



DEPOL

CHARTERED TOWN PLANNERS
established 1986

**Summary Policy Proof of Evidence
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Conjoined Appeals in Chorley
3284692 & 3284702

January 2022



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1. Summary Proof

- 1.1. This summary Proof of Evidence is submitted jointly on behalf of Metacre Ltd and Hollins Strategic Land in support of their appeals against Chorley Council's refusal to grant planning permission for the following:.
- 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. 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that where there are no development plan policies, or the policies most important for determining the application are out-of-date permission, should be granted unless: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.
- 1.3. This is commonly referred to as the tilted balance and this Proof considers whether policies are out-of-date, whether the paragraph 11d) titled balance is triggered and the weight to be attributed to relevant policies.
- 1.4. In accordance with the Wavendon judgement, to establish whether the most important policies are out-of-date it is necessary to consider the policies in the following manner:
- identify the most important policies for determining the appeal.
 - examine the policies on an individual basis and consider whether they are out-of-date.
 - consider the most important policies as a whole and determine whether they are out of date.
- 1.5. It is common ground that the most important policies are Core Strategy Policies 1 and 4, and Local Plan Policy BNE3.



- 1.6. NPPF footnote 8 advises that if the authority cannot demonstrate a 5-year supply of deliverable housing sites then the most important policies should automatically be considered out-of-date for the purposes of NPPF paragraph 11d). If it is concluded that Chorley cannot demonstrate a 5-year housing land supply then the tilted balance is automatically triggered.

CS Policy 1

- 1.7. CS Policy 1 is a strategic spatial policy which identifies a hierarchy of settlements across central Lancashire identifying where growth and investment will be supported. It identifies Service Centres as acceptable locations for growth and investment.
- 1.8. CS Policy 1 is not considered to be out-of-date for the purposes of these appeals.

CS Policy 4

- 1.9. CS Policy 4 sets out the strategic housing requirement for Central Lancashire which is divided up between the three authorities. The policy provides a minimum annual requirement for each of the three authorities. The position in respect of Policy CS4 is set out in Mr Saunders' evidence in full and I summarise the position insofar as it is relevant.
- 1.10. Mr Saunders concludes that for the purposes of NPPF paragraph 74, the Standard Method Local Housing Need figure should be used for a range of reasons. On this basis Chorley cannot demonstrate a 5-year housing land supply.
- 1.11. Mr Saunders concludes that the introduction of the Standard Method Local Housing Need represents a significant change which renders the policy out of date. The reasons for this are a significant change in methodology for the calculation of housing need; a significant increase in housing need and a significant change in housing distribution.

Local Plan Policy BNE3

- 1.12. Both of the appeal sites are designated by the Local Plan as Safeguarded Land under Policy BNE3.
- 1.13. The purpose of Safeguarded Land is to provide for future potential development needs. In this context BNE3 restricts development to that which would be permissible in Other Areas of Open Countryside or Green Belt.



- 1.14. It is acknowledged that the safeguarding of land in principle is consistent with NPPF paragraph 143. However, the appeal sites were safeguarded on the basis of CS Policy 4 housing requirement which is considered to be out-of-date.
- 1.15. Safeguarded Land was safeguarded in the adopted plan as it was not required to meet the housing requirement of CS Policy 4 because sufficient land had been identified. If land was required, at the time of adoption, safeguarded land would have been released.
- 1.16. Chorley Council's Standard Method Housing Need equates to a 5-year requirement, including 5 percent buffer of 2,820 dwellings. This 5-year supply requirement coincides with the end of the plan period in 2026.
- 1.17. All of Chorley's housing land supply regardless of whether it forms part of the Council's 5-year supply, equates to 2,599 dwellings. Even if all these sites were delivered the Standard Method Local Housing Need would not be met. In reality Chorley only has a 2.5-year supply for the remaining 5 years of the plan period.
- 1.18. Chorley Council identifies all but one Safeguarded Land sites as a "most appropriate site" for potential development in the emerging Local Plan. Of this the Pear Tree Lane Inspector 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"¹.*
- 1.19. There has been no change in circumstance since the Pear Tree Lane appeal decision.
- 1.20. In the context of extensive Green Belt, Other Areas of Open Countryside and Safeguarded Land opportunities for development in Chorley are limited. Safeguarded Land is the only designation which is specifically identified for development.
- 1.21. The reasoned justification to Policy BNE3 and NPPF paragraph 143 identify Safeguarded Land as for development beyond the plan period following a plan update. However, the introduction of the Standard Method Local Housing Need and associated

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



significant uplift in housing need represents a significant change in circumstances. Safeguarded Land, Green Belt and Other Areas of Open Countryside are constraining development. Case Law has confirmed that settlement boundaries may be out-of-date depending on the extent that they derive from out-of-date housing requirements². On the same basis, Safeguarded Land is out of date when predicated on an out-of-date housing requirement.

- 1.22. NPPF paragraph 3 states that “*The framework should be read as a whole*”. When considering the NPPF as a whole, Policy BNE3 places a constraint on the ability of Chorley to deliver housing in accordance with Standard Method Local Housing Need and therefore be able to significantly boost the supply of homes. Policy BNE3 is out-of-date.

Assessment of Most Important Policies as a Whole

- 1.23. 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 and the ‘tilted balance’ engaged.

Weighting of Policies

- 1.24. There is no conflict with CS Policy 1 in respect of either appeal site and there has been no suggestion that this is the case. CS Policy 1 forms part of the basket of Most Important Policies which are out of date, or the policy is out-of-date owing to a lack of a 5-year housing land supply. In these circumstances it is considered that the policy should be attributed moderate weight.
- 1.25. CS Policy 4 provides the housing requirement for Chorley and the wider Central Lancashire area. In the setting of the tilted balance limited weight should be applied to this policy. Its continued use restricts Chorley’s ability to deliver its Housing Need and the objective of significantly boosting the supply of homes.
- 1.26. Even if it is concluded that the tilted balance is not applied, the weighting to CS Policy 4 is tempered by the introduction of the Standard Method Local Housing Need and associated increase in housing need. It is also material that Local Housing Need will be

² **CD8.21** Suffolk Coastal District Council v Hopkins Homes Ltd and another [2017] UKSC 37 para. 63



become the default housing need figure for Chorley in September 2022 unless a review is undertaken, which seems unlikely.

- 1.27. In the setting of the tilted balance, it is considered that policy BNE3 should be attributed limited weight. The policy places a constraint on development and Chorley's ability to deliver its housing needs within the current plan period.

Conclusion

- 1.28. On the basis of Paragraph 11d) and footnote 8 Chorley Council is unable to demonstrate a 5-year housing land supply and the most important policies are out-of-date. Alternatively, the policies are considered out-of-date due to inconsistency with the NPPF.
- 1.29. 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 Local Housing Need. Policy BNE3 is out of date as Chorley Council is unable to deliver its housing requirement within the plan period, and as such there is a requirement for Safeguarded Land to be developed to meet needs now.
- 1.30. 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.
- 1.31. 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.