

C O M M I T T E E R E P O R T		
REPORT OF	MEETING	DATE
Chief Planning Officer	Planning Committee	Date: 12 April 2021

ADDENDUM

ITEM 3a - 20/01085/OUTMAJ - Land at Tincklers Lane, Tincklers Lane, Eccleston

The recommendation remains as per the original report

Members are asked to note that:

Three oak trees have been made the subject of a Tree Preservation Order (ref: TPO 1 (Eccleston) 2020).

One of these trees is in the north east corner of the site and the two others are both on the southern site boundary.

This has a provisional effect which lasts for six months, after this period the council will decide whether to confirm the Order or not.

The following consultee responses have been received:

The agent for this application has commented that attempts to discuss the application with Council officers have been unsuccessful and that consultation responses, which have subsequently led to reasons for refusal, have been withheld. The timing of the report has given little opportunity to address the reasons for refusal and it is, therefore, requested that the item be deferred to allow the applicant time to address the points raised in the Committee Report.

Officers do not consider that any consultee responses have been withheld, and would note that comments of internal Council officers are for the purposes of advising the case officer dealing with an application. It is noted that the comments of Lancashire County Council (LCC) as Local Highway Authority (LHA) were not available until they appeared in the Committee report. This is unfortunate and the delays in receiving this information from LCC are regrettable.

In the case of an application that is submitted in outline with all matters reserved, other than specifying the point of access, the determination of the application can only be made on the basis of matters of principle. Given that the application has been submitted on an area of Safeguarded Land, prior to the completion of a local plan review, the development is considered unacceptable in principle as set out in detail within the Committee Report. Matters of principle cannot be readily resolved in the same way that a design detail or quantum of development can, and whilst the Local Planning Authority regularly engages with applicants to resolve problems where possible, there is no solution that can be put forward to overcome a principle issue or that of the piecemeal nature of the application site, taking up part of a wider allocation.

The agent also seeks to address the reasons for refusal set out in the committee report as follows:

Reason 1 – The agent believes that the Council’s officers have taken a flawed approach to the assessment the Borough’s housing requirement and rely on the outcome of the recent Cardwell Farm appeal decision (ref. APP/N2345/W/20/3258889, issued 9th March 2021) in which the Inspector concluded that Policy 4 of the Central Lancashire Core Strategy (CLSC) should be used for the purposes of assessing whether there is a minimum of five years’ worth of housing land against the housing requirement. The agent asserts that the information set out in the committee report is not clear and they consider that members of the Committee may be being misled and that the applicant does not have sufficient opportunity to interrogate the housing figures and data being used by the Council in order to adequately challenge them.

They request that ‘Given the limited time available to address these complex issues, the lack of clarity in the Committee Report as to how the five year housing land supply figure has been arrived at, and the imminent challenge to the Cardwell Farm decision by Preston City Council, we do not consider it appropriate to take this application to Committee at this time and request that it be deferred’.

Officers consider that the issues relating to the acceptability of the principle of development are set out clearly for Members to consider within the Committee Report.

Reason 2 – The applicant would be willing to provide a policy compliant amount of affordable housing, either on site or as an off-site contribution, and would be happy for any approval to be issued subject to s.106 agreement to secure the appropriate amount.

In response officers note the stated commitment of the applicant to provide 35% affordable housing provision in line with the policy requirement set out in Central Lancashire Core Strategy 2012 policy 7, and recommend that the second reason for refusal as set out in the Committee Report is removed.

Reasons 3 and 4 – The applicant’s agent states that the swept path analysis provided in the submitted Transport Technical Note clearly demonstrates that refuse vehicles can enter and exit the site safely and easily, and considers that the sight lines are achievable with the removal of a section of the hedgerow to the south.

It is noted that the comments of Lancashire County Council (LCC) as Local Highway Authority were not available until they appeared In the Committee report. This is unfortunate and the delays in receiving this information from LCC are regrettable. Nonetheless, there is a difference of opinion between the LHA and the applicant as the acceptability of the scheme from a Highway perspective, which has a clear impact on the fourth reason for refusal relating to the retention of the hedgerow and character of the lane. Again, this results in a difference of opinion as to whether the resultant impact is acceptable, or can be adequately mitigated against.

Reason 5 – The applicant’s agent notes that the application site forms part of the same Safeguarded Land allocation as the land to the south, and seeks to highlight that they are in separate ownership, that this site was submitted several weeks prior to the application for land to the south, and that the site is sustainable in any event. The agent considers that this matter could have been addressed through an open dialogue.

The Council's officers note the comments of the agent and disagree that the matter of piecemeal development could have been addressed within the application process itself. The applicant has available to them the ability to withdraw an application at any time, which would allow them the opportunity to engage with surrounding land owners, who may also be seeking to bring forward development proposals.

In response to the request that the application is deferred to allow time for the determination of the challenge by Preston City Council to the Cardwell Farm appeal decision (ref. APP/N2345/W/20/3258889, issued 9th March 2021), it is noted that planning applications should not be held in abeyance for indefinite periods of time, and that should an applicant wish to seek consent for a development proposal on the basis or outcome of a related decision then the timing for submitting an application lies with the applicant. The application has been submitted in advance of a local plan review and, therefore, the applicant must have been fully aware of the risks involved in submitting an application for development of Safeguarded Land at this stage in the development plan process. It is officer's view that should the applicant wish to reconsider the proposal in light of the Committee report and reasons for refusal and/or the outcome of an impending Public Inquiry then they have the opportunity to withdraw the application at any time.

A copy of the agent's letter is appended.

The Environment Agency:

Have confirmed that they have received consultation requests from Chorley Borough Council for the [six] proposals on Safeguarded Land.

With regards to these sites, they are not planning any works or undertaking any appraisals that could conflict with these. They are aware of flooding in the vicinity of Tincklers Lane from Syd Brook but they would rely on Lancashire County Council (Lead Local Flood Authority) to advise on this development as it is outside the scope of development proposals the Environment Agency is consulted on as a statutory consultee.

They state they have also looked through the comments from the drainage engineer and have no comments.

The Environment Agency is not resourced to comment on surface water drainage, sewer flooding and flooding from ordinary watercourses as these are outside our remit as a statutory consultee.

APPENDIX – Letter from agent



2 Lockside Office Park
Lockside Road
Preston
PR2 2YS

01772 369 669
info@pwaplanning.co.uk
www.pwaplanning.co.uk

FAO. Adele Hayes
Planning Department
Chorley Council
Civic Offices
Union Street
Chorley
PR7 1AL

9th April 2021

Dear Ms Hayes

**20/01085/OUTMAJ - OUTLINE APPLICATION FOR THE CONSTRUCTION OF UP TO 15NO. DWELLINGS (WITH ALL MATTERS RESERVED SAVE FOR ACCESS FROM TINCKLERS LANE)
LOCATION: LAND AT TINCKLERS LANE, ECCLESTON.**

I write with reference to the above planning application following publication of the Committee Report late on 7th April 2021, and in advance of the Committee Meeting to be held on 12th April 2021.

I would start by expressing our own and the applicant's frustration at the way this application has been dealt with. Numerous attempts to discuss the scheme with the Council have been largely ignored, whilst important consultation responses which have subsequently led to reasons for refusal have been withheld. This is far from best practice and is very disappointing. Coupled with the timing of the publication of the report, which gives little time to address the reasons for refusal, we believe that the applicant has been unfairly prejudiced. For these reasons, expanded on below, it is not appropriate to take this application to Committee at this time and we request that it be deferred to allow us time to address the points raised in the Committee Report.

The suggested reasons for refusal are addressed in turn below and we assume that this response will be passed to Members of the Planning Committee in good time to allow for their review.

Reason 1 – Conflict with Policy BEN3 and five year housing land supply position

The Committee Report refers to the various appeal decisions and challenges to decisions which have occurred within the Central Lancashire Authorities area of Chorley, Preston and South Ribble over the past 18 months. Ultimately, the position now adopted by Chorley Council on their five year housing land supply is in reliance of the recent Cardwell Farm appeal decision (ref. APP/N2345/W/20/3258889, issued 9th March 2021) in which the Inspector concluded that Policy 4 of the Central Lancashire Core Strategy (CLSC) should be used for the purposes of assessing whether there is a minimum of five years' worth of housing land against the housing requirement. It is understood that Preston City Council are set to challenge this decision and that this will be set out at the start of the Public Inquiry due to begin in Preston on 13th April – the day after the Committee meeting dealing with this planning application. Despite the fact that Preston and Chorley, together with South Ribble, form one housing supply authority, it appears that the three authorities take very different views on how housing land supply should be calculated.

On the basis of using the CLSC figures to derive housing land supply, it is claimed in the Committee Report that the Council can demonstrate an 11.2 year deliverable housing land supply over the period 2020-2025, using



PWA Planning is a trading name of Paul Walton Associates Ltd. Registered in England and Wales no. 8605706.

an annual requirement of 144 dwellings. It is not at all clear how the annual requirement of 144 dwellings has been derived. Reference is made to figures as of 1st April 2020, however the Council's position statement on those figures states a 5.7 year supply based on an annual requirement of the redistributed figure of 278 + 5% buffer (resulting in an overall need of 292 dwellings per year). How then the Council have arrived at an annual requirement of 144 is unfathomable, given that the Committee Report states that the calculation has been undertaken in line with the Cardwell Farm decision, which directs that Policy 4 of the Central Lancashire Core Strategy should be used, and which includes the annual requirement of 417 for Chorley.

If the Council is basing the dramatic reduction in the requirement from the CLCS figure of 417 to the new figure of 144 on previous completion rates above the minimum requirement, we consider this approach to be significantly flawed.

An appeal decision issued on 9th December 2020 (ref. APP/G1630/W/20/3256319, attached as Appendix I) deals with the issue of past completion rates above requirements, where the LPA in that instance claimed a higher five year housing land supply position based solely on past completion rates in previous years. We assume this to be the approach which Chorley Council is also seeking to take, although this is not clear in the Committee Report.

In the above appeal decision, the Inspector acknowledges the Housing Supply and Delivery Planning Practice Guidance PPG which states at paragraph 32 that *"where areas deliver more completions than required, the additional supply can be used to offset any shortfalls against requirements from previous years"*.

However, the Inspector then refers to paragraph 73 of the Framework, which states *"LPAs 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"*. The Inspector then goes on to state that *"The policy in the Framework makes no allowance for subtracting additional supply from the annual requirement. Moreover, whilst the guidance in the PPG enables LPAs to take additional supply into account, there is no requirement to do so. It is not a symmetrical approach to dealing with undersupply as advocated by the Council"* (PWA emphasis)

The Inspector concludes on this matter by finding that: *"Whilst it is clear that housing above the annual requirements has been delivered in the area and housing supply has been boosted in line with the Framework; it is my view that additional supply is not a tool that can be used to discount the Council's housing requirement set out in its adopted strategic policies"*.

Based on the above, it is at least possible that Committee Members are being misled; particularly if they are being advised that it is appropriate to rely on previous completion rates to discount their future housing needs, which is clearly not a robust approach or one accepted in recent appeal decisions.

As above, there has not been sufficient time to interrogate housing supply figures in Chorley in detail, or review the method by which the Council have arrived at the figures presented in the Committee Report. However, if the Cardwell Farm decision is to be relied upon, and based on the CLCS requirement of 417 dwellings with a 5% buffer, we believe Chorley's housing land supply figure to be closer to 3.8 years when considering the figures set out in Council's 1st April 2020 position statement.

If the challenge to the Cardwell Farm decision is successful and the decision is quashed, it is considered that Chorley Council would have no option other than to revert to the findings of the inspector in the Pear Tree Lane decision (ref. APP/D2320/W/20/3247136, August 2020) which found that not only were the policies most important in the determination of the application out of date, but that Chorley could not demonstrate a five year housing land supply against the Local Housing Need standard methodology, which that inspector considered the most appropriate means of calculating supply.

Reason 4 – Extent of highways works and loss of rural character

As referred to above, access to the site requires the removal of two sections of hedgerow to facilitate adequate sightlines. Landscaping is a matter reserved for the future and is not covered in detail in this application. Nonetheless, the provision of replacement planting to mitigate the loss of this hedgerow is possible – and is a matter which could have been dealt with as part of this application had the Council shared their concerns with us in advance of publishing the Committee Report.

It is noted that although the application site is currently designated as safeguarded land in the Chorley Local Plan 2012-2026, within Annex 1 of the Issues and Options paper for the new Central Lancashire Local Plan (November 2019) the application site has been proposed by Chorley Council for housing, together with land to the immediate south. Whilst the new Central Lancashire Local Plan is still in development, it is nonetheless relevant that the Council appear to consider this site, and that to the immediate south, to be an appropriate location for new housing. This will extend the settlement boundary of Ecclestone along Tincklers Lane and will inevitably have an impact on rural character, which is something that the Council must have already considered is acceptable when balanced against the need to identify additional housing land for the borough.

We do not consider that this is a determinative or acceptable reason for refusal and in any case, replacement planting can be provided to mitigate the hedgerow loss.

Reason 5 – Piecemeal and unsustainable development

It is acknowledged that the application site forms part of the wider BNE3.7 safeguarded land allocation, which includes land to the immediate south and which is the subject of application 20/01331/OUTMAJ. Although the two sites form one larger allocation, they are in separate ownerships and there is no requirement in the Development Plan for these parcels to be progressed in line with one composite masterplan.

We strongly disagree with the assertion that the proposed development represents piecemeal or unsustainable development. Whilst it is accepted that the Council may have these concerns about the site to the immediate south, the application site sits directly adjacent to the settlement boundary of Ecclestone and provision has been made to access the village via a footpath along the site frontage. It is therefore not considered that the development of this site in isolation would result in piecemeal or unsustainable development. Members should be aware that our application was submitted several weeks prior to the application to the south. Although we were made aware during the course of the application that there may be a requirement to link the two sites in some way for sustainable transport purposes, we were advised to await LCC's comments prior to making any changes to our scheme. This is something we have been chasing with the Council for several months and have had no response. Again, this reiterates the unacceptable manner in which this application has been dealt with, and that changes could have been made to address this point had the Council alerted us to their concerns prior to the publication of the Committee Report.

Summary

It is extremely disappointing that the Council have chosen to withhold important consultee responses and have not been willing to engage in constructive discussions with us on this application. Several of the reasons for refusal could have been addressed prior to publication of the Committee Report had the Council responded to our numerous attempts to discuss matters. Given that formal notice of the Council's intention to take the application to Committee and publication of the Committee Report was delayed until the latest possible opportunity, insufficient time has been allowed for us to properly address the matters raised in the report. This is amplified by the fact that housing land supply figures on which the recommendation to Committee is based are not explained, and therefore cannot be interrogated properly. We consider that this amounts to unreasonable behaviour on the part of the Council.

We would request that consideration of this application be deferred at the forthcoming Committee to allow us the opportunity to properly respond to the points raised in the Committee Report.

20/01085/OUTMAJ Tinklers Lane, Ecclestone



Yours sincerely

A handwritten signature in cursive script that reads 'Leyland'.

Louise Leyland MRTPI
Associate, PWA Planning

Appendix 1 – APP/G1630/W/20/3256319
Appendix 2 – Revised Indicative Layout Plan (ref. 1330-PL03A)

