



Appeal Decision

Hearing Held on 13 June 2017

Site visit made on 13 June 2017

by Jason Whitfield BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 13th July 2017

Appeal Ref: APP/N2345/W/16/3160927

Land off Pudding Pie Nook Lane, Preston, Lancashire PR3 2JL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Falgoza SA against the decision of Preston City Council.
 - The application Ref 06/2016/0124 dated 2 February 2016, was refused by notice dated 12 July 2016.
 - The development proposed is residential development of up to 24 no. dwellings.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Falgoza SA against Preston City Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The application was submitted in outline with approval sought for details of access. Matters of appearance, landscaping, layout and scale were reserved for future consideration. Plans showing a site layout, building heights, housing mix and site access improvements were submitted with the application. The appellant confirmed at the Hearing that, other than the access improvements, the plans were indicative. I have dealt with the appeal on that basis.
4. The name of the appellant given on the original application form is 'Falagoza SA'. The appellant confirmed at the Hearing the correct spelling is as set out in the banner heading above.
5. An unsigned Statement of Common Ground (SOCG) was submitted prior to the Hearing. Both parties confirmed at the Hearing that the SOCG had been agreed. I have therefore taken it into account in my decision.
6. At the Hearing, the parties were given the opportunity to consider and comment on the implications of the Supreme Court Judgement in *Richborough Estates v Cheshire East BC* [2017]¹ issued on 10 May 2017 for their respective cases. I have taken account of all representations on this matter in determining this appeal.

¹ *Suffolk Coastal District Council V Hopkins Homes Ltd and SSCLG, Richborough Estates Partnership LLP and SSCLG v Cheshire East Borough Council*

Main Issues

7. The main issues are: whether the proposal would be acceptable having regard to development plan policies in relation to the location of new housing; whether the Council can demonstrate a five year supply of housing land; and, whether the appeal site would be a suitable location for new housing, having regard to reliance on private car.

Reasons

Policy Context

8. Policy 1 of the Central Lancashire Local Development Framework Core Strategy 2012 (CS) sets out the Council's hierarchical approach to directing growth. Priority is given first to the strategic location of Central Preston, then the Key Service Centres of Chorley and Leyland, and then to the other main urban areas in South Ribble. The policy acknowledges that some greenfield development will be required on the fringes of the main urban area, whilst an appropriate scale of growth and investment will be encouraged in identified Local Service Centres and certain other key locations outside the main urban areas.
9. The parties agree that the appeal site falls to be considered under Policy 1(f) which states that in small villages, development will typically be small scale and limited to appropriate infilling, conversion of buildings and proposals to meet local need unless there are exceptional reasons for larger scale schemes.
10. The appeal site lies outside of, but adjacent to, the settlement boundary of Broughton. The appellant argues that, in the context of its geographical location, the proposal would be small scale. However, the predominant bulk of the built-up area of Broughton lies some distance to the west, whilst the village of Goosnargh a considerable distance to the east. The appeal site essentially lies at the perimeter of a ribbon of development on the eastern edge of Broughton, and to the east of the M6, which is generally limited in scale. In that context, the provision of 24 new dwellings would result in a considerable increase in the number of dwellings in the locality. Thus, I find the development would not be small scale.
11. The appellant argues that, as the proposal would utilise previously developed land which is closely related to the existing settlement, it would constitute appropriate infilling. It is also argued that the proposal would provide housing to meet local needs. However, there is no need for me to conclude upon those matters as, even if the proposal would be appropriate infilling or provide for local needs, the proposal would not be small scale. That is a prerequisite for such development to be allowed for under CS Policy 1(f).
12. It was put to me at the Hearing by the appellant that, with the Council's lack of a five year housing land supply and the proposal's fulfilment of a local need, exceptional reasons for a larger scale scheme would exist.
13. However, even if the Council is unable to demonstrate a five year supply to the extent the appellant suggests, the level of contribution the proposal would make towards meeting the under supply would not, in my view, constitute circumstances which are unusual or unique to such an extent that would they would be exceptional. Moreover, whilst the appellant indicates the Council's Strategic Housing Market Assessment 2009 (SHMA) identifies a need for

affordable housing, starter homes and bungalows, there is no substantive or compelling evidence before me that the proposal would meet any specific, evidenced, local need within the immediate area. Rather, the need identified appears to be of a broader and more strategic level. As a result, it has not been demonstrated that there would be exceptional reasons for a larger scale development and, as a consequence, I find the proposal would conflict with CS Policy 1(f).

14. Policy EN1 of the Preston Local Plan 2012-2026 Site Allocations and Development Management Policies 2015 (LP) states that development in the open countryside will be limited to that needed for agriculture, forestry or other rural uses, the re-use of existing buildings, or infilling within groups of buildings in smaller rural settlements.
15. The appellant argues that the proposal would comprise infilling between existing buildings. However, the proposal would lie outside the settlement boundary. Moreover, the site is bound to the west and south by open fields with Pudding Pie Nook Lane to the east and sparsely arranged dwellings and gardens to the north. The appeal site would not lie between existing groups of buildings. In contrast, it would extend the limits of built form into the open countryside. Consequently, it would not constitute infilling within groups of buildings and, as such, would conflict with LP Policy EN1.
16. My attention has been drawn to LP Policy EN4 which sets out Areas of Separation (AOS) as tracts of land identified to protect the character and identity of settlements that are separated only by a small area of open countryside from a neighbouring settlement. In this instance, whilst within an AOS, the appeal site adjoins the settlement boundary for Broughton. Given the extent of the proposed built form and its proximity to the existing settlement, the main parties agree that the proposal would not cause harm to the effectiveness of the AOS. I see no reason to disagree. Consequently there would be no conflict with Policy EN4.
17. Nevertheless, when taken as a whole, I conclude that, given the conflict with CS Policy 1 and LP Policy EN1, the proposal would not be an acceptable having regard to development plan policies in relation to the location of new housing.

Housing Land Supply

18. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that the appeal is determined in accordance with the statutory development plan unless material considerations indicate otherwise. The National Planning Policy Framework (the Framework) is one such consideration.
19. Paragraph 14 of the Framework sets out a presumption in favour of sustainable development. For decision taking this means 'approving proposals which accord with the development plan without delay' and 'where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole.'
20. Paragraph 215 of the Framework states that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the

Framework, the greater the weight that may be given). The main parties agreed at the Hearing that, having regard to Paragraph 215, CS Policy 1 and LP Policy EN1 are consistent with the NPPF and are not, therefore, out-of-date.

21. Nevertheless, Paragraph 49 of the Framework states that housing applications should be considered in the context of the presumption of in favour of sustainable development and that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
22. In the case of *Richborough Estates v Cheshire East BC*, the Supreme Court held that the primary purpose of Paragraph 49 is to trigger the operation of the 4th bullet point of Paragraph 14 where the local planning authority cannot demonstrate a five year supply of deliverable housing sites. The Supreme Court considered that Paragraph 49 must be seen within the context of Paragraph 47, which sets the objective of boosting the supply of housing.
23. The phrase 'policies for the supply of housing' is an indication of a category of policies in the development plan, these being the housing supply policies. The Supreme Court indicated that these are likely to be policies relating to the provision of housing, such as housing allocation policies. These can be distinguished from other categories of policies such as policies for the supply of employment land or for the protection of the countryside.
24. At the Hearing, the main parties agreed that CS Policy 1 and LP Policy EN1 are not, in the terms framed by the Supreme Court, policies for the supply of housing. Nevertheless, the Court made it clear that the important issue is not whether particular policies should be categorised as 'policies for the supply of housing' but whether the result of the application of those policies is a five year supply in accordance with the objectives of the Framework Paragraph 47. If there is a failure, it does not matter if this is because of the policies which specifically deal with housing provision or because of other restrictive policies. The shortfall in housing land supply itself is the trigger for the operation of the 4th bullet point of Paragraph 14.
25. At the time the application was determined, it was common ground between the parties that the Council was unable to demonstrate a five year supply of deliverable housing. However, following the submission of the appeal the Council indicated that, on the basis of its February 2017 Housing Land Position Statement – Addendum to Housing Land Position Interim Report, it could now demonstrate a 5.79 year supply of housing land.
26. The Council also confirmed at the Hearing that, based on a further updated Housing Land Position Statement dated 31 March 2017, the supply stands at 5.5 years. In contrast, the appellant argues that the Council is only able to demonstrate a 4.54 year supply.
27. The Council's calculations are based on the net annual housing requirement of 507 dwellings, set out in CS Policy 4. Against that requirement, the shortfall in housing delivery since 2003, which the parties agreed at the Hearing is an appropriate base date, amounts to 967 dwellings.
28. The Council have, in their calculations, used the 'Liverpool' approach, whereby the shortfall in housing is spread out over the remaining plan period. In this case, that is 9 years. This equates to an additional 107 dwellings per annum to

be added to the annual requirement of 507 and results in an overall shortfall of 535 dwellings to be dealt with in the next five years. When added to the five year requirement of 2,535 dwellings, this results in an overall five year requirement of 3,070 dwellings or 614 dwellings per annum (dpa).

29. The appellant indicates that the circumstances suggest the 'Sedgefield' approach, whereby shortfall is met within the next five year period, would be more appropriate in this instance in light of the Planning Practice Guidance (the Guidance) which states that Council's should aim to deal with any undersupply within the first 5 years of the plan period wherever possible². Nevertheless, the appellant does not contest the use of the 'Liverpool' method in light of the Inspector's LP Report in June 2015 which indicated that: given the similar approach taken by the CS Inspector in 2012; that as the Courts have held the Liverpool approach equally valid; and, that by making provision for a significant amount of housing on strategic sites, addressing the shortfall over the remaining plan period would be appropriate. Reference has also been drawn to a S78 appeal at Land South of Tom Benson Way³ where the Inspector found the 'Liverpool' approach to be an acceptable approach. From what I have seen and heard, I see no reason to disagree with the Council that the 'Liverpool' approach to tackling the shortfall is appropriate here.
30. Nevertheless, Paragraph 47 of the Framework states that, to boost significantly the supply of housing, local planning authorities should identify a supply of deliverable sites to provide five years of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. It goes on to state that, where there has been a record of persistent under delivery of housing, the buffer should be increased to 20% (moved forward from later in the plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land.
31. The Framework is therefore clear that a 5% buffer should be used in housing supply calculations as a starting point and only where there is persistent under delivery should a 20% buffer apply. The Council have applied a 5% buffer in this case. This results in an overall 5 year requirement of 3,224 dwellings or 645 dpa.
32. There is no definition of 'persistent under delivery' in the Framework or the Guidance. Using an Oxford English Dictionary (OED) definition, the CS Inspector in 2012 commented that the provision during the previous 9 years had been varied rather than existing continuously in time and therefore was not persistent.
33. In addition, the LP Inspector in 2015 commented that the under delivery had not, taking an OED definition, been persistent. Both Inspectors therefore accepted the use of a 5% buffer. Those findings were based on completions up to 2010 and 2014 respectively.
34. The Council also points to, as well as the aforementioned appeal at Land South of Tom Benson Way, a S78 appeal at Land at Preston Road, Grimsargh⁴ where the Inspector found that, whilst there had been under delivery for the majority

² The Guidance: Paragraph 035 Reference ID: 3-035-20140306

³ APP/N2345/W/15/3010715

⁴ APP/N2345/W/15/3007033

of years, for most of that time the UK economy had suffered from a severe economic downturn which had widely affected the housing market. The Inspector concluded that, given the short period since the LP Inspector's Report in 2015, there was no convincing reason to deviate from a 5% buffer.

35. The Guidance⁵ is clear that an assessment of a local delivery record is likely to be more robust if a longer view is taken, since this is likely to take account of the peaks and troughs of the housing market cycle. Since 2003, the Council has achieved completions of 507 dwellings or more for only 5 out of those 14 years. Nevertheless, delivery had been consistently in excess of the requirement for the four years pre-dating 2008/2009. Whilst thereafter, delivery was year-on-year below the requirement up until 2015/2016, the start of this period coincides with the time when the economic downturn in the UK is generally accepted to have commenced. Whilst the under delivery continued beyond when there was, in broad terms nationally, an upturn in construction activity and the housing market, the latest year's figures have exceeded the requirement. This may point to an upturn in economic activity on a local level.
36. There has been little compelling evidence presented to me which suggests that the rates for 2016-2017 are a sign of continued delivery for future years and I note the appellant's view that a reliance on a small number of strategic sites could result in competition that could suppress delivery rates. Indeed, I recognise that adding choice to strategic locations would be sensible. However, such an approach to housing delivery is consistent with the strategic approach set out under CS Policy 1 which I have found to be consistent with the Framework and it seems to me that the recent upturn in housing delivery coincides with the adoption of the LP and the spatial approach to the release of housing sites.
37. As a result, whilst there is no doubt there has been a significant period of under delivery, I see no reason to come to an alternative view from that of the CS and LP Inspectors, as well as the Inspector in the Land at Preston Road appeal, that the under delivery has not been persistent. On that basis, I consider the Council's application of a 5% buffer sufficiently robust in this instance.
38. The Council's delivery calculations take into account 695 long term empty properties which have been brought back into use since 2009. Whilst I note such an approach was accepted by the LP Inspector in 2015 and is based on an established strategy, the Council confirmed at the Hearing that the figure does not take into account homes which have since become long term vacant. I agree with the appellant that such an approach is a risk and not particularly robust. Nevertheless, the appellant did not offer any evidence of the number of homes which have fell into long term vacancy and therefore, on the evidence before me, I must accept the Council's figure for the purposes of the five year supply calculation.
39. Taking this all into account, I am satisfied that the Council's five year housing requirement figures are sufficiently robust.
40. Turning then to the supply. The Council indicates it has a deliverable⁶ supply amounting to some 3,526 homes. This comprises around 2,027 homes which

⁵ The Guidance: Paragraph 035 Reference ID: 3-035-20140306

⁶ Footnote 11 of the Framework states 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. Sites with planning permission

are on allocated sites with planning permission, 552 homes which are on allocated sites without planning permission and 947 homes which are on windfall sites, 213 of which are from sites of 5 or less.

41. The Council's supply is based on a delivery rate spread across all identified housing sites of 30 dpa. The Council argues that such a delivery rate is sufficiently robust and based on evidence derived from discussions with developers that suggest sales rates of 2-3 per month are reasonable. The Council has therefore taken a mid-point between 24 dpa and 36 dpa of 30dpa.
42. The appellant, in contrast, argues that a rate of 24 dpa would be a more cautious and realistic approach. Nevertheless, the appellant has not disputed the sites contained in the Council's supply. Instead the appellant indicates that they would deliver, in contrast to the Council's 3,526 new homes, 3,345 new homes over the next five years based on the rate of 24dpa.
43. Thus, even if I were to assume the appellant's view on the delivery rates, taking into account my findings that a five year requirement of 3,224 homes (or 645 dpa) is appropriate, the Council would still be able to demonstrate a 5.18 year supply of housing land.
44. I conclude, therefore, that, on the evidence presented to me, both in written form and at the Hearing, the Council's position is sufficiently robust and it can demonstrate a five year housing land supply. In finding that the Council can demonstrate a five year supply of housing land, the tilted balance in Paragraph 14 of the Framework is not engaged.

Location

45. Paragraph 17 of the Framework sets out that a core planning principle is to actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling. Whilst recognising opportunities to maximise sustainable transport solutions will vary from urban to rural areas, Paragraph 29 of the Framework nevertheless states that the transport system needs to be balanced in favour of sustainable transport modes, giving people a choice about how they travel.
46. Paragraph 4.25 of the supporting text to CS Policy 1 identifies Broughton as a village within the open countryside. Paragraph 4.26 states that, whilst those villages vary in size and range of services, none are identified as Rural Local Service Centres and therefore no growth aspirations exist for those villages. This is reflected in the spatial approach of CS Policy 1.
47. The appeal site is over 1.6km to the closest everyday services and facilities in Broughton which largely comprise petrol filling stations with retail elements. It would be around 2.4km services in Goosnargh. The services in Broughton would be accessible on lit footpaths along the relatively flat topography of Whittingham Lane (B5269). Whilst Pudding Pie Nook Lane is unmade from the junction with the B5269 to the appeal site, the proposal includes a scheme to include a footpath along this stretch. I recognise, therefore, that people would have a degree of choice in deciding whether to walk or use private car.

should be considered deliverable until permission expires, unless there is clear evidence that schemes will not be implemented within five years, for example they will not be viable, there is no longer a demand for the type of units or sites have long term phasing plans."

48. However, Manual for Streets 2007 (MfS) suggests that walkable neighbourhoods are typically characterised by having a range of facilities within 10 minutes (up to about 800m) walking distance of residential areas which residents may access comfortably on foot. The distances involved here would also be beyond the 2km for schools and the 1.2km for other services recommended in The Institute of Highways and Transportation (IHT) document 'Guidelines for Providing for Journeys on Foot' 2000 as referred to by the parties at the Hearing.
49. In my view, given the distances involved and the need to cross the B2569 more than once, walking would not be a particularly attractive option for future residents to access the closest services and facilities on a daily basis, particularly during the hours of darkness or periods of inclement weather.
50. There is a westbound bus stop around 300m from the site on the B2569 and an eastbound bus stop around 395m from the site. I agree that they are in reasonable and safe walking distance of the site. Those stops offer an hourly service between Longridge and Preston. Journey times to Preston are around 50 minutes, taking into account traffic conditions. The appellant argues that the services provide suitable access to daily services and facilities, as well as employment opportunities in Preston and other locations along the route.
51. The services run from 0730 and 1730 Monday to Friday and 0800 and 1830 Saturdays. The services would therefore provide reasonable access to daytime shopping, leisure and services for future residents 6 days a week. Nevertheless, at the Hearing, the Council indicated that the last bus from Preston, where the majority of employment and evening leisure opportunities are available, leaves at 1705 Monday to Friday.
52. I note that future residents would be able to plan their journeys to a degree and that bus services are often driven by demand. However, the services would not be conducive to use for commuting purposes. People often work flexible hours and often beyond 1705 when there would be no option to return home by public transport. Nor would those services support the evening leisure economy, meaning people would be reliant on private car or indeed taxis to get to and from the appeal site on an evening. I also agree with the Council that 24 dwellings would be unlikely to generate sufficient demand to have any significant change upon bus scheduling.
53. I recognise that a bus service runs through Broughton crossroads, however, that would require a walk of around 1.6km which, for the reasons set out above, I have found would not be a reasonable option for future residents. As a result, I find future residents would not have a realistic degree of access to public transport options.
54. I recognise the site's proximity to National Cycle Route 6 which provides local routes into Preston City Centre. I also note that the future Broughton by-pass would potentially made the existing roads more cycle friendly. However, the nature of the routes involved lead me to conclude that cycling for everyday day trips would not be an attractive form of transport.
55. Consequently, whilst I recognise future residents would have some degree of choice, the choice would not be balanced in favour of sustainable transport options and I find that future residents would therefore be largely reliant on

private car for access to everyday services, facilities and employment opportunities.

56. Paragraph 55 of the Framework seeks to avoid isolated new homes in the countryside. The appeal site lies adjacent to the settlement boundary and adjacent to the existing built-up area of the village. The Framework contains no definition of the term 'isolated'. In my view, the appeal site cannot reasonably be considered to be lonely or remote owing to its proximity to the settlement. As such, I consider the appeal site would not be isolated for the purposes of paragraph 55.
57. Nevertheless, Paragraph 55 of the Framework also encourages new housing where it will enhance or maintain the vitality of rural communities. There are few existing services and facilities to maintain within Broughton and the location of the appeal site is such that future residents would not have adequate opportunities to make the fullest possible use of public transport, walking and cycling and would be largely reliant on private car in order to support services within nearby villages and maintain or enhance the vitality of those communities. The proposal would thus fail to contribute towards managing sustainable patterns of growth and the proposal would not be consistent with the role, status and character of the settlement.
58. I conclude, therefore, that the proposal would not be a suitable location for new housing having regard to reliance on private car. The proposal would therefore conflict with CS Policy 1 and LP Policy EN1, as well as paragraphs 17, 29 and 55 of the Framework.

Planning Balance

59. The Framework is an important consideration and Paragraph 6 of the Framework makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 7 of the Framework states that there are three dimensions to sustainable development: economic, social and environmental. Paragraph 8 is clear that these roles are mutually dependent.
60. The proposal would make an important contribution to boosting the supply of housing in line with Paragraph 47 of the Framework and I afford it significant weight. Nevertheless, that extent of that contribution, at 24 dwellings, would be modest.
61. There would also be important economic benefits deriving from the scheme in supporting jobs during the construction phase as well as spending in the local economy from future residents. This would support the Preston City Deal in generating jobs and economic growth in the area. There would also be New Homes Bonus and increased Council Tax receipts to the Council.
62. CS Policy 7 sets out that, subject to financial viability, a contribution of 35% on-site affordable housing will be sought in the rural areas on sites in or adjoining villages. The approach to achieving this is set out in the Central Lancashire Affordable Housing Supplementary Planning Document October 2012.
63. The proposal would provide a 33.3% contribution on the basis of 8 of the 24 proposed dwellings being affordable. The Council is satisfied that the proposal would make an adequate contribution to affordable housing in line with

CS Policy 7 and I see no reason to conclude otherwise. The main parties indicated at the Hearing that they are satisfied the contribution could be achieved through a suitably worded condition. The condition would ensure that a scheme for affordable housing which meets the definition set out in Annex 2 of the Framework would be secured in perpetuity. I agree a condition would be appropriate and thus, the affordable housing provision would be a significant social benefit.

64. The proposals would utilise a site which is largely previously developed, in line with Paragraph 17 of the Framework which encourages the effective use of land by reusing land that has been previously developed. The proposed dwellings would also provide environmental benefits in achieving energy efficiency standards equivalent to the former Code for Sustainable Homes Level 4 whilst it would also provide electric vehicle charging points.
65. On the other hand, the proposal would conflict with CS Policy 1 and LP Policy EN1 which are key components of the underlying locational strategy of the development plan, with which the proposed development would be fundamentally at odds. Insofar as Policy 1 allows for development in other places, it is limited to that which is small scale. I have found the proposal would not be small scale nor would it meet the test of exceptional circumstances required under LP Policy EN1 for large scale developments. CS Policy 1 directs development to locations assessed to be the most sustainable.
66. Furthermore, future residents would not have reasonable access to services, facilities and employment opportunities by a choice of sustainable transport modes. This would count against the proposal in environmental and social terms and the proposal would conflict with paragraphs 17, 29 and 55 of the Framework.
67. I have found policies CS Policy 1 and LP Policy EN1 to be consistent with the Framework and are not therefore out-of-date. Thus, I afford the policies, and the conflict with them, full weight. That conflict is not outweighed on this occasion by the important, but nevertheless modest, benefits of the scheme. Overall, the proposal would not constitute sustainable development.
68. Whilst I have found the Council can demonstrate a five year supply of housing land, if I were to have concluded that the Council is only able to demonstrate a 4.54 year supply of housing, as suggested by the appellant, the extent of that shortfall would not be so severe, and the quantum of development proposed not so great, that the harm arising from the conflict with the spatial strategy for the area and the reliance on private car travel would, having regard to Paragraph 14 of the Framework, significantly and demonstrably outweigh the benefits.

Other Matters

69. I note the Local Highway Authority originally objected to the proposal. However, that objection was withdrawn following submission of a revised highway scheme. I heard considerable evidence from Mr Gregson at the Hearing regarding the implications of the proposal for highway safety on Pudding Pie Nook Lane and the wider area. I was able to see from my site visit that the lane is narrow and would not necessarily be conducive to large

- numbers of vehicles passing one another. I also recognise it is currently used by agricultural vehicles including lorries and tractors.
70. However, whilst the proposal would result in a considerable increase in the number of dwellings accessed off Pudding Pie Nook Lane, I was referred by the appellant to the submitted Transport Statement which, at Table 4.1, indicates that the proposal would generate 16, 2 way trips in the AM peak period and 15 2 way trips in the PM peak. I agree with the appellant that such levels of traffic are low and would have a negligible impact on the existing volumes on the highway network.
71. Moreover, the existing use on the site currently generates traffic and therefore the net increase would be lower. Whilst Mr Gregson indicated the existing use would move to the opposite side of Pudding Pie Nook Lane, little substantive evidence was put to me that that would be the case. The scheme would also include a section of carriageway between the appeal site and the B5269 being upgraded with the provision of a 1.2m footway together with several passing points. This would allow vehicles to negotiate the section of Pudding Pie Nook Lane up to the proposed site access without unduly affecting pedestrians.
72. Mr Gregson also raised concerns regarding the suitability of the junction with the B5269 which I note is on a bend with a slight dip in the road. Nevertheless, whilst I was able to see the B5269 carries a regular flow of traffic at speeds around 30-40mph, the appellant indicated at the Hearing that 'X' distances of 2.4m or more could be achieved at the junction. The main parties agreed that adequate visibility splays could be achieved. I have no reason to come to an alternative view. As a result, I am satisfied that the proposal would not have severe, harmful impacts on highway safety in the area.
73. I have had regard to the concerns of local residents in representations made to both the appeal and the original application. However, on the evidence before me, I am satisfied the proposal would not have harmful impacts on flood risk, drainage, contamination, noise, air quality, trees, ecology or biodiversity. I also agree with the main parties that the development would, due to the large retention of existing landscaping and the proposed landscaping scheme, have a limited impact in landscape and visual terms and would not unduly affect the character and appearance of the area. Nevertheless, the lack of harm in such respects, and in respect of highway safety, would be neutral factors rather than particular benefits of the scheme.
74. The appeal site would lie around 300m to the north of the Grade II Listed Pudding Pie Nook cottage. There would be little visibility between the appeal site and the listed building and the proposal would be a considerable distance from the building, the setting of which I heard at the Hearing is fairly localised. At the Hearing the main parties agreed that the proposal would not impact upon the setting of the listed building. From all I have seen and heard, I have come to the same conclusion and, in this instance, consider the proposal would not unduly harm the setting of the Grade II Listed Building.
75. Evidence provided in advance of the Hearing by Lancashire Country Council indicated that the proposal would generate demand for an additional 9 primary school places. I am satisfied that, on the evidence before me, the suggested financial contribution of £127,955.79 towards the provision of additional primary school places in the immediate area would be necessary to make the

development acceptable, would be directly related to the development and would be fairly and reasonably related in scale and kind to the development.

76. The main parties are in agreement that the education contribution could be secured by a negatively worded condition that would require details of a scheme and mechanism to secure primary school places to be agreed. Whilst I have had regard to the views of the parties, I heard nothing at the Hearing to convince me that exceptional circumstances exist that would justify such an approach. This would therefore conflict with the Guidance which states that 'in exceptional circumstances, a negatively worded condition requiring a planning obligation or other agreement to be entered into before certain development can commence may be appropriate in the case of more complex and strategically important development where there is clear evidence that the delivery of the development would otherwise be at serious risk⁷.' That is not the case here.
77. Nevertheless, even if I were to accept the approach put forward by the parties, the provision of financial contributions towards education infrastructure would be a neutral factor rather than a benefit of the scheme as it would offset demand generated by the development. As I am dismissing the appeal for other reasons, the failure to provide an appropriate mechanism to secure the necessary obligation would not therefore lead me to any different overall decision.
78. My attention has been drawn to two appeals within the area at Land off Gargstang Road, Barton⁸ and Land at Pudding Pie Nook Lane⁹ in which Inspectors allowed proposals for new residential development. In respect of the Gargstang Road appeal, the Council conceded that, at the time, it was unable to demonstrate a five year supply. That is not the case here, indeed I have found that the Council is able to demonstrate a five year supply. Thus, I afford the Gargstang Road appeal little weight.
79. Turning to the appeal at Pudding Pie Nook Lane, it is clear that this is relevant insofar as it is located close to the appeal site. Nevertheless, the Inspector found the proposal for a single dwelling would be small scale, infill development and would therefore accord with CS Policy 1. For the reasons set out above, I have drawn different conclusions on the proposal for 24 dwellings before me.
80. Moreover, whilst the Inspector found that site would be within adequate walking and public transport links to local facilities, that appeal was determined by written representations and it is not clear the level of evidence regarding the suitability of the location that was presented to the Inspector. Thus I have determined this appeal on the individual merits of the case and the evidence before me. The Inspector's findings in the Pudding Pie Nook Lane appeal do not therefore alter my overall conclusions.

Conclusion

81. For the reasons given above I conclude that the appeal should be dismissed.

Jason Whitfield

INSPECTOR

⁷ The Guidance: Paragraph: 010 Reference ID: 21a-010-20140306

⁸ APP/N2345/W/15/3130341

⁹ APP/N2345/W/16/3163689

APPEARANCES

FOR THE APPELLANT:

Louise Leyland	PWA Planning
Timothy Russell	Croft Transport Solutions
Daniel Strode	PWA Planning
Paul Walton	PWA Planning

FOR THE LOCAL PLANNING AUTHORITY:

Claire Bradley	Kirkwells Ltd
Phil Cousins	Preston City Council
Michael Molyneux	Preston City Council
Michael Welk	Kirkwells Ltd

INTERESTED PERSONS:

Keith Gregson	Local Resident
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DOCUMENTS

- 1) Comments by PCC in relation to the rebuttal to LPA Hearing Statement – Housing Land Supply
- 2) Preston City Council Housing Land Position at 31st March 2017
- 3) Central Lancashire Affordable Housing Supplementary Planning Document October 2012
- 4) CIL Regulation 122 Compliance Note by the LPA