

PRESTON CITY COUNCIL



TOWN AND COUNTRY PLANNING ACT 1990

PLANNING BALANCE PROOF OF EVIDENCE OF

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SENIOR PLANNING OFFICER
(DEVELOPMENT MANAGAMENT)**

PRESTON CITY COUNCIL

Appeal Site: Dean Farm, 150 Whittingham Lane, Broughton, Preston, PR3 2JL

Appeal Proposal: Outline planning application seeking approval for access only for residential development for up to 32no. dwellings (all other matters reserved)

Appeal By: Community Gateway Association Ltd

Planning Inspectorate Ref: APP/N2345/W/21/3278556

Preston City Council Ref: 06/2020/0977

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1. INTRODUCTION

- 1.1.1. I am Jonathan Evans, and I am employed as a Senior Planning Officer in Development Management at Preston City Council. I have a little over 7 years' experience in planning, including 4 years of Development Management experience at a number of local planning authorities across the north west of England. Prior to this I had 3 years' experience providing Minerals and Waste Planning support whilst working for Urban Vision Partnership (between Capita and Salford City Council) to Greater Manchester and a number of other local authorities within England. Prior to this I was a Geo-Environmental Engineer.
- 1.1.2. I hold a Bachelor of Science degree in Geology (June 2006) and a Degree of Master of Civic Design (December 2016). I have been a Licentiate Member of the Royal Town Planning Institute since January 2017.
- 1.1.3. This Proof of Evidence should be read in conjunction with that of Christopher Blackburn and does not intend to repeat any of that evidence, including the Council's five year supply position; the status of the most important Development Plan policies for determining this appeal; whether or not the "tilted balance" is engaged; and the weight attributed to the most important Development Plan policies should the Inspector conclude the tilted balance is engaged.
- 1.1.4. This Proof of Evidence should also be read in conjunction with that of Dr Michael Bullock (Arc4 Ltd) which addresses all matters relating to affordable housing need, demand and supply and the weight to be attributed to the same in the consideration of the appeals.

Statement of Truth

- 1.1.5. The content contained within this Proof is true to the best of my knowledge. In submitting this Proof, I confirm that I have complied with my professional requirements as set out in the Royal Town Planning Institute Code of Professional Conduct, which require me to act with competence, honesty and integrity, and exercises independent professional judgement at all times.

2. BACKGROUND

2.1.1. This Proof of Evidence is submitted in respect of the appeal lodged by Community Gateway Association against the Council's decision to refuse outline planning permission for the erection of up to 32no. dwellings. All matters were reserved except for means of access.

2.1.2. The planning application was presented to Members of the Planning Committee in January 2021, with an officer recommendation for refusal given that the application is contrary to the development plan, which is the starting point in the determination of planning applications, due to it not being in a location identified for growth in the local plan, a lack of accessibility and its density which was considered out of character with the area. Members, consequently, at the meeting on 7th January 2021, resolved to refuse planning permission for the following reasons:

- i) The application site is located in the open countryside as shown on the policies map of the Preston Local Plan 2012-2026 (Site Allocations and Development Management Policies). The proposed development would be contrary to the hierarchy of locations for focussing growth and investment at urban, brownfield and allocated sites, within key service centres and other defined places. It fails to accord with the management of growth and investment set out in Policy 1 of the Central Lancashire Core Strategy, which seeks to limit development to small scale, infill development. Furthermore, the proposed development is not the type of development deemed permissible in the open countryside under Policy EN1 of the Preston Local Plan 2012-2026 (Site Allocations and

Development Management Policies), hence the loss of open countryside for the development proposed is contrary to that policy. Moreover, whilst it is acknowledged that the proposal comprises 100% entry-level homes, the need for such homes is already being met within the authority's area, hence the proposal fails to accord with paragraph 71¹ of the National Planning Policy Framework. The proposed development is contrary to Policy 1 of the Central Lancashire Core Strategy and Policy EN1 of the Preston Local Plan 2012-26 (Site Allocations and Development Management Policies) and the National Planning Policy Framework.

- ii) The application site is located in the open countryside as shown on the policies map of the Preston Local Plan 2012-2026 (Site Allocations and Development Management Policies). Due to lack of access to public transport and distance to local amenities, the proposed development would result in future residents being heavily reliant on private motor vehicles to access day to day amenities, which would not represent sustainable development. The need to promote sustainable development, set out in paragraph 8 of the Framework, involves bringing forward land of the right type in the right place with accessible services. By virtue of the location of application site, the proposed development would demonstrably fail to do this. The proposed development is contrary to Policy 3 of the Central Lancashire Core Strategy and the National Planning Policy Framework.
- iii) The indicative layout plan suggests the proposed development could achieve a density of around 32 dwellings per hectare. The existing density

¹ Paragraph 72 of the National Planning Policy Framework as amended July 2021

within the area is approximately 7.4 dwellings per hectare. The proposed density of the development would be substantially higher than that of the surrounding area and would result in a development that is incongruous in this rural area due to its suburban appearance. The proposed development is contrary to Policy 5 of the Central Lancashire Core Strategy and the National Planning Policy Framework.

- 2.1.3. After reviewing its case as part of the process of preparing for the Appeal, as it is obliged to do, the Council decided that it will not seek to make a case based on the third reason for refusal. For the avoidance of any doubt, the Council will continue to defend reasons 1 and 2.

3. APPEAL SITE AND SURROUNDING CONTEXT

3.1.1. The appeal relates to an area of 0.99ha of agricultural land located on the east side of Pudding Pie Nook Lane, south of the junction with Whittingham Lane, behind a property known as Dean Farm. Access to the appeal site would be taken from an existing access track to the land which runs from Pudding Pie Nook Lane between Dean Farm to the north and the former Oak Nursery site to the south (buildings have been demolished, but areas of hardstanding and boundary treatments remain), which forms part of development approved under planning application 06/2018/0700 for a distribution centre, which is under construction. The site of Oak Nursery is conditioned to be landscaped as part of the above approval. The appeal site is irregular in shape with the access projecting off the western corner of the site to connect to Pudding Pie Nook Lane, with the western edge of Pudding Pie Nook Lane up to the junction with Whittingham Lane included within the red edge. Dean Farm and land to the north and east of the appeal site are included within the blue edge. The appeal site is covered by an existing yard and sand paddock in the west of site with the remaining area a field.

3.1.2. The appeal site is located within the open countryside and area of separation as defined by the Policies Map of the Adopted Preston Local Plan 2012-26 (Site Allocations and Development Management Policies). The scheme also falls outside the village boundary of Broughton and proposes development on agricultural land.

3.1.3. The appeal site is situated approximately 75m from the eastern edge of the settlement boundary of the village of Broughton, which ends at the eastern

edge of no.138 Whittingham Lane. The north western edge of the appeal site is bound by Dean Farm, an area of trees bound the north and east edges of the appeal site, which include a surface water course to the north and a pond to the southeast. The south western edge of the appeal site adjoins the access route for the aforementioned distribution centre (06/2018/0700).

3.1.4. The following planning applications, which are in close proximity to the appeal site, have been submitted/approved in recent years:

- i) In September 2018 outline planning permission, under planning application 06/2017/0941, was granted on land to the southwest side of Pudding Pie Nook Lane for up to 101no. dwellings. At the time, the Council could not demonstrate a five year supply of deliverable housing land. In 2019 a subsequent reserved matters application (reference 06/2019/0166) was granted for 98no. dwellings, of which 34no. are affordable, and which provides a development with a density of 22dph. Construction started in 2020 and is accessed from Whittingham Lane.
- ii) In April 2018 outline planning permission, under planning application 06/2017/1387), was granted on land to the northwest side of Pudding Pie Nook Lane for up to 6no. dwellings. At the time, the Council could not demonstrate a five year supply of deliverable housing land. In 2021 a subsequent reserved matters application (reference 06/2021/0448) was granted for 6no. dwellings which provides a development with a density of 4.65dph. At the time of writing this statement development has not commenced.

4. THE PROPOSED DEVELOPMENT

- 4.1.1. Preston City Council validated the planning application that is subject to this appeal on 14th September 2020.
- 4.1.2. Outline planning permission was sought, with all matters reserved except for access, for the erection of up to 32no. dwellings on land to the rear of Dean Farm. Vehicular access would be taken from the existing access off Pudding Pie Nook Lane. The submitted “Proposed Site Access and Indicative Lane Improvements” plan (drawing ref. VN91463-D100 Rev. B) details the access arrangements.
- 4.1.3. Whilst in outline form the application was accompanied by an ‘illustrative layout’ plan (drawing ref. 1320-PL03F) which illustrates how a development of 32no. dwellings could come forward on site including retaining an offset from a gas main which crosses the east of the site in roughly a north to south direction.
- 4.1.4. The Planning Statement also indicated that 100% of the proposed dwellings would be affordable in accordance with the definition within the Glossary set out in NPPF Annex 2 and that the development was considered to constitute an Entry Level Exception Site provided for in paragraph 72 of the Framework (July 2021).
- 4.1.5. As previously mentioned, the Council’s Planning Committee resolved to refuse the application on 7th January 2021 for the reasons set out in paragraph 2.1.2 above, and the decision notice was issued on 8th January 2021.

5. THE DEVELOPMENT PLAN

5.1.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that if regard is to be had to the Development Plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise. This is reiterated in Paragraphs 2, 12 and 47 of the National Planning Policy Framework (The Framework), with Paragraph 12 stating that

“The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan permission should not usually be granted.”

5.1.2. The Development Plan for Preston consists of:

- The Central Lancashire Core Strategy (CS), adopted July 2012;
- The Preston Local Plan (LP) 2012-26 (Site Allocations and Development Management Policies DPD), adopted July 2015;
- The Preston City Centre Area Action Plan, adopted June 2016.
- Broughton Neighbourhood Development Plan 2016-2026 (Adopted 18th October 2018); and
- Inner East Preston Neighbourhood Development Plan 2014-2029 (Adopted 23rd April 2015).

These have been found at examination to be in conformity with the Framework.

5.1.3. In relation to the matters covered in this Proof of Evidence the relevant development plan policies for the determination of this appeal are:

- **Central Lancashire Core Strategy (CS) Policy 1** – Locating growth
- **Central Lancashire Core Strategy Policy 3** - Travel
- **Central Lancashire Core Strategy Policy 4** – Housing delivery
- **Central Lancashire Core Strategy Policy 7** – Affordable and special needs housing
- **Central Lancashire Core Strategy Policy 19** – Areas of separation and major open space
- **Preston Local Plan Policy EN1** – Development in the open countryside
- **Preston Local Plan Policy EN4** – Areas of separation

5.1.4. In addition to the above there are other policies that are relevant for the determination of the appeal as a whole, however the Council and the appellant both agree that the above seven policies are the most important policies for determining the appeal².

5.1.5. The Proof of Evidence prepared by Christopher Blackburn details the following in relation to the Development Plan policies:

- CS Policy 4 is out date, specifically in relation to the housing requirement it contains for Preston;

² See paragraphs 2.34 of the Agreed Statement of Common Ground (Core Document A6)

- CS Policy 4 has been subject to a ‘review’ for the purposes of Paragraph 73 and footnote 37 of the Framework in 2017;
- However, a significant change in circumstances has occurred in 2018 and 2019 with the introduction and refinement of the standard methodology, which further compound the fate of the housing requirement contained in CS Policy 4 as carrying no weight in the decision making process.
- The Council therefore monitors its housing land supply against the standard methodology local housing need figure. Against this figure the Council can demonstrate a 15.3 year supply of deliverable housing land³;
- LP Policy HS4 was indicated to be out date within the applications committee report and the Councils Statement of Case. Having been further considered it is clear that Rural Exception Sites and Entry Level Exception Sites are two fundamentally different types of sites detailed within the Framework and as such Policy HS4 is not out of date, it simply seeks to address Rural Exception Sites⁴.
- Aside from CS Policy 4, the other most important Development Plan policies⁵ for determining the appeal are not out of date. The “tilted” balance is not engaged for reasons not connected to five year supply, and therefore these most important policies attract significant weight in the determination of this appeal; and

³ As of April 2021

⁴ See paragraphs 4.3 to 4.10 of Christopher Blackburn’s Proof of Evidence (Core Document H1)

⁵ CS Policies, 1, 3, 4, 7 and 19 and LP Policies EN1 and EN4

- If the “tilted” balance were to be engaged for reasons not connected to five year supply, the most important Development Plan policies for determining the appeal which are not out of date, would still attract significant weight in the application of the “tilted balance”.

5.1.6. As such the Proof of Evidence prepared by Christopher Blackburn has established: the correct housing ‘requirement’ for Preston and the associated five year housing land supply position; the status of the most important policies for determining the appeal; and finally whether or not the “tilted” balance is engaged, and what weight the most important policies would attract in the scenario that the “tilted” balance is engaged (contrary to the LPA’s evidence).

5.1.7. The main issues in the determination of this appeal are therefore as follows:

- Whether the proposal conflicts with the development plan;
- Whether the development plan policies most important for determining the appeal are out-of-date; and
- Whether the appeal site is suitably accessible to local facilities within Broughton village and in proximity to site.

5.1.8. Whilst the appellant acknowledges that the proposal subject to this appeal is in conflict with CS Policy 1 and PLP Policy EN1⁶, they argue that planning permission should be granted on this site even if the Council can demonstrate a five year supply of housing land due to these policies being out of date. This is considered further in the following sections.

⁶ See paragraph 5.2 of the Appellants Statement of Case (Core Document A1)

5.1.9. The Proof of Evidence prepared by Dr Michael Bullock details the following in relation to affordable housing:

- Over the period 2014/15 to 2019/20, there have been 927no. affordable housing completions across the City of Preston. This is an annual average of 155no.units which compares with an annual target of 46no. units set out in the Core Strategy.
- There are 3,129no. households on the active waiting list for affordable properties in Preston with 29no. households in Broughton but there is no information available on tenure requirements for affordable housing.
- Preston has the highest proportion of affordable stock compared with other Lancashire districts. There is a healthy supply of affordable housing in Preston and supply is continuing to increase through newbuild activity.
- There is a pipeline supply of 916no. affordable houses which will make a considerable contribution to affordable housing supply across Preston.
- Broughton includes 3 developments with permission for 328no. dwellings of which 114no. dwellings would be affordable.

5.1.10. The Appellant also argues that the site is an entry level exception site, for which there is a demand, and can therefore meet paragraph 72 of the Framework. The appeal proposals conformity with paragraph 72 is considered below.

6. THE PLANNING CASE

6.1. Reason for refusal 1 – Location

- 6.1.1. Core Strategy Policy 1 requires growth and investment to be focused on well-located brownfield sites, identified Strategic Locations, Key Service Centres and the other main urban areas, whilst protecting the character of suburban and rural areas. The policy provides a hierarchical sequence for locating development which puts other places, including smaller villages, substantially built up frontages and Major Developed Sites, at the bottom of the hierarchy.
- 6.1.2. The appeal site comprises greenfield agricultural land to the east side of Pudding Pie Nook Lane and is located within the ‘open countryside’ 75m east of the settlement boundary of Broughton, which ends at the eastern edge of no.138 Whittingham Lane as shown on the Preston Local Plan map extracts provided in Appendix A. The proposal must be considered against criterion (f) of Core Strategy Policy 1: *“In other places - smaller villages, substantially built up frontages and Major Developed Sites - development will typically be small scale and limited to appropriate infilling, conversion of buildings and proposals to meet local need, unless there are exceptional reasons for larger scale redevelopment schemes.”*
- 6.1.3. As detailed within the Planning Committee Report⁷ the proposed development of this site for up to 32no. dwellings is (i) outside the up to date settlement boundary; (ii) would not represent an infill development because the development would not infill a gap between buildings; (iii) would not constitute a conversion; or (iv) a redevelopment that meets a local need (based on the

⁷ See Principle of Development section 3.6 of the Planning Committee Report (Core Document C1)

information submitted to date). As such the proposal would be contrary to the hierarchy of locations for focussing growth and investment and is therefore contrary to Core Strategy Policy 1. The appellant acknowledges that the proposed development is contrary to Core Strategy Policy 1⁸.

6.1.4. As detailed above, the appeal site is designated as open countryside and therefore Local Plan Policy EN1 relates to the open countryside designation. This policy seeks to protect areas of open countryside from unacceptable development, stating that, other than that permissible under policies HS4 (rural exception affordable housing) and HS5 (rural workers' dwellings in the open countryside), development (in the open countryside) will be limited to:

- a) "that needed for purposes of agriculture or forestry or other uses appropriate to a rural area including uses which help to diversify the rural economy;
- b) "the re use or re habitation of existing buildings;
- c) infilling within groups of buildings in smaller rural settlements."

6.1.5. The supporting text to Policy EN1 states that it is important that these areas (of open countryside) are protected from unacceptable development which would harm its open and rural character. Policy EN1 was found sound after examination and the Local Plan Inspector considered the policy is a "*proper reflection of the provisions of paragraph 55⁹ of the NPPF dealing with development in the countryside as it permits agricultural and forestry developments and the diversification of the rural economy as well as the re-*

⁸ See paragraph 5.2 of the Appellants Statement of Case (Core Document A1)

⁹ Paragraph 55 of the 2012 NPPF was subsequently replaced by paragraphs 79 and 80 in the 2021 NPPF

*use of existing buildings and infilling within groups of buildings in smaller rural settlements*¹⁰.

6.1.6. In respect of the above, the proposed development is not needed for agriculture or forestry (criterion a), would not result in the re-use or re-habitation of existing buildings (criterion b), is not considered to be an infill within a group of buildings and is not within the settlement boundary of a smaller rural settlement (criterion c). As such the proposal does not fall within any of the permissible development categories listed in Policy EN1.

6.1.7. The applicant has put the site forward as an entry level exception site as detailed in paragraph 72 of the Framework which states that (with my emphasis added):

*Local planning authorities should support the development of entry-level exception sites, suitable for first time buyers (or those looking to rent their first home), **unless the need for such homes is already being met within the authority's area**. These sites should be on land which is not already allocated for housing and should:*

a) comprise of entry-level homes that offer one or more types of affordable housing as defined in Annex 2 of this Framework; and

b) be adjacent to existing settlements, proportionate in size to them, not compromise the protection given to areas or assets of particular importance in this Framework, and comply with any local design policies and standards.

Paragraph 72 is clear that entry level exception sites should only be supported where there is a need. As detailed within the committee report¹¹ the Local Planning Authority is satisfied that by using the standard methodology which accounts for house pricing and affordable housing provision the Authority is

¹⁰ See Paragraph 141 of "Report on the Examination into the Preston Local Plan 2012-26 (Site Allocations and Development Management Policies) (Appendix B)

¹¹ See Principle of Development section 3.6 of the Planning Committee Report (Core Document C1)

providing sufficient affordable housing and starter homes having a 15.3 year housing land supply. No evidence of need has been presented to the Local Planning Authority by the appellant to indicate a contrary position should be taken, despite this information being requested as part of pre-application discussions¹². As part of preparing for this appeal Dr Bullock's Proof of Evidence (Core Document H2) has identified a need for affordable housing in Preston and that the planned for need is more than being met. The Authority, however, currently holds no data on whether or not there is a need for entry level properties. Christopher Blackburn's Proof of Evidence (Core Document H1) demonstrates that the council delivery has consistently exceeded the Development Plan requirement¹³ which indicates that ample delivery of dwellings is being delivered and this would include those suitable for first time buyers. As such the appellant has failed to demonstrate there is a need for an entry level exception site and that the scheme can therefore be considered under paragraph 72.

- 6.1.8. As detailed above in paragraph 5.1.5 bullet point 5, the application site is an Entry Level Exception Site which is a separate type of exception site to Rural Exception Site as covered by HS4. As such Policy HS4 is not relevant to this appeal site and is therefore not one of the most important policies. For completeness, whilst the scheme proposes a 100% affordable scheme, which could be eligible to be considered as a rural exception site, even if this was applied for no evidence of demand has been demonstrated and as such the

¹² See Appellant Planning Statement Appendix B Dean Farm Pre-application advice ref: PA/2020/0035 (Core Document B3)

¹³ See paragraph 3.17 of Christopher Blackburn's Proof of Evidence (Core Document H1)

proposal would fail to accord with Policy HS4 as detailed within the original committee report.

6.1.9. Furthermore, the proposal is not permitted under Local Plan Policy HS5 (Rural Workers Dwellings in the Open Countryside). The proposal would therefore be contrary to LP Policy EN1 and the appellant also agrees that the proposed development is contrary to LP Policy EN1¹⁴.

6.2. **Reason for refusal 2 – Site Accessibility**

6.2.1. Core Strategy Policy 3 outlines a number of measures which are considered to constitute the best approach to planning for travel. These include reducing the need to travel, improving pedestrian facilities, improving opportunities for cycling, improving public transport, enabling travellers to change their mode of travel on trips, encouraging car sharing, managing car use and improving the road network.

6.2.2. As detailed within the Planning Committee report¹⁵ the appeal site is located 75m beyond the eastern edge of Broughton village and approximately 1.6km from its centre. Access to Broughton Village from the appeal site would be via Whittingham Lane which runs directly into the centre of the village.

6.2.3. There are no local retail facilities in the immediate vicinity of the site. Travelling along roads LLM Farm Vets is located at 136 Whittingham Lane approximately 200m northwest of the site. Preston Scrap My Car (scrap metal dealer) and Splash 2 (car wash) 169 Whittingham Lane are located 210m northeast of

¹⁴ See paragraph 5.2 of the Appellants Statement of Case (Core Document A1)

¹⁵ See Sustainability and public transport section 3.6 of the Committee Report (Core Document C1)

site. Oakhill Vets, Langley Lane is located 790m north of site and Woodburn IJ vehicle repair shop Unit 4 Langley Lane is located 960m north of site with no footpaths on Langley Lane to connect these sites with the appeal site. The Italian Orchard restaurant, 96 Whittingham Lane is located 1140m from site. Broughton village includes centrally (approximately 1.6km from site) a Co-op, hair salon, garage and music teachers at 506-508 Garstang Road, Texaco petrol station with shop at 486 Garstang Road, The Broughton Inn 502 Garstang Road, Pizzeria Bella Maria restaurant 523 Garstang Road and Broughton Social Club 26 Whittingham Lane. Outside the centre of the village is: The Foot Room (Chiropodist) 484 Garstang Road (1.7km), English and Maths Tutoring 480 Garstang Road (1.7km), Maidenhead Aquatics pet supplies 456 Garstang Road (1.8km), Broughton Pre-School nursery at King Georges Playing Field Garstang Road (1.8km), Broughton High School Woodplumpton Lane (2km) and Broughton-in-Amounderness Church of England Primary School Garstang Road (2.6km (via Whittingham Lane and down Garstang Road)).

- 6.2.4. The submitted Transport Statement (TS) that accompanied the original application notes that Whittingham Lane is a bus route and indicates the highways and Transportation (IHT) document 'Guidelines for Providing for Journeys on Foot' (2000) suggests that 1km is preferable for commuting with a maximum distance of 2km. The TS also indicates that the more recent Chartered Institution of Highways & Transportation (CIHT) document 'Planning for Walking' (2015) states that 80% of journeys shorter than a mile (approximately 1.6km) are made wholly on foot. The TS concludes that the application site is sustainably located with a number of facilities located within

2km of the site. Whilst the Local Planning Authority accepts that there are facilities within 2km the vast majority are 1.6km or more away from the appeal site and therefore at the limit of what is considered accessible and beyond the preferred 1km and no assessment of whether this would deter alternative transport arrangements has been made. The generic assessment submitted did not take account of the ease of access to the closest bus stops or Broughton village or the suitability of the local pavements for pedestrians. These impacts are considered in more detail below.

Public Transport

- 6.2.5. The only available public transport in the area is provided by buses which run along Whittingham Lane. The closest bus stops are located approximately 300m on the south side and 380m on the north side of Whittingham Lane from the proposed access off Pudding Pie Nook Lane. The initial 100m of Whittingham Lane from Pudding Pie Nook Lane when walking to the bus stops has no street lighting and the first 60m is also has a speed limit of 40mph . The bus stop on the south side of the road benefits from a small shelter capable of sheltering a few people, whilst the north side of the road has none. There are no crossing points for pedestrians on Whittingham Lane to provide a safe means of crossing to reach the north side bus stop.
- 6.2.6. Within the committee report¹⁶ it was indicated that there was only one bus service along this part of Whittingham Lane however, as part assessing the bus availability within the area for the appeal it has become apparent that there

¹⁶ See Sustainability and public transport section 3.6 of the Committee Report (Core Document C1)

are now two services, the no.45 and the no.46, with the no.46 a new service brought in to replace the 15 & 77A which were stopped historically. The no.45, as detailed within the committee report, which operates between Preston – Royal Preston Hospital – Broughton – Goosnargh – Longridge – Ribchester – Blackburn in both directions, and the no.46 which operates between Preston – Fulwood – Woodplumpton – Goosnargh – Whittingham – Longridge in both directions, have their timetables provided within Appendix D. Both services provide a once an hour bus service¹⁷ with the no.45 operating from 06:49 till 19:55 between site and Preston and from 06:37 till 19:15 between site and Blackburn. The no.46 would operate from 07:15 till 18:20 between site and Preston and from 07:12 till 18:10 between site and Longridge. Although the number of buses an hour is two rather than one as detailed within the Committee Report¹⁸ the increased provision does not however, change the overall conclusions of the committee report. The distance to the bus stops, the nature of Whittingham Lane (being unlit and 40mph) and the nature of the bus service would discourage its use and encourage the use of a private motor vehicle by future residents.

Access by foot

- 6.2.7. There are a few facilities in vicinity of site: farm vets, scrap metal dealer and car wash, whilst further afield is another vets and vehicle repair located on Langley Lane however there is no footpath along Langley Lane which is subject to the national speed limit and is a country lane. The Italian Orchard

¹⁷ The tables provide times to the bus stops by the M6 motorway bridge rather than those closest to site but are comparative.

¹⁸ See Sustainability and public transport section 3.6 of the Committee Report (Core Document C1)

restaurant is located over a kilometre away by foot with no footpath along the country lane used to access to the restaurant from Whittingham Lane. The majority of facilities are located around the centre of Broughton village approximately 1.6km west of site.

6.2.8. Although Whittingham Lane would provide direct access into the village of Broughton the Broughton by-pass, a busy main road which carries the A6, is located between the site and the village with a crossing only provided on the north side of Whittingham Lane. Whittingham Lane is a busy wide country road which connects rural areas to the M55 motorway, south of the village, and the city of Preston. There are no crossing points to allow safe access from the southern side of the road to the northern side requiring any pedestrians to wait for a gap in the traffic to cross the road. The route between the appeal site and Broughton was walked setting off at 10:10am Thursday 23rd of September 2021 and took 17 minutes at a steady pace. At the time significant works were taking place within the road by United Utilities who were installing a new pipeline within Whittingham Lane with the road immediately east of Pudding Pie Nook Lane was closed. Despite this road closure there was regular traffic travelling along Whittingham Lane despite being after rush hour. Gaps in both directions did occur regularly but a hasty crossing was required. The lack of a safe crossing point would be especially problematic for a family with young children and anyone with reduced mobility. The need to cross the road to access Broughton would be off putting to potential future residents of the appeal site.

- 6.2.9. An approximately 100m section of Whittingham Lane prior to the junction with Pudding Pie Nook Lane is unlit and 60m of this section of road has a 40mph speed limit. Whittingham Lane only includes a continuous footpath along the north side of the road with no footpath on the southern side between the M6 motorway bridge and the Broughton bypass roundabout. The footpaths are in a poor state of repair between site and the M6 motorway bridge and a reasonable state between the bridge and the centre of Broughton village.
- 6.2.10. The pavement along Whittingham Lane varies in width between 1.3m and 2m wide with the majority 1.6m wide (including the kerb). The 2m wide pavement allows unimpeded two-way movement whilst the 1.6m pavement allow limited space for two people to pass and would not allow easy passage for a pram and individual, whilst two prams would be unable to pass. At the pavements narrowest points where it is only 1.3m wide two individuals would struggle to pass one another whilst a pram would be unable to. As such there are numerous points along the route into Broughton where a pedestrian could be required to step out into the road to get around an oncoming pedestrian.
- 6.2.11. When considering the cumulative impact of the above factors it is reasonable to assume that they would discourage walking and encourage the use of motor vehicles by future residents.

Cycling

- 6.2.12. As noted previously Whittingham Lane is a busy road and at the Pudding Pie Nook Lane junction is a 40mph road without street lighting. Pudding Pie Nook Lane slopes down to the junction with Whittingham Lane which itself slopes downwards from a high point in the west to a low point in the road east of site

before rising again. Additionally, the junction is set on a curve in the road. These factors would likely make the junction and unlit section of road unappealing to cyclists who would be exposed to fast moving traffic, especially when light is poor or at night when the visibility of cyclists for motorists would be significantly reduced. Whilst Whittingham Lane is a wide road which would allow room for cars to pass cyclists with minimal difficulty the busy nature of the road would likely be off putting. In addition to this to reach Broughton a cyclist would be required to navigate the roundabout with the Broughton Bypass which is heavily used large roundabout, which would make it difficult and off putting for cyclists. As such on balance it is reasonable to assume that the site-specific circumstances would be off putting to the use of a bicycle and likely lead to a reliance on a private motor vehicle.

Conclusion

- 6.2.13. The Local Planning Authority acknowledges that the site is within 1.6km of the village of Broughton and that public transport is available from local bus stops. However, simply relying on arbitrary distances does not demonstrate that a site is sustainable as site specific factors should be assessed. The nature of bus service, the fact that the bus stops are some distance from site with part of the route unlit and along a 40mph road, no safe crossing point across Whittingham Lane and as a bus shelter is only provided at one stop would be off putting if being relied upon daily. Similarly, whilst some people may be willing to walk 1.6km to get a pint of milk, the lack of a crossing point to the north side of the road and the busy nature of Whittingham Lane and the bypass are likely to be extremely off putting, especially in bad weather. The

busy nature of Whittingham Lane and the lack of street lighting and 40mph speed limit at the junction with Pudding Pie Nook Lane would also be off putting to cyclists especially when it starts to go dark. As such, when considering these factors alongside the access to public transport and distance to Broughton, it is reasonable to conclude that the use of alternative forms of travel would be off putting and that there would be a reliance at site on a private motor vehicle which would not be sustainable. When considering that the appeal site is proposed for affordable first time buyers/renters a private motor vehicle would be an additional financial burden and off putting to many who are more likely to be reliant on other forms of travel to access day to day facilities. As such the Local Planning Authority acted reasonably in concluding that the site was likely to be dependent on a private motor vehicle and would therefore not be sustainably located in accordance with the aims of Core Strategy Policy 3 or the Framework.

7. THE STANDARD PLANNING BALANCE

7.1.1. Whilst it has been established that the proposal is contrary to Policies 1 and 3 of the Adopted Central Lancashire Core Strategy and Policies EN1 of the Adopted Preston Local Plan, the proposal must still be assessed in respect of the statutory s.38(6) standard planning balance.

7.1.2. The appellants submitted Statement of Case considers the benefits of the development proposal outweigh the conflict with the development plan¹⁹.

These include:

- The provision of a 100% affordable housing scheme, that will make a valuable contribution to the provision of such affordable homes (as defined at paragraph 72 of the Framework - Entry Level Exception Sites) in the Council area;
- The provision of high-quality new development which can be provided in a manner that would round-off and consolidate the settlement, avoiding any significant landscape or other visual harms;
- Landscaping enhancements which will result in betterment of the current site;
- The inclusion of public open space within the proposals which will likely achieve a level and quality which exceed minimum requirements;
- Contributions to the local economy, through direct and indirect employment, and increased local spending; and

¹⁹ See paragraph 6.2 of the Appellants Statement of Case (Core Document A1)

- Helping to underpin existing local services, including bus services that pass the site, as well as amenities that are available in Broughton village.

7.1.3. In addition to the above benefits specifically referred to by the appellant, when engaging the planning balance in the determination of this application, the Council also took into consideration the following factors that would arise from this development (if the proposal was to be approved):

Harms

- The clear conflict with the Development Plan which strikes at the heart of the Development Plan spatial strategy for growth;
- Sustainability of the site;

Neutral Matters

- Financial contribution towards the provision of school places;
- Impact on the landscape and visual harm arising from the development of this greenfield site within the open countryside;

Benefits

- Provision of energy efficient homes

7.1.4. The weight that the Council attaches to each of these issues is discussed below:

7.2. **Delivery of housing**

- 7.2.1. The appellant has agreed that the Council can currently demonstrate more than a five-year supply of housing, and the dispute between the parties is whether the Council's Housing Land Supply position is 15.3 years (using Local Housing Need) or 6.1 years (using CS Policy 4). The appellant contends that the Council's Housing Land figure is 6.1 years, whereas the Council consider it to be 15.3 years.
- 7.2.2. Whilst it is acknowledged that there is a national need for housing, this Council is clearly delivering housing in excess of its five-year requirement regardless of which method is used to calculate the housing land supply figure, and as detailed in Christopher Blackburn's evidence the Council's track record in housing delivery using the Housing Delivery Test is exceptional. Furthermore, the Council has secured a deliverable housing land supply which will now ensure that the plan-period Development Plan housing requirement is significantly surpassed.
- 7.2.3. It is however accepted that if the Council's housing land supply position / figure reduces, the weight that should be attributed to the benefit arising from the contribution of the proposed 32no. dwellings would make to the Council's housing supply position increases. Nevertheless, even if the Inspector considers the scenario whereby the Council can demonstrate a 6.1-year supply of housing to be the correct calculation, the Council's housing supply position is still significantly above five years and therefore considered to be healthy. In such a scenario the extra contribution that the proposed 32no.

dwellings would make to the Council's housing supply position would carry moderate weight in the planning balance.

7.3. **Delivery of affordable housing**

7.3.1. The submission details how the proposal would provide 100% on-site affordable housing which would provide entry level homes. The Council considers the provision of the additional affordable units to be the benefit of the proposal that carries the most weight in terms of the planning balance. However, in exceeding its housing land supply requirements the Council is delivering affordable homes across the borough in line with the policy requirements of the Development Plan. This assessment is supported within the recently dismissed appeal for Land to the South of Chain House Lane²⁰ where the Inspector (para 53) states "*This would include the social benefit of providing 30% of those homes as needed affordable housing. However, given that the Council can demonstrate a supply of deliverable housing sites well in excess of the minimum 5 year requirement, this significantly reduces the weight attached to such benefits*".

7.3.2. For the avoidance of doubt, LP Policy HS4 relates to applications for rural exception affordable housing sites adjoining the rural villages such as Broughton. This policy is not however considered to be relevant in the consideration of this appeal as the appellant has not put forward that this is a rural exception site / development; has not demonstrated any identified need in this area by way of "*a comprehensive needs assessment for the local area*" and the application proposes an Entry Level Exception Site under paragraph

²⁰ Chain House Lane, South Ribble PINS ref:3234070 (Core Document J3)

72 of the Framework rather than a rural exception site. As noted in paragraph **Error! Reference source not found.** need for an Entry Level Exception Site has not been demonstrated and the council is satisfied that by using the standard methodology, which accounts for house pricing and affordable housing provision, the Authority is providing sufficient affordable housing and starter homes having a 15.3 year housing land supply. Furthermore, even if a need was demonstrated paragraph 72 b) requires entry-level exception sites 'be adjacent to existing settlements'. The appeal site is located 75m east of the eastern edge of Broughton village which ends at no.138 Whittingham Lane, as indicated on the plan provided in Appendix A.2 , and as such the appeal site is well beyond the established village boundary. As such the proposed development does not comply with Paragraph 72 of the Framework and thus is not considered to be relevant in the determination of this appeal and cannot provide weight in its favour.

- 7.3.3. The Proof of Evidence prepared by Dr Bullock in respect of affordable housing considers the need for affordable housing across the City of Preston and the parish of Broughton in particular. Dr Bullock's evidence details how the Central Lancashire Core Strategy sets a target of 46no. affordable dwellings per year, and in the period between 2014/15 and 2019/20 a total of 927no. affordable dwellings were delivered, equating to an average of 155no affordable dwellings per year. Thus demonstrating the council are exceeding the targets set out in a statutory document, albeit it is acknowledged that the delivery is

not meeting the identified need for affordable units detailed within the 2020 Lancashire Housing Study²¹.

- 7.3.4. Dr Bullock explains how the 2020 Lancashire Housing Study evidenced a need for 250 affordable dwellings each year and that the latest housing register evidence (March 2021) indicated a total of 3,129 households on the active waiting list for affordable properties as across the City of Preston. Of these there are 29no. households on the waiting list for an affordable property in Broughton but the tenure requirements were not stated in the data available.
- 7.3.5. As such, whilst Dr Bullock acknowledges there is a need for affordable housing across the City of Preston, as well as some need in Broughton. There is a healthy supply of affordable housing in Preston and Broughton with supply continuing to increase through newbuild activity and there is a strong pipeline supply of 916no. affordable units of which 114no. are around Broughton itself, which will make a considerable contribution to affordable housing supply both across Preston and within Broughton.
- 7.3.6. It is anticipated that the following residential developments, in the locality of Broughton, will provide up to the number affordable houses detailed below:
- Land to the rear of 126A Whittingham Lane – Outline planning application for up to 101no. dwellings (Planning Ref: 06/2017/0941) and subsequent Reserved Matters Application (Ref: 06/2019/0166) providing for 34no. affordable units (scheme currently under construction)

²¹ 2020 Lancashire Housing Study (Core Document G8)

- Land off Sandy Gate Lane – Outline planning application for up to 97no. dwellings (Planning Ref: 06/2016/0736 and 06/2019/1445) and subsequent Reserved Matters Application (Ref: 06/2019/0974) providing for 34no. affordable units – outline permission allowed at appeal and subsequently amended and reserved matters approved November 2019 (scheme currently under construction); and
- Key Fold Farm, 430, Garstang Road, Preston, PR3 5JB – Outline planning application for up to 130no. dwellings (Planning Ref: 06/2017/0097) and subsequent Reserved Matters Application (Ref: 06/2019/0040) providing for 46no. affordable units – outline permission allowed at appeal and reserved matters approved October 2019 (pre-commencement conditions discharged, start on site imminent).

7.3.7. Whilst it is acknowledged that each new affordable dwelling being provided is of some benefit, the Authority is currently far exceeding the 46no. affordable dwellings per annum requirement identified within the Core Strategy²². Furthermore, there is a significant level of provision approved within Broughton village at existing sites, 68no. on site which have commenced and a further 46no. on a site where works are due to begin which would provide a total of 114no. affordable dwellings in Broughton which equates to 2.47years supply for Preston in accordance with the Core Strategy. As work has begun at two sites it is reasonable to assume that the majority of these will be delivered and likely all of them over the next few years. In the absence of any information to the contrary, it was reasonable for the Local Planning Authority

²² Core Strategy Appendix D: Performance and Monitoring Framework No.5 (Core Document G1)

to determine that there is no need for affordable entry level housing within the authority.

7.3.8. To approve this development on the basis that the provision of the affordable housing in comparison to the conflict with the Development Plan when the Council can demonstrate a more than five year supply of housing, would undermine the importance of maintaining a plan-led system. Additionally, although the scheme was put forward as an Entry Level Exception Site it does not meet the criteria in paragraph 72 of the Framework and as such this does not weigh in favour of the appeal proposal. As such, moderate to significant weight is given to the provision of affordable housing as a benefit in the planning balance.

7.3.9. It is again acknowledged that depending on whether the Council has a 15.3 or 6.1 year supply of housing, the weight given to affordable housing as a benefit alters, although this would not be significant as there are other factors that also influence affordable housing need such as the identified need within a specific area, average earnings and needs for particular tenure type. It is however, considered that even though the Council can demonstrate in excess of a five-year housing land supply in both scenarios, the weight to this benefit is still moderate to significant given the unmet need. However, in the 15.3 year scenario the weight is towards the moderate end of the moderate to significant scale, and in the 6.1 year scenario the weight would be more towards the significant end of the moderate to significant scale.

7.4. **Sustainability of site**

7.4.1. The appellant's Statement of Case states that "*Evidence has shown the site to be in an accessible location close to key services and facilities...*", however Broughton, and the other small villages of Preston, are not identified as areas with significant growth aspirations in the Development Plan and are at the bottom of the hierarchy for locating growth within the CS Policy 1, thus making them the least sustainable locations in the hierarchy. Furthermore, as detailed in Section 6.2 Reason for refusal 2 – Site Accessibility, the site is located approximately 1.6km from the centre of Broughton where local facilities are available. According to submitted Transport Statement²³ 1km is the preferred travel distance with 2km the limit for future residents to walk to access local facilities. Despite the facilities being beyond the ideal and close to and beyond the upper travel limit the report fails to account for the busy nature of Whittingham Lane and the Broughton Bypass and the constraints which would be off putting to walking or cycling. Buses are available but bus stops are not conveniently located, and buses remain limited although the level of service has increased. These factors will not promote alternative methods of transport and would likely lead to a reliance on a private motor vehicle and as such the site is not considered sustainably located. This impact is further compounded by the proposal being for an Entry Level Exception Site which would provide housing for first time buyers struggling to get on the property market by likely necessitating the need for a private motor vehicle and the associated expense.

²³ See Paragraph 3.1.1 of Vectos Planning Statement (Core Document B22)

- 7.4.2. Whilst it is acknowledged that two sites close to the appeal site, as detailed in paragraph 3.1.4, were not considered to be unsustainably located, these were considered in April and September 2018 when the Council did not have a 5 year Housing Land Supply which weighed heavily in favour of approving the schemes and their contribution to the then lack of supply outweighed any harm due to poor accessibility of the location. Given the Council can now demonstrate a 5 year housing land supply the balance for this appeal proposal is substantially different and the benefits of the scheme are not considered to outweigh said harm.
- 7.4.3. Even if the site were to be considered sustainably located this would not add positive weight in favour of the proposal, as this is an expectation of the Framework for any significant development. For this reason, the Inspector, when dismissing an appeal²⁴ for a residential development outside the settlement of Wesham in the neighbouring authority of Fylde, considered the benefits of the sustainability of the site to be only a “neutral factor”. Furthermore, it should be noted that this appeal was dismissed for a development on land adjacent to the settlement of Wesham, a Local Service Centre and Strategic Location for development in Fylde. As such Wesham is significantly larger and has more services than the village of Broughton, yet the appeal was dismissed on the basis that the proposal, being outside the settlement boundary and therefore within the open countryside, was contrary to the development plan with the Inspector concluding that “...*the benefits that would arise from the scheme, even cumulatively, fall far short of outweighing*

²⁴ See paragraph 19 of appeal decision - Land East of Fleetwood Road and north Sanderling Way, Wesham (Ref: 17/3187426) (Appendix G) (Core Document J7)

*the harm I have identified*²⁵. As such even if the site was considered to be sustainably located it carries no positive weight in the planning balance.

7.4.4. The appellant argues in their Statement of Case²⁶ that paragraph 72 of the Framework expects sites to be on the edge of settlements and therefore the appeal sites relationship to the services and facilities are what one would expect to see from a peripheral site to the settlement. Whilst the Local Planning Authority does not believe paragraph 72 should be engaged, as detailed in paragraph 6.1.7 above, even if it were to be paragraph 72 would not justify this location in terms of access. This argument is contrary to the Framework taken as a whole which seeks to deliver sustainable development. A development cannot be approved in accordance with a single paragraph within the Framework and this approach appears to be supported by the appellants own previously provided legal advice²⁷:

“Such a proposal which conformed with §71 is likely to comprise sustainable development, but other factors would need to be considered before arriving at an overall conclusion as to a site’s acceptability.”

7.4.5. When considering the Framework as a whole paragraph 8 states;

‘sufficient land of the right types is available in the right places and at the right time’

and paragraph 9 states;

²⁵ Paragraph 20 of appeal decision - Land East of Fleetwood Road and north Sanderling Way, Wesham (Ref: 17/3187426) (Appendix G) (Core Document J7)

²⁶ Paragraph 5.8 of the Appellant Statement of Case (Core Document A1)

²⁷ See paragraph 4.1(i) in RE: Land at Dean Farm, Broughton Opinion provided within Appendix C of the Planning Statement (Core Document B3)

'decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area'.

Paragraph 110 of the Framework States that;

'In assessing sites... applications for development, it should be ensured that a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location'.

The application is for an Entry Level Exceptions Site and as such should benefit from easy access to frequent public transport and local conveniences to help those seeking a first home and who may therefore struggle to run a private motor vehicle. As such the Local Planning Authority does not believe when local circumstances are taken into account that this represents the right place for this type of development. The Broughton Village map provided in appendix A3 shows that the edges of the village of Broughton (as the crow flies) extend significantly further east (1.48km) and west (686m) of the centre, the Broughton Crossroads (Junction of Garstang Road, Whittingham Lane and Woodplumpton Lane) than north (165m) and south (146m) and as such this type of site could be better placed on the edge of the village closer to the day to day conveniences provided at its centre. It is unreasonable to suggest that the sustainability and suitability of any site on the edge of Broughton would be equal given the very wide variation in distances to services at its centre. As such even if paragraph 72 is engaged the Framework taken as a whole would not support this application being located at this site. The appellants suggestion that any location at the edge of a village regardless of

specific circumstances should be assumed to be acceptable is contrary to the current systems use of planning judgment to assess the suitability of a site and would be contrary to the aim of paragraphs 8, 9 and 110 of the Framework. Given the restraints on access between the site and Broughton village the sustainability of this site carries low to moderate negative weight in the planning balance.

7.5. **Economic benefits**

7.5.1. The appellant's Statement of Case²⁸ asserts that the proposed development will "contribute to the local economy, through direct and indirect employment, and increased local spending". In response to this claim, firstly the appellant has thus far provided no evidence to suggest that this area "needs additional affordable dwellings", Broughton is at the bottom of the hierarchy for locating growth within the CS Policy 1, and therefore not identified as area with significant growth aspirations in the Development Plan. Additionally, the Council can evidence an extremely healthy housing land supply position against the local housing need figure, and a healthy housing land supply position against the CS Policy 4 figure, and therefore the Council is clearly meeting its housing needs for the city. Furthermore, paragraph 7.3.6 of this proof clearly identifies that significant development has already been permitted in this area to meet any "need" (114no. affordable dwellings across three sites).

7.5.2. Secondly, and turning back to the economic benefits, the appellant has not provided any detailed evidence to support this claim within either the planning

²⁸ See paragraph 6.1 bullet point 5 of the Appellants Statement of Case (Core Document A1)

application or the Statement of Case with regard to job creation associated directly or indirectly with the construction works. Any benefit would only be for a temporary period during the construction phase of the development and the benefits of this temporary employment would also be an equal benefit of any Development Plan compliant proposal and therefore is not exceptionally or uniquely linked to this proposal.

7.5.3. If, however, the appellant is also referring to job creation after the development has been completed, for example by way of a local shop or restaurant having to employ an extra member of staff due to an increase in demand resulting from the new residents. Assuming future residents travelled into Broughton rather than Preston, the economic benefits of this are considered to be negligible, and again such a benefit would be experienced elsewhere as part of any Development Plan compliant proposal for this scale of development, and therefore would not be exceptionally or uniquely linked to this proposal. However, as stated above its likely future residents would be reliant on a private motor vehicle and could just as easily travel into Preston as Broughton which has a wider selection of facilities, in such a scenario Broughton would have limited to no economic benefit from the proposed development. As such it is considered that the economic benefits carry little weight in support of the appeal proposal.

7.6. **Energy efficient homes**

7.6.1. The Planning Statement submitted with the planning application states that the properties will be designed to meet current building regulations with regards to thermal efficiency and energy consumption. Dwellings built to

building regulations standard is a national requirement and Core Strategy Policy 27 requires all new dwellings to achieve a 19% improvement in Dwelling Emission Rate (DER) over the Target Emission Rate (TER) as defined by Part L1A of the 2013 Building Regulations, which is the equivalent to Level 4 of the former Code for Sustainable Homes (CSH). As such, there is national and local requirement to provide energy efficient homes on all new developments and consequently this benefit is not exceptionally or uniquely linked to this proposal. Nevertheless, providing energy efficient homes is considered to be a slight benefit, but for the reasons detailed above is one that carries only very limited positive weight in the planning balance.

7.7. **Open Space**

7.7.1. The appellant's Statement of Case²⁹ makes reference to "*Open space proposals which will likely achieve a level and quality which exceed minimum requirements*" and the Illustrative Layout plan (Core Document B5) submitted with the application shows the potential siting of this space. As this is an outline application, with layout and landscaping a reserved matter, there is no substantive evidence at this stage that the open space would be anything significantly more than required to adhere to the LP Policy HS3, therefore providing an acceptable living environment for prospective residents. Furthermore, the application site is located in the open countryside, beyond the settlement boundary of Broughton and therefore it is considered that the open space provided on this site would unlikely be a feature that would attract or benefit existing residents from the village of Broughton. It should also be

²⁹ See paragraph 6.1 bullet point 4 of the Appellants Statement of Case (Core Document A1)

noted that this space relates to the buffer zone of the underground gas main (detailed on the aforementioned plan) and as such cannot be built on and so development is restricted and open space would likely be provided by any form development on the site. The provision of open space within the development site is therefore a benefit that carries only very limited positive weight, if any, in the planning balance.

7.8. **Financial contributions towards school places**

7.8.1. In order to make this development acceptable the applicant has agreed to financial contributions towards the provision of secondary school places. This contribution is directly linked to the proposed development and is required due to the extra demand that the proposed development would put on local services. The benefit of the financial contribution is therefore considered to be neutral and carries no positive weight in the planning balance.

7.9. **Ecology and biodiversity**

7.9.1. It is acknowledged that potential harm to protected species (barn owls, bats, and nesting birds) could be mitigated through conditions. However, these are measures to mitigate the harm that is being created by the proposed development, and this development will inevitably cause disturbance to existing wildlife, as it is replacing a greenfield site with a major residential development. A very limited benefit would be achieved from the eradication of invasive species (Himalayan Balsam) identified at site, but this would be expected of any development and so this benefit is not exceptionally or uniquely linked to this proposal.

7.9.2. If the appeal were to be allowed any reserved matters application for landscaping would be expected to demonstrate biodiversity net gain which is a requirement of new development in the Framework (paragraph 174(d)) and is therefore a policy expectation rather than a benefit. Notwithstanding the above, any net biodiversity gain cannot be guaranteed at this stage, particularly given that this is an outline application, and many creatures and species are transient in nature and therefore it cannot be certain that the proposal would result in a biodiversity net gain once the development has taken place. As such it is considered that the ecology and biodiversity matters are neutral and carry no positive weight in the planning balance. In the recent appeal decision for Cardwell Farm the Inspector similarly concluded that biodiversity matters weigh neutrally in the planning balance³⁰.

7.10. **Landscape and visual harm**

7.10.1. The appellant has stated that the proposal would “round-off and consolidate the settlement of Broughton, avoiding any landscape or other visual harm”³¹. In response to this statement, it is unclear as to why the appellant considers that the settlement boundary of Broughton needs to be “rounded-off”, or what is meant by “consolidate the settlement of Broughton”, as the appeal site sits 75m beyond the edge of the village and clearly extends built development further into the open countryside to a point 235m beyond the existing eastern boundary of the village. The site is bounded by open countryside the east and north of site. To the south is a former nursery site and entrance to a distribution

³⁰ See paragraph 64 in Decision Letter for Cardwell Farm, Preston (PINS ref: 3258889) (Core Document J1)

³¹ See paragraph 6.1 bullet point 4 of the Appellants Statement of Case (Core Document A1)

centre for the wholesale handling and distribution of fruit and vegetables only³² (06/2018/0700). As part of the proposals for the distribution centre the area of the former nursery would be landscaped which is be controlled by condition³³. When completed this would leave an open green area except for the access road. As such, whilst the Local Planning Authority accepts there would be limited visual harm from the development³⁴ due to the enclosed nature of the site, it does not agree that the development would ‘round off the village and consolidate the settlement’, given its detached from the established village boundary, but rather it would just provide further intrusion of development into the open countryside, beyond Pudding Pie Nook Lane which provides a strong natural edge to existing development which itself is well beyond the established boundary of Broughton village.

7.10.2. Whilst it is considered that the limited visual harm is not in itself sufficient to justify a refusal on visual amenity grounds in respect of CS Policy 21, it is clearly still a harm that carries limited weight against the proposed development in the planning balance. In the recent appeal decision for Cardwell Farm the Inspector similarly found that whilst the proposal was in compliance with CS Policy 21³⁵, the development would still result in some limited harm to the character and appearance of the area³⁶ within the “Planning Balance” section of that decision letter.

³² See condition 3 of 06/2018/0700 Decision Notice (Appendix E1)

³³ See Design and Layout section 3.6 of the Planning Committee Report (Appendix E2)

³⁴ See Impact on the Open Countryside and Area of Separation and Impact on Landscape Character and Visual Amenity section 3.6 of the Planning Committee Report (Core Document C1)

³⁵ See paragraph 23 in Decision Letter for Cardwell Farm, Preston (PINS ref: 3258889) (Core Document J1)

³⁶ See paragraph 58 in Decision Letter for Cardwell Farm, Preston (PINS ref: 3258889) (Core Document J1)

7.11. **Conflict with the Development Plan**

7.11.1. It has been established throughout this Proof of Evidence that the proposed development, being located within the open countryside, is contrary to CS Policy 1 and LP Policy EN1, and the appellant is accepting of this point.

7.11.2. The development of the appeal site is contrary to the hierarchy of locations for focussing growth and investment at urban, brownfield, allocated sites, sites within key service centres and other defined places, as defined by CS Policy 1. Furthermore, the proposal is not the type of development permissible under LP Policy EN1 and the identified loss of open countryside is therefore contrary to this policy. The harm identified is striking at the very heart of the Development Plan spatial strategy for growth. The appeal site is therefore in direct conflict with that spatial strategy for growth, and such conflict is not a ‘technical’ breach of planning policy, but a fundamental conflict with the Development Plan when taken as a whole.

7.11.3. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the development plan is the starting point in that determination, and that determination must be in accordance with the development plan, unless material considerations indicate otherwise. The harm associated with this fundamental conflict with the Development Plan therefore attracts significant weight against the proposed development in the planning balance.

7.12. **Summary of the “Normal” Planning Balance**

7.12.1. It is acknowledged that the proposed development would provide some benefits that could achieve some of the three overarching objectives of sustainable development (Paragraph 8 of the Framework), however they are not criteria against which every decision can or should be judged. Paragraph 12 of the Framework states that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. As stated above the planning appeal proposal conflicts with the Council’s up-to-date development plan and unless material considerations indicate otherwise, planning permission should not be granted.

7.12.2. For the reasons detailed above, a number of the perceived benefits are either neutral or limited in weight, required to mitigate the impacts of the proposed development, required to meet specific policy requirements, or generic to any major development scheme that would be compliant with the adopted Development Plan. The benefit that is considered to carry the most weight in the consideration of the appeal is the provision of affordable housing, however for the reasons detailed above, and in light of the Council being able to demonstrate a 15.3 year housing land supply against local housing need and 6.1 year supply against the CS Policy 4 housing requirements, the accumulation of all the benefits arising from the proposal fall significantly short of outweighing the clear and fundamental conflict with the adopted Development Plan, as well as the limited visual harm arising from the development of a greenfield site, that has been identified.

7.12.3. As such it is considered that the overall benefits of this proposal do not outweigh the identified conflict with the adopted Development Plan, specifically Central Lancashire Core Strategy Policies 1 and 3 and Preston Local Plan Policy EN1. There are no material considerations which justify a departure from the Development Plan and therefore in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, this appeal should be dismissed.

8. THE TILTED PLANNING BALANCE

8.1.1. The Proof of Evidence provided by Christopher Blackburn details the following:

- The Council can currently demonstrate a 15.3 year supply of deliverable housing land against the standard methodology local housing need figure, and a 6.1 year supply of deliverable housing land against the CS Policy 4 requirement – the appellant agrees with these figures;
- The weight to be attributed to the most important development plan policies for the determination of this appeal; and
- Whether the “Tilted Balance” is engaged for the purposes of determining this appeal.

8.1.2. In terms of housing land supply and the most recent housing land position, Christopher Blackburn’s Proof of Evidence clearly sets out the Council’s position that Core Strategy Policy 4 is out of date, specifically in relation to the housing requirement it contains for Preston, and whilst it was subject to a ‘review’ for the purposes of Paragraph 74 and footnote 39 of the Framework in 2017, the significant change in circumstances that occurred in 2018, 2019 and 2021, with the introduction and application of the standard methodology, means that the housing requirement in CS Policy 4 now carries no weight in the decision making process.

8.1.3. As such the Council monitors its housing land supply against the standard methodology local housing figure. Against this figure the Council can demonstrate a 15.3 year supply of deliverable housing. Nevertheless, even if

the Council were to use the CS Policy 4 figure to calculate its housing land supply position, the Council can demonstrate a 6.1 year supply. As such it is the Council's position, and that of the appellant as they accept these figures, that the "tilted" balance within Paragraph 11 of the Framework is not engaged for reasons relating to housing land supply.

8.1.4. With regard to the most important policies for determining this appeal, it has been accepted by both parties that these are Core Strategy Policies 1, 3, 4, 7 and 19 and Local Plan Policies EN1 and EN4. As per the above the Council acknowledge that Core Strategy Policy 4 is out of date, specifically in relation to the housing requirement. However, for the reasons set out in Christopher Blackburn's Proof of Evidence this does not mean that the "tilted" balance is engaged. Core Strategy Policies 1, 3 and 19 and Local Plan Policies EN1 and EN4 are not out of date. With regards to Core Strategy Policy 7 Christopher Blackburn's Proof of Evidence acknowledges³⁷ that parts of this policy are out of date due to conflicts between Core Strategy Policy 7 and the Framework which would, in certain circumstances, reduce the weight which the policy attracts. The general thrust of the policy however fully accords with the ambitions and aspirations of the Framework, and, given the numerous ways the policy aligns with specific parts of the Framework, despite the conflicts identified the policy is not, on the whole, out of date and would therefore attract significant weight in the determination of this appeal. As such the Council consider that the "basket" of most important policies in the determination of this appeal is not out of date and the "tilted" balance is not engaged.

³⁷ See paragraph 4.70 to 4.85 of Christopher Blackburn's Proof of Evidence (Core Document H1)

8.1.5. The appellant does not clearly state whether they consider that the “tilted” balance should be engaged for the determination of this appeal but state in relation to the need for a public inquiry that³⁸

“the datedness of policies, weight to be afforded to these and whether in fact the tilted balance is engaged.”

Further, and when the “tilted” balance is engaged the appellant contends that³⁹

“...the benefits overcome and outweigh conflicts with the Development Plan,, in both ‘flat-balance’ and ‘tilted-balance’ assessment scenarios”.

8.1.6. In response to the above, the Council’s position on the appeal proposal if the tilted balance is engaged are detailed below.

8.2. **If the “Tilted” Balance is engaged due to reasons of undersupply of Housing Land Provision**

8.2.1. As detailed above, against the standard methodology local housing figure the Council can demonstrate a 15.3-year supply of deliverable housing, and against the CS Policy 4 figure the Council can demonstrate a 6.1-year supply. As such the Council can demonstrate a five-year supply of housing in both scenarios.

8.2.2. The appellant does not dispute or challenge these figures, and thus it is agreed that the tilted balance is not engaged due to reasons of undersupply of housing land provision⁴⁰.

³⁸ See paragraph 7.5 of the Appellants Statement of Case (Core Document A1)

³⁹ See paragraph 6.3 of the Appellants Statement of Case (Core Document A1)

⁴⁰ See paragraph 2.9 of the 5YHLS Statement of Common Ground (Core Document A4)

8.3. **If the “Tilted” Balance is engaged for reasons other than the lack of a deliverable five-year supply.**

8.3.1. If it is considered that Core Strategy Policies 1, 3, 4, 7 and 19 and Local Plan Policies EN1 and EN4 are collectively out of date, and therefore the ‘tilted’ balance is engaged for that reason.

8.3.2. The reason for the above being that Paragraph 11 of the Framework sets out a ‘presumption in favour of sustainable development’ and for decision-taking this means 11(c) approving development proposals that accord with an up-to-date development plan without delay; or 11(d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting planning permission unless:

- i) The application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- ii) Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

8.3.3. If the most important policies for determining this appeal, which in this case are deemed to be Policies 1, 3, 4, 7 and 19 of the Core Strategy and Policies EN1 and EN4 of the Local Plan, which accord with the Framework save for Policy 4, were considered to be out of date and Paragraph 11 was engaged, there are no policies in the Framework that protect areas or assets of particular

importance that provide a clear reason for refusing the appeal proposal with regard to bullet point (i) above.

8.3.4. In terms of bullet point (ii) of Paragraph 11 however, the adverse impacts of granting planning permission contrary to the development plan (The Central Lancashire Core Strategy and the Preston Local Plan 2012-26) would significantly and demonstrably outweigh the benefits of the proposed development when assessed against the policies in the Framework taken as a whole. Paragraph 12 of the Framework is clear that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. The Council can demonstrate either a 15.3-year supply or a 6.1-year supply (as of 1st April 2021) and therefore even if the “tilted” balance were to apply for reasons not related to housing land supply it is considered that Core Strategy Policies 1, 3, 7 and 19 and Local Plan Policies EN1 and EN4 would continue to attract significant weight in the application of the “tilted” balance for the reasons outlined within Christopher Blackburn’s Proof of Evidence. Indeed the existence of the five year supply of housing land allows the decision maker to attach more weight to policies that are out of date than if the tilted balance was engaged for housing supply reasons.

8.3.5. As detailed in the “Normal Planning Balance” section of this Proof of Evidence, where the Council can demonstrate a five-year supply of housing the contribution that the proposed development would make towards housing supply would not be significant and would attract only limited to moderate weight. All the other benefits discussed in the “Normal Planning Balance”

would carry the same level of weight as detailed above. These other benefits resulting from the proposed development, with the exception of affordable housing provision, are generic, required to mitigate the impacts of the development and no more than would be expected from any policy compliant major housing development, and as such they attract limited positive weight. Although the affordable housing provision would moderate to significant weight, but is not considered to outweigh the conflict with the development plan.

8.3.6. As such, even if all the most important policies for determining this appeal, which in this case are deemed to be Policies 1, 3, 4, 7 and 19 of the Core Strategy and Policies EN1 and EN4 of the Local Plan, were considered to be out of date and Paragraph 11 were engaged, the adverse impacts of granting planning permission contrary to the development plan, which accords with the Framework save for the housing requirement in Policy 4 of the Core Strategy, would significantly and demonstrably outweigh the benefits of the proposed development when assessed against the policies in the Framework taken as a whole given the Council's healthy housing land supply position when assessed against either of the competing figures. Therefore, if it is determined that the most important policies for determining this appeal are out of date, the limited benefits of the proposed identified within the "Normal Planning Balance" section of this Proof of Evidence would be significantly and demonstrably outweighed by the clear harm and conflict with the development plan and the Framework taken as a whole. Consequently, if the "tilted" balance was engaged for this reason, the Council duly considers that the appeal should be dismissed.

9. CONCLUSIONS

- 9.1.1. The Council can demonstrate a 15.3 year supply of deliverable housing against the standard methodology local housing need figure and a 6.1 year supply of deliverable housing against the Core Strategy Policy 4 figure. The “tilted” balance is therefore not engaged for reasons relating to housing land supply.
- 9.1.2. The most important policies of the Development Plan in the determination of this appeal are:
- Core Strategy Policies 1, 3, 4, 7 and 19
 - Local Plan Policies EN1 and EN4
- 9.1.3. The above policies are not out of date, except for CS Policy 4, and therefore the “basket” of the most important policies is not out of date. The ‘tilted’ balance is therefore not engaged.
- 9.1.4. Applying s.38(6) Planning and Compulsory Purchase Act 2004, applications must be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan as a whole is up to date, save for Core Strategy Policy 4, and consistent with the National Planning Policy Framework.
- 9.1.5. The appeal scheme is not consistent with the Council’s hierarchy for locating development and therefore is in conflict with Core Strategy Policy 1. The appeal scheme is contrary to Local Plan Policy EN1 as it would involve a housing development in the ‘Open Countryside’ that would not fall within the

permissible development categories listed within this policy and it is not permitted under Local Plan Policy HS4 and HS5.

9.1.6. The appellant has acknowledged that the proposal is contrary to Core Strategy Policy 1 and Local Plan Policy EN1 but states that the scheme is an Entry Level Exception Site in accordance with paragraph 72 of the Framework. As detailed within this report the appellant has failed to provide any evidence (to date and despite request for said information at pre-application stage) that there is a need for an Entry Level Exception Site and as such paragraph 72 is not engaged.

9.1.7. The Local Planning Authority and the appellant are in disagreement with regards to the suitability of the accessibility of the appeal site. The authority contends however, that the appeal site is not well located in terms of access to local facilities. With regards to public transport, whilst this is improved with Whittingham Lane now served by two buses an hour, the closest bus stops are some distance from the appeal site with part of the route along an unlit 40mph section of Whittingham Lane. Access by foot and bicycle to facilities within Broughton would be along Whittingham Lane which in addition to the unlit 40mph section has inconsistent pavement provision with variation in width and state of repair. Furthermore, Whittingham Lane is crossed by the Broughton Bypass which is a busy main road with a roundabout junction. A pavement is only provided on the north side of Whittingham Road for the whole route into Broughton, which also benefits from a pedestrian crossing across the Broughton Bypass, but there are no crossing points from the south to north side of the Whittingham Road. When these factors are considered along with

the fact that the facilities in Broughton are beyond the ideal distance and close to the maximum distance the appellants Transport Statement indicate future residents are likely to travel, it is clear that it is reasonable to assume that if the development was allowed future residents would likely be reliant on a private motor vehicle and as such the scheme cannot be considered well located. This matter would be further compounded by the virtue of the appeal proposal proposing an Entry Level Exception Site given those eligible would be struggling financially to get on the housing ladder, by virtue of being applicable for the scheme, and the need for a private motor vehicle would be a further financial burden restricting access to the housing market contrary to the aims of an Entry Level Exception Site. This appeal site cannot therefore be considered sustainable development and would be contrary to Core Strategy Policy 3.

- 9.1.8. Paragraph 12 of the Framework states that where a planning application conflicts with an up-to-date development plan, permission should not be granted.
- 9.1.9. It is acknowledged that there are some benefits that would accrue from the proposal. It is considered that moderate to significant weight should be attributed to the affordable housing. The other benefits are either limited in weight, generic of any development plan compliant proposal, required to make the proposal acceptable in terms of planning policies or required to mitigate for impacts directly arising from the proposal. As such these benefits do not outweigh the significant harm identified from the clear conflict with the Development Plan, low to moderate harm due to the lack of accessibility to

local facilities and the limited visual harm arising from the development of a greenfield site.

9.1.10. There are no material considerations which indicate that a departure from the up-to-date Development Plan should be taken and in such circumstances the policies of the Development Plan should prevail in accordance with the planned system.

9.1.11. If the “tilted” balance within Paragraph 11 of the Framework were to be engaged because the most important policies for determining the appeal are out of date, as the Council can demonstrate an extremely healthy supply of deliverable housing land (15.3 years or 6.1 years) the benefits arising of the proposed development would still be significantly and demonstrably outweighed by the identified harm.

9.1.12. In view of the all the above, and when read in conjunction with the Proof of Evidence prepared by Christopher Blackburn and Dr Michael Bullock, it is respectfully requested that the appeal is dismissed.

APPENDICIES

APPENDIX A – MAPPING

Appendix A1 – Preston Local Plan Policies Map Extract

Appendix A2 – Map showing appeal site in relation to the settlement boundary of Broughton village

Appendix A3 – Broughton Village

**APPENDIX B – REPORT ON THE EXAMINATION INTO THE PRESTON LOCAL
PLAN 2012-26 (SITE ALLOCATIONS AND DEVELOPMENT MANAGEMENT
POLICIES)**



APPENDIX C – ACCESSIBILITY SITE VISIT PHOTOS AND NOTES

APPENDIX D – BUS TIMETABLES

Appendix D1 – No. 45 Preston – Blackburn

Appendix D2 – No. 46 Preston – Longridge

APPENDIX E – APPLICATION 06/2018/0700 DOCUMENTS

Appendix E1 – Decision Notice

Appendix E2 – Delegated Report