

Section 78 Town and Country Planning Act 1990 (as Amended)
Town and Country Planning (Appeals) (Written Representations Procedure)
(England) Regulations 2009 (as Amended)

Statement of Case on behalf of the Appellant

**Re-determination of the appeal by Oakmere Homes (NW) Ltd
against the failure of Ribble Valley Borough Council to give
notice within the prescribed period of its decision on an
application for full planning permission for the erection of 39
dwellings with landscaping, associated works and access from
the adjacent development site**

**Land at the junction of Chatburn Road and Pimlico Link Road,
Clitheroe**

May 2022

LPA reference: 3/2019/0877

PINS reference: APP/T2350/W/20/3253310

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2. HM Government Response to the House of Lords Built Environment Committee report on Meeting Housing Demand (March 2022)
3. Ribble Valley 5 Year Supply Statement as at 31st March 2021 (May 2021)
4. Ribble Valley Local Plan Local Development Scheme (April 2021)
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6. Biodiversity Net Gain Report and Calculation - proposed appeal scheme (May 2022)
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8. Secretary of State decision APP/R0660/A/13/2197532 - Land off Audlem Road, Stapeley

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1 Introduction

- 1.1 This Statement of Case has been prepared by Smith & Love Planning Consultants on behalf Oakmere Homes (NW) Ltd (“the Appellant”) in support of its appeal against the failure of Ribble Valley Borough Council (“the Council”) to determine its planning application (3/2019/0877) within the prescribed period, for the erection of 39 no. dwellings with landscaping, associated works and access from the adjacent development site, on land at the junction of Chatburn Road and Pimlico Link Road, Clitheroe (“the appeal site”).
- 1.2 The appeal is the subject of a re-determination following the High Court challenge to the original decision made by Inspector Robbie dated 10th November 2020 and the Judgment by His Honour Judge Bird issued on 16th November 2021 ordering it to be quashed.
- 1.3 The letter from PINS dated 12th April 2022 explains that *“The Inspector will also consider any relevant evidence previously submitted, unless it is expressly superseded by its originator during this re-determination process”*. It invites the Appellant:
- to send further representations (including any statement of case and copies of any documents to which it intends to refer) covering any material change in circumstances (which would include any changes to the development plan position and new or altered material considerations which you think should/should no longer be taken into account) which may have arisen since the original appeal decision was issued; and,
 - to comment on the specific issue(s) upon which the appeal was quashed.
- 1.4 This Statement of Case therefore sets out the Appellant’s position for the re-determination of the appeal.

Update to the Appellant’s evidence

- 1.5 This Statement of Case does not replace all of the Appellant’s previous submissions and much of the Statement of Case and Appendices (May 2020) and Final Comments and Appendices (August 2020) remains relevant. To avoid duplication, it should therefore be read in conjunction with the following chapters of the original case as updated / supplemented by this Statement;
- Statement of Case (May 2020):
 - Chapter 2: Site description and surroundings
 - Chapter 3: Proposed development and application process
 - Chapter 4: Planning policy context
 - Chapter 5: Relevant planning history
 - Chapter 6: The case for development (the retained parts referenced in this Statement)
 - Final Comments (August 2020):
 - Chapter 2: Suggested conditions
 - Chapter 3: Unilateral Undertaking

Suggested conditions

- 1.6 The Appellant previously did not propose any change to the suggested conditions proposed by the Council beyond the revisions concerning conditions 8, 12 and 13 set out in Chapter 2 of its Final Comments (August 2020), and which were upheld by Inspector Robbie per paragraphs 26 to 30 of the quashed appeal decision and its schedule.
- 1.7 This remains the Appellant's position for the re-determination of the appeal, however, in recognition of the need to promote increased tree planting (per Paragraph 130 NPPF 2021) and the opportunity to achieve a greater biodiversity net gain (and significantly in excess of 10%) in connection with the appeal development, the Appellant is now offering to make the following change to condition 3 (landscaping and ecology) in the event that the Inspector appointed to re-determine the appeal supports the addition. This is explained at paragraph 6.74 and footnote 7 of this Statement of Case:
3. *The landscaping proposals hereby approved shall be implemented in the first planting season following occupation or use of the development, whether in whole or part and shall be maintained thereafter for a period of not less than 10 years to the satisfaction of the Local Planning Authority.*

An additionally enhanced scheme of landscaping designed to achieve greater tree planting and a greater biodiversity net gain within the appeal site, shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development and shall be implemented in the first planting season following occupation or use of the development, whether in whole or part and shall be retained thereafter for a period of not less than 10 years to the satisfaction of the Local Planning Authority.

This maintenance shall include the replacement of any tree or shrub which is removed, or dies, or is seriously damaged, or becomes seriously diseased, by a species of similar size to those originally planted. All trees/hedgerow shown as being retained within the approved details shall be retained as such in perpetuity.

Reason: To ensure the proposal is satisfactorily landscaped and trees/hedgerow of landscape/visual amenity value are retained as part of the development.

Unilateral Undertaking

- 1.8 The Appellant submitted a certified copy of the signed Unilateral Undertaking dated 30th July 2020 to PINS on 3rd August 2020. This is unchanged for the re-determination of the appeal.
- 1.9 The Appellant previously questioned (see Chapter 3 of its Final Comments - August 2020) whether the proposed planning obligations providing the 'NHS Trust Contribution' of £53,979 requested by East Lancashire Hospitals NHS Trust and the 'Off-Site Leisure' contribution of £22,796.19 requested by the Council, meet the tests of the CIL Regulations 2010.

1.10 Inspector Robbie (paragraph 20 of the quashed appeal decision) struck out the NHS Trust Contribution, noting that the Council did not wish to pursue that planning obligation, and upheld the 'Off-Site Leisure' contribution.

1.11 As further evidence that the NHS Trust Contribution does not meet the CIL Regulation tests, a recent appeal decision (APP/Z2315/W/21/3286494) from Burnley dated 7th March 2022, is enclosed at Appendix 1. This is relevant because it is in the same East Lancashire Hospitals NHS Trust area as the appeal site. Paragraph 34 of the decision says;

34 *The East Lancashire Hospitals NHS Trust (the Trust) has requested a contribution of £75,086 towards capital and revenue funding within the Trust area. The Trust seeks funding for the first year of occupancy of all the proposed dwellings based on an average household occupancy (2.3 persons per household) at a calculated contribution rate of £1,707 per dwelling. However, it is unrealistic to assume that all future occupiers of the proposed development would be new to the Trust's area, given its geographical coverage and the fact that some future occupiers may result from changes to existing household compositions. In addition, a number of future occupiers may choose alternative providers. Without any evidence to support the assumption that the proposed development would lead to an increase in population in the Trust area from all the proposed dwellings, there is no reliable reasoning or evidence to conclude that it would have an impact on the health care services provided by the Trust. This contribution would therefore fail the CIL Regulations tests.*

Summary of case

1.12 The Appellant's case for the re-determination of the appeal is made as follows;

- 1) The proposed development is in conflict with Policy DMG2 'Strategic Considerations' and Policy DMH3 'Dwellings in the Open Countryside and AONB' of the adopted up-to-date development plan;
- 2) Although there is conflict, the degree and extent of 'policy-related' harm to the spatial development strategy and vision for the Borough, and to the protection of the countryside from sporadic or visually harmful development, is demonstrably contained and very limited due to the unusual circumstances of the appeal site and its credentials;
- 3) It is common ground between the Council and the Appellant that the proposed development will not result in any substantive technical and environmental harm which cannot be addressed and mitigated by appropriate conditions and planning obligations;
- 4) The proposed development will deliver a range of social, economic and environmental benefits; and,
- 5) There are no other material considerations which weigh against the proposed development.

- 1.13 In these circumstances, having regard to Section 38(6) of the Planning and Compulsory Purchase Act 2004, the Appellant considers that there are persuasive material considerations which outweigh the policy conflict and indicate that the planning balance should be struck in favour of re-determining the appeal other than in accordance with the adopted up-to-date development plan.
- 1.14 The justified departure from the development plan means that sustainable development will still be achieved in this case, notwithstanding the conflict with policy. It is Government policy, set out in paragraph 7 of the NPPF 2021, that 'the purpose of the planning system is to contribute to the achievement of sustainable development', and in paragraph 38 of the NPPF 2021, 'decision-makers at every level' are directed that they 'should seek to approve applications for sustainable development where possible.'
- 1.15 For these reasons, the Appellant respectfully requests that the appeal is therefore allowed and planning permission is granted.

2 Site description and surroundings

- 2.1 A comprehensive description of the appeal site and the surrounding area, together with its location and non-car accessibility to local facilities and Clitheroe town centre, is provided in Chapter 2 of the Appellant's previous Statement of Case (May 2020). This is unchanged for the re-determination of the appeal.
- 2.2 However, construction of the Appellant's two housing development schemes adjacent to the appeal site (referred to in paragraph 2.4 of the previous Statement of Case) and through which the proposed development is accessed, has moved on significantly since May 2020;
- 3/2017/0653 This immediately adjacent scheme of 30 no. dwellings which was granted planning permission on 23rd November 2018, is now complete and occupied; and,
 - 3/2020/0325 This scheme adjacent to 3/2017/0653 for 17 no. dwellings received planning permission on 3rd August 2021 and is under construction with all of the plots either sold or reserved.
- 2.3 The construction progress as is appeared in June 2021 is shown on the aerial photograph below with the appeal site edged in red for reference.



Google maps image 2022

3 Proposed development and application process

- 3.1 This section of the Appellant's case is provided in Chapter 3 of its previous Statement of Case (May 2020).
- 3.2 This is unchanged for the re-determination of the appeal other than paragraph 3.9 concerning the Unilateral Undertaking which is replaced and updated by Chapter 3 of the Appellant's Final Comments (August 2020) and paragraphs 1.9 to 1.11 of this Statement of Case.
- 3.3 The sections summarising the pre-application consultation with the Council (paragraphs 3.11 to 3.14) and the matters of common ground at the time of submitting the appeal in May 2020 (paragraph 3.20) remain especially relevant to the Appellant's case for the re-determination of the appeal.

4 Planning policy context

- 4.1 The summary of the policy framework material to the re-determination of the appeal is provided in Chapter 4 of the Appellant's previous Statement of Case (May 2020).
- 4.2 This is unchanged for the re-determination of the appeal other than the second and third paragraphs summarising Core Strategy Policy DMG2 'Strategic considerations' in the first bullet point of paragraph 4.4. Whereas the Appellant previously sought to argue that there was compliance with the first part of Policy DMG2 concerning new development in Principal Settlements and Tier 1 Villages and considered that the second part was not engaged, this is no longer the case following the High Court Judgment quashing Inspector Robbie's decision. The basis on which the Appellant now applies Policy DMG2 for the re-determination of the appeal and its assessment of compliance, is set out in Chapter 6 of this Statement of Case.
- 4.3 The National Planning Policy Framework (NPPF) has been updated since the Appellant submitted its appeal in May 2020. All references to the 2019 NPPF in its previous Statement of Case (and adjustment of the respective paragraph numbers where necessary) should therefore be substituted for the current version of July 2021.
- 4.4 A relevant addition to the July 2021 NPPF, and material to the re-determination of the appeal, is paragraph 131 concerning the incorporation and maintenance of trees in new development;

Paragraph 131 Trees make an important contribution to the character and quality of urban environments, and can also help mitigate and adapt to climate change. Planning policies and decisions should ensure that new streets are tree-lined, that opportunities are taken to incorporate trees elsewhere in developments (such as parks and community orchards), that appropriate measures are in place to secure the long-term maintenance of newly-planted trees, and that existing trees are retained wherever possible. Applicants and local planning authorities should work with highways officers and tree officers to ensure that the right trees are planted in the right places, and solutions are found that are compatible with highways standards and the needs of different users.

5 Relevant planning history

- 5.1 A comprehensive review of the recent and current development proposals in the vicinity of the appeal site, together with relevant committee report extracts as evidence of the Council's assessment of their merits, is provided in Chapter 5 of the Appellant's previous Statement of Case (May 2020).
- 5.2 This history is unchanged for the re-determination of the appeal other than the update provided in Chapter 2 of this Statement of Case concerning the construction of the Appellant's two housing development schemes adjacent to the appeal site, and which has moved on significantly since May 2020.
- 5.3 The summary and analysis of the directly-comparable allowed appeals in Ribble Valley, involving housing schemes in the countryside adjoining settlement boundaries at Henthorn Road, Clitheroe (APP/T2350/W/19/3221189) and Chatburn Old Road, Chatburn (APP/T2350/W/19/3223816), comprising the remainder of Chapter 5 of the Appellant's previous Statement of Case, also remains relevant to the re-determination of the appeal. It is a factual record of previous Inspectors', and, formerly, the Council's, approach to assessing new housing proposals in similar physical and spatial-development contexts to the appeal site, and the Council's interpretation and application of Core Strategy Policy DMG2 prior to the High Court Judgment.

6 The case for development

- 6.1 The starting point for the re-determination of the appeal remains the legislative basis for decision-taking as set out in;
- i) Section 70(2) of the Town and Country Planning Act 1990 - which requires a local planning authority in determining a planning application, to have regard to the development plan insofar as it is relevant and other considerations that are material; and,
 - ii) Section 38(6) of the Planning and Compulsory Purchase Act 2004 - which refers to the development plan as a whole and requires that if regard is to be had to the development plan for the purposes of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.
- 6.2 As the expression of Government policy, the National Planning Policy Framework 2021 is also a principal material consideration which must be given substantial weight.

Main issue

- 6.3 The Appellant considers that the main issue in the re-determination of the appeal is that identified previously by Inspector Robbie;
- Whether the proposed development is in a suitable location for residential development having regard to local and national planning policies.
- 6.4 To answer the question it is necessary to consider five component issues;
- Issue 1) Is the proposed development in conflict with development plan policies which seek to control the location and spatial distribution of new housing development and to protect the countryside?
 - Issue 2) What is the degree and extent of 'policy-related' harm which results from the conflict with the development plan?
 - Issue 3) Will the proposed development result in any substantive harm in terms of technical and environmental matters?
 - Issue 4) Is there a need and/or benefit for providing additional housing at Clitheroe?
 - Issue 5) Are there any other material considerations which weigh against the proposal?
- 6.5 The Appellant's case in respect of each of these issues is set out below. This is then followed by its assessment of the overall planning balance.

Issue 1) Is the proposed development in conflict with development plan policies which seek to control the location and spatial distribution of new housing development and to protect the countryside?

6.6 It is common ground with the Council that the three principal Core Strategy policies which are most relevant to the re-determination of the appeal are;

- Key Statement DS1: Development strategy
- Policy DMG2: Strategic considerations
- Policy DMH3: Dwellings in the open countryside and AONB

6.7 The High Court challenge was made and succeeded on the basis of the single ground; that the previous Inspector made an error of law when interpreting (and applying) Policy DMG2.

6.8 The position, therefore, for the re-determination of the appeal, is that part one of Policy DMG2 is not engaged because the appeal site is in the countryside outside the settlement boundary for Clitheroe, and, because the proposed development does not comprise one or more of the prescribed categories and/or criteria of development permitted outside defined settlement areas, it does not comply with part two (un-numbered) of Policy DMG2. In the same way and for the same reason, the proposal also conflicts with Policy DMH3, which the Appellant and previous Inspector acknowledged.

6.9 There is no conflict with Key Statement DS1, despite its inclusion in the Council's putative reason for refusal at paragraph 1.2 of its Statement of Case (although not subsequently included in the grounds of its High Court challenge), because it only requires the 'majority' and not 'all' new housing development to be concentrated within the strategic site to the south of Clitheroe and the principal settlements of Clitheroe, Longridge and Whalley. The policy therefore recognises, and is permissive, of some new housing development taking place in other locations, and therefore is not breached.

Issue 2) What is the degree and extent of 'policy-related' harm which results from the conflict with the development plan?

6.10 Whilst the proposed development conflicts with Policies DMG2 (part two) and DMH3 of the Core Strategy, the degree and extent of resulting harm is, in this case, very limited. The Appellant demonstrates this below.

a) Harm resulting from conflict with Policy DMG2 (part two)

6.11 The purpose of Policy DMG2 is provided in supporting text in the Core Strategy. The policy;

"assists the interpretation of the development strategy and underpins the settlement hierarchy for the purposes of delivering sustainable development. In establishing broad constraints to development the Council will secure the overall vision of the Core Strategy."

6.12 To determine and measure the harm which may result from the conflict produced by the proposed development, it is necessary to understand the following;

1. The development strategy for Ribble Valley
2. The settlement hierarchy in Ribble Valley
3. The overall vision of the Core Strategy

6.13 The development strategy is explained in Key Statement DS1 of the Core Strategy. This is a long, multi-part policy which, in summary, requires;

- i) *The majority of new housing development to be concentrated within;*
 - *the Standen Strategic Site located to the south of Clitheroe; and,*
 - *the principal settlements of Clitheroe, Longridge and Whalley;*
- ii) *Development to be focused towards Tier 1 Villages which are the more sustainable of the 32 defined settlements in Ribble Valley; and,*
- iii) *Development in the Tier 2 Villages, which are the least sustainable of the 32 defined settlements, to meet proven local needs or deliver regeneration benefits.*

6.14 The policy also contains an overarching statement explaining how the scale of housing growth will be managed (tested) so that it is proportionate to / in keeping with the local area where it is located in terms of population, infrastructure and the capacity to accommodate development¹;

- *In general, 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.*

6.15 And, by doing this;

- *Through this strategy, development opportunities will be created for economic, social and environmental well-being and development for future generations.*

6.16 Key Statement DS1 also provides confirmation of the settlement hierarchy for Ribble Valley as follows;

- 1st Principal Settlements - Clitheroe (including the strategic site), Longridge and Whalley;
- 2nd Tier 1 Villages (9 locations)
- 3rd Tier 2 Villages (23 locations)

¹ N.B. This applies irrespective of whether the apportioned housing requirement for Clitheroe for the plan period (Table 4.12 of Key Statement DS1 of the Core Strategy) has been exceeded as a matter of principle, because the target is not expressed as a maximum and the housing requirement is a minimum.

- 6.17 The overall vision of the Core Strategy is taken from the Council's Sustainable Community Strategy to shape the future of Ribble Valley by delivering the development strategy. It is to attain;

"An area with an exceptional environment and quality of life for all, sustained by vital and vibrant market towns and villages acting as thriving service centres, meeting the needs of residents, businesses and visitors"

- 6.18 The map at Figure 2 in Chapter 5 (page 19) of the Appellant's previous Statement of Case shows the location and spatial context of the appeal site. Assessed against the development strategy in Key Statement DS1, it is clear that;

- 1) The appeal site is geographically located on the edge of Clitheroe which is the highest order Principal Settlement in Ribble Valley;
- 2) Whilst the appeal site lies outside the settlement boundary for Clitheroe it nonetheless seamlessly adjoins it on two sides and is closely related to the adjacent built up area (which is best judged on site); and,
- 3) The size of the appeal site and the scale of the proposed development is not disproportionate or out of keeping with the relative size (area and population) of the town.

- 6.19 The evidence presented by the Appellant in its previous Statement of Case, and confirmed by the Council and previous Inspector, demonstrates that the proposed development can be suitably accommodated at its proposed location in terms of having accessibility to;

- i) local community infrastructure (schools, GP and hospital services, shopping, leisure and other facilities) with sufficient capacity; and,
- ii) being served by local transport and utilities infrastructure with sufficient capacity and available connections.

- 6.20 The ability of the local area to accommodate new housing development of the same scale as the appeal proposal, is also confirmed by the Appellant's adjacent developments and the new housing development opposite the appeal site on the other side of Chatburn Road.

- 6.21 In its determination of previous planning applications, and per its pre-application advice provided to the Appellant (see paragraph 3.12 of the Appellant's previous Statement of Case), the Council has carried out the same assessment of harm to the development strategy, by examining;

- a) whether a development is accessible (sustainably located) in relation to the social and physical infrastructure serving a settlement; and,
- b) whether the available infrastructure has (or could be made to have) sufficient capacity to serve the development so that it would not be overwhelmed.

- 6.22 The Council's pre-application advice confirms that the appeal site has an obvious 'functional relationship with the built form of Clitheroe' and 'the scale and nature of development is acceptable and proportionate to the population size' [of Clitheroe] such that it 'will not harm the development strategy and housing distribution.' (see paragraph 3.12 of the Appellant's previous Statement of Case).
- 6.23 On the basis of this evidence, the Appellant considers that the proposed scale of development and the location of the appeal site, which clearly has 'a tangible relationship to Clitheroe' (Council pre-application advice), is not of sufficient scale to materially deviate from let alone distort the spatial development strategy and Core Strategy vision.

b) Harm resulting from conflict with Policy DMH3

- 6.24 The purpose of Policy DMH3 is provided in supporting text in the Core Strategy. It says;

"The protection of the open countryside and designated landscape areas from sporadic or visually harmful development is seen as a high priority by the Council and is necessary to deliver both sustainable patterns of development and the overarching core strategy vision."

- 6.25 By referring again to the map at Figure 2 in Chapter 5 (page 19) of the Appellant's previous Statement of Case, which shows the location and physical context of the appeal site, it is clear that when assessed against the objective of Policy DMH3;
- 1) The setting of the appeal site is heavily influenced and characterised by the adjacent urban area; and,
 - 2) The appeal site is physically and visually contained and enclosed by urban development on two sides and heavily wooded, elevated landform carrying a railway line to the northwest and Pimlico Link Road to the northeast.

- 6.26 The contribution which the appeal site makes to what is in reality the open countryside is therefore very limited and, on the basis of this evidence, the Appellant considers that the measured and contained development of the appeal site will not result in either sporadic or visually harmful development which would be otherwise unsustainable and harmful to the open countryside and Core Strategy vision.

The previous Inspector's assessment relevant to Policies DMG2 (part two) and DMH3

- 6.27 Whilst the quashed decision has no legal effect (i.e. it does not determine anything) it nonetheless remains relevant insofar as the non-quashed parts. The High Court challenge was made on the single ground of misinterpreting (and misapplying) Policy DMG2 and was quashed solely for that reason. The Inspector's analysis therefore adds to the Appellant's position that, although there is conflict with Policies DMG2 (part two) and DMH3, there is very little resulting 'policy related' harm. The Inspector rightly concluded that the context of the appeal site is unusual and its credentials are such that it relates exceptionally well to the urban area and its development will have limited effect on the visual amenity, character and appearance of the countryside.

6.28 The relevant extracts from the Inspector's decision are;

- Paragraph 9
 - The settlement boundary does, however, mark the [appeal] site's southwest boundary where it abuts both it and a residential development site currently under construction. The settlement boundary, which is located on the opposite side of Chatburn Road and within which lies a recent residential [scheme] and Clitheroe Community hospital, also runs parallel to the appeal site's Chatburn Road boundary.
- Paragraph 10
 - There are areas of designated existing open space along Chatburn Road on both sides of the road, but they are relatively limited and seen in the context of otherwise continuous residential development along Chatburn Road between the town centre to the southwest and Pimlico Link Road to the north.
 - The appeal site itself is bounded on one side by, and indeed would be accessed from, a newly built residential development and lies opposite existing development and newly built housing on another.
- Paragraph 11
 - Although located beyond Clitheroe's settlement boundary, the appeal site is well related to it in terms of built form, and its physical and visual relationships.
 - The appeal site is therefore seen very much as a part of Clitheroe and the pattern of development along Chatburn Road.
- Paragraph 12
 - Having regard to the nature and context of the land immediately around it [the appeal site], particularly the adjacent and adjoining residential development and prevailing pattern of development and built form along Chatburn Road, it is not unreasonable to conclude that the proposed residential development of the appeal site would consolidate development in a manner closely related to the main built up area of Clitheroe.
- Paragraph 13
 - The prevailing pattern of development along Chatburn Road is not one of isolated or sporadic development
- Paragraph 14
 - Rather, development is largely continuous, with depth of development from the Chatburn Road frontage, on both sides of the road along its length from the town centre to the appeal site.

- Paragraph 18
 - The site is constrained visually, physically and contextually by natural and man-made features and barriers and as such the development of the appeal site would not be out of keeping with the context, built form and development pattern of the immediately surrounding area.
 - Nor would it [the appeal scheme] cause harm to the character or appearance of the site's wider surroundings and thus I concur with the Council's assessment that there would be no harm to character or appearance as a consequence.
- Paragraph 21
 - The [appeal] site is well-related to the main built up area and built form of Clitheroe, directly adjoining and adjacent to new and recent residential development where built residential form is more or less continuous from the appeal site to the town centre.
- Paragraph 24
 - There is no suggestion that Clitheroe is otherwise unable to accommodate the 39 dwellings proposed in this instance.

6.29 It is therefore very clear that, although the proposed development conflicts with Policies DMG2 (part two) and DMH3 of the development plan, the degree and extent of 'policy-related' harm to the spatial development strategy for the Borough, and to the protection of the countryside from sporadic or visually harmful development, is demonstrably contained and very limited due to the unusual context and circumstances of the appeal site and its credentials. In reality the site will be perceived as a logical extension to the existing built extent of the settlement.

6.30 Consequently, and moreover, allowing the re-determined appeal will not harm the Core Strategy vision as the proposed development will not harm the exceptional environment and quality of life for all in Ribble Valley, and it will help to sustain Clitheroe as a vital and vibrant market town, meeting the needs of residents, businesses and visitors.

6.31 Finally, it is also to be noted that the Council's putative reason for refusal and Statement of Case, only identifies the breach of Policies DMG2 (part two) and DMH3 and the failure to provide sufficient justification. It does not identify resulting 'policy related' harm. The Council's case simply concerns the breach of development plan policy as a matter of principle and not the degree and extent of substantive harm which results, as there is very little.

Issue 3) Will the proposed development result in any substantive harm in terms of technical and environmental matters?

6.32 The Appellant sets out its analysis of these matters at paragraphs 6.60 to 6.78 of its previous Statement of Case (which are not repeated here to avoid unnecessary duplication) and which should be referred to unchanged for the re-determination of the appeal. This confirms that the proposed development will not result in any substantive harm concerning the following matters which cannot be addressed and mitigated by appropriate conditions and planning obligations;

- Character and appearance of the local area
- Residential amenity and living conditions
- Highway access and safety
- Trees, landscape and ecology
- Agricultural land resources
- Drainage infrastructure and flood risk
- Ground conditions

6.33 The Council's Statement of Case and putative single reason for refusal confirms that it concurs with the Appellant's assessment and these agreed matters can therefore be regarded as common ground for the re-determination of the appeal.

6.34 The previous Inspector has also provided further objective endorsement of the position and confirms in his decision letter;

- Paragraph 17
 - There are no objections to the proposal from the Council in terms of the site's layout and relationship with existing housing, or in terms of its internal layout and the relationship of proposed houses to each other.
 - I have not been presented with any further evidence that would lead me to a different conclusion with regard to living conditions of occupiers of existing properties, or those of future occupiers of the proposed dwellings and do not therefore disagree with the conclusion reached by the Council.
- Paragraph 18
 - Nor are matters of design, siting or character and appearance areas of dispute between the main parties.
 - Subject to appropriately worded conditions I am satisfied that the proposed development would make adequate provision for, and avoid harm in terms of, highway and pedestrian safety, and landscape and ecological provision.
- Paragraph 22
 - I am satisfied that the broadly level, continuous and well-lit pavements and footways along the wide Chatburn Road corridor would provide a usable and practical alternative to the private car in accessing facilities.
 - I am satisfied that future occupiers would therefore have a choice of means of transport available to them to access those services and facilities, including by bicycle and on foot.

6.35 The Appellant's evidence demonstrates that, subject to the imposition of appropriate conditions and planning obligations, the proposed development does not conflict with the relevant environmental and technical policies of the Core Strategy and the NPPF 2021.

Issue 4) Is there a need and/or benefit for providing additional housing at Clitheroe?

- 6.36 It is demonstrated below that the delivery of 39 no. market and affordable houses in an accessible and sustainable location at Clitheroe, will deliver a range of positive benefits which must be given appropriate weight in the planning balance.

Social benefits:

- 1) Boosting the supply of housing in accordance with the national Government objective² to address the housing crisis and its ambition to deliver 300,000 new homes per year;
- 2) Diversifying and adding to the flexibility of the deliverable housing supply that is available to meet the housing requirement for Ribble Valley in full, and as a minimum, within the remaining Core Strategy plan period to 2028;
- 3) Boosting the supply of housing in Ribble Valley in the absence of a draft of the proposed Replacement Local Plan 2018 to 2033;
- 4) Delivering a mix of property sizes, types and tenures that has been devised to respond to general market signals and household requirements; meeting identified affordable housing needs, and providing age-restricted accessible and adaptable housing (Part M4(2) compliant) for older people.

Economic benefits

- 5) Providing a range of benefits to the local economy during the lifetime and construction of the proposed housing development.

Environmental benefits

- 6) Improving the local nature conservation and biodiversity value of the appeal site

- 6.37 These are explained below.

1) The national imperative to boost the supply of housing

- 6.38 This point is well rehearsed in numerous appeal decisions and does not need to be duplicated in detail for the re-determination of the appeal. Paragraph 60 of the NPPF 2021 makes the Government's objective of significantly boosting the supply of homes clear and is aligned with the principles that housing requirements should be met as a minimum (paragraph 11) and proposals for sustainable development should be approved wherever possible (paragraph 38).
- 6.39 In this context, the Government has recently reiterated its ambition to deliver 300,000 new homes per year in its 'Response to the House of Lords Built Environment Committee report on Meeting Housing Demand' published in March 2022. (a copy is provided at Appendix 2). It follows that to secure such housing will require it to be promoted in areas of robust market demand.

² Paragraph 60 NPPF 2021

2) Diversifying and adding to the flexibility of the deliverable housing supply that is available to meet the housing requirement for Ribble Valley in full and as a minimum within the remaining Core Strategy plan period to 2028

- 6.40 The Housing and Economic Development (HED) DPD³ makes clear that the Council is committed to meeting the Core Strategy housing requirement in full (and as a minimum) within the plan period. During its examination however, it was confirmed by the examining Inspector that the HED DPD would not contain sufficient housing land allocations to enable the housing requirement to be realised and, consequently, a main modification was proposed to add a reserve of five allocated housing sites, together with an expectation that the Council will support windfall housing proposals in suitable and sustainable locations by flexible application of the Core Strategy settlement boundary policies.
- 6.41 The Appellant sets out its analysis of the examination in public and the parts of the HED DPD concerning the management of windfall housing development opportunities outside the boundaries of Principal Settlements, at paragraphs 6.46 to 6.49 of its previous Statement of Case. This is not repeated here, to avoid unnecessary duplication, and should be referred to unchanged for the re-determination of the appeal.
- 6.42 Whilst the HED DPD also notes that Core Strategy policies ‘determine against general housing development in Green Belt, the AONB and open countryside’, it also says that the provisions of the whole plan, development management criteria and the provisions of national policy will be taken into account in taking individual decisions on planning applications.
- 6.43 Applying this approach to the proposed windfall housing development in this appeal, the Appellant has demonstrated that, due to the unusual context and circumstances of the appeal site and its credentials, and notwithstanding its location outside the Clitheroe settlement boundary, the degree and extent of ‘policy-related’ harm to the spatial development strategy for the Borough, and to the protection of the countryside from sporadic or visually harmful development, is demonstrably contained and very limited.
- 6.44 The Appellant considers that the appeal proposal is sustainable development which can therefore add to, diversify and increase the flexibility of the deliverable housing supply to help meet the residual housing requirement in full and as a minimum, as permitted by the approach intended by the Council and set out in HED DPD.
- 6.45 It is also important to note that there is no phasing policy or trigger mechanism set out in the HED DPD to control when housing commitments resulting from sustainable windfall developments come forward and allocated housing sites are released. Planning applications must therefore be determined on their merits on a case-by-case basis, and approved wherever possible and mindful of the Government’s imperative to significantly boost housing supply.

³ Housing and Economic Development DPD - Page 17 Line 1

- there is no lead-in time;
- all necessary infrastructure is already in place and/or in the course of being provided by the Appellant in connection with the development of the adjacent site; and,
- as delivery of the Appellant's adjacent site is on-going, all necessary plant and machinery is available and ground work and construction work has maintained momentum during the covid-19 pandemic.

6.48 The Council's most recent '5 Year Supply Statement' (see copy at Appendix 3) as at 31st March 2021 and published in May 2021, provides both calculations:

- | | |
|------------------------|--|
| • Standard methodology | Annualised requirement = 137 dwellings per year
5 year supply position = 14.2 year supply |
| • Core Strategy | Annualised requirement = 294 dwellings per year
5 year supply position = 6.65 year supply |

3) Boosting the supply of housing in Ribble Valley in the absence of a draft of the proposed Replacement Local Plan 2018 to 2033

⁴ An unmet residual requirement at Clitheroe and/or the absence of a five year deliverable 5 year supply

- 6.51 The most recent Local Development Scheme is dated April 2021 (see Appendix 4). This indicated that an Issues and Options (Regulation 18) consultation would take place between January and June 2022 and Publication (Regulation 19) would take place in July 2022 with the aim of having an adopted plan in place by November 2023.
- 6.52 Up to date housing needs evidence has been made available comprising the Ribble Valley Strategic Housing and Economic Needs Assessment dated April 2020 (see Appendix 5). This concludes that applying the minimum local housing need of 143 (net) new dwellings per annum, calculated using the standard method at April 2020, over the emerging plan period 2018 to 2033, will limit meaningful population growth, stifle the economy and exacerbate an ageing population. Instead, the report recommends that up to 248 (net) new dwellings per annum could be needed to support the job growth of 0.2% each year, and modelling shows that a 'figure in the order of 280 (net) new dwellings per annum could actually still be needed.'
- 6.53 On the basis of this up to date local housing needs evidence together with the fact that it is four years into the Replacement Local Plan period and its preparation is behind programme, the boost to the available housing land supply in Ribble Valley which the appeal development will provide, in a sustainable and suitable location and resulting in no substantive harm, is clearly a positive consideration in the re-determination of the appeal.

4) Delivering a beneficial housing mix to meet general market household requirements and affordable housing and housing for older people needs

- 6.54 The proposed development is designed to deliver a mix of property sizes, types and tenures that have been devised to respond to general market signals and household requirements, as well as meeting identified affordable housing needs and providing age-restricted housing and bungalows suitable for older people. The proposal is therefore in full accordance with Key Statements H2 and H3 and Policy DMH1 of the Core Strategy and the relevant policies of the NPPF 2021. There are no reasons why planning permission should be refused on housing mix and housing tenure grounds.
- 6.55 The proposed development will deliver a mix of dwelling sizes, types and tenures to meet market requirements and affordable housing needs in Clitheroe and Ribble Valley, as set out in the Strategic Housing Market Assessment 2013.
- 6.56 The proposed mix is considered to be sufficiently aligned with the recommended mix profile for market housing in the 2013 SHMA and broadly replicates the mix of the Appellant's adjacent development which was considered acceptable. The up to date Strategic Housing and Economic Needs Assessment of April 2020 (see Appendix 5) for the period 2018 to 2033, also indicates that there is a growing number of families with dependent children requiring larger homes, alongside smaller households. The level of customer interest, plot sales and the rate of completion of the Appellant's adjacent housing developments, is also clear evidence of the strong market demand in the Clitheroe area for the type, sizes and styles, and especially the quality, of homes the Applicant provides.

- 6.57 The proposed development will also deliver 30%, much-needed, on-site affordable housing for affordable rent and shared ownership tenure, and the type, size and mix has been reviewed by the Council's Housing Strategy Officer and is considered appropriate to meet local identified needs. The arrangements for its delivery in association with a registered provider are set out in the completed Unilateral Undertaking.
- 6.58 The Unilateral Undertaking also identifies and controls the occupation of the 15% of market and affordable dwellings which will be age-restricted and made available exclusively for households with at least one or more principal members over 55 years old. These properties are designed to comply with Part M4(2)⁵ of the building regulations and include two single storey bungalows. This mix has also been agreed with the Council's Housing Strategy Officer, as meeting a clear unmet need for those who are presently in need of such housing. It would be an odd outcome of this process, if a scheme for obviously sustainable housing which meets an immediate need, was rejected despite the absence of real land use harm.

5) Providing a range of benefits to the local economy during the lifetime and construction of the proposed housing development

- 6.59 Paragraph 82 of the NPPF 2021 confirms that the Government is committed to securing economic growth and that the planning system should positively and proactively encourage sustainable economic growth. This includes quality housing development which the Government recognises is a key component of sustainable economic growth.
- 6.60 The proposed development will provide a range of direct and indirect economic benefits including increased household expenditure in the local economy and support for local businesses and facilities; increased council tax revenue and new homes bonus, together with construction and supply chain spending and new full and part-time construction and supply-chain jobs, apprenticeships and skills training opportunities.

6) Improving the local nature conservation and biodiversity value of the appeal site

- 6.61 The proposed development will provide environmental benefits by utilising native species and 'wildlife-friendly' landscaping; biodiversity enhancements of trees and hedgerow habitats and wildflower planting, and eradicating invasive Himalayan balsam within the appeal site.
- 6.62 The Appellant has also carried out an up to date assessment of the biodiversity net gain which the proposed development will achieve. This uses the Biodiversity Metric 3.1 published by Defra in April 2022 and is explained in the report and calculation at Appendix 6 of this Statement. It confirms that the proposed landscaping scheme⁶ will achieve a significant net biodiversity gain of 164%.

⁵ Part M4(2) Category 2 : Accessible and Adaptable Buildings (Approved Document M - Access to and Use of Buildings : Volume 1 Dwellings) - Building Regulations 2010 (2015 edition incorporating 2016 amendments)

⁶ Shown on drawing nos. c-981-30_A Proposed Landscaping Scheme (1 of 2) and c-981-31_A Proposed Landscaping Scheme (2 of 2) as listed in the Appellant's previous Statement of Case (page 4)

The previous Inspector's assessment of benefits

6.63 The previous Inspector also gave further objective endorsement and weight to the social benefits which the proposed housing development will deliver, and confirms in his decision;

- Paragraph 15
 - The proposal will provide affordable housing in a mix of sizes and tenures, and there is no objection by the Council as there is a borough-wide need for affordable housing.
 - [the appeal development will have the] Undoubted benefits of affordable housing.
- Paragraph 23
 - The [appeal] proposal would provide a not insignificant boost to housing supply.
 - A 5-year housing land supply is not a ceiling or a maxima, particularly so in light of the Framework's commitment to significantly boost the supply of homes.
 - That the proposal would boost the supply of homes in a logical location well-related to existing, on-going and recently built residential development in an accessible and sustainable location directly adjacent to the defined settlement boundary.....weighs significantly and positively in support of the [appeal] proposal.
 - In a borough-wide context where there is a need for affordable housing, the delivery of 12 affordable homes would go some way to meeting a locally identified need.

Issue 5) Are there any other material considerations which weigh against the proposal?

6.64 Firstly, in the event that the re-determined appeal is allowed as a departure from the development plan, it is reasonable and necessary to consider whether the decision could result in an undesirable precedent being set, and leading to increased development pressure for housing in the countryside around the edges of Principal Settlements and Tier 1 Villages.

6.65 The answer, regardless of the fact that all planning applications must be determined solely on their own merits, is emphatically 'no'. The Appellant considers that a departure from the development plan is justified in this case solely because the degree and extent of 'policy-related' harm to the spatial development strategy for the Borough, and to the protection of the countryside from sporadic or visually harmful development, is demonstrably contained and very limited in this case, due to the unusual context and circumstances of the appeal site and its credentials.

6.66 The unusual context and circumstances of the appeal site and its credentials are not common and cannot be easily repeated and replicated elsewhere in Ribble Valley and, consequently, approval of the proposed development will not set an undesirable precedent. The Council must also be satisfied that this is the case as the creation of an undesirable precedent is not included as a putative reason for refusal in its Statement of Case. The Council commonly includes a reason for refusal in its decision-making where and when it believes that granting planning permission has the potential to create an undesirable precedent.

6.67 Secondly, in the event that the re-determined appeal is allowed as a departure from the development plan, it is reasonable and necessary to consider whether it could prejudice / undermine the process of preparing the Replacement Local Plan for the period 2018 to 2033. As discussed at paragraphs 6.50 to 6.53 of the Statement, the replacement plan is at a very early stage and has not yet reached Regulation 18 consultation stage and, in any event, the appeal scheme only proposes 39 no. dwellings in comparison to the potential order of local housing need which the Council must plan for.

6.68 In these circumstances, approval of the proposed development will not be premature and paragraph 50 of the NPPF 2021 makes clear that prematurity will seldom be capable of being a justified reason for refusal where a draft plan has yet to be submitted for examination.

The planning balance

6.69 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission to be determined in accordance with the adopted development plan unless material considerations indicate otherwise.

a) Policy conflict and 'policy-related' harm

6.70 As a result of the High Court challenge, the position for the re-determination of the appeal is that part one of Policy DMG2 of the Core Strategy is not engaged and, because the proposed development does not comprise one or more of the prescribed categories and/or criteria of development permitted outside defined settlement areas, it does not comply with part two (un-numbered) of Policy DMG2. The proposed development is also in conflict with Policy DMH3 for the same reason, and which the Appellant and previous Inspector acknowledged in its original Statement of Case and the quashed decision at paragraph 24.

6.71 Although the proposed development conflicts with Policies DMG2 (part two) and DMH3 of the development plan, the degree and extent of resulting 'policy-related' harm to the spatial development strategy for the Borough, and to the protection of the countryside from sporadic or visually harmful development, is demonstrably contained and very limited due to the unusual context and circumstances of the appeal site and its credentials. It is therefore also the case that allowing the re-determined appeal will not harm the Core Strategy vision as the proposed development will not harm the exceptional environment and quality of life for all in Ribble Valley, and it will help to sustain Clitheroe as a vital and vibrant market town, meeting the needs of residents, businesses and visitors.

6.72 On this basis the Appellant considers that the 'policy-related' harm arising from the conflict with the development plan should be given only **limited weight** in the peculiar circumstances of this case.

b) Other harms

- 6.73 It is common ground between the Council and the Appellant that the proposed development will not result in any wider substantive technical and environmental harms which cannot be addressed and effectively mitigated by appropriate conditions and planning obligations. Allowing the proposed development will also not give rise to an undesirable precedent and nor will it be premature and prejudicial to the preparation of the emerging development plan. The Appellant considers that these considerations must therefore be afforded **neutral weight**.

c) Benefits of the proposed development

- 6.74 In terms of the weight to be attached to the range of social, economic and environmental benefits the proposed development will deliver, the Appellant affords them weight as follows, and cognisant of the weighting applied by the previous Inspector in the quashed decision;

- 1) Boosting the supply of housing in accordance with the national Government objective to address the housing crisis and its ambition to deliver 300,000 new homes per year

Weight: **significant**

- 2) Diversifying and adding to the flexibility of the deliverable housing supply that is available to meet the housing requirement for Ribble Valley in full, and as a minimum, within the remaining Core Strategy plan period to 2028;

Weight: **medium / significant**

- 3) Boosting the supply of housing in Ribble Valley in the absence of a draft of the proposed Local Plan Review to 2033;

Weight: **medium**

- 4) Delivering a mix of property sizes, types and tenures that has been devised to respond to general market signals and household requirements; meeting identified affordable housing needs, and providing age-restricted accessible and adaptable housing (Part M4(2) compliant) for older people.

Weight: **significant**

- 5) Providing a range of benefits to the local economy during the lifetime and construction of the proposed housing development.

Weight: **medium**

- 6) Improving the local nature conservation and biodiversity value of the appeal site

Weight: **medium / significant**⁷

- 6.75 The Appellant therefore considers it is clearly demonstrated in this case, that there are material considerations which outweigh the identified policy conflict and indicate that the planning balance should be struck in favour of re-determining the appeal other than in accordance with the adopted up-to-date development plan.

Assessment of sustainable development

- 6.76 The departure from the development plan does not make the proposed development unsustainable as a matter of principle, and the consequence is solely to prevent the benefit of the 'presumption in favour of sustainable development' from applying. It is Government policy, set out in paragraph 7 of the NPPF 2021, that 'the purpose of the planning system is to contribute to the achievement of sustainable development', and in paragraph 38 of the NPPF 2021, 'decision-makers at every level' are directed that they 'should seek to approve applications for sustainable development where possible.'

Relevant Secretary of State decision

- 6.77 The Appellant is mindful of the relevant appeal decision (APP/R0660/A/13/2197532) made by the Secretary of State at Land off Audlem Road / Broad Lane, Stapeley, Nantwich in the Cheshire East Council area (see Decision Letter at Appendix 8).
- 6.78 The policy circumstances and clear parallels between the case and the re-determination of the appeal are summarised in the following analysis of the Decision Letter;

Paragraph 13 There was conflict with the letter and principles of relevant development plan policies aimed at protecting the character and appearance of the countryside, however due to the circumstances of the appeal site, the degrees of harm to visual amenity were limited in extent. The Secretary of State therefore afforded limited weight to the harm to character and appearance, and visual amenity, in the planning balance.

⁷ N.B. If the Inspector appointed to re-determine the appeal is minded to impose the change offered by the Appellant to suggested condition 3 (landscaping and ecology) set out at paragraph 1.7 in this Statement of Case, then the biodiversity net gain which will be achieved within the appeal site in connection with the proposed development, can be increased from 164% to 285% (measured using the Biodiversity Metric 3.1 published by Defra in April 2022). This is achieved by increasing the amount of tree and hedgerow planting within the appeal development and introducing varieties of fruit tree. An indication of how the enhanced planting can be achieved is shown on the illustrative landscape drawing nos. c-981-30_B and c-981-31_B which are contained in the Biodiversity Net Gain and Calculation Report at Appendix 7 of this Statement. If condition 3 is amended as the Appellant suggests to secure the implementation of an enhanced landscaping scheme which achieves an associated increased biodiversity net gain, then the weight to be attached to the environmental benefit of the appeal development and entered into the planning balance will be proportionately increased

- Paragraph 15 No other substantive harms were identified which could not be effectively mitigated through the provisions of the Section 106 obligations [or similarly, conditions]. The Secretary of State therefore considered them as neutral inputs to the planning balance.
- Paragraph 23 The Secretary of State was satisfied that Cheshire East Council could demonstrate a five year housing land supply and therefore, the presumption in favour of sustainable development (tilted balance) did not apply.
- Paragraph 25 The Secretary of State considered that development was not 'of such a magnitude as to distort the spatial vision' and determined that there was no breach of relevant policy.
- Paragraph 26 The Secretary of State determined that;
- the proposed development would bring economic benefits in terms of direct and indirect employment during its construction and expenditure into the local economy;
 - the site was in a sustainable location; and,
 - Nantwich is a preferred location for development in the local plan
- He confirmed that these benefits should be afforded medium weight.
- Paragraph 27 The Secretary of State determined that there were a number of social benefits (open space, ecology, infrastructure) which should be given medium weight.
- Paragraph 28 The Secretary of State determined that;
- the delivery of market housing in a sustainable location is a significant benefit; and,
 - notwithstanding a five year housing land supply, contributing to the national Government policy imperative to boost the supply of housing per paragraph 59 (now 60) of the NPPF 2021 is a benefit which should be afforded significant weight.
- Paragraph 29 The Secretary of State determined that the provision of affordable homes in accordance with relevant policy would help meet identified need and was a tangible benefit which merits significant weight.
- 6.79 Applying the planning balance and reaching an overall conclusion, the Secretary of State considered that although the scheme was not in accordance with relevant policies and the development plan overall, he went on to consider whether there were material considerations which indicated that the proposal should be determined other than in accordance with the development plan.

- 6.80 Carefully taking into account the factors weighing for and against the proposed development, as summarised above, and being satisfied that Cheshire East Council could demonstrate a five year housing land supply, the Secretary of State considered that the overall balance of material considerations indicated that a decision which was not in line with the development plan - i.e. a grant of permission - was appropriate.
- 6.81 The principles and approach applied by the Secretary of State in the Stapeley case apply equally to the proposed development, and it provides further endorsement of the Appellant's case for the re-determination of the appeal whereby planning permission can be granted contrary to an adopted up-to-date development plan, applying a 'flat' planning balance, and notwithstanding the existence of a positive five year housing land supply position.

Overall conclusion

- 6.82 On the basis of all of the evidence and reasons set out in this Statement of Case, the Appellant respectfully requests that the appeal is allowed and planning permission is granted.

7 Summary and conclusion

- 7.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission to be determined in accordance with the adopted development plan unless material considerations indicate otherwise. This is repeated in paragraph 12 of the NPPF 2021 which confirms that local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.
- 7.2 This Statement of Case demonstrates that, as a result of the High Court challenge, the proposed development of 39 no. dwellings with landscaping, associated works and access from the adjacent development site on land at the junction of Chatburn Road and Pimlico Link Road, Clitheroe, is in conflict with Policies DMG2 (part two) and DMH3 of the adopted Core Strategy.
- 7.3 Due to the unusual context and circumstances of the appeal site and its credentials, whereby it adjoins the settlement boundary of Clitheroe and the proposed housing is of an appropriate scale which is closely related to the built-up area, accessible to local services and facilities, and can be provided with physical infrastructure, the degree and extent of 'policy-related' harm to the spatial development strategy for the Borough, and to the protection of the countryside from sporadic or visually harmful development, is demonstrably contained and very limited.
- 7.4 The proposed development is sustainable and will not result in any harmful environmental and technical impacts which cannot be appropriately mitigated by conditions and planning obligations, and it will have important social, economic and environmental benefits in terms of;
- Boosting the supply of housing in accordance with the national Government objective to address the housing crisis and its ambition to deliver 300,000 new homes per year;
 - Diversifying and adding to the flexibility of the deliverable housing supply that is available to meet the housing requirement for Ribble Valley in full, and as a minimum, within the remaining Core Strategy plan period to 2028;
 - Boosting the supply of housing in Ribble Valley in the absence of a draft of the proposed Local Plan Review to 2033;
 - Delivering a mix of property sizes, types and tenures that has been devised to respond to general market signals and household requirements; meeting identified affordable housing needs, and providing age-restricted accessible and adaptable housing (Part M4(2) compliant) for older people;
 - Providing a range of benefits to the local economy during the lifetime and construction of the proposed housing development; and,
 - Improving the local nature conservation and biodiversity value of the appeal site.
- 7.5 These benefits are not diminished by the existence of a five year housing land supply as this is not a ceiling to development and to treat it as such in the absence of demonstrable harm, runs counter to the NPPF 2021 objectives of significantly boosting housing supply and pro-actively approving applications for sustainable development where possible.

- 7.6 Taking account of the benefits and harms weighing for and against the proposed development, the Appellant considers it is clearly demonstrated that there are material considerations in this case which outweigh the identified policy conflict and thereby indicate that the planning balance should be struck in favour of re-determining the appeal other than in accordance with the adopted up-to-date development plan.
- 7.7 The departure from the development plan does not make the proposed development unsustainable as a matter of principle, and the consequence of policy conflict is solely to prevent the benefit of the 'presumption in favour of sustainable development' from applying. It is Government policy, set out in paragraph 7 of the NPPF 2021, that 'the purpose of the planning system is to contribute to the achievement of sustainable development', and in paragraph 38 of the NPPF 2021, 'decision-makers at every level' are directed that they 'should seek to approve applications for sustainable development where possible.'
- 7.8 It is respectfully requested that the appeal is allowed on this basis.

Appendices

Appendix 1

**Appeal decision APP/Z2315/W/21/3286494
Land off Harrogate Crescent, Burnley**

Appendix 2

HM Government Response to the House of Lords Built Environment Committee report on Meeting Housing Demand (March 2022)

Appendix 3

Ribble Valley 5 Year Supply Statement as at 31st March 2021 (May 2021)

Appendix 4

Ribble Valley Replacement Local Plan Local Development Scheme (April 2021)

Appendix 5

Ribble Valley Strategic Housing and Economic Needs Assessment (April 2020)

Appendix 6

Biodiversity Net Gain Report and Calculation for the proposed appeal scheme (May 2022)

Appendix 7

Biodiversity Net Gain Report and Calculation for the enhanced illustrative scheme (May 2022)

Appendix 8

**Secretary of State decision APP/R0660/A/13/2197532
Land off Audlem Road, Stapeley, Nantwich**

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