



Appeal Decision

Inquiry held on 26th – 29th January and 2nd February 2016

Site visit made on 2nd February 2016

by Jonathan G King BA(Hons) DipTP MRTPI

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

Decision date: 09 May 2016

Appeal Ref: APP/N2345/W/15/3007033

Land at Preston Road, Grimsargh, Lancashire PR2 5JT

- 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 Gladman Developments Ltd against the decision of Preston City Council.
 - The application Ref 06/2014/0902, dated 24th November 2014 was refused by notice dated 5th March 2015.
 - The development proposed is described as being for up to 150 dwellings with associated open space and landscaping with all matters reserved except for access.
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Decision

1. The appeal is allowed and outline planning permission is granted for up to 150 dwellings with associated open space and landscaping with all matters reserved except for access on Land at Preston Road, Grimsargh Lancashire PR2 5JT, subject to the conditions contained in the Annex to this decision.

Procedural Matters

The application

2. The application is in outline with all matters reserved for subsequent approval other than access.
3. The description of the development is for “up to 150 dwellings”. Although, if permitted, this would allow a developer to build fewer units if it chose, I have considered this appeal as if it relates to development of the full number.

Statements of Common Ground

4. A Statement of Common Ground (SoCG) and a separate SoCG dealing with highways issues have been agreed between the main parties.
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Planning Obligation

5. At the Inquiry, a Unilateral Undertaking under Section 106 of the Act was submitted. I consider the content of the undertaking and the weight to be attached to it in a separate section of this report.

Other matters

6. Subsequent to the Inquiry, a Court of Appeal judgment was handed down (*Suffolk Coastal District Council and Hopkins Homes Limited and SSCLG & Richborough Estates Partnership LLP and Cheshire East Borough Council and SSCLG* Ref [2016] EWCA Civ 168), which I refer to as the *Suffolk Coastal judgment*. In view of the potential for this judgment to be relevant to this appeal, both main parties were afforded the opportunity to make representations. Both did so.
7. At the same time, the Council brought to my attention a recent planning appeal decision which addresses a number of matters also material to this appeal, concerning development on land to the South of Tom Benson Way, Preston [ref: APP/N2345/W/15/3010715]. The Inquiry relating to that appeal commenced slightly before that relating to the present appeal, and finished shortly afterwards. It is therefore broadly contemporary. The appellant has commented on this decision.
8. In my decision, I have taken into account the judgment and the appeal decision, together with the related representations.

Reasons

The approach to decision taking

9. The approach to the decision-taking process was the subject of some discussion at the Inquiry and in the representations by the parties with respect to the *Suffolk Coastal* judgment referred to above. For the sake of clarity, I set out my position by way of introduction.
10. The National Planning Policy Framework (NPPF) repeats [para 11] the statutory position that the development plan is the starting point for decision-making. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
11. Therefore, whether the development complies or conflicts with the development plan an appraisal is required: in both cases to consider material considerations that may indicate a decision other than in accordance with the development plan.
12. Paragraph 14 contains an additional presumption in favour of sustainable development, which for decision-taking means approving development proposals that accord with the development plan without delay. And where the development plan is absent, silent or out-of-date, it means granting permission unless any adverse impacts of

doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

Main Issues

13. The main issues in this case are:

Having regard to the development plan:

1. *the effect of the proposed development on the countryside and on the landscape character of the area; and*
2. *whether the proposed development would be sustainable, having regard to the foregoing, and all other relevant aspects of the economic, social and environmental dimensions of sustainability;*

and against that background:

3.
 - (a) *whether the development plan is absent, silent or its relevant policies are out of date, with particular reference to the supply of housing land;*
 - (b) *if so, whether any adverse impacts of granting permission for the proposed development would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole; and*
 - (c) *if not, whether the proposed development would accord with the development plan. If it is in accordance, whether other material considerations indicate that it should be refused; and, if it conflicts, whether other material considerations indicate that it should be permitted.*

Reasons

Development Plan Policy for housing

14. The development plan comprises the adopted *Central Lancashire Core Strategy (CS)*, which covers Preston together with South Ribble and Chorley Districts, and the *Preston Local Plan Site Allocations and Development Management Policies Development Plan Document (LP)*.
15. The parties agree in the SoCG that, for the purposes of paragraph 49 of the NPPF, the relevant policies for the supply of housing comprise CS Policy 1 *Locating Growth (CS1)* and 4 *Housing Delivery (CS4)* together with Local Plan Policies EN1 *Development in the Open Countryside* and HS1 *Allocation of Housing Sites*.
16. However, following the *Suffolk Coastal* judgment, the appellant takes the view that CS Policy 21 *Landscape Character Areas (CS21)* can also be considered to be a relevant policy for the supply of housing.

Paragraph 33 of the judgment states that the Court did not confine the concept of “policies for the supply of housing” merely to policies in the development plan that provide positively for the delivery of new housing in terms of numbers and distribution or the allocation of sites. It recognises that the concept extends to plan policies whose effect is to influence the supply of housing land by restricting the locations where new housing may be developed, for the reason that it may have the effect of constraining the supply of housing. As to whether a policy should be regarded as “relevant” for the supply of housing, paragraph 32 of the judgment says that a relevant policy is simply a policy relevant to the application for planning permission before the decision maker – relevant either because it is a policy relating specifically to the provision of new housing in the local planning authority’s area or because it bears upon the principle of the site in question being developed for housing.

17. The Council takes an opposing view: that Policy CS21 does not restrain housing development. Rather it contains a series of positive requirements: that development should be well integrated into existing settlement patterns; be appropriate to the landscape character type and designation within which it is situated and contribute positively to the conservation, enhancement or restoration of landscape character types and designations or to the creation of new features.
18. The *Suffolk Coastal* judgment includes a number of examples of policies that influence the supply of housing by restricting the locations where new housing may be developed: policies for the Green Belt; for the general protection of the countryside; for conserving the landscape of Areas of Outstanding Natural Beauty and National Parks; for the conservation of wildlife or cultural heritage; and various policies whose purpose is to protect the local environment in one way or another by preventing or limiting development.
19. The supporting text to Policy CS21 states that new development can, through its design, use of external materials and siting, integrate well into the local settlement pattern and through associated works can improve as well as conserve the character of the landscape. It is clear that it does not seek to prevent development in principle, but to ensure that any development that does take place should be compatible with its setting. That is a purpose which can be described as looking to protect the local environment. Moreover, although not always the case, that protection may take the form of preventing or limiting development. The policy cited is in the reason for refusal, albeit in relation to the Council’s concern that the development would have an unacceptable adverse harmful impact on the rural character and appearance of the area. However, as implemented, the policy – together with other policies - has influenced or constrained the supply of housing. I therefore regard it as a relevant policy for the supply of housing.

20. None of these policies are absent or silent within the context of paragraphs 14 and 49 of the NPPF and this is accepted by the appellant. The issue in dispute with respect to those which are relevant for the supply of housing is whether they should be considered "out of date" [para 14] or "not up to date" [para 49] having regard amongst other things to whether the Council can demonstrate a 5-year supply of deliverable housing sites.

(a) *Location*

21. I have no reason to conclude that the relevant policies for the supply of housing are out of date with respect to the strategy for the location of housing. The CS was adopted in July 2012 in the context of the NPPF and the LP was adopted as recently as July 2015.

22. Policy CS1 sets out the strategy for the location of development in Preston by reference to (a) the Preston / South Ribble Urban Area; (b) Key Service Centres; (c) Strategic Sites; (d) Urban Local Service Centres; (e) Rural Local Service Centres; and (f) "other places", being smaller villages, substantially built-up frontages and Major Developed Sites. The parties agree that Grimsargh falls under (f), where 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 development schemes.

23. As the proposed development would not be redevelopment, or within a substantially built-up frontage or on a Major Developed Site, and cannot be regarded as small-scale, infilling or conversion, it would meet the terms of this policy only if it could be demonstrated that it would meet local need. I address this matter having regard to the LP.

24. LP Policy HS1 builds on the framework of the Core Strategy by allocating a range of housing sites, but the appeal site is not amongst them. The only allocated site in Grimsargh is for 70 units at Ribblesdale Drive, which gained permission on appeal in June 2014, prior to adoption of the Plan. The proposed development gains no support from this policy.

25. The Plan does not allocate any sites for housing in the rural areas either within or adjacent to villages including Grimsargh, as to do so would contradict the settlement hierarchy established in the CS.

26. The site is within an area shown on the LP Policies Map as Open Countryside. Under LP Policy EN1, development (other than that permissible under Policies HS4 *Rural Exception Affordable Housing* and HS5 *Rural Workers Dwellings in the Open Countryside*) is limited to (a) that needed for purposes of agriculture or forestry or other uses appropriate to a rural area including uses which diversify the rural economy; (b) the re-use or re-habitation of existing buildings; and (c) infilling within groups of buildings in smaller rural settlements. The

proposed development does not fall within any of these categories; and Policy HS5 clearly does not apply to this case.

27. Policy HS4 *Rural Exception Affordable Housing* recognises that there may be exceptional circumstances where new housing in rural areas is justified to meet the needs of local people. Proposals for new housing in such areas should be supported by a comprehensive needs assessment of the local area. Opportunities for small-scale development within village boundaries to meet the need should be considered first. Where a need is identified, then the Council will consider some market housing to facilitate the provision of affordable housing, but this will be dependent upon robust viability evidence.
28. Where development cannot be accommodated satisfactorily within village settlements, sites adjoining the village boundaries (as shown on the Policies map) may be considered, and regarded as exception sites where Policy HS4 applies. This suggests that new housing development adjoining Grimsargh (among other villages) may be permitted for affordable housing in exceptional cases, again where a need has been identified as a result of a comprehensive needs assessment for the local area, and for occupancy by households meeting one of a number of local criteria.
29. Local need must be distinguished from the need for housing generally because it is used as a justification for development in a particular locality that otherwise is not identified in the development plan. The need must derive directly from the local area. In this case, while the provision of open market housing may be regarded as contributing to boosting the supply of housing in the Preston area and may be taken into account in determining the appeal, this does not bring the proposed development within the ambit of Policy CS1. The same may be said for the supply of family housing in the City, for which there is an acknowledged need. Similarly, the appeal proposal would deliver a significant amount of affordable housing: approximately 53 units. But while this would doubtless contribute to meeting a need in Preston, and is a clearly a material consideration to weigh in the overall balance, no comprehensive needs assessment has been prepared for Grimsargh.
30. The appellant accepts that the proposed development conflicts with these policies. I conclude that no compelling evidence of local need has been demonstrated and that consequently the proposed development is contrary to CS Policy 1 and does not benefit from the limited exceptions allowed under LP Policy EN1.
31. Conflict with CS Policy 1 is not disputed "in principle" by the appellant, though it is argued that regard should be had to its objectives when assessing its weight. I disagree with this last point. The policy should be accorded full development plan weight. I consider the question of weight to be applied to policies later in the decision as part of my balancing exercise.

32. I consider compliance with Policy CS21 under my heading *The effect on the countryside and on the landscape character of the area*.
33. Reference was made at the Inquiry to LP Policy EN4 *Areas of Separation*. Areas of separation (AsOS) are 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. Though Grimsargh is bounded to the north, south and west by AsOS, the land to the east, including the appeal site, is not so designated. Consequently Policy EN4, which requires development in an AOS to be assessed in terms of its impact on the designated area, does not apply in this case. It may be inferred from the fact that the land to the east of the village was not designated as an AOS that it does not function to separate Grimsargh from any other settlement. However, the fact that the site is not in an AOS does not mean that it is any more appropriate for development than any other land in the countryside. Although the policy is one for the supply of housing, it is not relevant to the appeal site and I do not consider it further.

(b) Housing supply

34. The question of the level of housing supply, and in particular whether a 5 year supply exists, is central to my decision, not least because the Council conceded at the Inquiry that, if a 5-year supply cannot be demonstrated, then it would not seek to argue that any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole (ie the second bullet point in relation to decision taking under paragraph 14).
35. At the time of taking its decision, the Council believed that it could demonstrate a 5-year supply. The amount of the supply was not quantified in its committee report, but was assumed to be over 6 years, based on the latest figure available at the time, calculated for April 2014. Since that time, the Council has revised its figures to a base date of April 2015 and at the Inquiry claimed a figure of 5.4 years. For the appellant it was argued that the true figure lies between 2.2 and 3.9 years, depending on a number of factors, including:
- whether a 20% buffer should apply to the calculation of supply (having regard to the second bullet point of paragraph 47 of the NPPF);
 - whether empty homes should be included in the calculation;
 - whether the supply should be calculated under the "Liverpool" or "Sedgefield" methods; and
 - whether the identified sites would in practice deliver the claimed number of dwellings in the 5 year period.

36. CS Policy 4 identifies a minimum housing requirement for Preston of 507 dwellings per annum which, together with an annual under-provision of 101 being made up over the Plan period (2010-2026), and a 5% buffer as required by paragraph 47 of the NPPF, makes a total of 638. I consider it in greater detail below.
37. In finding the LP sound, the examining Inspector concluded, having regard to all of the evidence put before him, that there was no need for the supply to include a buffer of 20%. He also concluded that, in the particular circumstances, it was reasonable to adopt the "Liverpool" approach to the provision of the supply, that is, that the houses should be provided over the lifetime of the plan, rather than just the first 5 years (the "Sedgefield" approach). Finally, in order to find the Plan sound, he was satisfied that the sites identified would be deliverable.
38. I am reluctant to conclude otherwise without very good reason. First, the local plan has been found sound very recently – only about 6 months prior to the Inquiry. On the face of it, it could hardly be any more up to date; and in my judgment it should not be necessary to revisit a Plan so soon after adoption. The fact that the evidence on which the examining Inspector concluded was not exactly contemporary with his report does not alter that view: evidence necessarily has to be prepared in advance and, in any case, the Inspector must have been satisfied with the soundness of the Plan at the time he concluded his report. Second, the Inspector had in his possession evidence from a variety of sources, not just from the Council and one applicant, as in the context of this appeal. It is not my task to re-run the Local Plan Examination with incomplete evidence.
39. The appellant has brought to my attention the observations of the court in the *Suffolk Coastal* judgment [para 54] concerning reliance on a local plan Inspector's report with respect to housing land supply. In short, the judgment says that arguments based on evidence before a local plan Inspector (in that case in October and November 2012) do not negate the conclusion of the Inspector who heard the appeal which was the subject of the judgment (in 2014). That appears to me to be entirely logical, because new evidence may be brought which casts doubt on the conclusions of the LP Inspector or demonstrates that it is out of date. However, for me to take a different view to the LP Inspector in this case, I would need to be satisfied that circumstances are materially different now and that it would not be reasonable to allow the usual process of monitoring and review to take place before altering one of the fundamental provisions of the Plan.
- (c) *The buffer*
40. Paragraph 47 of the NPPF says that the normal buffer of 5% moved forward from later in the Plan period to ensure choice and competition in the market for land should be increased to 20% where there has been a record of persistent under-delivery. This is in order to provide

a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land.

41. In his report the LP Inspector specifically addressed the issue of whether to impose a 20% buffer, following considerable debate during the Examination. He acknowledged that the Council had, at appeal inquiries in 2013 and 2014, conceded that there had been a persistent under supply and that a 20% buffer should be applied. But he drew attention to what the Planning Practice Guidance (PPG) says on the subject. That guidance says that there is no universally applicable test or definition of the term ('persistent under delivery'), but the 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. The Inspector concluded (in June 2015, based on evidence from March 2014, partially updated to September 2014) that the under-delivery had not been 'persistent'.
42. Policy 4 of the Core Strategy states that the delivery of housing would be provided for and managed by, amongst other things, keeping housing delivery performance under review on the basis of rolling 3-year construction levels. If over a review period any targets relating to housing completions are 'missed by more than minus 20%' (ie fall below 80%) the phasing of uncommitted sites will be adjusted or other management actions taken. This is set out in more detail in the Performance Monitoring Framework. The local plan does not, however, include a phasing policy, so the option of adjusting phasing is unavailable to the Council. It may, however take up other 'management' options, such as working more closely with key partners, developers and landowners to manage the delivery of development, for example with respect to access to finance, and reviewing Section 106 agreements and contributions.
43. The latest review period for which statistics have been published (in the Council's Housing Land Position Statement) is to the end of March 2015. Annual completions in the latest 3 years (2012-13, 2013-14 & 2014-15) were a total of 859, well short of the requirement and the 80% trigger point for action.
44. Nonetheless, having regard to the conclusions of the LP Inspector and the guidance of the PPG, I consider that it would be premature to conclude that the under-supply has been 'persistent'. First, the fact that CS Policy 4 would appear to be engaged does not itself equate to persistent under-delivery, since it relates only to a 3 year period. A much longer period would have to be considered in order to take account of the peaks and troughs of the housing market cycle. Looking back over 10 years (to 2005-06), I acknowledge that only in 4 has the requirement of 507 dwellings been exceeded. But for most of that time the UK economy has been suffering from a severe economic downturn that is widely acknowledged to have affected construction activity and the housing market. Third, the number of completions for 2014-15, at 515 dwellings, is the highest since 2007-2008, when the downturn is generally regarded as having commenced

and in excess of the trajectory figure for that year. This may suggest that the housing market is picking up from the economic downturn.

45. Although there is no formal phasing policy, the Council's trajectory for housing provided alongside the Housing Land Position Paper (April 2015) shows a total supply of 3494 new dwellings for the period 2015-16 to 2019-20. This actually exceeds the overall requirement, but indicates an expectation of starting with provision below the annual requirement before rising above it.
46. The completions for 2015-16 were approximately on course to meet the trajectory. Though it must be a matter of speculation at present, the Council predicts that the trend will continue for the present year, based on completions for the first half. One must naturally be cautious about detecting trends from a small amount of information but, nonetheless, I have no basis on which to be any less confident than the LP Inspector who only a matter of months ago concluded that there had not been a persistent under-delivery of housing. Today, with the benefit of the small amount of additional information which has come available since, I have no reason to draw a different conclusion.
47. Taking the longer view of housing supply, I conclude that there has not been a record of persistent under-delivery of housing. Consequently there is no reason to increase the buffer to 20%. The "normal" buffer of 5% applies.
48. Although I have not seen the evidence submitted to the *Land South of Tom Benson Way* appeal, I note that the Inspector who conducted the Inquiry also concluded that there was not a pattern of persistent under delivery and that a 5% buffer is appropriate.

(d) *Empty homes*

49. In his report, the LP Inspector directly addressed the question of what allowance, if any, might be made for bringing long-term empty homes back into use. PPG states that the NPPF encourages local authorities to bring empty housing and buildings back into residential use. Empty homes can help to contribute towards meeting housing need but it would be for individual local authorities to identify and implement an empty homes strategy. Any approach to bringing empty homes back into use and counting these against housing need would have to be robustly evidenced by the local planning authority at the independent examination of the draft Local Plan, for example to test the deliverability of the strategy and to avoid double counting (local planning authorities would need to demonstrate that empty homes had not been counted within their existing stock of dwellings when calculating their overall need for additional dwellings in their local plans).
50. The LP Inspector found that the Council's empty homes strategy fully accords with the relevant part of the NPPF. It has brought positive

results with a steady decline in the number of long-term empty homes since 2009 matched by a noticeable increase in the number of homes brought back in to use. He concluded that the Council's evidence on the subject was as robust as might reasonably be expected and that the 498 dwellings brought back into use since 2006 may be counted as additions to the stock reducing the under-supply factor to 1217 dwellings as at March 2014.

51. The Inspector recorded that, as at March 2014 the proportion of empty stock remained above the 3% level, the point at which, based on evidence, he considered represented the normal vacancy rate across the region. If the proportion were to fall below that level, long-term empty houses brought back into use should not count towards the supply. At that time there was an excess of just 375 units; and this is the figure that appears in paragraph 5.12 of the LP as the allowance in the years 2014-19. This has since been reduced by 98 in the year 2014-15, leaving 277 units which may be added to the supply over the 4 years from April 2015 (a little more than 69 each year).
52. The appellant disagrees with the Inspector's approach. Certainly there are differences in statistics between the Council's Empty Homes Strategy 2014-2019 and in the Housing Land Position Paper of 31st March 2015. The former says there were 242 long term homes brought back into use in the years 2011-12, 2012-13 and 2013-14, but the latter says 255. It is also unclear to me how the latter claims that a reduction of empty homes between 2011 and 2014 contributed 337 units to the overall stock of properties and how this relates to the figure of 255. Equally unexplained is the relationship between the changes in the total number of long-term empties over time and the actual number returned to use.
53. Consistent with my conclusion with respect to the buffer, it is not my role to re-run the Local Plan Inquiry, following which the examining Inspector concluded that it was reasonable to take into account bringing back empty homes within the housing supply, and gave a clear indication of the limited number involved. I do not propose to deviate from his view. The fact that the Inspector dealt with the matter by way of written representations rather than at a Hearing session does not undermine his conclusions. It is a common method of dealing with representations and issues and carries equal weight.
54. I do not agree with the appellant that no account at all should be taken of the potential for empty homes to return to the housing stock. But I am concerned at the inconsistencies in the Council's statistics which may call into question the robustness of its analysis. It is possible that the contribution has been overestimated but, if there has been an error, its size cannot be assessed from the evidence available.

(e) Liverpool vs Sedgfield

55. The LP Inspector also addressed this issue in his report, where he refers to Policy 4 of the Core Strategy, which took into account the provisions of the (then) recently-published NPPF. That states that 'prior under-provision' should be made up over the remainder of the Plan period. As that period covers the whole of the period of the Local Plan, the Inspector concluded that it would not be logical to apply a different approach to under-supply arising since 2011 with that which occurred earlier. The local plan, by making provision for a significant quantum of housing development on the strategic site of Cottam and in the North-West Preston Strategic Location in accordance with Core Strategy Policy 1, makes positive provision for increasing housing supply in the future.
56. The more recent PPG urges local planning authorities to deal with any undersupply within the first 5 years of the plan period where possible. But that is guidance and not policy; and in any event the Courts have indicated that the "Liverpool" approach is equally valid. The LP Inspector recognised the desirability of making up for past under-supply as quickly as possible. But he took the view on the evidence before him that the constraints to the delivery of housing were primarily due to market considerations rather than the result of there being insufficient land either with planning permission or through the allocation of sites in the LP, especially in NW Preston.
57. Against that background, the LP Inspector did not find there to be a compelling reason to require a higher level of housing provision during the first 5 years from April 2014 than that provided for in the adopted Core Strategy. He concluded that the LP should make provision for the development of a minimum of 7301 dwellings over the remaining 12 years of the Plan period to 2026, or 608 each year. I find no reason to disagree with this conclusion so recently drawn. To this figure should be added the 5% buffer, resulting in an overall annual requirement of 638 units.

(f) Deliverability

58. At the Inquiry the parties jointly submitted an updated table setting out sites for housing where deliverability was at issue. These were divided into "Student sites", "North West Preston Sites" and "other sites".

Student accommodation

59. 6 sites for student accommodation to serve the University of Central Lancashire (UCLAN) are identified in the table, which together have been assessed as providing 237 units in the 5 year supply.
60. Planning Policy Guidance (PPG) states that "*All student accommodation, whether it consists of communal halls of residence or self-contained dwellings, and whether or not it is on campus, can be*

included towards the housing requirement, based on the amount of accommodation it releases in the housing market. Notwithstanding, local authorities should take steps to avoid double-counting". The LP Inspector addressed this matter in his report and, based on the statistics provided by the Council, concluded that since the start of the Plan period, the release of stock back into the general market exceeded the new build. On that basis, he felt it was reasonable to assume that proposed new build student accommodation should release the equivalent back into the general housing market. In contrast, the appellant considers that the evidence, based solely on Council Tax returns data, was insufficient to satisfy the terms of the PPG.

61. I accept that the evidence presented to the LP Examination was limited and that ideally it would have been desirable to have had more detailed material to demonstrate clearly that housing had been released. However, even though the connection cannot be proved conclusively without in-depth research, figures for 2009-2015 produced by the appellant do show a progressive increase in the number of students residing in purpose-built accommodation at the same time as the number of dwellings occupied by students decreased.
62. Looking at the individual sites on the list, the Council agreed to take one (170 Corporation Street) out of the calculations, as the permission for student flats has expired. That results in a reduction of 12 dwellings being deleted from the estimate of 237. All of the others have permission for development that includes student accommodation. Two sites (Friargate and Jubilee Trading Estate) are under construction; on another (Gordon Street) the conditions have been discharged, suggesting an intention to commence shortly; and a fourth (former Police HQ) is part implemented, although the Council acknowledges that no provision is likely to be made in 2016-17, resulting in a reduction of 15 units from the estimate.
63. In that context, and that of UCLAN's intention to increase enrolment, I do not believe that the Council's optimism about the likelihood of the sites being developed is wholly misplaced. The fact that a number of the sites have had permissions which have not been taken up in the past does not mean that they will not be developed in the future. Indeed, the renewal of the permissions indicates an aspiration to do just that, while the ongoing development of 2 of the sites demonstrates that, even with student numbers lower than a few years ago, there is a market for new purpose-built student accommodation. Although this does not demonstrate conclusively that all of the sites identified by the Council will come forward, it does suggest that there is commercial interest in making such provision.
64. The difficulty in accurately projecting the likelihood of student houses being returned to the market is exemplified by the appellant's own arguments. On the one hand, student numbers dropped significantly between the years 2010/11-2013/14, leading to a surplus of places in

halls of residence. It is suggested on that basis that there must be doubt over whether new private halls will in practice be developed. But on the other hand, while acknowledging that student numbers are now increasing; it is argued that even if this trend were to continue as the University intends, then the new halls may simply meet demand from the additional students rather than displace privately-rented houses. It is also suggested that, even if the new halls are built, they may attract students who presently live at home, rather than those who presently occupy houses. But this appears to be inconsistent with the submission that students may be deterred from living in a hall rather than a private house owing to the higher rents.

65. The fact is that neither the Council nor the appellant has been able to show conclusively by reference to detailed evidence whether, and to what extent, the demand for student houses may change in the future and the proportion that may be returned to the market as the result of new halls being constructed. It may be that, given the range of variables, including student numbers; and the uncertainty over important considerations such as the choices of individual students, it is practically impossible to conclude confidently on these matters. However, the LP Inspector was reasonably satisfied that the Council's estimate should be included in the overall housing supply and, apart from the reduction agreed by the Council at the Inquiry (a total of 27 units), I have heard nothing which would lead me to disagree fundamentally with that conclusion.

North West Preston Sites

66. The contribution to the 5-year housing supply relating to 6 sites lying to the north-west of Preston was the subject of discussion at the Inquiry, but agreement was largely reached between the parties. This resulted in the Council's estimate of 920 being reduced by 190 units.

Other sites

67. A further 12 sites were discussed at the Inquiry. The Council conceded reductions from their assessment of the number of houses that would be delivered, resulting in a reduction of 211 units from 4 sites [Cottam Hall -84; Former Cottam Brickworks -20; Winckley Square Housing zone bid -78; Former Whittingham Hospital site-minus 29]. However, the appellant contends that the numbers should be reduced further at Cottam Hall and at the Former Whittingham Hospital owing to issues relating to phasing. Footnote 11 to paragraph 47 of the NPPF says that sites with planning permission - such as these - should be considered deliverable until permission expires, unless there is clear evidence that schemes will not be implemented within 5 years. I heard conflicting evidence about the phasing of these sites, but I prefer to rely on the email from the Homes and Communities Agency to the Council dated 21st January 2016 rather than the general information contained in a City Deal Powerpoint Presentation of 23rd November 2015. Though the appellant casts doubt on the anticipated rate of deliverability of the schemes, this falls short of clear evidence

to show that they will not be implemented. I therefore rely on the Council's figures as agreed to be revised.

68. I learned at the Inquiry that another site [Former Spar Distribution Depot, Longridge] has recently been granted permission for 41 units, an increase of 18 over a previously expired permission. I consider it reasonable to include this site. The net effect of these 5 sites is a reduction of 193 units (211-18) from the Council's assessment.
69. The rest of the sites remain in dispute. Of these, 3 are allocated in the Local Plan [Argyll Road Depot, Former Tulketh Community College, and Former Goldenhill School]. PPG states that deliverable sites for housing could include those that are allocated for housing in the development plan unless there is clear evidence that schemes will not be implemented within five years. Though the appellant casts doubt on their deliverability, this too falls short of clear evidence to show that they will not be implemented. I consider that these sites should remain in the supply calculation.
70. I do not intend to consider the remaining sites individually, as to a large extent the areas of disagreement boil down to the relative degree of optimism or pessimism of the parties concerning their deliverability. It may be, as the Council argues, that the housing market is less "fragile" than it was considered to be by the officer who reported on the application. But I heard no convincing evidence to show that this is the case. One may only speculate about whether, for example, existing uses may be relocated, or other impediments to development may be overcome; and if so when. Paragraph 49 of the NPPF places the onus on the local planning authority to demonstrate a 5 year supply of deliverable housing sites. Footnote 11 to paragraph 47 defines what is meant by "deliverable" sites: they should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing development will be delivered on the site within 5 years and in particular that the development of the site is viable. Though it is clear that the Council is in active discussion with landowners and potential developers on some of the sites that in time may bear fruit, from the evidence I heard, it does not seem likely that all will come forward, or come forward in the time frames anticipated. I am not in a position to conclude any more firmly. I cannot conclude that the Council has demonstrated the deliverability of these sites and I do not include them within my calculation of housing supply. The Council's estimate of capacity for these sites is 193.

Housing supply conclusion

71. The Council's claimed housing supply at the time of the Inquiry, based on the "Liverpool" method, with a 5% buffer and making an allowance for empty homes, was 5.43 years, amounting to some 3467 dwellings.
72. On the basis of my analysis above, from this should be deducted 27 student units, 190 units relating to North West Preston and 193 units

from the "other sites" – a total of 410 units. The resultant supply is thereby reduced to 3057, or 4.79 years based on an annual requirement of 638 – a shortfall of 133.

73. In view of the uncertainties concerning the size of the allowance that should be made for empty homes and for student accommodation, it is possible that these may have been overestimates. However, from the evidence I have, I am unable to say with any certainty what the discrepancy (if any) may be.
74. To my mind, such are the manifold uncertainties surrounding the delivery of housing that it is practically impossible to calculate the housing land supply with absolute precision. I freely acknowledge the areas of uncertainty in my analysis. However, I take the view having regard to all of the often conflicting evidence that the housing land supply for Preston amounts to approximately 4.79 years. If the Council's optimism is not misplaced, there could be a 5 year supply, but I cannot conclude confidently that this is the case. It has not been demonstrated as required by the NPPF. Following its guidance, I must conclude that the relevant policies for the supply of housing are out of date.
75. I recognise that this conclusion is at variance with that of my colleague who conducted the contemporary Inquiry relating to land to the south of Tom Benson Way. A housing supply sufficient for 5.24 years was found in that case. That appeal was made by a different appellant and I have not seen the detailed evidence submitted to the Inspector who conducted that Inquiry. I have arrived at my judgment on the basis of the evidence put to me, including a number of concessions made by the Council, notably in relation to the sites in North West Preston.

The effect on the countryside and on the landscape character of the area

76. Most of the countryside within Preston is designated as Open Countryside, development in which is limited by Policy EN1. I have already concluded above that the provisions of this policy would be breached. The supporting text states that it is important that these areas are protected from unacceptable development which would harm its open character, but the policy itself is silent on the matter.
77. The NPPF says that the intrinsic character and beauty of the countryside should be recognised, with the planning system contributing to and enhancing the natural and local environment. But it does not seek to protect all countryside from development: it concentrates on the protection of "valued" and "distinctive" landscapes, and seeks to encourage development on previously developed land. The term "valued landscape" is not defined, but the *Guidelines for Landscape and Visual Impact Assessment 3rd Edition* (GLVIA) (The Landscape Institute & Institute of Environmental Management & Assessment) says that landscapes or their component parts may be valued at the community, local, national or international

levels and that they may be valued by stakeholders for a variety of reasons. Value can apply to areas of landscape as a whole, or to individual elements, features and aesthetic or perceptual dimensions. When assessing the value of a landscape, one may take into account such matters as landscape quality (condition), scenic quality, rarity, representativeness, conservation interests, recreation value, perceptual aspects and associations.

78. The site comprises pasture land to the south of Preston Road, opposite which is a stretch of frontage development that is included in the defined settlement boundary. To the west is Elston Lane, which also forms the defined boundary on this side of the village. The north-eastern edge is marked by a field boundary, beyond which are further fields, and the Roman Catholic church and its associated primary school. On its south western corner, the site adjoins the property "The Hermitage", set within wooded grounds. The remaining southern and south-eastern boundaries are formed by the Tun Brook and a public right of way that leads towards the church and school. Apart from Woodfold Farm and Cottages, the land in those directions is largely undeveloped. A footpath runs across the western and south-western part of the site from Preston Road to Woodfold Farm, and connects to the wider network. The land is largely flat and generally bounded by low, clipped thorn hedges. There are a few trees in the centre, but it is otherwise open.
79. Within the County Landscape Character Strategy the site falls within Area LCT5 *Undulating Lowland Pasture, sub-Area LCA5h Goosnargh-Whittingham*. This is described as a transitional area, reflecting aspects of other adjoining character areas nearby, both upland and lowland. It is a pastoral landscape which is relatively open and intensively farmed with much hedgerow loss and few trees or woodlands, although hedgerows along the network of lanes are important features.
80. Principally owing to the lie of the land and intervening physical features such as trees and existing development, the site is not readily visible in the landscape other than in close views: it is therefore the immediate surroundings of the site that provide its principal context. As was agreed between the parties at the Inquiry, the landscape and visual impacts of the development would be local: experienced from Preston Road, Elston Lane, from the footpaths around and crossing the site, and from houses facing it and the churchyard, within a radius of no more than 500 metres. In summary, I consider the site to be an essentially local landscape feature but one which nonetheless forms an important component of the setting to eastern part of Grimsargh village.
81. At the Inquiry there was considerable discussion about the methodologies employed by the landscape witnesses representing the main parties and the detailed assessments made of the landscape and visual impact of what is proposed. Their conclusions varied in a number of respects. But from experience I do not find that unusual or

indeed unsurprising. Though the methodologies - based on the guidance of GLVIA3 - are intended to be as objective as possible, the resulting assessments must, at heart, be subjective. And while of course I have regard to the assessments and the methodologies employed to reach them, ultimately I too must reach a subjective conclusion.

82. So far as landscape impact is concerned, I note the Council's witness concluded in her Landscape Assessment Summary Table that the magnitude and significance of the impact only exceeded "small" and "minor adverse" respectively with respect to the site itself. Mostly the impacts on the other receptors (comprising 4 local character areas), were categorised as negligible. It is hardly surprising - and unavoidable - that the landscape character of the site would alter markedly by replacing open pasture by up to 150 dwellings. But it is reasonably clear that the effect on the wider landscape would not be great, emphasising the highly localised context.
83. The site and its surroundings do not benefit from any formal landscape designation. But, as GLVIA says, that does not mean that it does not have any value. I am in no doubt from what I heard at the Inquiry that the site is at least valued locally by those living in and around the village. It is pastoral land, and it possesses no special qualities or distinctiveness that would elevate its importance. I would assess its existing landscape quality no higher than "moderate". That notwithstanding, it is obvious that the proposed development would inevitably, and radically, affect the character of the site itself, as the fields would be almost entirely replaced by housing.
84. I conclude that, despite being valued locally, the site itself has moderate landscape value and "ordinary" quality. I do not consider that it falls within the category of a "valued landscape" as I understand the NPPF to use the phrase. In view of the very limited contribution the site makes to the character of the wider countryside, the harm to it would be fairly slight. However, so small is the site relative to the very extensive area designated as Open Countryside that, taken alone, the harm could never be assessed any greater. It is an assessment that might reasonably apply to many sites located at the edge of villages. But the fact that the harm may only be experienced locally does not diminish the very substantial and significant landscape impact that the development would have within that limited area.
85. The site lies at the edge of the village and displays visual characteristics common in such locations, being a transitional area between the open countryside and the more concentrated built-up part of the village, and displaying aspects of both. At present, users of Preston Road, both pedestrians and those in vehicles, will be aware of open agricultural land, including the site, to the south. Some built development is visible, for example the dwellings in Elston Lane, but they are a small part of the view in that direction and do not significantly diminish the rural feel. But when passing the site it is

also clearly apparent that one is either entering or leaving a settlement. When arriving from the direction of Longridge, by the time one reaches the site, one has already passed the catholic church and school and the speed limit sign, and will be aware of the frontage buildings on the north side of the road. There are pavements to both sides and street lighting; and the village name board is located in front of the site.

86. In my judgment, the introduction of the proposed development would naturally alter the perception of the locality by effectively extending the built-up part of the village further along the main road. Mid-distance views across the open land would be replaced by constrained views of the new housing, which would be clearly visible, notwithstanding the potential for the roadside hedge to grow and for new planting beyond. The 2 vehicle accesses would emphasise the urban or suburban character of the development and allow views into it.
87. I appreciate that, for drivers and passengers of most vehicles, the views would be of short duration, even taking into account the 30mph speed limit. The Council has emphasised the effect on the views obtainable to passengers on the upper deck of double-decker buses travelling on Preston Road. While views over the site would be unimpeded, they would still be fairly brief. I would not count drivers or passengers of any vehicles on Preston Road as being especially sensitive receptors.
88. Pedestrians using the pavements along Preston Road would naturally be more aware of their surroundings, and the journey past the site would take longer than in a vehicle. I would judge their sensitivity to the change to be greater. Subjectively a view over housing will rarely be as pleasing as one over a green field.
89. The sensitivity of those living along Preston Road and Elston Lane would also be greater than those passing by. Residents would naturally be aware of the development, especially those living close to one of the accesses. But I would not assess the visual impact as being any greater than moderate. Many already have intervening planting in their front gardens that screen the road. The Council does not allege any unacceptable loss of amenity for local residents; and I agree with that assessment.
90. The Council has identified the cemetery adjoining the Catholic church as a sensitive viewpoint. Certainly in views towards the village the eastern edge of the site would be seen. Mostly these views would be filtered by vegetation within the churchyard, but from its westernmost part, where several memorial benches have been placed, they would be unimpeded other than by the existing field hedgerows. Although the churchyard is a sensitive location, inasmuch as it is a place of quiet contemplation, it is somewhere usually visited only occasionally, for a fairly short period and by few people. Moreover, the visual impact of the proposed housing would not affect most internal or

outward-looking views to any significant extent, including those from the majority of benches, of which there are many. In my opinion, there would be little visual or other harm to the churchyard or to its visitors.

91. On my site visit I followed the line of the footpath that runs across part of the site and that which abuts its south-eastern boundary. At the time the field was wet and the route was not readily discernable. It did not appear to be well used, though I acknowledge that at drier times of the year the frequency of use might increase. The footpaths and the network to which they are linked would remain accessible through the proposed housing area, though naturally the character and the quality of the experience over that fairly short section would alter markedly. I would class footpath users as fairly sensitive to change, but I consider that the degree of change would be limited.
92. Overall, I take the view that harm to the local landscape character arising from the proposed development would be largely limited to the loss of a greenfield site itself rather than having a substantially wider impact. However, owing to the scale of the development, the local impact would be significant. In visual terms, the development would physically extend the village and urbanise a green field, albeit in a location on the edge of the settlement which is already subject to some existing urban influences.
93. Policy CS21 does not have the objective of preventing development in principle. Instead it seeks to ensure that any development that does take place should be compatible with its surroundings. Matters of layout and design that would have an important bearing on the acceptability of the development are not before me at this appeal. But, setting my conclusions in the context of the implied criteria of the policy, I am reasonably satisfied that the proposed development could be integrated into the settlement pattern, albeit at the expense of changing the character of the edge of the village. As to whether it would be appropriate to the landscape character type and designation, the scale of the development would clearly have a significant effect on the land and its immediate setting, though it would not greatly affect the broader landscape. However, notwithstanding the intention to include landscaping proposals in the layout, I cannot conclude that the development would "*contribute positively to the conservation, enhancement or restoration of the landscape*" or create any "*appropriate new features*". The purpose of planting trees and hedges and the provision of open space in the layout relates to providing an acceptable residential development and to ameliorating its impact, not to the improvement of what is presently there. I conclude that for these reasons the proposed development would be in breach of Policy CS21 in addition to Policy EN1.

The sustainability of the development

94. The appellant has drawn particular attention to CS Policy MP, which the Plan describes as having been included to clarify the operational

relationship between it and national policy. It would appear to have been included in order to give effect to paragraph 15 of the NPPF which says that all plans should be based upon and reflect the presumption in favour of sustainable development, with clear policies that will guide how the presumption should be applied locally.

95. The second and subsequent elements of this policy are little more than a restatement of the second part of paragraph 14 of the NPPF, as set out earlier in this decision. That is uncontentious. However, the appellant argues that the first 2 sentences of the policy: "*When considering development proposals the Council will always take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF. It will always work proactively with applicants jointly to find solutions which means that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area*" equates to a requirement placed on the Council to grant permission where, on balance, the 3 dimensions of sustainable development are fulfilled in accordance with the NPPF. I am urged to take the view that, by reason of this wording being included in a policy of the Core Strategy, the principles of that paragraph should be accorded weight appropriate to development plan policy rather than solely being a material consideration, like the NPPF.
96. To my mind, it is clear that the first sentence has a very particular meaning, as set out in the second part of paragraph 14 of the NPPF ("*For decision-taking this means: ...*"). In terms of function, it does little more than provide an introduction to its repetition later in the policy. The second sentence has its roots in paragraph 8 of the NPPF, which says that to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system, which should play an active role in guiding development to sustainable solutions. It does not, in my view, commit the Council to permit all development considered to be sustainable, irrespective of all other considerations. Rather it is a statement of the Council's intent: to work with applicants so that permission can be granted for development that will achieve positive gains by reference to the 3 dimensions of sustainability.
97. Even if CS Policy MP in effect elevates the presumption in favour of sustainable development to the status of policy, it is but one policy to be considered in the context of the development plan as a whole. It cannot "trump" all others. In that context, the approach of the Core Strategy to sustainable development is not solely bound up in Policy MP. For example, Policy CS1 *Locating Growth* is described under the heading of Sustainability Appraisal as being the most sustainable option identified. The development plan must be read as a whole.
98. The parties agree in the SoCG that the proposed development meets the economic and social dimensions of sustainability as set out in the NPPF. The village is in a sustainable location, directly providing or being located reasonably close to employment opportunities; to most

services, including schools, healthcare, and shops; and well-served by public transport along the main Preston Road that runs along the site frontage, giving convenient access to the facilities of Preston and Longridge.

99. I have heard from some representors that Preston Road would be incapable of satisfactorily accommodating the additional traffic that would be generated by the development, particularly through the village where there is a narrowing of the carriageway. But I note that there was no objection from the local highway authority. It has also been suggested to me that there may be inadequate primary school capacity in the village, but this is not borne out by the educational consultees; and in any event, the unilateral undertaking makes financial provision for educational provision deriving from the development.

100. The fact that the site is sustainably located and is itself a sustainable settlement is not the same thing as saying that all new housing development within it will also be sustainable. Nonetheless, in the context of a lack of a demonstrable 5 year supply of housing, I regard the provision of up to 150 new dwellings as contributing to the economic and social aspects of sustainability. Notwithstanding the absence of evidence of specific local need, I also regard the provision of 35% affordable homes as contributing to the social aspect.

101. Doubtless, further development as proposed would, through additional population and spending power, add to some degree to its economic and social sustainability, though the benefit is hard to quantify. In the absence of dispute about these matters, I do not intend to address them further.

102. But, as the NPPF says [para 8], to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously. The area of disagreement relates to the environmental dimension.

103. In agricultural terms, the land is not categorised as being "best and most versatile". And although I note what a number of local residents tell me about the actual or potential natural history value of the site, it has been accorded no particular status or protection. The Council argues that its environmental value lies principally in the fact that the land is undeveloped countryside which forms part of the setting of the village; and consequently that its loss would be unsustainable.

104. The maintenance and protection of the rural landscape fulfils the environmental role of sustainability. By reducing the area of undeveloped countryside, the proposed development fails to promote that aspect. Earlier in this decision I concluded that because the proposed development would occupy undeveloped greenfield land on the edge of the settlement it would adversely affect the quality of the landscape to the east of Grimsargh, albeit that this would be appreciated only locally. Moreover, in terms of CS Policy 21 it would

not contribute positively to the conservation, enhancement or restoration of the landscape character type and designation within which it is situated, nor would it create any appropriate new features. To my mind, there would not be the environmental gains necessary to achieve sustainable development.

105. I conclude that the sustainability credentials of the proposed development could be summed up as having the potential to bring forward economic and social gains, principally from the provision of market and affordable housing, while causing a degree of local environmental harm.

The planning balance

106. As set out in the section of this decision dealing with the approach to decision taking, planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration which has led me to conclude that the relevant policies for the supply of housing are out of date and so the paragraph 14 presumption is that permission should be granted unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole.

107. Though the relevant policies for the supply of housing are out-of-date that does not mean that they should be set aside or otherwise not applied. This is clear from the *Suffolk Coastal* judgment [paras 39 & 46]. This says that the restrictive policies of the NPPF, where they are relevant to a development control decision, and out-of-date policies in the development plan will continue to command such weight as the decision-maker reasonably finds they should have in the making of the decision.

108. As set out above, the proposed development is clearly contrary to CS Policies 1 and 21 and to LP Policy EN1 (together with Policies HS4 and HS5, on which it partly relies for implementation). Moreover, though not determinative, the site is not allocated for development in LP Policy HS1. So not only is the site not located where development is to be principally directed, it is in an area where it is specifically to be limited.

109. Although the *Suffolk Coastal* judgement says that the weight to be given to such policies is not dictated by government policy in the NPPF nor is it fixed by the court, it will vary according to the circumstances, including, for example, the extent to which they fall short of providing for the 5 year supply of housing land; the action taken by the local planning authority to address it; or the particular purpose of a restrictive policy [para 47].

110. With respect to these examples, the shortfall is not in my view very large, in either absolute or relative terms. Moreover, having regard to

the purposes of the policies, I am satisfied that the strategic approach to the location of future housing, including both its positive and restrictive elements, remains sound.

111. Though the Council is taking some of the types of action envisaged by Core Strategy Policy 4, for example giving encouragement to developers and considering using compulsory purchase powers to bring forward sites, it is not clear that there has been any co-ordinated attempt to “boost significantly the supply of housing”, which the *Suffolk Coastal* judgment [para 27] says is underlain by the basic imperative of delivery. Delivery of housing is indeed a central element of the NPPF [para 47].
112. In commenting on the *Suffolk Coastal* judgment, the Council states that its fallback position (ie in the event that I were to find that a 5 year supply of housing land had not been demonstrated, it would not argue that any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole) had been reached in the knowledge that relevant policies could still carry some weight notwithstanding them being out of date. However, it does not urge me to place any specific amount of weight on policies I might find out of date.
113. I disagree with the appellant’s view that the degree of conflict with the development plan is limited or technical. In fact, the relevant policies for the supply of housing are key components of the underlying locational strategy of the development plan, with which the proposed development would be fundamentally at odds. Policy CS1 directs development to locations assessed to be the most sustainable. Insofar as that policy allows for development in other places, it is limited to that which is small scale or meets other criteria. The proposed development is clearly not small scale and does not meet any of the other criteria. For example, there is no evidence to show that it would meet a local need or fall within any of the categories of development acceptable under LP Policy EN1. Some environmental harm has also been shown in relation to CS Policy 21. In my judgment these policies continue to be relevant and to carry substantial weight in the planning balance, notwithstanding that they are out-of-date by virtue of NPPF paragraph 49. But that weight must be diminished by reason of there not being 5 years’ worth of deliverable housing sites.
114. Weighing against the policies are a number of factors. First, the development would provide for a significant quantity of market housing that would contribute to rectifying the lack of a 5 year supply, and thereby boost significantly the supply of housing. That is a weighty consideration. Second, as proposed by a condition agreed between the parties and in accordance with CS Policy 7, it would make provision for not less than 35% of the dwellings to be affordable homes. It is uncontested that there is an acute under-provision of affordable homes in Preston and that the provision of about 50 units

from this development would be a significant benefit. The number is not supported by any assessment of need for Grimsargh, but I note that presently there is little local provision. I regard affordable housing as a social benefit, providing a greater range of housing and contributing to the creation of a more mixed community.

115. With respect to the question of sustainability, the parties agreed in the SoCG that Grimsargh is a sustainable settlement. The proposed development may also have the potential to promote a greater degree of sustainability by reference to economic and social aspects. The Council does not argue that granting permission would compromise or otherwise undermine the successful implementation its locational strategy. It would not harm growth or investment elsewhere. However, I have also concluded that there would be some harm to the environmental aspect of sustainability by reason of the impact on the local landscape, with that impact deriving to a large degree from the scale of the development. On balance, I conclude that the development represents sustainable development.

116. Taking all of those matters together, I conclude that the proposed development would be contrary to the relevant policies for the supply of housing. Those policies are out-of-date but in the circumstances of the case still command significant weight. Nonetheless, applying the provisions of paragraph 14 of the NPPF, I conclude that, as a matter of planning judgment, the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole, including those relating to the promotion of sustainable development. Consequently, material considerations indicate that the decision should be taken other than in accordance with the development plan, and permission granted.

The Planning Obligation

117. The appellant has entered into a Unilateral Undertaking under S106 of the Act. It relates to making available open space and an on-site play area, and to making financial contributions with respect to the preparation of a travel plan and to educational provision. These are consistent with the relevant policies.

118. The Council and the appellant have prepared a compliance note relating to the requirements of Regulation 122(2) of the Community Infrastructure Regulations 2010 (as amended). This confirms that the terms of the obligation meet the tests of the NPPF and the regulatory requirements in that they are necessary to make the development acceptable in planning terms; they are directly related to the development and are fairly and reasonably related in scale and kind to it. I am satisfied that this is the case. The agreement is material to my decision.

Conditions

119. During the Inquiry a schedule of draft conditions was discussed and agreed between the parties. Most are in the interests of defining the permission or require the submission of additional details that did not form part of the outline application. I have made a number of alterations to the suggested conditions, generally in the interests of simplicity and to avoid duplication.
120. Briefly, conditions 1 and 2 set out the normal timescales for development and the submission of reserved matters; and condition 3 defines the plans which are to be complied with. Schemes and details to be submitted and or implemented include: phasing in order to ensure planned progress of the development (condition 4); submission of a construction and management plan, to control various activities during the construction phase principally in the interests of protecting local amenity (condition 5); submission of details of how the site will be assessed for risks, for example of contamination, and how these will be dealt with, if found, in order to prevent pollution (Condition 6); provision of affordable housing in order to comply with the terms of the development plan (condition 7); submission of a scheme of habitat creation, enhancement and management (condition 8) and provision for the protection of trees during construction (condition 10) in order to protect the natural history interest of the site (condition 8); submission of a scheme for the provision of on-site and off-site highway works (condition 15); requiring the provision of electric vehicle charging points (condition 16) and submission of a Travel Plan (condition 9) in order to promote safe and sustainable travel associated with the development; submission of a scheme for the sustainable handling of surface water drainage, (condition 11) and carrying out the development in accordance with the submitted Flood Risk Assessment (condition 12) in the interests of preventing flooding; submission of a scheme to ensure that the dwellings are built to an appropriate level of energy efficiency in the interests of sustainability (condition 13); and requiring the design of the development to be in general conformity with the submitted Design and Access Statement, to provide guidance for the detailed submission of the reserved matters (condition 14). All are necessary for the proper control of the development and its effects, and reasonable.

Other matters

121. In reaching this decision I have had regard to other appeal decisions of brought to my attention by both main parties. But as these all pre-date the *Suffolk Coastal* judgment I treat them with caution with respect to the wide range of highly relevant matters addressed by the Court of Appeal in that case.
122. I have also taken into account the various matters raised in written representations and by representors in person at the Inquiry, including from the Parish Council and from the representative of the local Member of Parliament. Many relate to the main issues I have identified in this decision. I fully appreciate the strength of feeling

locally about these and other matters raised, but none of those outweigh the conclusions I have reached on the main issues which have led to my decision. I have some sympathy with those residents who oppose the development on the grounds of its scale, its environmental impact and the conflict with the development plan. But, I have taken my decision expressly as a balanced judgment, taking into consideration all that I have read and heard having regard to the evidence before me.

Conclusion

123. Subject to the conditions contained in the Annex and discussed briefly below, all of which are necessary in order to ensure proper control over the development and to provide the necessary mitigation measures other than those to be provided through the Unilateral Undertaking, I conclude that the appeal should be allowed.

Jonathan G King

Inspector

Annex

CONDITIONS

1. Application for approval of reserved matters must be made not later than the expiration of three years beginning with the date of this permission and the development must be begun not later than whichever is the later of the following dates:
 - a) the expiration of three years from the date of this permission,
 - b) the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.
2. Details of the appearance, landscaping, layout (including structural landscaping and general amenity areas), and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development begins and the development shall be carried out as approved.
3. The approval relates to drawing numbers:
 - Location Plan drawing no. 2014-045-100;
 - Ashley Helme access drawing no.1388/01.
4. Prior to commencement of development a scheme outlining the phasing of development, including a site layout plan identifying land uses and associated open space and infrastructure, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved phasing scheme.
5. Prior to commencement of any phase of development a construction and environmental management plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The approved CEMP shall be adhered to throughout the construction of that phase. The CEMP shall provide for:
 - (i) The means of highway access and parking for construction vehicles, plant and construction workers' vehicles and sustainable travel methods for construction workers;
 - (ii) loading and unloading of plant and materials;
 - (iii) storage of plant and materials used in constructing the development;
 - (iv) storage, disposal and removal of spoil and waste arising out of the construction works;
 - (v) hours of working and access;

- (vi) site security arrangements, including hoardings and other means of enclosure;
 - (vii) piling methods, if used;
 - (viii) wheel cleaning facilities;
 - (ix) measures to control the emission of dust and dirt during construction;
 - (x) measures to control the emission of noise.
6. No phase of the development approved by this planning permission shall be commenced until:
- (i) a Site Investigation Method Statement (SIMS, which shall include a risk assessment and remediation strategy has been submitted to and approved in writing by the Local Planning Authority. No works specified in the site investigation shall be carried out on the site prior to the submission of the SIMS;
 - (ii) the site investigation and associated risk assessment have been undertaken in accordance with details approved in writing by the Local Planning Authority;
 - (iii) a Method Statement and remediation strategy, based on the information obtained from ii) above has been submitted to and approved in writing by the Local Planning Authority.

Each phase of development shall then proceed in accordance with the measures approved. Work shall be carried out and completed in accordance with the approved method statement and remediation strategy referred to in iii) above, and to a timescale agreed in writing by the Local Planning Authority.

If during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, an addendum to the Method Statement.

This addendum must detail how the unsuspected contamination shall be dealt with. Upon completion of the remediation detailed in the Method Statement, a report shall be submitted to the Local Planning Authority that provides verification that the required works regarding contamination have been carried out in accordance with the approved Method Statement(s). Post remediation sampling and monitoring results shall be included in the report to demonstrate that the required remediation has been fully met. Future monitoring proposals and reporting shall also be detailed in the report.

7. The development shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the Local Planning Authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2 of the National Planning Policy Framework or any future replacement thereof. The scheme shall include:
- (i) the numbers, type, tenure and location on the site of the affordable housing provision to be made, which shall consist of not less than 35% of the total number of housing units and which shall be distributed throughout the development;
 - (ii) the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
 - (iii) the arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing (if no Registered Social Landlord is involved);
 - (iv) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
 - (v) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.
8. No site clearance, site preparation or development work on any phase of development shall take place until a scheme of habitat creation, enhancement and management has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include: mitigation and compensation for losses of hedgerow and trees; the timing of the removal of any trees and hedgerows, and measures to avoid nest disturbance during the course of development; retention and enhancement of foraging and commuting habitats for protected and priority species including bats; pond creation and management; and retention of amphibian terrestrial habitat. The plan scheme shall not lead to any more harmful impact on the environment than that assessed in the FPCR Ecological Appraisal dated October 2014 submitted with the application. The development shall be carried out in accordance with the approved scheme.
9. No more than 50 dwellings shall be occupied until a Travel Plan has been submitted to and approved in writing by the Local Planning Authority. The provisions of the Travel Plan shall be carried out as approved.

10. The development hereby approved shall be carried out in accordance with recommendations of the approved FPCR Arboricultural Report dated June 2014 submitted with the application. No development shall begin until details of the means of protecting trees and hedges within and immediately adjacent to the site of the particular phase, including root structure from injury or damage prior to the development works have been submitted to and approved in writing by the Local Planning Authority. Such protection measures shall be implemented before any works are carried out and retained during building operations and furthermore, no excavation, site works, trenches or channels shall be cut or laid or soil, waste or other materials deposited so as to cause damage or injury to the root structure of the trees or hedges.
11. No development shall take place until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The drainage strategy should demonstrate the surface water run-off generated up to and including the 1 in 100 year plus climate change critical storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The scheme shall also include details of how the scheme shall be maintained and managed after completion. The scheme shall be implemented in accordance with the approved details.
12. The development permitted by this planning permission shall only be carried out in accordance with the Flood Risk Assessment 5798/R1 prepared by Lees Roxburgh and dated August 2014 and the following mitigation measures detailed within the FRA:
 - a) Limiting the surface water run-off generated by the 1 in 100 year plus climate change critical storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site;
 - b) Finished floor levels are set no lower than 0.6m above existing/proposed ground levels in the northwest corner of the site that falls within flood zone 2.

The mitigation measures shall be fully implemented prior to the first occupation of the development and subsequently in accordance with the timing/phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed in writing by the Local Planning Authority.

13. Prior to the commencement of the development within any relevant phase hereby approved, a scheme shall be submitted to and approved in writing by the Local Planning Authority to demonstrate that the development can achieve energy efficiency standards equivalent to Level 4 of the Code for Sustainable Homes. The development shall thereafter be carried out in accordance with the approved scheme.

14. Any application for the approval of reserved matters shall be accompanied by a design statement in line with the design parameters set out within the approved Design and Access Statement (prepared by Gladman Townscape Solutions dated November 2014 in support of planning application 06/2014/0902). The development of the site to which the application for the approval of reserved matters relates shall be undertaken in accordance with the approved statement.
15. No dwellings shall be occupied until a scheme for the construction of all site access, emergency access and the off-site works of the highway improvement, including the timing of their provision, have been submitted to and approved in writing by the Local Planning Authority. The highway works shall be constructed in accordance with the details approved.

The required Section 278 highway improvement works include:

- highway remarking scheme to the junction of Chapel Hill/Preston Road and at Whittingham Lane/Preston Road;
 - proposed access arrangements onto Preston Road;
 - gateway provision for public transport / relocated bus shelter;
 - proposed pedestrian and cycle access (re-routing of Footpath no.1 and junction with Preston Road and Footpath no.6; and
 - scheme of visibility and lighting at the intersection with Elston Lane.
16. Prior to the first occupation of any dwelling, that dwelling shall be provided with an electric vehicle charging point which shall be retained for that purpose thereafter.

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APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr Ian Ponter, of Counsel	Kings Chambers, Manchester Instructed by John Chorlton, Gladman Developments Ltd.
He called:	
Mr Michael Molyneux BA MSc BTP MRTPI	Head of Planning Policy and Housing Strategy, Preston City Council
Ms Cathy Edy BSc(Hons) MA CMLI	Senior Landscape Architect, Ove Arup & Partners
Ms Jane Healey Brown BA(Hons) MA MRTPI MILM	Associate Director, Ove Arup & Partners

FOR THE APPELLANT:

Ms Sarah Reid	Kings Chambers, Manchester
She called	
Mr Stephen Harris BSc(Hons) MRTPI	Director, Emery Planning Partnership
Mr Robert Hindle BSc(Hons) MRICS	Director, Rural Solutions Ltd.
Mr Carl Taylor BS(Hons) DipLA / CMLI	Director TPM Landscape

INTERESTED PERSONS:

Cllr Neil Cartwright Cllr Mrs Lindsay Phillipson Mr Anthony Ingham Mr Mark Goodwin Mr Jonathan Heaton Mr Alf Clemson	County Councillor representing Grimsargh Chairman, Grimsargh Parish Council 40 Chaigley Road, Longridge Chapel House Barn, Elston lane, Grimsargh The Hermitage, Elston lane, Grimsargh On behalf of Ben Wallace MP
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DOCUMENTS submitted at the inquiry

On behalf of Preston City Council

- 1 Opening submissions by Mr Ponter
- 2 Statement of Common Ground (21/01/16)
- 3 Community Infrastructure Levy Compliance Note and Annex
- 4 Planning Policy Officer's comment on the planning application
- 5 Email from M Aitcheson, Principal Landscape Architect (Preston City Council) (25/1/16)
- 6 Email from M Vaughan (Homes and Communities Agency) to M Molyneux re Cottam & Whittingham sites (21/1/16)
- 7 Revised draft planning conditions
- 8 Tables of housing requirement / completions etc.
- 9 Table of disputed sites – agreed with the appellant
- 10 Closing submission by Mr Ponter
- 11 Council comments on the *Suffolk Coastal* judgment of the Court of Appeal [2016] EWCA Civ 168
- 12 Appeal decision: development on land to the South of Tom Benson Way, Preston [ref: APP/N2345/W/15/3010715]
- 12A Statement of Common Ground on Highways matters 27/1/16

On behalf of the appellant

- 13 Opening submissions by Ms Reid
- 14 Unilateral undertaking on behalf of the appellant
- 15 Letter from Mr P Morris (UCLAN) (5/01/16)
- 16 Email exchange: M Ahern (UCLAN) / Ben Pycroft (7/12/15)
- 17 Delegated report re 88 Gordon Street, Preston (14-15/10/15)
- 18 Email exchange: Duxburys Commercial / Stephen Robinson 16/12/15 re Victoria House, Ormskirk Road, Preston
- 19 PowerPoint presentation printout City Deal (23/11/15)
- 20 Education Contribution Assessment 18/01/16
- 21 Closing submissions by Ms Reid
- 22 Appellant's comments on the *Suffolk Coastal* judgment of the Court of Appeal [2016] EWCA Civ 168
- 23 Appellant's comments on the Land south of Tom Benson Way Decision
- 24 Letter from fpcr (Daniel Foster) to Gladman (John Turton) re ecological matters 27/1/16.

By interested persons

- 25 Letter / submission from Mr Goodwin and appendices
- 26 Submission by Mr Ingham and supporting information
- 27 Submission by Mr Heaton
- 28 Submission by Cllr Cartwright
- 29 Statement on behalf of Grimsargh Parish Council, by Cllr Mrs Phillipson
- 30 Statement on behalf of Ben Wallace MP.