



**DEPOL**

CHARTERED TOWN PLANNERS  
established 1986

**Policy Proof of Evidence**  
**Chris Betteridge** MPLAN MRTPI

Conjoined Appeals in Chorley  
3284692 & 3284702

January 2022



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# 1. Introduction

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- 1.1. This Proof of Evidence is submitted jointly on behalf of Metacre Ltd and Hollins Strategic Land in respect of the following appeals against Chorley Council's refusal of planning permission.
- Appeal A - Land at Carrington Road, Adlington. Appeal ref. APP/D2320/W/21/3284692
  - Appeal B - Land South of Parr Lane, Ecclestone. Appeal ref. APP/N2345/W/20/3284702

- 1.2. This proof relates to Strategic Policy and in particular the most important policies for determining the appeals.

## **Qualifications**

- 1.3. I am Chris Betteridge, Associate at De Pol Associates Ltd – Chartered Town Planning Consultants, based in Farrington, Leyland. I have a Master of Town Planning Degree from the University of Liverpool and I am a corporate member of the Royal Town Planning Institute. I have 17 years professional experience in the field of town planning.
- 1.4. I am familiar with the details of the cases and the policies of the development plan.
- 1.5. I declare that the evidence which I have prepared and provide for this appeal in this Proof of Evidence is true and has been prepared and is given in accordance with the guidance of the Royal Town Planning Institute. I confirm that the opinions expressed are my true and professional opinions. I understand my duty to the Inquiry and have complied, and will continue to comply, with that duty.
- 1.6. My evidence refers to background information set out in the Statements of Common Ground (SoCG), Statements of Case (SoC) and evidence provided by Mr Saunders, who is also providing evidence on behalf of both appellants in this case.



## **Appeal Sites and Background**

- 1.7. Detailed descriptions and planning histories of the appeal sites are included within the relevant Planning Statements submitted in association with the relevant application, and again in the Statements of Case.
  
- 1.8. This proof addresses the key issues of the application of paragraph 11 of NPPF, the most important policies within the development plan and, whether in the context of the NPPF these policies should be considered out-of-date for the purposes of determining this appeal.
  
- 1.9. Mr Saunders has prepared separate evidence in respect of housing land supply and whether the tilted balance applies in respect of this, including Core Strategy Policy 4. On these matters I defer to the evidence prepared and submitted by Mr Saunders whose evidence demonstrates that the Council is unable to demonstrate a 5-year housing land supply and that CS Policy 4 is out-of-date.
  
- 1.10. Further assessment of relevant matters and planning balance is contained within the site-specific proofs prepared by me in respect of Parr Lane (Appeal B) and Mr Sedgwick in relation to Carrington Road (Appeal A).



## 2. Consideration of Most Important Policies

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### **NPPF Paragraph 11**

2.1. NPPF identifies in paragraph 11(d) that where there are no development plan policies, or the policies most important for determining the application are out-of-date permission should be granted unless:

- i) 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
- ii) Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this Framework as a whole.

2.2. In respect of i) this is not applicable to the appeals which do not fall within the categories outlined in footnote 7. In terms of ii) the Council's reasons for refusal do not identify any adverse impacts which would significantly and demonstrably outweigh the benefits.

2.3. The above is commonly referred to as the 'tilted balance' and this Proof considers whether policies are out-of-date and whether the paragraph 11d) titled balance is triggered in relation to these two appeals and what weight should be given to these policies in the planning balance.

2.4. In assessing most important policies, it is necessary to follow the process outlined in the Wavendon Properties case, as expressed in the ruling below:

*"In my view the plain words of the policy clearly require that having established which are the most important for determining the application, and having determined each of them in relation to the question of whether or not they are out of date applying the current Framework and the approach set out in the Bloor case, an overall judgement must be formed as to whether or not, taken as a whole these policies are considered out-of-date for the purposes of the decision"<sup>1</sup>.*

2.5. To summarise the above approach the required steps are:

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<sup>1</sup> **CD8.19** Wavendon Properties v SSHCLG & Milton Keynes Council [2019] EWHC 1524 (Admin) para. 38



1. Identify the most important policies;
2. Examine them individually and establish whether they are out of date;
3. Consider them as a whole and determine whether they are out-of-date on this basis.

2.6. The matter of most important policies was considered in the Pear Tree Lane appeal which also related to the development of Safeguarded Land in Chorley. In this appeal case the appeal Inspector identified the most important policies as Core Strategy (CS) policies 1 and 4 and Chorley Local Plan policy BNE3<sup>2</sup>. I do not disagree with the Inspector's conclusions on this matter. It is agreed between parties that these policies are the most important for consideration in respect of this appeal<sup>3</sup>.

2.7. The Council had previously identified Local Plan Policy V2 as one of the most important policies but, following discussion it was agreed that policy V2 was not directly pertinent to the appeal sites.

2.8. With regards to whether the identified most important policies are out of date NPPF footnote 8 advises that if the authority cannot demonstrate a five-year supply of deliverable housing sites or where the Housing Delivery Test indicates delivery was substantially below the housing requirement, then the most important policies should automatically be considered out of date for the purposes of NPPF paragraph 11d). This is common ground between the parties. Consequently, if it is concluded that Chorley cannot demonstrate a five-year housing land supply in accordance with paragraph 74 of NPPF then the paragraph 11d) titled balance is automatically triggered.

2.9. However, and irrespective of NPPF footnote 8, this Proof considers whether the most important policies are also out-of-date due to inconsistency with national policy.

2.10. In terms of whether a policy should be considered out-of-date for the purposes of paragraph 11d) this has been considered in the courts. It has been established, that "*if the policies which are most important for determining the planning application have been overtaken by things that have happened since the plan was adopted, either on the*

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<sup>2</sup> **CD8.1** Appeal - Land at Pear Tree Lane APP/D2320/W/20/3247136 para. 44

<sup>3</sup> **CD10.5** Planning SoCG para. 5.17



*ground or through a change in national policy, or for some other reason, so that they are now out-of-date*<sup>4</sup>.

2.11. These issues are considered below.

### **CS Policy 1 – Locating Growth**

2.12. CS Policy 1 provides the strategic policy for the location of development across Central Lancashire. The policy identifies a hierarchy of settlements across Central Lancashire where growth and investment will be supported. The encouragement of growth and investment extends to Local Service Centres providing the proposed development is in keeping with the local character and setting.

2.13. CS Policy 1 identifies Adlington as an Local Urban Service Centre and Ecclestone as a Local Rural Service Centre; in both centres growth and investment is permitted. There is no suggestion in the Council's Statement of Case or reasons for refusal that either proposal conflicts with this policy.

2.14. Whilst CS Policy 1 provides a strategic approach to the location of growth and development in Chorley and the wider Central Lancashire area, it does not specifically define settlement boundaries. This was the same position expressed by the Pear Tree Lane Inspector who concluded CS Policy 1 *“does not of itself define settlement boundaries or limit development only to sites within settlements in Chorley borough”*<sup>5</sup>. Other policies within the Chorley Local Plan serve the purpose of limiting development with a range of policies identifying permissible land uses depending on any given site's designation.

2.15. CS Policy 1 seeks to direct development to sustainable locations, which in itself is consistent with NPPF. It does not define the settlement boundaries or place a restriction on development in or on the edge of the Local Urban Centres or Local Rural Service Centres.

2.16. In this context CS Policy 1 is not considered to be out-of-date.

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<sup>4</sup> **CD8.33** Peel Investments v Secretary of State for Housing, Communities & Local Government [2020] EWCA Civ 1175 para. 66

<sup>5</sup> **CD8.1** Appeal - Land at Pear Tree Lane APP/D2320/W/20/3247136 para. 47



## **CS Policy 4 – Housing Delivery**

2.17. CS Policy 4 sets out the strategic housing requirement for Central Lancashire which is divided between the three Central Lancashire Authorities. The policy provides a minimum annual requirement for each of the three authorities, with Chorley required to deliver 417 dwellings per annum. The Position in respect of CS Policy 4 is set out in Mr Saunders' evidence who deals directly with this matter. As such I summarise the position outlined by Mr Saunders insofar as it is relevant to my Proof.

2.18. Mr Saunders' evidence highlights that NPPF paragraph 61 identifies for the purposes of determining housing requirement and minimum housing needed this should be informed by local housing need assessment and/or conducted using the standard methodology. He acknowledges that under NPPF paragraph 74 and footnote 39, CS Policy 4 should be used for the calculation of the 5-year housing land supply on the basis that a review of the CS policy 4 requirement was undertaken in 2017 which found that the policy did not require updating (MOU1). However, he goes on to conclude that there are reasons to apply planning judgement to depart from policy guidance, namely:

- Neither national policy nor guidance is comprehensive or complete.
- Neither NPPF or PPG preclude changes in circumstances since October 2017 being taken into consideration when assessing CS Policy 4 and whether it is out-of-date
- The use of Standard Method Local Housing Need is consistent with the Chain House Lane ruling that CS Policy 4 is out-of-date and the most recent Chain House Lane appeal decision in which the Inspector relied on this ruling
- MOU1 time expired in October 2020 in the setting of its own requirement to be reviewed no less than every 3 years or when new evidence emerges which renders it out-of-date.

2.19. Mr Saunders' evidence makes clear that Policy CS4 is out of date and that Standard Method Local Housing Need is the appropriate figure to calculate Chorley's 5-year housing land supply requirement.

2.20. Mr Saunders' evidence also considers whether Policy CS4 is out-of-date for reasons other than the Council not being able to demonstrate a five-year housing land supply. He concludes this is the case identifying three specific significant changes which have taken place since CS Policy 4 was adopted rendering it out-of-date. These are:



- Significant change in methodology – The introduction of the Standard Method differs significantly from the RSS approach which was the basis for CS Policy 4 and the 2017 MOU1 review which was based on NPPF 2012. It is common ground that the change in methodology is significant.
- Significant increase in Local Housing Need – The Standard Method approach results in a significant increase in housing need from 417 dpa to 537 dpa.
- Significant change in distribution across Central Lancashire – The Standard Method redistributes housing with an increased proportion required in Chorley.

2.21. These conclusions are supported in Mr Saunders' by further evidence, summarised as follows:

- The CS Policy 4 requirement was calculated based on data from 1998-2003 and then redistributed manually and as such is not an accurate representation of Housing Need;
- The methodology behind the CS Policy 4 figures differs significantly from the NPPF methodology which was specifically introduced to significantly boost the supply of homes;
- A review of the MOU through MOU2 concluded that the CS Policy 4 was out-of-date. Following the Pear Tree Lane appeal decision both Preston and South Ribble withdrew from MOU2. Chorley's approach, to continue to use CS Policy 4, is at odds with the other Central Lancashire authorities. The direct result of Chorley applying CS Policy 4 is that only half of the housing requirement across central Lancashire will be delivered.

2.22. For the reasons set out in full in Mr Saunders' evidence it is clear that CS Policy 4 is out-of-date irrespective of NPPF footnote 8 as the significant change in circumstances has rendered the policy inconsistent with the NPPF.

### **Local Plan Policy BNE3 – Safeguarded Land**

2.23. Both of the appeal sites are designated by the Local Plan as Safeguarded Land under Policy BNE3. The Parr Lane, Eccleston site (Appeal B) represents part of an area of Safeguarded Land referenced as BNE3.8, whilst the site at Carrington Road, Adlington (Appeal A) forms part of the Safeguarded Land site BNE3.3.



- 2.24. Paragraph 7.16 of the explanatory text to policy BNE 3 states *“in order that the Green Belt boundaries should be long lasting, land between some major settlements and the Green Belt is safeguarded for future development needs beyond the Plan period”*<sup>6</sup>.
- 2.25. In this respect, and as detailed in the Committee Reports, the sites were originally removed from the Green Belt and designated as Safeguarded Land in 1997 and then retained in 2003 as part of the Local Plan review. The sites were retained as Safeguarded Land in the 2015 Local Plan *“to provide for potential future development needs beyond the plan period”* as confirmed by officers in the Committee Reports<sup>7</sup>. This was also confirmed by the Pear Tree Lane Inspector who described Safeguarded Land as *“to be safeguarded for future development needs beyond the plan period”*<sup>8</sup>.
- 2.26. On this basis Policy BNE3 restricts development within Safeguarded Land other than that which would be permissible in Other Areas of Open Countryside, or the Green Belt. Policy BNE2 of the Local Plan articulates the types of development which would be acceptable in Other Areas of Open Countryside, and this is restricted to agricultural, forestry or other uses appropriate to a rural area and the reuse or rehabilitation of existing rural buildings. It is acknowledged that the proposals for the appeal sites do not fall within any of these forms of development and therefore it is accepted that there is conflict with policy BNE3, insofar as the policy does not support the developments proposed within the plan period.
- 2.27. Paragraph 7.16 explains that policy BNE3 was considered and drafted in the context of paragraph 85 of NPPF 2012. Paragraph 85 of NPPF 2012 is not materially different from current national policy as outlined in paragraph 143 of NPPF. It is accepted therefore that the principle of safeguarded land is consistent with the requirements of NPPF. However, it is important to note that the policies of the Chorley Local Plan, including BNE3, were prepared and adopted in the setting of CS Policy 4 and the associated housing requirement, which for reasons already highlighted is out-of-date.
- 2.28. The Chorley Local Plan, and by necessary implication Policy BNE3, was adopted on the basis of the housing requirement outlined in CS Policy 4, which in turn was derived from the RS with its data baseline of 2003. The Local Plan and policies, including BNE3,

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<sup>6</sup> **CD6.2** Chorley Local Plan para. 7.16

<sup>7</sup> **CD3.14** Parr Lane Committee Report para. 31 & **CD1.19** Carrington Road Committee Report para. 34

<sup>8</sup> **CD8.1** Appeal - Land at Pear Tree Lane APP/D2320/W/20/3247136 para. 7



were adopted on the basis of the development requirements of the Plan at that time and using a methodology considered appropriate at that time. Land was allocated and designated in order to meet those requirements and the release of Safeguarded Land was not deemed necessary to meet these requirements.

2.29. The Local Plan housing requirement set by CS Policy 4 for Chorley is 417 per annum, which equates to 6,255 dwellings for the 15-year plan period 2012-2026. Chorley Local Plan Table 1 on page 18 identifies a housing trajectory and a cumulative target of 9,591 dwellings for the plan period against an identified projection of cumulative completions of 9,946. Sufficient sites were identified to meet this requirement. Safeguarded Land is deemed to be suitable for development, but the appeal sites were not considered to be required to meet the development needs when the Local Plan was adopted. If Safeguarded Land was required at the time it would have been released, there being no other site specific impediments.

2.30. This point is reinforced by the land designations in the Borough. Outside of the Settlement Areas Chorley Local Plan has three distinct land use policies. The majority of this land is designated as Green Belt but otherwise it is designated as Safeguarded Land or Areas of Other Open Countryside. In combination these three designations place strict controls on development, essentially limiting residential development to within the defined Settlement Areas only.

2.31. In short Policy BNE3, and the designation of Safeguarded Land, was predicated on the understanding that the land would not be required within the Plan period to meet the housing requirements of CS Policy 4.

2.32. As I have already highlighted, Mr Saunders' evidence demonstrates that since the Plan's adoption there have been material changes which render CS Policy 4 out-of-date. The introduction of the Standard Method Local Housing Need represents a significant change in the housing requirement which renders the policy of-of-date, and as expanded upon below there is now a need to develop Safeguarded Land to meet the housing needs of the authority before the end of the plan period in 2026.

2.33. The Standard Method Housing Need for Chorley is 517 dwellings per annum which equates to a 5-year requirement, including 5 percent buffer of 2,820 dwellings. It is important to note that the 5-year housing supply period coincides with the end of the plan period to 2026.



2.34. If one considers the total housing supply in Chorley, as outlined in Chorley's Five Year Housing Land Supply Report 2021, the Council has the following supply:

- Allocated Sites with Planning Permission (left to be built) – 1,096<sup>9</sup>
- Allocated Sites without Planning Permission – 559<sup>10</sup>
- Windfall Sites (10 dwellings or more) – 555<sup>11</sup>
- Windfall Sites (fewer than 10 dwellings) – 416<sup>12</sup>
- Chorley Total Housing Supply – 2,599 dwellings.

2.35. Clearly even if all the above identified supply were to be delivered before the end of the plan period, the Council would still be unable to deliver the Standard Method Local Housing Need over the next 5 years. This is accepted by the Council, who considers its deliverable supply to 2026, to be 1,504<sup>13</sup>. The reality is, in line with Mr Saunders' evidence, the Council only has a 2.5 year deliverable supply for the remainder of the plan period<sup>14</sup>. There is without a doubt a need to find and deliver additional sites to meet Housing Needs within the existing plan period based on the Standard Method Local Housing Need.

2.36. Development opportunities in Chorley are constrained by existing Green Belt, Safeguarded Land and Other Areas of Open countryside designations. Furthermore, it is clearly evident from the emerging Local Plan that there are insufficient development opportunities to meet the Borough's needs going forward and that safeguarded land needs to be released for development.

2.37. This is demonstrated by the Council's decision to identify all but one of the current safeguarded sites for potential development in the emerging Local Plan. The Issues and Options of the emerging combined Central Lancashire Local Plan has been consulted on and Chorley has identified sites for development as part of that process<sup>15</sup>. Annex 1 of the Issues and Options Consultation lists sites that are proposed for development by Chorley and the 11 Safeguarded Sites identified for potential development are listed in my Appendix 1. It is agreed in the SoCG that Safeguarded Land will need to be released

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<sup>9</sup> **CD6.15** Five Year Housing Land Supply Statement for Chorley May 2021 Appendix 1

<sup>10</sup> **CD6.15** Five Year Housing Land Supply Statement for Chorley May 2021 Appendix 2

<sup>11</sup> **CD6.15** Five Year Housing Land Supply Statement for Chorley May 2021 Appendix 3

<sup>12</sup> **CD6.15** Five Year Housing Land Supply Statement for Chorley May 2021 Appendix 4

<sup>13</sup> **CD10.4** Housing Statement of Common Ground para. 2.26

<sup>14</sup> **CD10.4** Housing Statement of Common Ground para. 2.27

<sup>15</sup> **CD6.47** Central Lancashire Emerging Local Plan Issues and Options Annex 1



as part of the emerging plan. It should be noted that Chorley specifically undertook a process to identify the “*most appropriate sites*”<sup>16</sup>, this process was not undertaken by Preston or South Ribble Councils in respect of their sites which further confirms Chorley Council’s acknowledgement and recognition that Safeguarded Land will need to be developed and that the appeal sites are suitable.

2.38. Given that the Council only have a 2.5 year deliverable housing supply and even if all their identified supply were capable of coming forward before the end of the plan period, which the council accept it cannot, there would still be insufficient housing sites to deliver the local housing need to the end of the current plan period. Consequently, the acknowledged need to release safeguarded land to meet development needs going forward is likely to be needed before 2026.

2.39. This is supported by the conclusions reached by the Planning Inspector in the Pear Tree Lane Appeal who stated:

*“Whilst the emerging CLLP is at an early stage and the final selection of housing allocations will be determined through the local plan examination process, it clearly recognises that land currently safeguarded in Policy BNE3 for development needs beyond the end of the CLP plan period in 2026, may need to be released before then to meet a housing requirement based on the standard method LHN”<sup>17</sup>.*

2.40. It is clear that there has been no change in circumstances since the Pear Tree Inspector made his decision, i.e., there is no 5-year supply against Standard Method Local Housing Need, Safeguarded Land continues to be identified for development in the emerging local plan and as demonstrated by the Council’s overall supply position there continues to be a need to deliver additional sites within the current plan period.

2.41. As explained in respect of Green Belt, Safeguarded Land and Areas of Other Countryside designations in Chorley there are limited opportunities to accommodate the housing needs of the borough. When considering these designations only Safeguarded Land is identified specifically for the purpose of development, which is not the case with Other Areas of Countryside or Green Belt. Safeguarded Land comprises the identified sites which can accommodate the housing required.

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<sup>16</sup> **CD6.47** Central Lancashire Emerging Local Plan Issues and Options Annex 1 pg. 3

<sup>17</sup> **CD8.1** Appeal - Land at Pear Tree Lane APP/D2320/W/20/3247136 para.50



- 2.42. Furthermore, given that the plan period for the emerging plan starts in 2021 and the Council are suggesting that the emerging plan will be adopted before 2026, Safeguarded Land is likely to be released for development within the current plan period.
- 2.43. It is acknowledged that the reasoned justification to Policy BNE3 and paragraph 143 of NPPF state that safeguarded land is for development beyond the plan period and that safeguarded land should only be granted following an update to a plan. However, the introduction of the Standard Method and the requirement for Chorley to deliver an increased housing need change this.
- 2.44. The Safeguarded Land was identified in the context of CS Policy 4 and associated housing requirement. At the time of adoption, the Local Plan could not have foreseen this change in circumstances and there was therefore an expectation that Safeguarded Land would not be required until beyond the Plan Period. NPPF paragraph 143 d) confirms this approach by requiring it to be “*made clear that the safeguarded land is not allocated for development at the present time*”. This was the case in 2015 when the Plan was adopted, but it is not the case now as there has been a significant change i.e., the introduction of the Standard Method Local Housing Need and associated uplift in housing need and as a consequence the lack of a 5-year housing land supply.
- 2.45. Whilst NPPF paragraph 143 d) and the explanatory text to Policy BNE3 both state that land should only be developed following an update to a plan, this policy should be read in the context of circumstances not changing and there being no requirement to consider the development of safeguarded land in advance of the completion of such a process. However, the Safeguarded Land designation is, together with Green Belt and Other Areas of Open Countryside, constraining development within the Borough and the ability to deliver housing need. Case Law has confirmed that settlement boundaries may be out-of-date depending on the extent that they derive from out-of-date housing requirements<sup>18</sup>. On the same basis, Safeguarded Land is out of date when predicated on an out-of-date housing requirement. This is the case in this instance and was the approach taken by the Chain House Lane Inspector who stated, “*policy G3 is out of date in the scenario whereby the housing requirement is derived from the application of the SM, and I have no substantive basis to consider differently*”<sup>19</sup>.

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<sup>18</sup> **CD8.21** Suffolk Coastal District Council v Hopkins Homes Ltd and another [2017] UKSC 37 para. 63

<sup>19</sup> **CD8.3** Appeal – Land at Chain House Lane APP/F2360/W/19/3234070 para. 33



2.46. Whilst it is acknowledged and accepted that the principle of safeguarded land is consistent with paragraph 143 of NPPF the NPPF is clear in paragraph 3 that “*The Framework should be read as a whole*”. When considered as a whole I consider that the policy is inconsistent with NPPF and places a constraint on the ability of Chorley Council to deliver housing in accordance with Standard Method Local Housing Need and therefore boost significantly the supply of homes.

2.47. It is therefore considered Policy BNE3 is out-of-date.

2.48. In summary, if there is no 5yr supply all three most important policies are automatically out-of-date under Footnote 8. Irrespective of this most important policies CS Policy 4 and Policy BNE3 are out-of-date for the reasons set out above.

### **Assessment of Important Policies as a Whole**

2.49. The final part of the assessment in respect of the datedness of the most important policies is to draw the individual policies together and consider whether, as a whole, the policies are out-of-date.

2.50. Whilst it is concluded that the spatial strategy CS Policy 1 is not out-of-date, for reasons set out above CS Policy 4 and Policy BNE 3 are out-of-date and, therefore when considered as a whole the basket of most important policies is considered out-of-date. This was the same conclusion reached by the Pear Tree Lane Inspector<sup>20</sup>, and as such the appeal should be considered in the context of the ‘tilted balance’ irrespective of the 5-year housing land supply position.

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<sup>20</sup> **CD8.1** Appeal - Land at Pear Tree Lane APP/D2320/W/20/3247136 para. 51



### 3. Policy Weighting

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- 3.1. Having considered whether policies are out-of-date when considered individually or as a whole, it is then necessary to consider the weight that those policies should carry in the planning balance.
- 3.2. I have considered each of the relevant policies below and considered the weight which should be applied in different scenarios whether paragraph 11 and the tilted balance is engaged or not.

#### CS Policy 1

- 3.3. As identified earlier in my evidence the Council has not raised conflict with CS Policy 1 as a reason for refusal and, for the reasons given earlier, it is not considered that either appeal proposal conflicts with this particular policy. In the context of this appeal, it is not considered that CS Policy 1 would direct refusal of either of the appeal sites and the Council does not suggest that this is the case.
- 3.4. It is considered that CS Policy 1 forms part of the basket of most important policies which are out-of-date, and/or that Chorley is unable to demonstrate a 5-year housing land supply in which case the policy is out of date in any event. In these circumstances it is considered that the policy should be attributed reduced weight in the decision-making process to reflect this. In the context of the appeal site and proposals taking account of the recognition that the policy does not of itself conflict with NPPF it should continue carry moderate weight.

#### CS Policy 4

- 3.5. CS Policy 4 provides the housing requirement for Chorley and the wider Central Lancashire area, it sets a minimum housing requirement and, as such the appeal proposals do not conflict directly with this policy. Notwithstanding this it is considered that if the tilted balance is applied that this policy is given very limited weight in the decision-making process.
- 3.6. Whether the policy is deemed out-of-date because Chorley is unable to demonstrate a five-year housing land supply, or because the most important policies are inconsistent



with the NPPF the issue remains the same. The continued use of CS Policy 4 restricts Chorley from being able to deliver its Housing Need in accordance with the Standard Method and NPPF.

- 3.7. The objective of significantly boosting the supply of homes is not achieved through the ongoing application of CS Policy 4. This is an important national objective which is delivered through the delivery of the Standard Method.
- 3.8. Against the Standard Method Local Housing Need Chorley Council has a 2.5 year housing land supply, and as such the continued application of CS Policy 4 will preclude Chorley Council from achieving NPPF objectives.
- 3.9. As identified even if all of Chorley's housing land supply is considered to be deliverable within the plan period there remains insufficient land to deliver the Housing Need within the plan period. Even if an assessment is made against the Council's CS Policy 4 figure, ignoring over supply, the total housing supply for the existing plan period is only slightly greater than the requirement.
- 3.10. Even if it is concluded that the tilted balance is not engaged the weight to be applied to CS policy 4 is tempered by the introduction of the Standard Method Local Housing Need, and significant associated increase in housing need. If it is concluded that CS Policy 4 is the correct housing requirement and that the Council can demonstrate a five-year housing land supply it cannot be ignored that this requirement will expire in September 2022, on the basis of the MOU1 review in September 2017, unless a further review is undertaken, and the housing requirement is not found to need updating.
- 3.11. It is demonstrated and accepted that Chorley Council does not have the housing supply to deliver Standard Method Local Housing Need for the remainder of the plan period. The expiry of the CS Policy 4 housing land supply requirement in September 2022 and the consideration that it is unlikely that a review will be undertaken before this date and conclude that CS Policy 4 does not requiring updating is a significant material consideration to be weighed against the policy.
- 3.12. In summary, limited weight must be afforded to CS Policy 4 whether the tilted balance is engaged because there is no 5-year housing land supply, or if it is out of date due to inconsistency with national policy. In any event, as the policy sets a minimum housing requirement there is no specific conflict with this policy.



### Local Plan Policy BNE3

- 3.13. In the setting of the tilted balance, it is considered that the BNE3 and the safeguarded land designations of the two appeal sites should be given limited weight in the decision-making process.
- 3.14. The policy places a constraint on development which restricts Chorley's ability to deliver its housing needs within the current plan period. This has implications for the weight to be applied in the context of the tilted balance.
- 3.15. Even if all of Chorley Council's supply sites identified in their 5 Year Housing Land Supply document, were to come forward within the current plan period, including those not considered to be deliverable this would not deliver the housing required by Standard Method Local Housing Need.
- 3.16. The Council has already acknowledged safeguarded land will be made available for development within the current plan period as part of the emerging plan.
- 3.17. BNE3 is essentially a timing policy, not a suitability policy. There has been a significant change in circumstances in Chorley and Policy BNE3 is constraining housing delivery. The suitability of Safeguarded Sites would have been assessed as part of that designation. In this context Policy BNE3 should be given limited weight.
- 3.18. In the setting of the tilted balance, and on the basis of the above, limited weight should be applied to conflict with policy BNE3. This is consistent with the approach taken by the Inspector at Pear Tree Lane who stated that they attached "*limited weight to the conflict with Policy BNE3, because it is out-of-date*"<sup>21</sup>. It is also consistent with the approach of the Chain House Lane Inspector who, whilst acknowledging the policy as out-of-date applied significant weight to South Ribble's Safeguarded Land Policy on the basis that a healthy housing supply could be demonstrated<sup>22</sup>. This is not the case in Chorley, where it has been demonstrated there is a need for housing.

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<sup>21</sup> **CD8.1** Appeal - Land at Pear Tree Lane APP/D2320/W/20/3247136 para. 101

<sup>22</sup> **CD8.3** Appeal - Land at Chain House Lane, South Ribble APP/F2360/W/19/3234070 para. 52



## 4. Conclusion

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- 4.1. NPPF paragraph 11(d) identifies that where the most important policies for determining an application are out-of-date planning permission should be granted unless specific policies in the NPPF provide a clear reason refusal or any adverse impacts of doing so would significantly or demonstrably outweigh the benefits.
- 4.2. Footnote 8 which accompanies paragraph 11 advises that the most important policies should be considered out-of-date automatically if the authority is unable to demonstrate a 5-year supply of deliverable sites. The evidence provided by Mr Saunders demonstrates that the Council is unable to demonstrate a deliverable 5-year supply.
- 4.3. Notwithstanding the 5-year supply position it is also contended that the most important policies are out-of-date due to a lack of consistency with NPPF.
- 4.4. For the purposes of the appeals, and notwithstanding the fact the reasons for refusal only relate to Policy BNE3, the most important policies are considered to be CS Policy 1, CS Policy 4 and Local Plan Policy BNE3.
- 4.5. For the reasons presented earlier it is concluded that, on an individual basis CS Policy 1 is not out-of-date. CS Policy 4 is out-of-date for the reasons set out in Mr Saunders' evidence relating to the introduction of the Standard Method including inconsistent methodology, significant increase in housing need and a change in distribution across Central Lancashire. Policy BNE3 is out of date as Chorley Council is unable to deliver its housing requirement within the plan period. There is accordingly a requirement for Safeguarded Land to be developed to meet needs now, not beyond the plan period. When considered in the round the most important policies are considered to be out-of-date.
- 4.6. On the basis of the assessment undertaken it is considered that the most important policies are out-of-date and that the appeal should be assessed in the context of the 'tilted balance' or presumption in favour of sustainable development.
- 4.7. The weighting of policies in the planning balance has been assessed and the only policy against which there is direct conflict is BNE3. It is considered that this conflict should



be given limited weight in the planning balance because of the need to deliver housing and the lack of any specific harm associated with the delivery of either of the appeal sites.



## **Appendix 1**

List of Safeguarded Sites proposed for potential development in  
Emerging Local Plan Issues and Options

## Appendix 1

### List of Safeguarded Sites proposed for potential development in Emerging Local Plan Issues and Options

<b>Annex 1 SHELAA Reference</b>	<b>Address</b>	<b>site area</b>	<b>current status</b>	<b>settlement</b>
19C227x	North of Bon's Lane (BNE3.3) Adlington	3.95	safeguarded	Adlington
19C228x	Land SE of Belmont Road (BNE3.11)	4.47	safeguarded	Adlington
19C229x	Harrison's Farm (BN E3.2) Adlington	9.2	safeguarded	Adlington
19C230x	Land off Westhoughton Road, Adlington	0.68	safeguarded	Adlington
19C264x	Pear Tree Lane (BNE3.9)	11.57	safeguarded	Euxton
19C256x	Blainscough Hall (BNE3.6), Coppull	6.69	safeguarded	Coppull
19C277x	West of M61 (BNE3.10) Whittle-le-woods	35.77	safeguarded	Whittle-le- Woods
19C254x	North of Hewlett Avenue (BNE3.5) Coppull	2.6	safeguarded	Coppull
19C262x	East of Tincklers Lane (BNE 3.7) Ecclestone	5.66	safeguarded	Ecclestone
19C263x	Bradley Land and Parr Lane (BNE3.8)	1.48	safeguarded	Ecclestone
19C272x	Babylon lane (BNE3.4)	2.49	safeguarded	Anderton/Heath Charnock