

HOUSING LAND SUPPLY PROOF OF EVIDENCE OF MARK SAUNDERS MA(HONS) MRTPI

LAND ADJACENT BLAINSCOUGH HALL, COPPULL

PINS REFS: APP/D2320/W/21/3275691

LEA HOUGH AND CO LLP

SEPTEMBER 2021

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1.0 Introduction

- 1.1 This Proof of Evidence is submitted on behalf of Lea Hough and Co LLP (hereafter “the Appellant”) in respect of an appeal pursuant to Section 78 of the Town and Country Planning Act 1990 against Chorley Borough Council’s (hereafter “the Council”) refusal of planning consent for an outline planning application for a residential development at land at Blainscough Hall, to the south of Grange Drive, Coppull.

Qualifications and Experience

- 1.2 I am Mark Saunders, a Chartered Town Planner with 17 years’ experience in private practice having previously worked in Local Government. I am a Director of NJL Consulting (“NJL”) operating from offices in Manchester and Leeds. I hold a degree and a Masters in Town Planning and am a Member of the Royal Town Planning Institute.
- 1.3 I have significant experience in representing clients across the North West in relation to residential development working on behalf of housebuilders, affordable housing providers, developer and landowners/promoters.
- 1.4 I have been instructed by the appellant to provide planning advice since 2017 in relation to the appeal site. I am therefore very familiar with the appeal site and surrounding area and have visited on multiple occasions since that time.
- 1.5 I have provided representations to the emerging Central Lancashire Local Plan and am very familiar with the Development Plan policies for the Chorley Borough Council and Central Lancashire area and those of relevance to the application site proposals.
- 1.6 I understand my duty to the inquiry and have complied, and will continue to comply, with that duty. In accordance with the guidance of my professional institution, I can confirm that the evidence which I have prepared and provide to this appeal is true to the best of my knowledge and belief and identifies all facts/matters which I regard as being relevant to the opinion that I have expressed.

Approach to My Proof of Evidence

- 1.7 I have liaised with the Local Planning Authority with a view to narrowing as far as possible the issues in dispute between us. The agreed points of our respective positions are set

out in a separate Housing Supply Statement of Common Ground (SOCG). This includes agreement that:

- The period to be used in assessing five year housing land supply is 1st April 2021 – 31st March 2026;
- It is agreed that the housing requirement set under Policy 4 of the Central Lancashire Core Strategy was reviewed less than five years ago in 2017, with Chorley entering into a Memorandum of Understanding alongside South Ribble and Preston Councils to endorse the continued use of the requirements set out in Policy 4;
- A 5% buffer should be applied to the base five year requirement having regard to the 2020 Housing Delivery Test results; and
- Local housing need (LHN) calculated using the standard method in the NPPF/PPG is currently 537 homes per annum.
- Using LHN as the basis for the 5YHLS calculation means the Council does not have the minimum requirement of a five year housing land supply;
- Using the Policy 4 housing requirement the Council does not have a minimum requirement of a five year housing land supply;
- It is only when the Council uses the Policy 4 housing requirement, with a reduction in the requirement for oversupply, that they can demonstrate a five year housing land supply.

1.8 It follows that there are two main issues in considering whether there is a five year housing land supply

- I. Whether there should be an allowance for “oversupply”?
- II. What is the basis of the five year housing supply calculation – using either Core Strategy Policy 4 or LHN derived using the standard method?

1.9 This proof of evidence deals with both main issues in dispute in the calculating the five year housing land supply (5YHLS).

1.10 Firstly, I provide an overview on the relevant national planning policy and guidance and consider recent appeal decisions to inform my planning judgement on the acceptability of Chorley Borough Council's methodological approach and use of

historic “overdelivery” in housing provision against the plan requirement, as a means of offsetting and reducing the housing requirement in the next 5 years.

1.11 Secondly, a core difference between the parties is the appropriate basis (requirement) against which to calculate the 5YHLS. The Council's position is that the Core Strategy requirement should be used; whereas the Appellant considers the Core Strategy requirement to be out of date, such that the standard method figure should be used. This approach has recently been endorsed in the Chain House Lane decision letter¹ (which post-dates the Cardwell Farm decision letter²).

1.12 Regardless of which requirement the housing supply calculation is based upon, the Council is unable to demonstrate a five year housing supply, owing to a lack of a deliverable supply which the Council have assessed as 1,504 dwellings. While not pertinent to the overall outcome on the five year housing land supply calculation, I have also reviewed the deliverable housing land supply in the Borough including assessing the deliverability of sites set against the definition set out in the Glossary of the National Planning Policy Framework and by having due regard to the PPG and recent case law.

1.13 My proof has therefore been structured as follows:

- Section 2.0 – Planning Policy Context
- Section 3.0 – The Offsetting of Over-supply
- Section 4.0 – The Housing Requirement
- Section 5.0 – The Appropriate Buffer
- Section 6.0 – The Deliverable Supply
- Section 6.0 – The Five Year Housing Land Supply Calculation

¹ CD9.3 - Land to the South of Chain House Lane, Whitestake (Appeal Ref: APP/F2360/W/19/3234070)

² CD9.4 - Land at Cardwell Farm, Barton (Appeal Ref: APP/N2345/W/20/3258889)

2.0 Key Components of the Five Year Housing Land Supply Calculation

2.1 The Statement of Common Ground on Housing Land Supply³ sets out the key components to the 5YHLS calculation and those areas of agreement and disagreement between the Appellant and Council.

2.2 For context I summarise these positions below as follows:

I. Housing Requirement:

- The Council's position is that Policy 4 of the Central Lancashire Core Strategy⁴, which sets a minimum annualised target of 417dpa for Chorley, represents the basis for calculating the housing requirement.
- Section 5 of my Proof sets out the reason for CS Policy 4 being out of date, by virtue of it being underpinned by 2003-based household projections and it being superseded by national planning policy reforms amounting to significant material change in circumstances.
- On this basis I conclude that the housing requirement for Chorley is the local housing needs figure calculated using the standard methodology. Applying an agreed 5% buffer this equates to **564 dwellings per annum**.

II. Oversupply

- The Council assert that over the plan period of the CLCS from April 2010, the delivery of homes has exceeded the minimum housing target set under Policy 4.
- By 31st March 2021, this would have set the minimum target of 4,749 dwellings being completed (also taking account of backlog from 1st April 2003). The Council have completed 6,316 dwellings within this same period, equating to an oversupply against the minimum housing requirement of 1,567 dwellings.
- Based on a minimum housing requirement of 417dpa under CS Policy 4, and accounting for a prior shortfall at April 2010 of 162 dwellings, the

³ CD10.4 - Housing Land Supply SoCG between Lea Hough and Chorley Council

⁴ CD6.4 - Central Lancashire Core Strategy

Council claim that their housing target over the plan period up to March 2026 is 6,834 dwellings.

- The Council propose that by offsetting the number of dwellings already completed (6,316 dwellings) from this minimum housing target, only 518 dwellings need to be delivered – equating to an annualised housing requirement of 109 dwellings per annum (inc. 5% buffer).
- I set out in detail under Section 6 of my Proof that this approach is unjustified and contrary to the objectives of national planning policy which seeks to significantly boost the supply of housing. Set in this context the Council's proposition of delivering the **minimum** number of homes against a **minimum** housing target is considered flawed.
- I therefore **do not account oversupply** within the 5YHLS calculation.

III. Differences in the deliverable supply

- It is now agreed common ground that the deliverable supply position presented under their 2021 Five Year Housing Land Supply Statement⁵ is incorrect.
- The Council now propose a reduced deliverable supply from 1,565 dwellings to 1,504 dwellings.
- I have reviewed the Council's deliverable supply evidence and considered this against relevant case law and the NPPF definition of 'deliverable'. I conclude that the deliverable supply over the next five years is **1,377 dwellings**.
- I provide a summary breakdown in the deliverable supply below in Table 1:

⁵ CD6.15 - Chorley Five Year Housing Supply Statement (May 2021)

Table 1: Summary on Deliverable Supply Positions

Deliverable Housing Supply	No. dwellings (Council position)	No. dwellings (Appellant position)	Difference
Allocated sites with planning permission	469	469	0
Allocated sites without planning permission	190	130	-60
Windfall sites >10 dwellings with planning permission	397	341	-56
Windfall sites <10 dwellings with planning permission (discounted by 36%)	265	254	-11
Windfall allowance	183	183	0
Total Five Year Supply	1,504	1,377	-127

2.3 In summarising the above components, I conclude that should the Inspector find that the approach to offsetting 'oversupply' within the 5YHLS calculation is unjustified, then the Council are unable to demonstrate a five year housing land supply. This outcome remains irrespective of whether the Council's position on the housing requirement and deliverable supply is accepted.

2.4 A summary of this calculation is set out below in Table 2:

Table 2: Summary of Five Year Housing Land Supply Calculation

Housing Land Supply	CS Policy 4	Local Housing Need
Deliverable Supply	1,377	1,377
Annual Requirement	417	537
Annual Requirement with 5% buffer	438	564
Total five year requirement with 5% buffer	2,190	2,820
Available Supply in Years	3.1	2.4

3.0 White Papers and Boosting Housing Supply

Housing White Paper (2017)

3.1 The Government published a Housing White Paper in February 2017 to set its agenda for 'fixing our broken housing market'.

3.2 Prime Minister Theresa May's Foreword⁶ portrays the acuteness of the housing delivery issue and states:

'Our broken housing market is one of the greatest barriers to progress in Britain today...I want to fix this broken market so that housing is more affordable and people have the security they need to plan for the future...'

The starting point is to build more homes. This will slow the rise in housing costs so that more ordinary working families can afford to buy a home and it will also bring the cost of renting down....

We need to build many more houses, of the type people want to live in, in the places they want to live. To do so requires a comprehensive approach that tackles failure at every point in the system...

First, we need more land for homes where people want to live...

Second, we need to ensure that homes are built quickly once planning permissions are granted...

Third, we will diversify the housing market, opening it up to smaller builders and those who embrace innovative and efficient methods...and we will work to attract new investors into the residential market including homes for rent.

By building the homes Britain needs and giving those renting a fairer deal, we will give those growing up in society today more chance of enjoying the same opportunities as their parents and grandparents. It will ensure that the housing market is as fair for those who don't own their own homes as it is for those that do'

3.3 The Housing White Paper explains how since the 1970's 160,000 new homes have been built each year which contrasts with a need for 225-275,000 to keep up with population

⁶ CD5.9 – Housing White Paper: Fixing our broken housing market (p.5)

growth and tackle the years of undersupply. The Government has identified three key issues with the housing system that it intends to tackle⁷:

1. Local planning authorities are not planning for the homes they need⁸, as illustrated by the fact that over 40% of local planning authorities don't have a plan that meets projected household growth needs in their area⁹. The Government's headline solution is to bring forward a centrally set objectively assessed need figure for each local authority area¹⁰.
2. The housebuilding industry is too slow at delivering housing¹¹. This is highlighted by data which states that more planning permissions are being granted but there remains a gap between planning permissions being obtained and new homes being built¹². The Government's solution is to give local planning authorities greater powers to require developers to bring forward sites quickly¹³.
3. The construction industry is reliant on too small a number of big companies to deliver housing, which has the effect of low productivity¹⁴. The Government's solution is to diversify the housing market by opening it up to small developers and embracing '*innovative and efficient methods*'¹⁵. The White Paper sets a clear agenda to shake up the housing system, to increase the delivery of new homes to keep pace with housing needs across the Country.

Planning White Paper: Planning for the Future (2020)

- 3.4 On the 6th August 2020, the Government published a Planning White Paper setting out radical reforms to the planning system, with the aim of creating a '*significantly simpler, faster and more predictable system*'¹⁶.
- 3.5 The reforms are brought forward in the context of the Government's aspiration of building 300,000 homes per year - a target which has yet to be delivered as highlighted by the fact that just 241,000 new homes were built in 2019. The White Paper acknowledges that '*The result of long-term and persisting undersupply is that housing*

⁷ CD5.9 – Housing White Paper: Fixing our broken housing market (p.9)

⁸ CD5.9 – Housing White Paper: Fixing our broken housing market (p.9)

⁹ CD5.9 – Housing White Paper: Fixing our broken housing market (p.13)

¹⁰ CD5.9 – Housing White Paper: Fixing our broken housing market (p.14)

¹¹ CD5.9 – Housing White Paper: Fixing our broken housing market (p.9)

¹² CD5.9 – Housing White Paper: Fixing our broken housing market (p.13)

¹³ CD5.9 – Housing White Paper: Fixing our broken housing market (p.14)

¹⁴ CD5.9 – Housing White Paper: Fixing our broken housing market (p.9)

¹⁵ CD5.9 – Housing White Paper: Fixing our broken housing market (p.14)

¹⁶ CD5.11 – Planning White Paper: Planning for the Future (p.14)

*is becoming increasingly expensive*¹⁷. Through overhauling the planning system there is an opportunity to better streamline the planning process, accelerate the delivery of new homes and address the issue on affordability.

- 3.6 Alongside the White Paper, Central Government also consulted on a new Standard Housing Methodology envisaged as *'a new nationally determined, binding housing requirement that local planning authorities would have to deliver through their Local Plans'*¹⁸. The White Paper continues that *'This would be focused on areas where affordability pressure is highest to stop land supply being a barrier to enough homes being built'*¹⁹.
- 3.7 The proposed amendments to the formula highlight the extent to which Government has grappled with this policy issue, having initially consulted on the Standard Housing Method in 2017 before introducing it under 2018 NPPF.
- 3.8 The introduction of the standard methodology under the 2018 NPPF was brought forward in order to assess Local Housing Need, as part of a simpler, quicker, and more transparent approach than the former Objectively Assessed Need (OAN). The aim being to shift time and resources from the 'amount' of housing required and instead towards 'where' and 'how' new homes would be built. I consider this in more detail in Section 5 of my proof.
- 3.9 The proposed amendments to the standard method under the Planning White Paper were published as a direct response to its failure in delivering the required number of homes against the Government's annual target. This is particularly relevant to authorities where constraints such as tightly defined Green Belt boundaries has led to worsening affordability and a failure to deliver on the proposed 'levelling up' agenda between the north and south of England.
- 3.10 The proposed formula changes to the Standard Method sought to include the higher figure of household projections or 0.5% of housing stock growth within local authorities, and account for areas of worsening affordability levels over the past 10 years. Removing the cap previously in place to ensure numbers were 'deliverable', also represented a clear shift from Government to deliver on their strategic objective of quickly boosting housing supply.

¹⁷ CD5.11 – Planning White Paper: Planning for the Future (p.14)

¹⁸ CD5.11 – Planning White Paper: Planning for the Future (p.23)

¹⁹ CD5.11 – Planning White Paper: Planning for the Future (p.23)

3.11 Following consultation, the Government moved in December 2020 to apply an additional 35% uplift in housing requirements within the 20 largest cities and urban centres. This methodological change has no bearing for the local authority of Chorley; however it is clear from the Planning White Paper that the objective of boosting housing supply remains at the forefront of the planning system.

4.0 Planning Policy Context

- 4.1 This section outlines my understanding of relevant policy and guidance, which (taken as a whole) provides the basis for my analysis on the housing land supply position in Chorley. This includes reference to the National Planning Policy Framework and relevant extracts in the Planning Practice Guidance²⁰, covering the calculation of five year housing land supply, deliverable supply, establishing the housing requirement for Chorley and approach to any offsetting of oversupply.
- 4.2 I have also considered in my analysis the Development Plan for Chorley which comprises the Central Lancashire Core Strategy (CLCS) (2012) and Chorley Local Plan: Site Allocations and Development Management Policies (CLP) (2015). My proof also draws upon information within the Council's annual monitoring reports in order to fully understand the extent of housing delivery and provision within the local authority.

National Planning Policy Framework

- 4.3 The National Planning Policy Framework ("the Framework") was revised in July 2021. It sets out the Government's planning policies for England and how these should be applied. For decision taking, the revised Framework applies from the date of publication and as such, the policies within it are a material consideration of significant weight. Paragraph 60 sets out the Government's clear objective of significantly boosting the supply of housing land, emphasising the importance of ensuring *'that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay'*.
- 4.4 In determining the housing requirement and minimum number of homes needed, Paragraph 61 requires that this be informed by a local housing need assessment and/or conducted using the standard methodology for calculating local housing need. Only in *'exceptional circumstances'* will alternative approaches justify a departure from this.
- 4.5 Paragraph 68 adds that once the housing requirement has been set, local planning authorities need to clearly identify a deliverable supply of land to meet these needs, taking *'taking into account their availability, suitability and likely economic viability'*.
- 4.6 Set in the context of the core objective to significantly boost housing delivery, Paragraph 74 sets out the requirement for local planning authorities to demonstrate 'a

²⁰ CD5.5 – Planning Practice Guidance: Housing supply and delivery

supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing' (NJL Emphasis).

- 4.7 This is to be set 'against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old'. Footnote 39 of NPPF adds under Paragraph 74 that unless the housing requirement set out in the strategic policy has been 'reviewed and found not to require updating', local housing need will be used for assessing whether a five year supply of specific deliverable sites exists using the standard method set out in the PPG once the strategic policy is more than five years old. I consider this point in more detail within my proof (see Section 5).
- 4.8 Consequently, it follows that the five year supply should be measured against the housing requirement set out in strategic policies when those policies are less than five years old and when they are more than five years old if those policies have been reviewed within the last five years and found not to require updating.
- 4.9 The NPPF is clear (consistent with numerous appeal decisions) that demonstrating a deliverable five year housing land supply is a minimum requirement for local planning authorities set against a minimum housing requirement.
- 4.10 In respect of the application of the buffer, the paragraph continues in setting out that:

'The supply of specific deliverable sites should in addition include a buffer (moved forward from later in the plan period) of:

a) 5% to ensure choice and competition in the market for land; or

b) 10% where the local planning authority wishes to demonstrate a five year supply of deliverable sites through an annual position statement or recently adopted plan, to account for any fluctuations in the market during that year; or

c) 20% where there has been significant under delivery of housing over the previous three years, to improve the prospect of achieving the planned supply'

Planning Practice Guidance

- 4.11 The Planning Practice Guidance²¹ on 'Housing Supply and Delivery' sets out the methodology for calculating a five year housing land supply position.

²¹ CD5.5 – Planning Practice Guidance: Housing supply and delivery

4.12 As a starting point concerning the matter of offsetting oversupply from future housing requirements, the PPG²² only provides guidance on how to deal with over-supply in the context of offsetting 'any shortfalls against requirements from previous years'. The PPG is silent on whether the same approach can be undertaken to offset against future housing requirements in the plan period.

4.13 It should be noted that the use of an "oversupply" reduction has been the subject of High Court litigation and a number of Appeal Decisions (see Section 6 of my Proof). It is an issue which is well-known to the Secretary of State (as the SoS has been a party to such proceedings). The PPG is a "living document", which can be updated to address new issues. The fact that the SoS has chosen *not* to change either the NPPF (in the July 2021 changes) and/or the PPG suggests that the SoS does not consider that an allowance for past oversupply should be used to reduce the 5YHLS requirement. This would be consistent with the national policy imperative to boost significantly the supply of housing.

4.14 I consider the acceptability of this approach later in my proof.

4.15 In establishing what housing requirement figure authorities should use when calculating their 5 year housing land supply, Paragraph 68-005 states:

'Housing requirement figures identified in adopted strategic housing policies should be used for calculating the 5 year land supply figure where:

- *the plan was adopted in the last 5 years, or*
- *the strategic housing policies have been reviewed within the last 5 years and found not to need updating. In other circumstances the 5 year housing land supply will be measured against the area's local housing need calculated using the standard method.*

In other circumstances the 5 year housing land supply will be measured against the area's local housing need calculated using the standard method'.

4.16 In calculating the deliverable supply to be set against the housing requirement, the Planning Practice Guidance²³ builds upon the definition of 'deliverable' under Annex 2 of the NPPF, and provides clarity on the scope of evidence which can demonstrate deliverability, including:

²² CD5.5 - Paragraph: 032 Reference ID: 68-032-20190722

²³ CD5.5 - Paragraph: 007 Reference ID: 68-007-20190722

- *current planning status* – for example, on larger scale sites with outline or hybrid permission how much progress has been made towards approving reserved matters, or whether these link to a planning performance agreement that sets out the timescale for approval of reserved matters applications and discharge of conditions;
- *firm progress being made towards the submission of an application* – for example, a written agreement between the local planning authority and the site developer(s) which confirms the developers' delivery intentions and anticipated start and build-out rates;
- *firm progress with site assessment work*; or
- *clear relevant information about site viability, ownership constraints or infrastructure provision*, such as successful participation in bids for large-scale infrastructure funding or other similar projects.

4.17 There have been a number of relevant planning appeal decisions which have addressed the definition of 'deliverable' in the NPPF, and I consider such decisions to provide additional context for informing those sites which should be included within the five year housing land supply position.

4.18 In order to remain effective, the NPPF paragraph 33 states that policies in local plans should be reviewed at least once every 5 years and updated as necessary. This reflects Regulation 10A of The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended)²⁴.

4.19 Separate to the calculation of 5YHLS, the Housing Delivery Test (HDT) represents a further policy measure implemented by Government to assess the annual measurement of housing delivery performance within local planning authorities. The PPG²⁵ states that where local authorities fail to deliver at least 85% of the housing requirement over the previous three year period, a 20% buffer should be applied. If delivery exceeds this 85% level over the three year period, a 5% buffer is appropriate.

4.20 In the case of Chorley, the HDT identifies that there has been over delivery in the past three years. A 5% buffer has therefore been applied to the five year requirement with the latest HDT result for 2020 summarised below in Table 3:

²⁴ CD5.10 - Paragraph: 062 Reference ID: 61-062-20190315

²⁵ CD5.5 - Paragraph: 022 Reference ID: 68-022-20190722

Table 3: Calculation of Chorley Council's 2020 HDT Measurement

Monitoring Period	Total net homes delivered	Total net homes required	HDT Measurement
2017/18	661	494	–
2018/19	573	603	–
2019/20	640	530	–
Total	1,874	1,627	115%

5.0 ISSUE 1 – What is the basis for calculating the Council’s housing requirement?

- 5.1 This section of my proof is split into two constituent parts. As a starting point I provide detailed context on the series of planning reforms which have occurred before considering this against the plan-making process within Central Lancashire and the authority of Chorley.
- 5.2 I then provide my conclusions on the appropriate basis (annualised) requirement which I consider should be used in assessing the five year housing land supply position.

Regional Spatial Strategies

- 5.3 Up to 2010, Regional Spatial Strategies were used as the starting point to determine the housing requirements for individual local authorities or, where defined, combined plan areas, such as Central Lancashire. This distribution was informed by the adopted ‘spatial strategy’, as opposed to the authority’s assessed housing need.
- 5.4 The national policy framework set out at the time under PPS3: Housing, required Regional Spatial Strategies to identify overall housing provision within the region, and the distribution of this amongst constituent housing market and LPA areas. PPS3 Paragraph 33 set out the considerations to inform the scale and distribution of housing development which covered housing need, land availability, infrastructure constraints and opportunities, and the relative sustainability of different options for distributing development. PPS3 used a constrained methodology, which the Courts have repeatedly found did not constitute an objective assessment of need (see Court of Appeal in the **Gallagher** case²⁶).

2012 NPPF and PPG Guidance 2014

- 5.5 The Government set out its intention to rescind the regional planning system in 2010, the Regional Spatial Strategy for the North West was subsequently revoked in 2013.
- 5.6 Government published the 1st edition of the NPPF in March 2012²⁷, within which Paragraph 47 set out that *‘to boost significantly the supply of housing, local planning authorities should use their evidence base to ensure that their Local Plan meets the full, objectively assessed need for market and affordable housing in the housing market*

²⁶ CD9.15 - Gallagher Estates Ltd & Anor v Solihull Metropolitan Borough Council [2014] EWHC 1283 (Admin)

²⁷ CD5.12 - National Planning Policy Framework (2012)

area, as far as is consistent with the policies set out in this Framework ...' (NJL emphasis). The emphasis on significantly boosting the supply of housing represented a marked change under national planning policy, geared towards addressing the national housing crisis and economic recovery post-2008 financial recession.

- 5.7 Alongside an updated NPPF, Planning Practice Guidance published in 2014 set out a detailed methodology for measuring OAN. This approach adopted the latest 2014-based household projections as a starting point for considering housing need, whilst recognising that adjustments may need to be factored into this measurement such as:
- Further analysis on migration and household formation trends;
 - Projections for employment growth, with a recognition that in order to deliver economic growth, housing growth will also need to be boosted in parallel;
 - Market signals and evidence on affordable housing needs, with an upward adjustment to be applied in order to improve affordability;
- 5.8 The above is summarised in Figure 1 taken from the 2017 Strategic Housing Market Assessment²⁸.
- 5.9 In what was recognised by the Courts²⁹ as a radically different approach to assessing housing needs, an OAN requires at first a 'policy off' approach in the plan-making process without considering the implications of environmental constraints, viability, and infrastructure.
- 5.10 Whilst there could be a manual re-distribution of housing need across a HMA to reflect the Regional Spatial Strategy (as happened in Central Lancashire) as part of the formation of development plan policies, former PPG Paragraph 2a-004-20140306 underlined that this calculation represented an objective assessment based upon facts.
- 5.11 In contrast, the PPS3/RSS process took both stages into account. Such significant policy reforms led to key legal judgments soon following the publication of the 2012 NPPF, with the Court of Appeal finding in *St Albans v Hunston Properties*³⁰ (Hunston) that housing need should be measured on a constraint free basis ("policy off"). The extent to which other considerations are factored into the housing need figure is then a matter for the plan-making process as opposed to decision-making under an appeal.

²⁸ CD6.20 - Central Lancashire Strategic Housing Market Assessment (2017) p.10

²⁹ CD9.15 - Gallagher Estates Ltd & Anor v Solihull Metropolitan Borough Council [2014] EWHC 1283 (Admin) Paras. 97-99

³⁰ CD9.14 - St Albans v Hunston Properties Ltd [2013] EWCA Civ 1610

5.12 The High Court in *Gallagher Homes Ltd & Lioncourt Homes Ltd v Solihull MBC*³¹ (Gallagher) reiterated this position, describing in Paragraphs 97 and 98 the significant contrasts in policy approach between the new NPPF and former PPS3/ RSS:

'unlike its predecessor (which required a balancing exercise involving all material considerations, including need, demand and relevant policy factors), the NPPF requires plan-makers to focus on full objectively assessed need for housing, and to meet that need unless (and only to the extent that) other policy factors within the NPPF dictate otherwise.

That, too, requires a balancing exercise – to see whether other policy factors significantly and demonstrably outweigh the benefits of such housing provision – but that is a very different exercise from that required pre-NPPF. The change of emphasis in the NPPF clearly intended that paragraph 47 should, on occasions, yield different results from earlier policy scheme; and it is clear that it may do so.

Where housing data survive from an earlier regional strategy exercise, they can of course be used in the exercise of making a local plan now – paragraph 218 of the NPPF makes that clear – but where, as in this case, the plan-maker uses a policy on figure from an earlier regional strategy, even as a starting point, he can only do so with extreme caution – because of the radical policy change in respect of housing provision effected by the NPPF.'

2018/19 NPPF and the Standard Method

5.13 Following consultation in March 2018, the introduction of the standard methodology under the 2018 NPPF was brought forward in order to assess Local Housing Need, as part of a simpler, quicker, and more transparent approach than the former OAN.

5.14 This represented another significant shift in planning policy, with the aim being to focus time and resources from the 'amount' of housing required towards a discussion over 'where' and 'how' new homes would be built.

5.15 The reforms followed the Government's initial reference to the standard methodology in the 2017 Housing White Paper³² and were later enshrined under the publication of the 2018 NPPF.

³¹ CD9.15m- *Gallagher Estates Ltd & Anor v Solihull Metropolitan Borough Council* [2014] EWHC 1283 (Admin)

³² CD5.9 - Housing White Paper: Fixing our broken housing market

5.16 The methodology takes account of household growth as a starting point, before applying an adjustment factor based upon affordability index on median household income to generate a minimum local housing need figure. While the most recent amendment to the methodology applies a 35% uplift to those largest cities and urban centres, this is not applicable to Chorley or any of the other Central Lancashire authorities.

5.17 It is clear that Government's intention in publishing the revised Framework and associated guidance on assessing local housing need was that this would be applied in calculating five year land supply in circumstances where there was not a housing requirement figure in an up-to-date local plan (or one that had been reviewed and found not to require updating).

5.18 Paragraph 1.12 of the 2017 Housing White Paper³³ made explicit reference to the challenges arising from OAN, stating that:

'The current approach to identifying housing requirements is particularly complex and lacks transparency. The National Planning Policy Framework (NPPF) sets out clear criteria but is silent on how this should be done. The lack of a standard methodology for doing this makes the process opaque for local people and may mean that the number of homes needed is not fully recognised. It has also led to lengthy debate during local plan examinations about the validity of the particular methodology used, causing unnecessary delay and wasting taxpayers' money. The Government believes that a more standardised approach would provide a more transparent and more consistent basis for plan production, one which is more realistic about the current and future housing pressures in each place and is consistent with our modern Industrial Strategy. This would include the importance of taking account of the needs of different groups, for example older people'.

5.19 The introduction of 2018 NPPF and standard methodology therefore represented a radical policy shift away from a calculation of OAN towards a minimum local housing need figure. In terms of decision making, this presents LPAs a clear choice between the application of adopted housing requirements or local housing need figure (where the development plan was found to be out of date). In this case, there is debate on the application of the local housing need figure calculated under the standard methodology, or housing requirement set under Policy 4 of the adopted Central Lancashire Core Strategy.

³³ CD5.9 - Housing White Paper: Fixing our broken housing market

5.20 None of this analysis should be contested, as it was common ground at the Chain House Lane Inquiry (South Ribble) and the recent combined Inquiry into proposals at Goosnargh and Longridge (Preston). Further analysis is contained in the proof of evidence of Nick Ireland for South Ribble BC at the Chain House Lane Inquiry³⁴.

Housing Need and Requirement Figures in Central Lancashire

5.21 Having set the backdrop on national planning policy reform, I consider their implications on determining housing need within Central Lancashire and Chorley.

RSS Regional Housing Provision

5.22 The draft RSS sets out under Paragraph 6.24 the scale of housing provision over the plan period between 2003-2021. This anticipated a gross requirement of 411,160 dwellings across the region, which taking into account household projections and economic trends, equated to 22,844 dwellings a year.

5.23 Evidently, the 2003 household projections, upon which the RSS are underpinned, are now plainly out of date. Moreover, these would have been informed by trends set in the preceding five year period to 1998 which have clearly been superseded by more recent and wide ranging demographic projections along with the 2011 Census data.

5.24 It is therefore undeniable that the RSS housing requirement was firstly based upon out of date evidence which has since been superseded; and secondly based on a policy methodology which has been revoked and superseded.

5.25 In considering the distribution of this requirement across the Central Lancashire area, Table 7.1 of the RSS³⁵ set this out as follows:

Greater Preston	Total Housing Provision 2003-21 (Net of clearance replacement)	Average Annual rates of Housing Provision (Net of clearance replacement)
Chorley	7,500	417
Preston	9,120	507
South Ribble	7,500	417

³⁴ CD6.33 - Proof of Evidence of Nick Ireland (Appeal Ref: APP/F2360/W/19/3234070)

³⁵ CD6.17 - North West of England Plan: Regional Spatial Strategy to 2021

- 5.26 The Chorley figure was heavily constrained from the 573 figure derived from the 2003-based household projections, which was substantially below the OAN for the Borough at the time.
- 5.27 The spatial distribution of development across the region was heavily focused on housing market renewal areas, principally around the regional centres of Liverpool, Salford and Manchester, to levels far in excess of those set under 2003-household projections. As a consequence, other housing market areas such as Central Lancashire were purposely being planned on the basis of lower housing provision.
- 5.28 While the Panel of Inspectors did not accept Preston as amounting to a regional centre of the scale of Liverpool and Manchester, *'it was the Preston area – at the focal point of north/south and east/west communication routes – which had the greatest potential for growth within the CLCR'*³⁶ (Central Lancashire City Region). While the Panel felt that *'the four main towns in the CLCR should as far as possible be developed in a self-contained way, with a full range of jobs and services, and the minimum need to travel elsewhere'*³⁷, there was a clear preference towards a manual distribution favouring growth in Preston and away from Chorley.
- 5.29 Table 4 below sets out the housing requirement figures for the Central Lancashire authorities and their evolution from the draft to adopted RSS and how these compared to the 2003-based household growth projections. As a result of the emphasis placed on other regional centres in the north-west, areas such as Central Lancashire were planned for on the basis of housing provision 6% below that shown in the 2003 household projections being used to inform the Plan. The distribution was also manually adjusted to promote greater housing growth in Preston, when the household projections (similar to the current standard methodology) considered that the greatest level of housing should in fact be directed to Chorley.

Table 4: RSS Housing Requirements compared to Household Projections

Area	2003-based Household Projections (2003- 28)	Draft RSS 2006	Final RSS 2008
Chorley	573	361	417
Preston	401	507	507
South Ribble	458	478	417
Central Lancashire	1432	1346	1341

³⁶ CD6.18 - North West of England Plan Regional Spatial Strategy – Panel Report (Para. 4.43)

³⁷ CD6.18 - North West of England Plan Regional Spatial Strategy – Panel Report (Para. 4.46)

5.30 While I consider the standard methodology in more detail later in my proof, it is worthwhile noting at this stage the similarities in outcome against the actual household projections used to inform the preparation of RSS in 2003. In my view, this provides added credence to the local housing need figure (537dpa) as representing the housing requirement for Chorley as opposed to that set under Policy 4 (417dpa).

Central Lancashire Core Strategy

5.31 The Central Lancashire Core Strategy was submitted for examination on 31st March 2011. Noting that it wasn't until April 2013 that RSS was formally revoked, the Inspector's Report into the Central Lancashire Core Strategy made clear that the *'RS thus remains part of the statutory development plan, and it is of especial relevance in the matter of housing delivery in Central Lancashire'*³⁸ and the local plan examination as a whole.

5.32 The submitted plan had initially proposed a 20% reduction on the housing requirement based on the RSS figures for 2010-2012 as an interim policy measure in order to avoid undermining the proposed spatial strategy set under Policy 1. This would have seen reduced annual requirements for Preston, South Ribble and Chorley of 406, 334 and 334 respectively. It is quite clear that the Central Lancashire local authorities were not seeking to boost significantly the supply of homes, they were trying to minimise their annual housing requirement, but this was rejected by the Local Plan Examination Inspector, who required that the original RSS figures be restored.

5.33 On review of the Inspector's Report, there was clearly no forensic analysis on the robustness of the RSS targets, it simply rolled forward the same figure on the premise that there was no good reason to justify any significant departure from the RSS housing requirements. The Policy 4 housing requirement is derived entirely from the RSS housing requirement, without further analysis.

5.34 The chronology of events is equally important with the examination being undertaken between July 2011 to March 2012, prior to the adoption of the 2012 NPPF. The Core Strategy represented one of the first plans to be adopted under the NPPF, at a time when there was no methodological approach under PPG explaining how to assess OAN or interpretation by the Courts under Hunston and Gallagher.

5.35 It can therefore be concluded that the 417dpa figure did not represent an NPPF compliant figure on housing needs at the time because it was not an objective assessment of need and/or did not boost significantly the supply of homes. Again, this is

³⁸ CD6.19 - Central Lancashire Core Strategy Inspector's Report (Para. 9)

not disputed by the Councils. Indeed, South Ribble and Preston CC agree and endorse this analysis (see the evidence of Nick Ireland for SRBC³⁹).

MOU1/ 2017 SHMA

- 5.36 As a result of approaching five years post the adoption of the Core Strategy in 2012, the Central Lancashire authorities were required to ensure that strategic policies remained up to date particularly to ensure consistency with the NPPF requirement to assess OAN.
- 5.37 Central Lancashire Authorities subsequently commissioned a strategic Housing Market Assessment in 2017, following the methodological approach required under 2012 NPPF and 2014 PPG. Taking into account household projections, affordability and market signals as well as economic forecasts to support growth, the SHMA⁴⁰ concluded that the OAN was for 1184 dpa across the Central Lancashire HMA between 2014 to 2034.
- 5.38 The SHMA subsequently looked at the distribution of this aggregate figure across the HMA.
- 5.39 The 2017 SHMA was prepared on the basis of informing a new Local Plan and the Joint Memorandum of Understanding and Statement of Co-operation relating to the Provision of Housing Land of September 2017 (MOU1)⁴¹, which was co-signed by the three authorities.
- 5.40 The 2017 SHMA was conducted in a way that was consistent with the 2012 NPPF. It considered OAN and the common Housing Market Area of Central Lancashire, adopting a 'policy off' approach as a first stage before taking account of environmental or policy constraints. The 2017 SHMA was therefore demonstrably progressed on a different basis to the RSS calculation on need. Equally, it is materially different from LHN derived using the standard method in the NPPF (post 2018).
- 5.41 The resulting 1184dpa OAN figure for Central Lancashire fell below that set under the Core Strategy Policy 4 housing requirement, a point of conflict with the 2012 NPPF objective in terms of significantly boosting housing supply, which the 2017 SHMA sought to address.
- 5.42 Higher OAN figures were therefore assessed for each individual authority which took account of wider commuter flows, economic growth scenarios and population growth in Preston. This resulted in an increased aggregate OAN of 1361dpa, a difference of just

³⁹ CD6.33 - Proof of Evidence of Nick Ireland (Appeal Ref: APP/F2360/W/19/3234070)

⁴⁰ CD6.20 - Central Lancashire Strategic Housing Market Assessment (2017) Para. 11.25

⁴¹ CD6.9 - Memorandum of Understanding and Statement of Co-operation (MOU1)

20 dwellings from the Policy 4 figures which triggered the authorities to uphold the adopted housing requirement.

Table 5: Comparison of the SHMA OAN figures and Policy 4 requirement (dpa)

Area	SHMA OAN	SHMA Higher Figure	CS Policy 4
Chorley	519	519	417
Preston	225	402	507
South Ribble	440	440	417
Central Lancashire	1184	1361	1341

- 5.43 While recognising that the authorities agreed to the distribution of housing need across the Central Lancashire HMA, Table 5 shows that the OAN figures for Chorley remained the highest out of any Central Lancashire authority and broadly consistent with the 2003 household projections used to inform the RSS and more recent local housing need figure calculated under the standard housing methodology.
- 5.44 Chorley Council did not consider the preparation of MOU1 as constituting a footnote 39 review of the local plan, by virtue of considering Policy 4 to be out of date at the Pear Tree Lane inquiry⁴². It is now accepted that in light of the High Court Judgement at Chain House Lane⁴³ and subsequent appeal decisions⁴⁴, that the process of preparing MOU1 represented a formal plan review of the housing requirement set under Policy 4. It is important, however, to remember that whilst the 2017 MOU 1 process constitutes a “review” for the purposes of footnote 39, it was a review which took place *prior to* the adoption of the NPPF (2018) and the introduction of the standard method.
- 5.45 Of significance however for this appeal, is Dove J’s conclusions on Ground 3 set out in the High Court Judgement. That being the Inspector’s consideration as to whether a ‘significant change’ had taken place since MOU1 to render the conclusions of the 2017 review as being out of date.
- 5.46 Dove J concluded that this is a matter of planning judgement ‘*which has to be taken on the basis of not only the salient facts of the case, but also other national and local planning policy considerations*’⁴⁵. Chiefly, the wider national planning policy context of boosting significantly the supply of housing land, where the use of the standard method

⁴² CD6.25 - Chorley Borough Council: Planning Proof of Evidence (Pear Tree Lane, Euxton) Para. 5.5

⁴³ CD9.13 - Wainhomes (North West Limited) and SOSHCLG and SRBC [2020] EWHC 2994 (Admin)

⁴⁴ CD9.4 - Land at Cardwell Farm, Barton (Appeal Ref: APP/N2345/W/20/3258889) and CD9.3 - Land to the South of Chain House Lane, Whitestake (Appeal Ref: APP/F2360/W/19/3234070)

⁴⁵ CD9.13 - Wainhomes (North West Limited) and SOSHCLG and SRBC [2020] EWHC 2994 (Admin) Para.

to derive local housing need is part and parcel of the Framework's policies to achieve that objective.

- 5.47 Crucially, the MOU1 and 2017 SHMA predated the 2018 NPPF and introduction of the standard methodology.
- 5.48 Since its publication and preparation, these radical policy reforms represent a material change of circumstances which renders the conclusions of MOU1 as being out of date. This has been shown to emphatically be the case of Preston and South Ribble authorities in recent appeal decisions and High Court legal challenges. As a single housing market area, there should be consistency in approach to housing requirements, otherwise each authority will be found to be planning for the lowest figure which is evidently against the Government objective of significantly boosting the supply of housing. Preston CC and South Ribble BC strongly argue that a 5YHLS calculation should be determined against the up to date requirements of the NPPF. The same must apply in Chorley. Indeed, PCC and SRBC expressly argue for consistency across the Central Lancashire HMA.
- 5.49 Paragraph 7.1 of the MOU1⁴⁶ also makes clear that '*the document will be reviewed no less than every three years and will be reviewed when new evidence that renders this MOU out of date emerges*'. It was therefore accepted by each authority that the MOU1 figures could become out of date subject to new housing needs evidence being published or national policy reforms (as has clearly happened).
- 5.50 By virtue of MOU1 being signed off in September 2017, I consider this joint agreement is now rendered time expired and out of date. Moreover, the subsequent reforms under national planning policy amount to significant and material change in circumstances meaning the 2017 SHMA should not be relied upon and thus justifies a departure from the housing requirement set under Policy 4, which is unanswerably out of date. This is a conclusion endorsed by the most recent decision letter which addresses this issue – the second Chain House Lane Appeal⁴⁷.

2020 Housing Study/ MOU2

- 5.51 In accordance with the clause set under Paragraph 7.1 of MOU1⁴⁸, requiring the review of MOU1 no less than every three years, the Central Lancashire authorities commissioned an updated 2020 Housing Study to inform a further joint agreement on

⁴⁶ CD6.9 - Memorandum of Understanding and Statement of Co-operation (MOU1)

⁴⁷ Whilst this decision is the subject of a legal challenge, it is deemed to be correct and regular unless and until it is quashed. The claim is defended in full by SRBC (as LPA).

⁴⁸ CD6.9 - Memorandum of Understanding and Statement of Co-operation (MOU1)

the calculation and apportionment of housing needs across the HMA – the Memorandum of Understanding and Statement of Cooperation (MOU2)⁴⁹ in April 2020. This showed the acceptance that MOU1 would be deemed out of date and required updating to reflect updates in national planning policy.

5.52 The updated evidence (Instructed by Chorley BC, as well as PCC and SRBC) concluded that the minimum local housing need figures calculated under the standard methodology should be used as the basis for establishing housing requirements for each Central Lancashire authority. The standard method calculation revealed a level of housing need at 1026dpa which was some 24% below the CS Policy 4 requirement. In the case of Chorley, however, the local housing need figure was significantly higher, amounting to 56% of the apportionment across Central Lancashire.

5.53 In establishing an aggregate figure for Central Lancashire, the 2020 study then sought to redistribute these housing needs across the three authority areas. This apportionment was to reflect growth aspirations, relative affordability within districts and deliver what the Councils viewed as the most sustainable patterns of development. As set out below in Table 6, the Council argued that Chorley should deliver 27.5% of this housing requirement across the Central Lancashire area:

Table 6: Distribution of Need/ Requirement across Central Lancashire Authorities

Area	2017 SHMA OAN figure		CS Policy 4		Standard Method LHN (Feb 2020)		MOU2/ 2020 Housing Study	
	Figure	%	Figure	%	Figure	%	Figure	%
Chorley	519	44%	417	31%	569	56.3%	278	27.5%
Preston	225	19%	507	38%	191	18.9%	404	40%
South Ribble	440	37%	417	31%	250	24.8%	328	32.5%
Central Lancashire	1184	100%	1341	100%	1,010	100%	1,010	100%

5.54 The level of redistribution proposed under MOU2, which proposed a 278dpa requirement for Chorley, represents a significant divergence from the local housing need figure calculated under the standard methodology – amounting to a 51% reduction.

5.55 The Council proposed the MOU2 as constituting a further review in light of the NPPF updates, using the standard housing methodology as the basis for determining housing requirements across the Central Lancashire authorities.

⁴⁹ CD6.10 - Memorandum of Understanding and Statement of Co-operation 2 (MOU2)

- 5.56 The methodological changes under national planning policy are not only significantly different to those used to inform the 2017 SHMA and MOU1, but the outcomes on assessed housing need also differ substantially across the Central Lancashire authorities. Dove J arrived at a similar conclusion in his Judgement⁵⁰, noting that '*the use of the local housing need requirement figures derived from the standard method presented a radically different housing distribution to that in the Core Strategy*' and described these differences as '*stark*'.
- 5.57 In this context, there has been a material change in circumstances since the preparation of the 2017 SHMA (the footnote 39 review) which warrants that the housing requirements set under MOU1 can no longer be relied upon as the basis of the 5YHLS calculation.
- 5.58 The process undertaken in the preparation of the 2020 Housing Study and MOU2 was similar to that which informed MOU1. While the Council may debate on the effectiveness of this as a footnote 39 review (specifically the distribution of housing), it nonetheless was entered into on the understanding that strategic policies did require updating and was undertaken on the basis of a formal plan review.
- 5.59 That judgement along with the conclusions of Dove J in respect of Ground 3 of the Chain House Lane legal challenge, is of direct relevance to this Appeal and consideration of Policy 4. I therefore conclude that the standard method should form the basis for calculating the housing requirement in Chorley, rather than the out of date Policy 4 requirement in the CLCS.
- 5.60 But even if I am wrong about that (which I do not accept), all this means is that the tilted balance is not engaged. The substance of the argument does not evaporate.
- 5.61 It is unanswerable that the Council does not have a 5YHLS when calculated against the minimum housing requirement in NPPF, derived using the standard methodology. This is (on any sensible view) a material consideration of very significant weight, which needs to be weighed against any conflict with the development plan. Indeed, it must be noted that the spatial strategy and settlement boundaries of the CLP is, itself, based on the out of date need for housing established in the RSS/CLCS. Even if there is a 5YHLS (which there is not), there remains a significant need for housing in Chorley, to which significant weight must attach. I address this further in the Planning Proof of Evidence.

⁵⁰ CD9.13 - Wainhomes (North West Limited) and SOSHCLG and SRBC [2020] EWHC 2994 (Admin) Para. 37

Approach Taken to Housing Requirement across Central Lancashire

Pear Tree Lane, Euxton: Chorley Council

- 5.62 The Pear Tree Lane appeal decision⁵¹ considered the use of MOU2, with the Council proposing that formed their housing requirement. The Inspector's decision addressed both whether Policy 4 was out-of-date and whether an alternative distribution of housing as advanced by the authorities through MOU2 could be relied upon.
- 5.63 In considering the first point, the Inspector referred to *Lindblom J in Bloor Homes East Midlands v SSSCLG & Anon*⁵² which considered whether a policy is out-of-date and, if so, with what consequences are matters of planning judgement. It confirmed that policies can be out-of-date where they have been '*overtaken by things that have happened on the ground or through a change in national policy, or for some other reason, so that they are out-of-date*'.
- 5.64 Noting the 2003-based household projections which underpinned the RSS housing requirement upheld under CS Policy 4 and the subsequent MOU1, coupled with the significant policy reforms under NPPF and the standard methodology, the Inspector concluded that Policy 4 was indeed out of date.
- 5.65 Indeed, this was the Council's own position just 14 months ago as presented in their Planning Proof of Evidence which stated that '*The Core Strategy policies are more than five years old (adopted July 2012), and Core Strategy Policy 4 no longer provides a satisfactory basis for the five year housing land supply requirement. It has been superseded by the standard method*'⁵³.
- 5.66 In taking the second matter it was firmly concluded that the issues of apportionment of housing should be subject to robust testing through the local plan preparation and examination process⁵⁴ as opposed to decision-making. Limited weight was therefore attached to housing figures under MOU2 with full weight attributed to local housing need calculated under the standard methodology.
- 5.67 The Council's position was found to be untenable with the appeal being subsequently allowed.

⁵¹ CD9.1 - Land at Pear Tree Lane, Euxton, Chorley (Appeal Ref: APP/D2320/W/20/3247136)

⁵² CD9.16 - Bloor Homes East Midlands Ltd v Secretary of State for Communities and Local Government & Anor [2014] EWHC 754 (Admin) Para. 45

⁵³ CD6.25 - Chorley Borough Council: Planning Proof of Evidence (Appeal Ref: APP/D2320/W/20/3247136) Para. 5.5

⁵⁴ CD9.1 - Land at Pear Tree Lane, Euxton, Chorley (Appeal Ref: APP/D2320/W/20/3247136) Para. 30

5.68 The outcome of the Pear Tree Lane decision and 'limited weight' to be attributed to MOU2, alongside the judgement of Dove J at Chain House Lane⁵⁵, led to Preston City Council's decision to withdraw from the MOU2. In opting out of this joint agreement between Central Lancashire authorities, MOU2 is clearly now defunct but nonetheless is considered to have amounted to a further footnote 39 review.

Cardwell Farm, Barton: Preston Council

5.69 As set out above, the Council argued that MOU1 was never planned to last beyond the three year period (as set out under clause 7.1) without being revisited. That period expired in September 2020, although the review could have taken place sooner had circumstances have changed.

5.70 Within the three year timeframe of MOU1 being signed, such a review took place through MOU2 to reflect the material change in circumstances stemming from national policy reforms. It was considered overall that strategic policies did need updating and that Policy 4 was out of date; instead, the local housing need calculation should be used and is the proper basis for establishing a five year requirement in Preston. This was the independent conclusion of Iceni, subsequently endorsed by the 3 Councils through MOU2.

5.71 Whilst the Inspector found that there could be justification to revert to local housing need even if the housing requirement had been previously reviewed and found not to require updating, this would need to be supported by a 'robust process'. The Inspector considered the process for the preparation of MOU 2 and agreed with the Pear Tree Lane decision that the redistribution of housing need is limited to the plan-making process.

5.72 In light of the Chain House Lane Judgement, the Inspector determining Cardwell Farm took an alternative view that MOU1 did amount to a plan review of strategic housing Policy 4 and that it should continue to be used for the purposes of assessing five year housing land supply in Preston. As a consequence, Preston could not demonstrate a five year supply and the appeal was subsequently allowed.

5.73 Preston City Council have since launched a statutory legal challenge on the grounds that the Inspector failed to deal with the Council's argument that there had been a significant change in circumstances and establish a position on whether Policy 4 was

⁵⁵ CD9.13 - Wainhomes (North West Limited) and SOSHCLG and SRBC [2020] EWHC 2994 (Admin)

out of date. The decision remains valid until it is quashed. It was expressly considered at the Chain House Lane Inquiry.

Chain House Lane, Whitestake: South Ribble Valley Council

- 5.74 Following the appeal decision⁵⁶ in 2019 and subsequent High Court judgement⁵⁷, it was concluded that the 2019 Inspector had not adequately explained why the conclusion was reached that Policy 4 had not been reviewed.
- 5.75 South Ribble Council maintain that their housing requirement is confirmed under the 2021 appeal decision against a resubmitted planning application. The justification for this position which supports the application of the standard methodology, reflects Preston's case on the significant change in material circumstances that render MOU1 out of date.
- 5.76 In accordance with PPG and NPPF, South Ribble Council now relies on the standard method of calculating the minimum housing requirement.
- 5.77 The Inspector for the 2021 appeal recognised '*the direction of travel by all three authorities is towards the SM (standard method)*'⁵⁸, with the significant divergence between local housing need figure and CS Policy 4 reinforcing the conclusion that MOU1 and Policy 4 is now clearly out of date and, as a matter of planning judgment, should not form the basis of the 5YHLS calculation.
- 5.78 Again, this decision is the subject of challenge. The conclusion that there has been a significant change in circumstances, since the review in 2017, comprising the introduction of LHN and the standard method in the NPPF, resulting in a substantially lower housing figure in Preston and South Ribble but a substantially higher figure in Chorley, should apply across the HMA and should apply in the determination of this appeal.

Analysis

- 5.79 The evolving nature of the Council's annual housing requirement is summarised below in Table 7:

⁵⁶ CD9.2 - Land at Chain House Lane, South Ribble (Appeal Ref: APP/F2360/W/19/3234070)

⁵⁷ CD9.13 - Wainhomes (North West Limited) and SOSHCLG and SRBC [2020] EWHC 2994 (Admin)

⁵⁸ CD9.3 - Land to the South of Chain House Lane, Whitestake (Appeal Ref: APP/F2360/W/19/3234070) Para. 17

Table 7: Summary of Chorley Council's Housing Requirement since 2003

National Planning Policy Reforms	Years	Housing Requirement	Housing Target (dpa)	Comments and Milestones
2003-based household projections PPS3: Housing and Regional Spatial Strategies	2003 – 2012	RSS	417	Figures underpinned by 2003 household projections based on 5-year preceding trends (to 1998). Driven by spatial strategies with housing need at a regional level as opposed to local objectively assessed needs (and capturing policy and environmental constraints). Manual distribution undertaken to focus housing growth towards Preston.
1 st Ed. NPPF (March 2012) RSS revoked (2013) Updated PPG on calculating OAN (2014) and publishing of 2014-based household projections	2012 – 2017	CS Policy 4	417	Suppressed housing requirement of 80% RSS figure rejected by Examination Inspector. RSS figures rolled forward under adopted Core Strategy in July 2012 without robust assessment against needs.
2 nd and 3 rd Eds. NPPF (July 2018; February 2019) Introduction of Standard Housing Methodology and updated PPG	2017 – 2020	MOU1	417	CS Policy 4 upheld through footnote 39 review under 2017 SHMA/ MOU1.
–	2020	MOU2	278	2020 Housing Study/ MOU2 prepared as a review to MOU1 and to reflect changes in national policy and standard method. MOU2 adopted by Central Lancashire authorities with being Policy 4 out of date. Given 'limited weight' at the Pear Tree Lane appeal. Preston withdraws from MOU2.
4 th Ed. NPPF (July 2021)	2021	MOU1	109	Council now considers CS Policy 4 as up to date with an allowance for previous years of oversupply to reduce the future housing requirement.

5.80 The table illustrates the extent to which the Council have lurched from alternative housing requirements and methodological approaches, particularly in recent years, each time choosing the lowest possible housing requirement, as they seek to address

the issue on a diminishing forward supply of deliverable sites over the remainder of the plan period (see Section 6.0 of my proof).

- 5.81 Chorley's current position on calculating supply notably contradicts the approaches being taken by South Ribble and Preston City Council, both of which do not recognise the Policy 4 housing requirement as the basis for calculating future supply, consistent with the Chain House Lane appeal decision⁵⁹.
- 5.82 I do not believe there are any mitigating circumstances justifying Chorley Council to continue to do so in isolation. Furthermore, no more than 14 months ago this Council gave evidence to a public inquiry⁶⁰, confirming the Council's position that Policy 4 was out of date. In taking the conclusion to uphold the standard method figure for Chorley, the Inspector made clear that this would have no bearing on the wider authority area stating that '*I am not persuaded that applying the standard method housing figure in Chorley would unduly affect the delivery of housing in Preston and South Ribble needed to support the City Deal growth and funding model, in the light of the high levels of housing completions which have been sustained in both Chorley and Preston over the last 3 years*'. The Inspector therefore made clear that it is incumbent upon the Council to ensure that their needs are being fully met.
- 5.83 As is accepted by Chorley Council, there is an intention to use the local housing need figure as the basis for forward supply within the emerging Central Lancashire Local Plan. Not least because that emerging plan has a start date of 2021 and therefore the authorities are now entering a period whereby the delivery of housing will count towards future requirements within individual areas for that plan. I distil this point further in Section 5 of my Planning Proof.
- 5.84 It is the Appellant's position that as a result of the significant change in circumstances, driven principally through national planning policy reforms over the past decade and their practical consequences for housing delivery in this Council (a significantly higher need now and in the next plan period), the strategic policies for housing requirements within Central Lancashire are out of date. Moreover, this is set against a housing requirement informed by demographic trends dating back to 1998 which is plainly out of date and not an accurate reflection on the level of actual needs in the Borough.
- 5.85 The Council should therefore be calculating their housing supply position based upon the local housing need requirement calculated through the standard methodology.

⁵⁹ CD9.3 - Land to the South of Chain House Lane, Whitestake (Appeal Ref: APP/F2360/W/19/3234070)

⁶⁰ CD9.1 - Land at Pear Tree Lane, Euxton, Chorley (Appeal Ref: APP/D2320/W/20/3247136)

6.0 ISSUE 2 – Should any “oversupply” be deducted from the five year housing requirement?

- 6.1 Regardless of the basis (requirement) of the 5YHLS calculation (Issue 1), the use/non-use of an “oversupply” reduction represents a determinative factor in the five year housing land supply position. This is accepted by the Council in the Statement of Common Ground⁶¹ which demonstrates that in both scenarios, without an allowance of oversupply, the Council are unable to demonstrate a five year housing land supply. It is quite clear, therefore, why this LPA (as distinct from others) is using this allowance. Indeed, the timing of the recent introduction of this allowance is revealing (see below).
- 6.2 Should the “oversupply” allowance be removed, the tilted balance is engaged in accordance with Paragraph 11d of the Framework (see Proof of Evidence on Planning).
- 6.3 There is no statutory, policy or guidance basis for using an oversupply allowance in the calculation of the 5YHLS. PPG⁶² provides advice on how to treat additional supply, confirming that: ‘Where areas deliver more completions than required, the additional supply can be used to offset any shortfalls against requirements from previous years’. The PPG provides the guidance on how to calculate 5YHLS. There is no policy or guidance support for this LPA’s approach.

Factoring Oversupply in Chorley

- 6.4 The Council now relies upon previous years of increased housing delivery against the Core Strategy housing supply requirement to ‘offset’ their future years supply requirement.
- 6.5 This approach was first introduced publicly within the Council’s Committee Report published in April 2021⁶³ which stated:

‘Taking account of the Cardwell decision para 42 relating to Preston’s housing supply the calculation for Chorley is:

At 1st April 2020 there was a total supply of 1,617 (net) deliverable dwellings which is a 11.2 year deliverable housing supply over the period 2020 – 2025 based on the annual housing requirement of 144 dwellings which includes a 5% buffer and takes into account the previous oversupply’.(emphasis added)

⁶¹ CD10.5 – Housing Land Supply SoCG between Lea Hough and Chorley Council (Table on p. 5)

⁶² CD5.5 – Paragraph: 032 Reference ID:68-032-20190722

⁶³ CD3.1 – Committee Report (Paras. 88 – 89)

- 6.6 The Committee Report provided no detail as to how this five year housing land supply position had been calculated and/or the policy/guidance basis for this approach. Furthermore, there was limited justification to support this approach with reference only being made to Paragraph 42 of the Cardwell Farm appeal decision⁶⁴, where it mentions that previous years of under delivery are to be factored into the five year housing requirement.
- 6.7 Following presentation of the application at Chorley's Planning Committee and the decision from Members to refuse the planning application, the Appellant sought further clarification from the Council, via correspondence⁶⁵ dated 16th April 2021, on the methodology for calculating the housing requirement figure of 144 dwellings per annum.
- 6.8 The Council responded on 21st April 2021 with correspondence directing the Appellant to the Council's Five Year Housing Supply Statement updated in March 2021⁶⁶ which sets out for the first time since the adoption of the Local Plan, the Council's use of oversupply within its monitoring of annual housing delivery.
- 6.9 This was the first time an "oversupply" allowance was deducted from the 5YHLS requirement. No previous Five Year Housing Supply Statements take account of this despite these showing a so-called "oversupply" throughout the plan period. The Council did not offset any overprovision against their Policy 4 requirement at any previous point in the Plan period and did not do so in the Joint Memorandum of Understanding (MoU 1) and Statement of Co-operation relating to the Provision of Housing Land of September 2017 (MOU1) and/or at the Pear Tree Lane planning inquiry⁶⁷ held in 2017.
- 6.10 As I cover in more detail in Section 5 of my Proof, a revised housing requirement underpinned by the standard housing methodology calculation was apportioned across the Central Lancashire authorities and established under a second Memorandum of Understanding and Statement of Cooperation (MOU2) in April 2020. At the point of adopting MOU2, the Council did not seek to take account of previous years of over-provision. The same approach was taken at the second Pear Tree Lane planning inquiry⁶⁸ held in 2020.
- 6.11 So more than 9 years since the adoption of the Local Plan in 2012, this is the first time that the Council have sought to offset past housing delivery against their future housing

⁶⁴ CD9.4 - Land at Cardwell Farm, Barton (Appeal Ref: APP/N2345/W/20/3258889)

⁶⁵ CD10.8 - Email Correspondence between Appellant and Council on Housing Land Supply Requirement

⁶⁶ CD6.14 - Chorley Five Year Housing Supply Statement (updated March 2021)

⁶⁷ CD9.20 - Land at Pear Tree Lane, Euxton, Chorley (Appeal Ref: APP/D2320/W/17/3173275)

⁶⁸ CD9.1 - Land at Pear Tree Lane, Euxton, Chorley (Appeal Ref: APP/D2320/W/20/3247136)

requirement. There has been no recent amendment to national policy or guidance on this matter and the Council have provided no (or no adequate) explanation for their change in position beyond a desire to demonstrate a 5YHLS (as a minimum requirement of the NPPF).

- 6.12 Given the Council were unable to demonstrate a 5YHLS based upon the LHN figure or Policy 4 requirement, MOU2 was progressed by the Council at the Pear Tree Lane appeal. The Council's own evidence expressly stated that Policy 4 was now deemed to be out of date⁶⁹. Following the Inspector's decision to quash MOU2 and its soundness for the decision-taking process, the Council have had to change their methodological position again in an attempt to reduce their housing requirement to a level whereby a 5YHLS can be demonstrated.
- 6.13 The Council as a consequence now suggest they can demonstrate a five year housing land position of 14.4 years⁷⁰ based upon a significantly reduced annualised housing requirement of just 109 dwellings (inc. 5% buffer).
- 6.14 The Council's position is that the housing requirement is set under CS Policy 4, upheld under MOU1 as a formal plan review, which sets a minimum annual requirement of 417 dwellings per annum over the plan period from 2010 to 2026. Rolling this requirement forward and taking account of the under provision of 162 dwellings at April 2010, the minimum housing requirement planned for Chorley to 2026 equates to 6,834 dwellings.
- 6.15 In this regard, the expression "oversupply" has no resonance. In the context of a minimum annual housing requirement and a national planning policy imperative to boost significantly the supply of homes, delivering more than the minimum number of homes in any given year does not constitute an "oversupply" which needs correcting, especially in the absence of any land use planning harm which might flow from such a claimed "oversupply". Exceeding a minimum annual requirement does not, therefore, amount to an "oversupply" i.e. too much housing. I nonetheless use the term simply for convenience (in the manner in which it is used by the Council) to mean delivery over the minimum annual housing requirement.
- 6.16 Table 1 of the Council's Five Year Housing Supply Statement⁷¹ sets out the annual completions delivered by the Council over the plan period which shows a delivery of 1,567 dwellings over the minimum CS Policy 4 requirement up to April 2021. The Council's case is that this leaves 518 dwellings to be delivered over the remaining five years of the

⁶⁹ CD6.25 - Chorley Borough Council: Planning Proof of Evidence (Pear Tree Lane, Euxton) Para. 5.5

⁷⁰ CD6.15 - Chorley Five Year Housing Supply Statement (May 2021) Para. 30

⁷¹ CD6.15 - Chorley Five Year Housing Supply Statement (May 2021)

plan period between April 2021 to March 2026, equating to an annual target of 109 dwellings when applying a 5% buffer. I consider the application of a buffer separately.

6.17 As noted above, other than reference to the offsetting of oversupply to shortfalls in previous years of the plan period⁷², PPG does not provide any guidance on whether the same approach should be used for future years in order to reduce the annual housing requirement in the five year housing supply calculation. Nor is such reference made in the Cardwell Farm appeal decision, to which the Council point as justification.

6.18 The Cardwell Farm appeal decision⁷³ simply refers to accounting for previous years of under-delivery with no mention of over-supply. Paragraph 42 of the decision states that:

'The Council and appellant agree that there is a deliverable five-year housing land supply of 3,581 dwellings at 1 October 2020. Based on the CLCS requirement of 507dpa and factoring in past under-supply⁷⁴ and a 5% buffer, there would be a 4.95 years supply of housing land'.

6.19 The Council's Committee Report⁷⁵ and Statement of Case⁷⁶ fail to provide any detail or further justification as to why this methodology is now being applied or what the catalyst for this approach has been.

6.20 The absence of any planning policy or guidance supporting the Council's approach is, in my view, a telling omission by the Government. The PPG provides comprehensive guidance on how to calculate the 5YHLS. There is no requirement for additional steps which are not addressed in the PPG. This issue was the subject of a legal challenge at the High Court⁷⁷ in 2019 where Dove J accepted that, in the absence of any policy to interpret, it was a matter of planning judgement as to how the decision-taker treated an element of oversupply. I understand that to mean that it would not be unlawful for the Council to make a reduction for part oversupply. However, as a matter of planning judgement, I do not consider that this is the correct approach because it is contrary to the national policy imperative to boost significantly the supply of housing and the CLCS imperative to deliver a *minimum* number of houses both annually and across the Plan period as a whole. Further, I do not consider there is any land use planning harm which the Council has identified (and supported with evidence) which requires any

⁷² CD5.5 - Paragraph: 032 Reference ID: 68-032-20190722

⁷³ CD9.4 - Land at Cardwell Farm, Barton (Appeal Ref: APP/N2345/W/20/3258889) Para. 42

⁷⁴ Using the Sedgefield method – the past shortfall being addressed in the next five years

⁷⁵ CD3.1 - Committee Report

⁷⁶ CD10.2 - Statement of case on behalf of Council

⁷⁷ CD9.12 – Tewkesbury Borough Council v Secretary of State for Communities Housing and Local Government & Ors [2019] EWHC 1775

“oversupply” in the early parts of the Plan to be remedied by reducing the annualised supply at the end of the Plan period, such as evidence of housing market failure or a lack of demand for new housing in the Housing Market Area etc.

6.21 A number of decisions have addressed this issue since 2017. For completeness I set these out and the key points to note of relevance in the consideration of this particular case.

Relevant Appeal Decisions

Land north of Aylesbury Road, Wendover, Buckinghamshire⁷⁸ – Ref: APP/J0405/W/16/3158833 (09 October 2017)

6.22 The appeal at Wendover issued in October 2017 represents one of the first decisions to consider the issue of oversupply and its deduction from the future housing requirement. The Inspector concluded that in the context of the objective of significantly boosting the supply of housing under the NPPF, *‘it seems to me that any oversupply in the early years of a plan cannot be ‘banked’ so as to reduce the annualised target in later years⁷⁹.*

6.23 The Inspector added that *‘This is because it is not a question of **exactly** meeting the overall plan requirements but ensuring that sufficient (or a minimum level of) housing is provided over the plan period in order to meet identified needs. Any provision over and above that requirement must be viewed in terms of the objective of significantly boosting supply. As such the requirement is a target but it is a minimum target. Undersupply would create a problem in that it would result in people in housing need not having their needs met. Oversupply would not be problematic in that it would increase choice and be a positive step in meeting housing needs⁸⁰.*

6.24 I agree with this decision and consider that the same conclusions can and should be reached in respect of this Council. The decision sets into context that under delivery would lead to a shortfall in unmet needs, which should rightly be addressed in the five year supply calculation. By contrast, oversupply would not be problematic and should instead be seen as a positive approach towards meeting housing needs and increasing choice.

⁷⁸ CD9.5 - Land north of Aylesbury Road, Buckinghamshire (Appeal Ref: APP/J0405/W/16/3158833)

⁷⁹ CD9.5 - Land north of Aylesbury Road, Buckinghamshire (Appeal Ref: APP/J0405/W/16/3158833) Para. 119

⁸⁰ CD9.5 - Land north of Aylesbury Road, Buckinghamshire (Appeal Ref: APP/J0405/W/16/3158833) Para. 119

6.25 The benefits and implications of choosing whether or not to consider oversupply in the five year supply calculation is considered in detail in my Planning Proof of Evidence.

Land off Westminster Drive, Dunsville, Doncaster, South Yorkshire⁸¹ – Ref: APP/F4410/W/16/3158500 (12 July 2017)

6.26 Another decision in 2017 noted that, similarly to CS Policy 4, the housing requirement is a minimum figure and not a ceiling. The decision reinforces that *‘Any restriction or deduction in future years supply would clearly go against the Government’s aim to significantly boost the supply of housing. The Council have not provided a justified rationale for this approach which I consider to be flawed and unsupported by national guidance’*⁸². Again, I agree with this decision and the same approach should be adopted in Chorley.

Land south of Kislingbury Road, Rothersthorpe⁸³ - Ref: APP/Z2830/W/18/3206346 (17 May 2019)

6.27 The appeal decision at Rothersthorpe in May 2019 makes clear that allowing for oversupply in this manner is considered *‘out of step’*⁸⁴ with the NPPF and the objective of *‘significantly boosting housing’* and planning for a *‘minimum of five years’* worth of housing’.

6.28 Notwithstanding the tensions with national planning policy, the Council’s approach was rejected on two grounds. Firstly, delivery will inevitably vary year to year and applying a pro rata discount from oversupply will therefore risk artificially suppressing housing requirements. Secondly, housing needs are to be reviewed every 5 years so in the event of significant oversupply, action could be taken to address it in the short to medium term. I agree with this decision and the same approach should be adopted in Chorley.

Land South of Oakridge, Highnam, Gloucester⁸⁵ - Ref: APP/G1630/W/17/3184272 (20 December 2018)

6.29 The Inspector determining this appeal decision stressed *‘the emphasis in the revised Framework is on determining the minimum number of homes and the requirement for local planning authorities is to demonstrate a minimum of 5 years’* worth of housing against the requirement. Consequently, TBC’s approach would run counter to that advocated in national planning policy and I do not therefore consider that an over-

⁸¹ CD9.6 – Land off Westminster Drive, Dunsville, Doncaster (Appeal Ref: APP/F4410/W/16/3158500)

⁸² CD9.6 – Land off Westminster Drive, Dunsville, Doncaster (Appeal Ref: APP/F4410/W/16/3158500) Para. 37

⁸³ CD9.7 - Land south of Kislingbury Road, Rothersthorpe (Appeal Ref: APP/Z2830/W/18/3206346)

⁸⁴ CD9.7 - Land south of Kislingbury Road, Rothersthorpe (Appeal Ref: APP/Z2830/W/18/3206346) Para. 14

⁸⁵ CD9.8 - Land South of Oakridge, Highnam, Gloucester (Appeal Ref: APP/G1630/W/17/3184272)

supply from previous years should be 'banked' so as to reduce the housing target in future years'⁸⁶.

- 6.30 While the Inspector recommended the application be refused, a decision endorsed by the Secretary of State, both parties accepted the approach taken to establishing the five-year housing requirement. This strongly concluded that the Council were incorrect in banking past years of overdelivery. The same approach should be adopted in Chorley.

Land off Ashmead Drive, Gotherington⁸⁷ – Ref: APP/G1630/W/20/325631 (12 January 2021)

- 6.31 Following previous appeals and legal challenges in Tewkesbury, the appeal at Ashmead Drive considered the same issue on oversupply. Similar to the appeal decisions which were considered in previous years, the Inspector continued to find against the Council's argument.

- 6.32 The Inspector was explicit in stating that '*Whilst it is clear that housing above the annual requirements has been delivered in the area and housing supply has been boosted in line with the Framework; it is my view that additional supply is not a tool that can be used to discount the Council's housing requirement set out in its adopted strategic policies*'⁸⁸.

- 6.33 The appeal decision echoes the references made in previous decisions to the core objective of significantly boosting housing delivery as set out under the NPPF. The same approach should be adopted in Chorley.

Waters Lane, Middleton Cheney, South Northamptonshire⁸⁹ – Ref: APP/Z2830/W/20/3261483 (19 April 2021)

- 6.34 In April 2021 a decision was issued in relation to the appeal against the non-determination of a residential development on land east of Waters Lane, Middleton Cheney⁹⁰. The issue of accounting for over-delivery within the five-year housing land supply calculations was considered by the Inspector who noted that '*If the oversupply were not taken into account, then the requirement in the five years of the monitoring period would not lead to an artificially low expectation in the future, since the homes*

⁸⁶ CD9.8 - Land South of Oakridge, Highnam, Gloucester (Appeal Ref: APP/G1630/W/17/3184272) Para. 203

⁸⁷ CD9.9 - Land off Ashmead Drive, Gotherington (Appeal Ref: APP/G1630/W/20/3256319)

⁸⁸ CD9.9 - Land off Ashmead Drive, Gotherington (Appeal Ref: APP/G1630/W/20/3256319) Para. 63

⁸⁹ CD9.10 - Land east of Waters Lane, Middleton Cheney (Appeal Ref: APP/Z2830/W/20/3261483)

⁹⁰ CD9.10 - Land east of Waters Lane, Middleton Cheney (Appeal Ref: APP/Z2830/W/20/3261483) Para. 47

required would already been provided. Instead, the number would be artificially inflated above the housing requirement in the adopted plan'.

- 6.35 Paragraph 48 of the decision refers to the plan-led system delivering a planned requirement *'to meet a specific need over the plan period'*. The Inspector took the view that failing to offset oversupply from previous years would *'artificially inflate'* the housing requirement over the remainder of the plan period. This would potentially risk undermining the plan-led system and was a factor which informed the Inspector's judgement on the five year housing supply calculation. In this case the Inspector sided with the Council's position.
- 6.36 The clear distinctions in policy approaches between the housing requirement set under Policy S3 of West Northamptonshire Joint Core Strategy Local Plan (WNJCS)⁹¹, which is based on a housing trajectory to be monitored on an annual basis, set against Policy 4 of the CLCS which makes clear the housing requirement is a minimum over the plan period, are considered later in my proof⁹².
- 6.37 I disagree with the Council's contention that the same conclusions drawn in the Middleton Cheney decision are applicable to this case. Delivering more than a minimum housing requirement cannot (even arguably) be inconsistent with the plan-led system and national imperative of significant boosting housing supply. Indeed, for that conclusion to have any weight, there must be some tangible land use planning harm arising. In this case, the Council have not raised any such harm.

***Land off the A38, Coombe Hill, Gloucestershire*⁹³ – Ref: APP/G1630/W/20/3257625 (1 June 2021)**

- 6.38 In June 2021, an appeal decision was issued against the non-determination of a housing application in Coombe Hill⁹⁴, also located in Tewkesbury.
- 6.39 While the Council were unable to demonstrate a five year supply in either scenario, the extent of this shortfall was a key debate and was driven again through a discussion on oversupply.
- 6.40 In concluding that the Council could demonstrate a 4.35 year supply, the Inspector agreed that applying a housing requirement that recognised the year to year fluctuations in delivery which seemed to be a *'just approach'* given *'it reflects reality,*

⁹¹ CD6.35 - West Northamptonshire Joint Core Strategy Local Plan (Part 1)

⁹² See Paras. 6.68 – 6.96

⁹³ CD9.11 - Land off the A38, Coombe Hill, Gloucestershire (Appeal Ref: APP/G1630/W/20/3257625)

⁹⁴ CD9.11 - Land off the A38, Coombe Hill, Gloucestershire (Appeal Ref: APP/G1630/W/20/3257625)

*not a theoretical formula applied without consideration of actual outturns*⁹⁵. That said, the Inspector continued with immediately emphasising that *'it should not blind one to the pressing need to identify land for housing for the remainder of the plan period'*⁹⁶.

- 6.41 Based upon the merits of the appeal at Coombe Hill and in contrast to the deliverable supply position in Chorley, the appeal decision referred to the *'wildly fluctuating supply'* in the Borough. In this context, some degree of flexibility as opposed to creating an average annual requirement would be appropriate, however this is not the situation facing Chorley who have a diminishing supply of housing land.

Summary of Decisions

- 6.42 My analysis on appeal decisions has consistently drawn out the Government's objective for the planning system and its key role in addressing the UK's housing crisis through increased housing delivery.

- 6.43 Set against this backdrop, the housing requirements set for LPAs, especially in the policy context of Chorley and the CLCS, clearly represents a minimum requirement. If every time the minima is exceeded and an LPA is allowed to reduce the requirement in the next five years, then LPAs will only ever be delivering the absolute minimum. It is unanswerable that this is contrary to the national imperative of significantly boosting the supply of housing.

- 6.44 The latest conclusions on the matter of 'oversupply' taken by Secretary of State (SoS), are set out in the recovered appeal at land south of Oakridge⁹⁷ in December 2018. The SoS decision noted that:

'The Secretary of State has carefully considered the Inspector's assessment of housing demand and of housing land supply, as set out at IR198-221. For the reasons given in that assessment, he agrees with the Inspector's conclusions that 520 homes per year are required (IR209)'

- 6.45 As addressed in my proof above, the SoS agreed that in the context of the NPPF, any 'oversupply should not be "lost"' given the policy emphasis on delivering against minimum housing requirements. I agree emphatically with this conclusion.

⁹⁵ CD9.11 - Land off the A38, Coombe Hill, Gloucestershire (Appeal Ref: APP/G1630/W/20/3257625) p.18

⁹⁶ CD9.11 - Land off the A38, Coombe Hill, Gloucestershire (Appeal Ref: APP/G1630/W/20/3257625) p.18

⁹⁷ CD9.8 - Land South of Oakridge, Highnam, Gloucester (Appeal Ref: APP/G1630/W/17/3184272) Para.

- 6.46 Although the Inspector and SoS went on to find that the appeal should be dismissed, Tewkesbury Council subsequently challenged the SoS decision in the High Court. The claim made by the LPA was that Tewkesbury Borough Council sought to challenge the decision on the basis that the Secretary of State's interpretation of the housing land supply, more specifically the approach to oversupply, was incorrect.
- 6.47 Dove J recognised that in the absence of any policy for legal interpretation, under the NPPF or PPG, then it remains a matter of planning judgement as to whether offsetting oversupply could be permissible in the calculation of a 5YHLS.
- 6.48 It is however significant that if it was the policy and guidance of the SoS to allow for oversupply, the SoS would have granted planning permission and amended PPG accordingly to bring clarity to the matter. On the contrary, PPG wasn't updated until 22 July 2019 shortly following Dove J's judgement to uphold the SoS decision.
- 6.49 The only update to PPG made by the SoS on 'Housing Supply and Delivery'⁹⁸ was the inclusion of Paragraph: 032 Reference ID: 68-032-20190722 which states that:
- 'Where areas deliver more completions than required, the additional supply can be used to offset any shortfalls against requirements from previous years'.* (NJL emphasis)
- 6.50 The fact that the SoS chose not to update PPG, consistent with other appeal decisions, supports the Appellant's case that there should not be a reduction for oversupply.

The Situation in Chorley

- 6.51 On the available evidence, it is unclear why the Council have adopted this methodological change and why it should be permissible in Chorley (but not elsewhere). I have therefore delved further into the specific context for each of the appeal decisions, the circumstances which lead each local authority to present a case on oversupply at that time, and the options (or lack of) available to them which may have influenced their approach to demonstrate a five year housing land supply.
- 6.52 As a starting point, I have considered South Northamptonshire given the appeal decisions at Rothersthorpe and Middleton Cheney. Policy S3 of the WNJCS is the strategic policy for housing provision but did not set an annualised minimum housing requirement over the plan period in contrast to the CLCS.

⁹⁸ CD5.5 - Planning Practice Guidance: Housing supply and delivery

- 6.53 Instead, Policy S3 provided an estimate housing requirement of 11,020 dwellings to be delivered in the South Northamptonshire District from 2011 to 2029, albeit the Inspector acknowledged that in line with the objectives of national planning policy, the *'housing numbers in the plan are not intended to operate as a cap or upper limit'*⁹⁹.
- 6.54 The WNJCS provides a clear distinction that the monitoring of housing delivery will be set against the forecasted completion rates identified in the Housing Trajectory (Appendix 3), as these figures *'are considered to be a more appropriate measure for the 5 year land supply and delivery calculations than a flat rate annualised figure'*¹⁰⁰, otherwise, as the Inspector's Report poignantly adds, *'there would be little point in having a trajectory at all.'*¹⁰¹ Given the Housing Trajectory *'can only be a broad estimate of likely new housing delivery [...] and will have to be regularly reviewed through the JPU's monitoring process'*¹⁰², the Council's housing requirement would inherently be updated on an annual basis.
- 6.55 This represents a marked difference to the manner in which Policy 4 of the Central Lancashire Core Strategy is set out and its intentions for housing delivery within the Borough over the plan period. While Chorley Council are now presenting an argument on the basis of delivering a planned housing requirement up to 2026, if this was the underlying objective from the outset of the Core Strategy, then the wording of Policy 4 should have been more explicit and embedded greater flexibility – similar to how this was resolved by South Northamptonshire Council and the joint authorities under the WNJCS.
- 6.56 This policy context is an acute difference, making the methodological approach now being progressed by Chorley Council a very different proposition to that undertaken by the joint authorities of the WNJCS.
- 6.57 In understanding the reasons for South Northamptonshire Council's approach to oversupply, I have further reviewed the adopted Core Strategy. Paragraph 5.41 of the WNJCS highlighted that compared to other districts in the joint authority, South Northamptonshire Council would benefit from a strong forward supply in the first five years of the plan period up to 2016 given *'the SUEs'*¹⁰³ *are more advanced and there is*

⁹⁹ CD6.34 - Report On The Examination Into The West Northamptonshire Joint Core Strategy Local Plan (Para. 200)

¹⁰⁰ CD6.35 - West Northamptonshire Joint Core Strategy Local Plan (Part 1) Para. 5.41

¹⁰¹ CD6.34 - Report On The Examination Into The West Northamptonshire Joint Core Strategy Local Plan (Para. 199)

¹⁰² CD6.34 - Report On The Examination Into The West Northamptonshire Joint Core Strategy Local Plan (Para. 39)

¹⁰³ Sustainable Urban Extensions

a larger supply of sites with consent'. This point correlates with timings over the Council's sudden change in their five year housing supply methodology who first presented a case for deducting oversupply in their 2017 Housing Land Availability Study¹⁰⁴.

- 6.58 I therefore adduce that this change in this methodological position highlighted the South Northamptonshire Council's pessimistic outlook on their forward supply of housing and its ability to meet the needs as set under the Housing Trajectory. Indeed, between the five years of the 2016¹⁰⁵ and 2020¹⁰⁶ Housing Land Availability Studies, there was a major reduction in the deliverable supply by some 43% (equating to 1,457 dwellings)¹⁰⁷. The option of allowing for oversupply to reduce forward housing requirements therefore represented the only avenue available to the Council to avoid a scenario of being challenged by speculative housing applications in the context of a lack of a five year housing land supply.
- 6.59 This mirrors the scenario now facing Chorley Council. Reverting back to the housing scheme at Pear Tree Lane refused at planning committee in December 2016 and later at appeal in 2017, the Council presented a case on the basis of a housing requirement underpinned by Policy 4 of 417 dwellings per annum. It was also shown in the 2016 Committee Report¹⁰⁸ that the Council benefitted from a deliverable supply of 2,424 dwellings, predominantly bolstered by allocated housing sites with planning permission (1,681 dwellings).
- 6.60 Over the same five year time period to that in South Northamptonshire, Chorley Council Council now confirms the deliverable supply is at best 1,504 dwellings – a significant 38% reduction within a short 5 year timeframe.
- 6.61 Therefore, similar to South Northamptonshire Council, the evidence suggests that Chorley have had to adopt an entirely new methodological approach (rejected by Inspectors and the SoS on Appeal), simply in order to demonstrate a 5YHLS in the teeth of their diminishing forward supply of housing. Further, this is occurring against a housing requirement which is (as a matter of evidence) significantly out of date (even accepting the review). The Council's approach is wholly inconsistent with the central national policy imperative to boost significantly the supply of housing to meet current assessed housing needs. The LHN annualised requirement is 537dpa, yet the Council calculate

¹⁰⁴ CD6.36 - South Northamptonshire Council - Housing Land Availability Study April 2017 (p.10)

¹⁰⁵ CD6.27 - South Northamptonshire Council - Housing Land Availability Study April 2016 (p.1)

¹⁰⁶ CD6.28 - South Northamptonshire Council - Housing Land Availability Study April 2020 (p.1)

¹⁰⁷ 3,365 dwellings – 1,908 dwellings = 1,457 dwellings

¹⁰⁸ CD6.26 - 2016 Committee Report on Application Ref: 16/00489/OUTMAJ (Para. 43)

their housing requirement against an annualised requirement of just 104dpa (exc. 5% buffer).

6.62 It is however noticeable that the Council didn't choose to apply the reduction on oversupply at both planning appeals at Pear Tree Lane in 2017 and just 2020 where an over delivery of 1,055 and 1,678 dwellings¹⁰⁹ could be demonstrated respectively. In both cases the Council claimed to demonstrate a five year housing supply but on a different basis. Under the 2017 inquiry the Council upheld Policy 4 as being up to date, while in 2020 the Council argued the contrary, advocating that Policy 4 was now clearly out of date and superseded a reapportioned local housing need figure under MOU2.

6.63 The Inspector emphatically dismissed the soundness of MOU2 and as a result the Council have had to reconsider an alternative methodology. This reinforces my assertion over the lack of methodological rigour being applied by the Council who appear to be planning for the absolute minimum housing requirement as opposed to addressing actual needs.

6.64 To further inform my judgement on the suitability of deducting oversupply within the five year housing supply calculation, I have updated on the latest position for each local authority and the housing requirement that is now being planned for. This is set out in Table 8 below:

Table 8: Analysis of Housing Requirements across LPAs

LPA	Annual Housing Requirement previously proposed by LPA	Allowance of oversupply?	Annual Housing Requirement now being adopted by LPA
South Northamptonshire	354 dpa	✓ Allowance on oversupply maintained	Development Plan 351 dpa
Doncaster	870 dpa	✗ Oversupply no longer accounted	LHN 550 dpa
Tewkesbury	495 dpa	✓ Allowance on oversupply maintained	Development Plan 495 dpa
Aylesbury Vale	988 dpa	✗ Oversupply no longer accounted	LHN 1400 dpa

¹⁰⁹ CD6.15 - Chorley Five Year Housing Supply Statement (May 2021) Table 1

- 6.65 The table confirms that of those authorities to previously argue for oversupply, it is only Tewkesbury who are continuing to challenge this point and have subsequently been found against in repeated appeal dismissals by Inspectors¹¹⁰.
- 6.66 In the case of South Northamptonshire Council, while they supported the use of an oversupply allowance in the Middleton Cheney appeal decision, their 2020 Housing Land Availability Assessment¹¹¹ accepted that if this was not accounted for, they could still demonstrate a 5.18 year supply of housing land.
- 6.67 Following the appeal decisions, Doncaster and Aylesbury Vale District Council have since resolved their five year supply positions and reverted back to applying the standard methodology calculation for local housing needs, albeit Doncaster is due to adopt a new Local Plan in September 2021. In the case of Aylesbury Vale, the use of the local housing need figure is justified on the basis the adopted plan (saved policies in 2007 from the 2004 Aylesbury Vale District Local Plan) is more than five years old and have not been formally reviewed.

Analysis

- 6.68 I accept (in the light of the High Court decision) that the Council's approach is not unlawful as it does not misinterpret policy, simply because there is no such policy. That conclusion does not support the Council's approach, it just means it is a matter of planning judgement for this Inspector. My planning judgement on the matter is that adopting a residual calculation approach to establishing a housing requirement is unwarranted in Chorley and is flawed on a number of levels.
- 6.69 Firstly, I consider the express lack of policy guidance support to this approach as being fundamental to its appropriateness. My view is that it has been consciously omitted as Government does not endorse this approach and, in particular, is not seeking to endorse the application of minimum housing requirements as a ceiling.
- 6.70 Secondly, the Tewkesbury legal judgement¹¹² acknowledges that in the absence of any express policy on this matter to interpret, there is no case to be made that the Council's approach is unlawful. It is a matter of planning judgement to consider the appropriateness of this approach. However, PPG makes clear how the five year housing land supply calculation should be performed by local planning authorities and therefore

¹¹⁰ See appeal decisions CD9.5; CD9.6; CD9.7; CD9.8; CD9.9; CD9.11

¹¹¹ CD6.28 - South Northamptonshire Council - Housing Land Availability Study April 2020 (Table 5.1)

¹¹² CD9.12 - Tewkesbury Borough Council v Secretary of State for Communities Housing and Local Government & Ors [2019] EWHC 1775

in the absence of any policy support for an oversupply allowance, this reinforces the assertion that the Council's proposition represents an entirely new policy approach that is not endorsed within the NPPF or PPG.

6.71 Thirdly, the fact that PPG represents a 'live document' which the Government could update at any stage is key point of distinction. This matter is not a recent issue having been first presented at inquiry in 2016 and been grappled with at subsequent appeal decisions and in the Courts. I consider the outcomes of these decisions separately but believe the Government's decision to not update guidance and support this policy approach represents a telling omission.

6.72 Fourthly, there is clear precedent in appeal decisions which shows that Inspectors have taken a strong stance on consistency with the objectives of the NPPF. The allowance of oversupply elsewhere has been seen on a number of occasions as being contrary to the national planning policy imperative of significantly boosting the supply of housing land.

6.73 This fundamental aim to the planning system was first introduced under the 2012 NPPF and subsequent Housing White Paper in 2017 which recognised the UK's housing market is broken. The more recent 2020 Planning White Paper reinforces that the housing delivery challenge remains. These decisions emphasise the rationale for significantly boosting housing land and the associated benefits which include:

- i. Significantly boost the availability of housing land for new development;
- ii. Increasing choice and competition within the housing market;
- iii. Ensuring that significantly more new homes are delivered for people to live in;
- iv. Increasing housing supply in order to avoid price inflation as a result of growing demand and worsening affordability; and
- v. Supporting the strategic delivery of affordable dwellings to meet identified local needs.

6.74 The Council's proposition is to significantly reduce their housing requirement to just 19% or 26% of the LHN figure or adopted CS Policy 4 requirement. This would clearly fly in the face of what the planning system is expressly seeking to achieve in terms of significantly boosting the supply of housing land. These decisions are all within local authorities where the Council were found to be right in assessing their supply against the housing

requirement set by strategic policies in the adopted local plan. Such decisions are material considerations of significant weight because there should be consistency in decision-making.

6.75 Fifthly, while I note arguments in the Middleton Cheney appeal decision that refer to meeting 'a specific need over the plan period'¹¹³, this is set in the context of a trajectory-based housing requirement as defined in the WNJCS. In this case, Policy 4 of the CLCS is clear that the annual requirement of 417 dwellings per annum from 2012 to 2026 represents a **minimum** annual housing requirement.

6.76 Further, this is an annual requirement which has been derived from the revoked RS housing requirement, using a PPS 3 constrained methodology which does not derive an OAN for housing, on the basis of demographic evidence from the 1990's. There can be no doubt that this housing requirement is out of date and significantly below the current assessed need for housing in the NPPF standard methodology (537dpa).

6.77 There is therefore a clear distinction to be drawn between delivering housing across a plan period and the basis for calculating a 5 year supply against a *minimum* housing requirement.

6.78 If it is accepted that any exceedance above a minimum housing requirement can be 'banked', then this will mean that Council's will only ever continue to deliver to the minimum amount of housing. This is plainly contrary to the Development Plan, NPPF and has been supported by several appeal decisions. There is no evidential basis for Chorley to be an exception, even though the Council invites us to do so. Quite simply, CLCS Policy 4 states **each authority** will deliver a **minimum** number of dwellings **per annum**. It does not say **on average** which it quite clearly could have.

6.79 Sixthly, the allowance of oversupply within the 5YHLS calculation now being posed by the Council is underpinned by a lack of methodological rigour. I assert this on two grounds:

- 1 Despite the Council's monitoring evidence showing an 'oversupply' over the plan period¹¹⁴ and with no change in policy guidance in that period, this raises questions as to the legitimacy of this policy approach. In my view it is clear that the underlying catalyst for this new methodological approach has been the

¹¹³ CD9.10 - Land east of Waters Lane, Middleton Cheney (Appeal Ref: APP/Z2830/W/20/3261483) Para. 48

¹¹⁴ CD6.15 - Chorley Five Year Housing Supply Statement (May 2021)

recent Pear Tree Lane appeal decision¹¹⁵ which quashed the housing requirement under MOU2 (278dpa).

In the absence of being able to demonstrate a 5YHLS under Policy 4 or the solus LHN figure, the offsetting of oversupply represents the only available option for reducing the housing requirement to an extent where a 5YHLS can be shown.

- 2 Despite now running a case on the basis of a trajectory-based policy approach to meet a 'specific need' over the plan period of the CLP, this is at odds with the Council's methodological and monitoring approach to date.

I recognise that CLP Policy HS2 states that the phasing of development will be managed to reflect the housing trajectory in Appendix B of the CLP¹¹⁶, however it also adds that developments will '**deliver the annual rate of supply proposed under Core Strategy 4: Housing Strategy**'. In this case that is a minimum of 417 dpa.

The policy text for HS2 goes on to state that house building activity will be monitored and measured against the indicative phasing in Appendix B, with the aim of ensuring a deliverable five-year supply of housing. As monitoring is carried out it may become necessary to update the indicative phasing in Appendix B to reflect changing circumstances. This will be undertaken in the Annual Monitoring Report¹¹⁷.

Interestingly, Point (b) of Policy 4 does in fact set its expectation of the appropriate monitoring period for housing delivery as 3 years and not the entire plan period as the Council now advocate. This chimes with the requirements of the HDT which I consider separately below. It also does not provide clarification as to what Council's would do should they exceed these minimum targets only the converse.

It is however apparent that at no stage over the plan period have the Council sought to monitor their housing delivery against anything other than the Policy 4 minimum housing requirement of 417dpa. This represents a clear contradiction to the policy approach now being put forward by the Council and its methodological soundness.

¹¹⁵ CD9.1 - Land at Pear Tree Lane, Euxton, Chorley (Appeal Ref: APP/D2320/W/20/3247136)

¹¹⁶ CD6.2 - Chorley Local Plan (2012-2026)

¹¹⁷ CD6.2 - Chorley Local Plan (2012-2026) Para.5.20

6.80 Eighthly, the HDT is clearly the intended method upon which to judge the Council's performance. As confirmed in Table 9 of the Council's Five Year Housing Supply Statement¹¹⁸, the Council passed the 2020 Housing Delivery Test and therefore the 5% buffer applies in Chorley in accordance with NPPF Paragraph 74. Based on the LHN figure I provide a summary of the housing requirement in the following table:

Table 9: Chorley Council's Housing Requirement Calculation

Housing Requirement	
Chorley Local Housing Need	537
Local Housing Need for 1st April 2021 to 31st March 2026	2685
Including Buffer	
5% Buffer based on Housing Delivery Performance	134
Total Housing Requirement for 1st April 2021 to 31st March 2026	2819
<u>Annual Housing Requirement</u>	<u>564</u>

6.81 Where the HDT is failed, an action plan must be undertaken. Conceivably, the HDT could be failed in circumstances where a Council claims an oversupply reduction. Therefore, the Council's case to reduce their requirement due to benefitting from an historic over delivery of dwellings does not accord with this key policy test introduced by Central Government in order to monitor housing delivery on an annual basis over a 3 year period.

6.82 The HDT is explicit that housing delivery within authorities will be assessed upon '*the net homes delivered over three years to the homes required over the same period*'¹¹⁹. This demonstrates the Government's intent to apply a more condensed review of housing delivery over a three year period in order to ensure that local planning authorities deliver a steady stream of sites in the short term. Taken together both PPG¹²⁰ and HDT are clear that this is not based upon delivery since the date of adoption.

6.83 In the event that Councils over deliver against their requirement, the HDT provides flexibility should completion rates stall in the next year. Similarly, the HDT allowed for a transition period so that local authorities could adjust to this significant policy reform introduced by Government in 2018 in order to support the objective of significantly boosting the supply of housing.

¹¹⁸ CD6.15 - Chorley Five Year Housing Supply Statement (May 2021)

¹¹⁹ CD5.13 - Housing Delivery Test: 2020 Measurement Technical note (p.2)

¹²⁰ CD5.5 - Paragraph: 038 Reference ID: 68-038-20190722

6.84 The HDT means that the Government requires a Council's housing requirement to be met on an annual basis. The Council's approach is not consistent with such a national policy imperative at all.

6.85 Most recently the matter was tackled in the appeal decision at Rascals Farm, Shipley Road, Southwater¹²¹.

'I am cognisant that the Council have significantly exceeded the number of homes required under the Housing Delivery Test (the 'HDT'). However, this is a measure of housing delivery, as opposed to housing supply. Despite the Council's good track record when assessed against the HDT, the supply of deliverable housing sites within the District has fallen below five years. In such circumstances, the tilted balance contained in paragraph 11(d) of the Framework is engaged. Given that the plan review has been suspended additional strategic housing allocations, which would meet the Council's housing land supply requirements are unlikely to come forward for several years.'

6.86 I however firmly believe in the distinction between supply and delivery. To rely on historic delivery to suppress an established current need figure for an immediate future period will go no way to meeting the evidenced requirement for housing with a defined area. From a real world perspective, it is simply of no use to those requiring a home either on the open market or for affordable tenure now.

6.87 The Council make the case that government guidance is silent on the acceptability of doing so and therefore this lends support to do so. However, in my view it is the introduction of the HDT which is fatal to the Council's case on this point.

6.88 My reasoning for this is:

- Whilst the PPG is silent on whether past oversupply can be factored into a calculation of an area's future 5 year housing land supply, it does not provide any support for it.
- Self-evidently for the Government to accept as a general rule of thumb that Council's may offset delivery against supply, this leads minimum housing requirements to be targets as opposed to minimums as intended.

¹²¹ CD9.18 – Rascals Farm, Shipley Road, Southwater (Appeal Ref: APP/Z3825/W/20/3257700) Para. 126

- I do not believe the Government are persuaded to accept historic delivery track records against future supply requirements with such a long time horizon for accumulation.
- The government introduced the HDT to monitor and manage housing delivery within a more immediate time frame than across a plan period.
- My view is that the Government do not need to provide guidance to state whether this is or is not the case as they introduced the HDT in July 2018 which effectively considers the time horizon they are willing to consider delivery records for.
- In the HDT over delivery/exceeding annual or rolling minimum targets is 'rewarded' (in the words of the Council), as the 3 year period allows for fluctuations.
- The introduction of the HDT is a significant change to Government policy since the adoption of the CLCS/CLP and it is telling in my opinion that the Government do not provide any incentives for exceeding targets and instead are clear on what consequences are for under delivery, namely Action Plans and engagement of the tilted balance.
- There are no reasons provided in the technical note and guidance allowing Council's to reduce their annual or rolling 3 year delivery requirement.
- As far as I am aware no Council has challenged this figure and Chorley themselves have not and do not propose to use their newly suggested 5yhls annual target as the basis for the test.
- The Council are using Local Housing Need figure as basis of HDT calculation. They have not contested the figure to be used to monitor delivery and permitting the Council to projects a future supply of housing at a basis of 20% of what the HDT is based upon would represent a serious conflict in the basis to monitor supply and delivery.

6.89 Ninthly, I accept that should Chorley deliver either its deliverable supply or that which I have set out, then that would represent an oversupply figure of 14% or 12%¹²² of the

¹²² 1,504 (Council Supply to 31 March 2026) + 6,316 (cumulative net completions) = 7,820
 7,820 (total completions over plan period) – 6,834 (housing req. over plan period) = 986/ 6834 = **14.4%**
 1,377 (Council Supply to 31 March 2026) + 6,316 (cumulative net completions) = 7,693
 7,693 (total completions over plan period) – 6,834 (housing req. over plan period) = 859/ 6834 = **12.5%**

minimum housing target over the plan period. I accept in both scenarios that this is a material exceedance. However, I do not consider that the Council have provided any demonstrable evidence of any land use planning harm which arises as a result of exceeding the minimum requirement. Accordingly, the mere fact of an exceedance, even where material or significant, does not justify the Council's approach because the annual requirement is a floor not a ceiling and significant benefits arise from delivering additional homes and no harm arises.

- 6.90 Tenthly, I believe to permit this approach in Chorley will lead to a significant shortfall within the next 5 years of delivering the necessary homes to meet the needs of the Borough both in terms of market and affordable homes delivery.
- 6.91 The issue of affordable housing delivery across the remainder of the plan period is addressed in more detail in the Planning proof. The noteworthy headline is that the Council would provide a total of 369 affordable homes (76 p.a.) representing 25% of the deliverable supply. This follows a consistent trend of under delivery in affordable housing set against the CS Policy 7 target of 30% - 35%, with affordable housing only making up 24% of total completions since 2010. The Council's projection of 76 affordable dwellings per annum falls significantly short on the most recent assessment of need¹²³ which identified an annual requirement for 132 affordable dwellings per annum.
- 6.92 Clearly, the Council's proposition to suppress their annual housing requirement to just 109dpa will only exacerbate the acuteness of the affordability issue within Chorley. In terms of market dwellings, the Council's deliverable supply would be inadequate to demonstrate a five year supply of housing based on the local housing need figure or CS Policy 4 minimum requirement of 417dpa (see Page 5 of 5YHLS SoCG¹²⁴). Based on the LHN figure, the Council would be faced with a housing shortfall ranging from 1,316 to 1,483 dwellings (depending upon which deliverable supply evidence is accepted). In either scenario this represents a significant deficit.
- 6.93 The Council's proposition seeks to permit an annual housing requirement just 20% of the LHN figure and at a level which is far below any annual completion rate recorded in Chorley. This will evidently lead to a housing shortfall and not align with the national aim to significantly boost the supply of housing.
- 6.94 Finally, in accepting that the standard method forms the basis for local housing need (1,026dpa) across the Central Lancashire housing market area (HMA), then IF Chorley's

¹²³ CD6.21 - Central Lancashire Housing Study (2020) Table 10.2

¹²⁴ CD10.4 - Housing Land Supply SoCG between Lea Hough and Chorley Council

proposition is accepted the three authorities will have a combined target of 550dpa (Preston 250dpa based on LHN, South Ribble 191dpa based on LHN, Chorley 109dpa based on CS4 Policy requirement and offsetting oversupply).

- 6.95 This outcome would be an aggregate housing requirement that is nearly half (53%) of that which was set as a target for Central Lancashire under the 2020 Housing Study¹²⁵. Moreover, this approach will be out of step and inconsistent with the other two Central Lancashire authorities, undermining the principal of operating as a joint local authority.
- 6.96 Accordingly, I would conclude that the 5YHLS should not be calculated on the basis of a reduction in the annualised requirement, as a result of past exceedances of the out of date minimum housing requirement in Policy 4 of the CLCS.

¹²⁵ CD6.21 - Central Lancashire Housing Study (2020) Para. 4.56

7.0 ISSUE 3 – What is the Council's deliverable housing supply?

- 7.1 The Council's assessment on the deliverable supply of housing land between 1st April 2021 to 31st March 2026, is set out in the latest Five Year Housing Supply Statement which considers that 1,565 dwellings are deliverable.
- 7.2 Through common ground discussions, the Council now suggest the deliverable supply is 1,504 dwellings¹²⁶.
- 7.3 Taking note of the definition of 'deliverable' set out under NPPF and PPG (see Section 2.0 of my proof), I set out the Appellant's assessment of the deliverable supply position in Chorley. This is broken down into the corresponding sub-categories to clearly highlight those sites which are disputed and on examination should be discounted from the deliverable supply.
- 7.4 My view on the deliverable supply is that **1,377 dwellings** will be delivered over the next five year period, a total reduction of **127 dwellings** against the Council's latest position.

Allocated Sites without Planning Permission

- 7.5 As a starting point it is important to note that there has been a significant divergence in the Council's assessment on the deliverability of allocations without planning permission based upon the latest evidence set out in the 2021 Five Year Housing Supply Statement. Within 12 months from the publication of the 2020 report¹²⁷, it has been projected that 194 fewer dwellings will be supplied from such sites in the five year supply – equating to a 29% reduction.
- 7.6 Even within 5 months of the 2021 Five Year Housing Supply Statement being published in April 2021, the Council have accepted a further 60 dwelling reduction from allocated sites without planning permission.
- 7.7 This illustrates the Council's lack of certainty on lead-in periods for delivering key sites such as Cowling Farm, a point I consider in more detail below.

Eaves Green, off Lower Burgh Way (Ref: HS1.1)

- 7.8 It was established as common ground in the appeals for Tincklers Lane and Town Lane, that the number of deliverable dwellings forecasted for the site at Eaves Green should

¹²⁶ CD10.4 - Housing Land Supply SoCG between Lea Hough and Chorley Council

¹²⁷ CD6.13 - Chorley Five Year Housing Supply Statement (May 2020)

be reduced by 40 units. There has been no change in circumstances or evidence to deviate from this conclusion.

Cowling Farm (Ref: HS1.5)

- 7.9 I have assessed the site against the definition of 'deliverable' under the NPPF which states that '*to be considered deliverable, sites for housing should be available now, offer a suitable location for development now, and be achievable with a **realistic prospect** that housing will be delivered on the site within five years*' [my emphasis]. For those housing allocations which do not have detailed planning permission, the definition adds that sites '*should only be considered deliverable where there **is clear evidence** that housing completions will begin on site within five years*'.
- 7.10 Based upon the Council's assessment on this site in both the 2020 and 2021 Housing Supply Statements, there is a significant divergence in positions being taken on the deliverability of this site and its ability to contribute over the next five years.
- 7.11 Just 16 months ago the Council stated that following land exchange and the preparation of a masterplan, '*Homes England have confirmed that the site will be delivered in the five year period with development scheduled to commence by the end of 2021/early 2022*'. A total of 112 dwellings were initially projected to come forward up to March 2025.
- 7.12 In just over a year, this position has altered significantly with only 32 dwellings being forecasted within the same timeframe. In total 80 dwellings are projected to be up to March 2026. This demonstrates the lack of certainty over the associated lead-in times to bring forward this large housing allocation, with Homes England Land Hub not showing the site as being on the market or as a pipeline site.
- 7.13 As an estimate the site will take up to 4 years to deliver the first dwelling from the submission of an outline planning application¹²⁸, with the Appellant suggesting the following timescales for delivery:
- Outline Planning Application Submission: November 2022
 - Outline Planning Permission Secured: May 2022
 - Negotiation of S106 Agreement: June 2022 – September 2022

¹²⁸ CD6.29 – Lichfields Start to Finish 2nd Ed. (2020) p.6

- Marketing and Site Disposal: October 2022
- Reserved Matters Submitted: January 2023
- Reserved Matters Approved: September 2023
- Submission and Discharge of Pre-Start Conditions: October – December 2023
- Start on Site and Enabling Works: January 2024
- House build Commencement: October 2024
- First Completion: March 2025

7.14 This would mean that at best the site could deliver 36 dwellings in 2025/2026 based on a monthly build rate of 3 dwellings. I do not however consider there to be sufficient evidence to demonstrate the deliverability of the site within the next five years. This represents a reduction of 80 dwellings from this site over the five year period.

7.15 In total this will result in the reduction of **60** dwellings from the Council's deliverable supply.

Windfall Sites of more than 10 Dwellings with Planning Permission

7.16 The site at Fairclough House, Church Street (3491) has recently exchanged in ownership following the Fairpoint Group, the former owner of the building, went into administration in 2017. Prior approval (Ref: 19/00840/P3PAJ) was approved in 15 November 2019 for its conversion to 56 flats, however this requires that the consented dwellings are delivered in 3 years (i.e. 15 November 2022). The Council's Five Year Housing Supply Statement states that the development had yet to be commenced at 01 April 2021, meaning that at the date of drafting this proof of evidence, there is just 1 year 2 months for the conversion works to be finalised. There is no developer attached and no evidence to demonstrate the deliverability of the site within this short timeframe. This raises significant doubt on the prospects of the consented 56 dwellings being implemented in the five year period.

7.17 This will result in the reduction of **56** dwellings from the deliverable supply.

Windfall Sites of less than 10 Dwellings with Planning Permission

7.18 The site at 145 Town Lane has not been subject to the submission of a CIL commencement notice. The Council accept in the Statement of Common Ground for

on Housing Land Supply¹²⁹ that the applicant will not be implementing the permission and instead will be applying to build new extensions. This application has therefore been recorded as expired, resulting in the loss of one dwelling from the deliverable supply.

7.19 I have also noted that several planning permissions are highly dated and were granted planning permission from 2010 and beyond without being completed. I highlight these permissions alongside my justification for these being removed from the deliverable supply in **Appendix 1**.

7.20 Notwithstanding this, the inclusion of sites with permissions, dating as far back as 1994, highlights the extent to which the Council are seeking to bolster their supply wherever possible. This also raises an issue on the quality of the supply, a point I consider later in my proof.

7.21 I therefore conclude that **11** dwellings should be taken from the deliverable supply.

Conclusions on the Council's Deliverable Housing Land Supply

7.22 In summary, I conclude that the Council's supply should be reduced by **127** dwellings. The Council can therefore only demonstrate a deliverable supply of **1,377** dwellings. This position is summarised in Table 10 below.

Table 10: Summary on Chorley Council's Deliverable Supply

Deliverable Housing Supply	No. Dwellings (Council)	No. Dwellings (Appellant)	Difference
Allocated sites with planning permission	469	469	0
Allocated sites without planning permission	190	130	-60
Windfall sites >10 dwellings with planning permission	397	341	-56
Windfall sites <10 dwellings with planning permission (discounted by 36%)	265	254	-11
Windfall allowance	183	183	0
Total Five Year Supply	1,504	1,377	-127

7.23 This difference is not material to any overriding conclusion on the matter of five year housing land supply. I would therefore accept if this matter was reported as a range from 1,504 dwellings to 1,377 dwellings.

¹²⁹ CD10.4 - Housing Land Supply SoCG between Lea Hough and Chorley Council (Para. 2.14)

Context to Deliverable Supply

- 7.24 While the above assessment considers the deliverable supply in quantitative terms, it is important to fully contextualise the supply of housing, its composition and quality in meeting specific housing needs within Chorley.
- 7.25 As previously noted, the last five year period has seen a significant 38% reduction in the Council's deliverable supply which was previously 2,424 dwellings in 2016. In the last 14 months since the publication of the 2020 Five Year Housing Supply Statement, the projected supply of housing land has fallen by as much as 9.5%¹³⁰.
- 7.26 A comparative assessment of the composition of the deliverable supply from the Council's evidence published in May 2016, May 2020 and May 2021 is set out in Appendix 1 of my Planning Proof which highlights significant divergences and in doing so raises questions on the credibility of the deliverable supply now being proposed, in particular the increased reliance being placed on the windfall allowance.
- 7.27 Based upon the 2021 Five Year Housing Land Supply Statement, the Council rely upon a total of 264 permissions which will inevitably involve a significant number of landowners and developers to deliver over half (54%) of the housing supply from windfall sites. This added complexity represents a risk to the deliverability of the supply position being argued by the Council. For comparison, the total windfall allowance in 2016 equated to 30% of the supply which I consider to be a more appropriate basis for ensuring a deliverable forward supply of sites. While the projected deliverable supply may broadly follow the indicative trajectory referred to in the CLP, closer inspection of the composition of this supply raises significant questions in qualitative terms. I have sought to summarise these findings below in Table 11 and believe this to be material in this case:

Table 11: Summary on the Qualitative Assessment of the Council's evidence on Deliverable Supply

Indicator	Total
Windfall allowance	845 dwellings (54% of the total windfall allowance)
No. windfall permissions	264 permissions
1 no. dwelling schemes	137 permissions (63% of the <10 dwelling windfall site supply)
Located within the Rural Service Centres and 'Other Rural Areas'	240 dwellings (17% of the deliverable supply)

¹³⁰ $1,663 - 1,504 = 159 / 1,663 \times 100 = 9.5\%$

Permitted development rights/ conversions	73 dwellings/ 5% of the deliverable supply (after applying 36% discount)
Affordable housing (dwellings/ %)	380 dwellings (25% of the deliverable supply) ¹³¹
Dwellings permitted in Coppull	16 dwellings (after applying 36% discount on small windfall sites)

- 7.28 Qualitatively, it is clear that the Council's proposed supply pipeline is characterised by a reliance on single unit schemes to bolster the small sites windfall allowance and as much as 10% of the overall housing supply (based on the Appellant's evidence).
- 7.29 These consents are predominantly located within the rural settlements found lower down the spatial hierarchy. A total of 240 dwellings (17%) are permitted in the rural areas of the Borough and forecasted to contribute to the Council's housing supply the next five years. This represents a significant increase to the 6.7% housing growth planned for over the plan period in these locations as observed by the Inspector's Report into the CLP¹³² and would appear to be contrary to the spatial strategy set under Policy 1.
- 7.30 A further 5% (73 dwellings) of the deliverable supply consists of prior approvals, change of use applications or conversions, many pre-dating updated legislation which now requires that new homes delivered through Permitted Development Rights must meet national space standards in order to promote quality amenity and living conditions.
- 7.31 Moreover, the Council's deliverable supply evidence suggests that only 10 dwellings have been permitted within Coppull over the next five years, nearly all made up of single dwelling schemes. Notwithstanding the likelihood that not all schemes will be built out, lack of provision will evidently not meet the needs of the settlement which is identified under the Local Plan as one of the most sustainable in the Borough as a Urban Local Service Centre.
- 7.32 This should be set against the identified shortfall in affordable housing within not just Chorley but specifically Coppull. This is of concern in terms of affordable housing needs alone, as there are 2,197 applicants on the Housing Register across the Borough of which 75 households have selected Coppull as their preferred location¹³³.
- 7.33 The NPPF¹³⁴ makes clear under Paragraph 60 that it is incumbent upon local authorities to ensure that a '*sufficient amount and variety of land can come forward where it is*

¹³¹ See Paras. 7.8 – 7.11 of Neil Tatton's Affordable Housing Proof

¹³² CD6.12 - Chorley Local Plan Inspector's Partial Report (Para. 52)

¹³³ See Affordable Housing Proof of Evidence of Neil Tatton (Para. 8.9 and Appendix 1)

¹³⁴ CD5.1 - National Planning Policy Framework (2021)

needed and *that the needs of groups with specific housing requirements are addressed*'. Based upon my analysis I conclude that not only are the Council unable to demonstrate a sufficient deliverable supply from a quantitative perspective, but plainly, the composition of this supply is not capable of ensuring that the range of housing needs within the Borough and locally within Coppull can be properly met.

- 7.34 I note that the five year supply runs to 31st March 2026, at which time the plan period for the CLP and CLCS will also end.
- 7.35 Notwithstanding this, the need for housing will not stop at the end of March 2026. Indeed, there must be continuity of supply extending beyond 2026 however there is no identified supply beyond the five year period (i.e. years 6 – 10). Nor are there any sustainable urban extensions within the Borough to be delivered within this period.
- 7.36 The standard method demonstrates that the housing requirement in Chorley must be significantly increase on the basis of the local housing need figure which will extend beyond 2026.
- 7.37 This is significant as there has been no material progress to date on the emerging Local Plan to replace the CLCS, with the latest updates suggesting further delays to the plan-making process¹³⁵. No active progress is currently being made amongst three local planning authorities who disagree over the application of the LHN.
- 7.38 For the above reasons, planning permission must be granted *now* to maintain a continuity of supply up to and beyond 2026.
- 7.39 There is an inevitability that Safeguarded Land will be required to deliver the minimum housing requirements in the next Plan period. Indeed, this is accepted in the Issues and Options Consultation¹³⁶ which, for the exception of only one site, identifies all of the Council's Safeguarded Land allocations as draft housing allocations. Blainscough Hall is one of those sites considered by the Council as being suitable for housing development in the next Plan period.
- 7.40 It is therefore a matter of when (not if) this site will be consented and (at best) any delay will be 2-3 years.
- 7.41 The next Plan Period runs from 2021, and therefore any delivery on this site can and will count as a commitment in the preparation of the next plan.

¹³⁵ CD6.32 - Minutes of Central Lancashire Strategic Planning Joint Advisory Committee (22nd June 2021)

¹³⁶ CD6.8 - Emerging Local Plan - Site suggestions in Chisnall

8.0 The Year Housing Land Supply Position

- 8.1 It is Common Ground¹³⁷ that should the Inspector find that the allowance of oversupply of housing land is not permissible in this case, then in either scenario upon which the housing requirement is based upon either the standard method calculation or CS Policy 4 requirement, the Council are unable to demonstrate a five year housing land supply.
- 8.2 It is only in a scenario where oversupply is allowed to be deducted from the forward housing requirement, in which the Council can demonstrate a five year housing land supply.
- 8.3 I consider the full merits and implications for making an allowance on oversupply, as a means of suppressing future housing requirements, in more detail in my Planning Proof of Evidence. Section 3.0 of this proof however demonstrates how I have sought to take a balanced approach in order to arrive at a planning judgement in this particular case. In taking into account a range of appeal decisions and the wider context for housing delivery in Chorley, I firmly conclude that such an approach is wholly contrary to what the planning system and NPPF is seeking to achieve in terms of significantly boosting housing delivery.
- 8.4 In determining the housing requirement for Chorley, I accept that the adopted Development Plan has been subject to a formal plan review under MOU1, however there have been clear material change since being undertaken in 2017 which render this now out of date. My planning judgement is that the local housing need figure should form the basis of calculating five year housing land supply, a position which is shared by the other two Central Lancashire authorities and Chain House Lane inspector¹³⁸.
- 8.5 I have set out a summary of the Appellant's position in the table below which is based upon my conclusion that the housing requirement for Chorley is the local housing need figure. I have also critiqued the Council's deliverable supply to conclude that the Council's five year housing land supply position is **2.4 years**.
- 8.6 I set out overleaf my calculation as follows:

¹³⁷ CD10.4 - Housing Land Supply SoCG between Lea Hough and Chorley Council (Para. 2.3)

¹³⁸ CD9.3 - Land to the South of Chain House Lane, Whitestake (Appeal Ref: APP/F2360/W/19/3234070)

	Housing Requirement	
A	Chorley Local Housing Need	537
B	Local Housing Need for 1st April 2021 to 31st March 2026	2685
	Including Buffer	
C	5% Buffer based on Housing Delivery Performance [B*0.05]	134
D	Total Housing Requirement for 1st April 2021 to 31st March 2026 [B+C]	2820
E	<u>Annual Housing Requirement [D / 5]</u>	<u>564</u>
	Housing Supply	
F	Allocated Sites with Planning Permission	469
G	Additional Allocated Sites without Planning Permission	130
H	Windfall sites >10 dwellings with planning permission	341
I	Windfall sites <10 dwellings with planning permission (discounted by 36%)	254
J	Windfall allowance	183
K	<u>Total Deliverable Supply</u>	<u>1,377</u>
L	Housing Land Supply Shortfall	-1,442
M	5YHLS Position (years)	2.4

8.7 The matter of giving weight to the benefit of new housing development in reducing or overcoming a shortfall against the requirement for a five-year supply of housing land, remains one of planning judgement.

8.8 I consider this in more detail in my Planning Proof and conclude that the associated benefits to the provision of new housing development, which would help to reduce the Council's shortfall in the five year housing land supply by approximately 5.5%, should be afforded **substantial weight**.

HOUSING LAND SUPPLY PROOF OF EVIDENCE OF MARK SAUNDERS MA(HONS) MRTPI

APPENDICES

LAND AT BLAINSCOUGH HALL, COPPULL

PINS REFS: APP/D2320/W/21/3275691

LEA HOUGH AND CO LLP

SEPTEMBER 2021

APPENDICES

- NJL 1 - Assessment of small windfall sites (<10 dwellings) with dated planning permissions

NJL 1:

Assessment of small windfall sites (<10 dwellings) with dated planning permissions

The following sites comprise of dated planning permissions which have historically been implemented but remain to be fully built out. Given the length of time that has passed since permission was granted, it is considered that these sites are unlikely to contribute to the deliverable supply in the next five years.

Site Ref	Address	Application Number	Dwellings Permitted	Dwellings Left to be Built	Date of Decision
<i>Sites that have been implemented</i>					
815	Rear of 66-74 Mill Lane	91/00222/OUT 93/00750/FUL	2	1	08-Feb-94
1682	Rear of 42-44 Mill Lane	00/00190/OUT 00/00701/FUL	2	1	25-Oct-00
2202	Drinkwater Farm, Pike Lowe	06/00167/FUL	2	1	23-Dec-08
2558	Lilac Mount, 704 Preston Road	09/00463/FUL	3	1	29-Jan-10

The following sites also comprise of dated planning permission which are yet to have been implemented and are therefore considered to be time expired.

Site Ref	Address	Application Number	Dwellings Permitted	Dwellings Left to be Built	Date of Decision
<i>Sites yet to be implemented</i>					
2105	Highfield Farm, Jolly Tar Lane	05/00188/FUL	1	1	31-Aug-05
2493	Land 40m East of 6 Woodside Avenue	07/01034/FUL	2	2	12-Sep-08
2512	267 Southport Road	09/00151/FUL	1	1	14-May-09
2629	21 Yarrow Road	10/00655/FUL	1	1	04-Oct-10
2633	6 Weldbank Street	10/00751/FUL	1	1	19-Oct-10
2625	151 Preston Road	10/00529/FUL	1	1	17-Sep-10

