



Department for  
Communities and  
Local Government

Mr Paul Smith  
N J L Consulting  
Adamson House  
Towers Business Park  
Wilmslow Road  
Manchester  
M20 2YY

Our Ref: APP/M2325/A/13/2196027

27 November 2013

Dear Sir,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78  
APPEALS BY GLADMAN DEVELOPMENTS LTD AND BLOOR HOMES NORTH  
WEST LTD  
AT LITTLE TARNBRICK FARM, BLACKPOOL ROAD, KIRKHAM, PRESTON  
APPLICATON REFS: 12/0635 & 12/0419**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Julia Gregory BSc (Hons) BTP MRTPI MCMI, who held a public local inquiry between 2 and 4 July 2013 into your client's appeal against the refusal of the Council to grant outline planning permission for up to 140 residential units (Class C3), associated infrastructure and defined access with all matters reserved (application reference 12/0419, dated 27 June 2012) at land at Little Tarnbrick Farm, Blackpool Road, Kirkham, Preston.
2. A copy of the Secretary of State's letter of 7 November 2013 is enclosed at Annex A and forms part of the decision in this case.

**Inspector's recommendation and summary of the decision**

3. The Inspector recommended that the appeal be allowed and planning permission granted subject to conditions. For the reasons set out in his letter of 7 November 2013, the Secretary of State indicated that he was minded to agree with the Inspector's recommendation subject to the receipt of a satisfactory planning obligation, as set out at paragraphs 3 and 19 of that letter.

Julian Pitt  
Planning Casework Division,  
Department for Communities and Local Government  
1/H1, Eland House  
Bressenden Place  
London  
SW1E 5DU

Tel: 0303 444 1630  
Email: [PCC@communities.gsi.gov.uk](mailto:PCC@communities.gsi.gov.uk)

## **Matters arising since the Secretary of State's letter of 7 November 2013**

4. Following his letter of 7 November 2013, the Secretary of State received a revised version of the Unilateral Undertaking dated 11 November 2013.
5. The Secretary of State has also received representations from Elizabeth Oades (dated 11 November 2013) and Pauline Clark (dated 18 November 2013). He has given careful consideration to this correspondence and is satisfied that it raises no new issues that would affect his decision. Copies of this correspondence may be obtained, on written request, from the address at the bottom of the first page.

## **Planning obligation**

6. The Secretary of State is satisfied that the Unilateral Undertaking dated 11 November 2013 addresses all the deficiencies set out at paragraph 17 of in his letter of 7 November 2013.

## **Overall Conclusions**

7. For the reasons set out above and in his letter of 7 November 2013, the Secretary of State is satisfied that he can proceed to issue a final decision on this planning appeal. He concludes that the Unilateral Undertaking dated 11 November 2013 addresses all the deficiencies identified in paragraph 17 of his letter of 7 November 2013. The Secretary of State's conclusions on other matters are set out at paragraph 18 of his letter of 7 November 2013. Overall, he agrees with the Inspector's conclusion to allow the appeal and grant planning permission.

## **Formal Decision**

8. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendations. He hereby allows your client's appeal and grants outline planning permission for up to 140 residential units (Class C3), associated infrastructure and defined access with all matters reserved in accordance with application reference 12/0419 dated 27 June 2012 subject to the conditions listed in Annex 3 to his letter of 7 November 2013.
9. An applicant for any consent, agreement or approval required by a condition of this permission for agreement of reserved matters has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the Local Planning Authority fail to give notice of their decision within the prescribed period.
10. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.

## **Right to challenge the decision**

11. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within six weeks from the date of this letter.

Julian Pitt  
Planning Casework Division,  
Department for Communities and Local Government  
1/H1, Eland House  
Bressenden Place  
London  
SW1E 5DU

Tel: 0303 444 1630  
Email: [PCC@communities.gsi.gov.uk](mailto:PCC@communities.gsi.gov.uk)

12. A copy of this letter has been sent to Fylde Borough Council. A notification letter has been sent to all other parties who asked to be informed of the decision.

Yours faithfully

**Julian Pitt**

Authorised by Secretary of State to sign in that behalf

Julian Pitt  
Planning Casework Division,  
Department for Communities and Local Government  
1/H1, Eland House  
Bressenden Place  
London  
SW1E 5DU

Tel: 0303 444 1630  
Email: [PCC@communities.gsi.gov.uk](mailto:PCC@communities.gsi.gov.uk)



Department for  
Communities and  
Local Government

Mr Paul Roberts  
Gladman Developments Ltd  
Gladman House  
Alexandria Way  
Congleton  
Cheshire  
CW12 1LB

Our Refs: APP/M2325/A/13/2192188  
APP/M2325/A/13/2196027

Mr Paul Smith  
N J L Consulting  
Adamson House  
Towers Business Park  
Wilmslow Road  
Manchester  
M20 2YY

7 November 2013

Dear Sir,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78  
APPEALS BY GLADMAN DEVELOPMENTS LTD AND BLOOR HOMES NORTH  
WEST LTD  
AT LITTLE TARNBRICK FARM, BLACKPOOL ROAD, KIRKHAM, PRESTON  
APPLICATON REFS: 12/0635 & 12/0419**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Julia Gregory BSc (Hons) BTP MRTPI MCMI, who held a public local inquiry between 2 and 4 July 2013 into your clients' appeals:

**Appeal A:** for the non-determination of an application by Fylde Borough Council (the Council) for up to 180 residential units (Class C3), associated infrastructure and defined access with all other matters reserved (application reference 12/0635, dated 19 October 2012) at land at Little Tarnbrick Farm, Blackpool Road, Kirkham, Preston; and

**Appeal B:** against the refusal of the Council to grant outline planning permission for up to 140 residential units (Class C3), associated infrastructure and defined access with all matters reserved (application reference 12/0419,

Julian Pitt  
Planning Casework Division,  
Department for Communities and Local Government  
1/H1, Eland House  
Bressenden Place  
London  
SW1E 5DU

Tel: 0303 444 1630  
Email: [PCC@communities.gsi.gov.uk](mailto:PCC@communities.gsi.gov.uk)

dated 27 June 2012) at land at Little Tarnbrick Farm, Blackpool Road, Kirkham, Preston.

2. On 30 April 2013 the appeals were recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990. This was because Appeal A involves a proposal for residential development of over 150 units, and is on a site of more than 5 hectares, which would have a significant impact on the Government's objective to secure a better balance between housing demand and supply, and create high quality, sustainable, mixed and inclusive communities; and Appeal B would be most efficiently and effectively decided with Appeal A.

### **Inspector's recommendation and summary of the decision**

3. The Inspector recommended that the appeals be allowed and planning permission granted subject to conditions. For the reasons given below, the Secretary of State:

**Appeal A:** agrees with the Inspector's conclusions and recommendation; and

**Appeal B:** agrees with the Inspector's conclusions and recommendation, and is minded to allow the appeal and grant planning permission subject to the receipt of a satisfactory planning obligation.

A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

### **Procedural Matters**

4. The Secretary of State is aware that just prior to the Inquiry the appellants submitted an addendum to the planning statement of common ground, which included a plan (reference DWG 1482-VPC1C) that had not been part of the applications or the subject of consultation (IR8-10). For the reasons given at IR182-184, the Secretary of State agrees with the Inspector that it would not be appropriate to refer to this plan in conditions or limit the development to the form outlined (IR184).
5. The Secretary of State notes that at the opening of the Inquiry, the Council advised that negotiations with the appellants had been successful in addressing the reasons for refusal to the extent that the Council would not play an active part in the Inquiry, but that they would assist with conditions and planning obligations (IR14).
6. The Secretary of State notes that the Council has issued screening opinions in respect of both proposals which found neither proposal to constitute EIA development and that a decision issued on his behalf reached the same conclusions (IR42).

### **Matters arising after the Inquiry**

7. The Secretary of State received representations from those listed at Annex 1 which were not considered at the inquiry. The Secretary of State has given careful consideration to this correspondence and is satisfied that it raises no new

issues that would affect his decision. Copies of this correspondence may be obtained, on written request, from the address at the bottom of the first page.

### **Policy considerations**

8. In deciding this appeal, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
9. The Secretary of State agrees with the Inspector that the development plan in this case is the Fylde Borough Local Plan (As Altered) (October 2005) (LP). He considers the relevant policies to be those identified by the Inspector at IR24-27.
10. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework (The Framework); Use of Conditions in Planning Permission; and the Community Infrastructure Levy (CIL) Regulations 2010 as amended. He has also had regard to the Strategic Housing Land Assessment for the Borough (March 2012) and the Fylde Local Plan to 2030: Part 1 Preferred Options June 2013 (LPPO). For the reasons given at IR39 and 212, he agrees with the Inspector that the LPPO should only be afforded limited weight in his decision.

### **Main issues**

11. The Secretary of State agrees with the Inspector that the main issues regarding these appeals are those listed at IR186.

### Sustainability

12. The Secretary of State has carefully considered the Inspector's assessment regarding the sustainability of the proposals set out at IR190-206. For the reasons given by the Inspector, he agrees with her that the schemes would comprise sustainable development that would accord with national policy (IR207).

### Housing land supply

13. The Secretary of State notes that it is common ground between the main parties that the Council does not have a five year housing land supply (IR53, 77 & 208) and as a result the relevant LP policies for the supply of housing are not up-to-date (IR53 & 209). He considers that this engages the presumption in favour of sustainable development. For the reasons given at IR208-221, he agrees with the Inspector that the development would comply with national planning policy in respect of housing land supply (IR221).

### Character and appearance

14. Like the Inspector, the Secretary of State acknowledges the value placed by local residents on the countryside setting of the approach to Kirkham (IR224). However, he recognises that whilst the sites are in the countryside, they are opposite a ribbon of housing and other development and would not be isolated or away from all other development (IR222). Furthermore, he has no reason to disagree with the Inspector's view that the dwellings could be effectively screened in the wider landscape (IR228). Given this and the other reasons given

at IR223-228 the Secretary of State agrees with the Inspector that the schemes would not harm the character and appearance of the area (IR229).

### Conditions

15. The Secretary of State has considered the proposed conditions and the Inspector's comments at IR230-235. He is satisfied that the conditions proposed by the Inspector and set out at Annexes 2 and 3 to this letter are reasonable, necessary and comply with the provisions of Circular 11/95.

### Obligations

16. The Secretary of State has considered the unilateral undertakings submitted by the appellants and the Inspector's comments at IR236-247. He agrees with the Inspector that the contributions and obligations secured are necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development; and can therefore be considered to be compliant with CIL Regulation 122 (IR245).

17. Notwithstanding this, the Secretary of State has identified the following deficiencies with the unilateral undertaking submitted as part of Appeal B.

- the copy of the undertaking submitted is neither the original or a certified copy;
- the space provided to date the undertaking on the first page has been left blank; and
- the annexed plans have not been signed by the parties to the undertaking.

### **Overall Conclusions**

18. The relevant local plan policies on housing land supply are out of date. Given the significant undersupply of housing land identified, the Secretary of State considers that the housing provided by the developments in a sustainable location is a substantial benefit that would comply with national planning policy. Whilst there would be loss of countryside, he sees no reason to disagree with the Inspector's view that both developments can be satisfactorily landscaped and considers that they would not cause harm to the character and appearance of the area. When assessed against the Framework as a whole, he concludes the schemes would comprise sustainable development and that their benefits would significantly outweigh any adverse impacts.

### **Formal Decision**

19. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendations. He hereby;

allows **Appeal A** and grants outline planning permission for up to 180 residential units (Class C3), associated infrastructure and defined access with all other matters reserved in accordance with application reference 12/0635 dated 19 October 2012 subject to the conditions listed in Annex 2; and

is minded to allow **Appeal B** and grant outline planning permission for up to 140 residential units (Class C3), associated infrastructure and defined access with all matters reserved in accordance with application reference 12/0419 dated 27 June 2012 subject to the conditions listed in Annex 3 to this letter. Before proceeding to his final decision, he invites you to amend the planning obligation, submitted under section 106 of the Town and Country Planning Act 1990, to address the deficiencies set out at paragraph 17 of this letter. The Secretary of State proposes to allow three weeks from the date of this letter (i.e. to 28 November 2013) for receipt of a duly signed and dated planning obligation. He then intends to proceed to a final decision as soon as possible. If he does not receive a satisfactory planning obligation by 28 November 2013, he will reconsider his minded to approve position. It should be noted that he does not regard this letter as an invitation to any party to seek to reopen any of the other issues covered in it.

20. An applicant for any consent, agreement or approval required by a condition of this permission for agreement of reserved matters has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the Local Planning Authority fail to give notice of their decision within the prescribed period.
21. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.

#### **Right to challenge the decision**

22. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within six weeks from the date of this letter.
23. A copy of this letter has been sent to Fylde Borough Council. A notification letter has been sent to all other parties who asked to be informed of the decision.

Yours faithfully

**Julian Pitt**

Authorised by Secretary of State to sign in that behalf



**Representations**

<b>Correspondent</b>	<b>Date</b>
Keith Harrison	02/07/2013
Mr D Carr	03/07/2013
E Burns	03/07/2013
Peter and Christine Moyes	04/07/2013
A Ward	04/07/2013
Edward Kendal	05/07/2013
M Kendal	05/07/2013
Mr and Mrs G Shearer	08/07/2013
Terry Vipond	08/07/2013
G Vipond	08/07/2013
Kerry, Lee, Laura and Joseph Fenton	19/07/2013
Councillor Elaine Silverwood	22/07/2013
Mr David Wharton	13/08/2013
John & CA Walmsey	20/08/2013

**Conditions: Appeal A (Gladman Developments Ltd)**

- 1) Application for approval of the reserved matters including phasing of the development shall be made to the local planning authority not later than three years from the date of this permission.
- 2) The development hereby permitted 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; or (b) the expiration of one year 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.
- 3) 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 begins and the development shall be thereafter be carried out as approved.
- 4) The dwellings hereby approved shall be constructed in accordance with Code Level 3 as set out in the Code for Sustainable Homes.
- 5) The layout submitted as part of any reserved matters application shall include details for the provision of pedestrian, cycle and wildlife corridor routes through the site from the northern boundary to the eastern boundary, including a linkage to the ponds in the centre of the site and a linkage to the south of the site to the eastern boundary. The development shall thereafter be implemented in accordance with the approved details.
- 6) The layout submitted as part of any reserved matters application shall include details of a vehicular route to be provided from the site to the northern boundary of the site. The development shall thereafter be implemented in accordance with the approved details.
- 7) Prior to the first occupation of any dwelling, an Interim Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to the occupation of the 50th dwelling, a Final Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. This Final Travel Plan shall include objectives, targets, mechanisms and measures to achieve targets and implementation timescales, monitoring and review provisions and provide for the appointment of a travel plan co-ordinator. The development shall thereafter be implemented in accordance with the approved Travel Plan.
- 8) No part of the development hereby permitted shall commence until a scheme for the provision of vehicular access and highway infrastructure improvements has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out only in accordance with the approved scheme.
- 9) Further to the approved access location as shown on Plan 1330/02 Rev B, no part of the development hereby permitted shall commence until a scheme showing the details of the precise location of the visibility splays has been submitted to and approved in writing by the local planning authority and the development shall be implemented thereafter in accordance with the approved details.

- 10) A landscape scheme for the replacement of any hedgerow required to be removed as part of the formation of the visibility splays shall be submitted to and approved in writing by the local planning authority and implemented thereafter in accordance with the approved details and prior to first occupation of the first dwelling.
- 11) Prior to the commencement of the development, a habitat and landscape management plan which shall include lighting proposals, shall be submitted to and approved by the local planning authority. The development shall be carried out only in accordance with the approved habitat and landscape management plan.
- 12) The development shall not commence until a scheme for the future protection of Wrongway Brook has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include measures for the protection of retained habitats during both construction and operation of the development and shall include proposals for the protection of protected and priority species and their habitat. The development shall thereafter be carried out strictly in accordance with the approved scheme.
- 13) The development shall not commence until a common toad mitigation strategy has been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved scheme.
- 14) The development shall not commence until a Great Crested Newt mitigation strategy has been submitted to and approved in writing by the Local planning authority. The development shall be implemented in accordance with the approved strategy.
- 15) No clearance of trees and shrubs in preparation for (or during the course of) development shall take place during the bird nesting season (March - August inclusive) unless a bird nesting survey has been submitted to and approved in writing by the Local Planning Authority to establish whether the site is utilised for bird nesting. Should the survey reveal the presence of any nesting species, then no development shall take place within those areas identified as being used for nesting during the period specified above.
- 16) No development shall commence until details of the existing trees and hedgerows to be retained, together with details of their protection during the course of construction, have been submitted to and approved in writing by the local planning authority. The development shall be carried out only in accordance with the approved details and any protective fencing shall be installed prior to construction work commencing and retained during the construction period.
- 17) The development hereby permitted shall not commence until a scheme for the disposal of foul water, including details of any off-site works has been submitted to, and approved in writing by the Local Planning Authority. The approved scheme(s) shall be fully implemented and subsequently maintained in accordance with the timing arrangements within the approved scheme.
- 18) No dwelling hereby permitted shall be occupied until surface water drainage works have been implemented in accordance with details that shall have been submitted to and approved in writing by the local planning authority. Before

these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system and the results of the assessment provided to the local planning authority. If that assessment establishes that such a system can be provided, it shall be so provided. Details of such a scheme shall be submitted to and approved in writing by the local planning authority before the development commences and shall: provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters; include a timetable for its implementation; and provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

- 19) No part of the development hereby permitted shall be commenced on site unless and until: a) a site investigation has been designed for the site using the information obtained from the desktop investigation previously submitted in respect of contamination. This shall be submitted to and approved in writing by the Local Planning Authority prior to the investigation being carried out on the site; and b) The site investigation and associated risk assessment have been undertaken in accordance with details submitted to and approved in writing by the Local Planning Authority; and c) A method statement and remediation strategy, based on the information obtained from 'b' above, including a programme of works, have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved remediation strategy.
- 20) Prior to the commencement of development a Construction Plan shall be submitted to and approved in writing by the Local Planning Authority. The Plan shall include method and details of construction including vehicle routing to the site, construction traffic parking and any temporary traffic management measures, times of construction, access and deliveries. Such a Construction Plan shall be implemented and adhered to during the construction of the development.
- 21) 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 the NPPF or any future guidance that replaces it. The scheme shall include: the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of 30% of the housing units; the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing; the arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing (if no Registered Provider is involved); the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and 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.

- 22) The development shall not commence until a scheme for the provision and maintenance of the public open space provided as part of the development has been submitted to and approved in writing by the local planning authority. The development shall be carried out only in accordance with the approved scheme.

**Conditions: Appeal B (Bloor Homes North West Ltd)**

- 1) Application for approval of the reserved matters including phasing of the development shall be made to the local planning authority not later than three years from the date of this permission.
- 2) The development hereby permitted 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; or (b) the expiration of one year 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. For those matters not reserved for later approval, the development hereby permitted shall be carried out substantially in accordance with the following approved plan: Indicative Parameters Plan 1482-DP2-6Jun12.
- 3) 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 begins and the development shall thereafter be carried out as approved.
- 4) The dwellings hereby approved shall be constructed in accordance with Code Level 3 as set out in the Code for Sustainable Homes.
- 5) The layout submitted as part of any reserved matters application shall include details for the provision of pedestrian, cycle and wildlife corridor routes through the site from the western boundary to the eastern boundary of the site, including a linkage to the pond to the south of the site. The development shall thereafter be implemented in accordance with the approved details.
- 6) The layout submitted as part of any reserved matters application shall include details of the vehicular route to be provided from the site to the eastern boundary of the site. The development shall thereafter be implemented in accordance with the approved details.
- 7) Prior to the first occupation of any dwelling, an Interim Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to the occupation of the 50th dwelling, a Final Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. This Final Travel Plan shall include objectives, targets, mechanisms and measures to achieve targets and implementation timescales, monitoring and review provisions and provide for the appointment of a travel plan co-ordinator. The development shall thereafter be implemented in accordance with the approved Travel Plan.
- 8) No part of the development hereby permitted shall commence until a scheme for the provision of vehicular access and highway infrastructure improvements has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out only in accordance with the approved scheme.
- 9) Further to the approved access location as shown on Plan 91634-F01, no part of the development hereby permitted shall commence until a scheme showing the details of the precise location of the visibility splays has been submitted to

and approved in writing by the local planning authority and the development shall be implemented thereafter in accordance with the approved details.

- 10) A landscape scheme for the replacement of any hedgerow required to be removed as part of the formation of the visibility splays shall be submitted to and approved in writing by the local planning authority and implemented thereafter in accordance with the approved details and prior to first occupation of the first dwelling.
- 11) Prior to the commencement of the development a habitat and landscape management plan which shall include lighting proposals shall be submitted to and approved by the local planning authority. The development shall be carried out only in accordance with the approved habitat and landscape management plan.
- 12) The development shall not commence until a scheme for the future protection of Brook Wood and Wrongway Brook has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include measures for the protection of retained habitats during both construction and operation of the development and shall include proposals for the protection of protected and priority species and their habitat. The development shall thereafter be carried out strictly in accordance with the approved scheme.
- 13) The development shall not commence until a common toad mitigation strategy has been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved scheme.
- 14) The development shall not commence until a Great Crested Newt mitigation strategy has been submitted to and approved in writing by the Local planning authority. The development shall be implemented in accordance with the approved strategy.
- 15) No clearance of trees and shrubs in preparation for (or during the course of) development shall take place during the bird nesting season (March - August inclusive) unless a nesting bird survey has been submitted to and approved in writing by the Local Planning Authority to establish whether the site is utilised for bird nesting. Should the survey reveal the presence of any nesting species, then no development shall take place within those areas identified as being used for nesting during the period specified above.
- 16) No development shall commence until details of the existing trees and hedgerows to be retained together with details of their protection during the course of construction have been submitted to and approved in writing by the local planning authority. The development shall be carried out only in accordance with the approved details and any protective fencing shall be installed prior to construction work commencing and retained during the construction period.
- 17) The development hereby permitted shall not commence until a scheme for the disposal of foul water, including details of any off-site works has been submitted to, and approved in writing by the Local Planning Authority. The approved scheme(s) shall be fully implemented and subsequently maintained in accordance with the timing arrangements within the approved scheme.

- 18) No dwelling hereby permitted shall be occupied until surface water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the local planning authority. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system and the results of the assessment provided to the local planning authority. If that assessment establishes that such a system can be provided, it shall be so provided. Details of such a scheme shall be submitted to and approved in writing by the local planning authority before the development commences and shall: provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters; include a timetable for its implementation; and provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 19) No part of the development hereby permitted shall be commenced on site unless and until: a) a site investigation has been designed for the site using the information obtained from the desktop investigation previously submitted in respect of contamination. This shall be submitted to and approved in writing by the Local Planning Authority prior to the investigation being carried out on the site; and b) The site investigation and associated risk assessment have been undertaken in accordance with details submitted to and approved in writing by the Local Planning Authority; and c) A method statement and remediation strategy, based on the information obtained from 'b' above, including a programme of works, have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved remediation strategy.
- 20) Prior to the commencement of development a Construction Plan shall be submitted to and approved in writing by the Local Planning Authority. The Plan shall include method and details of construction including vehicle routing to the site, construction traffic parking and any temporary traffic management measures, times of construction, access and deliveries. Such a Construction Plan shall be implemented and adhered to during the construction of the development.
- 21) The development shall not commence 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 the NPPF or any future guidance that replaces it. The scheme shall include: the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of 30% of the housing units; the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing; the arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing (if no Registered Provider is involved); the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and 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.

- 22) The development shall not commence until a scheme for the provision and maintenance of the public open space provided as part of the development has been submitted to and approved in writing by the local planning authority. The development shall be carried out only in accordance with the approved scheme.



---

# Report to the Secretary of State for Communities and Local Government

by Julia Gregory BSc (Hons) BTP MRTPI MCMI

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

Date: 10 September 2013

---

TOWN AND COUNTRY PLANNING ACT 1990

FYLDE BOROUGH COUNCIL

APPEALS BY

GLADMAN DEVELOPMENTS LTD AND BLOOR HOMES NORTH WEST LTD

LAND AT LITTLE TARNBRICK FARM, BLACKPOOL ROAD, KIRKHAM, PRESTON PR4

Inquiry opened on 2 July 2013

Land at Little Tarnbrick Farm, Blackpool Road, Kirkham, Preston PR4

File Refs: APP/M2325/A/13/2192188 and APP/M2325/A/13/2196027

---

**Appeal A : File Ref: APP/M2325/A/13/2192188**

**Land at Little Tarnbrick Farm, Blackpool Road, Kirkham, Preston PR4**

- 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 Gladman Developments Ltd against Fylde Borough Council.
- The application Ref 12/0635 is dated 19 October 2012.
- The development proposed is up to 180 residential units (Class C3), associated infrastructure and defined access with all other matters reserved.
- The Inquiry sat for 3 days on 2 to 4 July 2013. I made an accompanied visit to the site and surrounding area on 4 July 2013.

**Summary of Recommendation: The appeal be allowed, and planning permission granted subject to conditions.**

---

**Appeal B: File Ref: APP/M2325/A/13/2196027**

**Land at Little Tarnbrick Farm, Blackpool Road, Kirkham, Preston PR4**

- 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 Bloor Homes North West Ltd against the decision of Fylde Borough Council.
- The application Ref 12/0419, dated 27 June 2012, was refused by notice dated 13 March 2013.
- The development proposed is up to 140 residential units (Class C3), associated infrastructure and defined access with all other matters reserved.
- The Inquiry sat for 3 days on 2 to 4 July 2013. I made an accompanied visit to the site and surrounding area on 4 July 2013.

**Summary of Recommendation: The appeal be allowed, and planning permission granted subject to conditions.**

---

**ABBREVIATIONS**

CD	Core Document
CPRE	Council for the Protection of Rural England
EA	Environment Agency
GCD	Gladman Core Document
GCN	Great Crested Newt
Ha	Hectares
Framework	The National Planning Policy Framework 2012
LP	Fylde Borough Local Plan (As Altered) adopted in October 2005
LPPO	Fylde Local Plan to 2030: Part 1 Preferred Options June 2013
RS	North West of England Plan Regional Spatial Strategy to 2021 September 2008
SHLAA	Strategic Housing Land Availability Assessment
SHMA	Strategic Housing Market Assessment
SOCG	Statement of Common Ground
SP	Joint Lancashire Structure Plan
SD	Submitted Document
TA	Transport Assessment
UU	S106 Unilateral Undertaking

## **CONTENTS**

<b>Recovery by the Secretary of State</b>	2
<b>Procedural matters</b>	3
<b>The site and its surroundings</b>	4
<b>Planning policy</b>	5
<b>Environmental Assessment</b>	8
<b>Planning history</b>	8
<b>The Proposals</b>	8
<b>Statements of Common Ground</b>	9
<b>Other Agreed Facts – Housing Land Supply</b>	11
<b>The case for the appellants</b>	12
<b>The case for the Council</b>	17
<b>The cases for interested parties</b>	17
<b>Written representations</b>	24
<b>Conclusions</b>	24
<b>Conditions</b>	30
<b>Obligations</b>	31
<b>Recommendations</b>	32
<b>Appearances</b>	33
<b>Documents</b>	34
<b>Annex A – Suggested conditions Appeal A</b>	42
<b>Annex B – Suggested Conditions Appeal B</b>	45

### **Recovery by the Secretary of State**

1. The Secretary of State recovered the appeals on 30 April 2013 and directed that he would determine the appeals himself. This is because appeal A involves a proposal for residential development of over 150 units on a site of over 5 hectares (Ha). This would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities.
2. Appeal B was recovered because it would be most efficiently and effectively decided with Appeal A.

## Procedural Matters

3. The inquiry sat for 3 days on Tuesday 2 July, Wednesday 3 July, and Thursday 4 July 2013. Interested parties were advised of the opening date of the Inquiry by letter dated 1 May 2013.<sup>1</sup>
4. Unaccompanied visits took place to the surrounding area including Kirkham town centre and Ribby Hall Holiday Village. These took place on Monday 1 July during the early evening and on Wednesday 3 July 2013 during the AM peak hour.
5. An accompanied site inspection took place on Thursday 4 July 2013 during the early afternoon. The accompanied site visit was on foot from Ribby Hall Holiday Village. It included the appeal sites themselves, Blackpool Road, the Public Footpath that runs along the eastern boundary of Appeal site B to the railway bridge on route to Kirkham railway station, and the St Georges Park Estate.
6. Appeal A was in respect of non-determination of the planning application. The Council resolved on 13 March 2013 that it would have refused planning permission for the development if it had been open to them to do so.<sup>2</sup> An identical application reference 13/0076 was refused planning permission on 13 March 2013.<sup>3</sup>
7. Prior to the opening of the Inquiry, the appellants and the Council were engaged in constructive dialogue to see whether the matters between them could be resolved by the submission of further information. That further information would be intended to satisfy the Council that conditions and S106 obligations would resolve the issues between them. This negotiation accorded with the advice in Costs Circular 03/2009 and Article 31(1)(cc) Development Management Order 2010.
8. Two Statements of common ground (SOCG) were produced.<sup>4</sup> As a result of discussions subsequent to the appeals, the Council and appellants produced an addendum to the planning statement of common ground.<sup>5</sup> This was submitted to the Planning Inspectorate just prior to the Inquiry. It included a plan, reference DWG 1482-VPC1C, that had not been part of the applications. It showed that connectivity in terms of vehicular pedestrian and cycle links along with wildlife corridors could be achieved.
9. The appellants and the Council were of the view that this plan could be used as the basis for reserved matters applications. Conditions could refer to the plan to overcome the Council's concerns, although the appellants considered that the wording of conditions could be specific enough even without reference to the plan.<sup>6</sup>
10. Interested parties raised objections to the introduction of the plan at the Inquiry since it had not been the subject of consultation. I advised that I would consider

---

<sup>1</sup>SD1

<sup>2</sup>CD5 and CD

<sup>3</sup>CD2

<sup>4</sup>CD6 (highways SOCG) and CD7 (planning SOCG)

<sup>5</sup>APDOC8

<sup>6</sup>SD6

the acceptability or otherwise of referring to the plan in conditions on the two appeals in my recommendation to the Secretary of State. I made no formal ruling on that matter at the Inquiry.

11. Prior to the Inquiry the Council withdrew its objection to the lack of provision for education in respect of appeal A.
12. Shortly before the Inquiry the Council approved its Fylde Local Plan to 2030: Part 1 Preferred Options June 2013 (LPPO) for public consultation.<sup>7</sup> This added impetus to seek solutions to the remaining areas of concern.
13. At the Inquiry the Council advised that it was considered that there would be no unacceptable impact on the character and visual amenity of the area as a consequence of the provision of vehicular accesses onto Blackpool Road. This is because where hedgerows were lost it would be possible for compensatory planting to be provided behind visibility splays.
14. At the opening of the Inquiry, the Council advised that the negotiations with the appellants had been successful in addressing the reasons for refusal to the extent that the Council would not play an active role in the Inquiry. It would not present evidence, rely on the evidence that it had already submitted<sup>8</sup> or cross examine the appellants' witnesses. Nevertheless, for completeness, the Council's proofs of evidence are listed as documents. The Council would assist with conditions and planning obligations.
15. The Council believed that agreed conditions would address all of the reasons for refusal which gave rise to the Council's original objections. Mark Evans represented the Council in the conditions and unilateral undertakings (UU) discussion sessions. Also, Rachel Crompton, Developer Support Officer at Lancashire County Council answered questions that I put to her in respect of the UU highway provisions.
16. The appellants had been preparing UUs in dialogue with the Council before the opening of the Inquiry. Draft UUs were submitted before the opening of the Inquiry.<sup>9</sup> The final UUs were engrossed on 2 July 2013.<sup>10</sup> They were subject to discussion at the Inquiry in respect of compliance with Regulation 122 of the Community Infrastructure Regulations 2010.
17. Following a suggestion by the appellants, whilst not a rule 6 party, I allowed a representative on behalf of local residents, Elizabeth Oades, to put questions to the appellants' witnesses.

### **The Sites and Surroundings**

18. Appeal site A, the Gladman site, comprises an area of relatively flat former agricultural land amounting to some 7.4 ha. It lies to the north of Blackpool Road, the A583, onto which there is a field gate. Its western boundary adjoins a railway line and its northern boundary follows Wrongway Brook where there is a copse of trees. There is a small copse of trees adjoining the railway along with

---

<sup>7</sup>SD23

<sup>8</sup>CPOE1A, CPOE1B, CPOE2A, CPOE2B, CPOE3A and CPOE3B

<sup>9</sup>SD28

<sup>10</sup>SD29 and SD30

trees and hedge along its eastern boundary and along the Blackpool Road, the A583.

19. Appeal site B, the Bloor Homes site, comprises an area of relatively flat former agricultural land amounting to some 4.8ha. It lies directly to the east of Appeal site A and shares a common boundary. To the north there is Brook Wood and Wrongway Brook. To the east lie the Grammar School playing fields. There is a public footpath that runs along the eastern boundary. Across the brook there is agricultural land to the north. The footpath crosses that land before linking to the A585 and nearby employment and restaurant facilities. The southern boundary is the Blackpool Road. There are trees and a hedgerow along the road frontage, some protected by a Tree Preservation Order. There is a field gate.
20. Neither site contains designated or known heritage assets. The land is not subject to any landscape, open space or open land designation. They consist of land within the agricultural land classification 3b and therefore do not constitute best or most versatile agricultural land.
21. On the south side of Blackpool Road, near the two sites mixed commercial uses intersperse residential properties in a straggle of residential ribbon development. There is a residential caravan park, West View Caravan Park opposite Appeal site B has been the subject of recent planning permissions<sup>11</sup>. Ribby Hall Holiday Village includes holiday chalets, hotel and spa, leisure facilities, restaurants, meeting halls, convenience shop and hairdressers. It adjoins Ribby Road, the A 5259 to the southeast.

## Planning Policy

22. The adopted development plan includes the Fylde Borough Local Plan (As Altered) adopted in October 2005 (LP)<sup>12</sup>. This is an amalgamation of the Fylde Borough Local Plan 1996-2006 and the Fylde Borough Local Plan Alterations Review 2004-2016. The plans were saved by direction of the Secretary of State in 2007 and 2008 respectively with the exception of HL1 of the Local Plan Alterations Review that operated a housing restraint policy.<sup>13</sup>
23. The LP was in general conformity with the Joint Lancashire Structure Plan which set an annual housing requirement for the Borough of 155 dwellings. The whole of the JSLP requirement was accounted for by commitments, hence the restraint policy on housing land supply<sup>14</sup>.
24. The settlement limits were set on that basis. The settlement limit of Kirkham, as defined in the Local Plan review follows the A585, which adjoins the eastern side of the school playing fields. Both appeal sites lie outside the settlement limits of Kirkham, in the countryside. In this area, LP policy SP2 specifies that development will not be permitted unless it falls within one of five categories. This does not include housing development as proposed within the appeal schemes. There are no other relevant LP designations in respect of the land.

---

<sup>11</sup>CD79 and CD80

<sup>12</sup>CD8

<sup>13</sup>CD9 and CD10

<sup>14</sup>CD11

25. LP policy HL2 sets criteria that development should comply with. These include that it should be acceptable in principle and compatible with nearby and adjacent lands uses. It should be in keeping with the character of the area. It should be developed at 30-50 dwellings per Ha, and should not adversely affect neighbours living conditions. It should maintain and enhance biodiversity.
26. Furthermore, it requires that it should be in a sustainable location, and should retain and replace important features. It should not prejudice the development of a larger area of land. It should have satisfactory access that would not have an adverse effect on the safe and efficient operation of the highway network. It should not overload existing services including drainage. Whilst it makes reference to the sequential approach to developing previously developed land before greenfields, PPG3 to which it refers has been revoked. There is no similar sequential provision in the National Planning Policy Framework (the Framework).
27. LP policy TREC 17 sets standards for public open space provision.
28. Subsequent to the LP adoption and alteration, the North West of England Plan Regional Spatial Strategy to 2021 September 2008 (RS) was adopted. It became part of the development plan. RS policy L4 required 306 new dwellings a year to be provided in the Borough between 2003 and 2021.
29. The RS has recently been revoked by the Secretary of State. Nonetheless, the housing target contained within it is the only figure that has been tested at an Examination and therefore it was agreed as common ground that its revocation has not changed the housing requirement for the Borough.<sup>15</sup> 306 dwellings per annum equate to the Option 1 numbers that the Council submitted to the RS preparation.
30. The Framework seeks to boost significantly the supply of housing. Local planning authorities should identify and update annually a supply of deliverable sites sufficient to provide five years worth of housing against their housing requirements. The Council's 7 November 2012 five year housing land supply statement identified that the Borough's housing land supply was 3.8 years.<sup>16</sup> This information was supplemented by the Council at the Inquiry giving a figure of 3.1 years housing land supply.<sup>17</sup>
31. The Framework specifies that relevant policies for the supply of housing should not be considered up to date if a five-year supply of housing cannot be demonstrated. Furthermore, if there is persistent under delivery a 20% buffer should be provided.
32. One of the core planning principles of the Framework is to proactively drive and support sustainable economic development to deliver, amongst other things, the homes that the country needs. Paragraph 49 specifies that housing applications should be considered in the context of the presumption in favour of sustainable development.
33. Paragraph 14 states that at the heart of the Framework is a presumption in favour of sustainable development, which should be seen as a golden thread

---

<sup>15</sup> SOCG CD7

<sup>16</sup> CD12

<sup>17</sup> SD18



- running through both plan making and decision taking. It sets out what this means for decision taking.
34. Where the development plan is absent, silent or relevant policies are out of date, planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole or specific policies in the Framework indicate that development should be restricted. It is common ground between the main parties that LP policies for the supply of housing are out of date. It is a core planning principle to encourage the effective use of land by re-using land that has been previously developed.
  35. There are three dimensions to sustainable development: economic, social and environmental. These are defined in paragraph 7 of the Framework. The purpose of planning is to contribute to the achievement of sustainable development.
  36. There is an emerging Local Plan. That is the Fylde Local Plan to 2030: Part 1 Preferred Options June 2013 (LPPO)<sup>18</sup>. That document has been approved for public consultation by the Council on 12 June 2013.<sup>19</sup> It identifies Kirkham as a key service centre as the second largest settlement in the Borough. It identifies an annual figure of 341 homes each year, incorporating a deficit from 2003, added to the RSS figure.
  37. The document includes a proposal to allocate the whole of the Kirkham Triangle site, of which the appeal sites form part, for a mixed use. This is covered by LPPO policy SL4.<sup>20</sup> The development could deliver more than the 295 dwellings identified in the plan by developing the land south of the Wrongway Brook for housing. A further 9 ha to the north of the Wrongway Brook could be used for employment uses. The commencement date for housing is anticipated as 2020.
  38. The Fylde Green Belt restricts the supply of potential housing land within the Borough. It was confirmed in a response to an Inspector question at the Inquiry that all the land proposed to be allocated for housing in the LPPO would be required to deliver the Borough's housing requirement.
  39. Paragraph 216 of the Framework identifies the weight to be attached to emerging LPs. This is based on its stage of preparation, whether there are significant unresolved objections, and its consistency with the Framework. The emerging LP is at an early stage and therefore the weight that should be accorded to it is limited.
  40. The Strategic Housing Land Assessment for the Borough, 31 March 2012, identifies the sites as being potentially suitable for development as part of the Kirkham Triangle<sup>21</sup>.
  41. The Council submitted to the Inquiry, Planning Obligations in Lancashire, a Policy Paper by Lancashire County Council July 2006. This document is not a formal Supplementary Planning Document<sup>22</sup>

---

<sup>18</sup>SD23

<sup>19</sup>SD7

<sup>20</sup>SD22 and CD27

<sup>21</sup>SHLAA extract CD20 , CD27and CD30

## Environmental Assessment

42. The Council has issued screening opinions in respect of both proposals.<sup>23</sup> The Council has determined that neither proposal constitutes EIA development. Furthermore, the Secretary of State has carried out a screening of both proposals that has reached the same conclusions.<sup>24</sup> I have no reason to disagree.

## Planning History

43. Planning permission was granted on appeal reference APP/M2325/A/05/1194806 for a touring caravan park, manager's accommodation and ancillary storage on appeal site A on 16 March 2006.<sup>25</sup> It is common ground that this permission has been commenced and so remains extant, albeit that there is no active use for the purposes permitted.<sup>26</sup>
44. In respect of Appeal site A, a duplicate application ref 13/0076 was refused planning permission on 14 March 2013. At the same committee meeting it was determined by the Council's Development Management Committee that, had the Council been able to, then it would have refused the application the subject of Appeal A for the same reasons.<sup>27</sup>

## The Proposals

45. Both applications were in outline and only the means of access to each site were to be determined. Plan reference 2012-021-100 shows the site boundary for Appeal site A.<sup>28</sup> The means of access to Appeal site A is shown on Plan reference 1330/02B.<sup>29</sup>
46. Plan reference BR/K\_LP01 shows the site boundary of Appeal site B.<sup>30</sup> The means of access to appeal B is shown on plan reference 91634-F01.<sup>31</sup> All other plans for both sites were illustrative.
47. The maximum quantum of dwellings on each site would be fixed by the inclusion within the description of development of a specific maximum.
48. Although both application forms specify that scale is to be considered, the appellants confirmed that the height and massing of the dwellings was not part of either proposal. The scale should be reserved for future determination.<sup>32</sup>
49. Appeal A was accompanied by a design and access statement, a Landscape and Visual Impact Assessment, a Transport Assessment, a Travel Plan, an Ecological

---

<sup>22</sup>SD25

<sup>23</sup>Screening opinion 8 November 2012 Appeal A and 7 June 2012 Appeal B are both contained in appeal questionnaires.

<sup>24</sup>Screening exercises carried out 23 May 2013 contained within appeal files.

<sup>25</sup>Appeal reference APP/M2325/A/05/1194806 CD78 and plans CD77

<sup>26</sup>SOCG CD7

<sup>27</sup>CD5

<sup>28</sup>CD81

<sup>29</sup>Within Gladman Transport Assessment GCD2.1

<sup>30</sup>CD82

<sup>31</sup>Within Bloor Transport Assessment

<sup>32</sup>SD6

Appraisal, an Arboricultural Assessment, and a Phase 1 Geoenvironmental Assessment.

50. Appeal B was accompanied by a Planning Statement, a Design and Access Statement, a Transport Assessment, a Flood Risk Assessment, a Landscape Appraisal, an Agricultural Land Classification Report, an Archaeological Desk based Assessment, an Ecology Assessment, an Arboricultural Implications Assessment, a Noise Impact Assessment and a Consultation Statement and a Sustainability Statement.
51. Appeal site B has no complicated ownership constraints and the land is all within the appellant's control. These matters therefore do not represent impediments to deliverability.

### **Statements of Common Ground**

52. The planning SOCG includes a description of the two appeal sites and of the area more broadly. It includes details of the applications, public consultation responses and of the planning history of the sites and neighbouring planning applications. In respect of planning policy, it identifies the relevant sections and policies of the development plan. It identifies also the emerging development plan and the policy responses of the policy team of the Council.
53. It establishes that there is a housing land supply shortfall and that because of this, the LP policies for the supply of housing are out of date. Furthermore, it is agreed that there is a shortage of affordable housing in the Borough and that the appeal proposals would make a significant contribution to addressing the shortfall since each proposal would contribute 30% affordable housing. The build out rates would be 20 dwellings a year on each site for the first two years and 30 dwellings a year thereafter.
54. It was agreed that the sites were in flood zone 1 with no material risk of flooding. The sites could be developed to provide public open space in accordance with LP policy TREC17. No education contributions were required.
55. The areas of disagreement contained within the initial planning SOCG were the importance of ensuring that the proposals were brought forward as part of the comprehensive development of the Kirkham Triangle, the extent to which landscape and visual matters were material to the sustainable development of the sites and the weight that should be given to those issues, and the extent to which ecological impacts had been addressed.
56. The main parties agreed that DWG 1482-VPC1 C in the addendum to the SOCG demonstrated that pedestrian, cycle and wildlife corridors could be created between the two appeal sites. Furthermore, there could be a vehicular link to land to the east of appeal site B. These matters could be secured by conditions. It was agreed additionally that conditions could require replacement planting, including of hedgerows behind visibility splays, in order to minimise the effects on the landscape.
57. The appellants and Lancashire County Council as Highways Authority submitted a separate Highways SOCG. All highways matters were agreed subject to contributions to sustainable transport measures and a range of conditions. These rely on the evidence contained within the Ashley Helme Transport Assessment

(TA) submitted with the application on Appeal A and the TA prepared by Croft Transport Solutions in respect of Appeal B.

58. These TAs contain details of the existing highway network, pedestrian facilities, cycle facilities public transport provision and accessibility to jobs, shops and services. Accessibility isochrone diagrams are not included within the SOCG but are included in the TAs and what they show has not been disputed in evidence.
59. Annexes to the Highways SOCG show key transport features, trip distributions, location of the Kirkham Triangle and a summary of S106 Highway improvements.
60. Traffic counts and accident records are included and agreed. They also detail the two individual junctions onto the Blackpool Road proposed for the individual sites, and the right turn ghost islands and the 3 pedestrian refuges to be provided in Blackpool Road. It was common ground that there was no evidence of a recurring accident cause on the local highway network. Furthermore, it was concluded that the appeal developments would have no material impact on the occurrence of accidents on the study network.
61. The AM and PM peak hour development generated traffic was agreed for both sites and the traffic impact analysed. From modelling, it was agreed that the accesses to both sites would operate with spare capacity in 2018 and 2023. The effect on the Blackpool Road/A585/Ribby Road junction would be mitigated by improvements shown on drawing 1330/03 Rev B and by 1330/04 Rev A. A Puffin Crossing would be constructed as shown on 1330/03/Rev B.
62. Although the Highways SoCG advises that a footway would be introduced on the north side of the Blackpool Road along the full extent of the frontage, it was established at the Inquiry that this need not be directly adjacent to the Highway and could be behind a retained and/or replaced hedgerow line.
63. A new bridge would be provided over Wrongway Brook. Footpath 2 would be diverted to link to the St Georges Park Roundabout.
64. The footpath over the railway from St Georges Park to Market Street/Carr Drive would be upgraded including the provision of lighting. The footpath from Bentley Drive to Gillow Road would be upgraded to a cyclepath. Signage to cycle/footpaths would be provided. This would all be provided for by s106 and s278 works.
65. In respect of A583 improvements, they would provide a cycle path on the A583 to Ribby Road, improve footpath links to the bus stops in Ribby Road, improve the crossing facilities on the A583 and provide all necessary signage to footpaths and cycleways.
66. Public transport connections would be improved by introducing 2 bus stops onto Blackpool Road, one on either side of the road. A £50,000 subsidy for 5 years for the No 75 service would be funded through the UUs. The main parties agreed that the appeal sites are accessible by sustainable modes of travel and that the improvements would further encourage travel by sustainable modes of transport by residents.
67. Whichever developer proceeds first would make a contribution to a review of the speed limit on Blackpool Road and to the costs involved with any changes required to introduce any change to the 50mph speed limit.

68. Both schemes include travel plan proposals. Contributions would be paid to the County Council to ensure that these are properly monitored and supported.
69. It was agreed that land to the north of the Wrongway Brook included within the Kirkham Triangle could be accessed from the A585/St Georges Park roundabout and that the development of the appeal sites would not prejudice the release of that land for employment use.

### **Other Agreed Facts - Housing Land Supply**

70. In response to the representations made by the CPRE both prior to and at the Inquiry<sup>33</sup>, both the appellants and the Council submitted further written statements at the Inquiry to explain their position on housing land supply<sup>34</sup>. Furthermore, the appellants submitted tables showing the appellants' and the Council's approach to housing land supply compared.<sup>35</sup>
71. The Council and the appellants both considered that, notwithstanding the revocation of the RS, this housing requirement figure should be relied upon. This is because it remains the latest figure that has been fully tested through an independent examination process. Its revocation does not undermine the evidence on which it is based.
72. The DCLG Interim Household Projections 2011 are only interim projections and form only one part of the demographic input. The Council has used the RS housing requirement as part of the LPPO. The Appellants consider that the RS is the only figure in relation to housing requirements that has been tested and adopted. The Appellants have yet to formulate a response to the LPPO. However, they agree that the ONS 2011 are only interim projections and are only one part of establishing the housing requirement.
73. The potential supply coming from BAE Warton has been taken into account in the Council's figures, counting as 160 dwellings. The appellants view is that the BAE Warton site does not have planning permission, only a resolution to grant planning permission and has no developer. Therefore, it is not clear whether it will be delivered. The Examination of the West Lancashire Local Plan has not finished and the conclusions of the inspector are interim. The CPRE housing calculation is not accepted.
74. The appellants and the Council also submitted a joint statement which seeks to explain the difference between the appellants and the Council's position on housing land supply.
75. The 5 year period approach that the Council has adopted is set out in its 5 Year Housing land supply statement as at 7 November 2012. This seeks to spread the shortfall over the remainder of the RS period, ie over an 8 years period.
76. The appellants consider that the shortfall in housing delivery against the RS requirements should be factored into the 5 year housing supply whereas the Council considers that it should be satisfied over the remainder of the RS period ie to 2021. The Appellants consider there to be a 2.6 year supply whereas the

---

<sup>33</sup>SD16

<sup>34</sup>SD18, SD19, SD20

<sup>35</sup>SD21

Council advised at the Inquiry that it considered there to be a supply of 3.1 years.<sup>36</sup> The appeal decision at Broad Lane, Rochdale APP/P4225/A/12/2184755 and 2186703 identifies the approach to be taken.<sup>37</sup> This is to use the evidence base of the RS and to apply a 20% buffer.

77. The main parties agree that any difference in the calculation is not determinative. This is because it was agreed that there is no 5 year supply of deliverable housing land.

### **The Case for the appellants**

78. The material points of the appellants' cases are contained within the submissions made by Richard Kimblin and John Barrett at the opening of the Inquiry<sup>38</sup> along with the submitted proofs of evidence<sup>39</sup>. Evidence was presented at the Inquiry from Marc Hourigan, George Venning, Ricardo Gomez, Rachel Roberts, Kit Patrick and Nick Lee.

79. It is common ground that the Council does not have a 5 year land supply. In March 2012, the SHLAA identified a 5 year supply of 626 dwellings as against a requirement of 2,040.<sup>40</sup> This gave a supply of 1.5 years. That supply was updated as of 7th November 2012, with an identified supply of 1,840 dwellings, giving 3.8 years.<sup>41</sup> That is on the basis of dealing with under performance over the remaining RS period and applying a 20% buffer. The apparent increase in supply between March and November 2012 was not due to an increase in the deliverable supply. Rather, the Council had changed its methodology as to what is considered to be a deliverable dwelling. Furthermore, the supply figures given by the Council at the Inquiry represented 3.1 years housing land supply.

80. The history of undersupply is relevant. For every year since 2003 the Council has failed to maintain a 5 year land supply. This suggests that there is and has been a serious housing land supply situation in the Borough for a long time. The shortfall of housing needs to be looked at for the Borough as a whole, not just for Kirkham and Wesham.

81. Also the Honeybourne, Andover and Moreton in Marsh appeal decisions all support the Sedgefield Approach.<sup>42</sup> The deliverability of sites is important in considering housing land supply. The sites would provide some 200 dwellings within a 5 year period.<sup>43</sup> There is no evidence that the appellants would land bank the sites.

82. The serious housing land supply situation applies similarly in respect of affordable housing. As demonstrated by the evidence of George Venning, the identified need for affordable housing has not been met for many years. Whatever

---

<sup>36</sup>SD18

<sup>37</sup>SD24

<sup>38</sup>SD5 and SD6

<sup>39</sup>APOE1-APOE7

<sup>40</sup>CD20

<sup>41</sup>CD12

<sup>42</sup>CD53, CD54, CD55

<sup>43</sup>SoCG CD7

approach is taken to identifying the affordable housing need, it has not been met.<sup>44</sup>

83. Between 2008 and 2012, the gross affordable housing completions have averaged 60. Even on the lowest measure of need, the requirement is for some 165 affordable dwellings a year. On other measures, the requirement has been some 600 affordable dwellings. There has been a significant and serious under supply of affordable housing in the Borough. The overall housing delivery has been far lower than anticipated by the RS and the Council has been unable to secure more than a fraction of the number of new affordable homes for which a requirement has been identified.
84. Detailed investigation of the changes in households and their tenure reveals striking features of the housing situation in the Borough. By far the biggest growth in households has been in the rented sector. This is especially significant because it indicates an acute issue with housing affordability, even if the households concerned do not currently have a housing need of a type which would place them in a reasonable preference category.
85. This series of detailed observations as to the affordable housing crisis which continues in the Borough is a weighty material consideration in the context of the appeal schemes offering 30% affordable housing. Taken together, some 96 dwellings of the 320 proposed would be available to those with such housing needs. That would be a weighty consideration in any circumstances, but is particularly so in the context of persistent and serious under delivery and consequent housing shortage.
86. The Fordham study identifies that 63 dwellings is the net annual shortfall in affordable housing need for Kirkham and Wesham. That represents 11.1% of the total net shortfall for the Borough of 568 dwellings.<sup>45</sup> There is a severe need for affordable housing that the affordable housing provided by these schemes would ameliorate. Planning gain makes up a large part of delivery. The dwellings could be well integrated with market housing so that they would be indistinguishable from other houses. There is no evidence that it would not be delivered.
87. In the absence of a 5 year housing land supply as required by paragraph 47 of the Framework, the approach in paragraph 14 of the Framework is to be followed, so far as weight to be given to Development Plan policies is concerned. Planning permission should be granted 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.
88. The principal LP policy which is relied upon in the Council's decision and putative reasons for refusal is policy SP2. The adopted plan is out of date and should be afforded little weight having regard to the provisions of paragraph 215 of the Framework. Moreover, in the context of the housing supply position, the policies which bear upon the provision of housing, including restrictive policies such as SP2, should be considered to be out of date. The necessary approach, therefore, is to apply the approach set out in paragraph 14 of the Framework.

---

<sup>44</sup>CD21, CD24, CD25, CD26 and APOE3 4.15 and 4.16

<sup>45</sup> CD24 table 6.3

89. Such an approach was followed in respect of a proposal at Queensway in Lytham St Annes.<sup>46</sup> In that appeal decision it was said that reliance on LP Policy SP2 to prevent the appeal proposal would thwart the national policy requirements that, where possible, applications should be approved where plans are out of date and that local planning authorities should consider favourably applications for housing where they are unable to demonstrate an up to date 5 year supply of deliverable sites.
90. These requirements have recently been reinforced in the Framework. The Framework places particular emphasis upon sustainable development and identifies the three roles of sustainable development.
91. In location terms, the Kirkham Triangle is a suitable and sustainable location for development having regard to the observations in the SHLAA. There are constraints represented by the Green Belt, and the Ribby Leisure Village south of the A583. These limit potential settlement extension opportunities to two broad areas. These are land to the west of the town adjacent to the A583 and land north of Dow Bridge. The land to the west of the town, namely the Kirkham Triangle, is one of only two places to which new development may be directed.
92. The Council recognises this position by reason of its resolution to allocate the Kirkham Triangle for development in its emerging plan. All of the sites identified in the LPP0 are required to be released to provide the Council's housing requirement as stated in the plan. Other allocated sites would be a similar distance from the town centre and facilities. LPP0 mentions Kirkham many times. The SHLAA identifies the sites.<sup>47</sup> There is a Sustainability Appraisal for the LPP0 including for the sites which identifies them as being in sustainable locations.<sup>48</sup>
93. Dr Gomez explained the changing population of the Borough and the economic effects of both failing to provide sufficient housing and of remedying that by granting sufficient permissions. He demonstrated that the population of Kirkham and the wider Fylde area is an ageing population. It is a static population with a relatively low turnover in terms of house moves.
94. He argues that new housing needs to be targeted at younger households and families if the effects of an ageing population are to be addressed. He identifies those effects by reference to the available resident labour force which is likely to fall over the longer term. That in itself is harmful in respect of local employers being able to recruit and is harmful in that it results in high levels of commuting.
95. In the context of Kirkham, there is a comparatively tight local labour market. The Borough has historically had economic activity and employment rates that reflect its strong connections with large employment centres. Presently, the claimant count in terms of unemployment benefit is comparatively low at 2.3%, compared to an average of 3.8% for the UK. New housing would assist in providing the accommodation which is required for working people to be accommodated within Fylde to provide a workforce for existing and future employment opportunities.

---

<sup>46</sup> Lytham St Annes decision CD59

<sup>47</sup> CD30 and CD20

<sup>48</sup> SD22



96. Moreover, there are potential positive impacts of housing development on regeneration aspirations for Kirkham and its town centre. There would also be beneficial impacts in respect of the Enterprise Zone at Warton. In terms of the economic impact of the construction activity and the household incomes which would result from occupation of the dwellings, some £37m of construction activity would be undertaken. This does not include indirect and induced employment and the construction would have a multiplier effect on the economy yielding a gross output of economic activity of some £52m.<sup>49</sup>
97. While the relatively low claimant count in the area has been noted, about 800 of those seeking employment were registered as seeking work in the construction and building trades. Hence, there is a real need to address that aspect of the economy. The development would also generate £2.4m new homes bonus for the Council and £0.6m for Lancashire County Council.
98. The Council has suggested that there is an issue as to “comprehensive development”. The Council’s concerns in this regard are not accepted for the reasons explained by Nick Lee in Section 6 of his proof.<sup>50</sup> The Secretary of State has made it clear in several important appeal decisions that the test which would be appropriate, is whether the delivery of future phases of the Strategic Development Land together with the overall infrastructure and service provision required for the Strategic Development Land as a whole, would be prejudiced by the release of the appeal scheme. There never has been a real suggestion that there has been prejudice to the future development of any contiguous land.
99. In any event, the appeals are in relation two schemes which are complementary and are agreed to be so, as recorded in the Statement of Common Ground and as illustrated via the Master Plan.
100. The Master Plan demonstrates that the two developments may be brought forward, in phases, and they read well together. They have connectivity which is entirely appropriate, whilst respecting existing landscape features and providing appropriate corridors for the migration of wildlife, including protected species.
101. So far as protected species are concerned, the evidence of Rachel Roberts deals with Great Crested Newts (GCN) and appends the consultation responses of Lancashire County Council. There is a small population of GCN in the central pond. Appendix 2 to her proof is the letter of October 31st 2012 which records that in the County Council’s view the proposed mitigation may be adequate to form the basis of a mitigation method statement to address the favourable conservation status of the GCN.<sup>51</sup>
102. Mitigation would include all ponds being retained within the site. The terrestrial habitat could support small populations of GCN. Terrestrial habitat corridors using existing hedgerows would provide for movement through the centre of the site. Existing hedgerows would be enhanced to strengthen connectivity.

---

<sup>49</sup> APOE4

<sup>50</sup> APOE1, CD60, CD61 and CD62

<sup>51</sup> Also CD67

103. The Brook Wood and Wrongway Brook would be appropriately protected from development activities. The permeability to amphibian dispersal would be achieved by using appropriate construction such as avoiding the use of gully pots etc. A long term management plan would be in place for a period of 10 years to address habitat mitigation. In any event, a licence would be obtained from Natural England in respect of any measures which involve GCN.
104. There is low value for bats. Barn Owl Boxes could be erected. The majority of important features would be retained and protected. The majority of the area would be improved in relation to its biodiversity, in terms of species and structural diversity. Tried and tested methodology would be used.
105. The Council has resolved that the Kirkham Triangle should be developed. It follows that the Council does not contend that there is any adverse impact in visual or landscape character terms arising from the development of the Kirkham Triangle.
106. So far as access to the site is concerned, the concern is about the loss of hedgerows in order to achieve an appropriate visibility splays from each of the two accesses. An appropriate solution both in visibility and hedgerow preservation terms appears feasible, subject to further consideration by the Highway Authority. There is an agreed condition in this regard.
107. In any event, accesses into the Kirkham Triangle from the Blackpool Road are a feature of the existing situation, as explained by Mr Kit Patrick. Further, accesses onto the Blackpool Road are to be found frequently along the other side of the Kirkham Road which is substantially developed. S106 and S278 measures would secure improvements to accessibility.<sup>52</sup>
108. The accident records revealed 21 reported accidents 2006-2011. The only discernable cluster is at the A583/A585 Ribby Road Roundabout.<sup>53</sup> There does not appear to be evidence of a recurring accident cause, but a speed survey would be financed by the developments along with provision for measures to reduce the speed limit if proved necessary.
109. The main parties have discussed and mainly agreed a set of planning conditions. These provide for appropriate means of regulating those issues which have been of concern to the Council, including landscape impact and ecological effects. They further provide for the comprehensive development of the Kirkham Triangle in substantial accordance with the submitted Master Plan.
110. NJL Consulting submitted a briefing note to the Inquiry to outline the nature of and reasons for the agreement that had been reached with the Council.<sup>54</sup> This touches on the LPPO and its allocation of the Kirkham Triangle. It identifies that comprehensive development would not be prejudiced, and that appropriate links and appropriate landscaping could be carried out.
111. The appellants submitted a list which identified for ease of reference the sources of evidence in respect of Flood Risk and sustainability<sup>55</sup>. Both schemes

---

<sup>52</sup>CD7

<sup>53</sup>TAs

<sup>54</sup>SD6 NJL Consulting Briefing note

<sup>55</sup>SD17

- were accompanied by flood risk assessments which identify that the sites are in flood zone 1.<sup>56</sup>
112. The Environment Agency (EA), having considered the Flood Risk assessment in respect of appeal B did not oppose the development.<sup>57</sup> EA also did not oppose appeal A in its letter dated 22 January 2013.<sup>58</sup> In addition United Utilities confirmed by letter dated 7 August 2012 in respect of Appeal B that there were no objections provided that the site is drained to a separate system with only foul drainage connected to the combined sewer.<sup>59</sup> A similar response was made in respect of appeal A dated 3 December 2012.<sup>60</sup> SUDS would be perfectly reasonable and would add to sustainability.
113. The Council had not opposed either development on drainage or flooding grounds.<sup>61</sup> Although the LPPO identifies that there are significant wastewater infrastructure deficiencies that would hinder delivery until 2020, no further evidence to justify that assertion was submitted by the Council.
114. Neither United Utilities nor the Environment Agency raise objections on flooding, surface water or foul sewage drainage matters that cannot be addressed by conditions.<sup>62</sup>
115. There are UUs which provide for contributions that are sought by the Council. The Council no longer seeks an education contribution, it having been agreed that the development would not give rise to any further requirement for providing school places.
116. Both proposals were accompanied by Statements of Community Involvement which demonstrate that the appellant had sought the active participation of the local community in the proposals.<sup>63</sup>

### **The Case for the Council**

117. As indicated earlier, the Council has, subsequent to the appeals, published the LPPO which allocates the sites as part of a mixed use Kirkham Triangle. The LPPO was accompanied by a Draft Sustainability Assessment.<sup>64</sup> The publication of the consultation documents represents a substantial shift in circumstances.
118. The Council is now satisfied that planning conditions and Unilateral Undertakings would satisfactorily address the reasons for refusal and putative reasons for refusal. The plan submitted with the addendum to the Planning SOCG identifies that connectivity could be achieved in terms of pedestrian and vehicular links and links for cycling without harming the character and appearance of the area.

---

<sup>56</sup>Bloor application documents and GCD2.3

<sup>57</sup>CD69 EA letter dated 2 August 2012

<sup>58</sup>GCD 7.4

<sup>59</sup>CD70

<sup>60</sup>In questionnaire

<sup>61</sup>Committee reports

<sup>62</sup>CD69 and CD70-Bloor

<sup>63</sup>Application documents

<sup>64</sup>CD15

119. Furthermore, planting schemes would mitigate for any hedgerow removal caused by the accesses. Environmental concerns could be dealt with by conditions. The two schemes could be implemented in accordance with a Master Plan to ensure a satisfactory and sustainable overall development.

### **The Case for the interested parties**

120. Local residents speaking at the Inquiry were all opposed to the development. There was disappointment and substantial concern generally that the Council had, with no forewarning to local residents or others, withdrawn their opposition in respect of the two appeals. Furthermore, there was significant opposition to the introduction of plan ref DWG 1482-VPC1C which was displayed in the Inquiry venue by the appellants, and agreement to it by the Council, without any consultation.

#### *Case for John Francis Smith*

121. Mr Smith has lived in the area for 76 years and opposes both schemes. The development was a non-starter that would make Kirkham into a dormitory town for Manchester or Liverpool as there was little employment. It would be a community with few social facilities. There is derelict land within Kirkham that could be re-used for housing rather than releasing a greenfield site. The community does not want this housing development.

#### *Case for Peter Silcock*

122. Mr Silcock lives in Blackpool Road opposite the development sites and opposes both schemes. Whilst it is alleged that there is a great demand for housing in Kirkham, he has never seen so many houses for sale or rent. Recent housing development in Wesham has taken years to complete. If there was demand, these houses would have been snapped up.

123. There is a history of flooding in the area. The highway outside the site regularly floods to a depth of some 300mm along a length of road of some 40 to 50m. The road has been flooded on 25 recent occasions. This is almost always in the evening peak hour for traffic and may last for 2 hours. There are highway signs that warn that the road is liable to flooding.

124. The road is dangerous. Two extra accesses will result in accidents. The fracking site is nearby and nobody knows what the results of that process will be. The Kirkham Triangle proposals have not been approved and these schemes are against the wishes of Kirkham residents.

#### *Case for Cllr James Cameron*

125. Cllr James Cameron is a Kirkham Town Councillor but he was speaking as a local resident who lives in Ribby Road. The appeal sites are outside the settlement boundary of Kirkham, quite a way along the A583. This road is subject to considerable traffic congestion. This is a greenfield site and brownfield sites should be developed first. The LPPO is not currently in force. There are sites with planning permission and those should contribute to supply.

#### *Case for Cllr Alan Clayton*

126. Cllr Alan Clayton is both a Fylde Borough Councillor and a Wesham Town Councillor. He spoke as a Town Councillor and on his own part as a local

resident. The LPPO is not adopted. The three local councils are all against the developments. These developments would all impact on services locally. The Framework only supports development if it is sustainable, which this is not.

127. There are some 270 houses for sale in the area and therefore there is no requirement for the dwellings proposed. The sites are outside the settlement boundary and would be contrary to the Framework as the location would not be sustainable. Also the accesses would not be safe.
128. In answer to Mr Kimblin's questions, Cllr Clayton could not demonstrate that there was adequate affordable housing in the area.

*Case for Neal Donnelly*

129. Mr Donnelly is a local resident who has lived in the Borough for some 37 years. There is a problem locally with surface water drainage. He has experienced Dow Brook flooding in his garden which has required a larger culvert to be provided. The size of the brook has increased.

*Case for Philip Langley*

130. Mr Langley is a local resident who lives in Barnfield. He submitted a map which showed the local brooks connected to Wrongway Brook and also photographs to show local flooding. He was concerned that the development would increase the risk of flooding elsewhere.
131. He also has knowledge of the site over many years since as a school child he undertook cross country runs on the land and from November to February used to find the ground waterlogged. The brook flows in both directions because the Ribble is tidal. The photographs demonstrate the problems with flooding locally that could be exacerbated.<sup>65</sup> There would be problems in obtaining household insurance on the flood plain.

*Case for Cllr Elaine Silverwood*

132. Cllr Silverwood is a Fylde Borough and Kirkham Town Councillor, but she was speaking on her own behalf. She also read out the written statements of 3 local residents, Jayne Ashley, Ron Matthews and Duncan Coppersthaite. She also submitted a map showing the location of recent traffic accidents locally.<sup>66</sup>
133. The two sites are adjacent to a flooding hotspot. There are drainage difficulties locally and surface water drainage would flow into Wrongway Brook.
134. The retail offer in Kirkham is limited but there is only one unoccupied shop and there are 5 charity shops out of some 60 in the town centre. The Mary Portas bid experience was positive for the town centre even though it was not successful. Of the 217 houses in the St Georges Park estate, less than 10% use Kirkham High Street.
135. The development would become another urban sprawl. Change should reflect the rural character of the area. Kirkham promotes itself as a market town. The views of local people should be taken into account.

---

<sup>65</sup>SD9

<sup>66</sup>SD10

*Case for Cllr Keith Beckett*

136. Cllr Keith Beckett is a Fylde Borough Councillor, but he appeared at the Inquiry as a local resident. He submitted a written statement with photographs. A data stick was provided with those photographs and video footage.<sup>67</sup> He also provided an email exchange with United Utilities.<sup>68</sup>
137. He was concerned about flooding from a sewer on the Blackpool Road. Raw sewerage gets sprayed from the road onto the appeal sites when there is a flood. The neighbouring playing fields flood and extra drainage has had to be constructed. He was also concerned about surface water drainage to Wrongway Brook affecting drainage elsewhere in Kirkham where there are existing problems. Drainage from this site would be additional to any generated by 100 new dwellings elsewhere in Wesham if that planning permission is granted.
138. A plan in the LPPO identifies areas at risk of flooding. It shows all the areas around Wrongway Brook, Carr Brook and Dow Brook. The dwellings will be undesirable because they will be on a flood plain and there will be difficulties in obtaining insurance.

*Case for Cllr Linda Nulty*

139. Cllr Nulty is a Fylde Borough Councillor for Medlar with Wesham ward. She sits on the Development Management Committee. She is also a Town Councillor. Cllr Nulty submitted a written statement of her evidence.<sup>69</sup>
140. The appeals should be withdrawn and a joint application should be submitted for the two sites which could be properly considered by the Development Management Committee. The LPPO is only just going out to public consultation and allowing these appeals could predetermine that consultation.
141. In respect of the Framework, there are adverse impacts that would demonstrably outweigh the benefits. The developments would be outside the settlement boundary for Kirkham, in the countryside. This would be contrary to LP policy SP2. They breach the hard edge formed by the Kirkham and Wesham westerly bypass and spread into the countryside. They are not attached to Kirkham, are remote, totally detached from Kirkham and are contrary to the Framework's sustainability requirements. They are not a sustainable extension and do not represent comprehensive development of the wider area.
142. They are across busy roads either to reach Kirkham or Wrea Green. There are no natural links to local services such as schools. There is no bus service where people would want to access. Even if there was a bus, its frequency would not be sufficient to encourage use. Cycling would not be attractive on a busy road with no cycle lanes and a poor safety record. The station is just about walkable. There are few parking spaces there and so additional demand for parking would cause problems.

---

<sup>67</sup>SD11

<sup>68</sup>SD12

<sup>69</sup>SD13

143. Almost everyone on the two new estates would use their cars. This would lead to substantial use of accesses onto the Blackpool Road with difficult right turns in and out. The development would increase traffic locally.
144. The sites are in the countryside and on land used for agriculture. In the hands of a good farmer it could be upgraded from 3B. Also the ecological assessment findings have not been incorporated into the proposals.
145. Infrastructure is poor and there are problems with flooding, drainage and sewerage throughout the area. Everything is overloaded, even electricity. Broadband reception is poor. There has been little investment in primary schools locally.
146. There is no need for more housing in the area. The biggest area of need is for affordable housing in Lytham St Annes. It is unfair and unjustified for development to be provided where there are already overstretched or non-existent services. In recent years some 320 dwellings have been built in two large developments locally. These have increased housing numbers out of scale with the size of the settlement. Developers struggled to sell these houses. Some 130 social homes have been provided but the local connection of some residents is tenuous. A further 40 affordable homes have been provided in the centre of town in a properly sustainable location.

*Case for Cllr Richard Nulty*

147. Cllr Nulty is a Parish Councillor for Greenhalgh with Thistleton, but spoke on his own behalf as a local resident. He submitted a written statement of his evidence.<sup>70</sup>
148. Mr Nulty believed that development control must be plan led. The emerging plan has not been tested and there are concerns that local representations have not been adequately considered in its preparation. It is a work in progress that has yet to be examined. As the CPRE figures demonstrate, there are other ways of calculating housing figures. Planning applications granted have not been reflected in what has been built on the ground. Granting planning permission does not necessarily guarantee delivery.
149. There are disadvantages to these sites. The isolation of the sites is important, with highways creating physical and social boundaries. The sites are remote from schools, shops and services, and residents would suffer because they would not be well integrated. This is especially important for those likely to be social tenant families. It will be a dormitory area to Kirkham in the countryside.
150. The area is subject to exploitation for Shale gas, the implications of which are unclear. The balance has clearly swung against the development going ahead.

*Case for Cllr Matt McIver*

151. Cllr McIver is a Kirkham Town Councillor and chairman of the Kirkham Development Forum. He was speaking on behalf of the Forum and as a local resident. He explained that the Forum was set up to respond to the development proposed and so the development on the appeal sites was the first that it had

---

<sup>70</sup>SD14

been involved in. It met in 2012 for the first time and members comprised interested residents who wished to make an input about development in the town.

152. The approval of the LPPO was for consultation, not for the document itself. It is a work in progress. To allow the developments now would be an attempt to influence the democratic process of plan making.
153. There are many homes for sale locally, including many under £100,000 and under £140,000. The properties are there. It is getting a mortgage that is the problem. The right type of properties are required in the right location. This is not the right location. The nearest primary school is a 15 minute walk. Carr Hill is a 30 minute walk, with the shortest walk down a busy road with no railings where there have been many recent collisions.
154. Although there may be school places available at present, schools may not be able to set their admissions policies in the future. Kirkham Grammar School cannot be included because it is fee paying. Ribby Hall is a holiday village rather than having facilities for use by the general public.

*Case for Cllr Elizabeth Oades*

155. Cllr Oades is a Fylde Borough and Kirkham Town Councillor but she was speaking as a local resident who lives in Ribby Road.
156. In respect of the 5 year housing land supply, although many planning applications have been granted, few are being built. The by-pass should be the hard edge to development, outside which, development should not take place. The LPPO has gone out to consultation but only half of the Council approve of it in its current form. To allow the development would negate the development plan process.
157. St Georges Park has a footpath and bus service but residents do not take part in activities locally. This development would be even more remote. There would be no bus service and accessibility and sustainability have been ignored. There have been many fatalities and serious injuries caused by road accidents locally and several accesses have been stopped up.
158. The proposals fail to accord with Government policy. The Kirkham Triangle is isolated and not self contained. It is 15 minutes walk to the nearest school and it is too far to walk to services. If the development would regenerate the town centre then there would have been an improvement in the last 20 years through expansion of the town. If the appeal is allowed, there would be a shortfall in school spaces. United Utilities know about the current drainage problems.

*Case for Cllr Heather Speak*

159. Cllr Speak is a Fylde Borough Councillor. She objects to the development on the grounds that there is not evidence of need for the housing and because it would alter the character of the area. Whilst the desire to bring jobs and prosperity is supported, this should not be at all costs. There are plenty of brownfield sites that could be used. There are numerous sites with planning permission that have not been delivered. These should count towards housing land supply. There is no evidence that these dwellings would be delivered.



*Case for Mary Fletcher*

160. Mary Fletcher is a local resident who lives opposite the appeal sites. She submitted her evidence to the Inquiry also in writing.<sup>71</sup> This statement included distances to local transport and social facilities as driven by Mrs Fletcher. Although the Blackpool Road is busy and dangerous, because of the speed and flooding, Mrs Fletcher was prepared to put up with that because of the wonderful views she has over open countryside opposite. That would be lost if the sites are developed.
161. Transport links are poor. The station is 1.6 miles away. There are no bus stops on the A583 and the road is too dangerous for bus stops. There are no shops close to the sites. The Nissa shop at Ribby Hall Village is 0.8 miles away and would not cater for a family doing a weeks shopping. Morrisons is over a mile away. Increasing numbers of vehicles would add to the severe congestion locally.
162. Doctors/health centre are 1 mile and 1.4 miles away, requiring access by car. All local primary and secondary schools are likely to be accessed by car. This development will exacerbate existing road safety problems.
163. The loss of greenfields will have disastrous effects on local wildlife including newts in the ponds and owls.

*Case for Veronica Hardwicke*

164. Veronica Hardwicke is a local resident who lives in Ribby Road. Her main objection is that the GP surgeries are both above the national GP ratios. There is also no National Health Dentist in Kirkham.

*Case for Paul Batson*

165. Mr Batson is a local resident who is opposed to the development. The sites comprise greenfields in the open countryside. They are open agricultural sites which provide a breathing space for Kirkham.
166. There is insufficient infrastructure to support the residents. The dwellings would be occupied by commuters rather than by local people. There would be limited parking.
167. Kirkham is dissected by two main roads. The site would not be part of Kirkham and would represent urban sprawl. It would have poor accessibility with the local roads not being safe for cycling.

*Case for John Westmoreland on behalf of CPRE Lancashire Fylde District Group*

168. John Westmoreland on behalf of the CPRE Lancashire Fylde Group submitted his statement to the Inquiry.<sup>72</sup>
169. CPRE believe that there is a 5 year housing land supply. They believe that every planning permission should contribute to the supply until it expires. It has

---

<sup>71</sup>SD15

<sup>72</sup>SD16

- calculated that in Fylde Borough there are planning permissions for 3,400 new homes which represents over 11 years of the RS requirement rate of 306 a year.
170. The first five year housing land supply should be based on the ONS 2011 household interim projections. These are based on the 2011 census data and show a lower growth in households compared with the 2008 based projections of 265 a year.
171. The shortfall should not be recovered because the household projections from the 2011 baseline include any need to accommodate new households resulting from homes not having been built prior to 2011. If it does need to be recovered, then it should be spread over the whole plan period. All other key assumptions in the Fylde calculations are retained and this would result in a housing land supply of 5.5 years.
172. The LPPO identifies that there are significant wastewater infrastructure deficiencies in respect of the Kirkham Triangle which would mean that development would not start until 2020. Therefore the development would not contribute to the 5 year supply.
173. The developments are not sustainable because the sites would have poor connections with the town of Kirkham, the westerly settlement boundary of which is firmly defined by the Kirkham and Wesham bypass. Its location is separate from Kirkham. It would result in the loss of semi-rural countryside. There would be a permanent loss of agricultural land.

### **Written Representations**

174. The representations submitted to the Council as part of consultations on the applications are included within the questionnaires. The Planning SoCG advises that there were 5 letters of objection and 11 letters of support in respect of Appeal B. There was also a petition opposing the development.
175. In respect of Appeal A there were 4 letters of objection in respect of the original application and 2 letters of objection related to the duplicate scheme.
176. In addition to these representations, 7 individual letters were received in respect of both applications, 9 letters in respect of the Gladman site appeal A, and 8 in respect of the Bloor site, Appeal B were received by the Planning Inspectorate subsequent to the appeal opposing the two schemes.
177. Furthermore, I accepted 60 identical but individually signed additional letters of representation, and 6 other additional letters at the Inquiry. All of these representations opposed the scheme. The main parties raised no objections to the acceptance of these representations. I accepted also the written statements by some of the interested parties who gave oral evidence, as identified in the list of submitted documents and in footnotes.
178. The Governors of Kirkham Grammar School had no objections in principle but were concerned that the development of the Kirkham Triangle should be undertaken in a sustainable way rather than as piecemeal development.

## Inspector's Conclusions

179. The numbers in square brackets in this section are references to previous paragraphs in the Report which are particularly relied upon in reaching the conclusions.

### *Preliminary matters*

180. Plan No DWG 1482-VPC1c 26 June 2013 was introduced with the addendum to the SoCG dated 28 June 2013. [8,56] For its part, the Council considers that the plan was material to its decision not to defend the appeals, and therefore that it should be taken into account and referred to in conditions. [118,119]

181. The appellants consider that it would not be necessary to refer to the plan in conditions. The plan is intended merely to demonstrate that it would be possible to provide connectivity for pedestrians and cyclists through the site, and to provide potential vehicular links to adjacent land. Also it demonstrates one way that wildlife corridors could be provided. [9,56,100]

182. It has not been subject to any public consultation. [10,120] For this reason, and having the *Wheatcroft* principle in mind, it would be undesirable to approve its details because it would deprive interested parties of the opportunity to make comments on the details of the schemes.

183. Because the proposals are both in outline, with only the accesses to be considered at this stage, it would be entirely possible for the Council to determine the appropriateness or otherwise of any reserved matters submitted. Conditions could adequately express the principles to be applied. [231,232]

184. Whilst the demonstration of principles should be taken into account in the determination of these appeals, it would not be appropriate to refer to the plan in conditions or to limit development to the form outlined. Alternative schemes might well achieve the same aims and in any event would need to be subject to appropriate consultation.

### *Introduction*

185. I have considered all the evidence, including the written and oral representations, the Council's reasons for refusing Appeal B, the putative reasons in respect of appeal A and the matters on which the Secretary of State particularly wishes to be informed.

186. Having considered these matters, I conclude that there are three main issues. These are firstly whether the developments would comprise sustainable development that would accord with national planning policy. The second main issue is whether the schemes would comply with local and national planning policy in respect of housing land supply. The third main issue is the effect on the character and appearance of the countryside.

187. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan, unless material considerations indicate otherwise. I consider that the policies already referred to in the LP to be the most relevant to the consideration of the appeal. [22,23,24,25,26,27,34, 53,54,88,89]

188. I consider the Framework to be an up to date expression of Government Policy. Framework paragraph 14 advises that where relevant policies of the development plan are out of date, planning permission should be granted 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; or where specific policies of the Framework indicate that development should be restricted. [30,31,32,33,34,35,39,88]

## **Sustainability**

189. The National Planning Policy Framework (the Framework) explains that the purpose of the planning system is to contribute to the achievement of sustainable development. [32,33] This is defined as meeting the needs of the present without compromising the ability of future generations to meet their own needs. There are three dimensions to sustainable development. These are environmental, social and economic. [35]

### *Environmental*

190. The two schemes would comprise a maximum of some 320 homes. [47] Although concerns have been expressed locally about ecological matters, there have been ecological assessments of the sites. Local ponds have been surveyed for Great Crested Newts but none were found recently and there is nothing to suggest a significant population. The surveys have revealed that the unused agricultural land has little ecological importance. [20,49,50,100,101,102,103,104,109]

191. The Council has issued a screening opinion that the development is not Environmental Impact Assessment development. [42] Furthermore, planning permission has been granted for development on the Gladman site for a caravan park. [43]

192. The conditions discussed at the Inquiry would ensure a habitat and landscape management plan. Trees and hedgerows can be, for the most part, retained. Frontage hedgerows to be removed for highway works can be replaced behind visibility splays. Brook Wood and Wrongway Brook would be protected. [118,100,101,102,103,104,106]

193. Common toads and Great Crested Newts would be subject to a mitigation strategy and the three ponds on the two sites would be retained. There would be no clearance of trees and shrubs in the bird nesting season. Ecological diversity could be improved by the developments. [104,109]

194. Much concern has been expressed by local residents about the potential effect on flooding locally. [123,129,130,131,133,136,137,138,160] Also evidence was submitted about surface water drainage problems nearby. Nonetheless, neither the EA nor UU have objected to the schemes. This follows detailed discussions with the appellants in respect of Flood Risk Assessments that were amended during the progress of the planning applications. [54,111,112,113,114]

195. Although the LPP0 makes reference to foul water capacity issues, no further elucidation was provided on that point by the Council to lead me to conclude that this was a fundamental impediment to development. [113,172] All foul and surface drainage matters would be subject to later control by planning conditions.

It is intended that the schemes will not make any existing problems any worse. [112,235]

*Social*

196. The development would provide a significant supply of housing that would include a substantial amount of affordable housing that would contribute to meeting local needs. That would be well integrated with market housing. [47,85,86]
197. The location of the site is outside the boundary of Kirkham. Manual for Streets defined a walkable neighbourhood as being typically characterised by having a range of facilities within 10 minutes or up to about 800m walking distance of residential areas which residents without mobility impairments may access comfortably on foot. However this is not an upper limit and the appellants identify a wide range of facilities with the 2km range. [58]
198. There are some facilities within a 10 minute isochrone. There is a shop at Ribby Hall Holiday village that is open to all and would provide for many daily requirements including, bread, milk, newspapers and tobacco, as well as ingredients for making meals, ready meals and basic staple items such as breakfast cereals, tea and coffee, cat and dog food. There are also some gift items for sale. There is a café, restaurant, hotel and leisure facilities and meeting rooms within walking distance. Whilst this is a holiday village, it would provide some employment and facilities for future residents within walking distance. [21,58,91]
199. There are also two further restaurants in walking distance. There is employment land opposite and a caravan park offering some scope for employment. There is additional employment at St Georges Park accessible via the public footpath. Land to the north of the two sites may also, in time, be developed for employment purposes. [5,19,21,37]
200. Schools are dispersed, but there is a public school close by. The local schools have capacity for the children from the developments. [11,115] Play facilities would be provided on site in accordance with the council's standards. This would be provided for in the conditions and UUs. [235] There are also local recreation facilities. [58]
201. Most local amenities are in Kirkham town centre. The town centre is more than 800m distant but it would not be much more than that distance from the Bloor site. Furthermore, there would be opportunity for joint trips, even though they would be above the preferred maximum distances. [58]
202. The developments would provide on-site cycle facilities as well as improve cycle routes off site. Provision can be made so that there is safe pedestrian and cycle access to the site, including pedestrian refuges on Blackpool Road and a Puffin Crossing on the A585. Amendment to the route of the public footpath would improve access to the St Georges Roundabout. Further improvements would be made to local footpath routes. [57,59,60,62,63,64,65]
203. 400m is the maximum walking distance to bus stops recommended nationally by the Institute of Highways and Transportation *Guidelines for Planning for Public Transport in Developments*. Bus stops would be provided within that distance and a bus service would be subsidised. There are further bus stops outside Ribby

Hall Village. A Residential Travel Plan would encourage sustainable modes of transport.[66,68,239,247]

204. The schemes have also been assessed as to the safety of their accesses. I acknowledge the number and location of traffic accidents locally. Nevertheless, these are not of specific cause, and a speed survey will be funded by the developments to assess the need for reduced speed limits locally.[60,67]
205. Both Transport Assessments considered the accessibility of the sites to local services and facilities. Provision has been made to improve accessibility of the two sites. The highway provisions were accepted by the Highway Authority and the Council. Whilst many concerns were expressed by local residents, I see no reason to disagree with the thorough assessments of the appellants and the two Councils.[57,58,59,60-69]

### *Economic*

206. The development would create construction jobs, although this would be a short term benefit, there are many locally who need such work. The development would also bring people into the area which would be a continuing economic benefit that would support growth in the local economy. There would also be New Homes Bonus payments made.[93-97]
207. I conclude that the schemes would comprise sustainable development that would accord with national planning policy.

### **Housing land supply**

208. It is common ground that the Council does not have a 5 year housing land supply. The undersupply is significant and is of substantial weight in the consideration of these two appeals.[53,70-77,79]
209. The relevant policies of the LP are not up-to-date because the Council cannot demonstrate a five year supply of deliverable housing sites as required by the Framework.[31,88] The supply, even if the Councils figures are adopted, which would make up the shortfall over a significant period of time, and which I consider would not be the most desirable route, would only amount to 3.1 years housing land.[53,70-77]
210. I acknowledge the difficult position that the Council faced when the RS increased housing requirements locally, after the period of restraint imposed by the SP.[23] Nevertheless, the LP, including its settlement limits was published prior to the RS. That RS latterly sought to secure substantially more housing than was identified in the LP.[28,29]
211. Although the RS has been revoked, there are no other more recently and objectively assessed housing requirement figures, nor is there anything to suggest that the Council will, in the near future, or at all, adopt a significantly lower figure in any forthcoming Local Plan.[36,71]
212. The weight that can be attributed to the emerging LPPO is limited since it has not been prepared for submission for examination or been examined by an independent Inspector. From the evidence presented by objectors to the appeal proposals, there is likely to be opposition to its draft policies.[36-39,124,126,148,152]

213. Nonetheless, it is material that the LPPO would continue a much higher level of housing land supply than included in the LP. This is shown to require housing land allocations on greenfield sites outside current settlement limits. The appeal sites are shown as part of a larger mixed use allocation on mainly greenfield land in the LPPO. The LPPO is based on a very similar figure to the RS. [36-38,52,92,117]
214. It is also material that the housing allocation options that are available to the Council are constrained because of the need to protect the long term integrity of the Fylde Green Belt and because of the desire of the Council, in accordance with Government policy, to propose development in sustainable locations. [91]
215. Although the Framework encourages the effective use of previously developed land, and local residents suggested alternative brownfield sites, these are not for consideration in these appeals. The Framework does not preclude the development of greenfield sites. Furthermore, the Framework seeks to significantly boost the supply of housing. [121,30-34,125]
216. The CPRE argues that the supply of housing land is adequate, but the way that the CPRE has calculated their figures relies on the Household Formation Figures 2011 that are only one part of the analysis. The RS is based on the last independent assessment. What might be an acceptable approach in West Lancashire might not be the right approach in Fylde. [168-171,70-77]
217. The shortfall should be made up as quickly as possible to accord with the aspirations of the Framework to significantly boost the supply of housing. Because the development would provide for affordable housing and there is a substantial need for affordable housing locally, this would be another factor that would weigh heavily in favour of the scheme. [30,82-86]
218. The provision of affordable housing that would be secured by conditions would be based on need and whilst the RS has been revoked and there is no extant policy now applicable, its provision would accord with Government aspirations to deliver a wide choice of high quality homes in inclusive and mixed communities to meet the needs of different people. [84-86]
219. I am satisfied that the schemes could provide a good mix of housing including affordable housing. There is no reason to suppose that details submitted pursuant to outline permissions would not represent high quality housing development, providing good living conditions for future residents. There is nothing to suggest that the schemes would not be delivered. [45,81]
220. My conclusions are consistent with other Inspectors and that of the Secretary of State in other appeals referred to in representations. [76,81]
221. I conclude that relevant LP policies are out of date but that the development would comply with national planning policy in respect of housing land supply.

### **Character and appearance**

222. The Framework recognises the intrinsic character and beauty of the countryside. Whilst the sites are in countryside, they are opposite a ribbon of housing and other development stretching from the junction with Ribby Road and so the dwellings would not be isolated or away from all other development. [21]

223. Neither site has any special landscape significance or designation.[20] Appeal site A also has an extant planning permission for a touring caravan park, manager's accommodation and ancillary storage, which would significantly alter the character and appearance of that land, including providing a new access.[43]
224. I acknowledge nevertheless the value placed by local residents on the countryside setting of the approach to Kirkham. Also local residents value their views from dwellings opposite the two sites. There are also open views of appeal Site B from the public footpath to the east. The character and appearance of the site would change significantly.[5,18-20,125,135,159,160,165,173]
225. However, there are opportunities to incorporate attractive green link features including along the public footpath. The woodland management near the Wrongway Brook corridor could enhance the attractiveness and diversity of that area. The ponds could be effectively managed retain these attractive features and maintain their biodiversity.[99-105,109]
226. There are mature hedgerows to boundaries including trees that are covered by tree preservation orders. These trees would be retained except in respect of woodland to the west which the Council has previously agreed could be removed.[109]
227. There would only be two accesses to the two sites. Where visibility splay would require hedgerow removal, these could be replanted behind the splays. This would take a few years to mature, but not so long that the effects could be considered anything other than temporary.[13,106,119]
228. There is no reason to conclude that the dwellings would not be effectively screened by hedgerows since this approach has been successfully adopted on another residential estate nearby.[5,56,106] Effective pedestrian and cycle links could be inside the frontage hedgerow in order to secure most of its retention. By all these means the dwellings could be effectively screened in the wider landscape.
229. I conclude that the schemes would not harm the character and appearance of the area.

### **Conditions**

230. The Council and the appellants produced two agreed lists of similar relevant conditions at the Inquiry. These were subject to a round table discussion. Conditions that I have revised subsequent to that discussion are included at Annex A and B. The numbering is the same for similar conditions. These reflect the discussion. I have considered the conditions against the advice in DOE Circular 11/95: *The Use of Conditions in Planning Permissions*.
231. In accordance with my earlier conclusions I shall not include reference to plan DWG1482-VPC 1C in any condition. I shall not refer either to any submitted parameters or master plan. That does not preclude the Council determining any reserved matters details as they see fit.
232. Condition 4 is required to secure sustainable construction. Conditions 5 and 6 are required to ensure satisfactory connectivity to adjacent land. Condition 7 is required to promote sustainable modes of travel.



233. Conditions 8,9 and 20 are required in the interests of highway safety. Condition 10 is required in the interests of the character and appearance of the area.
234. Conditions 12, 12 and 16 are all necessary on the interests of the character and appearance of the area and for nature conservation.
235. Conditions 13, 14 and 15 are required in the interests of nature conservation. Conditions 17 and 18 are to secure adequate foul and surface water drainage. Condition 19 would secure remediation in the event of contamination being found. Condition 20 would ensure the provision of affordable housing as provided for in both of the proposals. Condition 22 would secure adequate open space in the interests of future residents living conditions.

### **Obligations**

236. The appellants had been preparing Unilateral Undertaking in dialogue with the Council and Lancashire County Council for some time before the opening of the Inquiry. Two UUs were submitted at the Inquiry.<sup>73</sup> These were subject to discussion at the Inquiry in respect of their compliance with Community Infrastructure Regulation 122. Following the Inquiry, Land Registry documents were submitted to prove title.<sup>74</sup>
237. The appellants have reached agreement between themselves as to payment for the UU provisions and both UUs have similar provisions.
238. They make a footbridge contribution (£30,000), footpath diversion contribution (£40,000) and footpath upgrade contribution (£40,000) at the occupation of the 25<sup>th</sup> dwelling. This would allow for some income to be accrued from the development before those contributions were made.
239. The public transport contribution of £50,000 would be provided every year for five years from the 1<sup>st</sup> occupation of a residential dwelling on either site. A travel plan contribution of £6000 by Bloor and £12,000 by Gladman would be paid to the County Council to monitor the travel plans. All of these provisions are to improve accessibility of the sites.
240. A contribution of £5,000 would be paid to review and implement any change to the 50 mile per hour speed limit in Blackpool Road. This is in the interests of highway safety.
241. Details of open space and arrangements for its maintenance are to be submitted to and approved by the Council. That is to be laid out prior to 75% occupation. It is to thereafter be maintained by the owner unless any other arrangements are approved by the Council. This seeks to ensure that adequate open space is provided and maintained for future residents.
242. The County Council submitted to the Inquiry a written justification for its provisions in respect of the contribution towards the bus service, pedestrian and cycle routes, and travel plans, integrated transport provision, and improvements

---

<sup>73</sup>SD29 and SD30

<sup>74</sup>SD33 Land Registry documents

- to a play area.<sup>75</sup> There is also a Table 1330/2 that summarises the S106 Highway improvements.<sup>76</sup> The size of the developments is sufficient to require Travel Plans. These need to be monitored and supported, for which the fees are required as set out in the Council's Planning Obligations in Lancashire paper September 2008.<sup>77</sup>
243. The upgrades to cycle and pedestrian routes would improve the accessibility of the two sites. The costs are based on experience of similar schemes elsewhere. The funding for the bus service is what would be required to ensure that the County Council would provide match funding as the current contract to operate the service 75 is due to expire in the next 12 months and without the contribution. Its provision from the first occupation of the first dwelling would ensure its provision from the outset for residents.
244. There is a necessity clause in each UU which would ensure that if any of its provisions were found to be illegal, unlawful, void or unenforceable that it would be severed from the deed.
245. I am satisfied from the representations made that the provisions fulfil the requirements of Regulation 122 of the CIL Regulations, and the tests of the Circular 05/2005: *Planning Obligations*. They are necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development. The Unilateral Undertaking should therefore be taken into account in the Secretary of State's decision.
246. Further highways improvements would be provided via S278 agreements. These would secure 3 pedestrian refuges on Blackpool Road. A footpath on the north side of Blackpool Road could be provided and this would not necessarily have to be directly adjacent to Blackpool Road.
247. A puffin crossing would be introduced on the A585 north.<sup>78</sup> Various cycle and footpath improvements would take place. Junction improvements as shown on 1330/03 Rev B and 1330/04 Rev A would be carried out. Two new bus stops would be provided on Blackpool Road, one on either side. These provisions are commensurate with the scale and nature of the development and all serve to improve the accessibility of the sites.

## Recommendations

248. The relevant LP policies are out of date. The developments would bring substantial benefits in respect of the provision of housing in a sustainable location. Whilst there would be a loss of countryside, both developments can be satisfactorily landscaped. The developments would comply with the Framework because there would not be adverse impacts of granting planning permission that would significantly and demonstrably outweigh the benefits when assessed against the Framework taken as a whole.

---

<sup>75</sup>SD27

<sup>76</sup>SD26

<sup>77</sup>SD25

<sup>78</sup>1330/03 Rev B

249. Having regard to all my findings, I recommend that both the appeals be allowed and I recommend that planning permission be granted. If the Secretary of State is minded to agree with my recommendations, Annex A and B list the conditions that I consider should be attached to any permissions granted.

*Julia Gregory*

INSPECTOR

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Jonathon Easton	Of Counsel
He called no witnesses, but Mark Evans	Represented the Council in the round table session to discuss conditions and obligations.
Rachel Crompton	On behalf of Lancashire County Council made explanatory representations about obligation requirements

### FOR THE APPELLANTS:

John Barrett and Richard Kimblin	Of Counsel, jointly instructed by the appellants
They called	
Marc Hourigan	Hourigan Connolly
George Venning	Levvel Ltd
Dr Ricardo Gomez	Regeneris Consulting
Dr Rachel Roberts	TEP
Kit Patrick	TPM Landscape
Nick Lee	NJL Consulting LLP

### INTERESTED PERSONS OPPOSING THE PROPOSALS:

John Francis Smith	Local resident
Peter Silcock	Local resident
Cllr James Cameron	KirkhamTown Councillor but speaking as a local resident
Cllr Alan Clayton	Fylde Borough and Wesham Town Councillor. Speaking as a Town Councillor and local resident
Neal Donnelly	Local resident
Philip Langley	Local resident
Cllr Elaine Silverwood	Fylde Borough Councillor and Kirkham Town Councillor, speaking as a local resident and presenting statements for Jayne Ashley, Ron Matthews and Duncan Coppersthwaite
Cllr Keith Beckett	Fylde Borough Councillor speaking as a local resident
Cllr Linda Nulty	Fylde Borough Councillor
Richard Nulty	Local resident
Cllr Matt Mclver	Kirkham Town Councillor and chairman of Kirkham Development Forum
Cllr Elizabeth Oades	Fylde Borough Councillor speaking as a local resident and asking questions of the appellants witnesses
Cllr Heather Speak	Fylde Borough Councillor speaking as a local resident

Mary Fletcher	Local resident
Veronica Hardwicke	Local resident
Paul Batson	Local resident
John Westmoreland	Fylde CPRE

### **COUNCIL DOCUMENTS (The Council is not relying on these proof of evidence documents)**

CPOE1A	Summary of Proof of Evidence of Michal Atherton
CPOE1B	Proof of Evidence of Michal Atherton
CPOE2A	Summary of Proof of Evidence of Mark Damian Evans
CPOE2B	Proof of Evidence of Mark Damian Evans
CPOE3A	Summary of Proof of Evidence of Pauline Randall
CPOE3B	Plans and photographs of Pauline Randall
QA	Questionnaire folder documents Appeal A
QB	Questionnaire folder documents Appeal B
CA	Agenda Development Management Committee 13 march 2013

### **APPELLANTS DOCUMENTS**

APOE1	Proof of Evidence of Nick Lee NJL Consulting
APOE2	Proof of Evidence of Rachel Robert TEP
APOE3	Proof of Evidence of George Venning – Levvel Ltd
APOE4	Proof of Evidence of Ricardo Gomez
APOE5	Proof of Evidence of John Powell (witness not called)
APOE6	Proof of Evidence of Marc Hourigan- Hourigan Connelly
APOE7	Proof of Evidence of Kit Patrick- TPM Landscape
APDOC8	Addendum to Planning Statement of Common Ground

### **CORE DOCUMENTS**

CD1	Decision Notice 12/0419	13 <sup>th</sup> March 2013
CD2	Decision Notice 13/0076	13 <sup>th</sup> March 2013
CD3	Report to DMC 12/0419 and 13/0076	13 <sup>th</sup> March 2013
CD4	Late Observations Sheet DMC (Ref to 12/0419, 12/0653 and 13/0076)	13 <sup>th</sup> March 2013
CD5	Minutes DMC 13th March 2013	13 <sup>th</sup> March 2013
CD6	Statement of Common Ground (Highways) LCC, Gladman and Bloor Homes	11 <sup>th</sup> June 2013
CD7	Statement of Common Ground - FBC, Gladman and Bloor Homes	11 <sup>th</sup> June 2013
CD8	Fylde Borough Local Plan 1996 to 2006 (Extracts – Chap2 – SP02, Chap3 – HL2-HL6, Chap5, Chap6 – TREC17, Chap7, Chap9 – CF1, CF2)	
CD9	Schedules of Saved Policies	18 <sup>th</sup> September 2007

CD10	Schedules of Saved Policies	2 <sup>nd</sup> October 2008
CD11	Interim Housing Policy (as amended Feb 2013)	Feb 2013
CD12	FBC Five Year Housing Supply Statement at 7 <sup>th</sup> November 2012	Published December 2012
CD13	FBC Consultation Draft (Issues and Options) Statement Sep 2012	Oct 2012
CD14	FBC Local Plan to 2030 Part 1 (Preferred Option) (Extracts SL4 pgs 62 – 66, GD1 67 – 72, Plan – Strategic Locations for Development)	June 12 <sup>th</sup> 2013
CD15	FBC Local Plan to 2030 Part 1 - Sustainability Appraisal (SA) (Non-Technical Summary)	31 <sup>st</sup> May 2013
CD16	FBC Local Plan to 2030 Part 1 - Habitat Regulations Assessment (HRA) Screening Report (Extract Pg 1, para 5.3, 6 and Table 5.2)	3 <sup>rd</sup> June 2013
CD17	FBC Local Plan to 2030 Part 1 - Health Impact Assessment (HIA)	May 2013
CD18	FBC Local Plan to 2030 Part 1 – Developing Infrastructure Delivery Plan for Fylde	June 2013
CD19	FBC Local Plan to 2030 Part 1 - Rural Proofing Assessment	June 2013
CD20	FBC Strategic Housing Land Availability Assessment (SHLAA)	Base Date March 2012
CD21	Fylde Coast Strategic Housing Market Assessment (SHMA) Summary	April 2008
CD22	Communities and Local Government SHLAA Practice Guidance	July 2007
CD23	Fylde Emerging Housing Requirement Paper	2011
CD24	Housing Needs and Demands Study 2007	January 2008
CD25	Fylde Housing Need Assessment	2012
CD26	Fylde Strategic Housing Market Assessment	2012 update
CD27	Fylde Housing Land Availability Schedule	March 2012
CD28	The Fylde Coast Housing Strategy	2009
CD29	Fylde Employment Land Study (Executive Summary)	August 2012
CD30	Plan: SHLAA Definitive Sites Kirkham (1 of 2)	31 <sup>st</sup> March 2012
CD31	Ministerial Announcements/Statements	30 <sup>th</sup> April 2013 and 26 <sup>th</sup> March 2013
CD32	The National Planning Policy Framework	March 2012
CD33	The National Planning Policy Framework: Technical Guidance	March 2012

CD34	Circular 11/95 Planning Conditions	20 <sup>th</sup> July 1995
CD35	APP/V3310/A/11/2159400 Cavana Homes SoS Decision and IR	23 <sup>rd</sup> August 2012
CD36	APP/H2835/A/12/2182431 Irchester Decision	5 <sup>th</sup> June 2013
CD37	Community Infrastructure Levy Regs 122, 123	2010 (as amended)
CD38 (1)	Landscape Strategy for Lancashire: Landscape Character Assessment (Extracts)	2000
CD38 (2)	Landscape Strategy for Lancashire: The Strategy (Extracts)	2000
CD39	2196027: Bloor Homes Landscape Appraisal	June 2012
CD40	2192188: Gladman Landscape & Visual Impact Assessments	
CD41	2196027: Bloor Homes Design and Access Statement	June 2012
CD42	2196027: Bloor Homes Access General Arrangement Drawing 91634-F01	May 2010
CD43	2192188: Gladman Design and Access Statement	October 2012
CD44	2192188: Gladman Access Drawing 1330 02A	Sep 2012
CD45	2192188: Development Framework Plan DF01	July 2012
CD46	2196027: Development Principles Drawing 1482 – DP2	June 2012
CD47	2196027: Ecological Assessment	June 2012
CD48	No CD48	
CD49	2192188: Arboricultural Assessment	Oct 2012
CD50	2196027: Constraints and Opportunities Plan 1482-02a	
CD51	2192188: Feasibility Masterplan	
CD52	Bath and North East Core Strategy extract	
CD53	APP/F1610/A/10/2130320 Cala Management Ltd Moreton in Marsh	26 <sup>th</sup> January 2011
CD54	APP/C1760/A/10/2140962 Wates Developments Limited Andover, Hampshire	20 <sup>th</sup> May 2011
CD55	APP/H1840/A/12/2171339 Lioncourt Homes (Honeybourne) LLP; and E, J, M and H Westoby	24 <sup>th</sup> August 2012
CD56	APP/Y2810/A/12/2174386 Hallam Land Management Long Buckby, Northamptonshire	19 <sup>th</sup> October 2012
CD57	APP/U4230/A/11/2157433 Peel Investments Ltd. Burgess Farm, Worlsey	16 <sup>th</sup> July 2012
CD58	APP/B1930/A/12/2180486 Harpenden	12 <sup>th</sup> March 2013

	Road, St Albans	
CD59	APP/M2325/A/09/2103453 Land south of Queensway, St Annes	21 <sup>st</sup> Jun 2012
CD60	APP/X0360/A/11/2151409 Land west of Shinfield Wokingham	22 <sup>nd</sup> October 2012
CD61	APP/X0360/A/11/2157754 Kentwood Farm Wokingham	2 <sup>nd</sup> July 2012
CD62	APP/D2320/A/10/2140873 Fox Land and Property Clayton-le-Woods	21 <sup>st</sup> July 2011
CD63	Correspondence from Gladman to Bloor agreeing to jointly contribute to highway improvements (13.11.12 Gladman & 30.01.13 NJL on behalf of Bloor)	13.11.2012 30.01.2013
CD64	Draft Statement of Common Ground (Ecology)	undated
CD65	Email correspondence NJL to FBC no reference to comprehensive development (Bloor)	17.08.12-27.11.12
CD66	Email correspondence Croft & LCC (Bloor)	14 <sup>th</sup> February 2013
CD67	Email correspondence Ecology & LCC (Bloor)	31 <sup>st</sup> October 2012
CD68	Illustrative Comprehensive Masterplan	June 2013
CD69	Correspondence Environment Agency – confirming no objection to Bloor Site	2 <sup>nd</sup> August 2012
CD70	Correspondence UU – confirming no objection to Bloor site	7 <sup>th</sup> August 2012
CD71	Correspondence Electricity North West – confirming no objection to Bloor Site	23 <sup>rd</sup> July 2012
CD72	Third Party business responses in support of Bloor Scheme	October 2012
CD73	GCN Mitigation Statement – Bloor Site	October 2012
CD74	FBC Policy Response – Mark Sims – Bloor Site	7 <sup>th</sup> June 2012
CD75	Emails: Bloor Homes Bedroom Mix	April 2013
CD76	Gladman Site Bedroom Mix EPDS Report pg 3	28 <sup>th</sup> January 2013
CD77	05/0878: Landscape Plan SK01	March 2005
CD78	APP/M2325/A/05/1194806: 05/0878 Caravan Park Decision Letter	16 <sup>th</sup> March 2006
CD79	12/0035: DMC Report and Minute	11 <sup>th</sup> April 2012
CD80	12/0376: DMC Report and Minute	10 <sup>th</sup> October 2012
CD81	2192188: Location Plan	14 <sup>th</sup> June 2012
CD82	2196027: Location Plan	27 <sup>th</sup> June 2012
CD83	09/0654: Vehicular Access Application – FBC Committee Report and Decision Notice	18 <sup>th</sup> November 2009
CD84	12/0653: Screening Opinion	26 <sup>th</sup> October 2012
CD85	12/0419: Screening Opinion	7 <sup>th</sup> June 2012



**GLADMAN CORE DOCUMENTS**

GCD 1.1	Application covering letter, application form and certificates
GCD 1.2	Site Location Plan (Including Application red Line)
GCD 1.3	Topographical Survey Final
GCD 1.4	Development Framework Plan
GCD 1.5	Illustrative Master Plan
GCD 1.6	Constraints and Opportunities
GCD 1.7	Design and Access Statement
GCD 1.8	Landscape and Visual Assessment
GCD 1.9	Transport Assessment
GCD 1.10	Travel Plan
GCD 1.11	Ecological Report
GCD 1.12	Arboricultural Assessment
GCD 1.13	Phase 1 Geoenvironmental Assessment
GCD 1.14	Flood Risk Assessment
GCD 1.15	Air Quality Report
GCD 1.16	Noise Assessment
GCD 1.17	Archaeological Desk Based Assessment
GCD 1.18	Utilities Appraisal and Infrastructure Report
GCD 1.19	Renewable Energy Statement
GCD 1.20	Statement of Community Involvement
GCD 1.21	Soil Resource and Agricultural Use
GCD 1.22	Initial Review of Affordable Housing
GCD 1.23	Socio Economic Impacts Assessment
GCD 1.24	Planning Statement
GCD 1.25	S106 Heads of Terms
GCD 2.1	Updated transport Assessment and drawings
GCD 2.2	Updated travel Plan Full
GCD 2.3	Revised Flood Risk Assessment
GCD 2.4	Education Impact Assessment

GCD 2.5	Education Impact Assessment Appendices A-H
GCD 3.1	Acknowledgement of the application
GCD 3.2	GDL to FBC Policy Response
GCD 3.3	GDL to FBC- chasing progress on consultee responses
GCD 3.4	GDL to FBC – Updates transport Assessment
GCD 3.5	GDL to FBC – Ecology
GCD 3.6	GDL to FBC –re Strategic Highways
GCD 3.7	GDL to FBC – re statutory consultee responses
GCD 3.8	Environment Agency to FBC re Flood Risk Assessment
GCD 3.9	FBC to LCC Strategic Highways re formal response
GCD 3.10	FBC to GDL re outstanding consultee matters
GCD 3.11	GDL to FBC re Education contributions
GCD 3.12	LCC Strategic Highways to FBC re Highways response
GCD 3.13	GDL to FBC re Planning Committee date
GCD 3.14	FBC and Planning Inspectorate re Inquiry
GCD 4.1	LCC to GDL- Delay in providing highway observations
GCD 4.2	LCC to GDL correspondence re timing of consultee response
GCD 4.3	LCC to FBC Planning Officer- consultee response and comments added in red by GDL and blue by LCC
GCD 4.4	Email correspondence GDL and LCC chasing progress
GCD 4.5	GDL and LCC correspondence re contributions and sharing costs with Bloor Homes
GCD 4.6	Ashley Helme to LCC- email, drawings and Road Safety Audit Stage 1
GCD 5.1	LCC to FBC Education request
GCD 5.2	FBC to GDL correspondence re education request
GCD 5.3	Email GDL to FBC requesting Education Contribution Document
GCD 5.4	Correspondence EPDS (Oliver Nicholson) top FBC/LCC attaching GDL Education Report
GCD 5.5	LCC Education Assessment
GCD 5.6	Correspondence with LCC Housing development Contributions Officer
GCD 6.1	FPCR to GDL re No ecology response

GCD 6.2	Email from FBC (Mike Atherton) advising that mitigation measures may be required
GCD 7.1	Letter from Philip Carter (EA Planning Officer) setting out objections on grounds of biodiversity and flood risk
GCD 7.2	Letter from GDL (Paul Roberts) to Philip Carter (EA)
GCD 7.3	Email correspondence between GDL and EA clarifying culverting proposal and confirming objection will be removed
GCD 7.4	Letter from EA to FBC confirming removal of objections subject to specified conditions
GCD 8.1	Letter from Fiona Riley- FBC Planning Policy Officer
GCD 9.1	Letter from UU to FBC proposing conditions
GCD 9.2	Letter from GDL (Paul Roberts) to Lesley Johnson (UU)
GCD 9.3	Emails UU to GDL confirming original conditions to stand
GCD 10.1	Email from Weeton with Preese Parish Council- no specific objection
GCD 10.2	Letter from Kirkham Town Council confirming objection
GCD 10.3	Letter from Medlar with Wesham Parish Council confirming objection
GCD 10.4	Email from Westby with Plumpton Parish Council confirming objection
GCD 10.5	Letter from Kirkham Town Council confirming objection
GCD 10.6	Email from Clerk to Ribby with Wrea Parish Council confirming objection
GCD 10.7	Letter from CPRE Lancashire Fylde District Group setting out grounds for objections

## DOCUMENTS SUBMITTED AT THE INQUIRY

- SD1 Appearances on behalf of the Appellants
- SD2 Appeal publicity documents
- SD3 Request to speak- Heather A Speak
- SD4 Request to speak Richard Nulty
- SD5 Submissions on behalf of the Appellants
- SD6 Briefing note from NJL Consulting
- SD7 Position statement on behalf of Fylde Borough Council
- SD8 Bundle of representations from interested parties
- SD9 Map and photographs of flooding submitted by Mr Langley
- SD10 Map showing location of collisions locally and 3 statements from local residents submitted by Cllr Silverwood
- SD11 Letter and photographs from Cllr Beckett. Also data stick with video.
- SD12 Email correspondence between Cllr Beckett and United Utilities
- SD13 Statement of Cllr Linda Nulty
- SD14 Statement of Richard Nulty

- SD15 Statement of Mary Fletcher
- SD16 Statement of John Westmoreland on behalf of CPRE Lancashire Fylde District Group
- SD17 Document list for the evidence of Nick Lee
- SD18 Joint note on Housing Land Supply
- SD19 Response by Fylde Borough Council to CPRE Pre-Inquiry Representation 20 June 2013
- SD20 Response from Appellants to CPRE Pre-Inquiry Representation 20 June 2013
- SD21 Reassessment of Mr Hourigan's Proof of Evidence taking into account the Proof of Evidence of Mr Evans
- SD22 Extract from SEA and SA for LPPO - Policy SL4
- SD23 LPPO
- SD24 Appeal decisions APP/P4225/A/12/2184755 and 2186703
- SD25 Planning Obligations in Lancashire Policy Paper Lancashire County Council July 2006
- SD26 Summary of S106 Highway improvements and Summary of S278 Highways improvements
- SD27 Email from Rachel Crompton Lancashire County Council dated 2 July 2013 to explain S106 transport requirements
- SD28 Bundle of draft UUs
- SD29 Gladman Developments Limited UU dated 2 July 2013
- SD30 Bloor Homes UU dated 2 July 2013
- SD31 Bundle of draft conditions lists
- SD32 Final conditions discussed at the Inquiry
- SD33 Land Registry information submitted after the close of the Inquiry

## **Annex A**

### **Conditions Appeal A (Gladman Developments Ltd)**

- 1) Application for approval of the reserved matters including phasing of the development shall be made to the local planning authority not later than three years from the date of this permission.
- 2) The development hereby permitted 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; or (b) the expiration of one year 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.
- 3) 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 begins and the development shall be thereafter be carried out as approved.
- 4) The dwellings hereby approved shall be constructed in accordance with Code Level 3 as set out in the Code for Sustainable Homes.
- 5) The layout submitted as part of any reserved matters application shall include details for the provision of pedestrian, cycle and wildlife corridor routes through the site from the northern boundary to the eastern boundary, including a linkage to the ponds in the centre of the site and a linkage to the south of the site to the eastern boundary. The development shall thereafter be implemented in accordance with the approved details.
- 6) The layout submitted as part of any reserved matters application shall include details of a vehicular route to be provided from the site to the northern boundary of the site. The development shall thereafter be implemented in accordance with the approved details.
- 7) Prior to the first occupation of any dwelling, an Interim Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to the occupation of the 50th dwelling, a Final Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. This Final Travel Plan shall include objectives, targets, mechanisms and measures to achieve targets and implementation timescales, monitoring and review provisions and provide for the appointment of a travel plan co-ordinator. The development shall thereafter be implemented in accordance with the approved Travel Plan.
- 8) No part of the development hereby permitted shall commence until a scheme for the provision of vehicular access and highway infrastructure improvements has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out only in accordance with the approved scheme.
- 9) Further to the approved access location as shown on Plan 1330/02 Rev B, no part of the development hereby permitted shall commence until a scheme showing the details of the precise location of the visibility splays has been submitted to and approved in writing by the local planning authority and the development shall be implemented thereafter in accordance with the approved details.

- 10) A landscape scheme for the replacement of any hedgerow required to be removed as part of the formation of the visibility splays shall be submitted to and approved in writing by the local planning authority and implemented thereafter in accordance with the approved details and prior to first occupation of the first dwelling.
- 11) Prior to the commencement of the development, a habitat and landscape management plan which shall include lighting proposals, shall be submitted to and approved by the local planning authority. The development shall be carried out only in accordance with the approved habitat and landscape management plan.
- 12) The development shall not commence until a scheme for the future protection of Wrongway Brook has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include measures for the protection of retained habitats during both construction and operation of the development and shall include proposals for the protection of protected and priority species and their habitat. The development shall thereafter be carried out strictly in accordance with the approved scheme.
- 13) The development shall not commence until a common toad mitigation strategy has been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved scheme.
- 14) The development shall not commence until a Great Crested Newt mitigation strategy has been submitted to and approved in writing by the Local planning authority. The development shall be implemented in accordance with the approved strategy.
- 15) No clearance of trees and shrubs in preparation for (or during the course of) development shall take place during the bird nesting season (March - August inclusive) unless a bird nesting survey has been submitted to and approved in writing by the Local Planning Authority to establish whether the site is utilised for bird nesting. Should the survey reveal the presence of any nesting species, then no development shall take place within those areas identified as being used for nesting during the period specified above.
- 16) No development shall commence until details of the existing trees and hedgerows to be retained, together with details of their protection during the course of construction, have been submitted to and approved in writing by the local planning authority. The development shall be carried out only in accordance with the approved details and any protective fencing shall be installed prior to construction work commencing and retained during the construction period.
- 17) The development hereby permitted shall not commence until a scheme for the disposal of foul water, including details of any off-site works has been submitted to, and approved in writing by the Local Planning Authority. The approved scheme(s) shall be fully implemented and subsequently maintained in accordance with the timing arrangements within the approved scheme.
- 18) No dwelling hereby permitted shall be occupied until surface water drainage works have been implemented in accordance with details that shall have been submitted to and approved in writing by the local planning authority. Before these details are submitted an assessment shall be carried out of the potential

for disposing of surface water by means of a sustainable drainage system and the results of the assessment provided to the local planning authority. If that assessment establishes that such a system can be provided, it shall be so provided. Details of such a scheme shall be submitted to and approved in writing by the local planning authority before the development commences and shall: provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters; include a timetable for its implementation; and provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

- 19) No part of the development hereby permitted shall be commenced on site unless and until: a) a site investigation has been designed for the site using the information obtained from the desktop investigation previously submitted in respect of contamination. This shall be submitted to and approved in writing by the Local Planning Authority prior to the investigation being carried out on the site; and b) The site investigation and associated risk assessment have been undertaken in accordance with details submitted to and approved in writing by the Local Planning Authority; and c) A method statement and remediation strategy, based on the information obtained from 'b' above, including a programme of works, have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved remediation strategy.
- 20) Prior to the commencement of development a Construction Plan shall be submitted to and approved in writing by the Local Planning Authority. The Plan shall include method and details of construction including vehicle routing to the site, construction traffic parking and any temporary traffic management measures, times of construction, access and deliveries. Such a Construction Plan shall be implemented and adhered to during the construction of the development.
- 21) 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 the NPPF or any future guidance that replaces it. The scheme shall include: the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of 30% of the housing units; the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing; the arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing (if no Registered Provider is involved); the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and 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.
- 22) The development shall not commence until a scheme for the provision and maintenance of the public open space provided as part of the development has

been submitted to and approved in writing by the local planning authority. The development shall be carried out only in accordance with the approved scheme.



## **Annex B**

### **Conditions Appeal B (Bloor Homes North West Ltd)**

- 1) Application for approval of the reserved matters including phasing of the development shall be made to the local planning authority not later than three years from the date of this permission.
- 2) The development hereby permitted 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; or (b) the expiration of one year 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. For those matters not reserved for later approval, the development hereby permitted shall be carried out substantially in accordance with the following approved plan: Indicative Parameters Plan 1482-DP2-6Jun12.
- 3) 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 begins and the development shall thereafter be carried out as approved.
- 4) The dwellings hereby approved shall be constructed in accordance with Code Level 3 as set out in the Code for Sustainable Homes.
- 5) The layout submitted as part of any reserved matters application shall include details for the provision of pedestrian, cycle and wildlife corridor routes through the site from the western boundary to the eastern boundary of the site, including a linkage to the pond to the south of the site. The development shall thereafter be implemented in accordance with the approved details.
- 6) The layout submitted as part of any reserved matters application shall include details of the vehicular route to be provided from the site to the eastern boundary of the site. The development shall thereafter be implemented in accordance with the approved details.
- 7) Prior to the first occupation of any dwelling, an Interim Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to the occupation of the 50th dwelling, a Final Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. This Final Travel Plan shall include objectives, targets, mechanisms and measures to achieve targets and implementation timescales, monitoring and review provisions and provide for the appointment of a travel plan co-ordinator. The development shall thereafter be implemented in accordance with the approved Travel Plan.
- 8) No part of the development hereby permitted shall commence until a scheme for the provision of vehicular access and highway infrastructure improvements has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out only in accordance with the approved scheme.
- 9) Further to the approved access location as shown on Plan 91634-F01, no part of the development hereby permitted shall commence until a scheme showing the details of the precise location of the visibility splays has been

submitted to and approved in writing by the local planning authority and the development shall be implemented thereafter in accordance with the approved details.

- 10) A landscape scheme for the replacement of any hedgerow required to be removed as part of the formation of the visibility splays shall be submitted to and approved in writing by the local planning authority and implemented thereafter in accordance with the approved details and prior to first occupation of the first dwelling.
- 11) Prior to the commencement of the development a habitat and landscape management plan which shall include lighting proposals shall be submitted to and approved by the local planning authority. The development shall be carried out only in accordance with the approved habitat and landscape management plan.
- 12) The development shall not commence until a scheme for the future protection of Brook Wood and Wrongway Brook has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include measures for the protection of retained habitats during both construction and operation of the development and shall include proposals for the protection of protected and priority species and their habitat. The development shall thereafter be carried out strictly in accordance with the approved scheme.
- 13) The development shall not commence until a common toad mitigation strategy has been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved scheme.
- 14) The development shall not commence until a Great Crested Newt mitigation strategy has been submitted to and approved in writing by the Local planning authority. The development shall be implemented in accordance with the approved strategy.
- 15) No clearance of trees and shrubs in preparation for (or during the course of) development shall take place during the bird nesting season (March - August inclusive) unless a nesting bird survey has been submitted to and approved in writing by the Local Planning Authority to establish whether the site is utilised for bird nesting. Should the survey reveal the presence of any nesting species, then no development shall take place within those areas identified as being used for nesting during the period specified above.
- 16) No development shall commence until details of the existing trees and hedgerows to be retained together with details of their protection during the course of construction have been submitted to and approved in writing by the local planning authority. The development shall be carried out only in accordance with the approved details and any protective fencing shall be installed prior to construction work commencing and retained during the construction period.
- 17) The development hereby permitted shall not commence until a scheme for the disposal of foul water, including details of any off-site works has been submitted to, and approved in writing by the Local Planning Authority. The approved scheme(s) shall be fully implemented and subsequently maintained in accordance with the timing arrangements within the approved scheme.

- 18) No dwelling hereby permitted shall be occupied until surface water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the local planning authority. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system and the results of the assessment provided to the local planning authority. If that assessment establishes that such a system can be provided, it shall be so provided. Details of such a scheme shall be submitted to and approved in writing by the local planning authority before the development commences and shall: provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters; include a timetable for its implementation; and provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 19) No part of the development hereby permitted shall be commenced on site unless and until: a) a site investigation has been designed for the site using the information obtained from the desktop investigation previously submitted in respect of contamination. This shall be submitted to and approved in writing by the Local Planning Authority prior to the investigation being carried out on the site; and b) The site investigation and associated risk assessment have been undertaken in accordance with details submitted to and approved in writing by the Local Planning Authority; and c) A method statement and remediation strategy, based on the information obtained from 'b' above, including a programme of works, have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved remediation strategy.
- 20) Prior to the commencement of development a Construction Plan shall be submitted to and approved in writing by the Local Planning Authority. The Plan shall include method and details of construction including vehicle routing to the site, construction traffic parking and any temporary traffic management measures, times of construction, access and deliveries. Such a Construction Plan shall be implemented and adhered to during the construction of the development.
- 21) The development shall not commence 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 the NPPF or any future guidance that replaces it. The scheme shall include: the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of 30% of the housing units; the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing; the arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing (if no Registered Provider is involved); the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and 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.

- 22) The development shall not commence until a scheme for the provision and maintenance of the public open space provided as part of the development has been submitted to and approved in writing by the local planning authority. The development shall be carried out only in accordance with the approved scheme.



## Department for Communities and Local Government

### **RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT**

**These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).**

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

#### **SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS;**

The decision may be challenged by making an application to the High Court under Section 288 of the Town and Country Planning Act 1990 (the TCP Act).

#### **Challenges under Section 288 of the TCP Act**

Decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged under this section. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application under this section must be made within six weeks from the date of the decision.

#### **SECTION 2: AWARDS OF COSTS**

There is no statutory provision for challenging the decision on an application for an award of costs. The procedure is to make an application for Judicial Review.

#### **SECTION 3: INSPECTION OF DOCUMENTS**

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the report of the Inspector's report of the inquiry or hearing within 6 weeks of the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.