

### **What Constitutes Very Special Circumstances (VSCs)**

Firstly the answer to the question will depend on the weight of each of the factors put forward and the degree of weight to be accorded to each is a matter for the decision taker, in this case the Planning Committee, acting within the "Wednesbury Principles". This stage will often be divided into two steps. The first is to determine whether any individual factor taken by itself outweighs the harm and the second is to determine whether some or all of the factors in combination outweigh the harm. There is case law that says that a number of factors, none of them "very special" when considered in isolation, may when combined together amount to very special circumstances and goes on to say that "there is no reason why a number or factors ordinary in themselves cannot combine to create something very special.

The weight to be given to any particular factor will be very much a matter of degree and planning judgement and something for the decision-taker.

There cannot be a formula for providing a ready answer to any development control question on the green belt. Neither is there any categoric way of deciding whether any particular factor is a 'very special circumstance' and the list is endless but the case must be decided on the planning balance qualitatively rather than quantitatively.

What is required of the decision taker above all, is a value judgement and inevitably decision takers are given wide latitude, as indeed is inherent in the entire development control regime.

### **Conclusion**

As advised within the overall conclusion of the main report, the starting point for consideration of the proposals is the development plan (Core Strategy & Adopted Local Plan), and then material considerations which include the Framework and the emerging (partially sound) local plan, and any other relevant material considerations, including the harm and the benefits that arise from the proposal.

The site is a major developed site in the green belt and is designated as such in the adopted local plan (policy DC6), which permits redevelopment of such sites on the basis of a major development site in the green belt. It is this adopted policy that lends support to the principle of redevelopment in terms of the development plan. However, the policy is considered out of date under the Framework and therefore has limited weight in itself.

The proposal constitutes inappropriate development in the green belt and to succeed it must meet the three tests in the Framework as set out within the main report. The former theme park has an impact already on openness, by virtue of the structures/buildings. The Framework however does not address issues of scale, height, footprint or volume (i.e. it is a more flexible approach than before under PPG2), and the test is simply now one of openness, for which there is no prescribed way of assessment.

It is accepted that there will be a greater impact on openness in respect of the proposal because the development by its very nature harms the openness of the site and the green belt and as such "very special circumstances" need to be demonstrated to outweigh the implicit harm from inappropriate development in the green belt

As set out within the conclusion of the main report, the benefits are assessed under the three strands of sustainability - economic, social and environmental. The Framework offers a model policy for sustainable development with the key test being whether there is significant harm that outweighs the benefits as follows:

*"When considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the Framework. The Council will always work proactively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.*

*Planning applications that accord with the policies in this Local Plan will be approved without delay, unless material considerations indicate otherwise. Where there are no policies relevant to the application or relevant policies are out of date at the time of making the decision then the Council will grant permission unless material considerations indicate otherwise, taking into account whether: a)*

*any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole and those contained in the Core Strategy; or*  
*b) specific policies in the Framework and Core Strategy indicate that development should be restricted.”*

Transferring this test to the green belt scenario then the benefits and VSC's must be demonstrated to outweigh the harm to the green belt that is inherent in its development.

As set out within the main report it is considered that there are positive aspects to the development in support of the proposals the key ones being:

- The site is previously developed land and its redevelopment is encouraged both at a national level within the Framework and a local level with a brownfield target of 70% of all new housing.
- The site is currently a derelict theme park which does not make a positive contribution to the character or appearance of the green belt location.
- There are elements of the development that will create a visual benefit
- The houses will be built to a high Code for Sustainable Homes level
- The proposed development will result in a reduction in the amount of surface water run-off affecting the watercourses downstream at Croston, this will result in a positive benefit in respect of reducing the flooding potential downstream.
- The proposed development will contribute to the supply of affordable housing within the Borough
- The proposed development will contribute to improving the frequency of the bus service
- The proposed footpaths improvements will improve accessibility at the site and for the wider community.

The factors considered above individually do not represent Very Special Circumstances and the question for the decision taker is whether collectively those factors combine with sufficient weight to represent the very special circumstances that would overcome the harm to the green belt by reason of the openness. To assist in the decision making process the following benefit/ dis-benefit table has been produced:

	Material Consideration	Very Special Circumstance (Green Belt Policy)	Exceptional Circumstances (Policy 1 of the Core Strategy Test)	Weight to be afforded (limited/moderate/substantial)	Impact in balancing exercise (negative/neutral/positive)
<b>BENEFITS</b>					
1	The development will contribute to the housing land supply within the Borough.	This is a benefit as nationally the guidance is to boost significantly the supply of housing.	This is not an exceptional circumstance locally because the Council currently has a 7.3 year supply of housing which results in no urgent need to release the site at this time.	Moderate	Neutral
2	The site is previously developed land.	This is a benefit as nationally the Government encourages the effective use of land by re-using land that has been previously developed (brownfield land). At a local level the Council has a brownfield target of 70% of all new housing on such sites. Without Camelot over the plan period there would be 59.2% of new housing on Brownfield land which is short of the target. With Camelot this increases to 61.2% (based on 2013 figures)	This is an exceptional circumstance as the designation as previously developed land within the Adopted and emerging Local Plan (Policy BNE5) supports the principle of redevelopment in terms of the development plan and the proposals would assist in meeting the Council's brownfield land target for new dwellings.	Substantial	Positive
3	Removal of existing tall structures	This is a benefit as the existing site is fairly well contained with the tall structures the only element visible within the surrounding area. From a visual amenity perspective the proposals will reduce the impact	This is an exceptional circumstance as the site is proposed to be maintained as a previously developed site allocation within the emerging Local Plan which establishes the principle of an alternative use and by securing a viable re-use ensures that the redeveloped site can contribute to the 5	Substantial	Positive

		on the visual assessment of the area	purposes of Green Belt.		
4	Enhanced buffer planting creating a self-contained site.	From a visual amenity perspective the proposals will reduce the impact of the development on the visual assessment of the area	This is an exceptional circumstance as the site is proposed to be maintained as a previously developed site allocation within the emerging Local Plan which establishes the principle of an alternative use and by securing a viable re-use ensures that the redeveloped site can contribute to the 5 purposes of Green Belt.	Substantial	Positive
5	The development will create construction jobs, which have acknowledged economic benefits along the supply chain.	At a national level the Government is committed to securing economic growth in order to create jobs and confirms that significant weight should be placed on the need to support economic growth through the planning system. At a Local level the Corporate Strategy includes creating a strong local economy which this would assist with	This is not an exceptional circumstance as any redevelopment secured at this site (which its allocation within both the current and emerging local plan establishes) would have associated construction jobs	Moderate (over the 10 year life of the planning approval)	Neutral
6	The proposals will generate an associated population increase which will increase the potential to improve the local spending profile (such as at local centres, villages and the town centre)	The proposals will increase the population in the area with an associated spending profile. At a Local level the Corporate Strategy includes creating a strong local economy which this would assist with.	This is not an exceptional circumstance as any redevelopment of this site has the potential to generate an associated workforce/ trip generation with associated spend	Limited	Neutral
7	There will be a New Homes Bonus	This is a benefit associated with any new housing development	This is not an exceptional circumstance as currently is a result of any new housing development and there is no certainty over	Limited	Neutral

			the future of this funding stream		
8	A contribution to local Council Tax	This is a benefit associated with any new housing development	This is not an exceptional circumstance as currently this is a result of any new housing development and other potential uses of the site may be subject to Council tax	Limited	Neutral
9	CIL levy which will contribute to improving local infrastructure.	CIL secured from this scheme would benefit both the future residents of the site and the surrounding towns/ villages by providing a significant contribution to improving local infrastructure	This could be considered to be an exceptional circumstance as although it would be applicable to all housing schemes alternative uses on this site may not generate such a levy which would mean the benefits to the surrounding areas are reduced.	Moderate	Positive
10	Reduction in the amount of surface water run-off affecting the watercourses	This is a benefit as at a local level there is a clear drive towards reducing flood risks particularly at Croston	This is an exceptional circumstance as the current site adds to the flooding issues along the River Yarrow and the proposed developments will reduce the amount of surface water entering the River which will be a significant benefit.	Substantial	Positive
11	Affordable Housing	Increasing the supply of affordable housing is a Corporate Strategy, a Strategic objective within the core Strategy and accords with the Governments guidance to boost significantly the supply of housing including affordable housing	This is an exceptional circumstance as this is an opportunity to provide affordable housing on a previously developed windfall site within this rural location. This provision will be phased over the lifetime of the development- providing a supply of units over several years- and this provision has never formed part of the Council's affordable housing delivery scheme	Substantial	Positive
12	Increase the frequency of the bus service between Chorley and Ecclestone	This is a benefit as it will provide more accessibility between Chorley and Ecclestone which assisting in maintaining the existing bus service provision within this rural part of the	This is an exceptional circumstance as it promotes more sustainable modes of travel and will improve movement around Chorley (Strategic Objectives of the Core Strategy). Alternative uses at this site may not facilitate such improvements.	Substantial	Positive

		Borough			
13	Ensuring that the existing bus service provision is maintained	This is a benefit as rural bus services are constantly at threat whereas this development will assist in the commercial viability of the bus service	This is an exceptional circumstance as it promotes more sustainable modes of travel and will improve movement around Chorley (Strategic Objectives of the Core Strategy). Alternative uses at this site may not facilitate such improvements.	Substantial	Positive
14	The provision of a bus stop within a central location on the site with associated bus diversion	This is a benefit to the existing businesses on site who will be within walking distance of a bus stop	This is an exceptional circumstance as it promotes more sustainable modes of travel and will improve movement around Chorley (Strategic Objectives of the Core Strategy). Alternative uses at this site may not facilitate such improvements.	Substantial	Positive
15	The proposed footpaths improvements	This is a benefit as it improves the accessibility of the site	This is an exceptional circumstance as it will improve accessibility to the rural area/ countryside. Any alternative uses/ reduced scale of development may not generate the ability to provide this connectivity within this rural area.	Substantial	Positive
16	The link to the MSA	This is a benefit as it enables a direct link to shop facilities	Whilst the link to the MSA does not necessarily on its own constitute an exceptional circumstance as this will effectively generate trips for top up shopping not taking away the need to travel for leisure/ business/ main food shopping on the other hand the principle of redeveloping this site has been established and any such links are a benefit	Moderate	Neutral
17	Providing a contribution to enhancing the National Cycle Route between Eccleston and Chorley	Improvements to Eccleston to Chorley cycle route is identified as a route to be improved within the emerging Local Plan	This is an exceptional circumstance as it represents improvements to a national route and enhances and cycling opportunities at the site which will benefit the wider area.	Substantial	Positive

18	Creation of/ improvement of POS in the Borough (off site)	This is a benefit as there is an identified deficit of certain categories of open space within the Borough which this scheme will contribute to.	This is not an exceptional circumstance as it would be generated from any housing scheme although it should be noted that alternative uses/ reduced scale of development would not generate any/ the same extent of contribution.	Moderate	Neutral
19	Woodland Access	This is a benefit as the proposals will enable wider access to the surrounding countryside and areas of Woodland	This is not an exceptional circumstance as the linkages are already in place outside of the site the proposals will just secure improvements which widens the potential for such access	Moderate	Neutral
20	Deculverting an existing watercourse which is an ecological benefit.	This is a benefit as it seeks to meet the Government's objectives of providing net gains in biodiversity	This is not an exceptional circumstance as the deculverting is not necessarily a product of the proposed development and could be undertaken as part of any redevelopment at this site.	Limited	Neutral
21	Provide an attractive and secure environment for the existing businesses on this site and assist in securing their survival at this site.	This is a benefit as the existing hotel and businesses currently are located within the middle of a derelict theme park and the hotel has acknowledged that the worst case scenario from their perspective is to leave the site derelict. There is currently a large number of jobs at the existing businesses which will be maintained.	This is not an exceptional circumstance as the Council could exercise its powers and serve S215 notices for the site owners to clean up the site although it would still result in existing businesses being located in the middle of an unused previously developed site.  It is acknowledged that there is a fear of crime associated with such a large site however it is the land owners responsibility to secure the site	Moderate	Neutral
22	Biodiversity/ Ecological Enhancements- removal of invasive species	This is a benefit as this will result in a net benefit to biodiversity	The Environment Agency have no powers to require land owners to remove invasive species of this site and as such this is an exceptional circumstance in this these species will be removed from the site which	Moderate	Positive

			is a net biodiversity benefit.		
23	Biodiversity/ Ecological Enhancements- Woodland Management Plan	This is a benefit as this will provide a suitable framework for management of the existing woodland/ biodiversity areas which is considered to contribute to good woodland management and result in a net biodiversity gain	This is not an exceptional circumstance as whilst management of woodland is always considered to be a benefit if the site was left undeveloped the existing ecological assets on the site may have the opportunity to rejuvenate which could also result in a net biodiversity gain.	Moderate	Neutral
	<b>Material Consideration</b>	<b>Concerns</b>		<b>Weight to be afforded (limited/ moderate/ substantial)</b>	<b>Impact in balancing exercise (negative/ neutral/ positive)</b>
<b>DISBENEFITS</b>					
1	Inappropriate development in the Green Belt	The proposals are inappropriate development within the Green Belt which is, by definition, harmful to the Green Belt		Substantial	Negative
2	Impact on openness	It has been concluded that the proposals will impact on the openness of the Green Belt. Substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.		Substantial	Negative
3	Visual impact- primary access point	In the short term the tree/ hedgerow removal to facilitate the primary access point will make this part of the site more visible within the surrounding area		Moderate (in the short term). Limited (in the long term when the replacement planting matures)	Neutral
4	Visual Impact- The new secondary	The proposals involve opening up a new access point in a currently position		Substantial (in	Negative



	access point	which is not open and is effectively screened by the highway planting	the short term). Moderate (in the long term when the replacement planting matures)	
5	Visual Impact- motorway/public vantage points	There are identified sensitive locations within the site from a visual impact perspective which include the northern part of the site and those parts currently visible from the network of footpaths which already exists around the site.	Moderate (in the short term). Limited (in the long term when the replacement planting matures)	Neutral

The above benefits could potentially be secured via condition/ S106 clause and when taken together as a whole are key to the consideration of the proposals.

This is considered to be a finely balanced decision in that whether the proposed dwellings have a greater impact on openness is a subjective judgment. In this case it is considered that the proposals will result in a re-use of this previously developed land which will result in the efficient and effective use of brownfield land which is encouraged by Government. The scale of development including the associated development of the land for gardens, roads, play areas and urban forms of development is significant and will have an impact on openness of the Green Belt themselves in addition to the significant harm from the dwellings.

As set out within the main report the only outstanding strand of sustainable development which would enable a recommendation to be made was the environmental role due to outstanding comments from the Ecologist at LCC. As set out within the addendum these have now been received. The Ecologist concludes that all of the impacts can be adequately addressed by condition/ S106 Clause and as such Chorley Council, as a competent authority for the purposes of the Conservation of Habitats and Species Regulations 2010 (as amended) must have regard to the requirements of the Regulations (and Habitats Directive) in the making of the planning decision.

Following the high court decision (*R (on the application of Simon Woolley) v Cheshire East Borough Council*, June 2009) the Local Planning Authority have a legal duty to determine whether the three 'derogation tests' of the Habitats Directive implemented by the Conservation (Natural Habitats &c.) Regulations 1994 have been met when determining whether to grant planning permission for a development which could harm a European Protected Species. The three tests include:

- (a) the activity must be for imperative reasons of overriding public interest or for public health and safety;
- (b) there must be no satisfactory alternative and
- (c) favourable conservation status of the species must be maintained.

This requirement does not negate the need for a Licence from Natural England in respect of Protected Species and the Local Planning Authority are required to engage with the Directive

The development has beneficial consequences of primary importance of the environment by replacing a derelict theme park with a deliverable development within the medium term with associated ecological improvements. Maintaining the existing use on site was explored by the landowners prior to submission of this application however the theme park is now closed and as such an appropriate reuse of the site needs to be secured particularly given the derelict nature of the current site and its impact on the visual amenities of this rural area. As such it is considered that the proposals accord with the derogation tests and the proposals contribute to the environmental role of sustainability by improving biodiversity.

The purpose of the planning system is to contribute to the achievement of sustainable development. To achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system. The planning system should play an active role in guiding development to sustainable solutions. Pursuing sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment, as well as in people's quality of life, including (but not limited to):

- making it easier for jobs to be created in cities, towns and villages;
- moving from a net loss of bio-diversity to achieving net gains for nature;
- replacing poor design with better design;
- improving the conditions in which people live, work, travel and take leisure; and
- widening the choice of high quality homes.

In respect of the sustainability of the site at plan making stage the following Sustainability Appraisal was undertaken:

<b>Site Ref</b>	<b>CH0125</b>
<b>Address</b>	<b>Camelot/Park Hall</b>

SA Obj	Indicator	Site Performance	SA Comments
S1	Distance to railway station	Over 3km	Social
	Rail service frequency	No services in settlement	
	Distance to nearest bus stop	Un to 0.4km	
	Bus service frequency	1/hour/direction	Environmental
	Distance to service centre	Over 3km	
	Distance to A Road iunction	0.41 to 0.8km	Economic
	Distance to motorway iunction	Over 3km	
	Distance to suupermarket	1.61 to 3km	
	Distance to convenience store	Over 1.2km	
	Distance to Post Office	1.21 to 1.6km	
	Distance to Primary School	0.81 to 1.6km	
	Distance to Secondary School	Over 5km	
	On a cycle route	No	
Distance to cycle route	Un to 0.4km		
S2	Distance to GP surgerv	1.61 to 3km	
	Distance to NHS general hospital	5.1 to 10km	
	Distance to public open space/park	0.81 to 1.2km	
	Distance to local centre	Over 1.6km	
EN1	Designation of land	Major Developed Site in Green Belt	
	Area of Separation	Outside	
	AONB	Outside	
	SSSI	Outside	
	Biological/ Geological Heritage Site	Part outside part within	
EN2	Agricultural classification	Grade 3	
	Conservation Area	Outside	
	Ancient Monument on site	No	
	Registered Park or Garden	Outside	
	Listed Building on site	No	
EN3	Current/former land use	Brownfield	
	Flood Zone area	All Zone 1	
EN4	Contaminated land	Medium	
	Within 3km of a congestion spot	No	
EC1	Distance to employment site	Over 1.6km	
	Access to Broadband	Yes	
EC2	Distance to further/higher education	Over 5km	
Deliverability Indicators	Access to sewer system		Is the site deliverable: Yes
	Access to water		
	Access to gas	Yes	
	Access to electricity		
	Existing road access		
	At risk from hazardous installations	No	

## Overall Site Performance

### Band Spectrum:



### Overall Band:



Although there is no requirement at a national level to undertake such an assessment, at application stage this exercise has been undertaken by the Council's Planning Policy Team. As the sustainability of the site is a subjective consideration at planning application stage and it is considered that the criteria contained with the SA form a reasonable set of objectives to assess the site against. The SA undertaken in respect of the proposed completed site takes the site from Band D to Band C due to the following indicators:

- The applicants are proposing to double the bus service frequency of the number 7 service which currently runs one service per hour, therefore the new frequency will be two services per hour.
- The applicant is proposing pedestrian access to the motorway services which has a convenience store, which is within 0.4km of the site boundary.
- The applicant is proposing a cycle route on the site.
- Open space will be provided on-site therefore most of the site will be within 0.4km of open space.

## SA OF SITE TAKING INTO ACCOUNT PROPOSALS IN PLANNING APPLICATION

<b>Site Ref</b>	<b>CH0125</b>
<b>Address</b>	<b>Camelot/Park Hall</b>

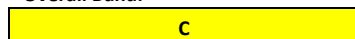
SA Obj	Indicator	Site Performance	SA Comments
S1	Distance to railway station	Over 3km	Social
	Rail service frequency	No services in settlement	
	Distance to nearest bus stop	Up to 0.4km	Environmental
	Bus service frequency	2-5/hour/direction	
	Distance to service centre	Over 3km	Economic
	Distance to A Road junction	0.41 to 0.8km	
	Distance to motorway junction	Over 3km	
	Distance to supermarket	1.61 to 3km	
	Distance to convenience store	Up to 0.4km	
	Distance to Post Office	1.21 to 1.6km	
	Distance to Primary School	0.81 to 1.6km	
	Distance to Secondary School	Over 5km	
On a cycle route	Yes		
Distance to cycle route	Up to 0.4km		
S2	Distance to GP surgery	1.61 to 3km	
	Distance to NHS general hospital	5.1 to 10km	
	Distance to public open space/park	Up to 0.4km	
	Distance to local centre	Over 1.6km	
	Designation of land	Major Developed Site in Green Belt (as per BNF5)	
EN1	Area of Separation	Outside	
	AONB	Outside	
	SSSI	Outside	
	Biological/ Geological Heritage Site	Part outside part within	
EN2	Agricultural classification	Grade 3	
	Conservation Area	Outside	
	Ancient Monument on site	No	
	Registered Park or Garden	Outside	
	Listed Building on site	No	
EN3	Locally Listed Building on site	No	
	Current/former land use	Brownfield	
EN4	Flood Zone area	All Zone 1	
EN5	Contaminated land	Medium	
	Within 3km of a congestion spot	No	
EC1	Distance to employment site	Over 1.6km	
	Access to Broadband	Yes	
EC2	Distance to further/higher education	Over 5km	
Deliverability Indicators	Access to sewer system		Is the site deliverable: Yes
	Access to water		
	Access to gas	Yes	
	Access to electricity		
	Existing road access		
	At risk from hazardous installations	No	

### Overall Site Performance

**Band Spectrum:**



**Overall Band:**



As such in conclusion the proposed measures at this site improve the accessibility and connectivity of the site which is evidenced within the Highway Authority's consideration in respect of the proposals. Whilst Band C is not the most sustainable location it is important to note that the Council has allocated a Band D site elsewhere (Eaves Green) although located on the edge of the Chorley Town Settlement where the Core Strategy acknowledges some Greenfield development will be required, and this has been found sound in the local plan inspector's partial report.

### **Overall Conclusion**

It is considered that the development of the site for housing is inappropriate development that would result in significant harm to the green belt. The benefits that have been identified by the applicants do not individually amount to very special circumstances however when taken together, cumulatively, they are material. Accordingly weight can be attached to those positive aspects of the development proposal as set out above.

Members are advised that officers consider that this is a finely balanced judgement and Members are asked to consider whether the potential harm to the green belt by reason of inappropriateness, and any other harm, is outweighed by other considerations. The above benefit/ disbenefit table is provided to assist Members in their consideration along with the Heads of Terms for the S106 Agreement within the main report and conditions attached to the addendum.

If Members are minded to approve the application please note it is not open to Members to determine the application as it will have to be referred to the Secretary of State under the provisions of the Town and Country Planning (Consultation) (England) Direction 2009 as the proposals constitute inappropriate development which would have a significant impact on the openness of the Green Belt. The Secretary of State will then determine whether he wants to call in the application for determination or whether this can be determined at the local level.

If Members are minded to grant planning permission clear reasons must be given as the main report and addendum cannot be relied upon as an articulation of the reasons for the grant.

If Members are minded to refuse the application there would be no requirement to refer the application to the Secretary of State. In this case clear reasons for refusal must be given.

### **Recommendation**

There is no officer recommendation to approve or refuse. Members are asked to determine the application.