

# Appeal 3234070

## Statement of Common Ground

Appeal following refusal of outline planning application  
07/2018/9316/OUT for up to 100 dwellings – Chain House  
Lane, Whitestake

for Wainhomes (North West) Ltd

Appeal Ref APP/F2360/W/19/3234070

LPA ref: 07/2018/9316/OUT



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## 1. Introduction

- 1.1 This Statement of Common Ground has been prepared and agreed by the Appellant and South Ribble Council. This is an updated Statement of Common Ground for the redetermination of the appeal.
- 1.2 This statement is structured as follows:-
- 2) The Appeal Proposals
  - 3) Site Description
  - 4) Planning Policy
  - 5) Agreed Matters
  - 6) Key Issues
  - 7) Draft Heads of Terms
  - 8) Responses from Statutory Consultees - Summary

### Key Changes

#### High Court Decision

- 1.3 The appeal decision dated 13th December 2019 was the subject of a legal challenge, which was lodged by the Appellant in January 2020. In February 2020, the Secretary of State agreed that the appeal decision should be quashed as it was legally flawed. However, South Ribble Council subsequently resolved to defend the Secretary of State's decision and a Court hearing took place on 17<sup>th</sup> June 2020.
- 1.4 The High Court Judgement for Chain House Lane was published on 21<sup>st</sup> August 2020 and Mr Justice Dove quashed the appeal decision on Ground 5. The Judgement is CD7.1.

#### Pear Tree Lane Appeal Decision

- 1.5 An appeal decision was issued by the Planning Inspectorate in August 2020 for a scheme for residential development in Chorley on Safeguarded Land (Pear Tree Lane, Euxton). Whilst that decision was in Chorley, it was determined against the Central Lancashire Core Strategy and was a site designated as Safeguarded Land in the Chorley Local Plan. Both parties consider this to be a relevant decision for this appeal and is CD6.2.

### Housing Requirement

1.6 It is agreed that:

- (a) the adopted strategic policy for the purposes of paragraph 73 is CS policy 4,
- (b) the policy is more than 5 years old, and
- (c) it was subject to review in 2017 when it was found not to require updating.

1.7 The Council contends that the third anniversary of the first MOU has elapsed, the NPPF revised, the standard methodology introduced and updated evidence produced which represent a significant change in circumstances which render the first MOU and Policy 4 out-of-date.

1.8 The Appellant considers the first MoU to constitute the outcome of the 2017 review for the purpose of footnote 37 and paragraph 73 of the Framework. The fact that Policy 4 was reviewed and found not to require updating in 2017 is why the Appellant contends that the five year housing land supply should be measured against Policy 4.

1.9 A further Memorandum of Understanding and Statement of Cooperation (MoU2) which addresses Core Strategy Policy 4 was published in April 2020 with a Statement of Common Ground in May 2020. The LPA considers this constitutes a second review. The Appellant disagrees and continues to use Policy 4 of the Core Strategy.

### Housing Land Supply Position

1.10 Please see Housing Supply Statement of Ground.

## 2. Appeal proposal

2.1 This appeal seeks outline planning permission for the construction of up to 100 dwellings with access considered. The final layout, scale, landscaping and appearance would be the subject of a reserved matters application.

2.2 The proposed illustrative site layout submitted with the original application shows how the dwellings can be comfortably accommodated on the site. This was not submitted for approval but a condition is proposed to require any application for the approval of reserved matters to be designed in substantial accordance with the illustrative layout.

2.3 The application was accompanied by the following documents:

- Illustrative Layout Plan Ref 1638/WHD/CHL/SK01 by DGL Associates;
- Ecology Survey and Assessment (October 2018) by ERAP;
- Access Arrangements Plan Ref: SCP/18355/F01 by SCP;
- Tree Survey Report by Trevor Bridge;
- Phase 1 Geo Environmental Desk Study Report by REFA (Ref: 18119);
- Planning, Design and Access Statement
- Flood Risk Assessment; and,
- Transport Impact Assessment prepared by SCP (October 2018) and (April 2019).

2.4 The application was determined on the following plans:

- Illustrative Layout 1638WHD/CHL/IM01 Rev A
- SCP/18355/F02 (Appendix 2 of April 2019 TA)
- SCP/18355/SK07 (Appendix 4 of April 2019 TA)

2.5 The access plans and illustrative layout were revised and submitted to the LPA as part of an updated TA in September 2019 (**CD3.15**). This was raised with Inspector during the Case Management Conference for the original appeal and it was agreed that the change was minor and that allowing it to be considered would cause no prejudice. The only change was that the access plan and masterplan were revised to avoid a tree on the north eastern boundary. This

was undertaken with the agreement of the LPA and LCC as Highway Authority. Therefore the previous appeal proceeding on the following plans:

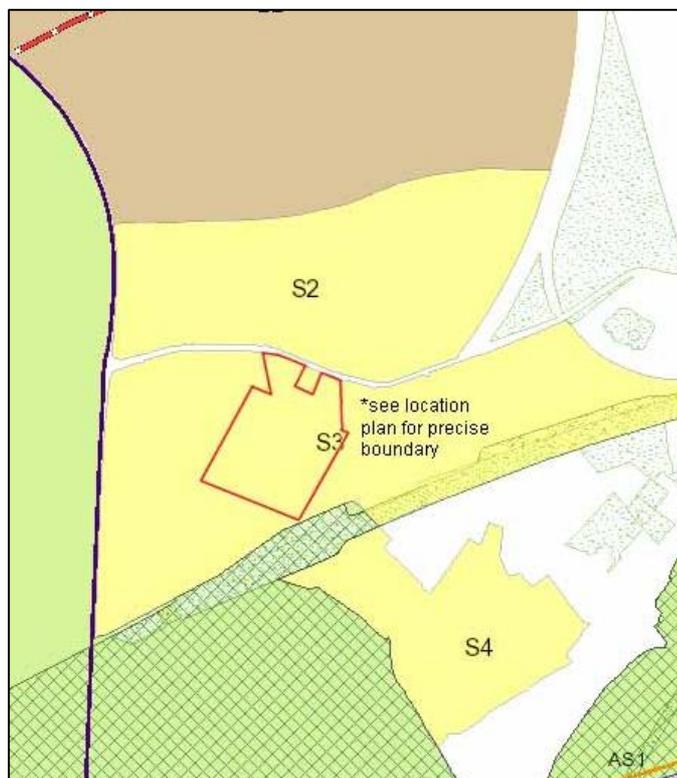
- SCP 18355/FO2 Rev B (**CD3.5**); and,
- 1638WHD/CHL/IM01 Rev B (**CD3.3**).

- 2.6 Following the third reason for refusal, an Air Quality Assessment was prepared and submitted to the LPA in August 2019. This demonstrates that the proposal would be compliant with Policy 30 of the Central Lancashire Core Strategy (CS) and would not cause harm due to air pollution. The withdrawal of the third reason for refusal was confirmed by the Planning Committee on 18<sup>th</sup> September 2019.
- 2.7 All of the proposed dwellings within the appeal site would be served by a single access road which would be taken from Chain House Lane. The main internal access road is shown on the Illustrative Site Layout in a north/south direction and the precise details would form part of the reserved matters application and provide access to the adjoining parcels of land controlled by Homes England. Access does not form part of the reason for refusal and is an agreed matter for the purposes of this appeal.

### **3. Site and area description**

- 3.1 The appeal site is approximately 3.6 hectares in size and is located on a greenfield site which is positioned to the south of Chain House Lane and east of the villages of Whitestake, New Longton and the A582 Penwortham Way.
- 3.2 The site is located within a linear ribbon of development which is established along Chain House Lane. There are existing residential properties directly to the north (along Chain House Lane), and to the west (along Brook Lane). The north eastern part of the site abuts Church Lane with a dwelling located on the junction of Coote Lane and Church Lane. The remaining land is surrounded by open fields which are contained to the east and south by the Ormskirk branch railway line.
- 3.3 Access to the site can be served directly from Chain House Lane.

3.4 The land is designated within the South Ribble Borough Local Plan under Policy G3 as Safeguarded Land and forms part of the South of Coote Lane and Chain House Lane allocation (S3). This can be seen from the extract of the proposals map in Figure 1 below.



**Figure 1: South Ribble Policies Map (2015) extract - red line superimposed**

- 3.5 The site is neither located within a Conservation Area nor within close proximity of any designated heritage assets or Tree Preservation Orders.
- 3.6 The site is located within Flood Zone 1 and therefore has a low probability of flooding.
- 3.7 There are no public rights of within or near to the site that would be affected by the proposed development.
- 3.8 The site's accessibility to local services and amenities is as follows:
- The nearest bus stops are located directly adjacent to the site boundary on Church Lane; 0.2km from the site on Chain House Lane providing hourly services into Lostock Hall and Preston.

- Lostock Hall railway station is located just over a mile away from the site (approx. 6 mins by cycle and 21 mins walking<sup>1</sup>) which provides access to Preston, Blackburn, Leeds and York.
- The nearest retail provisions are located in Lostock Hall which is approx. 0.82 miles from the site.

3.9 The Council previously agreed in the SOCG to the previous inquiry that the site benefitted from good accessibility to local services and amenities and that retail provision were a comfortable walking and cycling distance for future residents. The Council's witness for this inquiry takes a different view regarding accessibility to services which he will address in evidence.

3.10 The appeal proposes financial contributions to bus services to support the continued 114 bus service for the next 5 years. The consideration of this in the planning balance will be addressed in evidence.

3.11 The site is an accessible location for development.

## **4. Planning policy**

### **Development plan**

4.1 Section 38(6) of the Planning & Compulsory Purchase Act 2004 states that all planning applications must be determined in accordance with the development plan, unless material considerations indicate otherwise.

4.2 The development plan for the purposes of determining this appeal is comprised of the relevant policies contained within the following documents;

- the Central Lancashire Core Strategy (2012). It was adopted in July 2012 and forms Part 1 of the development plan; and,
- the South Ribble Local Plan (2015). It was adopted in July 2015 to meet housing need and regulate development within the Borough to 2026 through the allocation of land.

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<sup>1</sup> Figures taken from [www.googlemaps.com](http://www.googlemaps.com)

<sup>2</sup> As above.

4.3 Both the Central Lancashire Core Strategy and the Local Plan were adopted in the context of the 2012 NPPF. However both plans were adopted on the basis of meeting the housing needs of the Borough as a minimum.

4.4 The following section sets out the relevant local planning policies.

#### **Central Lancashire Core Strategy**

- Policy 1 Location of Growth
- Policy 3 Travel
- Policy 4 Housing delivery
- Policy 6 Housing Quality
- Policy 7 Affordable and special needs housing
- Policy 9 Employment
- Policy 17 Design of new buildings
- Policy 18 Green Infrastructure
- Policy 22 Biodiversity and Geodiversity
- Policy 26 Crime and community safety
- Policy 27 Sustainable Resources and New Development
- Policy 29 Water Management
- Policy 31 Agricultural Land
- Policy MP

#### **South Ribble Local Plan Policy**

- Policy A1 Developer Contributions
- Policy F1 Parking standards
- Policy G3 Safeguarded land for future development
- Policy G8 Green Infrastructure and networks- future provision
- Policy G10 Green infrastructure provision in residential developments
- Policy G13 Trees and woodland

- Policy G14 Unstable or contaminated land
- Policy G16 Biodiversity and nature conservation
- Policy G17 Design Criteria for new development

4.5 The site is safeguarded for development in Policy G3 which states;

*“Within the borough, land remains safeguarded and not designated for any specific purpose within the Plan period at the following locations:*

*S1 South of Factory Lane and east of the West Coast Main Line*

*S2 Southern area of the Major Development Site at Pickering's Farm, Penwortham*

**S3 South of Coote Lane, Chain House Lane, Farington**

*S4 Land off Church Lane, Farington*

*S5 Land off Emnie Lane, Leyland*

*Existing uses will for the most part remain undisturbed during the Plan period or until the Plan is reviewed. Planning permission will not be granted for development which would prejudice potential longer term, comprehensive development of the land.” (our emphasis)*

## **Other Material Considerations**

### **National planning policy and guidance**

### **Supplementary Planning Documents**

4.6 The following provides a list of supplementary planning documents which are relevant to the proposal:

- Open Space and Playing Pitch Financial Contribution Schedule (2013);
- Biodiversity and Nature Conservation (2015);
- Central Lancashire Affordable Housing SPD (October 2012);
- Central Lancashire Design Guide (2012);
- Employment Skills SPD (2017).

## 5. Agreed matters

- 5.1 There are no access or highways issues that would justify dismissal of this appeal. In considering the original application, the LPA agreed that the proposed highways arrangements were acceptable.
- 5.2 There are no technical objections from statutory consultees and the proposed development would have an acceptable impact on the following, subject to imposition of conditions and planning obligations as necessary:
- ecology and protected species;
  - flooding and drainage;
  - risk of crime;
  - contaminated land;
  - residential amenity;
  - archaeology;
  - arboricultural impacts;
  - provision of on-site open space; and,
  - energy-efficiency.
- 5.3 A summary of the comments from statutory consultees are appended to this SOCG in Appendix 1.

## 6. Key Issues

6.1 It is agreed that the substantive issues between the Council and the Appellant are:

- On what basis the housing land supply (base date 1<sup>st</sup> April 2020) should be calculated. The Housing Supply SoCG sets out further information on this topic. In summary
  - The Appellant applies the requirement in Policy 4 of the Core Strategy. The LPA applies the standard methodology.
  - The deliverable supply. Please see Housing Supply Statement of Ground.
- Whether the granting of planning permission would prejudice the comprehensive delivery of development in the area.
- It is agreed by both parties that the tilted planning balance is engaged on the basis that:
  - If Policy 4 of the Core Strategy is used the LPA cannot demonstrate a 5-year housing land supply; and,
  - If LHN is used, the tilted planning balance is engaged as Policy G3 should be regarded as out-of-date having regard to the difference in the distribution of housing arising from this across the three Central Lancashire authorities compared to that in Core Strategy Policy 4(a).
- The weight to be given to the benefits and adverse impacts through the application of the tilted planning balance.

## 7. Draft Heads of Terms

7.1 Subject to any changes, the proposed are to be addressed through the Section 106 agreement.

- 30% affordable housing
- A contribution per dwelling would be required for playing pitch of £1,507 together with a contribution to equipped play areas
- Bus contribution of £150,000 to support the continued 114 service between Preston and Chorley
- contribution towards cycle parking enhancements at Lostock Hall train station
- public open space and contribution to upkeep thereof.

Stephen Harris 16 February 2021

Signed by Appellant

Nick Ireland, Director, Icen Projects. 16 February 2021

Signed by LPA

## 8. Appendix 1: Responses from Statutory Consultees – Summary

Statutory Consultee Response	Planning application Ref/2018/9634	Planning application Ref/2020/00505	Relevant NPPF Paragraph
LCC Highways	No objection subject to conditions controlling site access, construction Management Plan and a legal agreement to secure off site public transport contributions and cycle lockers. £6,000 cycle parking enhancements at Lostock Hall £150,000 daytime bus services	No objection subject to conditions controlling site access, Construction Management Plan and a legal agreement to secure off site contributions for: £6,000 cycle parking enhancements at Lostock Hall £150,000 daytime bus services £6,000Travel Plan	Paragraph 108 a) which require applications for development to ensure appropriate opportunities to promote sustainable patterns of development are met.  b) Safe and suitable access can be achieved for all users.
LCC Education	Advised Education contribution not required.	Advised Education contribution not required.	Paragraph 94 of the NPPF considers Education requirements with regard to development proposals. LCC Education has confirmed there is no requirement and therefore the scheme is compliant with the NPPF.
Local Lead Flood Authority	No objections subject to conditions to manage the risk of flooding.	No objections subject to conditions to manage the risk of flooding. The conditions have been slightly updated and reworded with the need for the management and maintenance plan incorporated with in the same condition.	Paragraph 163 requires applications over a specific size to be accompanied by a site-specific flood risk assessment. The application details comply with this requirement. Paragraph 165 requires Sustainable Drainage Systems to be incorporated within the development. The imposition of

			conditions would address this point.
United Utilities	Conditions controlling foul and surface water drainage details to be submitted. Advisory notes about the need to extend the watermains and infrastructure crosses the site which may have implications for a detailed layout.	Conditions controlling foul and surface water drainage details to be submitted. Advisory notes about the need to extend the watermains and infrastructure crosses the site which may have implications for a detailed layout.	Paragraph 165 requires Sustainable Drainage Systems to be incorporated within the development. Conditions to control this aspect and require surface water to drain to a separate system would address this point.
EA	Do not wish to comment upon the application	Do not wish to comment upon the application	Paragraph 163 relates to ensure that flood risk is not increased elsewhere.
Ecology Services (Greater Manchester Ecology Unit)	In summary no significant ecological issues were identified within the submitted information. Issues relating to nesting birds can be controlled via conditions. However, more detail is required on the level of mitigation for the loss of over 3ha of low value ecological habitats. The illustrative site layout is not supported because of inadequate on-site mitigation -as this is outline and the ecological implications are low compliance with section 170 of the NPPF is possible through a combination of additional landscaping etc and a this aspect can be addressed through a condition.	Required Ecology Report to be updated and reviewed. Further surveys were carried out which confirmed that the updated ecological report found no material change and that the net ecological gain could be achieved at Reserved Maters.	Paragraph 170 Mitigation to minimise any impacts is sought through appropriate conditions. There is no significant harm to biodiversity and appropriate mitigation planting through conditions can be achieved which meets the aims of paragraph 175.

South Ribble Tree Officer	No objections to the development Conditions controlling trees to be protected, and a method statement if development enters into the root protection area. A landscape plan to be submitted detailing new tree planting numbers species size which should include broadleaf deciduous upright trees.	No objections to the development Conditions controlling trees to be protected, and a method statement if development enters into the root protection area. A landscape plan to be submitted detailing new tree planting numbers species size which should include broadleaf deciduous upright trees. The tree survey is from august 2018 and a walk over survey prior to commencement to ensure any significant finds which affect retention is required.	Mitigation to minimise any impacts is sought through appropriate conditions. There is no significant harm to biodiversity and appropriate mitigation planting can be achieved the proposal meets the aims of paragraph 170 and 175.
South Ribble Housing	The application details provide for up to 100 dwellings with 30% affordable housing to be provided on site meeting the targets set out in Policy 7 of the CLJCS. The borough has a need for smaller affordable units including one and two bedroomed flats/apartments and two- and three-bedroom houses. Population projections highlight an ageing population for South Ribble: provision to meet the needs of this group would be welcomed as housing for older people has been identified as a priority.	The application details provide for up to 100 dwellings with 30% affordable housing to be provided on site meeting the targets set out in Policy 7 of the CLJCS. Updated evidence for the Central Lancashire Housing Study (2020) identifies an acute need for Social Rented homes and this tenure should make3 up at at least 70% of the rented tenure mix.	The scheme provides 30% affordable housing on site and meets the aims of Paragraph 62 of the NPPF.
SRBC Environmental Health Officer	The EHO has suggested a number of conditions no burning, dust management plan, wheel wash facilitates, control of the storage compound and site cabins, hours of construction,	The EHO has suggested a number of conditions no burning, dust management plan, wheel wash facilitates, control of the storage compound and site cabins, hours of construction, piling activities,	Paragraph 178 seeks to ensure that planning decision address issues of land contamination. Conditions controlling this aspect and the importation of soil are required. Electric

	<p>piling activities, control of invasive weeds and electric vehicle recharging points.</p> <p>An Air Quality Assessment was submitted in August 2019 and then updated in September 2019 and subject to mitigation measures as identified in Table 5 being implemented the development would be acceptable.</p>	<p>control of invasive weeds and electric vehicle recharging points.</p>	<p>vehicle points would be controlled via condition to meet the aims of paragraph 110 e). Cycle storage at Lostock Hall Railway Station would be conditioned as encouraged at Paragraph 110 ( e )</p>
<p>NHS Chorley and South Ribble Commissioning Group (CCG)</p>	<p>The two nearest practices to Chain House Lane – New Longton Surgery and Lostock Hall have very little capacity, if any developer contributions can be made (however small) to either practice it may help them – for example to reconfigure a room to create extra capacity or to support with equipment etc.</p>	<p>No comments received</p>	<p>Para 92 encourages an integrated approach to planning for facilities. The Local Plan review would be the vehicle to request additional resources in a planned approach.</p>
<p>Network Rail</p>	<p>Do not object to the scheme but make the following points: the proposed layout should not include potential footpaths out of the application area that could lead to Lodge Lane Level Crossing and the public right of way over the railway. It is noted that the proposed layout with the potential footpath links from the site to the East, West and South (which are currently fields) is</p>	<p>Reiterate their comments from previous application.</p>	<p>Policy 108 requires consideration be given to safe and suitable access for all users.</p> <p>Policy 110 create places that are safe, secure and minimise the scope between pedestrians' cyclists and vehicles.</p> <p>The Council did have concerns that the development and any future proposals had not been</p>

	<p>designed to allow expansion in the wider area. In light of this, should further proposals come forward, then the cumulative impact of these proposals would require closure of the Lodge Lane Level Crossing.</p> <p>To protect assets the developer needs to liaise directly with Network Rail.</p> <p>Details of piling and vibro-compaction machinery to be submitted to Network Rail for their agreement.</p> <p>Network Rail would be concerned by the use of infiltration within 30m of its boundary. All surface water to drain away from the site and surface water within 30m of the railway boundary to be removed from site via a closed sealed pipe system.</p>		<p>through a Masterplan process to address these issues.</p> <p>With regard to specific details boundary treatment can be addressed through the RM application.</p> <p>The proposed wording of the drainage conditions will enable these aspects to be addressed.</p>
Crime Prevention Officer	No objections: recommends Secure by Design Homes 2016 in relation to security	No objections: recommends Secure by Design Homes 2019 guide in relation to security	Para 91 (b) to ensure places are safe and accessible and that the opportunities to design out crime are encouraged.
Fire and Rescue	None submitted.	Advise about access arrangements	Policy 108 safe and suitable access for all users