

**Town and Country Planning Act 1990 (As Amended)**

**LAND AT PEAR TREE, EUXTON, CHORLEY PR76QR**

**Planning Appeal**

**Appeal Reference: APP/D2320/W/20/3247136**

**Statement of the Local Planning Authority**

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## **1. INTRODUCTION**

- 1.1 This appeal is made by Gladman Developments Ltd against the refusal of outline planning permission (Council reference:19/00654/OUTMAJ) for the development of land between Pear Tree Lane and School Lane, Pear Tree Lane, Euxton for up to 180 dwellings including 30% affordable housing, with public open space, structural planting and landscaping, surface water flood mitigation and attenuation and vehicular access points from School Lane. All matters reserved except for means of vehicular access

## **2. APPEAL SITE AND SURROUNDINGS**

- 2.1 The application site is located to the south and east of School Lane and to the east of Euxton. The site comprises five field compartments and the topography of the site is relatively flat and includes existing hedgerows and a small pond. The site is approximately 7.34 hectares in area.
- 2.2 The western edge of the site is predominantly bound by properties on School Lane and The Cherries. To the north the site includes an existing tree line that is on the south side of School Lane. To the north of School Lane is a residential development site of 140 dwellings, which is under construction and nearing completion. To the east, the site is bound by Pear Tree Lane and residential properties to the north east, which includes Houghton House, a Grade II listed building. The southern boundary of the site is bound by a row of mature trees and hedgerows with Valley Park to the south.
- 2.3 School Lane is a non-classified road and is categorised as a local access road with a 20-mph zone extending from Wigan Road to approximately 20m west of Orchard Close. To the west of this point School Lane is subject to the national speed limit of 60 mph. There are footways of variable width from Orchard Close west to Wigan Road. From Orchard Close east there are no footways and the road is of variable width with narrow single lane sections in what is essentially a lane of rural character.

## **3. THE APPLICATION**

- 3.1 Chorley Borough Council validated the planning application that is the subject of the appeal on the 8th July 2019.

- 3.2 The application is an outline planning application for up to 180 dwellings of which 30% are proposed to be affordable. Access to the site is sought as part of this application and would be from School Lane via two new priority junctions to the west and north of the site. The outline plan includes for the provision of planting, landscaping, public open space, children's play area and surface water attenuation with all the details to be considered at reserved matters stage.
- 3.3 Planning permission was refused by the Development Control Committee which took place on the 12th November 2019 which was notified by a refusal notice issued 13 November 2019. It was refused for the following reason:

*The proposed development would be located within an area of Safeguarded Land as defined by the Chorley Local Plan 2012 – 2026. The Council has a five year housing land supply as required by the National Planning Policy Framework. The proposal therefore conflicts with policy BNE3 of the Chorley Local Plan 2012 – 2026. It is not considered that the material considerations put forward in favour of the development are sufficient to outweigh the presumption against it.*

#### **4. PLANNING HISTORY**

- 4.1 Planning permission was refused on 8 December 2016, for an outline planning permission (16/00489/OUTMAJ) at land at Pear Tree Lane, Euxton, Chorley, Lancashire PR7 1DP (i.e. the application or appeal site), for up to 165 dwellings (30% affordable), planting and landscaping, informal open space, children's play area, surface water attenuation, 2 vehicular access points from School Lane and associated ancillary works. All matters to be reserved with the exception of the main site access.
- 4.2 An Appeal against that refusal of planning permission was dismissed (APP/D2320/W/17/3173275) by decision letter dated 30<sup>th</sup> November 2017.

## 5. RELEVANT PLANNING POLICIES

### NATIONAL POLICY AND GUIDANCE

#### National Planning Policy Framework (NPPF) (19 February 2019)

5.1 The NPPF states at paragraph 2:

*“Planning law requires that applications for planning permission be determined in accordance with the development plan<sup>2</sup>, unless material considerations indicate otherwise<sup>3</sup>. The National Planning Policy Framework must be taken into account in preparing the development plan and is a material consideration in planning decisions. Planning policies and decisions must also reflect relevant international obligations and statutory requirements.”*

5.2 Further reference to the NPPF is made below.

### DEVELOPMENT PLAN POLICY (STATUTORY)

5.3 In line with the statutory test in section 38(6) of the Planning and Compulsory Purchase Act, the appeal must be determined in accordance with the development plan, unless material considerations indicate otherwise. The Council contend the proposal is contrary to the Development Plan. The development plan comprises the Central Lancashire Core Strategy and the Chorley Local Plan 2012-2026.

### CORE STRATEGY POLICY

5.4 The Central Lancashire Core Strategy was adopted on 17th July 2012. It contains the following relevant policies:

5.5 Policy 1: Locating Growth.

5.6 Policy 2: Infrastructure

5.7 Policy 3: Travel

- 5.8 Policy 4: Housing Delivery (sets out the housing requirement, for Chorley this is 417 dwellings per annum)
- 5.9 Policy 5: Housing Density
- 5.10 Policy 7: Affordable and Special Needs Housing
- 5.11 Policy 14: Education
- 5.12 Policy 16: Heritage Assets
- 5.13 Policy 17: Design of New Buildings
- 5.14 Policy 21: Landscape Character Areas
- 5.15 Policy 22: Biodiversity and Geodiversity
- 5.16 Policy 24: Sport and Recreation
- 5.17 Policy 26: Crime and Community Safety
- 5.18 Policy 27: Sustainable Resources and New Developments
- 5.19 Policy 29: Water Management

#### **CHORLEY LOCAL PLAN**

- 5.20 The Chorley Local Plan 2012-2026 was adopted 21st July 2015. It contains the following relevant policies:
- 5.21 V2: Settlement Policy - Main Settlements.
- 5.22 ST1: Provision or Improvement of Footpaths, Cycleways, Bridleways and their Associated Facilities in Existing Networks and New Development;
- 5.23 ST3: Road Schemes and Development Access
- 5.24 ST4: Parking Standards

- 5.25 HS1: Housing Site Allocations
- 5.26 HS2: Phasing of Housing Development
- 5.27 HS4A: Open Space Requirements in New Housing Developments
- 5.28 HS4B: Playing Pitch Requirements in New Housing Developments
- 5.29 BNE1: Design Criteria for New Development
- 5.30 BNE2: Development in the Area of Other Open Countryside
- 5.31 BNE3: Areas of Land Safeguarded for Future Development Needs
- 5.32 BNE8: Protection and Enhancement of Heritage Assets
- 5.33 BNE9: Biodiversity and Nature Conservation
- 5.34 BNE10: Trees
- 5.35 BNE11: Species Protection

#### **CENTRAL LANCASHIRE LOCAL PLAN (EMERGING)**

- 5.36 The Central Lancashire Authorities of Preston City, South Ribble and Chorley are undertaking a review of the development plan(s) for the area and are working towards the preparation of a Joint Local Plan for Central Lancashire. This will be a single planning document containing the Council's vision and objectives. It will set strategic and local development management policies and site allocations for future development across the three authorities. Once adopted, the Local Plan will guide the future growth and development in the Central Lancashire area and replace the Central Lancashire Core Strategy (adopted in 2012) and the Local Plans/Site Allocations and Development Management Policies of the 3 Central Lancashire Authorities (all adopted 2015).

- 5.37 The Councils consulted on the first document to be prepared - the 'Central Lancashire Local Plan Issues and Options Consultation' - between 18<sup>th</sup> November 2019 and 14<sup>th</sup> February 2019.
- 5.38 Annex 1 (Site Suggestions Proposed by Chorley) of the Central Lancashire Local Plan Issues and Options comprises the site suggestions being taken forward by Chorley Council as a result of an initial review of all sites submitted during the Call for Sites consultation following detailed assessment in the SHELAA. These site suggestions were submitted through two Call for Sites exercises, during which stakeholders (including interested bodies such as landowners, developers and the public) had the opportunity to present land in their interest or ownership that was considered potentially suitable for future development. In addition, further sites were suggested by public bodies.
- 5.39 The appeal site of 7.34 hectares forms part of a larger designated Safeguarded Land site totalling 16.6 hectares (Chorley Local Plan, Policy BNE3.9). An area of 11.57 hectares (including the appeal site) has been proposed for the designation as housing referenced as Annex 1, 19C264x with Plan (Site Suggestions Proposed by Chorley, page 16).
- 5.40 The remainder of the Safeguarded Land designation (Chorley Local Plan, Policy BNE3.9) has not been proposed for a use in Annex 1 (Site Suggestions Proposed by Chorley) and remains as Safeguarded Land. This remaining area is covered by a Valley Park designation (Chorley Local Plan Policy HW3, Valley Parks, page 59 and Euxton Inset Map 9) known as Chapel Brook. Policy HW3 allows proposals to enhance the recreational value of Valley Parks where it can be demonstrated that they would not detract from the amenity, recreational and wildlife value of the Valley Parks. This area is also protected by Chorley Local Plan Policy HW2 (Protection of Existing Open Space, Sport and Recreational Facilities (page 59 and Euxton Inset Map 9)).
- 5.41 The sites have been considered by Chorley Council. However, it is important to note that detailed assessments including potential flood risk, impact on the local environment and infrastructure requirements including school provision and health provision have not yet been finalised. Discussions are being held with Lancashire County Council as the education authority, and the NHS on infrastructure requirements in the Borough. These requirements are still to be planned for and will

be sited within the available land allocations and consulted on at the Preferred Options stage.

- 5.42 The Preferred Options consultation (Central Lancashire Local Plan) will take place during Summer 2021, with submission to the Planning Inspectorate anticipated in early 2023, with adoption scheduled for December 2023 as approved in the Central Lancashire Local Development Scheme (January 2020 - January 2023).

## **OTHER LOCAL PLANNING GUIDANCE AND REPORTS**

### **Central Lancashire Open Space and Playing Pitch Supplementary Planning Document (August 2013) including financial contributions for new provision and improvements**

- 5.43 This Supplementary Planning Document provides advice on how the Council's open space and playing pitch policies, as set out in Local Plan policies HS4A (Open Space Requirements in New Housing Developments) and HS4B (Playing Pitch Requirements in New Housing Developments) are to be implemented. This includes guidance on provision standards and how they will be applied, along with the accessibility and qualitative assessments, to determine the amount of new open space and playing pitch provision or appropriate financial contributions required from new residential developments. There is also an associated Financial Contributions document.

### **Central Lancashire Affordable Housing Supplementary Planning Document (October 2012)**

- 5.44 This Supplementary Planning Document provides advice on how the Council's affordable housing policy as set out in Core Strategy Policy 7 (Affordable Housing) is to be implemented. It includes guidance on the range of approaches, standards and mechanisms required to deliver a range of affordable housing to meet local needs.

### **Central Lancashire Strategic Housing Land Availability Assessment 2010 (SHLAA)**

- 5.45 This identifies part of the site as part of a larger site (EUX02 Land to the south of Euxton Lane, Euxton) within the Central Lancashire Strategic Housing Land

Availability Assessment 2010 (SHLAA) for potential suitable future housing development. The SHLAA provided an evidence base on the potential housing land supply across Central Lancashire, and forms part of the evidence base for plan making – it does not allocate sites for development. The SHLAA states that this land is safeguarded for future development needs, which also has the potential for mixed uses/employment uses and a Local Development Framework review of land is needed to permit housing development. Euxton is identified as an Urban Local Service Centre in the draft Core Strategy.

### **Central Lancashire Strategic Housing Land Availability Assessment 2011 Update (February 2012)**

- 5.46 The Central Lancashire authorities undertook a partial review and update of the Strategic Housing Land Availability Assessment published in 2010.
- 5.47 This identifies the site for potential future housing development as part of a larger site including mixed use (EUX02 (site reference HS1.41 Land at Sylvesters Farm, Euxton)). 248 dwellings are identified as potentially developable over the 2016 – 2021 period on the wider site.
- 5.48 During preparation of the Chorley Local Plan this site was included as a preferred mixed-use allocation for housing and employment in the Preferred Options Paper, September 2011. However, the employment part of the allocation was deleted following consultation on the Preferred Options Paper, and just the land to the north of this site was allocated for housing at the Publication stage. This was because it was considered that there were other proposed, emerging and existing employment sites in the locality which would offer a range of choice. This site was put forward as an additional housing allocation during the Publication stage and was considered during the Local Plan Examination. The Local Plan Inspector concluded in her report that: *“Taking into account that no additional housing supply is required to make the Plan sound, I conclude that there are no overriding reasons to allocate this site.”*

### **Central Lancashire Employment Skills Supplementary Planning Document (September 2017)**

- 5.49 This SPD states that an Employment Skills Statement should accompany a planning application which exceeds the thresholds of commercial development (1,000sq m)

and housing developments (30 units). One of Central Lancashire's priorities is to encourage economic growth within Central Lancashire that benefits the people and businesses in the three local authority areas. This involves increasing employment opportunities by helping local businesses to improve, grow and take on more staff, helping businesses to find suitable staff and suppliers, especially local ones, and improving the skills of local people to enable them to take advantage of the employing opportunities. Core Strategy Policy 15: Skills and Economic Inclusion is the relevant hook for this SPD.

### **Chorley Council Community Infrastructure Levy (CIL)**

- 5.50 The Chorley CIL Infrastructure Charging Schedule provides a specific amount for development. The CIL Charging Schedule was adopted on 16<sup>th</sup> July 2013 and charging commenced on 1st September 2013. The proposed development will be a chargeable development and the charge is subject to indexation in accordance with the Council's Charging Schedule.

### **Chorley Interim Infrastructure Funding Statement (Dec 2019)**

- 5.51 The Interim Infrastructure Funding Statement 2019/20 (December 2019) replaces the Regulation 123 List and identifies the infrastructure projects or types of infrastructure which Chorley Council intends will be, or may be, wholly or partly funded by the Community Infrastructure Levy - whilst indicating other sources of funding that can be pooled from different routes e.g. planning obligations.

### **Chorley's Housing Land Monitoring Report (May 2019)**

- 5.52 This reports on housing completions for the period 1<sup>st</sup> April 2018 to 31<sup>st</sup> March 2019 and sets out the housing land supply position in terms of permitted sites on the 31<sup>st</sup> March 2019.

### **Chorley's Housing Land Monitoring Report (April 2020)**

- 5.53 It is expected that this document will be published before the end of April 2020 (and replace the Housing Land Monitoring Report published in May 2019), and the Council anticipates that it will rely upon it.

### **Five Year Housing Supply Statement for Chorley, July 2019**

- 5.54 This statement covers the five year period from 1st April 2019 – 31st March 2024. It sets out the housing requirement for the five year period and assesses the land supply available to deliver the requirement. The 2019 Five Year Housing Supply Statement for Chorley indicates a 9.0-year deliverable housing supply over the period 2019-2024.

### **Five Year Housing Supply Statement for Chorley (May 2020)**

- 5.55 It is expected that this document will be published before the end of May 2020 (and replace the July 2019 Five Year Housing Supply Statement for Chorley), and the Council anticipates that it will rely upon it.

### **The 2019 Housing Delivery Test Measurement**

- 5.56 The 2019 Housing Delivery Test Measurement was published in February 2020 and the Council has passed at 116% as follows:

| <b>Year</b>  | <b>Number of Homes Required</b> | <b>Number of Homes Delivered</b> | <b>HDT 2019 Measurement</b> |
|--------------|---------------------------------|----------------------------------|-----------------------------|
| 2016/17      | 418                             | 517                              | -                           |
| 2017/18      | 494                             | 661                              | -                           |
| 2018/19      | 603                             | 573                              | -                           |
| <b>TOTAL</b> | <b>1515</b>                     | <b>1751</b>                      | <b>116%</b>                 |

## **6.0 THE COUNCIL'S CASE**

### **i) Overview**

- 6.1 The appeal proposal is contrary to the Development Plan for Chorley, and in particular Local Plan Policy BNE3 (see also paragraphs 7.16 and 7.17, at page 47 of the Local Plan) that provides for the safeguarding of the appeal site. That policy is up-to-date subject only to the Council's ability to demonstrate a 5 year housing land supply. Significant weight therefore attaches to that policy and the proposed breach of it.

- 6.2 The grant of planning permission now, in the absence of an update to the Local Plan, would also be contrary to paragraph 139 of the NPPF, to which significant weight also attaches.
- 6.3 There has been no material change in respect of safeguarding policy since the previous appeal decision (PAD) concerning the site (exclusion of safeguarded land from footnote 6 (NPPF) does not result in any material change bearing in mind that the tilted balance was not applied in the PAD in any event) and it remains that the proposal would *'quite clearly fail to comply with the core principle of the framework that planning be genuinely plan-led'* (PAD paragraph 39). Very substantial weight therefore continues to attach to the conflict with the development plan and the NPPF combined in the planning balance.
- 6.4 The appeal proposal would result, as previously, in additional adverse impacts in respect of heritage assets and the character and appearance of the area (see PAD paragraphs 51- 57). Great weight attaches to the first of these.
- 6.5 The planning benefits proposed - most particularly social benefits (affordable housing in particular) and economic benefits – do not outweigh the very significant harm that would result overall.
- 6.6 The Council will contend that the appeal should be dismissed whether or not it is considered to be able to demonstrate a five year housing land supply, albeit it is the Council's case that it is able to do so.
- 6.7 To conclude, there are no other material considerations that outweigh the significant departure from the Development Plan policy reinforced by the NPPF and recent appeal decision.

ii) **Release of safeguarded land**

a) **Breach of development plan & NPPF**

- 6.8 In accordance with the statutory test in section 38(6) of the Planning and Compulsory Purchase Act, the appeal must be determined in accordance with the development

plan, unless material considerations indicate other wise. The Council contend that the proposal is contrary to the Development Plan.

- 6.9 The development plan comprises the Central Lancashire Core Strategy and the Chorley Local Plan 2012- 2026.
- 6.10 The Core Strategy policies were adopted in July 2012.
- 6.11 In the Chorley Local Plan 2012-2026 the appeal site is designated as an Area of Land Safeguarded for Future Development Needs (Safeguarded Land) under Policy BNE3.9 (page 47).
- 6.12 Policy BNE3 - and the other strategic housing policies V2: Settlement Areas and HS1: Housing Site Allocations - set the spatial strategy for housing in the Borough for the period 2012 -2026. Housing is directed towards urban areas and a number of allocated sites in line with Core Strategy Policy 1 (Locating Growth, pages 50 - 51).
- 6.13 Within Core Strategy Policy1 (Locating Growth), Euxton in strategic land terms is one of six Urban Local Service Centres (ULSCs) where some growth and investment will be encouraged to help meet housing and employment needs in Central Lancashire. It is predicted that 9% of Central Lancashire's housing development will take place in the six ULSCs over the period 2010-2026. This is predicted distribution based on the potential for housing development in each place, and not proportions that are required to be met. This site is outside the settlement boundary of Euxton as defined in the Local Plan 2012-2026 (Map 9 and Map 1).
- 6.14 This proposal - outside the settlement boundary and in an area designated as an Area of Safeguarded Land - is in clear breach of this strategy. Policy BNE3 is a restraint policy and states that development other than that permissible in the Green Belt or Area of Other Open Countryside (under Policy BNE2, page 46) will not be permitted on Safeguarded Land. The proposal is therefore contrary to Policy BNE3.
- 6.15 It is acknowledged that the weight to be given to the policy depends on its degree of consistency with the NPPF (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

6.16 The NPPF confirms that there is an ongoing requirement that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in considering the appeal proposal.

6.17 Paragraph 139 of the NPPF states (inter alia) in relation to defining boundaries of the Green Belt, that local planning authorities should:

*‘(c) where necessary, identify areas of safeguarded land between the urban area and the Green Belt, in order to meet longer-term development needs stretching well beyond the plan period;*

*d) make clear that the safeguarded land is not allocated for development at the present time. Planning permission for the permanent development of safeguarded land should only be granted following an update to a plan which proposes the development;’*

6.18 Policy BNE3 (page 47) is in accordance with paragraph 139 and in particular c) and d) of the Framework (February 2019), and is therefore up-to-date. Retaining this land for future development needs at this time is consistent with the purposes of designating the site as safeguarded land within the Local Plan, in accordance with the NPPF.

6.19 Safeguarded Land is allocated as such for Green Belt boundaries to last for a long time. It is protected from development until a time in the future which it might be required to serve development needs. The main purpose of designating Safeguarded Land in Chorley is to ensure that the inner boundary of the Green Belt will endure in the long term rather than act as a land bank for future development. Designating land as safeguarded does not mean that its development is inevitable in the long term.

6.20 Development of safeguarded land is a clear-cut breach of development plan policy aimed at safeguarding the Green Belt (policy which is itself clearly up-to-date, i.e. subject only to the 5 Year housing land supply).

6.21 The Council will rely upon the reasoning and conclusions of the previous Inspector In relation to Safeguarded Land at paragraphs 37 to 39 and 70 in particular.

- 6.22 The proposal would result in the irreversible loss of a safeguarded green field site not required to meet current housing needs now. This loss weighs heavily against the proposal and is contrary to the prudent use of land and resources in an area where much of the Borough is designated Green Belt. The NPPF (February 2019) is clear that safeguarded land is not for development at the present time (i.e. within the Plan period) and planning permission should only be granted following a Local Plan update.
- 6.23 Policy BNE3 (page 47) is in full accordance with the NPPF which confirms that: *“safeguarded land is not allocated for development at the present time. Planning permission for the permanent development of safeguarded land should only be granted following a Local Plan review which proposed the development”* (para 139). It is considered that full weight should be attached to Local Plan Policy BNE3. When the Local Plan was adopted it was envisaged that Safeguarded Land would be protected until 2026.

**b) *Gladman Development Ltd v SSHCLG & Corby BC; & Uttlesford DC* [2020] EWHC 518 (Admin)**

- 6.24 These cases concern challenges to two appeal decisions and relate to the proper interpretation of paragraph 11(d)(ii) of the NPPF. The principal question for the court was: *“Does that policy require as the Claimant submits, the ‘tilted balance’ to be struck without taking into account policies of the development plan, leaving those matters to be weighed separately under s.38(6) of the Planning and Compulsory Purchase Act 2004?”*
- 6.25 The Claimant argued that it was a misinterpretation of the tilted balance in paragraph 11(d)(ii) of the NPPF to have any regard to the development plan or its policies when answering the paragraph 11(d)(ii) question – whether any adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits of doing so, when assessed against the policies in the NPPF taken as a whole.
- 6.26 Mr Justice Holgate decided that paragraph 11(d)(ii) did not require development plan provisions to be excluded from consideration and that decision-makers may take them into account when conducting the tilted balance exercise. The Judge

concluded that paragraph 11(d)(ii) did not exclude consideration of development plan policies in the tilted balance.

- 6.27 The court made clear that decision-makers may conclude that development plan policies should be given substantial or even full weight.
- 6.36 It also accepted the Secretary of State's submission that there was no legal justification for requiring the tilted balance in paragraph 11(d)(ii) and the s38(6) PCPA 2004 balance to be applied in two separate stages in sequence. There is nothing in the operation of the two presumptions which requires them to be applied separately in two stages. It is permissible for a decision-maker, having assembled all the relevant material, to undertake the two balances together or separately. He commented that the position is no different in substance if the decision-maker applies an overall judgement to all relevant considerations which takes into account the presumptions in both paragraph 11(d)(ii) and s38(6).
- 6.37 It is very clear from this case that the tilted balance does not trump the proper application of Section 38(6), and that has particular significance where, as here, the proposal represents a significant breach of an otherwise up-to-date development plan policy, and results in other harm.

### **iii) Other Impacts**

- 6.38 The appeal proposal would result, as previously, in additional adverse impacts in respect of heritage assets and the character and appearance of the area (see PAD paragraphs 51- 57).
- 6.39 The appeal proposal would cause less than substantial harm to the setting of Houghton House by way of the development of previously undeveloped land formerly related to its agricultural use, and great weight attaches to it in accordance with NPPF paragraph 193..
- 6.40 Replacement of an open field with residential development would have an adverse impact on the character and appearance of the site and its immediate surrounds that would not be entirely mitigated.

#### iv) Benefits

- 6.41 The appellant has identified a number of planning benefits of the proposed development.

#### **Social**

- 6.42 The Council considers, moreover, that sufficient land has been allocated for housing in Euxton in the Local Plan in accordance with Core Strategy Policies 1 and 4 (pages 50-51 and page 71) and has granted a number of permissions in Euxton on allocated sites. The latest planned/completed development on housing allocations in Euxton is as follows:

- a. HS1.39 – planning permission granted for 140 dwellings – under construction;
- b. HS1.40 – planning permission granted for 51 affordable dwellings – not started;
- c. HS1.41 – 12 dwellings – completed; and
- d. HS1.42 – planning permission granted for 36 affordable dwellings – not started.

There is no need to deliver this site now. Rather, it should await the evaluation and outcome of the Central Lancashire Local Plan Review process. Accordingly, provision of market housing generally is not a material consideration which justifies the early release of this site.

- 6.43 Any residential development in Euxton which was delivered through the Core Strategy and adopted Chorley Local Plan process would deliver 30% affordable housing. The appeal scheme is delivering 54 affordable dwellings however, this is not in excess of what is required by Core Strategy Policy 7 (page 78) which sets down the approach to the delivery of affordable and special needs housing
- 6.44 Planning permission was recently granted for 51 affordable dwellings in Euxton (18/01211/FULMAJ). There is no need for this development to come forward for affordable housing to be provided. Furthermore, as at 26/06/19 there were 868 people on the Housing Register of which only 34 selected Euxton as their preferred location. Of these only 18 had a local connection to Euxton.

## **Environmental**

- 6.45 The proposed public open space will mainly serve the needs of the development itself therefore it is not considered a significant benefit.
- 6.46 Transport improvements have been designed to mitigate the highway impact of the development.
- 6.47 The on site Sustainable Drainage system would be designed to mitigate the effect of the development. The Council would not be able to determine whether a net benefit to others resulted until details were provided as part of a reserved application.
- 6.48 Biodiversity Net Gain on site would result to mitigate the effect of the development. The Council would not be able, again, to determine whether a net benefit to others resulted until details were provided as part of a reserved application.

## **Economic**

- 6.49 The appellant also claims that the proposal will have economic benefits as housing development is a key component of economic growth – both permanent and temporary. Benefits include the spending power of the additional residents and employment created during construction and. However due to the temporary nature of construction jobs these attract limited weight bearing in mind also the existing amount of proposed housebuilding in Euxton.
- 6.50 The Council will contend that the weight attaching to other, permanent, economic benefits is diminished because: the proposed development does not reflect or respect the distribution of development across the Housing Market Area supported by significant investment by government in the City Deal; and that they are associated with residential development generally.

## **v) 5 year housing land supply: flat or tilted balance**

### **Housing requirement**

#### **Background: Memorandum of Understanding (September 2017)(MOU1)**

- 6.51 The three councils of Chorley, Preston and South Ribble entered into MOU1 in September 2017 and this document provides clear evidence of the close working relationship between these three authorities in plan-making, building on the extant Core Strategy and committing to the preparation of a new single Central Lancashire Local Plan.
- 6.43 The MOU records the continuing agreement upon an appropriate distribution of future residential development across the Housing Market Area (HMA) whose sustainability was tested through the Core Strategy examination process. That distribution which reflects Policy 4 of Core Strategy and exceeds the Standard Housing Method aggregated across the HMA.
- 6.52 MOU1 reflects the single HMA across Central Lancashire and is a policy-on response to the findings of the Strategic Housing Market Assessment (SHMA published in September 2017) which concluded that: *“the spatial distribution of need within the HMA varies depending on judgements made on projections. There has been a historical over-delivery of homes in Chorley relative to housing requirement policies, compared to an under-delivery in Preston and South Ribble”*.
- 6.53 Further the SHMA 2017 goes on to state: *“primacy should be given to the HMA-level conclusions in line with national policy which emphasises assessment of OAN at a housing market area level. Furthermore, GL Hearn considers that where an authority is meeting the unmet needs from another, this will support population and workforce growth within the receiving authority’s area. On this basis it is important not to double count unmet needs and provision to meet economic growth”*.
- 6.54 A recent appeal (reference APP/N2345/W/17/3179105, Land Off Sandy Gate Lane, Broughton, Preston) also concluded that that MOU *“is effectively a joint declaration of intent as to how the Councils will for the time being distribute new housing between and across their respective and combined areas”* (Paragraph 44 page 8).

6.55 The appeal decision (appeal Ref: APP/N235/W/17/3179177, Keyfold Farm, 430 Garstang Road, Broughton, Preston) concluded “...*the Memorandum of Understanding is clear in specifically agreeing that the adopted development plan is currently the proper basis for determining the housing requirement within the individual local planning authority areas*”.

**NPPF (February 2019)**

6.56 The relevant housing requirement is now to be identified in accordance with the proper interpretation of NPPF [73] & footnote [37]. NPPF [73] provides so far as relevant that:

*‘73. ... Local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years’ worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old<sup>37</sup>. The supply of specific deliverable sites should in addition include a buffer ...’ (underlining (‘u/l’) added)*

6.57 Footnote [37] reads:

*‘Unless these strategic policies have been reviewed and found not to require updating. Where local housing need is used as the basis for assessing whether a five-year supply of specific deliverable sites exists, it should be calculated using the standard method set out in [NPPG].’ (u/l added)*

6.58 The first sentence within footnote [37] is a critical qualification to the second/alternative limb of the sentence within paragraph [73] to which it is attached. This is a qualification which NPPG paragraph: 030 Ref ID: 3-030-20180913 reflects, and to which NPPG paragraph 004 Ref ID: 2a-004-20190220 makes repeated reference, lest its significance be overlooked.

6.59 The Core Strategy sets out strategic policy applying within Chorley, including Policy 4 (Housing Delivery). That policy concerns the housing requirements within Central Lancashire and the distribution of provision to meet them across the three local planning authorities it comprises. The strategic rationale for collaborative plan-making is well-established.

- 6.60 The Core Strategy policies are more than five years old (adopted July 2012), and Core Strategy Policy 4 no longer provides a satisfactory basis for the 5 year housing land supply requirement. It has been superseded by the standard method.

### **Standard method**

- 6.61 The standard method housing requirement figure for Central Lancashire equates to 1,026 dwellings per annum (provision of 18,268 dwellings over the period 2018 - 2036), which is lower than the Core Strategy total requirement of 1,341 dwellings per annum. It is recognised the standard method requirement figure is a minimum figure and the Central Lancashire authorities are proposing a redistribution by the Central Lancashire Memorandum of Understanding 2020 (MOU2) following robust evidence from the Central Lancashire Housing Study).
- 6.62 The three Councils intend to implement a distribution of housing based on robust evidence to be more reflective of the circumstances of Central Lancashire and the City Deal aspirations (see below). The evidence contained within the Central Lancashire Housing Study (March 2020) produced by consultants IcenI recommends that the most appropriate distribution of the minimum number of homes needed in the area is as follows, this will be reviewed as the new local plan emerges and the spatial development policies are prepared. This would be achieved by MOU2 and Statement of Co-operation. MOU2 provides that the Councils will work together to monitor housing completions and five-year housing land supply positions against these requirements.

### **Preston, South Ribble and Lancashire City Deal**

- 6.63 The City Deal obligations comprise a partnership between Preston, South Ribble and Lancashire County Council and a City Deal agreed with Government in 2016. They and associated public investment are intended to ensure that the area continues to grow by addressing strategic transport infrastructure and development challenges to deliver new jobs and housing across the City Deal area. The agreement is over a ten-year period and the commitments include the delivery of 17,420 new homes.
- 6.64 The City Deal has been recognised in recent planning appeals as of direct relevance as it underpins the policy-on approach of the three councils to housing distribution,

supporting a long-term redistributive strategy to meet several aims (including a rebalancing of the housing market and to encourage growth in the other two areas of Preston and South Ribble).

6.65 If development within Chorley does not adhere to this strategic, evidence-led approach, it will further skew the housing market and attract development away from identified areas for long-term regeneration and investment, resulting in further decline and contraction. Furthermore and given the level of infrastructure investment being made in the City and Borough of Preston and South Ribble, it is logical that growth should be directed to where development can be accommodated sustainably and to most benefit.

#### **Memorandum of Understanding and Statement of Consultation (2020) (MOU2)**

6.66 MOU2 underwent consultation from 4th November 2019 to 15<sup>th</sup> November 2019, and this was extended from 9th December 2019 to 13th January 2020 - a period of over 7 weeks (longer than indicated in the appellant's statement of case).

6.67 It was approved by Chorley Borough Council on 25<sup>th</sup> February 2020, and South Ribble Borough Council on 26<sup>th</sup> February 2020. It is currently anticipated that this will be approved by Preston City Council on 16<sup>th</sup> April 2020.

6.68 MOU2 reflects the Icen Housing Study, and this recommends that the most appropriate distribution of the minimum number of homes needed in the area is as follows (to be reviewed as the new local plan emerges and the spatial development policies are prepared):

|                              |       |
|------------------------------|-------|
| Preston City Council         | 40%   |
| South Ribble Borough Council | 32.5% |
| Chorley Council              | 27.5% |
| Total                        | 100%  |

6.69 This results in a local housing need of 1,026 per annum comprising:

- 410 homes per annum in Preston;
- 334 homes per annum in South Ribble; and
- 282 homes per annum in Chorley.

The figure of 282 dpa (1,410 over 5 years) therefore represents the local housing need for Chorley Borough.

### **Land Supply**

- 6.70 The 2019 Five Year Housing Supply Statement for Chorley indicates a 9.0-year deliverable housing supply over the period 2019-2024 based on 417 dpa derived from the Core Strategy plus 5% buffer.
- 6.71 The Council is able to demonstrate a significantly greater number of years housing land supply assessed against MOU2.
- 6.72 These figures will be updated in light of the Housing Land Supply Statement 2020

### **Housing land: other matters**

- 6.73 The Council will contend that re-distribution across the Housing Market Area is in accordance with and not contrary to the NPPF and national planning practice guidance. The most immediate implication of the Appellant's reliance on the standard method absent any re-distribution is to create or suggest unjustified pressure for the release of safeguarded land within Chorley Borough, itself intended to ensure that Green Belt boundaries will endure by providing a potential resource beyond the Local Plan period. That reliance has, however, broader and at least equally serious implications for the release of land elsewhere within Central Lancashire.
- 6.74 The Appellant's Statement of Case does not acknowledge or address the close inter-relationship that exists between *'the three Central Lancashire districts'* referred to at within it. Preston City and South Ribble and Chorley Borough Councils recognise that their combined area functions as one integrated local economy and travel to work area, as well as a single HMA, with self-containment for commuting of 71-74% and for migration of 82-83% (SHMA 2017).
- 6.75 Dwelling completions in Chorley Borough in recent years have exceeded the rate envisaged within Core Strategy Policy 4 (Housing Delivery), whereas those in Preston City and South Ribble Borough have fallen substantially short. For this and other reasons Government has entered a City Deal with these authorities.

- 6.76 The City Deal and resulting public investment is intended, inter alia, to address continuing infrastructure constraints on the development of residential and employment land in Preston and South Ribble. The erroneous attribution of a housing requirement increased by in excess of 50% to Chorley Borough would be inconsistent with and has the potential to frustrate the intentions of the City Deal and public investment in improved conditions elsewhere in the HMA.
- 6.77 There is a risk of distortion of the Central Lancashire Housing Market Area with Preston facing declining household projections which the Preston, South Ribble and Lancashire City Deal is seeking to reverse, and it is not sustainable or strategically appropriate for Chorley to continue to allow growth at the expense of Preston City and South Ribble Borough.

#### **Housing requirement & supply: conclusion**

- 6.78 The Council is able to demonstrate a 5 Year Housing Land Supply (YHLS) and the 'tilted' balance within NPPF [11(d)(ii)] does not apply.

### **7.0 OTHER MATTERS**

- 7.1 All technical issues in relation to the application site are considered acceptable or can be secured by condition and/or a legal agreement or it is considered can be satisfactorily met at any reserved matters stage.

### **8. CONCLUSION**

- 8.1 The proposal fails to comply with the Development Plan and NPPF, and it is not considered that there are other material considerations that would outweigh this and justify permitting the application. The NPPF clearly maintains the primacy of the plan-making system.
- 8.2 In addition the NPPF provides a framework within which local people and their accountable Councils can produce their own distinctive local and neighbourhood plans, which reflect the needs and priorities of their communities. These decisions should properly be taken through the Local Development Framework process and there is no need to release the site for housing now.

8.3 Therefore, the inspector is respectfully requested to dismiss the appeal.

8.4 If the Inspector is minded to allow the appeal the Council will request that consideration is given to conditions (to follow), and that a required commuted sum payment and education contribution be secured by legal agreement in accordance with Policy HS21.

## **LIST OF DOCUMENTS TO BE REFERRED TO:**

Document 1 - National Planning Policy Framework

Document 2 - Central Lancashire Adopted Core Strategy (2012)

Document 3 - Chorley Local Plan 2012-2026 (2015)

Document 4 - Central Lancashire Strategic Housing Land Availability Assessment 2010 (SHLAA)

Document 5 - Central Lancashire Strategic Housing Land Availability Assessment 2011 Update February 2012.

Document 6 - Chorley's Housing Land Monitoring Report May 2019

Document 7 - Five Year Housing Supply Statement for Chorley July 2019

Document 8 - Chorley Borough Council Tree Preservation Orders

Document 9 - Central Lancashire Open Space and Playing Pitch Supplementary Planning Document (August 2013) including Financial contributions for new provision and improvements

Document 10 - Central Lancashire Affordable Housing Supplementary Planning Document (October 2012)

Document 11 - Central Lancashire Employment Skills Supplementary Planning September 2017

Document 12 - Chorley Council Community Infrastructure Levy (CIL)

Document 13 - Chorley Council Interim Infrastructure Funding Statement December 2019

Document 14 - The Deregulation Act 2015 (in relation to Policy 27 of the Core Strategy)

Document 15 - Central Lancashire Memorandum of Understanding 2017

Document 16 - Central Lancashire Memorandum of Understanding 2020

Document 17 - Central Lancashire Housing Study March 2020

Document 18 - Appeal Decision APP/D2320/W/17/3173275 Land at Pear Tree Lane, Chorley

Document 19 - Gladman Developments Ltd v. SSHCLG & Corby BC; & Uttlesford DC [2020] EWHC 518 (Admin) February 2020

Document 20 - Planning appeal decision reference APP/N2345/W/17/3179105 (Land Off Sandy Gate Lane, Broughton, Preston)

Document 21- Planning appeal decision reference APP/N235/W/17/3179177 (Keyfold Farm, 430 Garstang Road, Broughton, Preston)