

# Appellants' Joint Position Statement

## Hollins Strategic Land and Metacre Ltd.

Appeal A – APP/D2320/W/21/3284692  
Land at Carrington Road, Adlington

Appeal B – APP/D2320/W/21/3284702  
Land South of Parr Lane Eccleston

### Introduction

1. This statement is made jointly by Hollins Strategic Land and Metacre Ltd, the Appellants in the present appeals. The statement sets out and summarise the implications of recent decisions relating to 5no sites in Preston and one site (Blainscough Hall) in Chorley. The decisions considered as a principal controversial issue the correct approach to calculating the housing requirements for the Central Lancashire planning authorities (Preston, Chorley and South Ribble).
2. Inspector George Baird presided over all of the above mentioned appeals in Preston and the decision letters were issued on 3<sup>rd</sup> February 2022. The reasoning in relation to housing land supply was the same in respect of each of the decisions. References to paragraph numbers in this Joint Statement will be to the decision letter for Land at Swainson Farm, Goosnargh (Refs: 3258896 & 3258898) and given the “DLP/x” abbreviation.
3. Inspector Helen Hockenhull determined the Chorley appeal: land at Blainscough Hall, Coppull (Ref: 3275691). References to that decision letter will be given the “DLC/x” abbreviation.

**(1) Housing Requirement**

4. In relation to all of the appeals, a central issue was whether the housing requirement for Preston and Chorley (for the purposes of §74 NPPF) should derive from policy 4 of the Central Lancashire Joint Core Strategy (“CLCS”) or the Standard Method (“SM”). For Chorley, policy 4 of the CLCS set an annual requirement of 417 dwellings whereas the SM requirement is 537.
5. In relation to the Blainscough Hall (Chorley) appeal, Inspector Hockenhill made the following key findings:
  - a. The CLCS requirement was based on the Regional Spatial Strategy (“RSS”), which was manually adjusted to reflect the spatial strategy of promoting greater growth in Preston (DLC/19);
  - b. The Central Lancashire authorities carried out a review of the CLCS housing requirement (“MOU1”) in accordance with Footnote 37 (now Footnote 39) of the NPPF (DLC/20);
  - c. In 2020 the Central Lancashire authorities commissioned a housing study to inform a further agreement as to the calculation and apportionment of housing numbers across the three authority areas. This proposed agreement was known as MOU2 (DLC/21);
  - d. The 2020 housing study calculated Chorley’s housing requirement as 569 dpa but the requirements for the authorities were distributed, resulting in a housing need figure for Chorley of 282 dpa (DLC/21);
  - e. MOU2 is now defunct. Preston and South Ribble consider that the correct housing requirement emerges from the SM. Chorley reverted to CLCS Policy 4 (DLC/22-23);
  - f. Chorley’s case at the appeal was that the application of the SM skews development to Chorley partly as a result of high delivery rates in the Borough (DLC/24);
  - g. However, the Inspector recognised that Chorley’s case amounted to a criticism of the Standard Methodology itself. It was not within her (the Inspector’s) remit to question the appropriateness of the Standard Methodology (DLC/26).
  - h. The Inspector rejected the suggestion that the application of the Standard Methodology might have a negative effect on the delivery of Strategic Sites and locations that were underpinned by the economic growth aspirations and planned

infrastructure investment (such as the City Deal) in Preston and South Ribble or on any other developments according with the spatial pattern of development envisaged by the CLCS (DLC/17).

- i. In MOU2 all three authorities endorsed the conclusion that the housing requirement in CLCS Policy 4 was out of date and until such time as a new local plan is adopted the logical conclusion is that the SM should be used to calculate the 5 year housing supply (DLC/28);
  - j. Chorley's attempt to revert to Policy 4 for its housing requirement, having previously agreed that Policy 4 is out of date, is contradictory (DLC/29);
  - k. Having referred to a number of legal authorities and other appeal decisions, the Inspector recognised that planning policies can become out of date as a result of events since adoption such as a change in policy. She concluded that the important point was not that the standard method had been introduced, but that its application resulted in a significant change in the housing need figures for Chorley and also a change in the distribution in housing need in the HMA (DLC/30). In Chorley, the very different method for calculating local housing need through the SM therefore represented a significant change to national policy, which rendered Policy 4 out of date (DLC/35);
  - l. The housing land supply for Chorley should be calculated against the SM, not policy 4 (DLC/36). Accordingly, the housing requirement for Chorley is 537 dwellings a year (DLC/30).
6. The reasoning deployed by Inspector Baird on this question, albeit in relation to a different local authority, was not materially different from Inspector Hockenhull's. The salient points can be summarised as follows:
- a. The parties agreed that MOU1 was a review for the purposes of §74/footnote 39 NPPF (DLP/24);
  - b. The issue was whether the introduction of the SM constitutes a significant change sufficient render the adopted CLCS Policy 4 requirement out of date (DLP/24);
  - c. A holistic approach should be taken to NPPF and the PPG. Whilst neither refers explicitly to 'significant change', if one takes both the NPPF and PPG in the round, it is open to a decision taker to consider whether CLCS Policy 4 is out of date as a consequence of a significant change in circumstances (DLP/27);

- d. Policy 4 is based on a manual redistribution of the housing requirement set out in the 2008 Regional Strategy for the Northwest. Whilst the age of the policy is not, on its own, indicative of it being out of date, the base evidence for calculating housing need has materially changed compared to the evidence used to calculate housing requirements under the RSS-influenced Policy 4 (DLP/28);
- e. Having regard to the totality of the evidence, as well as the decisions at Cardwell Farm and land South of Chain House Lane, the difference between the CLCS Policy 4 housing requirement and that generated by the SM is a significant change that renders this policy out-of-date (DLP/30).
- f. It is clear to the Appellants that this conclusion resulted from the Inspector's exercise of planning judgement.

**(2) Oversupply**

7. Chorley (but not Preston) argued that past delivery rates in the Borough should be used to reduce both the overall plan period housing requirement and the annual housing figure (DLC/38 – 39). Chorley contended that the residual annual housing requirement, using this approach, should be 104 dpa (DLC/39).
  
8. Inspector Hockenull rejected this argument for the following reasons:
  - a. Chorley’s position resulted in the plan requirement becoming a target rather than a minimum figure. As such, it conflicts with the NPPF’s objective of boosting significantly the supply of housing (DLC/40);
  - b. CLCS Policy 4 (a) sets a minimum annual requirement of 417 dwellings per annum for Chorley. Accounting for oversupply, so that the residual annual requirement becomes 104 dwellings per annum, would be inconsistent with this part of the policy (DLC/42);
  - c. The Council’s approach would also be inconsistent with CLCS Policy 4(c). That part of the policy requires the Council to demonstrate a continuous 5 – year supply from the start of each monitoring period. The Council’s approach looks back to the start of the Plan period and is inconsistent with this approach. The Council’s ‘over delivery’ argument would not ensure a rolling 5-year housing land supply. The Council’s approach would therefore be inconsistent with policy 4(c) (DLC/42);
  - d. Whilst the Planning Practice Guidance (“PPG”) allows authorities to offset oversupply in a given year against past shortfalls, it does not necessarily follow that oversupply in earlier years of the plan period can be used to offset future delivery (DLC/43 – 44);
  - e. The Council pointed to the fact that the CLP trajectory had anticipated strong housing delivery in the early part of the Plan period, and a reduction in delivery to the end of the Plan period. However, the CLP is a non-strategic Plan, which is required to be consistent with the CLCS, and the purpose of the trajectory was to demonstrate that the housing requirement over the Plan period could be met. The projected reduction in supply in the latter part of the Plan period does not negate the importance of maintaining a five-year housing land supply, and the failure to do so engages the tilted balance (DLC /45 - 46).

- f. The projected reduction in supply in the latter part of the Plan period also has implications for the ability of the Council to meet the Housing Delivery Test (“HDT”). The HDT, whilst separate from the NPPF requirement to identify a 5-year housing supply, is a material consideration because it is (i) complementary to the NPPF; and (ii) is aimed at achieving the Government’s objective of boosting housing supply (DLC/47);
- g. Inspector Hockenull recognised that there is an absence of policy or guidance on how oversupply should be treated but noted that the Courts have confirmed that it calls for the application of planning judgement by the decision taker (DLC/48). Applying her judgement, the Inspector held that the Council’s approach would reduce the ability of the authority to meet future housing needs especially in the context of an acute shortfall of affordable housing (DLC/50);
- h. In the circumstances that exist in Chorley, an oversupply from previous years should not be used to offset future housing requirements. To conclude otherwise would be contrary to the aims of the NPPF and would fail to significantly boost the supply of housing (DLC/51).

**(3) Housing Supply in Chorley**

- 9. In light of the above and considering the parties’ differing positions on deliverable sites, the housing land supply for Chorley is between 2.4 and 2.6 years (DLC/53).
- 10. Accordingly, the tilted planning balance is engaged *per* §11(d) NPPF (DLC/53).

**(4) Most Important Policies**

- 11. At the Chorley Inquiry it was agreed (as here) that the most important policies for determining the appeal were Policy 1 and Policy 4 of the CLCS and Policy BNE3 (safeguarded land) of the Chorley Local Plan (“CLP”) (DLC/54).
- 12. Paragraph 11 (d) and footnote 8 provide that where the Council cannot demonstrate a five-year housing land supply, the policies that are most important for determining the application are out of date. In the context of the current appeals, the policies most important for

determining the application (Policy 1, Policy 4 and BNE3) are therefore out of date as a result of the inability of the Council to demonstrate a five-year housing land supply.

13. In addition, given that Policy 4 is out of date on its own terms for the reasons set out above, it follows that CLP Policy BNE3 would also be out of date. This is because it has been based on the Policy 4 housing requirement (DLC/54). Inspector Hockenull therefore concluded that all of the most important policies for the current appeals are out of date.
14. With particular reference to Policy BNE3, whilst it remains generally consistent with NPPF §143, it is based on a housing requirement that is (i) out of date (because it is too low); (ii) inconsistent with the local housing need methodology; and (iii) inconsistent with the NPPF. Limited weight should therefore be given to conflict with Policy BNE3 (DLC/87). Policy BNE3 constrains the ability of Chorley to deliver a sufficient quantum of housing to meet its housing needs.
15. The Appellants also note that in the BH decision, Inspector Hockenull accepted that in respect of the emerging Plan, there will be a requirement for the Council to look towards non-Green Belt sites, in particular safeguarded land sites, to meet future development needs before considering the release of land in the Green Belt. The release of safeguarded sites now would not, therefore, undermine the emerging Local Plan (DLC/16).
16. The Appellants submit strongly that the same conclusions should be reached in the present appeals. The Appellants' joint position in these appeals is that the release of the appeal sites is needed now to meet housing needs now and going forwards.
17. It is also noted that Inspector Baird considered whether Policies 1 and 4 of the CLCS were inconsistent with the NPPF sufficient to render them out of date and to tilt the planning balance (DLP/32-37). He held that Policy 4 was out of date (DLP/34) but that the key question to determine whether Policy 1 was out of date was as follows: "*does this policy constrain the ability of the lpa to deliver an adequate supply of housing such that further housing sites located at the lowest order settlements are required?*" (DLP/36).
18. In Preston, the circumstances were different. First, the sites in Preston were Policy 1 (f) settlements (smaller villages) where development will typically small scale and limited to infilling, conversion of buildings, and proposals to meet local need, unless there are exceptional reasons for larger scale redevelopment schemes. Both appeal schemes before this

inquiry are in settlements that sit higher in the settlement hierarchy: Adlington is a Urban Local Centre where some growth and investment is encouraged to meet housing needs (1 (d)), and Eccleston is a Rural Local Service Centre where limited growth and investment will be encouraged to help meet local housing needs and to support the provision of services to the wider area. It is no part of the Council's reason for refusal or case to the inquiry that the development of the appeal sites is contrary to the spatial hierarchy in CS1, and the Council accepts that the proposal is in compliance with policy CS1 (see Planning Statement of Common Ground paragraph 5.16).

19. On the basis that policy 1 does not itself operate as a restriction on development on the edge of Local Urban Centres or Local Rural Service Centres, Policy 1 is not out of date on its own terms (2.16 Policy Proof Chris Betteridge).
20. The position would plainly be otherwise if Policy 1 were interpreted to constrain development. As set out above, that is not here part of the Council's case.
21. The Appellants note that in the Goosnargh/Preston decisions, the Inspector noted that Policy 1 is not a "fully fledged development management policies", in that (in Preston) it did not define settlement boundaries or limit development to sites within settlements (DL/35). However, the Development Plan is to be read as a whole. This meant that, in Preston, Policy 1 was read together with Policy EN1 and HS4 – 5. The Inspector found that these policies did not together constrain the supply of housing because Preston was able to deliver a healthy supply of housing of some 15 years. Therefore, although Core Strategy Policy 4 was out of date, taking the suite of policies in the round, the most important policies for determining the application (Policy 1, Policy 4 and EN1) were not out of date in the circumstances that exist in Preston.
22. In these appeals, in light of Inspector Hockenull's findings as to housing land supply (between 2.4 – 2.6 years), the basket of policies taken in the round (Policy 1, Policy 4 and BNE3) do materially constrain the ability of Chorley to deliver an adequate supply of housing. Accordingly, the circumstances here are materially different to those that exist in Preston, and the basket of the most important policies for determining the application (Policy 1, Policy 4 and BNE3) is out of date.

23. For all of those reasons, the most important policies for determining the application are out of date as they constrain housing delivery, and further sites such as the appeal sites need should be released now to meet identified needs.

**(5) Conclusions and Overview**

24. The decisions handed down by Inspectors Baird and Hockenhull have a direct and determinative impact on the present appeals. It is now unarguable that:

- a. The housing requirement for Chorley is derived from the SM;
- b. Chorley cannot demonstrate a 5 year supply of housing land. The present supply is between 2.4 – 2.6 years, which is a substantial shortfall;
- c. The tilted planning balance is engaged *per* §11(d) NPPF;
- d. The most important policies for determining the Appeals are out of date by virtue of the lack of a deliverable housing supply and because they are inconsistent with the NPPF as they constrain the ability of the LPA to deliver an adequate supply of housing;
- e. Only limited weight can be given to conflict with Policy BNE3 CLP, which is the principal relevant policy in the instant appeals.

25. It is therefore unsurprising that Chorley Borough Council has withdrawn its reasons for refusal in respect of both Appeals: see CBC letter dated 4<sup>th</sup> February 2022.

26. It has always been common ground that there are no site specific reasons for withholding planning permission, the Council's case resting on an 'in principle' objection to the release of safeguarded land. That reason has now fallen away.

27. To the extent that benefits of the schemes should be taken into account, the Appellants note Inspector Hockenhull's findings as follows:

- a. Significant weight was given to the delivery of 123 homes (DLC/88). The individual and cumulative contributions of the Appeal Schemes should carry the same weight;
- b. The delivery of affordable housing in the context of a significant and worsening shortfall of such housing, should be given a minimum of significant weight (DLC/89 – 91).

28. The site specific proofs of evidence for each of the Appeal Sites set out in more detail the additional economic, social and environmental benefits that would flow from granting planning permission. In any event, it is irrefutable that the limited weight that can be attributed to the breach of the development plan does not significantly and demonstrably outweigh the benefits of each scheme.
  
29. In the circumstances, the Appellants planning permission should be granted for both proposals subject to the imposition of conditions and the execution of planning obligations.