

## APPLICATION REPORT – 22/01142/OUTMAJ

**Validation Date: 31 October 2022**

**Ward: Buckshaw And Whittle**

**Type of Application: Major Outline Planning**

**Proposal: Outline planning application for the construction of up to 250no. dwellings and associated infrastructure (including 30% affordable housing) with all matters reserved aside from the access from Town Lane (resubmission of application ref. 20/01347/OUTMAJ)**

**Location: Land 75M South East Of 33 Town Lane Whittle-Le-Woods**

**Case Officer: Mike Halsall**

**Applicant: Redrow Homes Ltd**

**Agent: N/A**

**Consultation expiry: 28 November 2022**

**Decision due by: 30 June 2023 (Extension of time agreed)**

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### RECOMMENDATION

1. It is recommended that planning permission is granted, subject to conditions and a S106 legal agreement to secure the following:
  - 30% of the dwellings to be affordable with 70% of these to be social rented and 30% for shared ownership.
  - A public open space contribution of £468,250 (or £434,750 if private maintenance proposed).
  - Highways contributions of £18,000 towards LCC Highways Services involvement in a Travel Plan and £150,000 per annum for 5 years for public transport improvements.

### SITE DESCRIPTION

2. The application site forms part of a wider parcel of land designated as Safeguarded Land under Chorley Local Plan 2012 – 2026 policy BNE3 (BNE3.10 West of M61 Whittle-le-Woods), although a small section of the site to the southwest falls within the settlement boundary of Whittle-le-Woods.
3. The site is a large parcel of land of some 13.27 hectares, situated between the M61 motorway which is to the east, and the defined settlement boundary of Whittle-le-Woods which is to the west. It falls immediately to the north of Town Lane and several public rights of way run through the site.
4. A previous planning application on this site was the subject of an appeal by the applicant against non-determination, ref. 20/01347/OUTMAJ. That application was reported to the Council's Planning Committee on 12 April 2021 and Members confirmed that they would have been minded to refuse the application for the following reasons:
  1. The proposed development would be located within an area of Safeguarded Land as defined by the Chorley Local Plan 2012 - 2026. Chorley 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 there are material considerations put forward in favour of the development are sufficient to outweigh the presumption against it.

2. The application site is proposed in isolation from the wider site allocation BNE3.10 of the Chorley Local Plan 2012 -2026 and, therefore, leads to a piecemeal approach to the development of the wider site which results in an unsustainable form of development. It fails to consider patterns of movement and connectivity which means that the development does not integrate or function well with the surrounding area. The proposal does not, therefore promote sustainable transport options for people or secure a high-quality inclusive design. The proposal is, therefore, contrary to policy 17 of the Central Lancashire Core Strategy 2012, policy ST1.
3. The application fails to demonstrate that the proposed development can be safely accessed on foot and by cycling and bus stops are not within desirable walking distance of the site to allow use of public transport. The footways on Town Lane are of inadequate width and no improvement measures of the Public Rights Of Way in the area are proposed by the applicant. The applicant has also not proposed any measures towards overcoming the numerous constraints on Town Lane. The proposal is, therefore, contrary to policy BNE1 (d) of the Chorley Local Plan 2012 -2026.
5. The appeal was subsequently dismissed by the Planning Inspectorate ref. APP/D2320/W/21/3272314 on 18 February 2022. The reason for dismissing the appeal was as follows:

*“Appeal B would also conflict with Policy BNE3 of the LP and there would also be conflict with Policy BNE1 of the LP. This policy is consistent with the Framework where it relates to promoting sustainable development and I give it full weight. The proposal would cause harm to highway safety of pedestrians and cyclists and importantly would fail to provide a suitable alternative access which is an [sic] vital requirement for this scheme. In the case of Appeal B, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole. Material considerations here do not indicate a decision to be taken other than in accordance with the development plan. For these reasons, Appeal B is dismissed.”*

## **DESCRIPTION OF PROPOSED DEVELOPMENT**

6. The application is a resubmission of the previously refused application and is an outline application proposing up to 250no. dwellinghouses, including the provision of a new access from Town Lane to the south of the site, almost opposite 82 Town Lane. All other matters are reserved.
7. The applicant has sought to overcome the reason for dismissal of the previous appeal by proposing alternative access routes for pedestrians and cyclists, as explained in more detail later in this report. It should be noted that highway safety was the only technical matter which the Council and the Planning Inspectorate considered could not be addressed by planning conditions. This report contains an assessment of the housing land supply situation, ecology, character and appearance, residential amenity, contaminated land, drainage and flood risk aspects of the proposal and notes any updates since the previous application / appeal. However, the appeal decision is a significant material consideration in the determination of this application and the key issue for consideration is whether the reason for the dismissal of the appeal has now been overcome.
8. The submitted drawing of the site access has been amended slightly during the consideration period of this application to add a topographic underlay to the plan. The details of the proposed scheme itself have remained unchanged.

## REPRESENTATIONS

9. Approximately 100 representations have been received in objection to the proposal, including from Town Lane Residents Association, on the following grounds:

### Traffic and Transportation:

- Town Lane cannot support extra traffic
- Roads around Whittle are already congested
- Width of the road and footpath of Town Lane can't handle the traffic an additional 250 cars would bring
- Town Lane and Shaw Brow need amending in order for the development to sustain additional vehicles
- Large building contractor vehicles using the surrounding roads will struggle and will cause problems for residents
- Not viable unless Town Lane is widened, the bridge over the Leeds/Liverpool canal is re-built & widened and a new major link to the A6 is also constructed
- Already construction vehicles due to Sycamore Manor development, will be too many construction vehicles using Town lane
- The east end of Town Lane has a weight limited single track canal bridge followed by limited access due to resident parking and a Primary School
- The main vehicular access is still just after the bad bend and very close to ingress and egress of the cut off part of Town Lane
- More traffic in recent years in the area exacerbating journey times
- The traffic report isn't fit for purpose as it was carried out during the pandemic lockdown, when traffic numbers were greatly reduced
- The footpaths immediately beyond the canal bridge are not wide enough in parts for people to walk with a pram or wheelchair and therefore there are pedestrians walking in the road
- Redrow appear to be promoting the use of nearby Lucas Lane as a quick access for residents to the A6. Access to Royton Drive is via Lucas Lane, which is unsuitable for traffic; the northern section of this lane is narrow, unlit and with no passing places
- The introduction of road buildouts and parking bays near to the Chorley Old Road junction preventing two-way traffic for a stretch close to the junction, will only increase problems for those who currently live on, or use Town Lane and its access roads
- Increase in cars and lorries/building vehicles will increase asthma and COPD sufferers and putting more strain on doctor facilities
- No pavements on Lucas Lane
- The revised access and traffic controls being proposed would be even more dangerous than what was suggested/existed previously
- Moving the bus stop up Chorley Old Road discriminates against those who have problems walking up hill
- The chicane at 44-48 Town Lane will further frustrate motorists at peak times
- Proposed new pedestrian and cycling ramps are unsuitable, unsafe
- Inspector's judgement has not been adequately assessed
- Increase in traffic
- Highway safety
- Unsuitability of bus stop and other off-site improvements
- Cycling infrastructure is not suitable
- Surveys have not been undertaken at the correct locations

### Amenities:

- Schools are at capacity
- Surgery is at capacity
- Public services in the area are all at capacity
- No plans to expend the current provisions to accommodate new residents
- No bus route along Town Lane
- Following the re-location of the GP the limit of a 1m walking distance from the development has now been exceeded

- Need a new local high school as children are now travelling as far Walton le Dale to attend

Flood risk:

- Flooding is an issue around the river Lostock along Waterhouse Green, development will only serve to worsen this due to loss of green land that absorbs and stores water
- Building on any scrap of land increases the risk of flooding
- Drainage issues would most likely cause flooding at Waterhouse Green
- The area downstream and the associated history of flooding to properties (some grade 2 listed), businesses and thus far luckily the substation on Waterhouse green has not flooded but that is not to say that it won't resulting in hundreds of homes being impacted
- This area sits in the highest rated flood risk zone as classified by EA
- Run off rates will increase considerably based on a 250-home development site thus increasing the likelihood of flooding considerably
- Surface water from such a large development would be channelled through the existing drainage network - this network will not manage with such volumes based on run off rates
- Increase in on and off-site flood risk

Pollution:

- Noise pollution and air pollution of added vehicles
- Already have major noise pollution from the nearby Sycamore manor development this development will increase this two-fold

Ecology / green space:

- Need to preserve some green areas around Whittle
- Use brownfield sites instead of ruining green space
- In danger of destroying what is left of rural Chorley
- Impact on wildlife and habitats
- This development is going to cut off vital routes for deer, badgers and foxes which is going to cause species fragmentation
- The plans should have more wildflower planting areas and green corridors to facilitate wildlife movement

Other:

- What has changed since the last time these plans were rejected
- Consider the residents of Whittle and the impact this will have on them
- Can't keep letting them resubmit until it gets approved
- The map accompanying this application fails to show the existing new Redrow Sycamore Manor development that is already introducing a further 50+ dwellings adding a further 100+ vehicles in the area
- The property range on offer on the new development are far out of the price range that people can afford and do not cater to the local community but rather to commuters who wish to settle in country areas
- Should be a time clause to stop resubmissions
- Access to the areas for wheelchairs
- The importance of putting the deposit of wastes into historical context, especially in respect of what information might be available (email on file 25 Nov 2022). Basis of contaminated land and potential leaching into the River Lostock of radio active material from White Hill Quarry
- Other contaminated land issues
- Residents have not been consulted properly
- Conflicts with National and Local planning policy.
- No need for more houses in the area

10. Councillor Mark Clifford has commented that he believes the LCC Highways report is seriously flawed, the independent Highways report has not been taken into account and

that a proper investigation into leaching on the opposite hillside with the potential to contaminate the wider area has not been conducted.

## CONSULTATIONS

11. Environment Agency: Have responded with advice to the applicant in relation to permits required for undertaking works in proximity to a main river and to state the following:  
*“Part of the site boundary lies within Flood Zones 2 & 3 which is land defined by the planning practice guidance (PPG) as having a medium and high probability, respectively, of flooding. We have reviewed the Illustrative Masterplan and appreciate that the areas of the site that sit within the flood zones are designated for SuDS and attenuation. We support the use of this land for this reason.”*
12. Canal & River Trust: Have noted that the Leeds and Liverpool Canal passes some distance to the east of the site, beyond the M61 and so would not be impacted by the proposal. The development, during its construction phase, may however impact on ‘bridge 81’ which forms part of Town Lane, over the canal, and is grade II listed. They do not consider the bridge is suitable for long or wide construction vehicles or those with a low ground clearance. With this in mind, they have requested a Construction Environmental Management Plan be required by planning condition, to include measures to direct construction traffic to come from the A6 to the west, rather than from the east over the bridge.
13. National Highways: Have no objection.
14. Greater Manchester Ecology Unit: Have responded to request a biodiversity net gain calculation from the applicant, which was subsequently provided, and to identify that the following should be controlled by conditions:
  - Retention and management of woodland to the north
  - Buffer along northern site boundary and the River Lostock
  - Enhancement of Field 6 (north of fishing lodge)
  - Control of invasive species (Himalayan balsam)
  - Retention of hedgerows, ditches and trees
  - Lighting strategy
  - Installation of bat roost features in properties
  - Protection of nesting birds during breeding season (March – August inclusive)
  - Installation of bird boxes
  - Maintenance of habitat connectivity and ecological permeability of boundary/curtilages features
  - Locally native planting scheme
  - Landscape and Ecological Management Plan
15. Lancashire County Council (Education): No contribution is required for additional school places.
16. Regulatory Services - Environmental Health Officer: Have no objection, subject to conditions requiring a noise insulation scheme and lighting scheme.
17. Lancashire Fire and Rescue Service: No comments have been received.
18. Ramblers' Association (Chorley Branch): No comments have been received.
19. Lancashire County Council Public Rights of Way Officer: No comments have been received.
20. Waste & Contaminated Land Officer: Have no objection subject to conditions.

21. Lancashire County Council Highway Services (LCC Highway Services): Have no objection subject to conditions.
22. Lead Local Flood Authority: Have no objection subject to conditions.
23. Natural England: Have no objection.
24. Lancashire Police: Standard response with information for the applicant on designing out crime.
25. Council's Tree Officer: Have noted that there are numerous high quality trees within the site, the majority around the edges of the site or on field boundaries. Some of these provide high levels of visual amenity. They have requested that an appropriate Arboricultural Method Statement and Tree Protection Plan be submitted in support of any future Reserved Matters application.
26. United Utilities: Have no objection subject to conditions.
27. Whittle-le-Woods Parish Council:

The Parish Council has also engaged with a transport consultancy to undertake a review of the proposals. The executive summary of their report is as follows:

*"DTPC have been engaged by Whittle Le Woods Parish Council to assess if an objection to the above application can be made on their behalf on highways, transport and safety matters, the following assessment concludes the scheme as presented is unacceptable in highway safety terms, the residual impact is severe, and the location is unsustainable in nature.*

*The application is for 250 units with access the only detailed matter for approval, the vehicular access is shown but the walk/cycle access is now in more detailed form. Without the delivery of the walk/cycle route the schemes accessibility and therefore sustainability is further reduced with additional walk/cycle distances.*

*The scheme does not meet the walking distances to local facilities when measured correctly to the centre of the site, the report submitted uses the westerly edge of the site and therefore again significantly overstates the accessibility of the site.*

*Town Lane lacks a continuous footpath along its length and where a path is provided the width is substandard in nature. The path often reduces in width to such a point it becomes too narrow to use and thus walkers on their own must use the road for long lengths creating an unsafe conflict with traffic flows, for couples, parents with children, users with prams or wheelchairs the path is even more substandard and greater sections of the route are traversed using the road.*

*Despite this the mitigation for less able and vulnerable road users maintains the need to use the narrow path until the new connection is provided some 200m east of the able bodied connection point, this is considered divisive in nature and does little for inclusivity or active travel for the less abled bodied.*

*Traffic is increased from the site upwards of 44% and at these points all pedestrian movements are in the road. This is considered to be an unacceptable impact on road safety.*

*Town Lane joins the main network to the west however operationally there is upwards of 90m along the terrace properties where on street parking occurs preventing two-way flows, vehicles have to give priority to others and the level of conflict that occurs will increase with an extra 108 vehicles using this section. There is room for one hgv or two cars to wait heading eastwards, one additional vehicle will block back onto Chorley Old Road creating a safety hazard. This is again compounded by the vehicles attending the nursery to the north*

side of this section of the road. A mitigation scheme is set out but does not actually allow two way flows passed the parking layby and suggest using coloured surfacing to show area of conflict, no priority is shown.

*The conclusion of the above is that the scheme provides insufficient detail to make an informed judgement for the path connections and whilst the solution set out are technically deliverable, they do not afford the same level of useability or service for the more vulnerable and disabled pedestrians. In addition the access to the solution still remains very substandard and forces walkers etc into the road., does not provide mitigation to areas where significant safety issues arise and the operation of the route is impacted by the increase in flows, the scheme should be refused on unacceptable safety impacts and residual impacts that are severe.*

*The deadline given on site notices and on consultation / notification letters is the minimum statutory period of 21 days for such responses. That said, the Council will accept and take into consideration any comments received up until a decision is made on an application.”*

28. Lancashire County Council Archaeology Service: Have no objection.

## **PLANNING CONSIDERATIONS**

### Principle of development

29. Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that if regard is to be had to the development plan for any determination then that determination must be made in accordance with the plan unless material considerations indicate otherwise.
30. The Development Plan comprises the adopted Central Lancashire Core Strategy (2012) and the adopted Chorley Local Plan 2012- 2026.
31. The Central Lancashire Core Strategy was adopted in July 2012 and covers the three neighbouring authorities of Chorley, South Ribble and Preston. The three authorities are a single Housing Market Area (HMA).
32. The application seeks outline planning permission for up to 250 dwellings on 13.27 hectares of land. The site is adjacent to the settlement area of Whittle-le-Woods and is located on designated safeguarded land, as defined in policy BNE3 'Areas of Land Safeguarded for Future Development Needs' of the Chorley Local Plan 2012 - 2026. This application site forms part of a wider parcel known as BNE3.10 West of M61, Whittle-le-Woods.
33. The site was designated as Green Belt in the 1993 Lancashire Structure Plan. It was removed from the Green Belt designation and reallocated as Safeguarded Land along with a number of other sites in the 1997 Chorley Borough Local Plan under the Safeguarded Land policy (Policy C3). In the Chorley Borough Local Plan Review in 2003 the site was again designated as Safeguarded Land under Policy DC3.18.
34. The areas of Safeguarded Land covered by Policy DC3 were reviewed as part of the current Local Plan process which started in 2010. The review included a sustainability assessment, and consultation with Lancashire County Council and United Utilities. In order to meet Chorley's housing, employment and open space requirements in the Chorley Local Plan 2015, safeguarded sites that were considered the most suitable, specifically those that were natural extensions to existing settlements, and proved most viable in terms of highways access and the characteristics of the site were allocated. The remaining Safeguarded Land was retained as Safeguarded Land under Policy BNE3 to provide for potential future development needs beyond the Plan period (i.e. after 2026).
35. 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) will not be permitted on Safeguarded Land. The proposal is, therefore, contrary to Policy BNE3.

36. Core Strategy Policy 1 sets out the locations for growth and investment across Central Lancashire and identifies Whittle le Woods as an Urban Local Service Centre where some growth and investment will be encouraged to help meet local housing and employment needs.
37. Located on the edge of the settlement, the site is in an accessible and sustainable location, within a reasonable walking distance of bus stops, community facilities and shops that would provide for the day to day needs of residents. The Education Authority has indicated there would be sufficient primary and secondary school places within the catchment area of the site.
38. It is noted that some neighbour representations have made comments regarding pressure on Primary Care provision and other local services. However, this is not substantiated by evidence and the providers of these services have not made representations relating to existing shortcomings or requested contributions towards additional provision. The proposed development is considered to be consistent with Policy 1 of the Core Strategy.
39. Core Strategy Policy 4 sets out the minimum housing requirements for the plan area and is assessed later within this report.

#### Other material considerations

40. The National Planning Policy Framework (the Framework) is a key material consideration. The purpose of the planning system is to contribute to the achievement of sustainable development. There are three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives). These are set out at paragraph 8 and it is fundamental that development strikes the correct balance between:
  - Environmental - the protection of our natural, built and historic environment
  - Economic - the contribution to building a strong and competitive economy
  - Social - supporting strong, vibrant and healthy communities
41. Paragraph 10 of the Framework states that; so that sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development (paragraph 11).
42. Paragraph 11 of the Framework states for decision-taking this means:
  - c) approving development proposals that accord with an up-to-date development plan without delay; or
  - d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
    - a. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
    - b. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
43. The Footnote (6) to paragraph 11 sets out examples of the type of policies that may indicate development should be refused. Footnote 7 makes clear that the tilted presumption in favour of sustainable development will apply where a Local Planning Authority cannot demonstrate a five-year supply of deliverable housing sites.
44. Paragraph 59 of the Framework confirms the Government's objective of significantly boosting the supply of homes.
45. Paragraph 60 of the Framework reinforces that requirements represent the minimum number of homes needed.
46. Paragraph 73 of the Framework requires Local Planning Authorities to maintain a supply of deliverable sites sufficient to provide a minimum of five years' worth of housing against their



housing requirement set out in adopted strategies or against their local housing need where the strategic policies are more than five years old. Footnote 37 states in circumstances where strategic policies are more than five years old, five year housing land supply should be calculated against Local Housing Need calculated using the Government standard methodology, unless those strategic policies have been reviewed and found not to need updating.

Housing land supply

47. The following planning appeal decisions are of relevance.

**Land adjacent to Blainscough Hall, Blainscough Lane, Coppull  
Decision APP/D2320/W/21/3275691**

48. On the 3 February 2022 a decision was issued for the appeal for Land adjacent to Blainscough Hall, Blainscough Lane, Coppull. The appeal was allowed and outline planning permission was granted for the erection of up to 123 dwellings (including 30% affordable housing) with public open space provision, structural planting and landscaping and vehicular access points from Grange Drive.
49. The main issues in the appeal were:
- Whether or not the Council can demonstrate a 5 year supply of deliverable housing land, having particular regard to the development plan, relevant national policy and guidance, the housing need or requirement in Chorley and the deliverability of the housing land supply;
  - Whether or not the most important policies of the development plan for determining the appeal are out of date, having particular regard to the 5 year housing land supply position and relevant national policy;
  - Whether this, or any other material consideration, would justify the proposed development on safeguarded land at this time.
  - Whether or not there are adequate secondary school places to serve the development.
50. In respect of the Housing Requirement in Chorley:
51. The Decision Letter includes an assessment of Core Strategy policy 4 (which sets out the minimum housing requirements for the plan area) in the context of Paragraph 74 of the Framework, and whether the policy has been reviewed and found not to require updating. It also considers whether the introduction of the standard method in itself represents a significant change in circumstances that renders Core Strategy policy 4 out of date with reference to the PPG (paragraph 062).
52. The Decision Letter concludes that it is appropriate to calculate the housing requirement against local housing need using the standard method due to the significant difference between the local housing need figure and the housing requirement in policy 4 amounting to a significant change in circumstances which renders Policy 4 out of date.
53. With regards to the appropriate housing requirement figure to use when calculating the housing land supply position of the authority, the Blainscough Hall Inspector, therefore, sets out that the standard method should be used. Applying this to the Council's current supply results in a housing land supply position between 2.4 and 2.6 years.
54. The Inspector concluded that as such the Council can no longer demonstrate a 5-year supply of housing land meaning that the tilted balance, and presumption in favour of sustainable development was, therefore, engaged under paragraph 11(d) of the Framework.

**Land to the East of Tincklers Lane, Tincklers Lane, Ecclestone PR7 5QY Appeal A Ref: APP/D2320/W/21/3272310**

**Land to the North of Town Lane, Town Lane, Whittle-Le-Woods PR6 8AG Appeal B Ref: APP/D2320/W/21/3272314**

55. On the 18 February 2022 decisions were issued for the above appeals. Appeal A was allowed and outline planning permission was granted for the construction of up to 80 dwellings with all matters reserved aside from vehicular access from Doctors Lane. Appeal B was dismissed on grounds of highway safety.
56. The main issues in the appeals were:
- Appeal A: Whether or not the proposal integrates satisfactorily with the surrounding area with particular regard to patterns of movement and connectivity Appeal B: The effect of the proposal on highway safety including accessibility of the appeal site.
  - Whether or not the Council is able to demonstrate a five-year supply of housing land;
  - Whether or not the most important policies of the development plan are out of date; and,
  - Whether any adverse effects, including conflict with the development plan as a whole, would be outweighed by other material considerations.
57. In respect of housing land supply:
58. The Inspector for the conjoined appeals assessed Core Strategy Policy 4 against Paragraph 74 of the Framework which requires the local planning authority to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of 5 years' worth of housing against their requirement as set out in adopted strategic policies, or against their local housing need when strategic policies are more than five years old. The Core Strategy is more than five years old.
59. The Inspector considered MOU1 to have constituted a review of Core Strategy Policy 4 and was an up-to-date assessment of need at that point in time but that the situation moved on considerably since it was signed.
60. Paragraph 44 of the Inspector's report notes that national guidance indicates local housing need will have considered to have changed significantly where a plan was adopted prior to the standard method being implemented based on a number that is significantly below the number generated by the standard method. The implications for Chorley would result in an annual requirement of 564 dwellings and the CS figure would be significantly below this. In this instance, Chorley's local housing need has changed significantly.
61. The Inspector noted that the standard method figure is particularly influenced by the level of development in the area between 2009 and 2014 but considers that this does not necessarily render the standard method itself as invalid. Any proposed redistribution of standard method figures for the Central Lancashire authorities, such MOU2, would need to be considered at an examination.
62. The Inspector considered oversupply and the delivery rates of housing, which was weighted towards the early years of the plan period. However, the requirement in Policy 4 itself is not expressed as an overall amount to be met over the plan period. Policy 4 does not refer to any potential oversupply despite the known potential of Buckshaw Village contributing to growth in Chorley and it clearly states that it is a minimum annual requirement. (paragraph 49).
63. Paragraph 50 of the Inspector's report states *"the inclusion of oversupply against Policy 4 would reduce the requirement for Chorley to just over 100 dwellings per annum. This would be considerably below anything which has been permitted in previous years in the area and would even be below the redistributed standard method figures for Chorley in MOU2. I consider it would be artificially low and would in greater probability, lead to significantly*

*reducing not only the supply of market housing but also affordable housing within the area. It would thus run counter to the objective of the Framework to boost the supply of housing and to paragraph 74 of the same, which seeks to maintain the supply and delivery of new homes.”*

64. The Inspector concludes at paragraph 51 of the report that; *“in the circumstances before me having regard to both MOU1 and MOU2, I conclude that the situation has changed significantly for Chorley in respect of local housing need and that Policy 4 is out of date. The standard method is the appropriate method for calculating housing need in Chorley. It is agreed between the parties that a 5% buffer should be applied. In terms of sites which contribute to the housing land supply within Chorley, there is a very narrow area of dispute between the two main parties which relates to only 2 sites and amounts to 116 dwellings. This is a marginal number that has little effect on the result in respect of the requirement. Accordingly, against the application of the standard method there would be less than three years supply of housing land in Chorley, and I conclude that the Council is unable to demonstrate a five-year supply of deliverable housing sites.”*

**Land south of Parr Lane, Eccleston  
Decision APP/D2320/W/21/3284702**

65. On the 17 March 2022 a decision was issued for the appeal for Land south of Parr Lane, Eccleston. The appeal was allowed and outline planning permission was granted for up to 34 dwellings and associated infrastructure on land south of Parr Lane, Eccleston, Lancashire in accordance with the terms of the application, Ref 20/01193/OUTMAJ, dated 4 November 2020, and the plans submitted with it, subject to the conditions.
66. Following the LPAs withdrawal of the reasons for refusal of the application, based upon the LPA not having a 5-year housing land supply as born out through recent appeal decisions, the main issue in the appeal was whether there were any material considerations that would justify dismissing the appeal.
67. The Inspector concluded the following with regards to housing land supply:

*“Framework paragraph 11d indicates that where the most important policies for the determination of a proposal are out-of-date, (which includes applications for housing, where the LPA cannot show a 5-year HLS), permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the Framework taken as a whole; the tilted balance.*

*The most important policies for determining this appeal are CS Policies 1 and 4 and LP Policy BNE3. Whilst the proposal would be consistent with CS Policy 1, it would conflict with LP Policy BNE3, safeguarding land for future development. The LPA accepts that it cannot show a 5-year HLS and as such CS Policy 4 and LP Policy BNE3 are out-of-date. Taking the development plan as a whole, the most important policies for determining this appeal are out-of-date and the tilted balance applies.*

*The proposal would provide for up to 34 dwellings of which 35%, would be affordable homes (CS Policy 7). Given the absence of a 5-year HLS, the proposal would make, albeit a modest one, a material contribution to meeting local housing needs. As a benefit this attracts significant weight. The development would secure economic benefits through construction investment and the contribution future occupants would make to the local economy. These benefits attract moderate weight. The site has limited biodiversity value and the development has the potential to provide biodiversity net gain. This is a benefit of limited weight. Given my assessment above, the harm arising from the conflict with LP Policy BNE3 is significantly and demonstrably outweighed by the benefits when assessed against the policies of the Framework as a whole.”*

**Land off Carrington Road, Adlington  
Decision APP/D2320/W/21/3284692**

68. On the 17 March 2022 a decision was issued on the above referenced appeal. The appeal was allowed and outline planning permission was granted for residential development of up to 25 dwellings on land off Carrington Road, Adlington, Lancashire PR7 4JE in accordance with the terms of the application, Ref 20/01200/OUTMAJ, dated 5 November 2020, and the plans submitted with it.
69. Following the LPAs withdrawal of the reasons for refusal of the application, based upon the LPA not having a 5-year housing land supply as born out through recent appeal decisions, the main issue in the appeal was whether there were any material considerations that would justify dismissing the appeal.
70. The Inspector concluded the following with regards to housing land supply:

*“Framework paragraph 11d indicates that where the most important policies for the determination of a proposal are out-of-date, (which includes applications for housing, where the LPA cannot show a 5-year HLS), permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the Framework taken as a whole, the tilted balance.*

*The most important policies for determining this appeal are CS Policies 1 and 4 and LP Policy BNE3. Whilst the proposal would be consistent with CS Policy 1, it would conflict with LP Policy BNE3, safeguarding land for future development. The LPA accepts that it cannot show a 5-year HLS and as such CS Policy 4 and LP Policy BNE3 are out-of-date. Taking the development plan as a whole, the most important policies for determining this appeal are out-of-date and the tilted balance applies.*

*The proposal would provide for up to 25 dwellings of which 30%, would be affordable homes (CS Policy 7). Given the absence of a 5-year HLS, the proposal would make, albeit a modest one, a material contribution to meeting local housing needs. As a benefit this attracts significant weight. The development would secure economic benefits through construction investment and the contribution future occupants would make to the local economy. These benefits attract moderate weight. The site has limited biodiversity value and the development has the potential to provide biodiversity net gain. This is a benefit of limited weight. Given my assessment above, the harm arising from the conflict with LP Policy BNE3 is significantly and demonstrably outweighed by the benefits when assessed against the policies of the Framework as a whole.”*

**Land east of Charter Lane, Charnock Richard  
Decision APP/D2320/W/22/3313413**

71. On the 5 May 2023 a decision was issued for the appeal on Land east of Charter Lane, Charnock Richard. The appeal was allowed and full planning permission was granted for the erection of 76 affordable dwellings and associated infrastructure at the site in accordance with the terms of the application, ref 21/00327/FULMAJ, dated 11 March 2021, and the plans submitted with it, subject to conditions.
72. Following the LPAs withdrawal of the reasons for refusal of the application, based upon the LPA not having a 5-year housing land supply, the main issue in the appeal was whether the site is suitable for development, in the light of the locational policies in the development plan, highway safety and other material considerations.
73. The Inspector concluded the following with regards to housing land supply:

*“Paragraph 74 of the Framework requires local planning authorities to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of 5-years worth of housing against their local housing need where the strategic policies are more than 5 years old.*

The Council can currently only demonstrate a 3.3 year supply of deliverable housing. That position is agreed between the Council and appellant.

While this is disputed by a number of interested parties, this position has been extensively tested at appeal, including most recently in a decision dated December 2022. Accordingly, I am satisfied that there is a critical housing need across the Borough.”

**Land at Blackburn Road, Wheelton  
Decision APP/D2320/W/22/3312908**

74. On the 30 May 2023 a decision was issued for the appeal on Land at Blackburn Road, Wheelton. The appeal was allowed and outline planning permission was granted for the residential development of up to 40 dwellings with access from Blackburn Road and all other matters reserved, subject to conditions.
75. The main issue in the appeal was whether the proposal is consistent with the objectives of local and national planning policies relating to the location of housing, and if there are any adverse effects of the development proposed, including conflict with the development plan as a whole, whether they would be outweighed by any other material considerations.
76. The Inspector concluded the following with regards to housing land supply:

*“the evidence before me has drawn my attention to recent appeal decisions in Chorley, including those where planning permission previously has been granted for up to 123 dwellings at Land adjacent to Blainscough Hall, Blainscough Lane, Coppull1, for up to 80 dwellings at Land to the East of Tincklers Lane, Eccleston2, for up to 34 dwellings at Land south of Parr Lane, Eccleston3 and for up to 25 dwellings at Land off Carrington Road, Adlington. Following those appeal decisions including the developments subject of Inquiries at Blainscough Lane, Coppull and Tincklers Lane, Eccleston, it is not a matter of dispute between the main parties that Policy 4 of the CS is more than five years old and is out of date due to changes to national policy since its adoption including a different method for calculating local housing need. I have no reason to take a different view. Furthermore, even if I were to accept the stated Council position of a 3.3 year deliverable supply of housing based on a local housing need calculation of 569 dwellings per annum (following the standard method set out in paragraph 74 of the Framework and Planning Practice Guidance) rather than the deliverable supply of between 2.4 and 2.56 years identified by previous Inspectors, the shortfall in supply remains significant and clearly below five years. It follows that as I have found Policy 4 of the CS to be out of date and that the Council cannot demonstrate a five-year supply of deliverable housing sites that the ‘tilted balance’ in the Framework is to be applied which I necessarily return to later in my decision.”*

Summary - the tilted balance

77. Paragraph 11 d (ii) of The Framework essentially comes into play whereby the most important policies for determining an application are out of date, then planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
78. As was the case with some of the aforementioned appeal cases, the most important policies for determining this application are Policies 1 and 4 of the Central Lancashire Core Strategy and Policy BNE3 of the Chorley Local Plan. Whilst the proposal would be consistent with Policy 1 of the Core Strategy, it would conflict with Policy BNE3 of the Local Plan, safeguarding land for future development.
79. At 1st April 2022 there was a total supply of 1,890 (net) deliverable dwellings which is a 3.3 year deliverable housing supply over the period 2022 – 2027 based on the annual housing requirement of 569 dwellings which includes a 5% buffer. Chorley does not have a five-year deliverable supply of housing plus 5% buffer and the shortfall is significant. Significant

weight should therefore be attached to the delivery of housing provided by this proposal and that 30% of the of the dwellings would be affordable houses.

80. The LPA accepts that it cannot show a 5-year HLS and as such CS Policy 4 and LP Policy BNE3 are out-of-date. Taking the development plan as a whole, the most important policies for determining this appeal are out-of-date and the tilted balance applies.
81. The High Court decision [Gladman Developments Limited v Sec of State for Housing, Communities and Local Government and Corby Borough Council and Uttlesford District Council [2021 EWCA Civ 104] concerned the application of para 11d of the Framework and the tilted balance. In particular, the effect of footnote 7 in this case, where there was not a five year housing land supply, was simply to trigger paragraph 11(d) and that it did not necessarily render all policies out of date. It was noted that where 11(d) is triggered due to the housing land supply position it is for the decision maker to decide how much weight should be given to the policies of the development plan including the most important policies and involve consideration whether or not the policies are in substance out of date and if so for what reasons.
82. Policy 1 of the Core Strategy sets out the settlement strategy for the area and is not out of date. That said, the Council cannot demonstrate an adequate supply of housing and the shortfall is significant. Policy 1 of the Core Strategy therefore forms part of a strategy which is failing to deliver a sufficient level of housing. As such, the policy should only be afforded moderate weight in the planning balance.
83. Whilst policy BNE3 of the Local Plan is broadly consistent with the Framework it is also out of date as it safeguards land based on the housing requirement in Policy 4 which is also out of date. As such, limited weight should be attached to the conflict of the scheme with policy BNE3.
84. In accordance with the Framework, planning permission should be granted for the proposal, unless:
  - c. the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
  - d. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

#### Emerging Central Lancashire Local Plan

85. Chorley Council is working with Preston and South Ribble Councils to produce a Central Lancashire Local Plan (CLLP). Once adopted, this will replace the existing joint Core Strategy and Chorley Local Plan. The CLLP is at the Preferred Options Stage and public consultation on Preferred Options Part 1 closed in February 2023.
86. The application site was part of a wider site consulted on as part of the Preferred Options Part 1 consultation, site ref CH/HS1.53 'West of M61. Responses to this consultation are being reviewed and will inform Preferred Options Part 2. In addition, a number of assessments are ongoing and will inform decisions made on sites to be taken forward as part of the development of the CLLP. The Part 2 consultation document will comprise a full suite of draft policies, both strategic and development management (non-strategic) policies, in addition to proposed allocations for all land uses. It will also set out the infrastructure that will be required to support the growth that is planned for Central Lancashire.

#### Impact on ecological interests

87. Policy BNE9 (Biodiversity and Nature Conservation) of the Chorley Local Plan 2012 – 2026 stipulates that Biodiversity and Ecological Network resources will be protected, conserved, restored and enhanced; and that priority will be given to, among other things, protecting, safeguarding and enhancing habitats for European, nationally and locally important species. The policy also requires, among other things, that where there is reason to suspect that there may be protected habitats/species on or close to a proposed development site,

the developer will be expected to carry out all necessary surveys in the first instance; planning applications must then be accompanied by a survey assessing the presence of such habitats/species and, where appropriate, make provision for their needs.

88. The Inspector concluded the following at paragraphs 62 and 63 of the appeal decision, with regards to ecological issues:

*“Residents and interested parties raise concerns about the effect of the proposed development on the Lucas Lane Biological Heritage Site (BHS) which is the subject of a management plan requiring a light grazing regime in respect of its ecology. The BHS is located to the south of the site and is not physically linked. The scheme before me seeks to retain open space at the appeal site’s western end, and also at the southwest and northwest boundaries. There is the potential for these areas to be appropriately planted and to retain the opportunity for habitats to be compatible with the BHS. The retention of these open areas would ensure that habitats for wildlife species found in the site are retained.*

*In respect of the potential presence of otters on the River Lostock, there would be a suitable buffer between the developed part of the site and no artificial lighting close to the river. These and other measures proposed such as protection of ecology during construction, habitat creation, enhancement and management could be secured by appropriate conditions and the scheme would be in accordance with Policy 22 of the CS and BNE9 of the LP.”*

89. The applicant has submitted an Ecological Survey and Assessment and Indicative Access and Parameters Plan in support of the proposed development which provides an update to that submitted in support of the previous application. The information has been reviewed by the Council’s ecology advisors Greater Manchester Ecology Unit (GMEU) who have responded with no objection to the proposal and have recommended conditions to cover the following:

- Retention and management of woodland to the north
- Buffer along northern site boundary and the River Lostock
- Enhancement of Field 6 (north of fishing lodge)
- Control of invasive species (Himalayan balsam)
- Retention of hedgerows, ditches and trees
- Lighting strategy
- Installation of bat roost features in properties
- Protection of nesting birds during breeding season (March – August inclusive)
- Installation of bird boxes
- Maintenance of habitat connectivity and ecological permeability of boundary/curtilages features
- Locally native planting scheme
- Landscape and Ecological Management Plan

90. GMEU also requested a biodiversity net gain assessment as part of the proposal which was later provided by the applicant and, as such, a condition should also be attached to any grant of planning permission to require the detailed application at Reserved Matters stage to demonstrate the net gain can be achieved.

91. The Report concludes that the site supports a number of features of some value to biodiversity: -

- Woodland to north (outside the edge red)
- Ditches and hedgerows
- Semi-improved grassland to north of fishing lodge

92. All other protected/principal importance species matters were reasonably discounted. There is currently no known reason to contradict the findings of the Report and the application can be forwarded to determination in respect of biodiversity without the need for any further work.

93. The Access and Parameters plan demonstrates that the level of proposed development can be accommodated while still retaining features of value and providing sufficient buffer and enhancement of the site.
94. It is considered that the proposed development can be delivered in line with policy BNE9 of the Chorley Local Plan 2012 – 2026 if carried out in accordance with the recommendation of the ecological survey and assessment.

#### Highway safety

95. Policy BNE1 (Design Criteria for New Development) of the Chorley Local Plan 2012 -2026 stipulates that planning permission will be granted for new development, including extensions, conversions and free standing structures, provided that the residual cumulative highways impact of the development is not severe and it would not prejudice highway safety, pedestrian safety, the free flow of traffic, and would not reduce the number of on-site parking spaces to below the standards stated in Site Allocations Policy – Parking Standards, unless there are other material considerations which justify the reduction.
96. Policy ST1 (New provision of Footpaths, Cycleways, Bridleways and their associated facilities in existing networks and new development) stipulates that new development and highways and traffic management schemes will not be permitted unless they include appropriate facilities for pedestrian, cycle parking facilities, and /or cycle routes. The policy requires, among other things, that proposal should provide for facilities for pedestrians and cyclists to facilitate access on foot and by bicycle to nearby residential, commercial, retail, educational and leisure areas, where appropriate; and additional footpaths, bridleways and cycleway routes between the countryside and built up areas where appropriate.
97. The Inspector concluded the following at paragraphs 20 and 27 of the appeal decision, with regards to the reason for dismissing the appeal:

*“Due to the deficiencies of the footway on Town Lane, combined with the distances to bus stops and some services and facilities, to my mind it is essential that the scheme delivers an attractive and safe alternative for pedestrians and other users than the proposed main access. The parties agree that a separate access closer to the settlement than the main access would be necessary, and this is proposed to be at the west part of the site.*

*The proposed access solutions indicate this would be a path of around 190 metres long to reach the residential element of the scheme. To accommodate the distance to the houses from Town Lane, due to the sloping nature of the site the route would be ‘meandering’ with approximately 130 metres of a path with a gradient of over just 8% and 30 metres of just over 6%.*

*There are various standards which refer to gradients when considering the design of new footpaths and pedestrian areas. These range from a 2.5% gradient being manageable by most people, with a standard of 5% being borne in mind for over 30 metres. There are a number of references to 8% as an absolute maximum gradient but over very short distances or as a practical maximum. This is because of a range of considerations such as the physical effort required for wheelchair users and taking account of the risk of wheelchairs toppling over. People can also cycle short but steep gradients.*

*I note that it is acknowledged there may be local difficulties in applying standards. I accept that preferences may not be achievable in every circumstance. However, taking account of the extent of the proposed path incorporating the maximum gradient of 8% for a very significant distance, this would be challenging for many users especially taking account of the some of the distances to reach some services and facilities in the area.*

*Where the entrance of the access would meet Town Lane, there would be a short footpath on the north side of the Lane with tactile paving. Appropriate visibility splays could be incorporated into the scheme to ensure that pedestrians would be able to see traffic using Town Lane. However, given the potential speeds of cyclists and other users meeting here,*



*there is the possibility for conflict at this crossing point and at the entrance to the access. There would be a lower gradient near the entrance but there would remain the potential for accidents as the stopping distances would be increased due to the overall gradient. I consider this could be the case even with residents who become familiar with the path as it will largely depend on individual circumstances at the time.*

*I accept that the route would be designed to ensure that it would be adequately lit, surfaced and maintained. However, in terms of other perceptions of safety and overlooking of the path by homes, the indicative layout indicates that dwellings would be located some distance from the entrance to the proposed access meaning that parts of the path may not be overlooked. Existing residences on Town Lane would not provide adequate surveillance given the distances from the site and topography. To my mind, the combination of steep gradients for some distance, potential for user conflict and lack of surveillance would result in the path appearing unattractive and potentially unsafe.*

*The appellant indicates that the design of the path could be a matter which would be resolved at the detailed planning application stage. I note that there are options including a stepped footpath and separate ramps and a lower gradient and the potential for different layouts. However, the appellant also indicates that it is not yet possible to assess what could be delivered until cut and fill details have been considered as part of any detailed layout. To my mind there is not enough information to confirm that a satisfactory solution could be found.*

*In the circumstances of this case, it would be essential to demonstrate that an attractive and safe access for pedestrians and other users could be provided. The scheme as proposed would fail to do this and it would be unlikely to be used to the extent necessary for it to be seen as a viable alternative in place of using Town Lane. There would be harm caused to pedestrians and other users in terms of highway safety."*

98. The proposal has been amended compared to the previously dismissed appeal scheme to provide multiple pedestrian and cycling connections from the site to Town Lane.
99. Lancashire County Council (LCC) as the Local Highway Authority (LHA) is responsible for providing and maintaining a safe and reliable highway network and their comments on the application were as follows:

*"Development Proposal*

*The development proposal is a resubmission of application 20/01347/OUTMAJ which was dismissed at appeal. The proposal is for the erection of up to 250 dwellings on land to the northerly side of Town Lane. The application is in outline form with all matter reserved save for access. A vehicular access to Town Lane is proposed immediately east and opposite of 82 Town Lane. A pedestrian / cycle access to Town Lane is proposed approximately 50m east and opposite of 48 Town Lane. A pedestrian access to Town Lane is proposed approximately 20m west and opposite its junction with Lady Crosse Drive.*

*Background*

*LCC highlighted their concerns on application 20/01347/OUTMAJ in the response dated 12 April 2021 stating "It has not been demonstrated that the proposed development can be safely accessed on foot and by cycling and bus stops are not within desirable walking distance of the site to allow use of public transport. The footways on Town Lane are of inadequate width and no improvement measures of the PROWs in the area are proposed by the applicant. The applicant has also not proposed any measures towards overcoming the numerous constraints on Town Lane. In view of the above, LCC Highways would recommend that the planning application is not approved.*

*The hearing for the appeal took place in August 2021 with the decision issued on 18 February 2022.*

*Highway matters formed a significant part of the planning appeal and as such the same opinion should be reached unless there is additional evidence to counter the matters raised.*

*SCP have produced an updated Transport Assessment (TA) dated October 2022 for the current application and state that "The only change to the current application is the means of access into the site on foot and cycle. A package of off-site improvements were agreed with LCC as part of the preparation of the Statement of Common Ground.*

#### *Issues to be considered following the Appeal*

*The Inspector concluded that "the proposal would cause harm to highway safety particularly relating to walkers and cyclists and would fail to provide a suitable alternative access which would be needed as an essential part of the scheme.*

*Paragraph 19 of the Inspectors report states "I note the details of a limited number of near misses and accidents along Town Lane provided to me by residents during the Inquiry and the information of police call outs along the whole length of Town Lane. However, it is agreed between the appellant and the Council that the formal accident data from the past five years recorded one personal injury incident. Nevertheless, the number of pedestrians, cyclists and other users would increase significantly as a result of the scheme, and I consider this would increase the potential for accidents and near misses for future residents if they were to use Town Lane."*

*Within paragraph 33 the Inspector concludes that "the proposal would cause harm to highway safety particularly relating to walkers and cyclists and would fail to provide a suitable alternative access which would be needed as an essential part of the scheme. It would conflict with BNE1 of the LP which seeks development that amongst other things would not prejudice highway safety and pedestrian safety. It would not be in accordance with the Framework which amongst other sets out that proposed development should give priority to pedestrian and cycle movements, facilitating access to high quality public transport, address the needs of people with disabilities and reduced mobility, provide access that is safe, secure and attractive and minimises scope for conflict between pedestrians, cyclists and vehicles."*

#### *Developer's proposals*

*The developer is proposing the following: -*

- 1. Main access – described in detail at 4.3 – 4.6 of the TA*
- 2. Pedestrian and Cycle Access – described in detail at 4.7 – 4.10 of the TA*
- 3. Off-site Improvements – described in detail at 4.11 – 4.18 of the TA.*

*The access and off-site improvements need to be considered as a package of measures put forward by the developer to overcome the issues that the Inspector identified at the appeal.*

*The proposed site accesses provide better pedestrian and cycling connectivity between the site and Town Lane when compared to the original accesses. Gradients for pedestrians at the main site access are still a concern, however, the pedestrian / cycle access provides gradients in line with the recommendations of DfT's Inclusive Mobility. The "zig-zagging" pedestrian and cycle access is visually open and as such, whilst it may be seen as more onerous than a less torturous route for able bodied, it is seen as being acceptable to LCC Highways.*

*Given the limited existing footway and carriageway widths on Town Lane it is difficult to make improvements for pedestrians without prohibiting parking. However, if parking was removed then traffic speeds are likely to increase, and the displaced parking create issues elsewhere. To address the safety concerns the developer is proposing traffic calming feature to reduce vehicle speeds and keep the existing on street parking.*

## Conclusion

*Whilst the proposed development that was considered by the Planning Inspector was refused planning permission the developer has made a number of amendments that are considered by LCC Highways to be sufficient to overcome the reasons for refusal and as such no highway objections are raised.*

## S106

*It is requested that the developer enter a s106 for the following matters.*

- 1. Travel Plan. £18,000*
- 2. Public Transport. £150,000 per annum for 5 years”*

100. The Council has commissioned an independent review of the transportation issues associated with some of the major housing applications currently awaiting decision, by a transport planning consultancy. A short summary of the conclusions of their assessment of this application is provided below:
- The annual contribution to enhanced bus services should be increased from £100,000
  - The Transport Assessment states that the pedestrian access footpath will link to a new footway on the northern side of Town Lane and the accompanying drawing shows a short section of new footway on the northern side of Town Lane
  - The new footway will only serve to enable pedestrians to cross Town Lane to the existing footway on the southern side of Town Lane. It may not be possible for the developers to link this new footway to the junction of Town Lane and Chorley Old Road as this would involve the use of land outside of the applicant's control
  - Furthermore, the footway on the southern side of Town Lane is very narrow. The developers should improve the width of the footway to the south of Town Road to bring it in line with modern standards
  - The design of the pedestrian / cycle access does not accord with current standards and could result in safety issues for users
101. The applicant's transport consultant, SCP, provided a detailed response to the independent review, summarised as follows:
- The £100,000 figure has been increased to £150,000
  - It is acknowledged that there are sections of Town Lane with no footway; parts of the north side of Town Lane and the section of carriageway outside of 71-74 Town Lane. The proposals bring pedestrians into the most westerly point to link with existing footways on the southern side (via the stepped straight route). This route is intended to be primarily a recreational route, running through the open space. The main pedestrian and cycle access is located midway along the site frontage where there is a footway on the southern side. The speed reduction and build out are intended to assist with crossing to this existing footway. An alternative would be to remove large sections of hedgerow to provide a new 2m footway along the whole of the western site frontage between the main ped/cycle route and Whittle le Woods. However, this would have implications on ecology and the character of the area as well as requiring retaining walls up against the back of footway in places.
  - Existing footways on the southern side are approximately 1m however whilst on site with LCC it was noted that much of the length of footway along Town Lane is overgrown and can be cut back to the fence line or verge. This would improve the footway widths without any physical works (which would reduce the available road width).
  - The new pedestrian and cycle access seeks to improve upon the earlier submission, by providing a more gentle gradient over a shorter distance which is overlooked by houses. The current proposals strike the right balance between gradient and distance, whilst giving able bodied pedestrians the option of steps. On this issue, the Inspector commented 'I note that it is acknowledged there may be local difficulties in applying standards. I accept that preferences may not be achievable in every circumstance'.

102. The independent review report was issued to LCC Highway Services for comment, and they responded to state that they concur with the comments made by the applicant's consultant SCP and have no additional comments to make.
103. In conclusion, the revised access details are considered to be acceptable, subject to conditions and a S106 agreement to secure the above referenced contributions. The other measures would be delivered by a S278 agreement under the Highways Act 1980. A summary of the agreed on and off-site highways works are as follows, as described in more detail at Section 4.0 of the submitted Transport Assessment, to include:-
- The main site access comprising of a 5.5m carriageway with a 2m footway on one side and a 3m shared cycleway/footway on the other, as shown on the approved plans
  - The pedestrian/cycle access as shown on the approved plans
  - The western footpath as shown on the approved plans
  - Off-site works, as follows:
    - A new footway on the northern side of Town Lane with build-out;
    - Build-out on the southern side of Town Lane;
    - The relocation of bus stops on Town Lane;
    - Priority working and parking bays for dwellings on Chorley Old Road;
    - Cycle route signage along Town Lane; and
    - Slow markings and new signage on Town Lane.
104. The applicant has agreed to complete the above works prior to no more than 25% of the approved dwellings being constructed, rather than prior to the occupation of any of the dwellings, as is typically the case. This can be controlled by planning condition.

#### Impact on the character and appearance of the area

105. Core Strategy policy 17 seeks to ensure that the design of new buildings takes into account the character and appearance of the local area, including among other things, linking in with surrounding movement patterns and not prejudicing the development of neighbouring land; and protecting existing landscape features and natural assets.
106. Policy BNE1 (Design Criteria for New Development) of the Chorley Local Plan 2012 -2026 stipulates that planning permission will be granted for new development, including extensions, conversions and free standing structures, provided that, among other things, the proposal does not have a significantly detrimental impact on the surrounding area by virtue of its density, siting, layout, building to plot ratio, height, scale and massing, design, orientation and use of materials; that the layout, design and landscaping of all elements of the proposal, including any internal roads, car parking, footpaths and open spaces, are of a high quality and respect the character of the site and local area; and that the proposal would not have a detrimental impact on important natural habitats and landscape features such as historic landscapes, mature trees, hedgerows, ponds and watercourses. In some circumstances where on balance it is considered acceptable to remove one or more of these features, then mitigation measures to replace the feature/s will be required either on or off-site.
107. Policy BNE10 (Trees) of the Chorley Local Plan 2012 -2026 stipulates, among other things, that proposals that would result in the loss of trees, woodland areas or hedgerows which make a valuable contribution to the character of the landscape, a building, a settlement or the setting thereof will not be permitted. Replacement planting will be required where it is considered that the benefit of the development outweighs the loss of some trees or hedgerows.
108. The application seeks outline planning permission for up to 250 dwellings, with the illustrative masterplan showing a new access road proposed on Town Lane, on the southern edge of the site. The illustrative masterplan also shows one possible way in which the site could be developed with a single point of vehicular access from Town Lane into the development. Roads leading from the point of arrival include a circular route towards the

east of the site and a cul-de-sac to the west, with secondary roads and private driveways from these roads located throughout the development.

109. When considering any development proposal, the Council must be mindful of the Framework that states that the Government attaches great importance to the design of the built environment and good design is a key aspect of sustainable development. The Framework also states that planning policies and decisions should aim to ensure that developments (amongst other things) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development.
110. Chorley Council plans positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes and seeks to create well-mixed and integrated developments which avoid segregation and have well-planned public spaces that bring people together and provide opportunities for physical activity and recreation.
111. The Council was initially of the opinion that the previous proposal failed to achieve the above aspiration due to not considering the wider site allocation as a whole or its key features and characteristics, providing a piecemeal and disjointed approach to the proposal and the wider site. This was one of the reasons that Planning Committee was minded to refuse the application (reason for refusal 2). However, the reason was withdrawn during the appeal process due to the topography of the safeguarded land parcel and the intervening River Lostock resulting in difficulty in securing vehicular access to the north from the site. The Council remained concerned about pedestrian and cycle linkages with the wider area but felt this was sufficiently covered by the third reason for refusal.
112. The layout, appearance, scale and landscaping aspects of the proposal do not form part of this outline application and would follow at any reserved matters stage. From the indicative layout plan submitted, it is considered that adequate residential curtilage would be provided with adequate space for parking and general amenity. It is considered that the dwellings could be designed without detriment to the appearance of the site or the character of the streetscene. Nevertheless, this could only be fully assessed at reserved matters stage.

#### Impact on amenity

113. Policy BNE1 (Design Criteria for New Development) of the Chorley Local Plan 2012 -2026 stipulates that planning permission will be granted for new development, including extensions, conversions and free standing structures, provided that, where relevant to the development the proposal would not cause harm to any neighbouring property by virtue of overlooking, overshadowing, or by creating an overbearing impact; and that the proposal would not cause an unacceptable degree of noise disturbance to surrounding land uses.
114. It is considered that the dwellings could be designed without detriment to residential amenity.
115. Any impacts during the construction phase would be temporary and suitable mitigation measures could be imposed by a planning condition, for example, through a Construction Environmental Management Plan.

#### Contaminated land

116. It was apparent during the original application process and appeal and also given the comments made in relation to this application that some local community concerns have been raised with regards to former landfill sites in the area, and the impact that this could have on the future occupiers of any development that may take place on the application site. These landfill sites are located outside the application site but are relatively close to it.
117. Representations that have been received suggest high levels of methane and disposal of low-level nuclear/radioactive waste. Representations also suggest that there is evidence

that the site took asbestos and was not topped off properly and that material/contaminants are leaching into the River Lostock to the north of the site.

118. If the application site included the area of landfill itself then a full investigation into the site prior to development and commencement of development would be required, however, as the site lies outside the boundary of the application site the applicant is not explicitly required to investigate landfill that is nearby, only to consider the risks that the site in its current state may present, based on the available evidence, as part of its site investigation works. The developer must ultimately satisfy itself that there is no unacceptable risk to human health or controlled waters such that the land could be designated as contaminated land as defined under Part2A EPA 1990.

119. The Inspector concluded the following at paragraph 66 of the appeal decision with regards to contaminated land issues:

*"I have been referred to the potential for contamination from two former landfill sites, one to the north and one to the south of appeal site. These relate to the potential presence of ground gas and leachates, and also asbestos, methane and low level nuclear radioactive waste. The evidence relating to the latter concerns does not appear conclusive. In any event, the proposal is accompanied by a Desk Top Study report which refers to the scope for additional investigation. The size and scale of the scheme would require investigations to include the type and nature of contamination including that beyond the site boundary. This could be secured by condition and the scheme would be in accordance with the Framework where proposals should ensure that a site is suitable for its proposed use including any risks from contamination."*

120. In relation the previous application, the Environment Agency (EA) considered the information submitted in support of the proposed development in relation to information available regarding the nearby landfill activities. The EA identified that Lowe Farm is 9 metres south of the proposed development site, and although not well run (at the time), the wastes within this site would be assessed in a later site investigation as proposed by the desk study. Cawood Farm has also been defined 177 metres north of the proposed development site, however, the wastes are incorrectly listed as 'Industrial', when in effect records show this to be Low-Level Radioactive Waste (LLRW) (1953-1959). The EA have again recommended a planning condition in relation to land remediation in their response to the current application, raising no objection to the proposal.

121. The conclusion of the report is that site investigation would be necessary, as shown in the following extract:

### *8.2 Proposed Ground Investigation Scope*

*On assessing the potential risks on site, we have compiled the following recommendations for initial investigation;*

- Three (3 No.) days trial pitting.*
- Ten (10 No.) window sample boreholes to 3mbgl targeting infilled reservoir, worked ground, fossil horizons and offsite landfill deepened to 5mbgl where infilled ground is encountered.*
- Six (6 No.) ground gas monitoring visits over a 3-month period at varying barometric pressures.*
- Forty (40 No.) soil samples (topsoil, made ground and natural) taken for chemical analysis to benchmark contamination levels across the site. Proposed testing will include but not be limited to the following; heavy metals suite (comprising; As, Cd (low level), Cr Vi, Pb, Hg, Se, Ni, Cu, Zn), Organic Matter, Sulphate, pH, speciated polycyclic aromatic hydrocarbons and TPH CWG. Asbestos testing within topsoil and Made Ground (if present) with quantification for positive samples.*

122. The report goes on to state the following:-

- *The scope of works should be agreed with the Local Authority prior to the intrusive ground investigation and as such may change.*
- *Additional SI may be required following completion of the initial SI.*

123. With the issues pertaining to the deposit of wastes at Cawood Farm and any groundwater contamination issues, the EA suggest that the Local Authority and the Environment Agency should request that future site works take this issue into consideration by increasing the parameters to be measured for (to include possible LLR parameters), and consideration of the direction of groundwater flow, establishing if there is any potential for impact upon the outlined development.

124. This could be secured by condition requiring that no development shall commence until a remediation strategy to deal with the risks associated with contamination of the site in respect of the development, has been submitted to, and approved in writing by, the local planning authority.

#### Drainage and flood risk

125. Paragraph 103 of the Framework requires that surface water arising from a developed site should, as far as it is practicable, be managed in a sustainable manner to mimic surface water flows arising from the site prior to the proposed development, whilst reducing flood risk to the site itself and elsewhere, taking climate change into account.

126. Core Strategy Policy 29 (Water Management) seeks to improve water quality, water management and reduces the risk of flooding in a number of ways including, among other things, appraising, managing and reducing flood risk in all new developments.

127. More generally in consideration of the detailed drainage design for the site the Planning Practice Guidance (PPG) establishes a hierarchy for surface water disposal, which encourages a Sustainable Urban Drainage approach (SuDS): Generally, the aim should be to discharge surface run off as high up the following hierarchy of drainage options as reasonably practicable:

- i. into the ground (infiltration);
- ii. to a surface water body;
- iii. to a surface water sewer, highway drain, or another drainage system;
- iv. to a combined sewer.

128. Paragraphs 64 and 65 of the Inspector's report concludes the following with regards to flood risk:

*"I note the concerns residents raise in respect of flood risk including those by the Parish Council in relation to the Flood Risk Assessment and Drainage Strategy (FRA). However, the FRA includes information relating to all sources of flooding, proposes measures for any detailed applications, and there is no detailed evidence to indicate that the FRA conclusions that the risks are low are incorrect.*

*The proposal would incorporate sustainable drainage systems. The study is informed by an assessment of the River Lostock, and the drainage system would ensure that runoff would be limited at an appropriate rate. In respect of effects on the fishing area known as Low Mill Lodge, as part of the first reserved matters application it is proposed to provide a Flood and Surface Water Drainage Strategy. This would investigate potential infiltration of surface water and would provide options for drainage. This could be secured by an appropriate condition and would ensure that the use of the fishing lodge would not be negatively impacted by the proposal. The proposal would accord with CS Policy 29 which amongst other things seeks to reduce the risk of flooding."*

129. The applicant has submitted a Flood Risk Assessment and Drainage Strategy, produced by Waterco, dated October 2022 in support of the proposed development. These have been reviewed by the EA and Lead Local Flood Authority (LLFA) who raise no objections to the proposed development.
130. The EA have identified that the proposed site boundary is partly located within Flood Zones 2 and 3, which has a medium and high probability of flooding. They state that they have reviewed the Illustrative Masterplan and appreciate that the areas of the site that sit within the flood zones are designated for SuDS and attenuation. They state that they support the use of this land for this reason.
131. Under the Flood and Water Management Act 2010 the LLFA is the responsible 'risk management authority' for managing 'local' flood risk which refers to flooding or flood risk from surface water, groundwater or from ordinary watercourses. The LLFA is a statutory consultee for major developments with surface water drainage, under the Town and Country Planning (Development Management Procedure) (England) Order 2015.
132. The submitted FRA notes the following:

*“Given the historic quarrying on site, soakaways are unlikely to be feasible. Where soakaways are not feasible, surface water runoff will be discharged to the River Lostock immediately north-west of the site via an existing ditch at a rate of limited 1 in 1 year greenfield runoff rate of 34.2 l/s. Surface water runoff up to the 1 in 100 year plus 45% climate change allowance event will be attenuated on site. A total attenuation volume of 3,125m<sup>3</sup> will be required to achieve the discharge rate and will be provided in the form of attenuation ponds located in the north-western extent of the site*

*The proposed surface water drainage scheme will ensure no increase in runoff over the lifetime of the development. Foul flows will be discharged to the public combined sewer network in Town Lane. A gravity connection can be achieved. the final drainage details will be required to be submitted for agreement prior to any development taking place at the site.”*

133. The proposal is considered to be acceptable with regards to drainage and flood risk and is considered to be policy compliant.

#### Affordable housing

134. Core Strategy policy 7 sets down the approach to the delivery of affordable and special needs housing:

*“Subject to such site and development considerations as financial viability and contributions to community services, to achieve a target from market housing schemes of 30% in the urban parts of Preston, South Ribble and Chorley and of 35% in rural areas on sites in or adjoining villages.....”*

*“Aside from rural exception sites the minimum site size threshold will be 15 dwellings (0.5 hectares or part thereof) but a lower threshold of 5 dwellings (0.15 hectares or part therefore) is required in rural areas.”*

135. In accordance with Core Strategy Policy 7, 30% of the dwellings are required to be affordable. This equates to 75 dwellings. 70% (53) of these should be social rented and 30% (22) should be shared ownership.
136. The applicant is proposing 30% affordable housing which is in accordance with Core Strategy Policy 7.
137. The house types to be provided will be determined at the reserved matters stage.



138. This would need to be secured through a Section 106 legal agreement if the application was approved.

#### Public open space

139. Policy HS4A and HS4B of the Chorley Local Plan 2012 – 2026 - Open Space Requirements in New Housing Developments explains that all new housing developments will be required to make provision for open space and recreation facilities, where there are identified local deficiencies in the quantity, accessibility or quality and/or value of open space and recreation facilities. The requirements for the proposed development are as follows:

#### *Amenity Greenspace:*

140. Chorley Local Plan Policy HS4A sets a standard of 0.73 hectares per 1,000 population.

141. There is currently a surplus of provision in Buckshaw and Whittle in relation to this standard and the site is within the accessibility catchment (800m) of an area of amenity greenspace. A contribution towards new provision in the ward is therefore not required from this development. However there are areas of amenity greenspace within the accessibility catchment that are identified as being low quality and/or low value in the Open Space Assessment Report (February 2019)/Open Space Study Paper (February 2019) (sites 2044 Magill Close; 1660 Adjacent Heather Hill Cottage, Hill Top Lane, Whittle-le-Woods). A contribution towards improvements to these sites is therefore required from this development. The amount required is £140 per dwelling.

#### *Provision for children/young people:*

142. Chorley Local Plan Policy HS4A sets a standard of 0.08 hectares per 1,000 population.

143. There is currently a surplus of provision in Buckshaw & Whittle in relation to this standard and the site is within the accessibility catchment (800m) of an area of provision for children/young people. A contribution towards new provision in the ward is therefore not required from this development. However, there are areas of provision for children/young people within the accessibility catchment that are identified as being low quality and/or low value in the Open Space Assessment Report (February 2019)/Open Space Study Paper (February 2019) (sites 1535.1 Play area opposite 17 Delph Way, Whittle-le-Woods; 1430 Harvest Drive play area, Whittle-le-Woods; 2046 Berry Avenue Play Area, Whittle-le-Woods; 1428.1 Orchard Drive playground, Whittle-le-Woods). A contribution towards improvements to these sites is therefore required from this development. The amount required is £134 per dwelling.

#### *Parks and Gardens:*

144. There is no requirement to provide a new park or garden on-site within this development.

145. There are no parks/gardens within the accessibility catchment (1,000m) of this site identified as being low quality and/or low value in the Open Space Assessment Report (February 2019)/Open Space Study Paper (February 2019) therefore a contribution towards improving existing provision is not required.

#### *Natural and Semi-Natural Greenspace:*

146. There is no requirement to provide new natural/semi natural greenspace on-site within this development.

147. There are no areas of natural/semi-natural greenspace within the accessibility catchment (800m) of this site identified as being low quality and/or low value in the Open Space Assessment Report (February 2019)/Open Space Study Paper (February 2019) therefore a contribution towards improving existing provision is not required.

*Allotments:*

148. There is no requirement to provide allotment provision on site within this development.
149. The site is not within the accessibility catchment (10 minutes' drive time) of a proposed new allotment site, a contribution towards new allotment provision is therefore not required from this development.

*Playing Pitches:*

150. The Playing Pitch Strategy and Action Plan (December 2018) identifies a Borough wide deficit of playing pitches but states that the majority of this deficit can be met by improving existing pitches. A financial contribution towards the improvement of existing playing pitches is therefore required from this development. The Playing Pitch Strategy includes an Action Plan which identifies sites that need improvements, with borough-level detail provided in the Chorley Open Space, Sports and Recreation Strategy (OSSR) Action Plan 2020 to 2036. The amount required is £1,599 per dwelling.
151. The total financial contribution required from this development is as follows:

Amenity greenspace	= £35,000
Equipped play area	= £33,500
Parks/Gardens	= £0
Natural/semi-natural	= £0
Allotments	= £0
Playing Pitches	= £399,750
Total	= £468,250

152. This would need to be secured through a Section 106 legal agreement if the application was approved.

Sustainability

153. Policy 27 of the Core Strategy requires all new dwellings to be constructed to Level 4 of the Code for Sustainable Homes or Level 6 if they are commenced from 1<sup>st</sup> January 2016. It also requires sites of five or more dwellings to have either additional building fabric insulation measures or reduce the carbon dioxide emissions of predicted energy use by at least 15% through decentralised, renewable or low carbon energy sources. The 2015 Deregulation Bill received Royal Assent on 26th March 2015, which effectively removed the Code for Sustainable Homes. The Bill does include transitional provisions which include:

*"For the specific issue of energy performance, local planning authorities will continue to be able to set and apply policies in their Local Plans which require compliance with energy performance standards that exceed the energy requirements of Building Regulations until commencement of amendments to the [Planning and Energy Act 2008](#) in the Deregulation Bill 2015. This is expected to happen alongside the introduction of zero carbon homes policy in late 2016. The government has stated that, from then, the energy performance requirements in Building Regulations will be set at a level equivalent to the (outgoing) Code for Sustainable Homes Level 4. Until the amendment is commenced, we would expect local planning authorities to take this statement of the government's intention into account in applying existing policies and not set conditions with requirements above a Code Level 4 equivalent."*

*"Where there is an existing plan policy which references the Code for Sustainable Homes, authorities may continue to apply a requirement for a water efficiency standard equivalent to the new national technical standard, or in the case of energy a standard consistent with the policy set out in the earlier paragraph in this statement, concerning energy performance."*

154. Given this change, instead of meeting the code level, the Local Planning Authority required that dwellings should achieve a minimum dwelling emission rate of 19% above 2013 Building Regulations in accordance with the transitional provisions. Building Regulations 2022 have now been brought into force and under Part L require a 31% improvement above 2013 Building Regulations. This exceeds the Council's previous requirement and now supersedes the requirement for a planning condition.

#### Education

155. Central Lancashire Core Strategy policy 14 (Education) seeks to provide for education requirements in a number of ways including asking developers to contribute towards the provision of school places where their development would result in or worse a lack of capacity at existing schools.

156. Lancashire County Council, as the Education Authority, seek to secure financial contributions towards any additional school places required as a result of new housing development in order to mitigate the impact upon the education infrastructure which new housing developments may have.

157. Based upon the latest assessment, Lancashire County Council advise that an education contribution is not required in regard to this development.

#### Employment skills provision

158. The Central Lancashire Employment Skills Supplementary Planning Document (SPD) was adopted in September 2017. The SPD introduces Employment Skills Statements and provides clarity as to how this requirement relates to the relevant policies set out in the Core Strategy and Local Plan as well as the guidance set out in the Framework. The SPD goes on to state that one of Central Lancashire's priorities is to encourage economic growth within Central Lancashire that benefits the people and businesses in the three boroughs. The SPD seeks to;

- increase employment opportunities by helping local businesses to improve, grow and take on more staff
- help businesses to find suitable staff and suppliers, especially local ones
- improve the skills of local people to enable them to take advantage of the resulting employment opportunities
- help businesses already located in Central Lancashire to grow and attract new businesses into the area

159. The SPD requires development over certain thresholds to be accompanied by an Employment and Skills Statement to ensure the right skills and employment opportunities are provided at the right time. This is to the benefit of both the developer and local population and covers the following areas:

- Creation of apprenticeships/new entrants/graduates/traineeships
- Recruitment through Job Hub and Jobcentre plus and other local employment vehicles.
- Work trials and interview guarantees
- Vocational training (NVQ)
- Work experience (14-16 years, 16-19 years and 19+ years) (5 working days minimum)
- Links with schools, colleges and university
- Use of local suppliers
- Supervisor Training
- Management and Leadership Training
- In house training schemes
- Construction Skills Certification Scheme (CSCS) Cards
- Support with transport, childcare and work equipment
- Community based projects

160. It is, therefore, recommended that a condition requiring an employment and skills plan is attached to any grant of planning permission.

#### Community Infrastructure Levy (CIL)

161. The Chorley CIL Infrastructure Charging Schedule provides a specific amount for development. The CIL Charging Schedule was adopted on 16 July 2013 and charging commenced on 1 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.

#### Planning balance

162. Paragraph 11. d) ii. of the Framework indicates that, where the most important development plan policies for determining the application are out-of-date, planning permission should be granted, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; the tilted balance.

163. The adverse impacts of the development relate to conflict with policy BNE3 of the Chorley Local Plan, which can only be attributed limited weight.

164. In terms of benefits, the provision of new housing would bring construction and supply chain jobs, places for the economically active to live, increased local spend and greater choice in the local market. These benefits have not been quantified and would apply to any housing development of this scale but are still considerable.

165. The scheme would deliver a policy compliant level of affordable homes to the area of which there is a significant shortfall across the Borough. The new affordable dwellings would provide homes for real people in real need.

166. The applicant has volunteered to provide a net gain in biodiversity at the site that goes far beyond the 10% net gain which will eventually become a requirement of most development proposals. The submitted net gain assessment identifies that net gains of 25% habitat gain, 34% gain for hedgerows and 66% gain for river units, can be achieved at the site. As net gains in biodiversity are not required to make the scheme acceptable, they should be weighed as an environmental benefit of the proposal of moderate magnitude.

167. The proposal would boost the supply of housing in a situation where there is no five-year supply and an under-provision of affordable housing and, as a result, moderate weight can be given to the economic and significant weight to the social benefits the proposal would deliver.

168. The provision of open space and its ongoing management and maintenance and mitigation measures, such as highway improvement measures, are neutral considerations because they are needed to make the development acceptable.

169. The adverse impacts of the proposed development relating to the conflict with policy BNE3 of the Chorley Local Plan would not significantly and demonstrably outweigh the economic, social and environmental benefits that the scheme would deliver.

#### **CONCLUSION**

170. Members will be aware of the current shortfall in housing delivery in the Borough and that this has resulted in the most important policies for the determination of this application being out-of-date, which triggers the engagement of the tilted balance of paragraph 11d of the Framework.

171. Whilst the conflicts with policies BNE10 (tree loss) and BNE3 (safeguarded land) of the Chorley Local Plan 2012-2026, it is considered that these issues would not significantly and demonstrably outweigh the benefits of the proposal in delivering much needed housing in the borough. The proposal is therefore recommended for approval.

**RELEVANT HISTORY OF THE SITE**

**Ref:** 20/01347/OUTMAJ **Decision:** APPEAL ALLOWED **Decision Date:** 18 Feb 2022  
**Description:** Outline planning application for the construction of up to 250 dwellings and associated infrastructure (including 30% affordable housing) with all matters reserved aside from the access from Town Lane

**RELEVANT POLICIES:** In accordance with s.38 (6) Planning and Compulsory Purchase Act (2004), the application is to be determined in accordance with the development plan (the Central Lancashire Core Strategy, the Adopted Chorley Local Plan 2012-2026 and adopted Supplementary Planning Guidance), unless material considerations indicate otherwise. Consideration of the proposal has had regard to guidance contained within the National Planning Policy Framework (the Framework) and the development plan. The specific policies/ guidance considerations are contained within the body of the report.

Suggested conditions

1. Prior to the commencement of any phase of the development, full details of the layout, scale, appearance and landscaping (hereinafter called "the reserved matters") for that phase shall be submitted to and approved in writing by the Local Planning Authority and the development shall be carried out as approved.

*Reason: This condition is required to be imposed by the provisions of Article 3 (1) of the Town and Country Planning (General Development Procedure) Order 1995 and Section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.*

2. Application for approval of the reserved matters shall be made to the Local Planning Authority not later than 3 years from the date of this permission. The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved. The first reserved matters application shall include a plan showing the phasing of the development

*Reason: This condition is required to be imposed by the provisions of Article 3 (1) of the Town and Country Planning (General Development Procedure) Order 1995 and Section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.*

3. The development hereby permitted shall be carried out in accordance with the approved plans below:

Title	Plan Ref	Received On
Location Plan	TLWW/LP/01	31 October 2023
Potential Site Access Solutions Visibility Splay Review Proposed Access	SCP/220486/SK03 Rev A	16 November 2022
General Arrangement – Pedestrian Access	SCP/220486/D02 Rev A	31 October 2023
General Arrangement – Pedestrian Access	SCP/220486/D02a Rev A	31 October 2023

*Reason: For the avoidance of doubt and in the interests of proper planning.*

4. The reserved matters application for each phase shall be accompanied by a Landscape Retention, Creation and Management Plan for that phase, which shall be submitted to and

approved in writing by the Local Planning Authority prior to the commencement of development. This shall include the following details as far as they relate to each phase of the development:

- a) Retention and management of woodland to the north including details of how this will be protected during any construction period.
- b) Buffer along northern site boundary and the River Lostock
- c) Enhancement of Field 6 (north of fishing lodge)
- d) Control of invasive species (Himalayan balsam)
- e) Retention of hedgerows, ditches and trees including details of how they are to be protected during any construction period.
- f) Lighting strategy
- g) Installation of bat roost features in properties
- h) Protection of nesting birds during breeding season (March - August inclusive)
- i) Installation of bird boxes
- j) Maintenance of habitat connectivity and ecological permeability of boundary/curtilages features
- k) Locally native planting scheme (noting species, planting sizes and proposed numbers/densities where appropriate)
- l) Details of wetland creation;
- m) Written specifications (including cultivation and other operations associated with plant and grass establishment);
- n) Implementation timetables.

The document shall also incorporate a Habitat Management Plan which sets out how habitats will be managed to promote their biodiversity value. It shall provide the detail and the mechanism which can be used to secure this management in the long term (> 10 years).

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of any dwellings on each phase or following the completion of the development within the relevant Phase, whichever is the earlier. Any trees or plants which, within a period of 5 years from the completion of the development, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority gives written consent to any variation.

The development shall be implemented in accordance with the approved details.

*Reason: In the interests of protecting ecological assets, creating biodiversity enhancements and ensuring the proper landscaping of the site.*

5. No works to trees, shrubs or hedgerows shall occur between the 1st March and 31st August in any year unless a detailed bird nest survey by a suitably experienced ecologist has been carried out immediately prior to clearance and that appropriate measures put in place to protect nesting bird interests on site.

*Reason: All British birds nests and eggs (with certain limited exceptions) are protected by Section 1 of the Wildlife & Countryside Act 1981 (as amended)*

6. The first reserved matters application for each phase shall be accompanied by an Arboricultural Method Statement covering the whole site that shall include details for the protection of all trees to be retained and details of how construction works will be carried out within any Root Protection Areas of retained trees. The development shall only be carried out in accordance with the approved Arboricultural Method Statement and with British Standard BS 3998:2010 or any subsequent amendment. No construction materials, spoil, rubbish, vehicles or equipment shall be stored or tipped within the Root Protection Areas.

*Reason: To protect trees to be retained.*

7. Either with any reserved matters application for a phase or prior to the commencement of each phase full details of the existing and proposed ground levels and proposed dwelling

finished floor levels (all relative to ground levels adjoining the site) shall have been submitted to and approved in writing by the Local Planning Authority, notwithstanding any such details shown on previously submitted plans(s). The development shall be carried out strictly in conformity with the approved details.

*Reason: To ensure the final development is not harmful to the character of the area or residential amenity*

8. The first reserved matters applications for each phase shall include, full details of the position, layout, phasing of the public open space with that phase. This shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the provision of these areas shall be carried out in strict accordance with the approved details.

*Reason: To ensure the proposed public open space is appropriate for the site and is delivered at an appropriate time.*

9. The development permitted by this planning permission shall be carried out in accordance with the principles set out within the site-specific flood risk assessment and surface water sustainable drainage strategy 14980-FRA & Drainage Strategy-05 produced on 28/10/2022 by Waterco.

The measures relevant to each phase shall be fully implemented prior to occupation of that phase and in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority in consultation with the Lead Local Flood Authority.

*Reason: To ensure satisfactory sustainable drainage facilities are provided to serve the site in accordance with the Paragraphs 167 and 169 of the National Planning Policy Framework, Planning Practice Guidance and Defra Technical Standards for Sustainable Drainage Systems.*

10. No development shall commence in any phase until a detailed, final surface water sustainable drainage strategy for the site has been submitted to, and approved in writing by, the Local Planning Authority.

The detailed surface water sustainable drainage strategy shall be based upon the sitespecific flood risk assessment and indicative surface water sustainable drainage strategy submitted and sustainable drainage principles and requirements set out in the National Planning Policy Framework, Planning Practice Guidance and Defra Technical Standards for Sustainable Drainage Systems. No surface water shall be allowed to discharge to the public foul sewer(s), directly or indirectly.

The details of the drainage strategy to be submitted for approval shall include, as a minimum;

- a) Sustainable drainage calculations for peak flow control and volume control for the:
  - i. 100% (1 in 1-year) annual exceedance probability event;
  - ii. 3.3% (1 in 30-year) annual exceedance probability event + 40% climate change allowance, with an allowance for urban creep;
  - iii. 1% (1 in 100-year) annual exceedance probability event + 45% climate change allowance, with an allowance for urban creep
- b) Final sustainable drainage plans appropriately labelled to include, as a minimum:
  - i. Site plan showing all permeable and impermeable areas that contribute to the drainage network either directly or indirectly, including surface water flows from outside the curtilage as necessary;
  - ii. Sustainable drainage system layout showing all pipe and structure references, dimensions and design levels;
  - iii. Details of all sustainable drainage components, including landscape drawings showing topography and slope gradient as appropriate, including the topography of the existing residents bordering the development boundary;
  - iv. Drainage plan showing flood water exceedance routes in accordance with Defra Technical Standards for Sustainable Drainage Systems;

- v. Finished Floor Levels (FFL) in AOD with adjacent ground levels for all sides of each building and connecting cover levels to confirm minimum 150 mm+ difference for FFL;
- vi. Details of proposals to collect and mitigate surface water runoff from the development boundary;
- vii. Measures taken to manage the quality of the surface water runoff to prevent pollution, protect groundwater and surface waters, and delivers suitably clean water to sustainable drainage components;
- c) Evidence of an assessment of the site conditions to include site investigation and test results to confirm infiltrations rates and groundwater levels in accordance with BRE 365.
- d) Evidence of an assessment of the existing on-site watercourse to be used, to confirm that these systems are in sufficient condition and have sufficient capacity to accept surface water runoff generated from the development.
- e) Evidence that a free-flowing outfall can be achieved. If this is not possible, evidence of a surcharged outfall applied to the sustainable drainage calculations will be required.

The sustainable drainage strategy shall be implemented in accordance with the approved details.

*Reason: To ensure satisfactory sustainable drainage facilities are provided to serve the site in accordance with the Paragraphs 167 and 169 of the National Planning Policy Framework, Planning Practice Guidance and Defra Technical Standards for Sustainable Drainage Systems.*

11. No development shall commence until a Construction Surface Water Management Plan, detailing how surface water and stormwater will be managed on the site during construction, including demolition and site clearance operations, has been submitted to and approved in writing by the Local Planning Authority.

The details of the plan to be submitted for approval shall include method statements, scaled and dimensioned plans and drawings detailing surface water management proposals to include for each phase, as a minimum:

- a) Measures taken to ensure surface water flows are retained on-site during the construction phase(s), including temporary drainage systems, and, if surface water flows are to be discharged, they are done so at a restricted rate that must not exceed the equivalent greenfield runoff rate from the site.
- b) Measures taken to prevent siltation and pollutants from the site into any receiving groundwater and/or surface waters, including watercourses, with reference to published guidance.

The plan shall be implemented and thereafter managed and maintained in accordance with the approved plan for the duration of construction.

*Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water during each construction phase(s) so it does not pose an undue surface water flood risk on-site or elsewhere during any construction phase in accordance with Paragraph 167 of the National Planning Policy Framework.*

12. The occupation of the development shall not be permitted until a site-specific Operation and Maintenance Manual for the lifetime of the development, pertaining to the surface water drainage system and prepared by a suitably competent person, has been submitted to and approved in writing by the Local Planning Authority.

The details of the manual to be submitted for approval shall include, as a minimum:

- a) A timetable for its implementation;
- b) Details of the maintenance, operational and access requirement for all SuDS components and connecting drainage structures, including all watercourses and their ownership;
- c) Pro-forma to allow the recording of each inspection and maintenance activity, as well as allowing any faults to be recorded and actions taken to rectify issues;



- d) The arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage scheme in perpetuity;
- e) Details of financial management including arrangements for the replacement of major components at the end of the manufacturer's recommended design life;
- f) Details of whom to contact if pollution is seen in the system or if it is not working correctly; and
- g) Means of access for maintenance and easements.

Thereafter the drainage system shall be retained, managed, and maintained in accordance with the approved details.

*Reason: To ensure that surface water flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property, and ecological systems, and to ensure that the sustainable drainage system is subsequently maintained pursuant to the requirements of Paragraph 169 of the National Planning Policy Framework.*

13. The occupation of the development shall not be permitted until a site-specific verification report, pertaining to the surface water sustainable drainage system, and prepared by a suitably competent person, has been submitted to and approved in writing by the Local Planning Authority.

The verification report must, as a minimum, demonstrate that the surface water sustainable drainage system has been constructed in accordance with the approved drawing(s) (or detail any minor variations) and is fit for purpose. The report shall contain information and evidence, including photographs, of details and locations (including national grid references) of critical drainage infrastructure (including inlets, outlets, and control structures) and full as-built drawings. The scheme shall thereafter be maintained in perpetuity.

*Reason: To ensure that surface water flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property, and ecological systems, and to ensure that the development as constructed is compliant with the requirements of Paragraphs 167 and 169 of the National Planning Policy Framework.*

14. For each phase, notwithstanding any indication on the approved plans, no development approved by this permission shall commence until a scheme for the disposal of foul waters for that phase has been submitted to and approved in writing by the local planning authority. For the avoidance of doubt, surface water must drain separate from the foul and no surface water will be permitted to discharge directly or indirectly into existing sewerage systems. The development shall be completed, maintained and managed in accordance with the approved details.

*Reason: To ensure the site is properly drained.*

15. No roads proposed for adoption shall be commenced until full engineering, drainage and constructional details for them have been submitted to, and approved in writing by, the Local Planning Authority. The development shall, thereafter, be constructed in accordance with the approved details.

*Reason: To ensure the roads are suitable for use.*

16. Prior to the commencement of development, other than site enabling works, an Estate Street Phasing and Completion Plan shall have been first submitted to, and approved in writing by, the Local Planning Authority. The Estate Street Phasing and Completion Plan shall set out the development phases and the standards to which estate streets serving each phase of the development will be completed. No dwelling or dwellings shall be occupied until the estate street(s) affording access to those dwelling(s) has/have been constructed to base course level in accordance with the Lancashire County Council Specification for Construction of Estate Roads.

*Reason: To ensure the roads are completed in timely manner and to the correct standard.*

17. No dwellings shall be occupied within a phase until details of the proposed arrangements for future management and maintenance of the proposed streets and any other areas within that phase not to be adopted (including details of any Management Company) have been submitted to and approved in writing by the Local Planning Authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details, until such time as an agreement has been entered into under Section 38 of the Highways Act 1980 or a private management and maintenance company has been established.

*Reason: To ensure such areas are suitably maintained.*

18. No dwellings shall be occupied within a phase until a Full Residential Travel Plan relevant to that phase has been submitted to, and approved in writing by, the Local Planning Authority, together with a timetable for its implementation. All elements of the Full Residential Travel Plan shall continue to be implemented at all times thereafter for a minimum of 5 years after the completion of the development.

*Reason: To encourage the use of sustainable transport options.*

19. No development shall take place, within a phase until a Construction Environment Management Plan (CEMP) for that phase has been submitted to, and approved in writing by, the local planning authority. The approved CEMP shall be adhered to throughout the construction period. The CEMP shall provide for:

- a) vehicle routing and the parking of vehicles of site operatives and visitors;
- b) hours of operation (including deliveries) during construction;
- c) loading and unloading of plant and materials;
- d) storage of plant and materials used in constructing the development;
- e) siting of cabins, site compounds and material storage area(s) (ensuring they comply with the Method Statement for the avoidance of harm to amphibians);
- f) the erection of security hoarding where appropriate;
- g) wheel washing facilities that shall be available on site for the cleaning of the wheels of vehicles leaving the site and such equipment shall be used as necessary to prevent mud and stones being carried onto the highway;
- h) measures to mechanically sweep the roads adjacent to the site as required during the full construction period;
- i) measures to control the emission of dust and dirt during construction;
- j) a scheme for recycling/disposing of waste resulting from demolition and construction works.
- k) details of measures to ensure the routing and directing of large construction vehicles/traffic and deliveries to site is from the west (A6) and not from the east via the Town Lane bridge 81 over the Leeds and Liverpool Canal.

*Reason: to mitigate impacts upon the highway network, residential amenity, the canal bridge and the environment.*

20. The development shall not commence until an Employment and Skills Plan that is tailored to the development and will set out the employment and skills training opportunities for the construction phase of the development has been submitted to, and approved in writing by, the Local Planning Authority, unless the Local Planning Authority gives written consent to any variation. Thereafter, the development shall be carried out in accordance with the Employment and Skills Plan.

*Reason: To promote skills and training opportunities for local people.*

21. An Acoustic Design Statement shall be submitted and approved in writing as part of the first reserved matters application for a phase to demonstrate how any adverse impacts of noise will be addressed and minimised within that phase to avoid any significant adverse noise impact on the finished developments and the achievement of the lowest practicable sound levels.

*Reason: To protect the amenity of future residents.*

22. Due to the size and scale of the proposed development, the past processes and activities on and adjacent to the site, and the proposed sensitive end-use (housing with gardens), no development shall take place until:

- a) a methodology for investigation and assessment of ground contamination has been submitted to and agreed in writing with the Local Planning Authority. The investigation and assessment shall be carried in accordance with current best practice including British Standard 10175:2011+A2:2017 Investigation of potentially contaminated sites - Code of Practice. The objectives of the investigation shall be, but not limited to, identifying the type(s), nature and extent of contamination present to the site, risks to receptors and potential for migration within and beyond the site boundary;
- b) all testing specified in the approved scheme (submitted under a) and the results of the investigation and risk assessment, together with remediation proposals to render the site capable of development have been submitted to the Local Planning Authority;
- c) the Local Planning Authority has given written approval to any remediation proposals (submitted under b), which shall include an implementation timetable and monitoring proposals. Upon completion of remediation works a validation report containing any validation sampling results shall be submitted to the Local Authority.

Measurements shall include possible LLR parameters and consideration of the direction of groundwater flow, establishing if there is any potential for impact upon the development.

Thereafter, the development shall only be carried out in full accordance with the approved remediation proposals.

*Reason: To ensure the development is safe for future residents.*

23. Prior to the construction/provision of any utility services, a strategy to facilitate super-fast broadband for future occupants of the site shall be submitted to, and approved in writing by, the Local Planning Authority. The strategy shall seek to ensure that upon occupation of a dwelling, either a landline or ducting to facilitate the provision of a super-fast broadband service to that dwelling from a site-wide network, is in place and provided as part of the initial highway works within the site boundary only.

*Reason: To future-proof the development.*

24. For each phase, with any reserved matters application or prior to excavation of the foundations for any dwellings, samples of all external facing and roofing materials for that phase (notwithstanding any details shown on previously submitted plan(s) and specification) shall be submitted to and approved in writing by the local planning authority. All works shall be undertaken strictly in accordance with the approved details.

*Reason: to ensure the final development is suitable to the character of the area.*

25. For each phase, with any reserved matters application or prior to the construction of any part of any dwelling above ground level, full details of the alignment, height and appearance of all fences, walls and gates to be erected on the site (notwithstanding any such details shown on previously approved plans) for that phase shall be submitted to and approved in writing by the local planning authority. No dwelling shall be occupied until all fences, walls and gates shown on the approved details to bound its plot have been erected in conformity with the approved details. Other boundary treatments shown in the approved details shall be erected in conformity with the approved details prior to occupation of the final dwelling of the development.

*Reason: To ensure the boundary treatments are appropriate.*

26. For each phase, with any reserved matters application or prior to the laying of any hard landscaping (ground surfacing materials) full details of their colour, form and texture for that phase shall be submitted to and approved in writing by the local planning authority. The development shall be undertaken strictly in accordance with the approved details and shall be completed in all respects before occupation of the final dwelling in that phase.

*Reason: To ensure the hard landscaping measures are appropriate.*

27. No part of the development hereby approved shall commence until a scheme for the construction of the site access and the off-site highway mitigation works, as described in more detail at Section 4.0 of the submitted Transport Assessment, to include:-

- The main site access comprising of a 5.5m carriageway with a 2m footway on one side and a 3m shared cycleway/footway on the other, as shown on the approved plans
- The pedestrian/cycle access as shown on the approved plans
- The western footpath as shown on the approved plans
- Off-site works, as follows:
  - A new footway on the northern side of Town Lane with build-out;
  - Build-out on the southern side of Town Lane;
  - The relocation of bus stops on Town Lane;
  - Priority working and parking bays for dwellings on Chorley Old Road;
  - Cycle route signage along Town Lane; and
  - Slow markings and new signage on Town Lane.

has been submitted to and approved by the Local Planning Authority in consultation with the Highway Authority. The applicant/developer shall not permit the construction of more than 25% of the approved dwellings until the approved scheme has been constructed and completed in accordance with the scheme details.

*Reason: To ensure the proposed works are suitable and are carried-out.*

28. The reserved matters application shall be supported by an updated biodiversity net gain assessment that demonstrates a minimum of 25% habitat gain, 34% gain for hedgerows and 66% gain for river units can be achieved at the site.

*Reason: to ensure the biodiversity enhancement measures included as part of the approval of the outline planning permission are achieved.*