



Appeal Decision

Site visit made on 19 April 2023

by Gareth Wildgoose BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 May 2023

Appeal Ref: APP/D2320/W/22/3312908

Land at Blackburn Road, Wheelton, Chorley, Lancashire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission
 - The appeal is made by Smith & Love Planning Consultants Ltd against Chorley Borough Council.
 - The application Ref 21/00847/OUTMAJ, is dated 8 July 2021.
 - The development proposed is outline planning application for residential development of up to 40 dwellings with access from Blackburn Road and all other matters reserved.
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Decision

1. The appeal is allowed and planning permission is granted for outline planning application for residential development of up to 40 dwellings with access from Blackburn Road and all other matters reserved at Land at Blackburn Road, Chorley in accordance with the terms of the application Ref 21/00847/OUTMAJ, dated 8 July 2021, subject to the conditions in the attached schedule.

Application for costs

2. An application for costs was made by Smith & Love Planning Consultants Ltd against Chorley Borough Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The application was submitted in outline with all detailed matters other than means of access reserved for future approval. Appearance, landscaping, layout and scale are, therefore, reserved for later consideration and the appeal has been determined on that basis. The illustrative material submitted with the planning application in so far as it relates to the reserved matters are for indicative purposes only and I have considered them accordingly. I have amended the description of development to provide necessary certainty of the number of dwellings applied for.
4. If the application had proceeded to determination, the Council initially advised that planning permission would have been refused as it considers the proposal to be residential development that is not consistent with development plan policy as it is not within an area that has been identified for growth and investment, and also that it would not provide safe access for pedestrians or a sufficient level of cycling infrastructure. The Council subsequently provided a statement of case which indicated that following continued negotiations, further highway related mitigation measures as agreed with the appellant now satisfy

local and national policy requirements in the latter regard. I, therefore, necessarily return to highway matters later in my decision.

5. A signed and dated planning obligation by way of unilateral undertaking under Section 106 of the Town and Country Planning Act 1990 (UU) has been provided as part of the appeal. The planning obligations in the UU relate to the provision of affordable housing and a financial contribution to playing pitches. I return to the UU later in my decision.

Main Issues

6. In light of all of the above, the main issues are whether the proposal is consistent with the objectives of local and national planning policies relating to the location of housing, and if there are any adverse effects of the development proposed, including conflict with the development plan as a whole, whether they would be outweighed by any other material considerations.

Reasons

Local and national policies relating to the location of housing

7. The appeal site consists of undeveloped land comprising agricultural fields bounded by Blackburn Road, dwellings accessed from Ryefield and the A674. There are currently two gated field accesses to the site from Blackburn Road, with the boundaries otherwise formed by hedgerows to that highway, a mix of hedgerows, trees and fencing adjoining neighbouring properties facing Ryefield and predominantly post and wire fencing along the boundary with the A674. The fields were in use for livestock grazing at the time of my visit.
8. Section 70(2) of the Town and Country Planning Act 1990 requires regard to be had to, amongst other things, the provisions of the development plan, so far as material to the application, and to any other material considerations. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that if regard is to be had to the development plan for the purpose 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. The National Planning Policy Framework (the Framework) is such a material consideration.
9. The development plan comprises, the Central Lancashire Core Strategy (CS), adopted July 2012, and the Chorley Local Plan 2012-2026 Site Allocations and Development Management Policies Development Plan Document (LP), adopted July 2015. Policy 4(a) of the CS in seeking to provide for and manage the delivery of new housing sets out a minimum requirement for Central Lancashire of 22,158 dwellings over the 2010-2026 plan period, including a minimum requirement for Chorley of 417 dwellings per annum.
10. Policy 1 of the CS responds to Policy 4 in seeking to focus growth and investment on well located brownfield sites, including strategic locations and key service centres in Chorley. The site lies within the settlement boundary of Wheelton on the LP Policies Map and Policy V2 of the LP is supportive of appropriate sustainable development in settlements. However, Policy 1 of the CS does not identify Wheelton as a location where growth and investment will be concentrated or encouraged. It follows that proposals for development in Wheelton are necessarily considered against Policy 1(f) which states 'in other places – smaller villages, substantially built up frontages and Major

Development Sites – 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 redevelopment schemes’.

11. With regard to the above, Paragraph 2.11 of the LP addresses the approach of Policy 1(f) of the CS insofar as it applies in Chorley Borough and, amongst other things, indicates that whether the scale of proposed development is appropriate depends upon the characteristics of the village and their sustainability, as they vary in character and in terms of the facilities that they provide. There is no indication in the evidence before me that either the CS or LP otherwise provide a more specific definition of ‘small scale’. Consequently, based on my own observations of Wheelton as a smaller village in an otherwise rural setting, I find that the proposal for up to 40 dwellings at the site would exceed that typically permitted under Policy 1 (f) in the settlement as it does not constitute small scale development or appropriate infilling. Furthermore, it does not involve conversion of buildings, there is no substantive evidence that it is a proposal intended to meet specific local needs, and the greenfield site is not part of a larger scale redevelopment scheme. As such the proposal conflicts with Policy 1 of the CS insofar as it seeks to limit residential development ‘in other places’ to a closed list of exceptions and criteria.
12. Notwithstanding the above, the site lies within the built envelope of Wheelton village within walking distance of community facilities including public houses, a cafe, a small village store, together with other services and businesses including a car repair garage, children’s nursery, a park and children’s play area and a village hall, that provide for day to day needs of residents. The local services and facilities are accessible via footpaths from the site which I observed, although less than the 2m width recommended in Manual for Streets, are wide enough to provide suitable pedestrian routes into and around the village. In this respect, I note that the application includes some proposed upgrades to improve pedestrian crossing arrangements close to the site to ensure safe access to St Chad's Catholic Primary School and Church on the opposite side of Blackburn Road and Town Lane respectively and would improve the crossing at the junction with Ryefield. Those enhancements can be secured by condition requiring approval of details and implementation of the proposed off site highway works identified in the access plans and associated evidence. There are also existing bus stops and shelters on Blackburn Road close to the site which I observed are served by approximately hourly services on Mondays to Saturdays from early in the morning until evenings toward and from Chorley and Blackburn respectively from which a much wider range of services, facilities, schools and employment can be accessed. There are more restricted services on Sundays between mid-morning and early evening.
13. Taking account of the above, there may be some inevitable dependence on the use of a private car for some residents of the development as a matter of convenience to travel to larger settlements. Nonetheless, to my mind, this would be somewhat counterbalanced by the proposed bus stop improvements to provide raised kerbs and new shelters on Blackburn Road adjacent to the site and opposite. Those improvements would provide a more suitable environment for users of the available bus services particularly in inclement weather, thereby potentially encouraging an increased use of public transport in this location by making the current bus stop locations more attractive and accessible for all users. Localised improvements are also proposed in the plans to cycle facilities close to the site on Blackburn Road and at the junction of

Town Lane and Chorley Old Road through the addition of signage and road markings to be agreed with the highways authority and can be secured via condition and delivered via Section 278 of the Highways Act 1980. Those proposed off-site cycle infrastructure improvements would result in a safer route to access the additional services available in the neighbouring Whittle-le-Woods, an Urban Local Service Centre as listed under Policy 1(d) of the CS, and beyond. I consider it reasonable that such upgrades would have the potential to further encourage alternatives to private car use by local residents.

14. Having regard to all of the above and paragraph 79 of the Framework, I find that any adverse impacts arising from the addition of future residents of up to 40 dwellings and associated private car use in this location would be offset by the support afforded by the development to enhancement of access to local services and facilities in Wheelton and beyond by alternative means of travel. As such whilst there is identified conflict with Policy 1 of the CS relative to its settlement strategy, based on my own observations and the particular circumstances of this case, I do not find that the site is an isolated or unsustainable location in the rural area of Chorley Borough nor is there specific harm in terms of its accessibility to local services and facilities.
15. Turning to other relevant aspects of national policy, paragraph 11(d) of the Framework indicates for decision taking, where the policies which are most important for determining the application 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. As referred to in the evidence before me this is known as the 'tilted balance'.
16. In terms of the most important policies for determining this appeal, it is not a matter of dispute between the main parties that Policies 1 and 4 of the CS meet that definition. This is reasonable given that the identification of the settlement strategy for Chorley in Policy 1 is established on the basis of meeting the housing requirement in Policy 4. Footnote 8 of the Framework identifies the circumstances for applications involving the provision of housing where such policies may be considered to be out of date. This includes, amongst other things, where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 74).
17. In the above context, the evidence before me has drawn my attention to recent appeal decisions in Chorley, including those where planning permission previously has been granted for up to 123 dwellings at Land adjacent to Blainscough Hall, Blainscough Lane, Coppull¹, for up to 80 dwellings at Land to the East of Tincklers Lane, Eccleston², for up to 34 dwellings at Land south of Parr Lane, Eccleston³ and for up to 25 dwellings at Land off Carrington Road, Adlington⁴. Following those appeal decisions including the developments subject of Inquiries at Blainscough Lane, Coppull and Tincklers Lane, Eccleston, it is not a matter of dispute between the main parties that Policy 4 of the CS is more than five years old and is out of date due to changes to national policy

¹ Appeal Ref: APP/D2320/W/21/3275691 - Allowed - 3 February 2022

² Appeal Ref: APP/D2320/W/21/3272310 - Allowed - 18 February 2022
(decision includes APP/D2320/W/21/3272314 - Land to the North of Town Lane, Whittle-Le-Woods - Dismissed)

³ Appeal Ref: APP/D2320/W/21/3284702 - Allowed - 17 March 2022

⁴ Appeal Ref: APP/D2320/W/21/3284692 - Allowed - 17 March 2022

since its adoption including a different method for calculating local housing need. I have no reason to take a different view. Furthermore, even if I were to accept the stated Council position of a 3.3 year deliverable supply of housing based on a local housing need calculation of 569 dwellings per annum (following the standard method set out in paragraph 74 of the Framework and Planning Practice Guidance) rather than the deliverable supply of between 2.4 and 2.56 years identified by previous Inspectors, the shortfall in supply remains significant and clearly below five years. It follows that as I have found Policy 4 of the CS to be out of date and that the Council cannot demonstrate a five-year supply of deliverable housing sites that the 'tilted balance' in the Framework is to be applied which I necessarily return to later in my decision.

18. In reaching the above findings, I note that Policy 1 of the CS in setting out the settlement strategy for the area is failing to bring forward a sufficient deliverable supply of housing in Chorley. Furthermore, the emerging Central Lancashire Local Plan 2023 to 2038 which is intended to replace the CS, has reached the preferred options regulation 18 stage and includes the appeal site as a proposed housing allocation. However, as that plan is still at an early stage of preparation it can be afforded little weight. Similarly, I also attribute little weight to the Central Lancashire Statement of Common Ground - Intended Housing Requirement and Distribution, agreed by the Council in September 2022, which sets out an alternative housing requirement and supply position of 5.4 years based on a housing requirement of 334 dwellings per year for Chorley. I afford it little weight as it departs from the local housing need method in the Framework and is directly related to the emerging Local Plan that has yet to be submitted for or tested at examination.
19. Taking account of the early preparation stage of the emerging Local Plan and notwithstanding that Policy 1 of the CS relates to identification of settlements and distribution of growth in the wider area of Central Lancashire linked to Policy 4 which is out of date, I nonetheless find Policy 1 is not out of date insofar as it seeks to direct development toward the most sustainable locations for growth and prioritises the re-use of brownfield land. However, the absence of a deliverable five-year housing supply does influence the weight that can be afforded to the conflict with Policy 1 in the planning balance.
20. When having regard to all of the above, I conclude that the development would conflict with Policy 1 of the CS and its associated objectives relating to the location of housing. However, the restriction in that policy is not consistent with national policy objectives in the Framework to boost significantly the supply of housing in circumstances where a five-year supply of housing land has not been demonstrated. In that respect, to fully conclude on the compliance of the proposal with the development plan and the Framework as a whole as part of the planning balance, it is necessary to go on to consider the other matters that are relevant to the proposal.

Other Matters

Planning obligation and infrastructure

21. There is a signed and completed UU. It includes obligations relating to provision of affordable housing and a financial contribution towards playing pitch provision, improvement and enhancement. The planning obligations relate to identified needs with precise financial contributions relating to identified projects and calculation formulas to be applied to details that come

forward as part of the reserved matters. Based on the evidence before me, I am satisfied that the proposed contributions are necessary, directly related and fairly and reasonably related in scale and kind to the proposed development in accordance with paragraph 57 of the Framework. I have, therefore, attached weight to the planning obligations in my decision.

22. In addition, based upon the evidence before me, the other services, facilities, utilities and infrastructure in Wheelton when taken with the wider range of schools, healthcare and employment that are accessible in larger settlements such as Chorley, would have sufficient capacity to accommodate the proposed development of up to 40 new homes in this location. As such, subject to the financial contribution to playing pitches in the UU and suitable details to be provided in relation to the reserved matters, the proposal would be capable of meeting the related requirements of Policies HS4A and HS4B of the LP.

Archaeology

23. The evidence before me indicates that the site does not have a high potential for any archaeological features and therefore, I am satisfied that there would be no adverse impact in that respect.

Character and appearance (including the setting of nearby listed buildings)

24. The construction of dwellings on the site would result in built development on greenfield land that currently consists of largely open fields in agricultural use. The fields provide a sense of open countryside, albeit as an unusual and somewhat surprising feature amidst built form that visually surrounds it in the Wheelton settlement as observed from both Blackburn Road and the A674. As such it is evident that when taken together with the development surrounding and the topography within the undulating landscape that there is scope to suitably absorb a development of up to 40 dwellings as proposed into the built envelope of the settlement by utilising the existing built form as a backdrop. Furthermore, when taking account of the changes in topography from the respective highways and other more distant vantage points, appropriate landscaping would be capable of softening its appearance and assisting its assimilation with surrounding built form, such as the pattern and density of the adjacent properties on Ryefield, and within the wider landscape. It follows that a suitably designed development to integrate with the varied character of properties in the area could be achieved as part of the reserved matters relating to appearance, landscaping, layout, and scale. I am, therefore, satisfied that the proposal, subject to appropriate details to be submitted as part of the reserved matters, would be capable of meeting the related requirements of Policy 17 of the CS and Policy BNE1 of the LP.
25. No 176 Blackburn Road and its attached barn are Grade II listed and are located to the north of the site lying opposite to the junction of Blackburn Road with Ryefield. Based on the evidence before me, the significance of the listed mid 18th century farmhouse is derived from its historic association with agriculture in Wheelton, together with the architectural style, form and detail of the buildings. In that regard, whilst the site lies within the setting of the listed building, based on my previous findings I am satisfied that a suitably designed development could be achieved through the submission of reserved matters to assimilate appropriately with the existing diverse mix of buildings which surround the listed buildings in the now suburban village setting. I am, therefore, satisfied that the proposal, subject to the approval of reserved

matters, is capable of ensuring no harm to the setting and significance of the Grade II listed No 176 Blackburn Road and its attached barn. It reasonably follows that the settings and significance of other listed buildings that are more distant from the site such as the War Memorial Clock Tower, Hill House, Wallcroft Farmhouse and 12-14 Albert Street would also be capable of being preserved subject to appropriate details at reserved matters stage. I, therefore, find that the proposal would not conflict with the related requirements of Policy 16 of the CS, Policy BNE8 of the LP or the Framework.

Contaminated land

26. A Phase 1 - Preliminary Risk Assessment prepared by bEk Enviro Ltd dated February 2021 identifies potential risks related to contamination associated with the proposed change of use of agricultural land to residential. In response the report recommends site investigation (with associated sample testing as necessary) and remediation if required. I am satisfied that those matters are capable of being resolved by pre-commencement condition.

Drainage and flood risk

27. The site is in Flood Zone 1. Whilst some photographic evidence has been provided by interested parties of localised flooding on lower lying parts of the site, based on the evidence within the Flood Risk Assessment and Drainage Strategy, I am satisfied that the development would not be at unacceptable risk of flooding nor increase the risk of flooding to surrounding properties. This finding is subject to the suitability of the detailed site layout as part of the reserved matters, together with foul and surface water drainage measures including sustainable drainage systems (SuDs). Those drainage details are capable of being secured by conditions and therefore, I find that the proposal would meet the requirements of Policy 29 of the CS.

Ecology and trees

28. An assessment of biodiversity net gain prepared by ERAP Consultant Ecologists dated May 2022 identifies the baseline conditions of the site insofar as it contains predominantly sheep-grazed pasture in moderate condition, hedgerows in good condition and a small area of tall-herb vegetation. The proposals include an illustrative layout of 0.45 hectares of public open space, 0.45 hectares of vegetated gardens, tree planting and retention of the majority of existing hedgerows. It also includes compensatory provision of additional native-species rich hedgerow to replace the necessary removal of sections of hedgerow to construct the means of access. The associated calculated results are a biodiversity net gain of +5.56% of habitat units and +11.67% of hedgerow units. A condition is capable of being imposed to ensure the delivery of the biodiversity net gain identified and therefore, the benefits in that respect are afforded positive weight in the planning balance.
29. In terms of habitats and species specifically, an Ecological Survey Assessment prepared by ERAP Consultant Ecologists dated June 2021 indicates that the habitats within the site are sufficiently distant from, do not contribute to and are not linked to any designated sites for nature conservation. However, the evidence does identify habitats within and adjacent to the site that are suitable for foraging and commuting bats, together with young trees and hedgerows suitable for nesting species including the house sparrow and dunnock which are priority species, and the hedgerows at the site boundary are a priority habitat providing suitable foraging and hibernating habitat for hedgehog. In response,

the report provides recommendations of the appropriate methodology for the necessary removal of sections of hedgerow, protection measures for the hedgerow to be retained, compensatory native species rich hedgerow planting, restrictions on external lighting during and after construction to limit the impact on foraging bats, installation of bat access panels and bird boxes in new buildings, restrictions on works to vegetation during nesting season for birds (March - August inclusive), habitat connectivity in fencing for hedgehogs, and appropriate landscaping enhancements.

30. Based on the evidence, I am satisfied that details to be submitted as part of the reserved matters are capable of ensuring appropriate protection, conservation, connections and enhancement of habitats and wildlife species within the site. Furthermore, conditions can be imposed to secure the restrictions on vegetation clearance during bird nesting seasons and to agree an appropriate external lighting scheme to avoid an unacceptable impact of light spillage on foraging bats. It follows that I find that the proposal would not conflict with the requirements of Policies BNE6, BNE9 and BNE11 of the LP.
31. The evidence accompanying the proposal also includes a tree survey prepared by Ascerta in February 2021. In that regard, I have already addressed the acceptability in principle of the intended approach with respect to the good quality hedgerows along the site boundaries denoted as H1 to H9 on the accompanying tree survey plan and the removal of small sections required to facilitate the site access. In addition, I am satisfied that a condition could be imposed to ensure reserved matters applications for the approval of details of landscaping and/or layout include a scheme identifying the trees and hedgerows to be retained and appropriate protection of retained trees and hedgerows both within the site and on adjoining land. Such an approach would enable negative impacts on the hedgerows and trees within the site and off site to be minimised through appropriate protection measures, and that any necessary and justifiable losses within the site are suitably mitigated and/or adequately compensated for by replacement planting of sufficient benefit to outweigh the loss. It follows that I find that the proposal would meet the requirements of Policy BNE10 of the LP.

Education

32. The evidence before me includes recent consultation responses from the Lancashire County Council School Planning Team dated March 2023 and April 2023 which confirm that an education contribution is not required from the development and that re-assessment of the need for a contribution upon the approval of reserved matters will not be necessary. It follows that I am satisfied that there would be sufficient primary and secondary school places in Chorley to accommodate the future demand arising from the proposal for up to 40 dwellings in this location. Furthermore, there is no substantive evidence that such arrangements would have an unacceptable impact on the availability of and access to school places for existing residents in the local area.

Energy efficiency

33. The dwellings would be energy efficient as the emission rates of the current Part L of the Building Regulations (or any subsequent updates thereto) would necessarily be achieved by the development. This is appropriate, consistent with national policy for climate change and exceeds the previous Council

requirements applied in accordance with the transitional provisions in the Deregulation Act 2015 that post-dated the requirements in Policy 27 of the CS.

Employment and skills

34. Policy 15 of the CS and associated guidance in the Central Lancashire Employment Skills Supplementary Planning Document (SPD), require the delivery of local employment and skills training opportunities. Whilst an employment and skills plan was not submitted with the application, a condition can be reasonably imposed to ensure compliance with the policy requirements.

Housing contribution, including affordable housing

35. There would be economic and social benefits arising from the provision of up to 40 additional homes including the potential for delivery of 35% affordable homes (70% social rented and 30% intermediate) as secured by the UU to meet local needs in accordance with the requirements of Policy 7 of the CS. In that respect, the proposal would positively contribute to a need for more market and affordable housing to be delivered in Chorley and Central Lancashire as a whole. There would also be associated economic benefits in terms of local job creation during construction and support for local services and facilities in Wheelton and other settlements nearby, and contributions towards infrastructure secured via the Community Infrastructure Levy (CIL). These potential benefits would be achieved through a suitable increase to the local population when compared with the scale of the existing settlement.

Highway and pedestrian safety

36. The Framework advises that development should only be prevented or refused on highways grounds if there would be unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. The evidence accompanying the application includes a Transport Statement prepared by DTPC dated June 2021 and a Technical Note prepared by DTPC as dated March 2022 with associated highway survey data for the A674 during Monday 31 January 2022 - Sunday 6 February 2022 and further details relating specifically to the Blackburn Road/A674 and Chapel Lane junctions on Wednesday 2 February 2022. In addition, a site-specific Review of Transport Evidence and Issues Technical Note dated 7 December 2022 was prepared by Tetra Tech on behalf of the Council.
37. Interested parties have expressed concerns that traffic surveys accompanying the appeal are not representative of traffic levels in Wheelton as they were undertaken when Covid-19 restrictions were in place and also that they did not include surveying of Town Lane during drop off and pick up times for St Chad's Primary School. In that regard, traffic surveys undertaken by interested parties identify local traffic conditions during morning (between 07:30 - 09:15) and afternoon (between 15:00 - 17:00) periods on Tuesday 21 March 2023 and Friday 24 March 2023 at the junction of Blackburn Road and the A674 whereby queuing at the junction was noted to be up to 14 vehicles in a 15-minute period. Additional traffic survey counts were also provided for both Blackburn Road and the junction of Blackburn Road and Chapel Lane during the afternoon and early evening of 14 March 2023. The survey data is also accompanied by photographs of local traffic conditions including the use of the nearby roads by heavy goods vehicles and a range of buses, significant levels of on-street parking at different times along the Blackburn Road site frontage, close to the junction leading towards St Chads Primary School and Town Lane and

elsewhere within Wheelton, together with associated traffic queuing when entering and exiting the nearby junctions and when passing the school.

38. I have taken account of all of the evidence and my own observations albeit only a brief snapshot of time during a weekday morning of traffic levels travelling along Blackburn Road, the A674 and Town Lane, and of vehicles entering and exiting the related junctions, together with local on-street parking conditions. In that regard, I consider it reasonable that the additional vehicle trips arising from a development of up to 40 dwellings would be comparatively limited and appropriately dispersed during the day, including periods of peak traffic flows. It follows that I am satisfied that the additional traffic arising from the proposal would be suitably accommodated on Blackburn Road and the surrounding junctions within the highway network without an unacceptable impact on highway safety or severe residual cumulative impacts on the road network during peak times (including school pick-ups and drop offs).
39. In reaching the above findings, I note that whilst there are significant levels of on-street parking along Blackburn Road (a 30mph speed limit road with signage to indicate reductions to 20mph when passing the school when lights are showing), the combination of the width of the carriageways and occasional gaps in on-street parking allow vehicles to pass safely in each direction both along it into the village and towards Town Lane. At busier times vehicles are required to wait on Blackburn Road, including to turn onto the 50mph speed limited A674, and also on the A674 in marked lanes to turn right when entering Blackburn Road and Chapel Lane respectively in a staggered junction arrangement. The evidence before me indicates that the resultant queuing on occasion does exceed the capacity of the dedicated right turn lanes and results in queuing on the main carriageways. However, it is not an unusual situation for vehicles to wait on a highway for short periods of time to turn and I consider it reasonable that the limited scale of traffic generation associated with a development of up to 40 dwellings will not significantly alter the existing situation. Furthermore, the queuing occurs in locations with road alignments that offer suitable forward visibility for vehicles travelling in each direction to view and react to stationary vehicles or travelling at slower speeds, so as to ensure that there is not an unacceptable risk of accidents. Based on the traffic levels both in the evidence and that I observed, it is also reasonable that there are sufficient gaps in traffic in each direction along the A674 occurring frequently to ensure that any temporary queues on local highways are dispersed relatively swiftly.
40. I am mindful that the local accident record in the five-year period covering 2017 to 2021 includes a total of five accidents, with two of the three recorded as serious occurring in the vicinity of the staggered junctions of the A674 with Blackburn Road and Chapel Lane in January 2018 and March 2019. However, the accident records do not suggest that either were specifically influenced by shortcomings of the junction arrangements or the presence of queuing traffic. I also note that the findings of the Tetra Tech report do not raise specific concerns nor recommend changes to the junction on safety grounds. The report also does not require further assessment of the traffic impact on the nearby junction given that the traffic generated by the development would not significantly add to the level of queuing. There is also no substantive evidence that would lead me to consider that the proposal would result in residual cumulative impacts on the road network that would be severe, when taken with forthcoming developments in the local area including those granted planning

permission off Blackburn Road at Great Knowley and at Botany Bay, together with proposals at Blackburn Brown off Heapey Road and Town Lane, Whittle-le-Woods, or levels of intended growth elsewhere in Chorley Borough.

41. The Council and the highway authority have raised no objection with respect to the formation of the proposed access onto Blackburn Road and associated visibility splays identified on drawing no. J1274 access fig 1 Rev B, subject to the local off-site highway improvements. The access would comprise a new 5.5 metre wide entrance road with two metre wide footpaths and 2.4 metre x 43 metre visibility splays in both directions, located close to the existing main field gate which will be closed off. Based on the evidence and my observations, safe access to the development on Blackburn Road could be achieved when replacing the existing site access and any required displacement of existing on-street parking could be suitably accommodated elsewhere without a detrimental impact on highway safety. I am also satisfied that the approval of layout details would be capable of providing sufficient off-street parking to serve the development and thereby avoid an unacceptable increase in pressure for on-street parking in the local area.
42. The highway improvements, in addition to the bus shelter enhancements and improvements to cycling infrastructure previously mentioned, include pedestrian upgrades to provide an uncontrolled crossing on Blackburn Road and alterations to the existing crossing at the junction of Blackburn Road and Ryefield, and removal of overgrown verges around the site to increase the effective footpath widths. I am satisfied that those improvements are necessary and would assist safe access to the bus stops, school and other facilities in Wheelton for future residents of the development and occupiers of existing properties close by. In addition, a Construction Management Plan could be secured prior to commencement of development to ensure suitable arrangements to avoid unacceptable highway impacts during the construction period. On that basis and taking account of all of the above, I find that the proposal would not harm highway and pedestrian safety or unacceptably impact on local highway conditions and therefore, would comply with Policies BNE1 and ST1 of the LP and the Framework in that respect.

Living conditions of occupiers of neighbouring properties

43. The illustrative material submitted with the planning application demonstrates that adequate separation distances to neighbouring properties facing Blackburn Road and Ryefield could be achieved to preserve the living conditions of their occupiers and future occupiers of the development in terms of outlook, light and privacy. Existing views from adjoining properties would be affected by the development. However, that is generally the case with development at the edge of an existing settlement. A well-designed and appropriately landscaped development of up to 40 dwellings is an appropriate density that would be capable of limiting the perception of the site being suburbanised, whilst providing a suitable outlook for occupiers of neighbouring properties around the site. I am satisfied that the detailed issues in those respects, together with other matters such as crime prevention measures, could be appropriately addressed through the reserved matters relating to appearance, landscaping, layout and scale, taking account of the variations in topography.
44. The increased use of an access road opposite to Nos. 167 to 171 Blackburn Road would slightly increase the noise and activity experienced by their occupiers and other properties close by. However, I do not consider that the

extent of those effects would result in significant harm or disturbance to their existing living conditions. The construction phase could also be suitably controlled to prevent unacceptable impacts in terms of noise and disturbance through the agreement of a Construction Management Plan and restrictions on construction hours and times of deliveries to the site. Interested parties have expressed other concerns with respect to impact on property values. However, it is a well-established principle that the planning system does not exist to protect private interests such as the value of land and property.

45. It follows from all of the above, that subject to suitable details to be submitted as part of the reserved matters and imposition of appropriate conditions, the proposal would not have an unacceptable impact on occupiers of neighbouring properties and would accord with the requirements of Policy BNE1 of the LP in that respect.

Conditions

46. I have had regard to the planning conditions that have been suggested by the Council. Where necessary I have reordered the conditions and amended the wording to ensure consistency with the Framework. Conditions 1 to 4 relate to the submission of reserved matters, timescales, provide certainty of the outline permission granted and require compliance with approved details for the means of access which are necessary to provide certainty of the planning permission granted. With respect to further details required as part of the reserved matters, Condition 5 require full details of proposed ground levels and building finished floor levels in any subsequent reserved matters, whilst Condition 6 requires full details of the alignment, height and appearance of all fences, walls and gates to be erected on the site and implementation before occupation of the dwellings. Those conditions are required in the interest of the character and appearance of the area, to ensure that the development responds appropriately to the topography of the land and to preserve the living conditions of occupiers of neighbouring properties.
47. Conditions 7 and 8 relate specifically to requirements associated with reserved matters comprising details of landscaping and/or layout. The first of those conditions requires the identification of the trees and hedgerows to be retained in a tree protection plan and the means of protection in an arboricultural method statement with the development carried out in accordance with those details. The condition is necessary to safeguard the health, longevity and positive contribution that trees and hedgerows offer to the character of the area. The latter of the conditions is required to secure the full details and implementation of the proposed Biodiversity Net Gain set out in the Assessment of Biodiversity Net Gain report.
48. Conditions 9, 10 and 15 are required to ensure a suitable approach to site drainage through a sustainable drainage strategy with no discharge of surface water to foul sewers. In that regard, the conditions necessarily secure implementation of surface water drainage works in accordance with relevant regulations, a verification report of the construction of a sustainable drainage system before the occupation of the dwellings and an operation and management plan for the lifetime of the development. I have modified and consolidated the suggested conditions where necessary, including to ensure the details are provided along with the related reserved matters for Conditions 9 and 10 and to ensure suitable details of foul water drainage are also provided.

49. Condition 11 is a pre-commencement condition that secures a Construction Management Plan, the details of which are necessary to be submitted and agreed in advance of the construction stage to ensure highway and pedestrian safety and preserve the living conditions of occupiers of neighbouring properties in terms of noise and disturbance. Condition 12 requires the submission and agreement of a remediation strategy to address the potential risks associated with contamination of the site, including site investigation and verification that any required remediation is completed. The requirement is also necessarily a pre-commencement condition given the potential need for remediation after site investigation. Condition 13 necessarily requires submission and agreement of an Employment and Skills Plan to maximise local job opportunities. It is necessarily a pre-commencement condition to ensure provision of employment and training opportunities in the construction phase.
50. Condition 14 secures the implementation of the means of access and full details, agreement and implementation of off-site highway works that are necessary to make the development acceptable in the interest of highway and pedestrian safety before occupation of the dwellings hereby permitted. I have modified the wording of the suggested condition accordingly in the interest of its precision and to ensure that it is reasonable given that I do not consider that the completion of the off-site highway works are necessary as a pre-commencement requirement.
51. Condition 16 is imposed to limit vegetation removal during nesting season to protect birds on the site. It is also necessary to attach Condition 17 requiring an external lighting scheme to ensure that once the development is complete, lighting will not affect the ecology of the area.
52. The Council suggested a further condition seeking approval of a scheme of phasing of the development which I consider is not necessary. A development of up to 40 dwellings, subject to the aforementioned conditions, could be suitably constructed on the site without the need for any phasing restrictions. The appellant also suggested an additional condition relating to the installation of electric vehicle charging points prior to the first occupation of any approved dwelling in seeking accordance with Policy 3 of the CS. However, requirements for electric vehicle charging points for new residential buildings are now otherwise set out in Part S of the Building Regulations and as such, a planning condition in those respects is not necessary and is not imposed.

Planning Balance

53. The Framework does not change the statutory status of the development plan as the starting point for decision making. The proposal is not in accordance with Policy 1 of the CS insofar as it is relevant to the location of new housing. Proposed development which conflicts with the development plan should be refused unless other material considerations indicate otherwise. In that respect, I have previously found that the related relevant Policy 4 of the CS is out of date and that the Council cannot demonstrate a deliverable five-year housing land supply. The tilted balance in paragraph 11(d) of the Framework, therefore, necessarily applies. In that respect, the application of policies in the Framework that protect areas or assets of particular importance do not provide a clear reason for refusing the development proposed.
54. The provision of up to 40 additional homes, including 35% affordable housing, would contribute to boosting the supply of housing in circumstances where in

Chorley it is otherwise currently constrained due to an inability to demonstrate a deliverable five-year housing land supply with a significant shortfall having been identified. In that context, the proposal would contribute to a clear need for more market and affordable housing to be delivered in Chorley. The scale of the development would not fully address the shortfall to an extent that a deliverable five-year supply of housing land would be demonstrated.

Nonetheless, the contribution to meeting housing need is meaningful and is afforded significant weight. There would also be associated economic and social benefits in terms of job creation during construction and support for local services and facilities after occupation and infrastructure contributions via CIL, which I attribute moderate weight based on the scale of the development proposed. The environmental benefits of the biodiversity net gain to be provided also carries moderate weight based on their scale. The off-site highway improvements secured by the development and the provision of and contribution to open space are each afforded limited weight as although required to make the development acceptable, they would also provide benefits for existing residents.

55. In terms of adverse impacts, the conflict of the proposal with Policy 1 of the CS and the settlement strategy, together with the resultant harm associated with development of greenfield land and loss of agricultural grazing land are each afforded moderate weight. The weighting is influenced by the ongoing failure of the CS to bring forward a sufficient deliverable supply of housing in Chorley, the scale of the development proposed on greenfield land and the abundance of agricultural land that remains close by outside of the settlement boundary.
56. The site is already viewed against existing development on three sides with varied topography and I have found no significant harm to the character and appearance of the area, the wider landscape, views from neighbouring properties, or the setting and significance of nearby listed buildings, subject to the approval of suitable details as part of the reserved matters. There would also be no unacceptable impacts in terms of highway or pedestrian safety, living conditions of existing residents, ecology and trees, infrastructure, ground conditions and drainage subject to the imposition of aforementioned conditions. The absence of harm in those respects is a neutral factor.
57. Having regard to all of the above, I consider that the adverse impacts of allowing this appeal, specifically the harm arising from the conflict with Policy 1 of the CS relating to the settlement strategy, and associated loss of greenfield land in agricultural use, would not significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole. It follows, that I go on to find that there are material considerations arising from the benefits identified in this particular case which indicate that the proposal should be determined otherwise than in accordance with the development plan.

Conclusion

58. For the reasons given above and taking all other matters into account, I conclude that the appeal should be allowed and planning permission granted subject to the conditions set out in the attached schedule.

Gareth Wildgoose

INSPECTOR

SCHEDULE

Conditions

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the Local Planning Authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) This planning permission relates to the site as denoted by the red line on site location plan drawing no. 21-14-LP01 dated February 2021 (as submitted to the Local Planning Authority on 9 July 2021) and the approval of means of access only as indicated on drawing no. J1274 access fig 1 Rev B dated 27 April 2022. The development shall be carried out in accordance with the details of the means of access hereby approved and retained as such thereafter.
- 5) Applications for the approval of reserved matters comprising details of appearance, landscaping, layout and/or scale shall be accompanied by full details of the existing and proposed ground levels (notwithstanding any such details shown on previously submitted plan(s)), and proposed dwelling finished floor levels (all relative to ground levels adjoining the site) and the levels of the proposed roads. For the avoidance of doubt, the submitted information shall include existing and proposed sections through the site including details of the height, scale and location of proposed housing in relation to adjacent existing development/built form (where applicable). The development shall be carried out in strict accordance with the approved details.
- 6) Applications for the approval of reserved matters comprising details of appearance, landscaping, layout and/or scale shall be accompanied by full details of the alignment, height and appearance of all fences, walls and gates to be erected on the site (notwithstanding any such details shown on previously approved plans). No dwelling shall be occupied until all fences, walls and gates shown to bound its plot have been erected in conformity with the approved details. Other fences shown in the approved details shall have been erected in conformity with the approved details prior to substantial completion of the development.
- 7) Applications for the approval of reserved matters comprising details of landscaping and/or layout shall be accompanied by a scheme identifying the trees and hedgerows to be retained and the protection of the retained trees and hedgerows within the site and on adjoining land (the tree protection plan) and the appropriate working methods (arboricultural method statement), in accordance with British Standard BS 5837: Trees in relation to design, demolition and construction – Recommendations (or an equivalent British Standard if replaced). The development shall be carried out in accordance with the scheme for protection of the retained trees and hedgerows in the tree protection plan and arboricultural method statement as approved.

- 8) Applications for the approval of reserved matters comprising details of landscaping and/or layout shall be accompanied by a Biodiversity Net Gain Plan which demonstrates the minimum of 5.5% habitat gain and 11.5% for hedgerows on the reported baseline habitat loss set out in the Assessment of Biodiversity Net Gain report ref: 2022-127 prepared by ERAP (Consultant Ecologists) Ltd dated May 2022. The Biodiversity Net Gain Plan shall include the following details:
- a) A location plan identifying the existing habitats on site to be retained, removed and/or lost, and the precise areas to be used for Biodiversity Net Gain.
 - b) A full description of planned habitat creation/enhancement, including species to be planted/sown.
 - c) A timetable for implementation of habitat creation/enhancement.
 - d) A Landscape and Habitat Management and Monitoring plan including timetable for management routines and reviews, and strategy for any remedial measures, if and when required, to secure the biodiversity net gain for a period of not less than 30 years.

The development shall be carried out in accordance with the approved details in the Biodiversity Net Gain Plan.

- 9) Applications for the approval of reserved matters comprising details of landscaping and/or layout shall be accompanied by a detailed, final sustainable drainage strategy for the site to be submitted to and approved in writing by the Local Planning Authority.

The detailed sustainable drainage strategy shall be based upon the principles set out within the flood risk assessment and drainage strategy (May 2021, Ref: 21.934, Reford Consulting Engineers Limited) and sustainable drainage principles and requirements set out in the National Planning Policy Framework, Planning Practice Guidance and Defra Technical Standards for Sustainable Drainage Systems.

The detailed sustainable drainage strategy shall include full details relating to foul water drainage from the dwellings to the public sewer network, including levels of the foul drainage system and Finished Floor Levels (FFL) AOD. Surface water must drain separate from the foul water and no surface water will be permitted to discharge directly or indirectly into existing or proposed sewerage systems.

The details shall also include, as a minimum:

- a) Sustainable drainage calculations for peak flow control and volume control (1 in 1, 1 in 30 and 1 in 100 + 40% climate change), with allowance for urban creep;
- b) Final sustainable drainage plans appropriately labelled to include, as a minimum:
 - (i) A plan or plans identifying areas contributing to the drainage network, including surface water flows from outside the curtilage as necessary;
 - (ii) Sustainable drainage system layout showing all pipe and structure references, dimensions and design levels;

- (iii) Details of all sustainable drainage components, including landscape drawings showing topography and slope gradient as appropriate;
 - (iv) Flood water exceedance routes in accordance with Defra Technical Standards for Sustainable Drainage Systems;
 - (v) FFL in AOD with adjacent ground levels for all sides of each plot to confirm minimum 150mm+ difference for FFL;
 - (vi) Details of proposals to collect and mitigate surface water runoff within and from the development boundary;
 - (vii) Measures taken to manage the quality of the surface water runoff to prevent pollution, protect groundwater and surface waters, and deliver suitably clean water to sustainable drainage components.
- c) Evidence of an assessment of the site conditions to include site investigation and test results to confirm infiltration rates and groundwater levels in accordance with industry guidance.
- d) A timetable for implementation.

The development hereby permitted shall be carried out in accordance with the approved sustainable drainage strategy. This includes the timetable for implementation unless any variation to the timetable is subsequently agreed in writing by the Local Planning Authority in consultation with the Lead Local Flood Authority.

- 10) Applications for the approval of reserved matters comprising details of landscaping and/or layout shall be accompanied by details of how surface water and pollution prevention will be managed during the construction phase, to be submitted to and approved in writing by the Local Planning Authority.

Those details shall include, as a minimum:

- a) Measures taken to ensure surface water flows are retained on-site during the construction phase and, if surface water flows are to be discharged they are done so at a restricted rate to be agreed with the Local Planning Authority in consultation with the Lead Local Flood Authority.
- b) Measures taken to prevent siltation and pollutants from the site into any receiving groundwater and/or surface waters, including watercourses, with reference to published guidance.

The development shall be constructed in accordance with the approved details.

- 11) No development hereby permitted shall take place until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. For the avoidance of doubt, the details shall include:
- a) Hours of operation during construction;
 - b) Arrangements for loading and unloading of plant and materials;
 - c) Storage of plant and materials used in constructing the development;
 - d) Siting of cabins, site compounds and material storage area;
 - e) The erection and maintenance of any security hoarding, where appropriate;
 - f) Measures to be taken to minimise the deposit of mud, grit and dirt on public highways by vehicles travelling to and from the site, including

details of wheel washing facilities within the site, road sweeping arrangements and any necessary co-ordination with the Highway Authority in periods with adverse weather conditions;

- g) Measures to control and monitor the emission of dust and dirt during construction;
- h) A scheme for recycling/disposing of waste resulting from construction works;
- i) Details of management measures to be employed during the development, including the identification of suitable highway routes and timings for plant and material deliveries to and from the site.

The approved Construction Management Plan shall be adhered to throughout the construction period.

- 12) No development hereby permitted shall take place until a remediation strategy to deal with risks associated with contamination of the site in respect of the development hereby permitted, has been submitted to and approved in writing by the Local Planning Authority. This strategy will include the following components:

- a) A site investigation scheme, based on the report entitled Phase 1 – Preliminary Risk Assessment, ref. BEK-21830-1, dated February 2021, submitted to the Local Planning Authority on 9 July 2021, to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site.
- b) The results of the site investigation and the detailed risk assessment referred to above and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
- c) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy referred to above are complete, and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these components require the written consent of the Local Planning Authority.

The remediation strategy shall be fully implemented as approved.

- 13) No development hereby permitted shall take place until an Employment and Skills Plan setting out the employment skills opportunities for the construction phase of the development, has been submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved details in the Employment and Skills Plan.
- 14) No dwelling hereby permitted shall be occupied until construction of the site access has been completed in accordance with drawing no. J1274 access fig 1 Rev B dated 27 April 2022, and the off-site highway mitigation works identified in drawing nos. J1274 access fig 1 Rev B dated 27 April 2022; Figure 2 dated 29 February 2023 and in the Technical Note (ref. J1274-TN1) dated 14th March 2022 have been constructed in accordance with a scheme that shall have been submitted to and approved by the Local Planning Authority in consultation with the Highway Authority.
- 15) No dwelling hereby permitted shall be occupied until a Verification Report and Operation and Maintenance Plan for the lifetime of the development,

pertaining to the surface water drainage system and prepared by a suitably competent person, has been submitted to and approved in writing by the Local Planning Authority.

The Verification Report must demonstrate that the sustainable drainage system has been constructed as per the agreed scheme (or detail and justify any minor variations), and contain information and evidence (including photographs) of details and locations (including national grid reference) of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and, the submission of a final 'operation and maintenance manual' for the sustainable drainage scheme as constructed.

Details of appropriate operational, maintenance and access requirements for each sustainable drainage component are to be provided, with reference to published guidance, through an appropriate Operation and Maintenance Plan for the lifetime of the development as constructed. This shall include arrangements for adoption by an appropriate public body or statutory undertaker, and/or management and maintenance by a Management Company and any means of access for maintenance and easements, where applicable. Thereafter the drainage system shall be retained, managed and maintained in accordance with the approved details.

- 16) Vegetation clearance shall not be undertaken in the main bird breeding season (1st March to 31st August inclusive), unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the Local Planning Authority prior to the commencement of any vegetation clearance.
- 17) Prior to the installation of any lighting, an external lighting scheme shall be submitted to and approved in writing by the Local Planning Authority. This shall identify habitats/features on the site that are potentially sensitive to external lighting (most notably habitats / features that support bat foraging and commuting) and show how and where the external lighting will be installed (through appropriate lighting contour plans) in order to demonstrate that any impact on wildlife is negligible. The scheme should demonstrate accordance with Institute of Lighting Professionals guidance (01/21 obtrusive lighting and 08/18 wildlife sensitive lighting, or any subsequent updates thereto). The installation of external lighting shall be carried out only in accordance with the approved scheme and retained as such thereafter.

END OF SCHEDULE