019 Standard Method</b>		
<b>Annual Requirement</b>	417		216		
	<b>Appellant</b>	<b>Council (2019 HLPS)</b>	<b>Appellant</b>	<b>Council (2019 HLPS)</b>	<b>Council (at start of inquiry)</b>
<b>Deliverable housing land supply</b>	3.24 years	5.96 years	N/A	18.5 years	17.8 years

14. In 2016-17 a joint Strategic Housing Market Assessment<sup>2</sup> (SHMA) was produced which identified an Objectively Assessed Need (OAN) for the three Central Lancashire authorities in the HMA. This totals of 1,184 dwellings pa, with 440 dwellings pa for South Ribble. The three authorities subsequently published a Memorandum of Understanding<sup>3</sup> (MOU) which set out that the CS housing requirement figures in Policy 4 should be retained for a number of reasons<sup>4</sup>. The dispute between the parties in relation to the housing

<sup>1</sup> CD 6.1 – South Ribble Housing Land Position Statement 2019

<sup>2</sup> CD 6.8 – Central Lancashire Strategic Housing Market Assessment (September 2017)

<sup>3</sup> CD 6.9 – Joint Memorandum of Understanding and Statement of Co-operation relating to the provision of housing land (September 2017)

<sup>4</sup> CD 6.9 MOU paragraph 5.10

- requirement principally revolves around whether the publication of the MOU in 2017 constituted a review for the purposes of footnote 37 to paragraph 73 of the Framework.
15. Mrs Harding suggested that this could not constitute a review because there was no public consultation on the 2017 MOU. The MOU is not a development plan policy document, and I am not aware of any guidelines for its production, consultation and adoption. Even so, I would agree that consultation would be a proportionate ingredient of a review, and that it would assist in ensuring that such a document is fit for purpose.
  16. There is limited evidence before me to support this and Mrs Harding's further contention that the whole of Policy 4 was not reviewed; i.e. the SHMA only relates to part (a) in relation to the figures. Nonetheless, it does provide me with further doubt about whether the MOU and SHMA process leading up to it constituted a full review.
  17. I acknowledge the Appellant's reference to page 21 of the 2019 HLPS which, when referring to the MOU, states '*This could be considered to have been a review of the policy in terms of footnote 37 of the NPPF*'. To my mind the word 'could' also raises an element of doubt, and highlights that the situation is by no means clear cut. Mr Pycroft asserted that whilst the MOU alone may not have been a review of CS Policy 4 it was the outcome of the production of the SHMA, and the entire process constituted a review. I do not agree for the following reasons.
  18. The SHMA is not a review of policy but part of the evidence base for a future review of the plan. I have regard to paragraph 1.2 of the SHMA which states: '*The SHMA does not set housing targets. It provides an assessment of the need for housing across the functional Housing Market Area (HMA), making no judgements regarding future policy decisions which the Councils may take*'.
  19. Mr Pycroft's evidence also refers to a 2016 report to the Central Lancashire Strategic Planning Joint Advisory Committee<sup>5</sup> (JAC). To my mind the paragraphs he refers to simply inform members of the JAC that the fifth anniversary of the CS is approaching, and that Government guidance requires plans and policies to be reviewed. On reading the report as a whole, it also informs members that the main purpose of the SHMA is to ensure the Councils had a full objectively assessed need (FOAN) in accordance with paragraph 47 of the former 2012 Framework. This is also evident in a subsequent report to the JAC in March 2017<sup>6</sup> which sets out that the FOAN is an evidence figure, not policy. Indeed, I note that CS Policy 4 is not specifically mentioned in either of these reports and references to 'review' are in the context of a future review of the CS<sup>7</sup>.
  20. I have also had regard to the Brindle Road decision<sup>8</sup> where the Inspector was not convinced that the MOU was a review, although I note the basis on which these comments were made as highlighted by the Appellant. In view of the above, and the inconclusive evidence supplied by the Council regarding lack of

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<sup>5</sup> Ben Pycroft Proof of Evidence paragraph 7.39-7.41 & Appx BP2-H : Report to Central Lancashire Strategic Planning Joint Advisory Committee 27 June 2016 – Paragraph 19

<sup>6</sup> Ben Pycroft Appx BP2-I : Report to Central Lancashire Strategic Planning Joint Advisory Committee 2 March 2017

<sup>7</sup> As above - Paragraphs 20 and 22

<sup>8</sup> CD 7.11 – APP/F2360/W/18/3198822 Land off Brindle Road, Bamber Bridge, Preston PR5 6YP (paragraph 41)

consultation and review of the whole policy, I do not consider that the SHMA process constituted a review of Policy 4.

21. I acknowledge that both Preston and Chorley currently use the CS housing requirement in decision making and in their most recent Housing Land Position statements<sup>9</sup>. Whilst I do not have the benefit of direct evidence from Preston and Chorley Councils, I have had regard to the evidence produced by Mr Pycroft and it seems to me that there are various other reasons, not solely relating to the MOU, that they continue to use the CS figures and consider that a review of Policy 4 has taken place.
22. The Preston City Council press release<sup>10</sup> does not specifically refer to the MOU, instead it refers to the costs associated with defending two recent appeal decisions in their area which concluded that Preston did not have a five year supply of housing. I cannot make any conclusions on this as those decisions are not in the evidence before me. Preston's latest housing land position statement (HLPS)<sup>11</sup> also refers to those appeal decisions (at paragraph 1.6), and draws attention to the Preston Local Plan examination where it was agreed that there was no requirement to reconsider the Objectively Assessed Need. Mr Pycroft pointed out paragraph 1.9 of the HLPS<sup>12</sup> in relation to the MOU. However, to my mind this suggests uncertainty given the punctuation of 'review' (in single quotation marks).
23. Preston's HLPS goes on to explain at paragraph 1.10 that its' OAN resulting from the SHMA is *lower* than the CS requirement, and it seems to me that this was a factor in the aforementioned appeal decisions. This contrasts to the situation in South Ribble, where the OAN was calculated to be very similar (and slightly higher) to the existing CS requirement.
24. Chorley's 2019 housing supply statement also applies the CS requirement figure but does not refer to the MOU in doing so. Mr Pycroft's evidence<sup>13</sup> in relation to a recent appeal (Carrington Road<sup>14</sup>) gives further explanation; their reasoning for continuing to apply the CS requirement was that it was reviewed as part of the examination of the Chorley Local Plan in 2015. I also have regard to a very recent Chorley planning committee report in relation to a resubmission of a previously dismissed appeal at Pear Tree Lane<sup>15</sup>, where Chorley set out their reasons as to why they consider CS Policy 4 is not out-of-date.
25. It seems to me that the reasoning taken by Chorley and Preston for their use of the CS figure is specific to those Councils and does not necessarily directly apply to the South Ribble situation. In view of this, I am not satisfied that the evidence demonstrates that they are applying the CS figure for the reason that the MOU (and SHMA process) constituted a review.
26. It has also been put to me by the Council that the 2017 MOU has been overtaken by events, i.e. a 'significant change' has taken place. Paragraph 33

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<sup>9</sup> Ben Pycroft Appx BP2-D : Preston Housing Land Position 2019; BP2-F Chorley Five Year Housing Supply Statement 2019; BP2-J Preston City Council press release 22.01.19; and Additional Document 11 – Chorley Planning Committee Report 12 November 2019

<sup>10</sup> Ben Pycroft Appx BP2-J : Preston City Council press release 22.01.19

<sup>11</sup> Ben Pycroft Appx BP2-D : Preston Housing Land Position 2019

<sup>12</sup> Ben Pycroft Proof of Evidence paras 7.28 and 7.30

<sup>13</sup> Ben Pycroft Appx BP2-G : Chorley Council appeal statement Carrington Road APP/D2320/W/3228123

<sup>14</sup> CD 7.19 Carrington Road APP/D2320/W/3228123

<sup>15</sup> CD 7.21 Pear Tree Lane APP/D2320/W/17/3173275 and Additional Document 11

- of the Framework requires local authorities to update relevant strategic policies at least once every five years if their applicable local housing need figure has changed significantly. 'Significantly' is open to interpretation; and moreover the Framework does not specify whether such a change in the figure is positive or negative.
27. Paragraph 062 of the Planning Practice Guidance (PPG) on plan making<sup>16</sup> gives guidance on review of policies, stating that where a review was undertaken prior to publication of the Framework in 2018 but within the last 5 years, then that plan will continue to constitute the up-to-date plan policies unless there have been significant changes in circumstances. There is a difference in interpretation of the guidance between the main parties.
28. The 2017 MOU was produced prior to the publication of the 2018 Framework. The PPG is not explicit in that it only refers to a significant change as being an existing figure that is significantly below the number generated using the standard method. I agree with the Council that the wording of paragraph 062 does not necessarily discount a situation where the existing plan figure is significantly *above* the number generated using the standard method, as is the case in South Ribble. This therefore adds little to the Appellants argument that a review of the CS has taken place.
29. The 2017 MOU itself sets out review arrangements at section 7; no less than every three years and when new evidence that renders the MOU out-of-date has emerged. Such a review of the MOU is currently taking place. A 2019 Draft MOU<sup>17</sup> relating to the provision and distribution of housing land has been recently produced by the Central Lancashire authorities. This follows a Housing Study<sup>18</sup> which has informed a proposed interim position in advance of the adoption of the new Local Plan for Central Lancashire.
30. I was presented with a copy of a report to the Council's cabinet<sup>19</sup> at the start of the inquiry which seeks approval for agreement to the new MOU. A short consultation period had commenced on the MOU at the time of the inquiry and it is understood that the responses would then be reported to Full Council. There was some discussion about the status of these documents and the weight to be attached to them.
31. They are not policy documents and they are in draft form; therefore they do not currently formally represent the interim position on housing requirements for Central Lancashire. I note this stance has been recently taken by Preston City Council<sup>20</sup>. I also accept that the 2019 Housing Study does not consider a review of the CS figures; it only considers the Standard Method calculation of housing supply and a re-distribution between the three authorities.
32. It is necessary for the completion of consultation and a final version of the MOU to be subsequently formally adopted by all three authorities before more certainty can be attached to its figures. It sets out a yearly requirement of 334 dwellings per annum (pa) for South Ribble. The Appellant has questioned the

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<sup>16</sup> Reference ID: 61-062-20190315

<sup>17</sup> Additional Document 2 : Draft Memorandum of Understanding and Statement of Co-operation relating to the provision and distribution of housing land (December 2019)

<sup>18</sup> Additional Document 1 : Central Lancashire Housing Study by Icen Projects Limited on behalf of Chorley, Preston and South Ribble (October 2019)

<sup>19</sup> Additional Document 3 : Report to Cabinet 13 November 2019

<sup>20</sup> Late document 7 Emery Planning Statement on Revised MOU Appx 2: Preston City Council Planning Committee meeting minutes 7 November 2019

adequacy of the 2 week consultation. However, this is not a matter for this Section 78 appeal to consider. Nonetheless these documents are a material consideration.

33. I am mindful that if Preston and Chorley applied the standard method (not the draft re-distributed figure) to their housing requirement now, Preston would be able to demonstrate a five year supply and Chorley would not. This inconsistency in the way the three Central Lancashire Authorities are currently making decisions relating to housing (together with with the age of the CS, current consultation on Issues and Options for a new Central Lancashire Local Plan, and the introduction of the standard method) have plainly contributed to current events where the three authorities are consulting on a revised MOU to provide more clarity in decision making.
34. I am also conscious that my conclusions in respect of the housing supply requirement for South Ribble may have consequences for decision making by the neighbouring authorities. Convincing arguments have been made by the Appellants for retaining the current CS housing requirement in view of the redistribution which may potentially result from this, but undue reliance seems to be placed on what the two other authorities are currently doing and how the use of the Standard Method will affect them. This is a matter for their own decision making and for the emerging Central Lancashire Local Plan in carrying out a full review of housing policies.
35. No matter what the outcome of the 2019 MOU consultation and timing for its final publication, the figures contained within it and the distribution between the authorities would be an interim position. The production of the new Central Lancashire Local Plan is at an early stage with consultation on Issues and Options. It is for that review to fully consider the provision and distribution of new homes in the area. Indeed the Issues and Options document states '*it is likely that the number of homes we must deliver for this plan period of 2021-2036 will be different to our existing policy*' and confirms use of the standard housing method. It also clarifies that the three councils are still looking into the number of homes needed and how they will be spread; '*We will have more information about this when we next consult with our communities*<sup>21</sup>.
36. The Housing Study, albeit not a final report, acknowledges in its introduction that the previously agreed MOU needs to be revisited, and that a robust basis for working to agree an updated level of housing need and its distribution across the HMA is required through an updated MOU. I do not make any attempt to predicate the outcome of the final Housing Study and the current consultation on the draft 2019 MOU. However it is clear to me that the direction of travel by all three authorities is towards the standard method and a re-distribution of the housing requirement based on a range of factors including population, workforce and jobs distribution and constraints (including Green Belt).
37. Having regard to paragraphs 33, 73 (and footnote 37) and 212-213 of the NPPF, and the PPG paragraph 062, I conclude that the figure within Policy 4 of 417 dwellings per annum is out-of-date on several counts : i) the strategic policies are over 5 years old; ii) my conclusions that the 2017 MOU (and SHMA leading up to it) did not properly constitute a review; and iii) the 'significant change' resulting from the introduction of the standard method in the 2018

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<sup>21</sup> CD 5.1 Central Lancashire Local Plan Issues and Options Consultation November 2019 para's 3.3-3.7

Framework and the Council's significantly lower figure arising from the standard method calculation. Additionally, the MOU itself requires review by September 2020; indeed a new version is currently undergoing consultation.

38. The Council no longer consider the 2012 CS figure of 417 pa to be a true reflection of the Borough's housing requirement. Conversely, the 216 dwellings pa arising from use of the standard method as put forward in the Council's case may not be a true reflection of their needs either, having regard to the suggested re-distribution set out in the Housing Study and 2019 MOU. These are material considerations to which I give moderate weight.
39. Whilst I do not attempt to establish what the final yearly requirement figure for South Ribble should be (216 or 334 or some other figure) - this is a matter for the Central Lancashire authorities to agree in view of the draft status of the new MOU - I conclude that the standard method of calculating local housing need should be used for the purposes of this appeal and this is set out further in the sections below.

#### *Housing Land Supply*

40. I have previously highlighted the significant difference in the housing land supply figure between the Council and the Appellant. Prior to the inquiry the Council's figure was 18.5 years, and the Appellant's figure stood at 3.24 years. This gulf in the supply largely results from the starting point of how the housing requirement should be calculated as set out above.
41. Differences also arise in relation to 13 allocated sites, and discounts to be made in respect of whether they are deliverable in accordance with the definition in Annex 2 of the Framework and guidance set out in the PPG *Housing and Economic Land Availability Assessment*. Additionally, there is dispute regarding calculation of the windfall allowance.
42. As I have already concluded that as CS Policy 4 is more than five years old and has not been reviewed in South Ribble, the housing requirement should be calculated against local housing need using the standard method. As such I do not go any further in considering the housing land supply on the basis of the CS requirement.
43. A number of concessions were made by Mrs Harding at the inquiry in relation to a lack of clear evidence on whether the 13 allocated sites are deliverable within five years. Some of the discounts were significant, bringing the Council's original 18.5 year figure down accordingly. The parties agreed that evidence included beyond the base date (31<sup>st</sup> March 2019) should not be included; i.e. the 'strict approach'. I note that the appeal decisions supplied illustrate that there is no one universally accepted approach in respect of accepting evidence beyond the base date.
44. If I were to accept Mr Pycroft's full set of discounts<sup>22</sup>, there would be a deliverable supply of 2,174 homes, resulting in the 5 year supply being just over 10 years using the local housing need requirement. I note that progress on sites such as the Test Track (Local Plan allocation FF)<sup>23</sup> and others has been made since the base date, and if there was a more marginal supply situation I may be persuaded to take the clear post-base date evidence into account.

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<sup>22</sup> Ben Pycroft Proof of Evidence para's 11.47-11.48

<sup>23</sup> Additional Documents 12 and 13 - Test Track decision notice and S.106



45. Notwithstanding if I were to use the 'strict approach' to the base date only, the supply would remain at well above five years using the local housing need requirement figure of 216 dwellings pa. Any difference in calculations and evidence on windfall allowances would also make little difference to the supply figure, which is not marginal, therefore I do not go any further into this matter.
46. I am mindful that the local housing need figure is currently being reviewed by the three Central Lancashire authorities, as explained above, through the Housing Study and a new MOU. The Council do not put forward this higher re-distributed figure of 334 dwellings pa, due to it currently being a draft figure. Nonetheless, Mrs Harding agreed that the 216 pa figure she relies on does not represent a 'true reflection' of South Ribble's housing requirements. Indeed it is a minimum, and I have regard to the Government's aim to significantly boost housing supply as set out in paragraph 59 of the Framework.
47. Whilst I give the Housing Study and 2019 MOU limited weight given that consultation has not been completed and the 2019 MOU is unlikely to be formally adopted prior to my decision, for completeness I set out below what the 5 year supply would be if the higher re-distributed figure of 334 pa were to be utilised, compared to the local housing need figure of 206 pa currently relied on by the Council.

	<b>Requirement</b>	<b>Local Housing Need</b>	<b>Redistributed Local Housing Need (2019 MOU)</b>
A	Annual Requirement	206	334
B	Past Shortfall at 31 <sup>st</sup> March 2019	0	0
C	Amount of past shortfall to be addressed in the five year period	0	0
D	Total five year requirement (A x 5 + C)	1030	1670
E	Requirement plus 5% buffer (D + 5%)	1082	1754
F	Annual requirement plus buffer (E / 5 years)	216	347
	<b>Supply</b>		
G	Five year supply 1 <sup>st</sup> April 2019 to 31 <sup>st</sup> March 2024	2174	2174
H	Years supply (G/F)	<b>10.06 years</b>	<b>6.27 years</b>

48. It is evident to me that whichever figure is used, the supply figure would be well in excess of five years. Importantly, I have based this on the worst case scenario – i.e. if I were to accept all the discounts suggested by Mr Pycroft, and if I take the ‘strict approach’ of excluding any evidence after the base date.
49. Consequently, on the basis of what I have heard I am satisfied that the Council is currently able to demonstrate a five year supply of deliverable housing land, albeit that it would not be as high as originally calculated. The tilted balance is therefore not engaged by virtue of a failure to demonstrate sufficient housing land provision.

#### *Safeguarded Land*

50. It is common ground that the appeal proposals are contrary to Policy G3 of the SRLP. The Policy requires such land to remain safeguarded and not designated for any specific purpose within the plan period. After identifying 5 different areas of safeguarded land in the Borough, including S3, it specifies that existing uses will for the most part remain undisturbed during the plan period or until the plan is reviewed. Finally, it states that planning permission will not be granted for development which could prejudice potential longer term comprehensive development of land.
51. Paragraph 213 of the Framework indicates that due weight should be given to policies according to their degree of consistency with the Framework. Paragraph 139(c) of the Framework states that where necessary development plans should identify areas of safeguarded land between the urban area and the Green Belt in order to meet longer-term development needs stretching well beyond the plan period. Paragraph 139(d) indicates that planning permission for the permanent development of safeguarded land should only be granted following an update to a plan which proposes the development.
52. I attach significant weight to Policy G3 in view of its consistency with the Framework. The proposals are clearly in conflict with the first part of the Policy, as the site forms part of S3 ‘South of Coote Lane, Chain House Lane, Farriington’. The first part of the final paragraph of the Policy confirms; *‘Existing uses will for the most part remain undisturbed during the Plan period or until the Plan is reviewed’*. The SRLP was adopted in 2015, and is well within its 15 year plan period.
53. There was some discussion at the inquiry about the wording *‘for the most part remain undisturbed’*. I do not accept the Appellant’s suggestion that as the site is only a small part of the overall site S3, its development would not be harmful. I acknowledge that there is some flexibility in Policy G3 but do not accept the Appellant’s view that there is not an explicit requirement for the land to remain as it is. Indeed ‘most part’ does not invite development of such a scale that would be anything other than minor.
54. The supporting text to the Policy provides further commentary, and suggests at paragraph 10.36 that the same types of development that would be generally acceptable in the Green Belt would be allowed: *‘... some appropriate minor residential development adjacent to other properties would be considered’*. It is my view that this wording is aimed at minor infill development, and 100 dwellings would plainly not constitute this type of development. The proposals would conflict with this particular element of Policy G3.

55. Policy G3 does not mention a lack of five year housing land supply as one of the circumstances in which the safeguarded land could be released for development. Moreover, it does not specify the type of development that it is safeguarded for. The Council put to me that it does not automatically mean the land would ultimately be used for housing, and suggest employment (specifically office) uses as an alternative, or as open space, serving a purpose as a 'green lung'.
56. The point about potential employment land was raised in the Coote Lane decision<sup>24</sup> in relation to another part of the same safeguarded site S3. Although a relatively dated decision (2014) and prior to the adoption of the SRLP, Policy G3 remains unchanged in the current Local Plan, and there is little evidence to persuade me to deviate from that Inspector's view.
57. I was presented with an update to the Central Lancashire Employment Study<sup>25</sup> at the inquiry which suggests an additional need for employment land including office space over and above the previous employment land study published in 2017. It is not site specific, and by no means suggests the appeal site or any safeguarded land should be released for such use. However it lends some weight to the Council's case in that if the site were to be released for development whether as part of a Local Plan review or some other circumstance, it does not necessarily follow that it would wholly be used for housing.
58. I concur with the Appellant that the appeal site is a relatively small part of the larger S3 safeguarded land, and if such different uses were deemed appropriate there is other land which could be utilised. Notwithstanding this, it is not for this Section 78 appeal decision to determine what might be an appropriate alternative use, whether as employment, green space or some other use.
59. The second part of the final paragraph of Policy G3 goes further in stating that; '*Planning permission will not be granted for development which would prejudice potential longer term, comprehensive development of the land*'. This is the basis for the second reason for refusal.
60. In response to this reason for refusal the Appellant provided a joint illustrative masterplan<sup>26</sup>, which followed their discussions with Homes England, the landowners of the remainder of the part of S3 between Chain House Lane and the railway line. I note that Homes England have withdrawn their objection to the proposals subject to conditions.
61. The Council and interested parties queried why planning permission was not applied for in relation to the whole area of land to enable a comprehensive scheme. However, any future plans for adjoining land are not part of the appeal proposals before me.
62. The joint illustrative masterplan shows that vehicular and pedestrian/cycle links could provide access to adjoining land. The condition suggested by Homes England seeks to ensure access to their land remains unfettered. Nonetheless,

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<sup>24</sup> CD 7.7 : APP/F2360/A/13/2202973 Coote Lane, Farington – Para. 18

<sup>25</sup> Additional Document 14 : Central Lancashire Employment Land Study – Objectively Assessed Needs Update 2019 (April 2019)

<sup>26</sup> Stephen Harris Proof of Evidence Appx SH1

the plan is purely illustrative and has not been agreed by the Council nor been subject to public consultation, nor does it include the entirety of S3.

63. I viewed the remaining part of S3 (Coote Lane) on my unaccompanied site visit prior to the inquiry and I agree with the Appellant that Coote Lane and Chain House Lane, separated by the railway line, are discrete parts of S3 which could be developed independently. This corresponds with the position taken by the Inspector within the Examination Report into the SRLP in 2015<sup>27</sup>. The sites are both physically and visually severed by Church Lane and the railway line.
64. It would be a matter for the Council in relation to any future wider proposals and/or Local Plan review whether to require a Masterplan for the entirety of S3. The Council have aspirations for stronger placemaking and effective engagement with communities as required by paragraph 124 of the Framework, and for seeking to ensure the opportunity to plan for future infrastructure needs. I note this point was raised in paragraph 48 of the aforementioned Examination Report, where the Inspector stated *'... one of the benefits of promoting a comprehensive development of the larger allocated and safeguarded sites is that they would provide the opportunity to plan to meet the need for essential infrastructure improvements. Piecemeal development of smaller parcels of land within the overall site allocation is unlikely to provide the same opportunity'*.
65. I would agree with the Local Plan Inspector's position in respect of the wider S3 safeguarded site which is of a significant scale. There is no evidence before me to suggest that 100 dwellings alone would warrant contributions to, for example, local education provision and a nearby railway crossing at the present time (or that such contributions would meet the tests in paragraph 56 of the Framework). Nonetheless in its entirety the development of the wider S3 site could have implications for local infrastructure and services. In the interests of effective placemaking and efficient infrastructure delivery, any identified improvements may need to be funded and planned comprehensively and piecemeal development is unlikely to achieve this.
66. The Council's aspiration to comprehensively plan for S3 in its entirety via an agreed masterplan would meet the Government's objectives to engage with local communities and set out a clear design vision and expectations. They have a proven track record of masterplan requirements for the major allocated development sites in the Borough (including allocation EE 'Pickering's Farm' opposite the site). A comprehensive masterplan can also aid in provision for any necessary infrastructure improvements, open space and so on. Whilst the Appellant's joint Masterplan is a useful illustrative plan to show how this part of S3 may be developed comprehensively in the future in terms of access links, it does not address these other important points of wider infrastructure provision and links within the wider area.
67. Another concern of the Council in relation to the lack of comprehensive development relates to the location of the site distanced from the existing urban area. They state that consideration should first be given to the part of S3 which is closest to the urban pattern rather than pockets of safeguarded land in isolation. The Appellant contends that the site is accessible to local services and public transport, setting out a range of distances in the evidence.

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<sup>27</sup> CD 4.3 : Report on the Examination into the Site Allocations and Development Management Policies Development Plan Document (June 2015) – para. 48

68. The site is around 1.6km from Lostock Hall, which has a range of shops and services and a railway station. Whilst walking or cycling this distance may be possible for some people, and the routes are relatively direct, I consider it unlikely that a good proportion of future residents of the site would do so. On this point, I have had regard to the comments from interested parties who raised issues regarding the narrow roads and inadequate footways, the slope of the railway bridges and feeling unsafe when cycling which adds weight to this view.
69. There is a bus stop alongside the site with hourly services to Preston and Chorley. Interested parties told me that these services are not useful to them as they do not go to more local destinations and finish too early. Nonetheless a bus service to larger conurbations exists and I acknowledge the Section 106 Agreement which provides for a contribution towards the bus service and cycle parking enhancements at Lostock Hall railway station - these are positive benefits of the proposals. Such factors do not however outweigh my concerns regarding piecemeal development and the location of the site distant from the edge of the existing urban area.
70. I agree with the Council that the Coot Lane section of S3 is better related to the existing urban edge than the appeal site. An overall Masterplan for S3 in its entirety would assist in appropriate phasing so that land closest to the existing settlements could be developed first.
71. Development of the appeal site in isolation, in advance of the remainder of adjoining and nearby land forming S3 would result in harm in this respect. In coming to this conclusion I have had regard to the existing ribbon development along Chain House Lane, and acknowledge that over time the area will become more built up once development commences on the Pickerings Farm allocated site opposite commences. Nonetheless, the development of the appeal site alone would represent a disconnected pocket of housing in this otherwise currently undeveloped area.
72. I acknowledge that, with the suggested conditions<sup>28</sup>, the development of the site would not preclude highway and pedestrian/cycle links to adjoining land and in this respect would not prejudice these technical aspects of longer term, comprehensive development of the land (whether for housing or other uses). However, it would not establish a strong sense of place nor optimise the site's potential to accommodate and sustain an appropriate amount and mix of development and support local facilities and transport networks, contrary to section 12 of the Framework in achieving well-designed places. It also fails to represent effective community engagement, and to take the opportunities available for improving the character and quality of an area and the way it functions.
73. Appeal decisions have been put to me relating to safeguarded land both in the Central Lancashire area and elsewhere. However, none of them are directly comparable in terms of the housing land supply coupled with the current local and national policy situation. In those cases relating to the Leeds Unitary Development Plan<sup>29</sup>, the plan period had ended with no up to date adopted development plan being in place, together with a shortfall of housing land

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<sup>28</sup> Catherine Lewis Proof of Evidence and Additional Document 16 – Revised condition 19

<sup>29</sup> CD 7.1, 7.3, 7.4 and 7.5

rendering the 'protected area of search' policy out-of-date and I therefore find them of little relevance to this appeal.

74. The proposed development would be contrary to Policy G3 of the 2015 SRLP both in regard to its requirement to ensure existing uses for the most part remain undisturbed during the Plan period (or until the Plan is reviewed), and in terms of prejudice to potential longer term, comprehensive development of safeguarded land within which the appeal site is located. In turn the proposals are also contrary to paragraph 139 and section 12 of the Framework. I do not consider that this harm could be overcome by the suggested conditions or the Section 106 Agreement.

### **Other Matters**

75. I heard evidence from several interested parties at the inquiry, including 'Say No to Chain House Lane', and I have also carefully considered the numerous written representations submitted during the planning application process and for the appeal. Issues raised relate primarily to impact on area character and appearance, highway safety and traffic issues, drainage and flooding, trees, wildlife, pollution, and lack of local infrastructure and services. The appellant's evidence sets out how such issues have been considered in the proposals, and proposes mitigation via planning conditions and a Section 106 Agreement. Whilst I have had regard to the matters referred to, they do not give rise to harm which weighs significantly against the proposals.
76. I note that the statutory authorities and other consultees have not raised objections, including Lancashire County Council as the local highway authority. Should outline permission be granted such matters could be resolved at reserved matters stage, and by imposition of appropriate conditions and Highway Agreements.
77. The Council clarified in evidence that the second reason for refusal in its suggestion of 'prejudice' relates to Policy G3 and comprehensive development of the wider area of safeguarded land only. This is quite separate to the prematurity point set out in paragraph 49 of the Framework in terms of undermining the plan-making process. There is no harm to the emerging review of the Central Lancashire Local Plan.
78. The City Deal<sup>30</sup> is frequently referred to by the Appellants relating to aims to boost the housing supply in the area. However, the City Deal is not part of the Development Plan; rather it assists in supporting investment into infrastructure delivery programme for Preston, South Ribble and Lancashire. It has ambitious targets for housing delivery, related to employment and infrastructure delivery. Whilst it is briefly referred to in the SRLP foreword, I give it limited weight given that it is not embodied in policy and is currently undergoing a mid-term review which raises some uncertainty over its continuation.
79. The evidence of Mr Harris highlights that CS Policy 4 allows for a series of 'contingency options' identified in the performance monitoring framework<sup>31</sup> should there be a shortfall in housing delivery. Likewise, there are contingency actions set out within the SRLP<sup>32</sup> in the event that a shortfall arises. Mr Harris suggests that releasing safeguarded sites is the only method of addressing a

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<sup>30</sup> Ben Pycroft Proof of Evidence Appx BP2-K - City Deal : Business and Delivery Plan 2017/20

<sup>31</sup> Central Lancashire Core Strategy Appendix D

<sup>32</sup> South Ribble Local Plan Appendix 7

shortfall in supply; that it is a logical approach to providing much needed housing and the options set out in the performance monitoring frameworks in both plans would not assist.

80. I do not agree with this stance. There is no provision in the development plan for releasing safeguarded land as a contingency action. It is not an 'appropriate management action' as set out in part (b) of Policy 4. Reading the development plan as a whole, such an action would be contrary to its own policy in relation to safeguarded land. Policy G3 is implicit in that land should remain safeguarded during the plan period or until the plan is reviewed; it does not cite a shortfall in housing supply either within the policy or supporting text.
81. Whether the Council is sufficiently monitoring their plan and taking any of the contingency actions set out in the performance monitoring framework is a matter which is not one for me to deliberate on in this Section 78 appeal. In any case I have already concluded that the Council can demonstrate a five year housing supply.
82. The parties in this appeal have referred to numerous appeal decisions which have been provided to support their respective cases. Whilst I have had due regard to them, appeal decisions on other sites rarely bring identical policies and material considerations. None of the appeal decisions brought to my attention have had a determinative influence on my consideration of the appeal case.
83. I have had regard to the list of agreed conditions and the Section 106 Agreement which makes provision for 30% affordable housing and on-site public open space, and contributions to off-site play space, mobile speed indicator devices, cycle lockers at a local railway station, and travel plan monitoring. I am satisfied that the agreement would accord with the tests set out in the Community Infrastructure Levy Regulations and have had regard to its' provisions in the consideration of this appeal however the S.106 and conditions do not alter my conclusions in respect of this appeal.

### **Planning Balance and Conclusion**

84. I have identified conflict with Policy G3 of SRLP. Together with Policy 4 of the CLCS, these two policies within the development plan are the most important for determining the appeal. I now assess whether they should be considered to be out-of-date for the purposes of paragraph 11(d) of the Framework.
85. Policy 4 is contained within a plan which is more than five years old, but this strategic policy is not out-of-date simply because of its age. I conclude that it is out-of-date due to the significant change identified above; the publication of the Framework in 2018 which introduced at the standard method, and the significant difference in the housing requirement generated by that calculation for local housing need.
86. It is common ground between the parties that the appeal proposals are contrary to Policy G3 and that it is compliant with paragraph 139 of the Framework, however evidence differs as to whether it is out-of-date for the purposes of paragraph 11(d) of the Framework. I have concluded that the Council can demonstrate a five year supply of deliverable housing sites by virtue of use of the standard method for the housing requirement, therefore Policy G3 is not rendered out-of-date for that reason.

87. There was some discussion at the inquiry as to whether Policy G3 would be out-of-date for other reasons. I do not agree with the premise that Policy G3 becomes out-of-date purely because of the distributional consequences that would arise across the Central Lancashire HMA as a whole if all three authorities were to apply the standard method. Such a situation is not one which is referred to in the Framework or PPG as rendering this type of policy out-of-date.
88. Moreover, whilst I have given limited weight to the Housing Study and the 2019 draft MOU, the re-distribution which is suggested within the documents is not 'radical' as suggested by Mr Fraser. I note that the re-distribution recommended in the Housing Study is based on a reasonable set of criteria including jobs, population, and affordability as well as Green Belt constraints. The recommended share of the housing requirement<sup>33</sup> of 27.5% for Chorley, 40% for Preston and 32.5% for South Ribble is not significantly different from the current CS distribution of 31.1 %, 37.8% and 31.1% respectively. Distributional consequences do not weigh heavily in giving me reason to conclude that the policy is out-of-date.
89. This is a small basket of policies for determination of the appeal, nonetheless Policy G3 prevails as the most important, indeed it is the only policy specified in the reasons for refusal relating to the main issues. Taken as a whole, there is conflict with the development plan.
90. Consequently, this is a case in which the tilted balance is not engaged. The most important development plan policy is not out-of-date and the Council is able to demonstrate a five year supply of deliverable housing land.
91. I therefore carry out a standard planning balance in relation to the development proposals before me, with the starting point arising from Section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that applications for planning permission be determined in accordance with the development plan, unless material planning considerations indicate otherwise.
92. The proposals would assist in the Government's objective of significantly boosting the supply of new homes and as the Appellant is a housebuilder and there are relatively few physical site constraints, they could come forward without unnecessary delay. Another social benefit which weighs in favour of the development is the provision of 30% affordable housing.
93. Economic benefits include employment during construction, additional spending in the area by the new residents, the payment of New Homes Bonus and additional Council Tax revenue. Social and environmental benefits would arise from the provision of public and private amenity space as well as additional landscaping.
94. Public transport and cycle parking contributions are included in the S.106, and conditions require off-site highway improvements. Whilst these may benefit the wider area they are nonetheless necessary to mitigate the increase in traffic arising from the development. Therefore I give little weight to these factors in the overall balance.

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<sup>33</sup> Central Lancashire Housing Study by Icen Projects Ltd (October 2019) - Table 4.12 page 24.



95. 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. The benefits do not address the fundamental issue of the site's location within safeguarded land and the harm which would result from the prejudice to potential longer term comprehensive development of the land. Taken together they would not outweigh the conflict with the development plan when taken as a whole.
96. For the reasons given above I conclude that the appeal should be dismissed.

## **APPEARANCES**

### FOR THE LOCAL PLANNING AUTHORITY:

Mr Alan Evans of Counsel instructed by David Whelan, Solicitor  
for South Ribble Borough Council

He called:

Mrs Zoe Harding AssocRTPI Planning Policy Officer, South Ribble Borough  
Council

Mrs Catherine Lewis MRTPI Team Leader, South Ribble Borough Council

### FOR THE APPELLANT:

Mr Vincent Fraser QC Instructed by Wainhomes (North West) Ltd

He called:

Mr Ben Pycroft BA (Hons) Dip Director, Emery Planning  
TP MRTPI

Mr Stephen Harris BSc (Hons) Director, Emery Planning  
MRTPI

### INTERESTED PERSONS:

Jean Berry	Local Resident and 'Say No to Chain House Lane'
Elaine Robb	Farrington Parish Councillor and local resident
Cllr Karen Walton	South Ribble Borough Councillor and local resident
Alan Pemberton	Local resident
Michael Collison	Local resident
David Beaumont	Local resident

## **ADDITIONAL DOCUMENTS**

- 1 Central Lancashire Housing Study by Icení (October 2019)
- 2 Central Lancashire Local Plan Draft Memorandum of Understanding (December 2019)
- 3 South Ribble Borough Council Cabinet Report 13 November 2019
- 4 Minutes of South Ribble Borough Council Full Council 25 September 2019 – City Deal Update
- 5 Minutes of Central Lancashire Strategic Planning Joint Advisory Committee 28 October 2019
- 6 Update Note by South Ribble Borough Council
- 7 Statement by Appellant on Revised MoU
- 8 Erratum to Zoe Harding’s Proof of Evidence
- 9 Zoe Harding / Ben Pycroft email 3 October 2019
- 10 Discounts summary table
- 11 Chorley Planning Committee Report 12 November 2019 – 19/00654/OUTMAJ – Pear Tree Lane, Euxton
- 12 Decision notice 7 November 2019 – 07/2017/3361/ORM – Test Track, Aston Way, Leyland
- 13 Section 106 Agreement 7 November 2019 - 07/2017/3361/ORM – Test Track, Aston Way, Leyland
- 14 Central Lancashire Employment Land Study – Objectively Assessed Needs Update 2019
- 15 Photographs submitted by Jean Berry on behalf of local residents to show traffic
- 16 Revised condition 19 (Homes England access condition)
- 17 South Ribble Borough Council Closing Submissions
- 18 Appellant’s Closing Submissions
- 19 Completed Section 106 Agreement dated 15 November 2019