



HOW

Planning and Environmental Advisers

**STATEMENT OF CASE
ON BEHALF OF SCPI BOWLAND LTD
LAND AT MALT KILN BROW, CHIPPING
LOCAL AUTHORITY REFERENCE:
3/2014/0183 & 3/2014/0226
JUNE 2015**

HOW Planning LLP, 40 Peter Street, Manchester, M2 5GP
Contact Partner: Richard Barton Telephone: 0161 835 1333

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1. INTRODUCTION

Qualifications and Experience

- 1.1 This evidence is presented by Richard Barton BSc (Hons) MA MRTPI. I am a Partner at HOW Planning, a specialist planning and environmental Practice. The Practice advises on a wide range of planning and environmental matters throughout the UK.
- 1.2 I have practised in the field of planning for more than 11 years. I started my career at the Scottish Borders Council in 2003 before moving into the private sector with HOW Planning in 2006.
- 1.3 I advise a wide range of clients including house builders, retailers, landowners, developers and financial institutions on major proposals and complex planning matters. I provide strategic planning advice on a wide variety of proposals including residential, mixed use, retail, employment, heritage and regeneration schemes.
- 1.4 I have provided planning advice in respect to major residential and commercial developments, including a number in the Ribble Valley.
- 1.5 I was first involved in relation to the scheme in 2012. I was responsible for the preparation, submission and management of the planning applications. I therefore have an excellent understanding of the relevant policies for Ribble Valley (and how they have changed over time) and the key planning considerations, allowing me to reach an informed decision on the overall planning balance.

Instruction

- 1.6 HOW Planning LLP ("HOW Planning") has been instructed by SCPI Bowland Ltd ("the Appellant") to submit a planning appeal, to be determined by way of a hearing, against the decision of Ribble Valley Borough Council ("the Council") on 23 December 2014 to refuse planning permission (LPA Ref: 3/2014/0183) on land at Malt Kiln Brow, Chipping for the hybrid planning application seeking both full and outline planning permission as follows:

“Full planning permission for works and a change of use to the Grade II listed Kirk Mill to create a hotel (18 bed, Use Class C1) and bar restaurant (Use Class A3), works to the barn building to create seven holiday cottages (Use Class C1), construction of a hotel and spa (20 bed, Use Class C1), wedding venue (Use Class D1), kids club (Use Class D1) and trailhead centre (Use Class D1 and A3), change of use of Malt Kiln House from residential to Use Class C1, construction of a new cricket pavilion (Sui Generis), demolition of the group of derelict factory buildings.

Outline planning permission for 60 residential dwellings, split over two sites, with a maximum of 56 and 4 units on each with all matters reserved except for means of access.”

- 1.7 The Council refused Listed Building Consent, on 4 March 2015, for the following particulars of work:

“Works and a change of use to the Grade II Listed Kirk Mill to create a hotel (18 Bed) and bar/restaurant. Works comprising partial demolition and extension of Kirk Mill including demolition of the later addition to the east of the Mill and erection of a new extension built on the same footprint in traditional stone to match the existing mill; and removal of further modern alterations to the façade to restore the historic character of the building.”

- 1.8 The appeal site boundary is identified at Core Drawing Site Edged Red, Location Plan (Drawing No. 05024_MP_00_000) **(CD5.1)**.

- 1.9 This document constitutes the Appellant’s Statement of Case and has been prepared in accordance with guidance set out in ‘Procedural Guide Planning Appeals – England (April 2015)’ published by the Planning Inspectorate (“PINS”). The Statement of Case (“the Statement”) seeks to demonstrate that the proposals would not be harmful to the significance and setting of designated heritage assets (in fact they would be significantly beneficial); would not be harmful to the character and appearance, significance, setting and views into and out of Kirk Mill Conservation Area and Chipping Conservation Area (in fact they would be beneficial); would not lead to a significant development in an unsustainable location; and would not be an incongruous feature that would result in the loss of landscape fabric. Furthermore, the Statement will show that the application proposals comply with all relevant

statutory test and the policies of the Ribble Valley Core Strategy Adopted Version (**CD1.1**) and the National Planning Policy Framework ("the Framework").

- 1.10 This Statement addresses the main planning matters. Separate evidence by other specialist witnesses deals with matters including heritage, landscape and visual impact. This Statement should be read alongside the technical Statements of Case. Mr Miller's Statement of Case in respect of Heritage is included at **Appendix 1** and Ms Quayle's Statement of Case in respect of Landscape and Visual matters is included at **Appendix 2**. In addition, further evidence has been prepared in relation to design matters. This is summarised in my evidence and attached in full at **Appendix 3**.
- 1.11 This Statement not only deals with the reasons for refusal but also provides an assessment of the overall planning balance and reaches a conclusion as to the acceptability of the proposals. My evidence is supported by appendices to assist the Inspector's appreciation of the case advanced by the Appellant and which will be discussed at the hearing. This Statement of Case should also be read together with the evidence submitted with the planning application (see Essential Supporting Document categories 5 and 6 submitted as part of the appeal). A list of Core Documents has been produced, Core Documents are referenced throughout this Statement with the prefix 'CD'.
- 1.12 The evidence prepared for and provided within this Statement is true and has been prepared and is given in accordance with the guidance of my professional institution and I confirm that the opinions expressed are my true and professional opinions.

The Appellant

- 1.13 The Appellant, SCPi Bowland Ltd (formerly known as 53N Bowland), has delivered a number of successful planning schemes across the North West, recent examples include:
- 76 King Street, Manchester (Grade II Listed)
 - The Albany, Liverpool (Grade II* Listed)
 - Crossley Park, Stockport
 - Victoria Buildings, Bury (within a Conservation Area)

- 1.14 As detailed above, several of these properties are heritage assets (as defined in the Framework) and the Appellant is well versed therefore with the requirements to deliver a development that pays full regard to the listed status of a property.
- 1.15 In November 2010, following an extensive marketing period, the Appellant was selected as preferred bidder for the majority of H.J Berry's landholding and after an extensive exercise bringing together many unregistered land titles, the Appellant completed the purchase in March 2011. Following this, the Appellant and the appointed professional team engaged with a representative village group to establish a clear understanding of local priorities and aspirations for the site, and instructed a professional team to appraise the site and consider development options. The engagement continued apace with regular meeting between the Appellant and key stakeholders.
- 1.16 The lead-in time for the preparation of the application was quite considerable, fully reflecting the extent of engagement with the local community, key stakeholders and the Council.
- 1.17 The Appellant has a proven track record in delivering complex projects to create successful and sustainable developments that bring real and significant benefits. This is a project which has evolved through an iterative process of high quality design with multi-disciplinary input (from heritage, landscape, highways, market and planning experts) in the light of community consultation. This process fully complied with best practice and resulted in the applications for planning permission being approved by Planning Officers because they recognised the real benefits of this regeneration scheme.

2. THE APPLICATIONS

A. The Application for Planning Permission

- 2.1 On 23 December 2013, HOW Planning on behalf of the Appellant submitted the hybrid planning application, together with an application for Listed Building Consent, to the Council. A description of the appeal proposals is provided in Section 3 of the draft Statement of Common Ground. A more detailed description can be found in the Supporting Planning Statement (December 2013) and Design and Access Statement (March 2014) provided to the Inspector as part this appeal.
- 2.2 The application validation date was 7 March 2014 and was given Local Planning Authority (LPA) reference 3/2014/0183. The description of development is detailed at paragraph 1.6 of this Statement.
- 2.3 The application proposals are divided into five distinctive development parcels, as set out in the Design and Access Statement, comprising approximately 5.67 hectares in total. The development parcels comprise (as set out in Core Drawing Site Wide Planning Guide (Drawing No. 05024_MP_00_105) **(CD5.1)**):
- i. Kirk Mill
 - ii. Main Mills Complex
 - iii. The Hive (Land off Church Raike/Malt Kiln Brow)
 - iv. Malt Kiln House and surrounding land
 - v. New Cricket Pitch Site

(i) Application for Full Planning Permission

Kirk Mill

- 2.4 The application proposals sought full planning permission for the works and change of use to the Grade II listed Kirk Mill to create a hotel (18 bedroom) and restaurant (Use Class A3).

Main Mills Complex

- 2.5 Development on the 'main mills complex' development parcel comprises the following elements:

- The Barn: Refurbishment of the existing barn and the erection of a two storey new build element to create 7 holiday cottages (Use Class C1);
- Hotel and Spa: Erection of a hotel (20 bedroom) and spa (Use Class C1);
- Wedding Venue: Erection of a wedding venue (Use Class D2);
- Kids Club: Erection of a kids club/crèche (Use Class D1);
- Trailhead Centre: Provision of car parking facilities and a Trailhead Centre with café (Use Class A3); and
- Plant Building: Erection of a building to house plant that will service the site.

New Cricket Pitch Site

- 2.6 Full planning permission was sought for the provision of a new cricket pitch and the construction of a cricket pavilion (Use Class Sui Generis).

(ii) The Outline Application

- 2.7 The application proposals sought outline planning permission for up to 60 dwellings. Fifty six dwellings are proposed on the former cricket pitch and juvenile woodland to the immediate north of the Kirkland and Kirkfield residential areas (“Church Raikie Housing – The Hive”). Four self-build dwellings are proposed in the field access from Malt Kiln Brow (“Malt Kiln Brow Housing”).
- 2.8 A schedule of drawings submitted as part of the planning application, and their status, is included within the contents list to Essential Supporting Documents series 5 and 6.

B. The Application for Listed Building Consent

- 2.9 An application for Listed Building Consent was submitted along with the application for planning permission (LPA Ref: 3/2014/0226). The Listed Building Consent application sought the following particulars of proposed work:

“Works and a change of use to the Grade II Listed Kirk Mill to create a hotel (18 Bed) and bar/restaurant. Works comprising partial demolition and extension of Kirk Mill including demolition of the later addition to the east of the Mill and erection of a new extension built on the same footprint in traditional stone to match the existing

mill; and removal of further modern alterations to the façade to restore the historic character of the building.”

2.10 Kirk Mill and its associated mill ponds retaining walls, outflow and stone-built leat¹ are listed under the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended, for its special architectural or historic interest. The listed reference is summarised below:

<u>Building Name:</u>	Kirk Mill and its associated mill ponds retaining walls, outflow and stone-built leat.
<u>List Entry No:</u>	1401593
<u>Grade:</u>	II
<u>Date Listed:</u>	13 May 2011

2.11 Kirk Mill, a former cotton spinning mill of 1785 and its associated mill ponds retaining walls, outflow and stone-built leat are designated Grade II for the following principal reasons:

- **Rarity:** It is a rare surviving example in the north-west of an Arkwright-type cotton spinning mill that exhibits two phases of C18 development.
- **Intactness:** It retains its contemporary water management system comprising the mill ponds retaining walls, outflow and leat.
- **Survival of original and early features:** it retains many windows and doors, the wheel pit and the waterwheel and its driving gears, together with evidence of how associated drive shafts and belts powered the early machinery.
- **Historical:** Kirk Mill was built in 1785. It is one of the oldest surviving cotton spinning mills in the north west and thus represents one of the earliest examples of a textile factory that soon became a crucial component of the Industrial Revolution.
- **Layout:** The Mill's development over its two hundred year history remains clearly legible.

2.12 The detailed design proposals for the repair and adaptation of Kirk Mill inevitably necessitate some change that will affect the building. These changes should,

¹ A leat is the name for an artificial watercourse or aqueduct dug into the ground supplying water to a watermill or its mill pond.

however, be considered in the light of the following: (i) the works will bring the building back into repair and remedy its current vacancy and poor condition, (ii) secure the long-term use and therefore management of the building in a use which is sympathetic to its significance and (iii) the significant enhancements which will remove some of the late additions to the site that currently detract from its historic character and (iv) reverse the inexorable decay of the surviving historic fabric. Proposals for the redevelopment of the mill, and the construction of new buildings on the site of the modern factory, have been carefully considered in a multi-disciplinary manner to minimise potential conflict with the conservation of the listed building and its contribution to the Kirk Mill Conservation Area, as well as the Conservation Area itself. This is considered fully by Mr Miller in his evidence.

- 2.13 The group of derelict twentieth-century factory buildings situated adjacent to Kirk Mill but beyond the boundary of the Kirk Mill Conservation Area, were erected to enable an expansion of the chair works following the Second World War. Notwithstanding their historical association with what was once an important local industry, the buildings are functional and of little heritage significance and their replacement with modern buildings of an appropriate design and use of materials will enhance the historic character of the adjacent Conservation Area and the setting of the listed building.
- 2.14 A schedule of drawings submitted as part of the planning application, and their status, is included within the contents list to Essential Supporting Documents series 5 and 6.

C. Conservation Area Consent

- 2.15 Conservation Area Consent was abolished by the Enterprise and Regulatory Act 2013 and replaced with a requirement for planning permission for demolition of a building in a conservation area. The hybrid planning application sought planning consent for the demolition of the group of derelict factory buildings.
- 2.16 Plans detailing the proposed demolition in the conservation area are included in the Core Drawings Pack.

D. Changes

- 2.17 There are no material changes to the scheme since the date of refusal. A meeting was however held with Historic England in June 2015 where it was suggested that greater use of glazing rather than stone for the proposed orangery would be preferable and the appellant is happy to agree this alternative treatment if considered preferable by the Inspector. This could be dealt with (i) by way of a suitably worded condition to agree materials for this specific element, or (ii) alternatively the Appellant has prepared a Plan showing the alternative treatment (which is submitted as part of the appeal as Essential Supporting Document 9: Additional plans, drawings or documents relating to the application but not previously seen by the LPA) which could be substituted as an approved document (in a condition listing the approved plans).

E. Future Applications

- 2.18 The Appellant intends to apply for the installation of a small water turbine in order to provide some of the redevelopment's energy requirements from renewable sources. This is a detailed matter. It will be addressed by a future application if and when the scheme is granted consent.

3. BACKGROUND TO THE APPLICATION

Site History

- 3.1 Kirk Mill was built in 1785 on the site of a corn mill, which had been established by the fourteenth century. Kirk House, which became the mill owner's residence, was erected in 1793. The mill remained in use for the production of cotton yarn until 1866, during which period it was subject to various alteration and additions. Following the closure of the mill in 1866 the building was taken over by the Berry family, who manufactured high-quality chairs in the building until 2010. The mill has not, therefore, been in its original use for over 150 years. During this period, it was not available for the public to view it (save with permission of the owner). The development of the mill during its working life from 1785 to 1866 can be traced in the surviving fabric of the building. The building was subject to a detailed heritage survey and the collected documented history, with the conclusions drawn from the archaeological survey, are summarised within the Heritage Assessment, which was submitted in support of the application proposals. The level of information was considered to be adequate at the time of determination. Historic England, in its consultation response, described the Heritage Assessment as 'comprehensive'. At the time of the determination there were no outstanding requests for further information.
- 3.2 In August 1871, some five years after cotton spinning had ended, Kirk Mill was purchased by Thomas Marsland, whose principal interest appears to have been in property speculation. Marsland converted the reeling room block into cottages, and erected another row on the east side of Malt Kiln Brow to form Grove Square.
- 3.3 The Berry family commenced chair-making at the Kirk Mill site in 1840, and in 1890 moved to Kirk Mill which had been used for cotton spinning since its construction in 1785. The mill was bought by the Berry family in 1903.
- 3.4 The waterwheel continued to be the principal means of powering machinery in the mill until 1932 (over 90 years ago) when an oil-powered engine was installed to provide supplementary power. The mill was extended in 1943 to provide kitchen and canteen facilities and the waterwheel was partly removed to create a side entrance.

- 3.5 As business grew it expanded into surrounding sites to include space for production lines, offices, covered timber storage and warehousing with buildings being constructed in the 1940s and 1950s. Latterly small parcels of land were planted with trees that would in theory have been ready for cropping and furniture production in about 70 years' time.
- 3.6 The former H.J Berry & Sons site ceased operations in February 2010, at which point it was Britain's oldest chair manufacturer. A combination of mounting losses over a long period of time, restructuring of the import trade and the decline in the economy as a whole led to the firm's demise. The closure of the business left the heritage assets without a use, without a financial mechanism to keep them in repair, without a future and at considerable risk of deterioration and dereliction.
- 3.7 When the furniture business ceased operations in 2010 and fearful of what might happen to Kirk Mill and the wider site, the Council sought listed building status from English Heritage in order to protect Kirk Mill from any harmful works (as distinct from any works). Grade II Listed Building status was confirmed for Kirk Mill in May 2011. The Council also extended, in January 2012, the Kirk Mill Conservation Area designation to include the woodland to the north of the Mill Pond on either side of Malt Kiln Brow, and Mill Pond House.
- 3.8 The defensive nature of the Council's decision to apply to list Kirk Mill and extend the Conservation Area is apparent as the designations were only made once the site became vacant. The relevant statutory tests, against which development affecting a heritage asset is to meet are set out in Section 8 of this Statement. This is supported by paragraph 137 of the Framework, which advises that proposals which preserve those elements of the setting that make a positive contribution to the significance of a heritage asset, or better reveal the significance of the asset, should be treated favourably.
- 3.9 The listing of a building or the designation of a Conservation Area is not in itself a reason to refuse planning permission.
- 3.10 These designations have not, however, prevented the buildings from falling into further disrepair, primarily as a result of two harsh winters and a number of continued break-ins and thefts. Whilst the Appellant has sought to protect the buildings by undertaking a series of repair works (to at least make the buildings

windproof, watertight and secure) the Kirk Mill site has been subject to continued theft and vandalism and the buildings as a whole are continuing to deteriorate. This is expressly despite the best efforts of the appellant. However, it needs to be understood that (fundamentally) the whole site (including the Listed Buildings) needs a beneficial long term use to address the current vacancy and dereliction and to secure the future maintenance. Indeed, it does not appear to be contested by the LPA (and certainly not by the professional planning officers) that something needs to be done with the Mill site and that a significant level of investment is required to do it.

The Development Parcels

- 3.11 As set out at paragraph 2.3 of this Statement, the appeal site can be considered as five separate areas (Core Drawing Site Wide Planning Guide (Drawing No. 05024_MP_00_105)) (**CD5.1**). A Heritage overview of the wider site is detailed below.

Kirk Mill

- 3.12 Immediately to the rear of Kirk Mill is the mill pond, which held the water supply required to drive the waterwheel behind the mill. The water was channelled from the pond to the mill via a short headrace, the surviving elements of which are afforded statutory designation as Grade II listing. The mill pond is bounded by Malt Kiln Brow to the east, with extensive woodland to the north and west, which all form part of the Kirk Mill Conservation area.
- 3.13 Adjacent to the east of Kirk Mill is Grove Square, together with Grove House and Grove Cottages. Whilst all of these properties sit outside of the appeal site boundary, they form part of the Kirk Mill Conservation Area (as detailed in Core Document **CD1.10**).

Main Mills Complex

- 3.14 The Main Mills Complex refers to the disused modern factory that lies south east of Kirk Mill. The site is bisected by Chipping Brook, which takes a course across the centre of the area. The Ordnance Survey map published in 1912² shows some slight

² Refer to Figure 5 of the Chipping, Lancashire: Heritage Assessment (Oxford Archaeology, September 2013)

changes to the area, including the erection of a rectangular building within the north western part of the area, adjacent to Malt Kiln Brow, occupying the footprint of the extant Windsor building. The Ordnance Survey map of 1956 shows the modern factory to have been largely developed, containing the factory buildings that occupy the site presently.

- 3.15 These factory buildings were developed by H.J Berry & Sons to enable an expansion of their chair-manufacturing business. The site comprises four principle elements: a nineteenth century barn; the Windsor building; the main factory buildings; and a storage warehouse. It also comprises swathes of hard-standing, and an open-sided structure that was used to store timber.
- 3.16 **The barn**, which appears on the Ordnance Survey map of 1893³, is of course stone rubble construction with quoins in each corner and a pitched slate-covered roof. Internally, the barn contains a timber mezzanine floor, although access is from a fixed metal ladder, implying that the mezzanine was used for temporary purposes only. The barn is abutted by a single-storey extension, which is of a mid-twentieth-century date. This is of cinder block construction, with an asbestos roof and a large sliding door in the north-western corner.
- 3.17 **The Windsor building** lies opposite to the stone barn, on the eastern bank of the Chipping Brook, and comprises two floors of brick and block-work construction with a pitched asbestos roof. The footprint of this building is marked on the Ordnance Survey map of 1912, suggesting that it may have existed as an open-sided structure at that date. This appears to have been infilled with block-work subsequently, and windows inserted.
- 3.18 The main factory sits to the south and is mainly single storey. It has a two storey office building on its front elevation, with several ancillary buildings of brick construction to the rear. There is also a large tower section at the northern elevation, previously used to house machinery.

The Hive

- 3.19 The area located south west of Malt Kiln Cottage and the wider Kirk Mills complex is referred to as 'The Hive'. The Hive comprises a largely open area of land, which

³ Refer to Figure 4 of the Chipping, Lancashire: Heritage Assessment (Oxford Archaeology, September 2013)

is currently used as a cricket ground with a small pavilion towards the southern boundary. Land in the eastern part of this plot was planted with trees to provide some of the raw materials required for manufacturing chairs. The Hive lies between the Chipping and the Kirk Mill Conservation Areas, although outside of the Conservation Area boundaries.

Malt Kiln House

- 3.20 Malt Kiln House occupies a corner plot accessed from Malt Kiln Brow. It is a detached stone cottage, which has a small garden area to the front, overlooking the Main Mill complex. The Ordnance Survey map of 1847 shows Malt Kiln House (annotated as Moat Kiln House) to have been established in the north-eastern corner of this area. Malt Kiln House comprises a two-storey cottage of random standstone rubble construction and pitched roof. Until 2010, it formed part of the trading premises of H.J Berry & Sons.

New Cricket Pitch

- 3.21 The area proposed for the new cricket pitch lies to the south-east of the village centre, beyond the boundary of the Chipping Conservation Area.

The Appellant's Involvement

- 3.22 In November 2010, following an extensive marketing period, SCPi Bowland Ltd was selected as preferred bidder for the majority of H.J Berry's landholdings and after an extensive exercise bringing together the many unregistered land titles, SCPi Bowland Ltd completed its purchase in March 2011. The total price paid (net of professional costs) was £917,000. The LPA have never contended that the appellant overpaid for the site. The appellant is satisfied this was a fair price to pay which reflected market value.
- 3.23 Following this, SCPi Bowland Ltd engaged with a representative village group to ascertain a clear understanding of local priorities and aspirations for the site, and instructed a multi-disciplinary professional team to appraise the site and consider development options. The development options were heritage and design led.

- 3.24 The local community directed the Appellant to the Chipping Village Plan, which highlights a number of aspirations for the village. The Appellant sought to satisfy as many of these as possible, namely:
- Provision of social and sheltered housing
 - Creation of a minimum of 30 jobs
 - Additional car parking
 - New footpaths and walkways, including paths by the riverside
- 3.25 The appellant very much started the process with a blank canvass, wishing to prepare a deliverable scheme which was most appropriate and beneficial for the village.
- 3.26 A website was launched in March 2011 to communicate with the local communities and interested parties outside the village. The website was originally used to communicate updates on the remedial works being conducted in the mill to try and protect it from further damage.
- 3.27 Details of the emerging plans were published on the website and it was updated with a feedback page to allow visitors to leave comments. These were fully considered as plans were developed.
- 3.28 A key part of developing plans for the site was engagement in January 2012 with Lancaster University Masters students to explore potential uses of the site. This involved various workshops and site visits, culminating in a mock⁴ consultation in June 2012. This event was very well attended by a wide variety of interested parties, including the Chipping Local History Society, representatives from the Council and neighbouring landowners. This exercise influenced emerging proposals.
- 3.29 A formal community consultation event was held on site on 25th and 27th April 2013. 218 people attended over the two days, with 54% of responses received in favour of the proposals.

⁴ The consultation is referenced as 'mock' as 'mock' it was a university exercise as part of the planning course being undertaken by students. The consultation was subsequently followed by a full, formal consultation.

- 3.30 As a result the feedback several modest amendments were made to the scheme. These are set out fully in Section 3 of the Supporting Planning Statement, but in summary included changes to the mill design and the relocation of the trailhead centre.
- 3.31 Early discussions were held with Colin Hurst (Head of Regeneration and Housing) at the Council. He expressed his support in principle for the development proposals, particularly with regard to the restoration of the mill and the provision of employment. This support in principle continued throughout the planning process, culminating in a policy response which supported the proposal.
- 3.32 A number of discussions were held with Development Control officers and the Council's Conservation Officer, where it was agreed that a viability report should be submitted with the application in order to justify the extent of housing required to ensure the works to the mill could be achieved.
- 3.33 Pre-application engagement is discussed further in the following Section and should be read in conjunction with the Statement of Community Engagement (submitted with the appeal as Essential Supporting Document 5.9) and Timeline of Design Evolution (**Appendix 3**).
- 3.34 It is apparent that the extent of consultation undertaken could not be described as anything other than comprehensive and inclusive. I have been involved in a large number of planning applications and I cannot name another which has carried out such an extent of pre-application engagement. Further, the consultation responses had a meaningful input into the final proposals.

4. APPLICATION HISTORY

Environmental Impact Assessment

- 4.1 An Environmental Impact Assessment (EIA) Screening Request was submitted to the Council on 28th October 2013 under the provisions of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011.
- 4.2 On 9th December 2013 the Council issued a Screening Opinion advising that the application does not fall within Schedule 1 of the S.I 2011 No. 1824 but within Schedule 2 Development, Part 10, Infrastructure Projects (Section 10(b) Urban Development). The Screening Opinion advises that that application site lies within the Forest of Bowland Area of Outstanding Natural Beauty, which is classed as a 'sensitive area' as defined in the Regulations. It is not, however, considered that a development of the nature outlined would have unusually complex and potentially hazardous environmental effects. The appellant agreed.
- 4.3 The Council's Screening Opinion confirms that the proposal does not require an Environmental Impact Assessment as the impact of the development would be of a localised nature and not have wider environmental impacts beyond the site.
- 4.4 Further, whilst some elements of the scheme are in outline, at the time of the determination, there were no outstanding requests for further information. The reasons for refusal do not refer to any lack of information. It is therefore agreed that there is sufficient evidence (particularly concerning the impact on heritage assets and the requirement of the Framework at paragraph 128) on which decisions can be reached.

Pre-Application Advice

- 4.5 Pre-application discussions with the Council commenced in January 2013. The Appellant sought pre-application advice for the following description of development:

“Erection of new and conservation of existing buildings to form a 56 room hotel and spa, restaurant/café, approx. 60 dwellings, 7 holiday cottages, conference centre, trailhead visitors centre and walking route; including provision of two hydro schemes, sports ground, green space and associated parking.”

- 4.6 Discussions with the council were positive, with the Head of Housing and Regeneration, and the Building and Development Control Manager supportive of the principle of redeveloping the former factory site as part of a holistic development. In particular, the prospect of additional jobs was welcomed on this site, which would replace some of the many lost from the gradual decline and ultimately the closure of H.J Berry's. H.J Berry's employed 85 people (the number employed at the point of closure) which obviously had a significant and positive impact on the local economy. It was recognised (at an early stage) that there would be a need for an element of enabling development. Officers therefore confirmed that a viability report would be required in order to demonstrate that the amount of housing proposed directly correlated with the monies required to restore the mill.
- 4.7 No significant changes were made to the scheme as a result of the pre application advice, however a confidential viability report was advanced, which formed part of the application, so that it could be audited by the DV and the LPA (if appropriate). Agreement was reached with the LPA on this issue.

The Suite of Application Documents

- 4.8 These are set out fully at Essential Supporting Document 5 (Copies of all plans, drawing and documents sent to the LPA as part of the application.) and Essential Supporting Document 6 (Copies of any additional plans, drawings and documents sent to the LPA but which did not form part of the original submission).

Application Consultation Responses

- 4.9 An overview of the consultation responses submitted throughout the application's determination are summarised within the Committee Report **(CD1.11)**. It is considered useful to provide within this Statement a summary of the key issues raised by consultees and how the Appellant addressed these comments during the

application's determination. Attention is drawn specifically to the consultation response submitted by the Council's Head of Regeneration and Housing.

Environment Directorate (County Surveyor/Highways Officer)

- 4.10 The County Surveyor advised that with the exception of the relocation of the cricket field, due to visibility concerns to the right on exit, the application proposals are acceptable in general terms. The traffic generation and distribution figures are considered to be acceptable and do not suggest any highway capacity concerns. Whilst the initial observations from the Highways Officer did raise a series of questions regarding the need to submit detailed plans for the access to the residential development at Church Raiké and pedestrian routes within the main mills complex, at the time of determination these issues had been addressed and the following summary is provided within the Committee Report⁵:

*"The initial observations of the Highway Officer at LCC did raise a series of questions at some of the elements of the proposal as outlined earlier within this report. Since that time there has been an ongoing dialogue between respective highways professionals to resolve the outstanding matters. A response dated 21 October confirms that **the scheme is acceptable in principle subject to the imposition of a series of conditions** on any consent granted. (Emphasis added)*

The proposal now details a pedestrian link from the residential development site (on the former cricket ground) into the Kirkfields/Kirklands estate and a footway from the trail head car park access linking to the recently completed housing on Church Raiké to improve pedestrian links into the village centre. In terms of the new cricket ground entrance an amended plan has been submitted that denotes treatment of the junction with Longridge Road in terms of give way markers on the road and an extension of the 30mph zone beyond the proposed access.

Comments were also raised about sightlines but the submitted plans do denote these and similarly provide details on gradients for the respective access points. More detailed plans have also been provided to show the layout of the car park.

⁵ Committee Report Page 79 (CD1.11)

Therefore notwithstanding the concerns raised by residents regarding matters of highway safety there is no substantive objection to the application from LCC in their capacity as Local Highways Authority that cannot be addressed by the imposition of conditions."

Lancashire County Council (LCC) Archaeology

- 4.11 The LCC Archaeology comments advise that support is attached to the recommendations made within the English Heritage consultation response. LCC Archaeology advise that should the Local Planning Authority be minded to grant planning permission for this or any similar scheme, that the applicant be required to undertake those works proposed in Section 7.2 of Oxford Archaeology North's 2013 Heritage Assessment, and that such works are secured by the means of an appropriately worded condition.
- 4.12 The 'impact assessment in relation to significance' set out at section 7.2 of the Heritage Assessment lists the individual elements of the Kirk Mill development proposals and the mitigation measures that will be secured. The list of planning conditions suggested within the Committee Report ensures that the development will take place in accordance with the proposed mitigation.

Principal AONB Officer

- 4.13 The Forest of Bowland AONB Officer welcomed the plan to regenerate and re-use the Grade II listed Kirk Mill, securing a long term use for a listed building. Additionally, the Officer comments that the demolition and removal of the more modern buildings of the former H.J Berry's factory is also likely to secure improvements to the AONB landscape within the environs of Chipping village. A Plan showing the site's location within the AONB is included within Ms Quayle's Statement of Case.
- 4.14 Concern is raised by the AONB Officer that insufficient information has been provided to demonstrate that the application proposals are in the public interest. In particular, the AONB Officer recommends that further consideration is necessary on several aspects of the full and outline application elements and advises the Council to seek further information from the applicant on a number of issues relating to the

submitted Landscape and Visual Impact Assessment. The AONB Officer's response to the application proposals concludes the *"overall weaknesses and omissions undermine the value of the applicant's LVIA and bring into question the judgments presented on the importance of the outline proposals' likely landscape and visual effects."*

4.15 The Appellant's appointed landscape architect, Camlin Lonsdale, responded to the Case Officer with respect to the concerns raised by the AONB Officer. The detailed response is submitted as part of the appeal as Essential Supporting Document 10.2. The submission of additional information, to address the concerns of the Council's AONB Officer, is referenced within the Committee Report⁶. The additional information addressed a number of the AONB Officer's concerns. The methodology for the LVIA and key viewpoints was agreed with the Council's Design Officer during pre-application discussions. Two key issues were considered to remain at the time of determination:

- Additional photomontages showing fully rendered visualisation of the proposed development (accepting that the layout and design of housing is not finalised) to compare with the photomontages of the existing viewpoints.
- Additional information (included detailed landscaping plans) to justify the conclusions that the landscaping of the development will be able to reduce the landscape and visual impacts for:
 - Former cricket field residential development from in 'medium adverse' to 'minor adverse'
 - Malt Kiln House field residential development from 'medium adverse' to 'minor adverse'.

4.16 These two issues, considered to be outstanding by the AONB Officer, are addressed in detail within the Committee Report⁷. With respect to the first point, the Committee Report acknowledges that a series of photomontages were provided as part of the Landscape and Visual Impact Assessment. The methodology and extent of the information contained within the photomontages were confirmed with the Local Planning Authority. The viewpoints used to demonstrate the anticipated change through the production of visualisations were agreed with the Local Planning Authority in January 2014, this is set out within Essential Supporting Document

⁶ Committee Report Page 92 (CD1.11)

⁷ Committee Report Pages 93 – 95 (CD1.11)

- 10.2. Due to the nature of the outline application, it was agreed that it would be inappropriate to include detail of the outline planning application areas. Furthermore, Camlin Lonsdale agreed with the Local Planning Authority that wire diagrams of the position of the building mass was acceptable for the majority of the views due to the extent of the intervening vegetation that heavily screens views of the development. Where greater extent of the building is visible, within the heart of the Malt Kiln Brow conservation area for example, fully rendered visualisations were prepared.
- 4.17 The Committee Report agrees with the LVIA rationale provided by Camlin Lonsdale, concluding that the AONB Officer's request for detailed landscape plans for the residential site is not appropriate given that permission is sought in outline for this element of the application. Fundamentally, detailed landscape and visual assessments will be undertaken as part of a subsequent Reserved Matters application(s). The submitted Parameters Plan (Drawing No. 05024_MP_00_102) **(CD5.1)** and Design and Access Statement advise that development on the former cricket pitch will be a maximum height of 9m (2.5 storeys) as indeed will the four self-build plots. The Parameters Plan denotes areas to be kept free of built form and a Design Code was submitted to underpin the character evolution and design aspirations for the four self-build plots. The Design Code also makes reference to garden boundary treatments and other landscape considerations, the detail of which is considered sufficient to make an assessment of the potential visual impacts of these aspects of the scheme. The Committee Report concludes that the impacts are not such that would warrant an unfavourable recommendation i.e. they are acceptable in local and national policy terms.
- 4.18 The Appeal scheme seeks the change of Malt Kiln House from residential to Use Class C1, which does not involve any external alterations. There are no discernible visual impacts associated with this aspect of the proposal and therefore the AONB Officer's comments made in respect of Malt Kiln House are not considered to be justified or based on any professional evidence.
- 4.19 The Landscape and Visual Impact Assessment concludes that at year 15, once the new planting has established, overall importance of visual effects are considered to be generally of 'minor beneficial' rising to 'major beneficial' importance with the development associated with Kirk Mill and the modern factory site redevelopment.

The effect on the wider landscape character area of the Forest of Bowland AONB is expected to be negligible as the development is generally visually constrained and restricted to the edge of the existing settlement. These matters are considered further in the Appellant's Landscape Evidence attached at **Appendix 2**. The Committee Report agrees with the conclusion of the LVIA, confirming that whilst change to the landscape would occur, there is no significant visual intrusion and thus no significant detriment to the visual qualities of the AONB. The Committee Report does not identify any conflict with national or local AONB policy. On the evidence, this is the correct conclusion.

Historic England (Formerly English Heritage)

- 4.20 English Heritage, as detailed within the consultation response submitted in respect of the application proposals, welcome the initiative to regenerate and re-use Kirk Mill and the adjoining Main Mills complex, as the scheme has the potential to secure a long term use for a listed building which is vacant and clearly at risk of further deterioration. **English Heritage support the proposed use and the principle of converting the Mill**, however they recommend that several aspects of the scheme are given further consideration and that amended proposals are brought forward to avoid harming the significance of the heritage assets affected by the proposals.
- 4.21 The aspects of the detailed design which Historic England considered may have potential to harm the significance of key heritage assets are:
- The proposed three storey glazed circulation space to the south elevation of Kirk Mill. Historic England raised concern that this would obscure key elements of the elevation.
 - The proposed orangery. Historic England considered the proposed orangery, extending the full length of the ground floor of the original south elevation, would obscure parts of the building. Concern that the architectural approach and materiality could confuse the historic phases of the building.
 - The proposed self-build plots would blur the distinction between the contrasting settlement patterns and undermine the setting of the Conservation Area and mill.

- The steep pitch and dominant roof form to the proposed spa hotel on the Main Mills site could have potential to overwhelm the domestic scale of the existing cottages that form part of the context for the mill. The proposed roofscape will sustain and enhance the character and appearance of the Conservation Area. Precise viewpoints from south-east of the junction of Church Raikie and Malt Kiln Brow towards Kirk Mill could be helpful in this respect.

4.22 Following the consultation response from English Heritage a meeting was arranged on site to explain the rationale behind the design approach taken (which the Council's Conservation Officer also attended). No subsequent additional correspondence was received from English Heritage, therefore the in principle support remained at the time of determination. Mr Miller considers the points made further in his evidence.

RVBC Design Officer

4.23 The Council's Design Officer set out a number of points of concern relating to matters such as the proposed treatment of the southern elevation and questioning the functionality of the design.

4.24 These comments were addressed comprehensively in a letter from 5 Plus Architects (dated 23 July 2014) which is submitted with the appeal as Essential Supporting Document 10.3. The Design Evolution Document prepared for this appeal further expands on the rationale behind the design approach and addresses the detailed issues raised by the Design Officer.

Conservation Officer

4.25 The Conservation officer raised a number of points, including concern over the coalescence of two 'distinct' historic settlements, namely the village of Chipping and the 'industrial hamlet' at Kirk Mill. A summary of the main points raised by the Conservation Officer is included below:

- Harmful coalescence of Kirk Mill hamlet and Chipping;
- Total loss of significance from the barn;

- Incongruous design of C20 factory redevelopment;
- Unjustified loss of highly significant elements from the rare and well preserved Grade II listed C18 Arkwright mill;
- Unjustified harm from incongruous and intrusive additions to Kirk Mill's principle elevation;
- The proposals are not 'sustainable development', do not appear to be optimum viable use for Kirk Mill and offer limited mitigation for substantial and demonstrable harm; and
- Harmful impact upon the cultural importance of the AONB.

4.26 The appellant did not consider it necessary or correct to make any changes to the proposals as a result of the comments received. As detailed above, a meeting was convened on site following receipt of these comments. In the light of the meeting, no further response was received from the Conservation Officer. In the light of the consultation responses of the Conservation Officer and Historic England, the scheme was recommended for approval in the Committee Report.

Council for British Archaeology

4.27 The Council for British Archaeology confirmed support for the principle of the reuse of Kirk Mill, however, they considered that there are various elements of the proposal which do not protect or enhance the significance of the heritage asset as encouraged by paragraph 131 of the Framework. The Council for British Archaeology concluded that the appeal scheme would harm the significance of the Grade II listed heritage asset and recommends that the proposals are amended in order to better sustain the heritage asset.

4.28 The comments made by the Council for British Archaeology were fully considered alongside those received from the other consultees (Historic English; Conservation Officer; Design Officer) and it was considered that no amendments to the scheme were justified/necessary and the scheme was recommended for approval.

Natural England

4.29 The consultation response submitted by Natural England advises that whilst not convinced that the LVIA provides a complete assessment of landscape impacts,

Natural England is reasonably confident that there is not a significant risk to the AONB. The statutory body confirms that the LVIA gives a good assessment of visual impacts from local viewpoints, however, it is not clear how the development will be viewed from longer distance viewpoints. Natural England advised that the advice of the Forest of Bowland AONB Partnership should be sought to confirm whether or not the scheme would impact significantly on the purposes of the AONB designation. The Appellant's correspondence with the Forest of Bowland AONB Officer is detailed at paragraph 4.15 of this Statement.

- 4.30 The Appellant's comments with respect to the landscape and visual impacts on the AONB are detailed at paragraphs 4.13 – 4.19 of this Statement, in response to the AONB Officer's comments.

LCC Ecology

- 4.31 The LCC Ecology comments are caveated with the statement that the County Council does not support or object to planning applications when providing advice on ecological matters, rather the County Council's comments are intended solely to inform the Local Planning Authority's decision making, having regard to the requirements of relevant biodiversity legislation, planning policy and guidance.
- 4.32 The County Council originally stated on 12th July 2014 that they were unable to provide full comments at this stage as it had not been demonstrated that the proposals would comply with the relevant legislation. Full comments would be available once the additional requested information has been submitted to address a number of matters. Following the submission of additional information by the Appellant, the County Council submitted further comments to the Local Planning Authority on 28th August 2014.
- 4.33 The County Council considered that additional information was required to establish the presence/absence of bat roosts in the bridge to be affected by the application proposals and an appropriate assessment of likely impacts on amphibians.
- 4.34 Additional survey work of the bridge was carried out and following discussions with the Council's Countryside Officer, it was agreed that the survey findings submitted are such that conditions are appropriate and that there is no reason to withhold

consent on these grounds. Lancashire County Council provided detailed comments on how measures can be secured by the imposition of conditions. Notwithstanding this, since the determination of the application the Appellant has instructed Ecology Services to undertake bat activity nocturnal surveys. .

Ribble Rivers Trust

- 4.35 Comments submitted by the Ribble Rivers Trust advised that on the basis of insufficient consideration to the riverine environment, specifically lacking in understanding of the impacts on the brook but also a failure to implement sufficient mitigation measures, the Trust object.
- 4.36 The Appellant's team fully considered the comments but did not agree with the conclusions, considering that the development would be entirely acceptable in relation to the brook. The case officer agreed and there is no ecological reason for refusal.

Sport England

- 4.37 Sport England submitted an objection to the application on the grounds that the replacement cricket ground does not meet the design guidance of the English Cricket Board. Furthermore, Sport England considered there to be limited details of the timing of the provision and completion of the new ground. The proposed pavilion is not considered fit for purpose as it has no storage, no disabled toilets, no showers and no umpire changing.
- 4.38 On behalf of the Appellant, HOW Planning submitted a letter of clarification in response to the Sport England consultation response. This letter is included as Essential Supporting Document 10.1, however a summary is provided below.

The replacement cricket ground does not meet England Cricket Board's design guidance

- 4.39 The new facility will be of significantly better quality than the existing facility, which clearly does not meet the design guidance. The new proposal has been designed specifically to facilitate the requirements of the village cricket team. It is considered that there can be no reasonable planning requirement for the new pitch to meet a

particular grade when it is so evident that it will be demonstrably better than the current offer. Furthermore the pavilion has been designed to meet a bespoke specification as requested by the cricket club.

There are limited details for the provision and completion of the new ground

- 4.40 A pitch of greater quality than the existing offer will be in place prior to the current pitch being developed; this will be agreed in the s106 agreement. The existing facility makes use of a basic, man-made wicket, with a concrete base and decayed 'astroturf' coating. The new facility will offer a much improved playing surface, to a standard capable of accommodating a higher level of cricket than that currently enjoyed.
- 4.41 Myerscough College (which has expressed a firm interest in using the pitch) will not put their name to a pitch that is not up to a standard where their first XI will play games. They will be happy to do so with the new facility. A fully formed turf square will be provided.
- 4.42 The letter from Sport England confirms that the purpose of its playing fields policy 'is to ensure that there is an adequate supply of quality pitches to satisfy the current and estimated future demand for pitch sports within the area.' In addition, Policy Exception E4 of Sport England's Playing Fields Policy states:

"The playing field or playing fields that would be lost as a result of the proposed development would be replaced by a playing field or playing fields of an equivalent or better quality and of equivalent or greater quantity, in a suitable location and subject to equivalent or better management arrangements, prior to the commencement of development."

- 4.43 This proposal will certainly achieve this aim, providing a facility which is of a much higher standard, and therefore capable of greater utilisation than is currently the case. It is very clear that the current pitch and pavilion are poor and that the respective replacements will be notably superior. Furthermore the club will receive the benefit of a formal agreement to use the new facilities, which they do not currently have.

4.44 The Committee Report advises that although Sport England has raised issues associated with the quality of the facility, its scale and design should be proportionate to the anticipated use of the cricket pitch. The design of the pavilion was finalised having regard to the requirements outlined by those who would use the facility and thus, notwithstanding the misplaced observations received from Sport England, the proposals do in fact represent an enhancement to the existing provision.

4.45 Indeed, the Committee Report⁸ advises:

"I consider the proposals do in fact represent an enhancement to the existing provision. It is also important to have regard to the timing of the provision of the new pitch and the submitted draft Section 106 Agreement does provide triggers for this to ensure that there will be no loss to the village and that the new pitch would be provided prior to any works commencing on the existing site."

4.46 On this basis, there is clearly no conflict with national or local policy and this issue did not form any part of the reasons for refusal.

Chipping Parish Council

4.47 Chipping Parish Council opposes the outline element of the scheme to develop the cricket field. The Parish Council object due to the following three reasons: oppose the development of a greenfield site and the precedent this may set; the scale of the housing scheme is much bigger than agreed in the Village Plan and bigger than required according to the Council's Housing Needs Survey; and a smaller housing development on the former factory site would be welcomed to maintain local schools and businesses.

4.48 Disappointingly (given the consultation outlined above), this response shows that the Parish Council failed to grasp the nature of the application:

- (i) The fact that the residential aspect of the appeal site is located on greenfield land is not objectionable. The Secretary of State, at paragraph 17 of his Decision Letter to the land at Burgess Farm, Worsley appeal⁹, confirms that

⁸ Committee Report Page 80 (CD1.11)

⁹ Appeal Reference: APP/U4230/A/11/2157433

national planning policy in the Framework encourages the use of previously developed land, but does not promote a sequential approach to land use.

- (ii) The Parish Council's concern that approval of the appeal scheme would result in a precedent being set is wholly unjustified and is an insular approach to viewing the appeal scheme. At the heart of the scheme is the regeneration of the Grade II listed Kirk Mill and, as discussed at paragraph 9.125, the residential element of the scheme is required to fund the restoration and regeneration of Kirk Mill. The appeal scheme is specific to this site and location and its approval would not result in any development precedent. If (which is not accepted) it would set a precedent, then the precedent would be positive and would support the grant of consent (in any event).
- (iii) The Chipping Village Plan 2011 is not a Neighbourhood Plan and therefore does not carry the statutory weight of a 'made' Neighbourhood Plan. The Village Plan covers a number of key issues including regeneration, tourism, housing, transport, infrastructure, employment and social and environmental concerns. Of particular relevance to the appeal site, the Village Plan sets out a number of parameters which the Parish Council would anticipate taking place with regard to the nature of the reuse of the sites and the extent and type of development that would be viewed as acceptable. The proposals were formulated in full knowledge of the Village Plan.
- (iv) A smaller housing development¹⁰ on the former factory site would not be viable. The appeal scheme, in its entirety, has evolved with the focus of regenerating Kirk Mill and the wider site in the conservation area. As illustrated in the (agreed) submitted Viability Appraisal, the residential element of the proposals is the minimum quantum of development required to restore and regenerate Kirk Mill. The submitted scheme provides the minimum quantum of development required to conserve and enhance Kirk Mill, without the residential element this would not be possible. The enabling development purpose of the residential element is discussed in further detail below.

¹⁰ If smaller refers to footprint, as opposed to number of units.

Non Statutory Consultee Comments

- 4.49 The Committee Report advises that 69 letters were submitted in respect of the application. The non-statutory consultation responses raise concerns that can be categorised into the following:
- Principle of the development;
 - Highway safety;
 - Ecology;
 - Heritage;
 - Landscape; and
 - Miscellaneous.
- 4.50 All points raised by non-statutory consultees have been addressed above. They were considered in the Committee Report and were not considered (after analysis) to justify a refusal.

Committee Report

- 4.51 The Committee Report demonstrates the comprehensive assessment to which the application was subject. The application's determination, from validation to decision, took over 9 months. The comprehensive assessment of the application is reflected within the Committee Report's critical evaluation, which is thorough and detailed from an experienced Development Control Officer and the Head of Planning. In accordance with paragraphs 186 and 187 of the Framework, the Officer's assessment within the Committee Report presents a positive approach to the delivery of sustainable development. Whilst the Appellant does not agree with the entirety of the report, it clearly provides a robust and independent assessment which addresses all of the relevant matters.
- 4.52 The Case Officer's assessment of the application proposals allows the following conclusion to be drawn in the Committee Report:

"The effect of the development upon a Grade II Listed Building from the physical alterations to its fabric, to its setting and significance of heritage assets in the vicinity has been considered. It is concluded that whilst harm has been identified it is not such that the scheme falls foul of the LPA's statutory duty under the relevant

Act(s) or the requirements of the NPPF as the benefits identified sufficiently rebut the strong presumption to “do no harm” to heritage assets. In respect of landscape and visual impacts the application proposes development at the edge of a settlement which under the emerging spatial strategy is defined as one of the least sustainable of the villages. However, the policies of the emerging plan allow for residential development which brings regeneration benefits and, as has been outlined within this report, Members need to remember that this scheme should be considered as a whole and not assess the housing in principle in isolation from the other employment generating aspects.

For this reason the scheme should be given favourable consideration subject to the necessary departure procedures as there is an outstanding objection to the development from Sport England, subject to the imposition of conditions and a S106 Agreement to secure the measures identified in brief above.

RECOMMENDATION: DEFERRED AND DELEGATED to the Director of Community Services for approval following the conclusion of departure procedures, satisfactory completion of a legal agreement (substantially in accordance with the terms described in the Section 106 Agreement sub-reading of this report) within 3 months from the date of this departure decision or delegated to the Director of Community Services in conjunction with the Chairman and Vice Chairman of Planning and Development Control Committee should exceptional circumstances exist beyond the period of 3 months and subject to the following condition(s):”

- 4.53 The Appellant considers that significant weight should attach to the consensus of professional opinion between the Appellant and the recommendation in the Committee Report.

5. THE COMMITTEE MEETINGS

5.1 The applications were presented to the November 2014 Planning and Regulatory Committee, with the recommendation that the scheme should be deferred and delegated for approval to the director of community services.

5.2 Despite this recommendation, Members were minded to refuse the applications and, as a result, the application was carried over to the December committee meeting to finalise the reasons.

5.3 The Officers Report to the December Committee was largely unaltered from November, short of the addition of the following:

“Committee resolved on 13 November 2014 to be minded to refuse the proposal based on the following issues:

- *Harm to listed building*
- *Visual impact to Conservation Area and the setting of the listed building*
- *Visual impact to the Area of Outstanding Natural Beauty*
- *Contrary to sustainable development on the basis that any regeneration benefits do not outweigh the harm to the Council’s Core Strategy and to development strategy.*

It is important to remind Members that all of these were fully assessed by the case officer having regard to numerous consultation responses from civic amenity bodies and landscape consultees as outlined with the report when a decision was made to recommend approval. In particular, the Council’s Head of Regeneration and Housing is supportive of the scheme as states in the main report and he recognises the benefits of the proposal in terms of creating employment opportunities and business growth, supporting regeneration activities and smaller settlements across the borough and key growth sectors of sport and leisure and food and drink.”

5.4 It is quite clear, therefore, that (despite the resolution to be “minded to refuse”) the recommendation from the Officers remained (unequivocally) that planning permission should be approved.

5.5 For the reasons set out in Section 6 of this evidence the applications were refused at the December committee.

6. DECISION NOTICE AND REASONS FOR REFUSAL

6.1 In accordance with article 31(1)(b) of the Town and Country Planning (Development Management Procedure) (England) Order 2010¹¹ where planning permission is refused, the notice is to state clearly and precisely the full reasons for the refusal, specifying all policies and proposals in the development plan which are relevant to the decision.

6.2 Planning permission was refused by the Council's Planning Committee at its meeting on 18 December, against Officer's recommendation. The Council's Decision Notice refusing planning permission was issued on 23 December 2014 and sets out four reasons for refusal. The Decision Notice for the appeal scheme is included as part of the appeal submission as Essential Supporting Document 3 and states the following four Reasons for Refusal.

1. *"The proposal is harmful to the special architectural and historic interest, significance and setting of both Kirk Mill (Grade II Listed) and Kirk House (Grade II Listed; former mill owner's house; immediately adjacent to Kirk Mill). This is because of the loss and alteration of important historic fabric, plan form and design at Kirk Mill, the addition of poorly designed and inappropriate extensions to Kirk Mill and the intrusion of poorly designed and inappropriate development into the setting of both listed building. This is contrary to the National Planning Policy Framework, and Policies DME4, DMG1, DMB2 and DMB3 Ribble Valley Core Strategy adopted version.*
2. *The proposal is harmful to the character and appearance, significance, setting and views into and out of Kirk Mill Conservation Area and Chipping Conservation Area. This is because of the intrusion upon and coalescence of the conservation areas from poorly designed and inappropriate development. This is contrary to the National Planning Policy Framework and Policies DME4, DMG1 and DMB2 and DMB3 of the Ribble Valley Core Strategy adopted version.*

¹¹ The Statutory Instrument in force at the time of the determination of the application

3. *The proposal would lead to significant development in an unsustainable location contrary to Key Statements DS1, DS2, EC1 and Policies DMG2, DMH3 and DMB1 of the Ribble Valley Core Strategy adopted version. The harm is not outweighed by the regeneration benefits of the scheme and the housing part of the development does not meet the requirements for affordable housing or community contributions. Approval of the application without sufficient justification would therefore lead to the creation of a range of hotel/leisure uses and up to 60 residential dwellings with associated infrastructure works in the open countryside without sufficient justification which would cause harm to the development strategy for the borough as set out in the Ribble Valley Core Strategy adopted version leading to unsustainable development.*
 4. *Given the location, size, intensity, nature and design of the proposed Kirk Mill redevelopment works and associated housing proposals they would be an incongruous feature that would result in the loss of landscape fabric. The proposal would not contribute to, or be in keeping with, the landscape character of the Area of Outstanding Natural Beauty and would cause visual harm, thereby failing to conserve or enhance the natural beauty of the area. No exceptional circumstances have been provided to justify this 'major development' within the Forest of Bowland Area of Outstanding Natural Beauty and thus the proposal is considered contrary to Policies G1 and ENV1 of the Ribble Valley Core Strategy adopted version and the environmental role of the NPPF which seek to ensure that development proposals contribute to, protect and enhance the environment."*
- 6.3 The application for Listed Building Consent was refused and the Decision Notice issued on 4 March 2015 and is as Essential Supporting Document 3 to the accompanying Listed Building Consent appeal. The following Reason for Refusal was stated within the Listed Building Consent Decision Notice:

"The proposal is harmful to the special architectural and historic interest, significance and setting of both Kirk Mill (Grade II listed) and Kirk House (Grade II listed; former mill owner's house; immediately adjacent to Kirk Mill) and the character, appearance and significance of Kirk Mill Conservation Area. This is because of the loss and alteration of important historic fabric, plan form and design at Kirk Mill, the addition of poorly designed and inappropriate development into the

setting of both listed buildings and into Kirk Mill Conservation Area. This is contrary to the National Planning Policy Framework, and Policies DME4, DMG1, DMB2 and DMB3 Ribble Valley Core Strategy adopted version."

- 6.4 The first Reason for Refusal is with respect to the "special architecture and historic interest, significance and setting of both Kirk Mill (Grade II Listed) and Kirk House (Grade II Listed; former mill owner's house; immediately adjacent to Kirk Mill)." This Reason for Refusal is considered further in Mr Miller's Statement of Case in respect of heritage. Mr Miller (an acknowledged expert in the heritage assessment of Listed Mill Buildings) reaches the conclusion that in overall terms the impact of the proposed development will be of significant benefit, as Kirk Mill is currently vacant, derelict and at risk and will be brought back into viable reuse which sensitive to the significance of the Listed Building. He does not therefore accept that the proposal is contrary to the Framework and the relevant policies of the Core Strategy. Rather, his evidence supports the conclusion that the relevant statutory tests, with relevant local and national policy, strongly support the appeal proposals.
- 6.5 The second Reason for Refusal is with respect to the claimed harm to the "character and appearance, significance, setting and views into and out of Kirk Mill Conservation Area and Chipping Conservation Area. This is because of the intrusion upon and coalescence of the conservation areas from poorly designed and inappropriate development." This Reason for Refusal is considered further in Mr Miller's Statement of Case with respect to heritage matters and Ms Quayle's Statement of Case with reference to landscape and visual impacts. Mr Miller concludes that the proposals will have a beneficial impact on the character of the Kirk Mill Conservation Area as well as the Chipping Conservation Area. Ms Quayle concludes that in relation to Kirk mill the effects of the proposed development in relation to landscape and visual effects will be moderate beneficial in Year 1 and Moderate Beneficial in Year 15. She concludes there is no evidence to support the view that the development will cause landscape or visual harm to the Chipping Conservation Area.
- 6.6 The appeal scheme would not cause coalescence of the conservation areas from poorly designed and inappropriate development. The submitted Design Code for the four self-build units sets out broad design parameters to give some clarity as to the final built form. The maximum height and a palette of materials are put forward and

these accord with the development of the local area. The development of the four self-built units would not intrude upon the Conservation Area nor would it result in coalescence.

- 6.7 For the reasons set out in the design statement attached at **Appendix 3**, and the Design and Access Statement, the design of the building is considered to be sympathetic to the Arkwright mill, restoring and enhancing the heritage asset whilst developing, through the addition of modern interventions, a functional and viable hotel.
- 6.8 The third Reason for Refusal is with reference to sustainability and the planning balance. It states that the proposal would “lead to significant development in an unsustainable location...the harm is not outweighed by the regeneration benefits of the scheme and the housing part of the development does not meet the requirements for affordable housing or community contributions.” This Reason for Refusal and the overall planning balance is addressed in this Statement of Case.
- 6.9 The fourth Reason for Refusal is with respect to the landscape character of the Area of Outstanding Natural Beauty and the perceived visual harm caused by the appeal proposals. This Reason for Refusal is considered further in Ms Quayle’s Statement of Case with reference to landscape and visual impacts. Ms Quayle concludes that the effects of the proposed development will be negligible adverse in Day 1 with ‘no noticeable effect’ in Year 15.

The Relevant Policies

- 6.10 The Council considers the appeal scheme to be contrary to the following policies of the Ribble Valley Core Strategy adopted version:
- Key Statement DS1: Development Strategy
 - Key Statement DS2: Sustainable Development
 - Key Statement EN2: Landscape
 - Key Statement EC1: Business and Employment Development
 - Policy DMG1: General Considerations
 - Policy DMG2: Strategic Considerations
 - Policy DME2: Landscape and Townscape Protection

- Policy DME4: Protecting Heritage Assets
 - Policy DMB2: The Conservation of Barns and Other Rural Buildings for Employment Uses
 - Policy DMB3: Recreation and Tourism Development
 - Policy DMH3: Dwellings in the Open Countryside & The AONB
 - Policy DMB1: Supporting Business Growth and the Local Economy
- 6.11 The Decision Notice also refers to Ribble Valley Districtwide Local Plan Policies G1 (Development Control) and ENV1 (Area of Outstanding Natural Beauty), however, on adoption, the Core Strategy fully superseded the Districtwide Local Plan and these policies are therefore no longer in force and should not be considered as part of this appeal.
- 6.12 The Council also lists the National Planning Policy Framework (“the Framework”) within the Reasons for Refusal.
- 6.13 As detailed within the draft SoCG, other than those policies listed above, the appeal scheme is agreed to accord with all other Development Plan policies.
- 6.14 It is the Appellant’s view, as demonstrated within this Statement of Case, that the appeal scheme is in full compliance with the Development Plan when read as a whole. In the event that the inspector disagrees then I have also appraised the development in the context of the housing part of the development fulfilling the role of enabling development, required to directly fund the works to the listed Mill. This matter is discussed in further detail in the following Section.
- 6.15 There is a national presumption in favour of sustainable development set out in the Framework. Sustainable development is defined (paragraph 6) with reference to paragraphs 18 to 219 as a whole. There are three roles of sustainable development (paragraph 7): an economic role, a social role and an environmental role. The roles should not be applied in isolation because they are mutually dependent (paragraph 8). This is therefore a multi-faceted and broad-based concept that goes well beyond simply locational sustainability. I believe that the proposal clearly constitutes sustainable development and the Committee Report conclusion agrees.

7. MAIN ISSUES

7.1 The main issues for consideration as part of appeal against the Council's refusal of planning permission are:

- i. The need for the development/redevelopment;
- ii. The impact of the appeal scheme on the setting and significance of the Listed Buildings;
- iii. The impact of the appeal scheme on the setting and significance of the conservation area;
- iv. The need for housing;
- v. Scheme viability;
- vi. The economic benefits of the development;
- vii. The community benefits of the development;
- viii. The impact of the appeal scheme on the landscape character of the Area of Outstanding Natural Beauty;
- ix. Highways safety and accessibility; and
- x. Whether the proposal constitutes sustainable development within the context of guidance in the National Planning Policy Framework.

7.2 In the following sections of this Statement I consider each of these main matters in a systematic way, in turn.

8. STATUTORY TESTS

8.1 It is first important to consider the statutory tests against which the appeal must be considered:

- i. Section 38(6) Planning and Compulsory Purchase Act (2004) requires an application to be determined in accordance with the Development Plan unless material considerations indicate otherwise;
- ii. Section 66(1) Planning (Listed Buildings and Conservation Areas) Act (1990) requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historical interest which it possesses. The Section 66 duty applies equally to a listed building as to its setting.
- iii. Section 72(1) Planning (Listed Buildings and Conservation Areas) Act (1990) provides that, with respect to any buildings or other land in a Conservation Area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area in decision making.

8.2 In considering the matter of compliance with the Development Plan (Section 38(6)), Mr Justice Sullivan has held that a proposal does not have to accord with each and every policy to be considered in accordance with the Development Plan when read as a whole:

"In the light of that decision (City of Edinburgh Council v The Secretary of State for Scotland [1997]) I regard as untenable the proposition that if there is a breach of any one policy in the Development Plan the proposed development cannot be said to be 'in accordance with the Plan'. Given the numerous conflicting interests that Development Plans seek to reconcile: the needs for more housing, more employment, more leisure and recreational facilities, for improved transport facilities, the protection of listed buildings and attractive landscapes etc., it would be difficult to find any project of any significance that was wholly in accord with every relevant policy in the Development Plan. Numerous applications would have to be referred to the Secretary of State as a departure from the Development Plan because one or a few minor policies were infringed, even though the proposal

accords with the Development Plan considered as a whole. It does not have to accord with each and every policy therein."¹²

- 8.3 The appeal scheme, considered in its entirety, is compliant with the development plan for Ribble Valley, when read as a whole. The appeal scheme proposes a mixed use development within a Tier 2 Village settlement, which will deliver regeneration benefits. This is in full accordance with Core Strategy Key Statement DS1: Development Strategy. Should each individual aspect of the application be considered individually in isolation (and for the avoidance of doubt I do not consider that this is an appropriate way to assess the application) then the residential element of the application does not accord with Key Statement DS1. An assessment of the appeal scheme against the development plan is considered in detail within Section 9 of this Statement.
- 8.4 In the case of ***Barnwell Manor Wind Energy Ltd v. East Northants DC, English Heritage and National Trust*** [2014] EWCA Civ 137, upholding Lang J's decision, the Court of Appeal held as follows:
- The assessment of harm is a matter planning judgment, however once the decision-maker finds some harm to a heritage asset, the effect of s. 66(1) is that the harm must be given "considerable weight" in the balance.
 - In striking the balance, it is not enough simply to ask whether the advantages of the scheme outweigh the harm in a loose or general sense, but whether they sufficiently outweigh the harm to rebut that strong presumption.
 - Even where harm is properly assessed as less than substantial, "it does not follow that the 'strong presumption' against the grant of planning permission has been entirely removed" (paragraphs 28 and 29).
- 8.5 The impact to heritage assets therefore cuts both ways. In accordance with Section 66(1), as upheld by the Court of Appeal in the case of *Barnwell Manor Wind Energy*, a balanced approach is required. If, on balance, the impact of the development is positive, the benefit to the heritage assets(s) must equally weigh heavily in the balance and a strong presumption in favour of the grant of planning permission is engaged. This is as per paragraph 132 of the Framework, which advises that 'great

¹² *R v RMBC ex parte Milne* [2000] EWHC 650 (Admin), paragraph 49

weight' should be given to the conservation of a designated heritage asset when considering the impact of a proposed development on the significance of a heritage asset.

8.6 The Appellant's case is that the impact (considered as a whole) on the heritage assets is positive. The statutory tests are met. Further, there is not less than substantial harm and NPPF (134) is not engaged. Rather, the heritage impacts strongly support the development (see *inter alia* NPPF 132) and weigh heavily in favour of permission being granted in applying any planning balance.

8.7 If (which is denied) there is any harm to any designated heritage asset, then the following decision is relevant. In ***R (Pugh) v Secretary of State for Communities and Local Government*** [2015] EWHC 3 (Admin), Gilbert J held:

"Not all effects are of the same degree, nor are all heritage assets of comparable significance, and the decision maker must assess the actual significance of the asset and the actual effects upon it. [49]

But one must not take it too far so that one rewrites NPPF. It provides a sequential approach to this issue. Paragraphs 126-134 are not to be read in isolation from one another. There is a sequential approach in paragraphs 132-4 which addresses the significance in planning terms of the effects of proposals on designated heritage assets. If, having addressed all the relevant considerations about value, significance and the nature of the harm, and one has then reached the point of concluding that the level of harm is less than substantial, then one must use the test in paragraph 134. It is an integral part of the NPPF sequential approach. Following it does not deprive the considerations of the value and significance of the heritage asset of weight: indeed it requires consideration of them at the appropriate stage. But what one is not required to do is to apply some different test at the final stage than that of the balance set out in paragraph 134. How one strikes the balance, or what weight one gives the benefits on the one side and the harm on the other, is a matter for the decision maker. Unless one gives reasons for departing from the policy, one cannot set it aside and prefer using some different test." [50]

9. PLANNING POLICY

The Development Plan

- 9.1 The Development Plan for Ribble Valley Borough Council comprises the Ribble Valley Borough Council Core Strategy 2008-2028: A Local Plan for Ribble Valley ('the Core Strategy') (**CD1.1**) and the Minerals and Waste Local Plan for Lancashire. The Minerals and Waste Local Plan for Lancashire is not relevant to this appeal.
- 9.2 The Core Strategy was adopted on 16 December 2014 in accordance with the Planning and Compulsory Purchase Act 2004. It covers the period up to 2028 and was examined in light of the requirements of the Framework. It supersedes all remaining 'saved' policies of the Districtwide Local Plan, which was adopted in 1998 and was prepared in accordance with the requirements of the Town and Country Planning Act 1990.

Ribble Valley Core Strategy 2008-2028: A Local Plan for Ribble Valley

- 9.3 Core Strategy Key Statement **H1**: Housing Provision advises that land for residential development will be made available to deliver 5,600 dwellings, estimated at an average annual completion target of 280 dwellings per year over the period 2008 to 2028.
- 9.4 The development strategy for Ribble Valley is set out at Key Statement **DS1**: Development Strategy, which states that the majority of new housing development will be "concentrated within an identified strategic site located to the south of Clitheroe towards the A59; and the principal settlements of: Clitheroe; Longridge; and Whalley." In addition to the strategic site at Standen and the borough's principal settlements, development will be focused towards the Tier 1 villages, which are considered to be the most sustainable of the 32 defined settlements. In the remaining 23 Tier 2 village settlements (the category in which Chipping is identified), Key Statement DS1 advises that "development will need to meet proven local needs or deliver regeneration benefits."
- 9.5 Key Statement DS1 further advises that the scale of planned housing growth will be managed to reflect existing population size, the availability of, or the opportunity

to provide facilities to serve the development and the extent to which development can be accommodated within the local area. Key Statement DS1 does not stipulate the quantum of residential development to be delivered within the Tier 2 village settlements; rather Table 4.12 allocates a nil requirement as new housing in them is restricted to that needed to meet local needs or for regeneration purposes (such as this).

- 9.6 With regards to development that recognises regeneration benefits, Key Statement DS1 advises that this type of development will be considered in all of the borough's settlements.
- 9.7 The Council's Development Strategy was tested during the Examination of the Core Strategy, where the Inspector agreed in his Report **(CD1.2)**, that the hierarchy of principal settlements, Tier 1 and Tier 2 Villages is soundly based and adequately justified. Chipping is therefore considered to be an appropriate location for housing growth in the plan period because it is a sustainable settlement. This is an entirely rational conclusion given the level of services and facilities in the settlement (as illustrated on the Local Amenities and Facilities plan, Design and Access Statement Page 12). Furthermore, the Pre-Application Advice written response confirmed that although located outside of the settlement boundary, the residential element of the appeal scheme is not *'overly isolated and is not remote from other built form. The site is close to a bus route and other services'* and is therefore considered to be a *'sustainable location in principle for development'*. If the housing is for local needs and/or part of a regeneration project, it is clearly supported by DS 1.
- 9.8 The Council's Housing Land Availability Schedule (April 2015) **(CD1.8)** covers the monitoring period 1 April 2014 to 31 March 2015. The Schedule advises that the Council is able to demonstrate a housing land supply of **5.59 years**, inclusive of a 20% buffer (given acknowledged persistent under-delivery of housing).
- 9.9 The Chipping, Bowland with Leagram and Thornley and Wheatley Housing Needs Survey **(CD1.9)** was undertaken in 2011 and the report published in 2012. The report identifies a need for 31 affordable properties in total over the five year to 2017. It is advised that Ribble Valley Homes intend to develop 11 units by the end of 2014. As such, based on the information contained within the Housing Needs

Survey, there is still demand for 20 units over the period to 2017. The following breakdown is provided:

- 6 older persons bungalows: 3x2 bed and 3x1 bed;
- 7 social rent general needs properties split: 4x2 bed and 3x3 bed;
- 7 shared ownership: 3x2 bed and 4x3 bed; and
- In addition, 4 open market bungalows are stated to be required.

9.10 The likelihood of the settlement's affordable housing requirement being delivered without market housing is limited, specifically as the residual requirement already takes into account the housing that is to be delivered by Ribble Valley Homes (a registered provider of social housing).

9.11 Key Statement **DS2**: Sustainable Development reinforces the Framework's presumption in favour of sustainable development, advising that when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the Framework. The policy repeats the 'decision-taking' elements of paragraph 14 of the Framework. For reasons set out in this Statement of Case I am of the firm opinion that this proposal constitutes sustainable development.

9.12 Key Statement **EN2**: Landscape states that the landscape and character of the Forest of Bowland Area of Outstanding Natural Beauty will be protected, conserved and enhanced. Furthermore, any development will need to contribute to the conservation of the natural beauty of the area.

9.13 The Landscape and Visual Impact Assessment submitted in support of the application assesses landscape condition, value and sensitivity and concludes that during the construction phase there will be a period of short term locally adverse effects but that these will be confined to short distance views. Such impacts are the inevitable product of any beneficial redevelopment of the appeal site and cannot rationally justify refusal. At year 15, once new planting has established, the overall importance of visual effects are considered to be generally of minor beneficial rising to major beneficial importance with the development associated with Kirk Mill and the redevelopment of the modern factory site. The effect on the wider landscape character of the AONB is considered to be negligible as the development is generally

visually contained and restricted to the edge of the existing settlement. This will be apparent on the site visit. As detailed above Ms Quayle's evidence expands on this and emphasises that the appeal scheme is in accordance with Key Statement EN2.

- 9.14 Key Statement **EC1**: Business and Employment Development advises that in considering the development of land for economic development and in determining where this land will be located, priority will be given to the use of appropriate brownfield sites to deliver employment-generating uses including a preference for the re-use of existing employment sites before alternatives are considered. The policy instructs that proposals which result in the loss of existing employment sites to other forms of development will need to demonstrate that there will be no adverse impact upon the local economy.
- 9.15 In this case, H.J Berry (the chair making company) closed more than five years ago and before that period had experienced a gradual decline in the number of persons employed. The H.J Berry factory employed approximately 85 people prior to its closure.
- 9.16 An Economic Impact Statement has been produced by Regeneris Consulting and is submitted as part of the appeal as Essential Supporting Document 9.8. The Economic Impact Assessment outlines prevailing economic conditions in the Ribble Valley/Chipping area and quantifies the direct and indirect economic benefits of the proposal, covering both the initial construction phase and the scheme once full operational.
- 9.17 There is currently a general need for more jobs to be created within the Ribble Valley area. Ribble Valley has experienced no growth in employment over the last 5 years and despite population growth, employment levels have actually fallen by 0.1%. This is particularly stark when compared to national employment which has seen a 2% growth over the same period. The low jobs density and limited employment growth identified within the district demonstrates a clear need for more local employment opportunities. The Council's latest Employment Land Review¹³ is predicted on a policy-on employment growth of 4,900 jobs between 2012 and 2028. Opportunities to meet this target will be scarce and those that do materialise will need to be backed.

¹³ Ribble Valley Borough Council, Employment Land Study Refresh 2013

- 9.18 Tourism and leisure is an established sector with a good reputation and has been identified as a target growth sector by the Council. It is one of the few employment sectors that can be realistically relied on to deliver growth in the Ribble Valley. There are emerging labour market issues that are best met by local service sector jobs with flexible working patterns. These relate to the need for more jobs to meet arising economic activity rates amongst older residents and to address pockets of youth unemployment.
- 9.19 The appeal scheme will deliver a number of economic benefits. Construction of the scheme is expected to require around £28m of construction expenditure and create an average of 240 Full-Time Equivalent (FTE) jobs over an assumed 2 year build period. This covers both on-site and off-site employment. The types of employment during the construction phase is expected to include manual and elementary occupations such as site labourers, skilled construction jobs such as plumbers, carpenters and managerial/supervisory posts.
- 9.20 The scheme as a whole is expected to create a total of around 100 jobs, equating to 80 FTEs. The 100 jobs are a *direct* effect of the development and does not reflect corporate supply chain impacts and expenditure of workers. When these elements are taken into account we would expect a further 20 multiplier jobs to be created. The breakdown of the direct employment is as follows:
- The hotel developments, inclusive of the spa facilities, wedding venue, bar, restaurant and holiday cottages are expected to create 85 jobs.
 - The Trailhead Centre/cafe and Crèche are expected to create 7 jobs.
 - The proposed 60 new dwellings, are expected to accommodate 160 new residents. These new residents are expected to generate annual household expenditure in the Ribble Valley area of £0.5m, creating 6 jobs.
- 9.21 Using national benchmark data for average wages in the tourism and hospitality sector, the 100 jobs created by the development would be expected to generate over £2m per year in wage income. A proportion of which would be spent in the local area.
- 9.22 The nature of the use proposed will bring additional visitors to Chipping to stay at the hotel, or to visit the restaurant/pub. Furthermore, the trailhead centre facility

and the increased car parking offer will make the village more attractive to visitors than at present.

- 9.23 The Council's Head of Regeneration and Housing is fully supportive of the appeal scheme confirming that the reuse of the vacant brownfield site will create employment opportunities and business growth that can support the local economy. The consultation response states:

*"As a principle the scheme is supported. The commercial proposals will re-use a vacant brownfield site bringing it back into use creating employment and business growth that can support the local economy through employment and supply chains across a key economic sector for the borough and Lancashire. **The proposal supports the borough's tourism offer and meets the key growth sectors of sport and leisure and food and drink.***

*The development will (subject to details) help protect an important heritage asset bringing it back to life to the long term benefit of the local area and the Council's conservation aspirations. The mixed nature of the scheme provides a diversity of facilities and whilst I maintain my previously expressed view that I would prefer to see some elements of commercial B1 space included as part of the mix, I am satisfied that **the proposal supports the economic and regeneration priorities of the borough.***

New and enhanced sports facilities are included for the village which I view as a benefit.** The scheme includes new residential development to support overall viability and delivery of the scheme and this does need to be carefully considered. Separate comments have been provided by myself and my team in relation to the affordable housing aspects however **delivery of housing is a government priority to support economic growth and where there is an opportunity to deliver appropriate affordable housing this has to be considered within the overall planning balance.

*I have noted the District Valuer's comments in relation to the development appraisals and the differences of view expressed, however overall **I consider the scheme from an economic development and regeneration viewpoint will help deliver the Council's economic aspirations and should be supported.***

As with any mixed scheme of this nature, particularly where a relatively significant amount of residential development is proposed to fund the overall development, careful consideration should be given to the phasing and delivery of the commercial elements of the scheme.” (Emphasis added)

9.24 The committee report confirms:

“In particular, the Council’s Head of Regeneration and Housing is supportive of the scheme as stated in the main report and he recognises the benefits of the proposal in terms of creating employment opportunities and business growth, supporting regeneration activities and smaller settlements across the borough and key growth sectors of sport and leisure and food and drink.”

9.25 Furthermore, the appeal scheme supports the borough’s tourism offer and meets the key activity of supporting regeneration activities in smaller settlements across the borough, and in key growth sectors of sport and leisure, and food and drink. In this regard, it has to be sensibly understood and accepted that one of the main reasons why the development can provide a tourism offer is because it is located in the AONB, which people wish to visit. It would be perverse, therefore, to interpret policies on the AONB in such a manner as to frustrate tourism development which the Plan is expressly seeking to deliver.

9.26 It is clear (and agreed by Officers) that the proposal will be of significant benefit to the local economy and the appeal scheme therefore derives significant support from Key Statement EC1 and is considered to be acceptable as a local regeneration scheme in accordance with DS 1.

9.27 Policy **DMG1**: General Considerations sets out an overarching series of considerations that the Council will have regard to in achieving quality development. This includes: design, access, amenity, environment, and infrastructure. Each of these issues have been considered already in this Statement of Case and I am satisfied that the proposals are in accordance with this policy.

9.28 Policy **DMG2**: Strategic Considerations assists the interpretation of the development strategy and underpins the settlement hierarchy for the purposes of delivering sustainable development. For development within, or outside the defined

settlement areas of, Tier 2 Village Settlements development must meet at least one of the following considerations:

- be essential to the local economy or social wellbeing of the area;
- is needed for the purposes of forestry or agriculture;
- is for local needs which meets an identified need and is secured as such;
- is for small scale tourism or recreational developments appropriate to a rural area;
- is for small scale uses appropriate to a rural area where a local need or benefit can be demonstrated; or
- the development is compatible with the Enterprise Zone designation.

9.29 The appeal scheme meets the provisions of four of the six criteria stated in Policy DMG2 as the scheme is (i) essential to the local economy or social wellbeing of the area; (ii) for a local need for employment and/or affordable housing; (iii) for a small scale tourism or recreational development appropriate to a rural area and (iv) for a small scale use which is appropriate to this local area and where a local need/benefit can be demonstrated.

9.30 In addition to interpreting the development strategy for the settlement hierarchy, Policy DMG2 sets out further requirements in order to protect and enhance the Area of Outstanding Natural Beauty. The policy advises that, like the appeal scheme, where possible new development should be accommodated through the re-use of existing buildings. The appeal scheme seeks to regenerate and re-use Kirk Mill and the adjoining Main Mills complex, thereby securing a long term use for the listed buildings, which are currently vacant and clearly at risk of further deterioration. The principle of the use is (rightly) supported by Historic England and the Committee Report.

9.31 The residential element of the appeal scheme is to be provided on greenfield land outside of the Chipping settlement boundary. When (wrongly) considered in isolation, this element of the appeal scheme would not be considered to be in complete conformity with Policy DMG2. It is, however, essential that the appeal scheme is considered holistically because the revenue generated by the housing will be used to invest in the wider appeal site. As noted by the Council's Head of Regeneration and Housing, and within the Officer's assessment within the

Committee Report, the appeal scheme will bring forward a mix of business, employment, tourism and leisure opportunities that are consistent with Policy DMG2. The housing is required to deliver this and is the minimum required to do so. There are no other available sources of funding.

- 9.32 Policy **DME2**: Landscape and Townscape Protection advises that development proposals will be refused which significantly harm important landscape or landscape features including: traditional stone walls; ponds; characteristic herb rich meadows and pastures; woodlands; copses; hedgerows and individual trees; townscape elements that contribute to the characteristic townscapes of the area; upland landscapes and associated habitats; and botanically rich roadside verges. The policy supports the Council's intention to enhance, wherever possible, the local landscape in line with the Core Strategy's Key Statements and Development Strategy. As considered in Ms Xanthe's evidence it is clear that the proposals will certainly not significantly harm important landscape or landscape features. On the contrary, the overall impact will be beneficial.
- 9.33 Policy **DME4**: Protecting Heritage Assets advises that in considering development proposals the Council will make a presumption in favour of the conservation and enhancement of heritage assets and their settings. A full assessment of the appeal scheme against Policy DME4 is included within Mr Miller's Statement of Case, however it is appropriate to undertake the balancing exercise within this Statement.
- 9.34 The consultation response submitted by English Heritage advises "the proposals have potential to affect the significance of several designated heritage assets, particularly Kirk Mill and the related conservation area." For the reasons I have set out when considering the Reasons for Refusal above, it is clear that the scheme will have a beneficial impact which weighs heavily in favour of the proposals and confirms clear compliance with Policy DME4.
- 9.35 The Heritage Assessment submitted as part of the application proposals concludes that the proposed scheme provides Kirk Mill with a long-term sustainable use. The alterations will be off-set by the proposed enhancements, which include the urgent repair to the historic fabric and the removal of the twentieth-century additions that detract from the historic character of the building.

- 9.36 The Heritage Assessment undertook an assessment of the impact of the proposals in the context of the significance of Kirk Mill as a whole, and the relative significance of affected fabric and areas.
- 9.37 Policy **DMB2**: The Conservation of Barns and Other Rural Buildings for Employment Uses advises that planning permission will be granted for employment generating uses in barns and other rural buildings, provided all the following stated criteria are met. This policy is stated within Reason for Refusals 1, 2 and 4, however the Appellant contests the policy's relevance.
- The proposed use will not cause unacceptable disturbance to neighbours in any way;
 - The building has a genuine history of use for agriculture or other rural enterprise;
 - The building is structurally sound and capable of conversion for the proposed use, without the need for major alterations which would adversely affect the character of the building;
 - The impact of the proposal or additional elements likely to be required for the proper operation of the building will not harm the appearance or function of the area in which it is situated;
 - The access to the site is of a safe standard or is capable of being improved to a safe standard without harming the appearance of the area;
 - The design of the conversion should be of a high standard and be in keeping with local tradition, particularly in terms of materials, geometric form and window and door openings;
 - That any existing nature conservation aspects of the existing structure are properly surveyed and where judged to be significant preserved or, if this is not possible, then any loss adequately mitigated.
- 9.38 Furthermore, the policy advises that the conversion of buildings should be of a high standard and in keeping with local tradition. The impact of the development should not harm the appearance or function of an area in which it is situated.
- 9.39 This policy is stated within Reason for Refusals 1, 2 and 4, however the Appellant contests the policy's relevance as it appears to be with regards to agricultural barns. The barn building is not in agricultural use, rather use was incidental to the manufacturing use on the site. The barn building was last in employment use,

incidental to the manufacturing use at the H.J Berry's site. The policy is irrelevant and in any regard, the appeal scheme represents an appropriate use in an appropriate location.

- 9.40 As set out at Section 2 of this Statement, the appeal scheme seeks to reuse and redevelop Kirk Mill, through the creation of an 18 bedroom hotel, and the existing Barn building, by refurbishing the existing barn and erection a two storey new build element to create 7 holiday cottages. As detailed at section 7.4 of the Design and Access Statement, the original nineteenth century Barn will have a number of minor alterations to allow for external windows at both ground and first floor. The lean-to extension to the rear of the barn would be demolished to be replaced with a more suitable extension that will allow access via windows to the rear should a fire occur. The later addition of a breezeblock extension will be demolished due to its construction and height being insufficient for hotel accommodation. The proposed new build will be constructed on a similar footprint to the existing building but to a higher quality. Similarly, alterations will be made to Kirk Mill as the later addition of the wing to the east of the Mill is in particularly poor condition and detracts from the historic character of the building due to being built in part with brick as opposed to the traditional stone. The demolition works required in both instances positively enhance the character of the buildings, which are currently in a dilapidated state.
- 9.41 The carefully considered scheme and high standard of design, which is demonstrated throughout the Design and Access Statement, clearly illustrates that the appeal scheme seeks to positively reuse and enhance Kirk Mill and the Barn building in complete accordance with Policy DMB2.
- 9.42 Policy **DMB3**: Recreation and Tourism Development advises that planning permission will be granted for development proposals that extend the range of tourism and visitor facilities in the Borough. The first criteria against which the policy assesses development proposals states that the proposal must not conflict with other policies of this Plan. In the Forest of Bowland Area of Outstanding Natural Beauty development proposals should display a high standard of design appropriate to the area and not introduce built development into an area largely devoid of structures.

- 9.43 The appeal scheme constitutes the redevelopment of a derelict previously developed site and derives significant support from the Council's Head of Regeneration and Housing. It is important to recognise that tourism is very important for the economy in an area such as this. The Economic Impact Assessment (Essential Supporting Document 9.8) confirms the particularly strong presence in the accommodation and food services sector, accounting for 8% of the total employment in Ribble Valley, 1% higher than the England average. The local area and wider Ribble Valley district has an excellent reputation for high value food and drink establishments – spanning a number of established restaurants and accommodation providers. The State of Lancashire report produced by Lancashire County Council identifies Ribble Valley as an area that encourages exclusive hotels and restaurants to thrive.
- 9.44 The Council's Economic Strategy recognises the need for further investment in the area. It noted a need to "...encourage new investment within hotel accommodation, self-catering, conference venues, eating out and visitor attractions".
- 9.45 Policy **DMH3**: Dwellings in the Open Countryside and The AONB states that within areas defined as open countryside or AONB on the proposals map, residential development will be limited to the following three development typologies:
1. Development essential for the purposes of agriculture or residential development which meets an identified local need.
 2. The appropriate conservation of buildings to dwellings providing they are suitably located and their form and general design are in keeping with their surroundings.
 3. The rebuilding or replacement of existing dwellings subject to criteria.
- 9.46 The residential element of the appeal scheme does not accord with the criteria set out at Policy DMH3. However, a development plan should be read as a whole and in a manner which makes it internally consistent. This is particularly important given that there is not a single specific policy in the Core Strategy which addresses this form of development (with multi-uses to facilitate regeneration benefits).
- 9.47 It is appropriate, therefore, to consider the appeal scheme in light of the provisions of Key Statement DS1, which considers that development that addresses local

needs and/or recognises regeneration benefits will be considered in all of the Borough's settlements. The residential element of the appeal scheme is not to be considered in isolation but rather as a key part of the holistic appeal scheme. The appeal scheme will secure the long term future of Kirk Mill and Kirk House and improve the Conservation Area as a consequence. In order to facilitate the delivery of the Kirk Mill regeneration, funding is required to make the scheme viable. Significant funding will be provided through the receipt obtained from the outline residential element of the scheme, which will be used to fund the regeneration elements of the proposal (secured by s.106 obligation, as set out at paragraph 9.152 of this Statement). The appeal scheme has been subject to a confidential Viability Appraisal, which has been reviewed and agreed by the District Valuer. It was agreed that the provision of 20% affordable units at a discount of 40% from open market value was appropriate. This results in compliance with Key Statement H3, as set out at paragraph 9.49.

- 9.48 Without the residential element of the proposal, none of the development on Kirk Mill will be viable and therefore possible. The monies are needed to fund the work to Kirk Mill. This is a holistic scheme, which although containing different elements, are all intrinsically linked. The residential element of the appeal scheme presents (as is agreed by the DV and Planning Officers) the minimum quantum of development required to ensure the restoration and preparation of the mill for its new use.
- 9.49 The Core Strategy's Development Strategy, Key Statement DS1, permits development in Tier 2 Villages provided that development will need to meet proven needs or deliver regeneration benefits. Self-evidently, therefore, Chipping (as a tier 2 village) is deemed to be a sustainable settlement which can accommodate development in the Plan period. The appeal scheme facilitates the regeneration of the Grade II listed Kirk Mill and seeks to secure economic growth by way of regeneration of a derelict previously developed employment site. As noted above, the residential element of the appeal scheme is required to cover the costs of the works needed to be undertaken on the Grade II listed Mill. Due to the deficit in funding to ensure the restoration and preparation of Kirk Mill for its proposed use, the scheme includes the minimum quantum of residential development required to deliver the regeneration of Kirk Mill. Key Statement H3 allows for developers to submit open book viability assessments should a scheme not provide the sought

30% affordable housing. In accordance with Key Statement H3, the Appellant submitted a Viability Appraisal and concluded that the scheme could support a provision of 13,300 square feet or 14 affordable units. Following discussion at the Strategic Housing Working Group, it was agreed that the standard discount of 40% from open market value should be applied and this acknowledged that applying the greater discount means the percentage of affordable provision will drop to 20%. The scheme is fully compliant with Key Statement H3.

9.50 Policy **DMB1**: Supporting Business Growth and the Local Economy advises that proposals that are intended to support business growth and the local economy will be supported in principle. Proposals for the development, redevelopment or conversion of sites with employment generating potential in the Plan area for alternative uses will be assessed with regard to the following criteria:

- The provisions of Policy DMG1; and
- The compatibility of the proposal with other plan policies of the LDF; and
- The environmental benefits to be gained by the community; and
- The economic and social impact cause by loss of employment opportunities to the Borough, and
- Any attempts that have been made to secure an alternative employment generating use for the site.

9.51 The appeal scheme presents a mixed-use development that has the potential to rebuild the rural economy, will bring back into beneficial economic use a designated heritage asset and supports the Borough's tourism offer and meets the key activity of supporting regeneration activities in smaller settlements. The appeal scheme supports business growth and the local economy whilst conserving and enhancing the significance of heritage assets. The appeal scheme is fully compliant with the provisions of Policy DMB1, from which it derives significant support.

9.52 On balance, therefore, it is considered that the scheme complies with the development plan, for the purposes of applying s.38(6) P&CPA 2004.

The National Planning Policy Framework

- 9.53 The Framework at paragraphs 186 and 187 advises that local planning authorities should approach decision-taking in a positive way to foster the delivery of sustainable development. Decision-takers at every level should seek to approve applications for sustainable development where possible.
- 9.54 At paragraph 196, the Framework sets out that planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The Framework is a material consideration in planning decisions. In accordance with paragraph 197, local planning authorities should apply the presumption in favour of sustainable development.
- 9.55 As set out at paragraph 6.13 of this Statement, there is a national presumption in favour of sustainable development, with paragraphs 18 to 219 of the Framework, when taken as a whole, constituting the Government's view of what sustainable development in England means in practice for the planning system. This is therefore a multi-faceted and broad-based concept that goes well beyond simply locational sustainability.
- 9.56 The Framework contains, at paragraph 17, a set of 12 land use planning principles to underpin both plan-making and decision-taking. The relevant Framework chapters are summarised below.

Building a strong, competitive economy

- 9.57 The Framework states that the Government is committed to securing sustainable development and that the planning system should do everything it can to support this goal. In particular, "planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system." (NPPF Para 19).
- 9.58 Specifically with regards to existing employment sites, the Framework at paragraph 22 states that planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being

used for that purpose. Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities. Although not specifically allocated as employment land on the Districtwide Local Plan Proposals Map, the Kirk Mill site was last in active employment use (Use Classes B1, B2, B8) when H.J Berry's occupied the site.

9.59 The Employment Supporting Statement¹⁴, submitted as part of the application submission, considers the potential for the commercial re-use, refurbishment or redevelopment at the Kirk Mill site. The Employment Supporting Statement identifies that it would not be possible to refurbish or redevelop the premises for purely employment purposes without incurring a substantial financial loss. Furthermore, it is unlikely that the location would have ever been viable for redevelopment for employment purposes.

9.60 The Supporting Statement sets out at section 4 a market overview, explaining that prior to acquisition by the Appellant the whole site was on the market without any interest from the market for employment uses. Additional marketing for employment uses would, in the opinion of Nolan Redshaw, not be worthwhile due to the following reasons:

- The unsatisfactory access to the site for any form of industrial/warehousing use;
- Concerns of restrictions over hours of usage because of the residential and rural nature of the immediate area.
- The very poor condition of the buildings and dilapidated appearance.
- Inadequate specification i.e. limited eaves height, restricted access and loading.
- Lack of services.
- Inability to provide quick possession because of the poor condition of the premises.

9.61 The report concludes that the premises, in their current form, are unmarketable effectively due to functional obsolescence, however an alternative non-commercial

¹⁴ Employment Supporting Statement (Nolan Redshaw, August 2011)

development could proceed without prejudicing the supply of employment land in the area.

Supporting a prosperous rural economy

- 9.62 The Framework, at paragraph 28, states to promote a strong rural economy support is to be given to sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well-designed new buildings. Additionally, the provision and expansion of tourist and visitor facilities are to be supported.

Promoting sustainable transport

- 9.63 Paragraph 34 of the Framework outlines that decisions should ensure developments that generate significant movements are located where the need for travel will be minimised and the use of sustainable transport modes can be maximised, however this needs to take account of policies set out elsewhere in this Framework, particularly in rural areas. At paragraph 29, the Framework recognises that different policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas. This previously developed site is located in a rural area and therefore the required and expected levels of accessibility should be adjusted accordingly.
- 9.64 As illustrated on the local amenities and facilities plan (section 2.1.2 of the Design and Access Statement) the appeal site is in close proximity to the local amenities and services of the village. Additionally, the mixed-use scheme will add to the employment and leisure opportunities available in the village. It must be recognised that although the location of the proposed development is a rural one, it is not of an isolated nature. In accordance with the Framework, the site is to be considered as an opportunity in a rural location, and the levels of accessibility should be adjusted accordingly. It must also be acknowledged that the proposed leisure use is entirely suitable for the rural location. The appeal scheme is therefore not considered contrary to any transport policies of the Framework (paragraphs 29 to 36).

Delivering a wide choice of high quality homes

- 9.65 To boost significantly the supply of housing, the Framework confirms that local planning authorities should identify and update annually a supply of deliverable housing sites. Footnote 11 on page 12 of the NPPF provides a definition for what contributes a “deliverable” housing site. Footnote 11 confirms that to be considered deliverable, sites should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years and in particular that development of the site is viable. However, delivering a 5 year supply is the minimum requirement of the NPPF (see paragraph 47iii).
- 9.66 At paragraph 50 the Framework confirms that local planning authorities should enable the delivery of a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities. In order to do so, it is essential that local planning authorities plan for a mix of housing (including for people wishing to build their own homes); identity type, tenure and range of housing that is required in particular locations; and where an identified affordable housing need has been identified, set policies for meeting this need.
- 9.67 To promote sustainable development in rural areas, in accordance with paragraph 55 of the Framework, housing should be located where it will enhance or maintain the vitality of rural communities. Although the appeal scheme is not considered to provide ‘isolated homes in the countryside’, paragraph 55 sets out a number of special circumstances against which such development should be considered. One such criteria is *“where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets.”* This is discussed further at paragraph 9.125.
- 9.68 The residential element of the appeal scheme is located adjacent to the Chipping settlement boundary, a location which enables the development to fully integrate into the existing settlement. The scheme provides both market and affordable dwellings, including provision for the over 55’s in line with the Chipping Village Plan.

Requiring good design

- 9.69 The Framework advises that the Government attaches great importance to the design of the built environment. Good design is considered to be a key aspect of sustainable development, indivisible from good planning, and should contribute positively to making places better for people.

Conserving and enhancing the natural environment

- 9.70 In respect of the environmental role of the Framework, specific guidance is offered on conserving and enhancing the natural environment and paragraph 109 comments that the planning system should contribute to and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains in biodiversity where possible. Paragraph 113 further advises that local planning authorities should set out what it terms a criteria based policies which development proposals can be judged against with a hierarchical approach to designation so that protection of wildlife, geodiversity is commensurate with their status.
- 9.71 The appeal site lies within the Forest of Bowland Area of Outstanding Natural Beauty and in accordance with the Framework at paragraph 115 'great weight' should be given to conserving landscape and scenic beauty. Planning permission should be refused, in line with paragraph 116, for major developments in these designated areas except in exceptional circumstances and where it can be demonstrated they are in the public interest. Consideration of such applications should include an assessment of:
- The need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;
 - The cost of, and scope for, developing elsewhere outside the designated area, or meeting the need for it in some other way; and
 - Any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.

- 9.72 The foundation of the appeal scheme is the Grade II listed Kirk Mill, which is currently in a status of disrepair and in danger of being at risk. The evolution of the scheme centred on the need to restore, enhance and preserve the nationally significant heritage asset. The appeal scheme is the only viable option that will secure a long-term viable future for Kirk Mill. There is unanswerably a heritage and/or an economic need for the development.
- 9.73 There is no scope of the developing elsewhere outside the AONB, as Kirk Mill and the previously development main mills site, which are both within the Appellant's landownership, are located within the AONB designation. The appeal scheme is specific to the site and cannot be developed elsewhere.
- 9.74 The proposal will have a positive impact upon the recreational opportunities available to existing and proposed residents and visitors. Furthermore, as detailed within the submitted Ecological Appraisal and within Ms Quayle's Statement of Case there will be no detrimental effects on the environment that could not be mitigated. In fact, the scheme will create positive impacts on the landscape.

Conserving and enhancing the historic environment

- 9.75 Paragraph 126 of the Framework advises that local planning authorities should set out in their Local Plans a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats, In doing so, they should recognise that heritage asserts are an irreplaceable resource and conserve them in a manner appropriate to their significance.
- 9.76 When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. The appellant considers that there will be significant heritage benefits as set out in Mr Miller's evidence. Therefore the proposal derives significant support from the NPPF.
- 9.77 As set out at paragraph 133 of the Framework, where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be

demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss. Substantial harm to or loss of a grade II listed building, park or garden should be exceptional. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, paragraph 134 advises that this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

- 9.78 Paragraph 140 advises that local planning authorities should assess whether the benefits of a proposal for enabling development, which would otherwise conflict with planning policies but which would secure the future conservation of a heritage asset, outweigh the disbenefits of departing from those policies. There is no equivalent enabling development policy in the Core Strategy. This means it is all the more important to consider the whole of the scheme's compliance with the whole of the development plan. This ensures the Core Strategy is consistent with the NPPF.

Presumption in Favour of Sustainable Development

- 9.79 Paragraph 14 of the Framework advises that at the heart of the Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking. For decision-taking this means approving development proposals that accord with the development plan without delay; and where the development plan is absent, silent or relevant policies are out-of-date, granting planning permission unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits or specific policies in the Framework indicate development should be restricted.
- 9.80 As set out at paragraph 8.2, Mr Justice Sullivan has held that a proposal does not have to accord with each and every policy to be considered in accordance with the Development Plan when read as a whole. My evidence, and that of the other witnesses demonstrates that the appeal scheme is in accordance with the Development Plan, when read as a whole, and therefore this appeal should be considered in line with the first bullet point of paragraph 14 such that, in my view, permission should have been granted promptly by the local planning authority. Further or alternatively, the proposal constitutes sustainable development for the purposes of the NPPF.

- 9.81 There are a number of elements to the appeal scheme and should the principle of development of each element of the scheme be considered individually then the residential element of the scheme could be considered not to be acceptable in land use planning terms. Core Strategy Key Statement DS1 confirms that development in Tier 2 villages will need to meet proven local needs or deliver regeneration benefits, the appeal scheme complies with the latter aspect of this policy.
- 9.82 It is my professional opinion that this is the correct way to assess the appeal proposals i.e. considering the proposals holistically. However if the residential element of the appeal scheme is considered in isolation it could be considered to be contrary to the policies of the Development Plan but can be justified as enabling development. This is discussed in further detail at paragraph 9.126 of this Statement.
- 9.83 In light of the identification of the relevant statutory and planning policy background, it is necessary to address the main issues identified in Section 7 of this Statement.

The Need for Development/Redevelopment

- 9.84 'Significance', in respect of heritage policy, is defined within the glossary to the Framework as "*the value of a heritage asset to this and future generations because of its heritage interest. That interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting.*"
- 9.85 The Heritage Assessment, submitted as part of the suite of application documents, assesses the significance of Kirk Mill and of the heritage assets in the wider area. The Heritage Assessment advises that Kirk Mill is of high significance for its aesthetic value of the exterior, which is reflected in its Grade II listed building status. The building is also of high significance for its historical and communal value, and medium significance for its evidential value. The interior of Kirk Mill is assessed as being of medium significance, although key elements are of high significance and the waterwheel may be considered as exceptional significance. Therefore this is an

important Listed Building, the future of which must be secured through a sensitive redevelopment securing its optimum use in the long term.

- 9.86 The Heritage Setting Assessment considers the impact of the proposed development on the setting of the heritage assets within Kirk Mill and Chipping Conservation Areas. In assessing whether, how and to what degree the settings make a contribution to the significance of the heritage assets, the Heritage Setting Assessment assesses a number of potential attributes of the development affecting setting.
- 9.87 The Heritage Setting Assessment concludes that the sensitivity of the setting in the Kirk Mill Conservation Area is high, and makes a substantial contribution to the significance of Kirk Mill as a heritage asset. Development will not, however, have a significant adverse impact on the historic setting of the Conservation Area as the proposals for Kirk Mill will ensure that the building retains its status as a focus for the Conservation Area. Furthermore, the appeal proposals will enhance Kirk Mill's historic fabric and enable its greater appreciation as a heritage asset through its sympathetic repair and conversion. These changes will not change the setting of the asset to an extent that will affect its contribution to the significance of the asset, nor the extent to which its significance can be experienced. As detailed in Mr Miller's evidence the impact of the proposed development will be of significant benefit.
- 9.88 The magnitude of impact arising from the demolition of the mid-twentieth century factory, and its replacement with a new building is similarly considered to be negligible. However, this part of the study area does contain a nineteenth-century barn, the setting of which will be slightly improved by the proposed development via an improvement in the degree to which the setting's relationship with the building can be appreciated. The magnitude of impact in this respect can clearly be viewed as being beneficial.
- 9.89 As the residential element of the scheme is applied for in outline, the impact on the setting of heritage assets is unable to be explicitly determined at this stage. It is, however, considered that any indirect impacts of the residential element of the appeal proposals would be unlikely to be significant.

- 9.90 Kirk Mill is in a state of gradual deterioration, a result of the significant period of time that the Mill has remained vacant. There are significant structural problems that need attention to ensure the preservation of the significance of the heritage asset.
- 9.91 The impact of the appeal scheme on the wider area has been considered in detail within the Heritage Assessment. The appeal site when read as a whole currently makes a negative contribution to the Conservation Area and the character and appearance of the area. The retention of the modern factory buildings on the Main Mills complex is incompatible with the objectives of long-term regeneration of the area, and the alternative is likely to be further decay of the buildings, leading to their ultimate loss without any compensatory benefits. The removal of the modern factory buildings will enhance the historic character of the adjacent Conservation Area and restore the views of Chipping Brook.
- 9.92 The Appellant has made a number of enquiries and applications for grant funding without success.
- 9.93 It is clear therefore that the only manner in which the scheme as a whole will progress, will be if any permissions granted include the residential element. Permission for the 4 self-build units and the 56 units on the existing cricket pitch are essential to generate the funds required to preserve and enhance the mill. Absent the residential element, the restoration of the mill simply cannot be achieved. The value of the self-build element is of particular significance, generating a substantial part of the funds required to facilitate the works to the mill.
- 9.94 As confirmed within the land east of St Edmunds Lane, Great Dunmow, Essex appeal decision¹⁵, the Government has made a commitment to the provision of 100,000 custom/self-build homes over the next 10 years. The appellant of the aforementioned appeal considers that the requirement would equate to around 214 custom build homes per local authority in England, with approximately 107 dwellings to be constructed in the next 5 years. Given the lack of provision for custom/self-build housing within the Core Strategy, the promotion of this site for this particular type of residential development and having regard to the guidance

¹⁵ Appeal Ref: APP/C1570/A/14/2223280, paragraph 85

in Paragraph 50 of the Framework, the provision of the self-build housing should be afforded significant weight in the consideration of this appeal.

- 9.95 The future of the listed buildings absent redevelopment is not favourable. It is highly likely that the listed buildings, specifically Kirk Mill, will remain vacant and continue to deteriorate. There is no realistic 'Plan B' for the site. The LPA has not suggested an alternative future/viable development proposal. It is necessary, through the appeal scheme, to resolve problems arising from the inherent needs of the heritage assets, rather than the circumstances of the present owner or the purchase price paid. The Appellant does not consider that it is an option to 'do nothing' from either a heritage and/or an employment perspective. The listed buildings are considered to be significant in isolation and within their contribution to the Conservation Area. It is not appropriate to consider the redevelopment of Kirk Mill for its original use, or the site for a use similar to that undertaken by H.J Berry & Sons. The site has remained vacant since it closed in 2010 and the appeal scheme presents the opportunity to redevelop the site in a manner that safeguards and enhances the conservation and historic value of the listed buildings and their setting. Historic England, within their consultation response to the application, clearly support the initiative to regenerate and re-use Kirk Mill and the adjoining Main Mills complex. This would secure a long term use for a listed building which is vacant and clearly at risk of further deterioration. The appeal scheme is the only viable option to enable the preservation and enhancement of Kirk Mill.
- 9.96 As set out at the beginning of this Statement, the appeal scheme has been developed by focusing on how the listed building could be effectively and feasibly brought back into a beneficial use. The costs associated with the repair, restoration and redevelopment of Kirk Mill are such that the development is not possible in isolation. The Appellant considered that in order to safeguard the further of the Mill, it was necessary to create a mixed-use scheme that would enable the redevelopment of the Mill and in turn regeneration of Chipping, in accordance Core Strategy Key Statement DS1. This is discussed in greater detail in the consideration of the 'enabling development/sustainable development' main issue.

The Impact on the Listed Building

- 9.97 The works proposed to Kirk Mill have been considered in the context of the significance of Kirk Mill as a whole, and the relative significance of affected fabric and areas. This is detailed within the Heritage Assessment and in Mr Miller's evidence.
- 9.98 In the assessment of public benefits against harm to significance, it is considered that there is a compelling case for the development proposals for Kirk Mill. The proposals are essential to facilitate the continued use for the buildings, which will secure the buildings' future as a heritage asset. Given the current condition of the listed buildings, on balance, the impact of the appeal scheme on the significance of the listed buildings would be significant beneficial.
- 9.99 The use as a restaurant and hotel is considered to be the most appropriate and viable uses in the long term to secure the future of the Mill. The nature of the building and its location would be unlikely to lend itself to alternative forms of employment. Interventions and additions to the original fabric have been kept to a minimum, striking the balance to ensure the building is preserved and enhanced, whilst also ensuring that the building can function effectively for its new purpose.
- 9.100 I am clear therefore that the relevant statutory test Section 66(1) Planning (Listed Buildings and Conservation Areas) Act (1990) has been met, as have the relevant requirements of the Council's Core Strategy Policies for reasons set out above.

Impact to the Conservation Area

- 9.101 It is clear based on the conclusions to Mr Miller and Ms Xanthe's evidence that the proposals will have a beneficial impact on the Conservation Area. The statutory test Section 72(1) Planning (Listed Buildings and Conservation Areas) Act (1990) have therefore been met.

The Need for Housing

- 9.102 To boost significantly the supply of housing, the Framework at paragraph 47 confirms that local planning authorities should identify and update annually a supply of deliverable housing sites.
- 9.103 In accordance with Core Strategy Key Statement H1: Housing Provision, the Council is required to maintain a 5 year supply of housing land to ensure land supply is not a barrier to housing growth. The objectively assessed need for the Borough, as detailed in Key Statement H1, is a minimum of 280 units per annum. Using the 31st December 2014 monitoring figures, detailed within the Housing Land Availability Schedule (January 2015), the Council can demonstrate a 5.54 year supply of housing land with an annual requirement of 280 units using the Sedgefield methodology and 20% buffer.
- 9.104 As set out at paragraph 9.9 of this Statement, the Chipping, Bowland with Leagram and Thornley and Wheatley Housing Needs Survey identified a need for 31 affordable properties in total over the five year to 2017. It is advised that Ribble Valley Homes intend to develop 11 units by the end of 2014. As such, based on the information contained within the Housing Needs Survey, there is a residual demand for 20 units over the period to 2017.
- 9.105 For reasons set out later within this Statement, the residential component of the scheme need not be considered contrary to policy and enabling development in the truest sense of the definition cannot strictly apply on this basis, in the context of restoring a heritage asset. What is absolutely clear however is that without the residential element of the proposal none of the development will be possible. This is a holistic application, which although containing different elements, are all intrinsically linked.
- 9.106 In the assessment of the residential element of the appeal scheme against the Core Strategy, a central issue for consideration is whether the appeal scheme would cause harm to the Development Strategy. Key Statement DS1 advises that in Tier 2 Village Settlements, such as Chipping, development will need to meet proven local needs or deliver regeneration benefits in order to be considered policy compliant. As the residential application proposals are located outside of the Chipping

settlement boundary, the scheme is not in full accordance with Key Statement DS1, even though it will deliver affordable housing for which there is a local need. Notwithstanding this, regard has to be had to the fact that this is not solely an application seeking residential planning consent. The residential element is part of a much wider development proposal that will bring forward a mix of land uses and regeneration benefits. The benefits are discussed in detail when I consider the 'economic benefit of the development' main issue.

9.107 The Framework at footnote 11 sets out the criteria against which a site should be assessed to be considered "deliverable". I have addressed the criteria in turn below:

Is the site available?

9.108 The site is wholly owned by the Appellant and is available for development now.

Is the site suitable?

9.109 As identified within the Supporting Planning Statement, the site is considered to be a sustainable location in principle for development. The residential development will promote sustainable development in a rural area due to its location adjacent to the Chipping settlement boundary.

Is the site achievable?

9.110 The site could deliver housing within the next 5 years, which would positively contribute to the Council's housing land supply. The site is therefore achievable for development.

Is the site viable?

9.111 The applicant is confident that the application as proposed is the correct and best way of ensuring the viability, and in turn deliverability of the site. A very significant amount of money will need to be invested in the proposal in order to deliver it, and the housing part of the proposal goes some way towards providing that.

9.112 Fundamental however to the whole project is the very clear commitment and investment by the applicant to make the scheme work. This has already been demonstrated through the investment of considerable sums to make the mill as watertight and secure as possible in advance of the commencement of work. The

Appellant is committed long-term to the project, and there is confidence that the hotel and leisure uses will eventually bring a return on investment.

Viability

9.113 A private and confidential viability report was submitted with the application. The report, which was scrutinised and found to be robust by the District Valuer, clearly demonstrates that the development of the precise quantum of residential element proposed is specifically required to enable the preservation and enhancement of the Mill. I further elaborate on this point under consideration of enabling development below.

Economic Benefit of the Development

9.114 The Committee Report details the Council's Head of Regeneration and Housing support of the appeal scheme, recognising the benefits of the proposal in terms of creating employment opportunities and business growth, supporting regeneration activities in smaller settlements across the borough and key growth sectors of sport and leisure and food and drink. The Head of Regeneration and Housing's comments are detailed at paragraph 9.23 of this Statement.

9.115 As noted within the Supporting Planning Statement and Committee Report¹⁶, the tourism and leisure uses are likely to create a number of permanent jobs, equivalent to 80 full time employees. In addition, there are likely to be 'indirect' jobs created in the local economy as well as construction jobs on site throughout the scheme's development. A summary of the Economic Impact Statement of the appeal scheme is provided at paragraphs 9.16 to 9.21 of this Statement.

9.116 The New Homes Bonus generated by the appeal scheme would be generated over a six year period from habitation of the residential aspect of the development, which is based on 60 dwellings at an average Band D Council Tax. This equates to £88,080, of which 80% will be received by the Council, the remaining 20% will be received by the County Council.

¹⁶ Committee Report Page 100 (CD1.11)

9.117 The appeal scheme clearly achieves the economic role of sustainable development through the direct construction related benefits, indirect economic benefits, local socio-economic benefits, a growing labour force, enhanced local spending power and public revenue for investment in community services.

Community Benefits – Healthy Communities

9.118 The scheme aims to facilitate and enhance the existing recreational benefits of the Forest of Bowland AONB, through the provision of the Trailhead Centre. The development proposals therefore incorporate improved connections between the site and the surrounding areas. Additionally, a new cricket pitch and pavilion are proposed, ensuring that key community recreational facilities are not lost but rather enhanced. Leisure facilities will also offer gym and swimming pool facilities.

9.119 The Committee Report identifies the following scheme community and social benefits:

“As well as the social benefits of having ready access to what must be recognised as limited services in the settlement, future residents will also have ready access to the surrounding countryside, encouraging a healthy lifestyle.”

9.120 Taken as a whole, the Kirk Mill proposals aim to secure and positively enhance the promotion of healthy communities for both existing and future residents.

9.121 A key part of the social role of sustainable is to ensure that housing is provided to meet the needs of the present generations as well as those in the future. The development of the appeal scheme would assist in the provision of affordable housing to meet the needs of both present and future generations. As concluded in the Committee Report:

“The overall proposal will result in a high quality built environment, with additional accessible local services that the community can utilise to support their health, social and cultural well-being.”

9.122 The development will deliver market homes, for which there is a need and affordable homes for which there is also a need.

Highway Safety/Accessibility

9.123 The relevant policies of the Core Strategy, policies DMG1 and DMG3, seek to ensure that development should be located to minimise the need to travel, should incorporate good access by foot and cycle with convenient links to public transport to reduce the need for travel by private car. In accordance with paragraph 32 of the Framework, a Transport Assessment supported the planning application submission. The key assessment to be undertaken is whether the appeal scheme takes account of :

- The opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;
- Safe and suitable access to the site can be achieved for all people; and
- Improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

9.124 The TA is clear that the proposal will not result in any highway safety issues and this is agreed with LCC's Highway's Officer. A key element of the proposal seeks to redevelop a former employment use, which employed 85 people at the point of closure, for a use which will provide a comparable number of job opportunities. There is no reason why employment patterns should not reflect those typical of the previous employment operation; in other words a significant number of employees are likely to reside in Chipping or the surrounding area.

9.125 The extent of traffic generated by the proposal will be virtually imperceptible, with a single additional vehicle movement at morning peak times per minute, and two during the evening peak. This should be considered in the context of the HGVs and vehicular traffic previously generated by the factory site.

Enabling Development

9.126 As set out at paragraph 9.80 of this Statement, it is the Appellant's view that the scheme, in its entirety, is consistent with the development plan when considered as a whole. Should, however, the assessment be made that the residential element

of the scheme is contrary to the development plan, the 'enabling development' argument must be explored (see for example *Derwent Holdings*¹⁷).

- 9.127 Enabling development is development which is contrary to established policy but which is permitted occasionally by reason of the fact that it brings public benefits which demonstrably outweigh the harm that would be caused.
- 9.128 The Core Strategy is silent and absent in respect of enabling development and therefore regard is to be had to the provisions of the Framework at paragraph 140. Although it pre-dates the Framework, the *Enabling Development and the Conservation of Significant Places (2008) (CD2.5)* document produced by Historic England is considered to be appropriate guidance in the consideration of 'enabling development'.
- 9.129 A confidential viability report was submitted with the application and clearly sets out the costs associated with the development proposals, relative to the profit the scheme would deliver.
- 9.130 The viability report identifies the costs associated with the delivery of the scheme. These costs are broken down for the different elements of the proposals, with the costs associated with the Mill identified on a standalone basis.
- 9.131 As detailed previously, the Framework is clear at paragraph 140 that benefits of a proposal for enabling development, which would otherwise conflict with planning policies but which secure the conservation of the heritage asset, must be weighed against the disbenefits of departing from those policies.
- 9.132 For reasons set out at Paragraph 9.53, the residential component of the scheme need not be considered contrary to policy in the context of considering the schemes as a whole and enabling development in the truest sense of the definition cannot strictly apply on this basis, in the context of delivering a heritage asset. What is absolutely clear is that without the residential element of the proposal none of the development will be possible – the monies are needed to fund the work to the mill, and therefore the viability report which considers the mill costs, and that of the

¹⁷ [2011] EWCA Civ 832

wider site is of significance regardless. This is a holistic application, which although containing different elements, are all intrinsically linked.

- 9.133 Should the Inspector find that the residential element of the scheme is not acceptable in land use planning terms, I have identified the strong merits of the application in the context of enabling development.
- 9.134 Costs are set out within the confidential Viability Appraisal, which set out the work that is required in order to secure the future of the listed mill. This has been informed by a Structural Survey and other professional advice. The works required to secure the future of the listed mill will be achieved through the development of the residential element of the site.
- 9.135 Very detailed technical assessments have been undertaken to assess the ability of the proposed residential sites to accommodate development, and these assessments conclude that the development of the land is appropriate. The housing scheme will deliver a greater choice of housing in Chipping, including a significant number of affordable homes; furthermore the proposal is in a sustainable location.
- 9.136 It is clear therefore that in the event the Inspector considers the residential element contrary to policy, that there are strong grounds for the Council to support the proposal in the context of it being enabling development, as the alleged harm caused by the residential development is very limited. The benefits of the proposal are set out elsewhere in this Statement and it is clear that securing the future of the mill will be beneficial. The proposal is certainly compliant therefore with the objectives of the Framework.
- 9.137 Guidance produced by Historic England, *'Enabling Development and the Conservation of Significant Places'* (2008), sets out the following policy.

"Enabling development that would secure the future of a significant place, but contravene other planning policy objectives, should be unacceptable unless:

- a. It will not materially harm the heritage values of the place or its setting;*
- b. It avoids detrimental fragmentation of management of the place;*
- c. It will secure the long-term future of the place and, where applicable, its continued use for a sympathetic purpose;*

- d. It is necessary to resolve problems arising from the inherent needs of the place, rather than the circumstances of the present owner, or the purchase price paid;*
- e. Sufficient subsidy is not available from any other source;*
- f. It is demonstrated that the amount of enabling development is the minimum necessary to secure the future of the place, and that its form minimises harm to other public interests;*
- g. The public benefit of securing the future of the significant place through such enabling development decisively outweighs the disbenefits of breaching other public policies.*

9.138 Each of the enabling development policy requirements are addressed in turn below.

It will not materially harm the heritage values of the place or its setting

9.139 The Heritage report and LVIA submitted with the application clearly demonstrates that the proposal will not materially harm heritage values of the place or its setting; rather the proposal will bring significant improvements to the mill itself and indeed the Conservation Area generally, through the removal on unsightly late additions to the mill and unattractive buildings.

It avoids detrimental fragmentation of management of the place

9.140 No fragmentation will occur as a result of the proposals.

It will secure the long-term future of the place and, where applicable, its continued use for a sympathetic purpose

9.141 The Appellant is committed to the delivery of the leisure use and has reached a very advanced stage with an experienced operator, for whom the design of the hotel / leisure complex has been prepared.

9.142 The use of the building for the restaurant/bar and hotel allows for many of the important features to be retained and will restore the premises to a use which will ensure it is maintained in very good order, which in relation to its previous use will be much more appropriate and viable. A considerable amount of market research has been done which provides complete confidence in the long-term business model

for the premises. Indeed, the appellant has had interest from a hotel operator who has invested considerable time in assisting in the formulation of the scheme.

It is necessary to resolve problems arising from the inherent needs of the place, rather than the circumstances of the present owner, or the purchase price paid

9.143 Since acquiring the premises considerable efforts, at notable expense, have been made to secure the listed mill and make it watertight. These are however only short term solutions and it is imperative and absolutely necessary that a long term, viable solution is found. The delivery of the residential element is essential to provide the funding required to make this possible. The need for the redevelopment arises from the needs of the building and not the circumstances of the present owner and the LPA has never suggested that the purchase price is relevant to this determination.

Sufficient subsidy is not available from any other source

9.144 Investigations have taken place to explore potential funding options from alternative sources however no alternative funding has been achieved. To date all work undertaken has been at the considerable personal expense of the applicant. Redevelopment of the mill without some form of funding is not financially sustainable.

It is demonstrated that the amount of enabling development is the minimum necessary to secure the future of the place, and that its form minimises harm to other public interests

9.145 The viability report and the accompanying costs schedule sets out the costs of facilitating and building works for the mill. The residential part of the proposal will deliver a total land value, with the amount of affordable reduced to 20%, which almost meets these costs.

9.146 The form of the housing development has been informed by numerous technical studies to ensure any harm is minimised. It is essential however that the self-build plots are applied for in outline only to realise value; by working within parameters this approach is acceptable in that any perceived harm can be minimised.

The public benefit of securing the future of the significant place through such enabling development decisively outweighs the disbenefits of breaching other public policies.

9.147 The significance of the mill and the conservation area is detailed fully in the Heritage Assessment which forms part of the submission. As detailed in the Heritage report the mill is one of finest and earliest surviving examples of its type in the North West and it is therefore of real heritage significance. Losing the building is not an option and this is not advocated by the LPA and/or local residents. Disbenefits in contrast are not significant, rather they are limited and it is clear that the benefits materially outweigh them.

9.148 The Historic England guidance further stipulates that if it is decided that a scheme of enabling development meets all of the policy criteria, planning permission should only be granted if:

- a. The impact of the development is precisely defined at the outset, normally through the granting of full, rather than outline, planning permission;*
- b. The achievement of the heritage objective is securely and enforceably linked to it, bearing in mind the guidance in ODPM Circular 05/05 Planning Obligations;*
- c. The place concerned is repaired to an agreed standard, or the funds to do so are made available, as early as possible in the course of the enabling argument, ideally at the outset and certainly before completion or occupation;*
- d. The planning authority closely monitors implementation, if necessary acting promptly to ensure that obligations are fulfilled.*

9.149 As per my approach to the policy requirements, for clarity I consider that it is necessary to address each point in turn.

The impact of the development is precisely defined at the outset, normally through the granting of full, rather than outline, planning permission

9.150 The residential element still falls short of directly covering the costs of the works needed to be undertaken on the mill, and does not cover ongoing costs, which will be covered separately by the ongoing operation of the leisure use.

9.151 Historic England can be confident therefore that the amount of residential development proposed is clearly the minimum amount possibly required to ensure the restoration and preparation of the mill for its new use. Given that residential development is proposed, which is well related to existing housing, means that parameters can be set to control the scale of the development to ensure at the reserved matters stage the proposal is appropriate. Sufficient illustrative material is contained in the DAS. Other elements of the development are full.

The achievement of the heritage objective is securely and enforceably linked to it, bearing in mind the guidance in ODPM Circular 05/05 Planning Obligations

9.152 The Appellant has expressed a willingness throughout the application's determination to enter into a legal agreement to ensure the necessary measures are put in place to ensure the most practicable early delivery of the Mill. The parameters necessary to control the scale and massing of the residential development can be dealt with by conditions, linked to the submitted Design Code, if considered necessary to define the proposal clearly.

The place concerned is repaired to an agreed standard, or the funds to do so are made available, as early as possible in the course of the enabling argument, ideally at the outset and certainly before completion or occupation

9.153 The Section 106 legal agreement submitted with the application proposals states at section 7:

"The Owner agrees with the Council:

Not to begin the construction of the Dwellings without first preparing a schedule of the works that will be required to make the Mill wind and watertight (and including those works which are detailed in paragraph 1 of Schedule 4) and obtaining the

written approval of the Council to such schedule, such approval not to be unreasonably withheld or delayed and to be deemed given if the Council do not give written notice refusing approval within [10] Working Days of the schedule being served upon them and in the event that the Owner and the Council cannot agree the schedule it will be determined on the application of either of them by a Specialist pursuant to clause 8 of this deed.

Not to occupy or permit occupation of any Dwelling until: -

- the Mill Works have been completed in accordance with the schedule approved, deemed approved or determined pursuant to paragraph 7.1 above; and*
- the Kirk Mill Complex Works have been completed;*
- the Owner has served written notice on the Council that the Mill Works and the Kirk Mill Complex Works have been completed."*

9.154 The provisions of the Section 106 agreement confirm that the Appellant will repair Kirk Mill as early as possible.

The planning authority closely monitors implementation, if necessary acting promptly to ensure that obligations are fulfilled

9.155 The Appellant will, through the discharge of the relevant planning conditions, ensure that obligations are fulfilled.

9.156 In conclusion, I consider that the benefits of the appeal scheme fully outweigh any disbenefits of departing from the Development Plan. Furthermore, the assessment against the Historic England enabling development policy has demonstrated that the residential element of the scheme, which secures the future conservation of the Grade II listed Kirk Mill, is enabling development in the truest sense and therefore is assessed as being acceptable.

Sustainable Development

The proposal clearly constitutes sustainable development (in the context of the NPPF).

An Economic Role

- 9.157 As is recognised in paragraph 18 of the Framework, economic growth contributes to the building of a strong and competitive economy, which in turn leads to prosperity. The development of the appeal scheme will create in the region of 100 full and part time jobs, in a variety of roles and with varying skill requirements. Furthermore, the appeal scheme will support the borough's tourism offer and meets the key activity of supporting regeneration activities in smaller settlements across the borough and key growth sectors of sport and leisure, and food and drink.
- 9.158 The generation of jobs and spend through the construction of the appeal scheme will help to support sustainable economic development in Ribble Valley, and deliver the homes, business and infrastructure that the borough needs, as emphasised in paragraph 17 to 22 and 28 of the Framework. This is a positive land use planning impact to which the NPPF attaches significant weight.
- 9.159 The residential element of the appeal scheme is deliverable in accordance with paragraph 47 of the Framework. It is available now, offers a suitable location for development now, and is achievable with a realistic prospect that housing will be delivered on-site within five years. The residential element of scheme makes a positive contribution to the need to boost significantly the supply of market and affordable housing in the short term in line with paragraph 47 of the Framework.
- 9.160 The appeal scheme helps to achieve the economic role of sustainable development through direct construction related benefits (240 FTE construction phase jobs), indirect economic benefits, local socio-economic benefits, growing the local labour force (80 FTE jobs), enhanced local spending power (generation of £0.5m in annual household expenditure from the new residents) and public revenue for investment in community services. These economic benefits weigh heavily in favour of the proposal in the overall sustainability balance given their contribution to the economic role of planning to build a strong, responsive and competitive economy.

A Social Role

- 9.161 The appeal scheme will contribute to the Borough's supply of housing. The residential element of the appeal scheme, through the submission of an appropriate reserved matters application, will deliver a mix of high quality housing to meet local needs. Furthermore, the appeal scheme offers 20% of the 56 units element of the scheme for affordable provision, with 15% of this ring fenced for the over 55's and build to Lifetime Home Standards.
- 9.162 Although Key Statement H3: Affordable Housing is not explicitly stated within the Decision Notice, the third Reason for Refusal states that "the housing part of the development does not meet the requirements for affordable housing or community contributions."
- 9.163 Key Statement H3: Affordable Housing sets out the Council's requirements for affordable housing provision on new housing developments. The requirement for Tier 2 Village Settlements in 30% affordable units on all development of 5 or more dwellings, or sites of 0.2 hectares or more irrespective of dwelling numbers. The Key Statement advises that the Council will only consider a reduction in this level of provision, to a minimum of 20%, only where supporting evidence, including a viability appraisal, fully justifies a lower level of provision to the Council's satisfaction. The policy continues that the provision of housing for older people is a priority for the Council within the Housing Strategy and therefore, within the negotiations for housing developments, 15% of the units will be sought to provide for older people on sites of 10 units or more. Within this 15% figure a minimum of 50% are required to be affordable and be included within the overall affordable housing threshold of 30%.
- 9.164 A confidential Viability Assessment was submitted as part of the application submission and has been considered by the District Valuer, appointed by the Council, in order to establish whether the reduced level of affordable provision is essential in order to maximise the receipt the land will provide and therefore enable the remainder of the development to come forward. The District Valuer confirmed that the scheme could offer 25% of the 56 unit site for affordable provision with 15% of this ring fenced for the over 55's and built to Lifetime Home Standards. Following the receipt of the District Valuer's report, the Council's Strategic Housing

Working Group (SHWG) required further consideration regarding the revised tenure mix, as the Viability Assessment concluded that the discounted sale units would be a 25% discount from market values, rather than the Council's preferred 40% discount from open market values, in order that the land value created from the residential scheme could afford to fund the works required to repair the Mill. The SHWG concluded that the standard discount rate of 40% from open market value should be applied, in the knowledge that applying the greater discount meant that the percentage of affordable provision would drop to 20%.

9.165 Although the Core Strategy looks for 30% affordable housing, Key Statement H3 also acknowledges that the proportion would be dependent upon amongst other matters, the viability of the scheme. The policy does not say that a scheme which produces less than 30%, and in this case 20%, has to be refused. That is, the contribution of affordable housing is seen to be related more to viability than sustainability.

9.166 Paragraph 173 of the Framework advises:

"To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing develop to enable the development to be deliverable."

9.167 The Planning Practice Guidance ('the PPG') provides further guidance in this respect advising at paragraph 19 (Ref ID: 10-19-20140306):

"In making decisions, the local planning authority will need to understand the impact of planning obligations on the proposal. Where an applicant is unable to demonstrate to the satisfaction of the local planning authority that the planning obligation would cause the development to be unviable, the local planning authority should be flexible in seeking planning obligations."

This is particularly relevant for affordable housing contributions which are often the largest single item sought on housing developments. These contributions should not be sought without regard to individual scheme viability. The financial viability

of the individual scheme should be carefully considered in line with the principles in this guidance.”

9.168 Whilst the appeal proposals cannot viably provide the Core Strategy's sought after affordable housing provision, Key Statement H3 does provide flexibility should evidence be presented with respect to scheme viability. As concluded by the District Valuer, the scheme can deliver 20% affordable housing thereby providing a key social benefit. The appeal scheme is, therefore, fully compliant with Key Statement H3: Affordable Housing.

An Environmental Role

9.169 Ms Quayle's conclusions are clear that the development will not result in any noticeable effect at Year 15 on the AONB in terms of landscape and visual effects. Initially the impact on landscape and visual effects on the Kirk Mill Conservation Area will be minor beneficial, improving to moderate beneficial by Year 15. The proposals will have a minor beneficial impact on the Chipping Conservation Area.

9.170 The proposals will have a significant beneficial impact overall on Heritage Assets as confirmed by Mr Miller. The proposal will crucially preserve and enhance Kirk Mill, which without the proposals risks falling into further disrepair.

9.171 The proposal also incorporates several improvements to the river which will reduce the risk of flooding, benefitting both the site and the wider village.

9.172 The scheme will retain a significant amount of existing vegetation on site and offer additional, enhanced planting.

9.173 There are no significant adverse effects on any statutory and non-statutory sites of nature conservation interest from the appeal scheme. The planting of new native hedgerows and trees will provide enhanced opportunities for birds, while the erection of bird boxes within the site will also provide new nesting opportunities for birds.

Summary

- 9.174 In accordance with the Framework, the achievement of sustainable development involves the seeking of economic, social and environmental gains jointly and simultaneously through the planning system (where possible). The assessment of the appeal proposals against the relevant provisions of the Framework within paragraphs 18 to 219 demonstrate that the scheme would make a positive contribution to the economic aspects of sustainable development through its contribution to economic development and job creation. Furthermore, the appeal scheme will positively contribute to the supply of housing in the Borough as well as other aspects of social sustainability. Whilst there are some identifiable minor adverse impacts upon the local environment, these impacts can be minimised through the implementation of appropriate mitigation measures, as recommended in the suite of application documents.
- 9.175 Overall, the significant social and economic benefits of the appeal scheme are considered to outweigh any minor environmental harm, with regards to landscape, so that the appeal proposals would deliver sustainable development within the meaning of the Framework.

10. THE OVERALL PLANNING BALANCE

- 10.1 The Framework at paragraph 14 advises at the heart of the Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking. For decision-taking this means approving development proposals that accord with the development plan without delay; and where the development plan is absent, silent or relevant policies are out-of-date, granting planning permission unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits or specific policies in the Framework indicate development should be restricted.
- 10.2 As set out within Section 8 of this Statement, Mr Justice Sullivan has held that a proposal does not have to accord with each and every policy to be considered in accordance with the Development Plan when read as a whole. As demonstrated throughout my assessment of the appeal scheme at Section 9, the proposals comply with the Core Strategy as a whole. The appeal should therefore be considered in line with the first bullet point of paragraph 14 such that, in my view, permission should have been granted promptly by the local planning authority.
- 10.3 There are a number of elements to the to the appeal scheme and should the principle of development for each element of the scheme be considered individually against the development plan, then the residential element of the scheme could be considered not to conflict with development plan policies. Core Strategy Key Statement DS1 confirms that development in Tier 2 villages will need to meet proven local needs or deliver regeneration benefits, the appeal scheme complies with the latter aspect of this policy.
- 10.4 It is my professional opinion that this is the correct way to assess the appeal proposals considering the scheme holistically, as submitted. Should the Inspector take the view that residential element of the scheme is contrary to the development plan, this element of the proposal must be justified as enabling development.
- 10.5 The Framework deals with the issue of enabling development in paragraph 140, which occurs in Chapter 12, "Conserving and Enhancing the Historic Environment". This provides that local planning authorities should assess whether the benefits of

a proposal for enabling development, which would otherwise conflict with planning policies but which would secure the future conservation of a heritage asset, outweighs the disbenefits of departing from those policies.

10.6 An assessment of the appeal scheme against the core principles of the Framework has been undertaken within Section 9 of this Statement. In the assessment of the appeal scheme, I have considered the main issues that could be regarded as being pertinent to the scheme. In this assessment of the overall planning balance, I considered that it is beneficial to summarise how these main issues have been assessed.

i. The need for the development/redevelopment

10.7 The appeal scheme has been developed by focusing on how the listed building could be effectively and feasibly brought back into a beneficial use. The costs associated with the repair, restoration and redevelopment of Kirk Mill are such that the development is not possible in isolation. The Appellant considered that in order to safeguard the future of the Mill, it was necessary to create a mixed-use scheme that would enable the redevelopment of the Mill and in turn regeneration of Chipping, in accordance Core Strategy Key Statement DS1. The developed is therefore needed to preserve and enhance a heritage asset at risk. As such, the development can only take place in this location.

ii. The impact of the appeal scheme on the setting and significance of the Listed Buildings

10.8 Mr Miller considers this matter comprehensively in his evidence. It is clear that significant weight must be placed on preserving and enhancing the listed building, and Mr Miller concludes that overall the scheme will result in a significantly beneficial outcome. I am satisfied therefore the proposal is entirely acceptable in this regard and that this benefit should weigh heavily in favour of the appellant.

iii. The impact of the appeal scheme on the setting and significance of the conservation area

10.9 Ms Quayle has assessed this matter in relation to both the Kirk Mill Conservation Area and Chipping Conservation Area. The impact of the development on the latter will be minor beneficial both at Year 1 and 15; the impact on the former will be minor beneficial in Year 1 and moderate beneficial in Year 15. It is clear therefore that the proposals should be viewed favourably in this regard.

iv. The need for housing

10.10 The residential component of the scheme need not be considered contrary to policy and enabling development in the truest sense of the definition cannot strictly apply on this basis, in the context of delivering a heritage asset. What is absolutely clear however is that without the residential element of the proposal none of the development will be possible – the monies are needed to fund the work to the mill, and therefore the viability report which considers the mill costs, and that of the wider site is of significance regardless. This is a holistic scheme, which although containing different elements, are all intrinsically linked.

10.11 Fundamental however to the whole project is the very clear commitment and investment by the applicant to make the scheme work. This has already been demonstrated through the investment of considerable sums to make the mill as watertight and secure as possible in advance of the commencement of work. The Appellant is committed long-term to the project, and there is confidence that the hotel and leisure uses will eventually bring a return on investment.

10.12 The housing element of the scheme does in its own right deliver a number of key benefits, in accordance with the Framework. This element of the proposal provides both market and affordable housing, and included an element of self-build dwellings.

v. Scheme viability

10.13 A private and confidential viability report was submitted with the application. The report, which was scrutinised and found to be robust by the District Valuer, clearly demonstrates that the development of the precise quantum of residential element

proposed is specifically required to enable the preservation and enhancement of the Mill.

10.14 The Council and the District Valuer have confirmed that the residential uses proposed are necessary to bring forward the preservation and enhance of Kirk Mill.

vi. The economic benefits of the development

10.15 The Council's Head of Regeneration and Tourism support of the appeal scheme, recognising the benefits of the proposal in terms of creating employment opportunities and business growth, supporting regeneration activities in smaller settlements across the borough and key growth sectors of sport and leisure and food and drink.

10.16 As set out within the Economic Impact Statement, the construction of the appeal scheme is expected to require around £28m of construction expenditure and create an average of 240 FTE jobs over an assumed 2 year build period. This covers both on-site and off-site employment. The leisure-led and residential developments is expected to create a total of 100 jobs, equating to 80 FTEs. Using national benchmark data for average wages in the tourism and hospitality sector, the 100 jobs created by the development would be expected to generate over £2m per year in wage income. A proportion of which would be spent in the local area. When considering corporate supply chain impacts and expenditure of works, these elements we would expect the creation of a further 20 multiplier jobs.

vii. The community benefits of the development

10.17 The scheme aims to facilitate and enhance the existing recreational benefits of the Forest of Bowland AONB, through the provision of the Trailhead Centre. The development proposals therefore incorporate improved connections between the site and the surrounding areas. Additionally, a new cricket pitch and pavilion are proposed, ensuring that key community recreational facilities are not lost but rather enhanced. Leisure facilities will also offer gym and swimming pool facilities.

10.18 A key part of the social role of sustainable is to ensure that housing is provided to meet the needs of the present generations as well as those in the future. The

development of the appeal scheme would assist in the provision of affordable, market and self-build housing to meet the needs of both present and future generations.

viii. The impact of the appeal scheme on the landscape character of the Area of Outstanding Natural Beauty

10.19 Ms Quayle's assessment determines that potential importance of landscape and visual effects on the AONB and its constituent LCAs are negligible adverse in Year 1 and no noticeable effect in Year 15. It is clear therefore that the effect of the scheme on the AONB should not have a bearing in the outcome of the appeal.

ix. Highways safety and accessibility

10.20 In accordance with paragraph 29 of the Framework, as the site is in a rural area the required and expected levels of accessibility should be adjusted accordingly. The accessibility of the development site is assessed in detail as part of the submitted Transport Assessment. It is considered that the majority of trips for the residential development would be for commuting or school, and the majority of people using the hotel and leisure side of the development would be sight-seeing.

10.21 There are a number of residential properties within a 500m walk of the site, principally off Kirklands to the south of the proposed development. In addition, there are facilities in the centre of Chipping available to future residents and guests of the proposed development. Within the 500m pedestrian catchment, this includes St. Mary's Roman Catholic Primary School and the Parish Church of St. Bartholomew on Garstang Road. The Cobbled Corner Cafe and The Sun Inn are also within the 500m catchment, located on Garstang Road and Talbot Road respectively.

10.22 Slightly further afield and within a 1000m pedestrian, existing residences can be accessed primarily off Broad Meadow and Longridge Road. There is also an additional primary school and place of worship, with Brabin's Endowed Primary School and St Mary's Roman Catholic Church both lying on Longridge Road. Heading south-west along Garstang Road, Chipping Village Hall is situated on the northern side of the carriageway. On Talbot Street there is an additional Public House and a

convenience store; The Tillotsons Arms and Brabin's Shop and Gallery respectively. Brabin's Shop and Gallery also provides Post Office services.

10.23 The closest bus stop lies on Church Raike, approximately 300m from either the centre of proposed hotel and leisure development or the centre of the proposed residential development, providing services to Clitheroe and Blackburn.

10.24 In summary it is considered that the site is reasonably well connected for its rural location. There are existing pedestrian linkages providing access between the proposed sites and key facilities within the centre of Chipping Village, and complementary land uses and facilities local to the development. There are existing bus services close to the proposed development.

10.25 It must be recognised that the location of the proposed development is a rural one, yet not an isolated one. Under the provisions of the Framework, the site should be considered as an opportunity in a rural location, and levels of accessibility should be adjusted accordingly. The appeal scheme has therefore been assessed as having a good level of accessibility considering its rural location.

x. Whether the proposal constitutes sustainable development within the context of guidance in the National Planning Policy Framework.

10.26 In accordance with the Framework, the achievement of sustainable development involves the seeking of economic, social and environmental gains jointly and simultaneously through the planning system. The assessment of the appeal proposals against the relevant provisions of the Framework within paragraphs 18 to 219 demonstrate that the scheme would make a positive contribution to the economic aspects of sustainable development through its contribution to economic development and job creation. Furthermore, the appeal scheme will positively contribute to the supply of housing in the Borough as well as other aspects of social sustainability. Whilst there are some identifiable minor adverse impacts upon the local environment, these impacts can be minimised through the implementation of appropriate mitigation measures, as recommended in Ecological Assessment.

10.27 Overall, the significant social and economic benefits of the appeal scheme are considered to outweigh any minor environmental harm, with regards to landscape,

so that the appeal proposals would deliver sustainable development within the meaning of the Framework.

10.28 Thus the proposal would represent a sustainable form of development.

10.29 In summary, as the benefits of the appeal scheme are considerable and there is no identified harm to the heritage assets, I find that the proposals are acceptable in planning terms and respectfully request the appeal is allowed.

11. SUMMARY AND CONCLUSION

11.1 I conclude my evidence as follows.

11.2 The appeal scheme comprises a 'hybrid' planning application, including both full and outline elements briefly summarised as follows:

11.3 Full planning permission for:

- Works (including partial demolition) and a change of use to the Grade II listed Kirk Mill to create a hotel (18 bed) and bar restaurant;
- Demolition of redundant factory buildings;
- Works to the barn building to create 7 holiday cottages;
- Construction of a hotel and spa (20 bed), wedding venue, kids club and trailhead centre;
- Change of use of Malt Kiln House to hotel use;
- Provision of Public Open Space;
- Provision of a new cricket pitch and construction of a new pavilion; and

11.4 Outline planning permission for:

- Up to 60 residential dwellings, split over two sites with a maximum of 56 and 4 units on each.

11.5 The appeal was made following refusal by Ribble Valley Borough Council of planning application reference 3/2014/0183 on 23rd December 2014 and listed building consent reference 3/2014/0226 on 4th March 2015. The Council's formal decision notice sets out four reasons for refusal. The first two reasons for refusal are in respect to harm to the listed buildings and the conservation area. The third reason for refusal is with regards to the sustainability of the location, concluding that the harm caused is not considered to be outweighed by regeneration benefits. The fourth reason for refusal is with respect to the landscape impacts of the appeal scheme.

11.6 The main issues for consideration are set out at Section 7 of this Statement. These are set out and summarised in Section 10.

- 11.7 The Council allege that the impacts of the appeal proposals amount to harm to the landscape and heritage assets. Evidence prepared by Ms Quayle and Mr Miller, in respect of landscape and heritage respectively, demonstrate why this is not the case.
- 11.8 In determining applications, paragraph 128 of the Framework is clear that local planning authorities should require an applicant to describe the significance of any heritage asset affected, including the contribution made by their setting. At paragraph 134, the Framework states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.
- 11.9 I do not believe that the Council, as detailed within the Reasons for Refusal, reached the correct judgement as to the overall planning balance. As noted in the case of **Barwell Manor**, even when harm to a heritage asset is less than substantial, the balancing exercise required by national policy should not ignore the overarching statutory duty imposed by Section 66(1). The appeal scheme preserves and enhances the setting that contributes to the significance of the heritage assets and together with the array of social, economic and environmental benefits, there is a strong presumption in favour of sustainable development.
- 11.10 In determining applications, paragraph 128 of the Framework is clear that local planning authorities should require an applicant to describe the significance of any heritage asset affected, including the contribution made by their setting. At paragraph 134, the Framework states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.
- 11.11 The proposals will result in clear benefits, such as:
- Preservation and enhancement of the mill;
 - Positive impacts on other heritage assets;
 - Positive impacts on the conservation areas;
 - No negative impact on the AONB;
 - The generation of significant employment opportunities;

- Bring increased spend to Chipping;
- Offer a greater choice of housing including affordable and Over-55s accommodation;
- Fantastic leisure facilities will be provided;
- A new and much enhanced cricket pitch and associated facilities;
- Reduced risk of flooding in the village.

11.12 Conversely I believe that the proposals will not result in any harm and as such I can see no material reason why the proposals should not be supported.

11.13 I commend the proposals to the Inspector and respectfully ask that permission is granted for the Appellant's development proposals.

Richard Barton
Partner
HOW Planning LLP
June 2015

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