



Department for
Communities and
Local Government

Our Ref: APP/M2325/W/15/3004502

Colin Griffiths Esq.
Managing Director
Satnam Planning Services
17 Imperial Square
Cheltenham
Gloucestershire GL50 1QZ

13 February 2017

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL MADE BY WARTON EAST DEVELOPMENTS LTD
LAND OFF LYTHAM ROAD, WARTON, LANCASHIRE
APPLICATION REF: 14/0410**

1. I am directed by the Secretary of State to say that consideration has been given to the report of P.W. Clark MA, MRTPI, MCMI, who held a public local inquiry on 12, 13 and 14 July 2016 and made site visits on 14 July 2016 into your client's appeal against the against a failure by Fylde Borough Council to give notice within the prescribed period of a decision on an application for outline planning permission (as amended) for the erection of up to 350 dwellings in accordance with application ref: 14/0410, dated 11 June 2014.
2. On 12 February 2016, this appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because the appeal relates to proposals for residential development over 10 units in an area where a qualifying body has submitted a neighbourhood plan proposal to the local planning authority, or where a neighbourhood plan has been made.

Inspector's recommendation and summary of the decision

3. The Inspector recommended at IR 253 that the appeal be allowed and planning permission granted subject to the conditions set out in the IR (at page 56). The Secretary of State agrees with the Inspector's conclusions and agrees with his recommendation. He has decided to allow your client's appeal and grant outline planning permission. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Procedural matters

4. As described by the Inspector at IR6, the details to the proposed access to the appeal site were changed several times prior to the appeal being made but no further changes were requested during the course of the appeal. Furthermore, he notes that the scheme considered by the Council concerned a proposal for up to 375 dwellings, and that your client sought to reduce this to 350 dwellings before the inquiry was held. The Secretary of State notes that this is the basis on which evidence has been given, the report has been written and the recommendation has been made. He is therefore satisfied that no interests will be prejudiced by making his decision on that basis.

Matters arising since the close of the inquiry

5. On 16 November 2016 the Secretary of State referred back to the parties to invite representations on the implications, if any, of a letter dated 11 August 2016 from Bryning-with-Warton Parish Council. The Secretary of State has taken the representations (listed at Annex B) into account in reaching his decision. As these representations were circulated to the parties the Secretary of State does not find it necessary to reproduce them here. Copies may be obtained on written request to the address at the foot of the first page of this letter.

Policy considerations

6. In deciding this appeal, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
7. In this case, the development plan consists of the saved policies of the Fylde Borough Local Plan As Altered, October 2005. The Secretary of State considers that the development plan policies of most relevance to this case are those set out at IR IR24-29.
8. With regard to the Inspector's remarks on the emerging Bryning-with-Warton Neighbourhood Plan (BWNP) at IR34-37, the Secretary of State notes the Neighbourhood Plan Examiner's conclusions (IR36) that there is no certainty that the BWNP would be compatible with European Union obligations (IR36), that his recommendations would fundamentally alter the content of the Plan, and that the Plan has not progressed since the publication of the Examiner's Report in April 2016 (IR37). Given the early stage of preparation and the outstanding objections to it, the Secretary of State affords it minimal weight.
9. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ('the Framework') and associated planning guidance ('the Guidance'), as well as the Community Infrastructure Levy (CIL) Regulations 2010 as amended.

Emerging plan

10. The emerging plan comprises the Fylde Local Plan to 2032. Paragraph 216 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to: (1) the stage of preparation of the emerging plan; (2) the extent to which there are unresolved objections to relevant policies in the emerging plan; and (3) the degree of consistency of relevant policies to the policies in the Framework. The

Secretary of State notes that the plan was submitted to him for examination on 9 December 2016.

Main issues

11. The Secretary of State agrees with the Inspector that the main issues are those set out at IR156-157.

Habitats Regulations Assessment

12. The Secretary of State recognises that the Ribble and Alt Estuaries Special Protection Area (SPA) and Ramsar Site and the Ribble Estuary Site of Special Scientific Interest (SSSI), and the Newton Marsh SSSI are important sites for wintering birds and migratory birds in spring and autumn (IR159), but agrees with the Inspector (IR160) that the distance between the appeal site and the intervention of existing development is such that direct disturbance to species on the protected sites is unlikely. The Secretary of State shares the Inspector's view that the most likely impacts from the appeal proposal are a loss of habitat functionally linked to a protected site, increased recreational pressure on the protected site, and changes in water quality in watercourses hydrologically linked to a protected site (IR160).

13. The Secretary of State has carefully considered the Inspector's analysis at IR161-163, and like the Inspector, he considers that provided the two conditions suggested by Natural England are imposed on any permission so that mitigation measures are secured as part of the proposal, the appeal proposal would be unlikely to have a significant effect on the designated sites either alone or in combination. For that reason, he agrees with the Inspector's conclusion (IR170) that no Appropriate Assessment is necessary.

The character of Warton, its services and facilities

14. For the reasons given by the Inspector at IR172-179, the Secretary of State agrees with the Inspector that the proposal would not alter the fundamental character of Warton. Although all parties accept that the appeal proposal contravenes Local Plan policies SP1 and SP2 which set limits to development for Warton, the parties also accept that both these policies are out of date or satisfied. The Secretary of State accepts the Inspector's conclusion (IR180) that the proposals would comply with local Plan policy HL2(1) which requires housing developments to be acceptable in principle.

The highway network

15. For the reasons given by the Inspector at IR181-185, the Secretary of State accepts the Inspector's conclusion that with the recommended conditions, the proposed development would not cause the capacity of the highway network to accommodate the cumulative effects of development in Warton to be exceeded. He therefore agrees with the Inspector that the proposal would therefore comply with criterion 9 of Local Plan policy HL2 (IR186).

Air quality

16. For the reasons given by the Inspector at IR187-190, the Secretary of State agrees with his conclusion (IR191) that although background air quality in the eastern part of Warton may have higher levels of pollutants than surrounding areas and be the poorest quality in Fylde, it is not, in absolute terms, poor. In terms of air quality, he accepts the Inspector's conclusion that Warton is suitable as a residential location. Like the Inspector, the

Secretary of State observes that the appeal proposal would accord with Local Plan policy EP26 which would not permit development which would give rise to unacceptable levels of air pollution.

Housing

17. The Secretary of State has considered carefully the Inspector's analysis of the Council's housing land supply shortfall at IR192 – 197. He accepts that the Council can only demonstrate a supply of housing land of between 3.5 and 4.8 years. In terms of the housing requirement, the Secretary of State agrees with the Inspector (IR195) that the proposal represents the equivalent of a year or nearly a year's requirement, or 16-20% of the total five year requirement for the whole of Fylde. He therefore accepts the Inspector's conclusion that it would represent a highly significant contribution to housing land supply in the borough and notes that the proposal accords with the Council's requirement to supply 30% affordable housing (IR198).

Other matters

18. In terms of highway safety, the Secretary of State acknowledges that Lytham Road is a busy main road but its accident record is not out of the ordinary (IR199). In terms of flooding, the Secretary of State notes the Inspector's comment (IR 200) that the part for the appeal site that is in Flood Zone 3 has no housing proposed there and the access would have to be elevated above flood level to connect to the A584 which is already elevated to pass over the Pool Stream at that point. Turning to surface water flooding in the south-east and south-west corners of the site, the Secretary of State agrees with the Inspector that there is no evidence to suggest that acceptable details of surface water drainage could not be devised and submitted for approval (IR201).

Sustainable development

19. In terms of the economic role of sustainable development, the Secretary of State has carefully considered the Inspector's analysis at IR203-212. The Secretary of State agrees with the Inspector that the site is located on land of the right type in all respects apart from it not being brownfield land (IR205), and the development would have limited traffic impacts and would provide safe access and would avoid flood risk (IR207). Furthermore, he agrees that even though the site is not located in a town centre, it would enhance or maintain the vitality of a rural community which has been identified as a sustainable location. The Secretary of State agrees with the Inspector that the proposal scores moderately well in terms of accessibility to local services and agrees with his conclusion that the site is located in the right place (IR211). Overall, he accepts the Inspector's conclusion that despite the negative characteristic of the site being greenfield land, the site scores highly in terms of the economic role of sustainability.

20. Turning to the social role, the Secretary of State agrees with the Inspector (IR215) that the proposal would make a highly significant contribution to housing land supply in the borough, and scores well in terms of accessibility to local services. He therefore accepts the Inspector's conclusion that in terms of the social role of sustainability, the site scores well (IR216).

21. In regard to the environmental role of sustainability, the Secretary of State has considered the Inspector's analysis at IR217-219, and accepts his conclusion that given the mitigations and enhancements which could be achieved through conditions, the development of this appeal site would only be moderately adverse (IR220).

22. In taking account of the Framework as a whole and the need for housing in Fylde which is such that greenfield sites will inevitably be used, the Secretary of State concludes, in agreement with the Inspector, that the proposal is sustainable development. He agrees too that adverse impacts are relatively few and minor and would certainly not outweigh the benefits (IR 221).

Planning conditions

23. The Secretary of State has given consideration to the Inspector's analysis at IR226-252, the recommended conditions set out at the end of the IR and the reasons for them, and to national policy in paragraph 206 of the Framework and the relevant Guidance. He is satisfied that the conditions recommended by the Inspector comply with the policy test set out at paragraph 206 of the Framework.

Planning obligations

24. Having had regard to the Inspector's analysis at IR225, the planning obligation dated 14 July 2016, paragraph 203-205 of the Framework, the Guidance and the Community Infrastructure Levy Regulations 2010, as amended, the Secretary of State agrees with the Inspector's conclusion for the reasons given in IR225 that the obligations comply with Regulation 122 of the CIL Regulations and the tests at paragraph 204 of the Framework, are necessary to make the development acceptable in planning terms, directly related to the development, and are fairly and reasonably related in scale and kind to the development.

Planning balance and overall conclusion

25. For the reasons given above, the Secretary of State considers that the appeal scheme would be contrary to Local Plan policies SP1 and SP2 which set limits to the development of Warton. However these policies are out of date because they were only intended to guide the development of Warton up to 2016 and because these are policies that would have the effect of controlling the supply of housing and the Council cannot demonstrate a five-year housing supply.

26. With planning obligations in place the appeal complies, or could be made to comply by condition, with all other Local Plan policies. Where compliance has been contested by the parties, the Secretary of State finds that the proposals comply with Local Plan policy HL2(1) which requires housing developments to be acceptable in principle, HL2(9) which requires highway safety to be a criterion in considering housing development and policy EP26 which would not permit development which would give rise to unacceptable levels of air pollution. Taking a broad view of the development plan as a whole, the Secretary of State concludes that the appeal proposal accords with its remaining relevant parts.

27. Given that policies for the supply of housing are out of date, the Secretary of State considers that paragraph 14 of the Framework is engaged. The Framework advises that in such cases, permission should be granted unless the adverse impacts of so doing would significantly and demonstrably outweigh the benefits when assessed against policies in the Framework, taken as a whole, or specific policies in the Framework indicate that development should be restricted. The Secretary of State has already concluded at paragraph 22 above that that is not the case in this appeal.

Formal decision

28. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby allows your client's appeal and grants outline planning permission for the erection of up to 350 dwellings in accordance with application ref: 14/0410, dated 11 June 2014 (as amended), subject to the conditions set out in the Annex B to this letter.
29. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.

Right to challenge the decision

30. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.
31. An applicant for any consent, agreement or approval required by a condition of this permission for agreement of reserved matters has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the Local Planning Authority fail to give notice of their decision within the prescribed period.
32. A copy of this letter has been sent to Fylde Borough Council, and notification has been sent to others who asked to be informed of the decision.

Yours faithfully

Philip Barber

Authorised by Secretary of State to sign in that behalf

SCHEDULE OF REPRESENTATIONS

Representations received in response to the Secretary of State's letter of 16 November 2016

Party	Date
Anthony Wood Clerk for Bryning-with-Warton Parish Council	11 August 2016
Mr M Evans Fylde Council	18 November 2016
Mrs J King	22 November 2016
Colin Griffiths Satnam Group	5 December 2016
Mr Graham Lamb Pegasus Group	6 December 2016
Mr M Evans Fylde Council	9 December 2016
Mr Graham Lamb Pegasus Group	12 December 2016
Jessica Ashworth Chair of Bryning with Warton Neighbourhood Plan Steering Group	14 December 2016
Tony Guest	16 December 2016
Sally Wright WRAPP	16 December 2016

APP/M2325/W/15/3004502

- 1) No development shall take place until a plan detailing the phasing of development and the allocation to each phase of a share of a total open space provision of not less than 2ha including a LEAP/LAP has been submitted to and agreed in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 2) Details of the access within each phase of the site, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins on the phase in question and the development shall be carried out as approved.
- 3) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 4) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 5) The access on to Lytham Road to the development hereby permitted shall be carried out in accordance with approved plan number SK21338-12. No dwelling shall be occupied until the details shown on the approved plan have been completed and made available for use. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(England) Order 2015 (or any equivalent Order following the revocation or re-enactment thereof) the area indicated as an area to be kept free of obstruction to visibility shall thereafter be kept free of any obstruction higher than 0.6m above the level of the carriageway.
- 6) No greater quantity of housing shall be built than that which would give rise to traffic generated by the development no greater than that forecast in the submitted Transport Assessment 140603/SK21338/TA02 June 2014 by SK Transport Planning Ltd.
- 7) No more than 15% of the development hereby approved shall be occupied until the completion and bringing into use of
 - a) The Preston Western Distributor Road
 - b) The relocation of BAE Systems gate from Mill Road to the road known variously as Liberator Way, Typhoon Way and Thunderbolt Avenue
 - c) The works at the junction of Church Road, Lytham Road and Highgate Lane required by conditions 16 and 17 of appeal decision APP/M2325/A/14/2217060
- 8) No dwelling hereby approved shall be occupied until a MOVA/UTC control has been installed and brought in to use at
 - a) the Church Road/Lytham Road/Highgate Lane junction
 - b) the Lytham Road/Mill Lane junction and
 - c) the junction of Lytham Road and the road known variously as Liberator Way, Typhoon Way and Thunderbolt Avenue

9) No dwelling shall be occupied until details of travel mode share targets for the development and measures to achieve them (a Travel Plan) have been submitted to and approved in writing by the local planning authority. The development shall be carried out and retained in accordance with the approved details.

10) No dwelling shall be occupied until it has been provided with a Visitors Pack which shall have been previously submitted to and approved by the local planning authority, highlighting the sensitivity of the Ribble & Alt Estuaries to recreation activity and highlighting alternative recreational opportunities. The Visitors Pack shall thereafter be kept available in the dwelling for the use of future occupants.

11) No development shall take place on any phase of the site until details of foul and surface water drainage for that phase have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details. No dwelling shall be occupied until it is provided with its drainage as approved.

12) No development shall take place on any phase of the site until details of finished floor levels and external ground levels of each plot on that phase have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

13) No development shall take place on any phase of the site until an intrusive site investigation of the nature and extent of contamination and unexploded ordnance has been carried out in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be made available to the local planning authority before any new construction begins on that phase. If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate that phase of the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority. That phase of the site shall be remediated in accordance with the approved measures before new construction begins. If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the relevant phase of the site shall incorporate the approved additional measures.

14) No development shall take place within any phase of the site until a programme of archaeological work for that phase has been implemented in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority.

15) No development shall take place on the relevant phase until details of the pedestrian and cycle access to Canberra Way at the north-western corner of the site and to Butlers Meadow at the south-western corner of the site (both shown indicatively on the illustrative master plan accompanying the application) have been submitted to and approved in writing by the local planning authority. No dwelling on the relevant phase shall be occupied until the relevant pedestrian and cycle access shall have been completed and made available in accordance with the approved details.

16) The external fabric of any dwelling hereby approved having a direct line of sight to Lytham Road and the boundary fences around their rear or private amenity areas shall be constructed so as to comply with the sound reduction performance recommended in section

5 of the Noise Impact Assessment by Resource & Environmental Consultants Ltd reference 90342R2.

17) No dwelling on any particular phase shall be occupied until the public open space allocated to that phase has been laid out and made available for its intended purpose. The public open space shall be retained thereafter in accordance with a maintenance scheme which shall have been submitted to and approved by the local planning authority before development commences on the relevant phase. No dwelling on the last of any phase of the development which includes residential dwellings shall be occupied until the LEAP/LAP and all the public open space on all phases has been laid out and made available for its intended purpose.

18) In this condition "retained tree" means an existing tree or hedgerow which is to be retained in accordance with the recommendations contained in section 5 and drawing 60072-002 of the Arboricultural and Hedgerow Assessment reference 60072P1R4 by Resource and Environmental Consultants Ltd dated 2 June 2014 and paragraphs (i) and (ii) below shall have effect until the expiration of 1 year from the date of the first occupation of the last completed dwelling for its permitted use.

i. No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the local planning authority. Any topping or lopping approved shall be carried out in accordance with British Standard 3998 (Tree Work).

ii. If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the local planning authority.

iii. The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written approval of the local planning authority.

19) None of the ponds and ditches shown on figure 2 of the Ecological Survey and Assessment reference 2013_089 by ERAP Ltd dated September 2013 (Updated June 2014) shall be removed or filled in except in accordance with details submitted and approved in compliance with other conditions of this permission. A buffer zone of 10m around the edge of each pond shall be kept free of development.

20) No clearance of any vegetation in preparation for or during the course of development shall take place during the bird nesting season (March to July inclusive) unless an ecological survey has first been submitted to and approved in writing by the local planning authority. Should the survey reveal the presence of any nesting species, then no clearance of any vegetation shall take place during the bird nesting season until a methodology for protecting nest sites during the course of the development has been submitted to and approved in writing by the local planning authority. Nest site protection shall thereafter be provided in accordance with the approved methodology.

21) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

The hours of site operation

the parking of vehicles of site operatives and visitors

loading and unloading of plant and materials

storage of plant and materials used in constructing the development

the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate

wheel washing facilities

measures to control the emission of dust and dirt during construction

a scheme for recycling/disposing of waste resulting from demolition and construction works.

[ENDS]

Report to the Secretary of State for Communities and Local Government

by P. W. Clark MA MRTPI MCMl

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

Date: 4 October 2016

TOWN AND COUNTRY PLANNING ACT 1990

APPEALS

BY WARTON EAST DEVELOPMENTS LTD AND BY HALLAM LAND MANAGEMENT LTD

AGAINST

FYLDE BOROUGH COUNCIL

Inquiry held on 12, 13 and 14 July 2016. Site visits made on 14 July 2016.

Land off Lytham Road, Warton, Lancashire and Land at Clifton House Farm, Warton, Lancashire

File Refs: APP/M2325/W/15/3004502 and APP/M2325/W/15/3141398

Appeal A File Ref: APP/M2325/W/15/3004502
Land off Lytham Road, Warton, Lancashire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
- The appeal is made by Warton East Developments Ltd against Fylde Borough Council.
- The application Ref 14/0410 is dated 11 June 2014.
- The development proposed is the erection of up to 375N^o dwellings

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

Appeal B File Ref: APP/M2325/W/15/3141398
Land at Clifton House Farm, Warton, Lancashire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
- The appeal is made by Hallam Land Management Ltd against Fylde Borough Council.
- The application Ref 15/0562 is dated 14 August 2015.
- The development proposed is the erection of up to 115 residential dwellings (C3 Use Class) including details of access, with all other matters reserved.

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

Procedural Matters

1. Both appeals were recovered by the Secretary of State for his own determination by Directions both dated 12 February 2016 and made under s79 and paragraph 3 of Schedule 6 of the Town and Country Planning Act 1990. The reasons in both cases are that the appeals relate to proposals for residential development over 10 units in an area where a qualifying body has submitted a neighbourhood plan proposal to the local planning authority, or where a neighbourhood plan has been made.
2. Although the appeals are conjoined and have been heard together at a single Inquiry, they remain separate proposals and separate recommendations are made for separate decisions to be taken. Nevertheless, because the main issues are common to both appeals and are clear and not complex and because parties largely made their cases common to both appeals and because my reasoning is largely common to both appeals, it is expedient to report on both appeals together, distinguishing between each where necessary and appropriate.
3. Both appeals are made in outline. Details of vehicular accesses to each appeal site are submitted for approval now. Details of pedestrian and cycle accesses and access within each site, appearance, landscaping, layout and scale are reserved for later consideration if permission is granted.
4. Appeal A is dated 11 February 2015. Appeal B is dated 23 December 2015. On 4 April 2016, Appellant B requested that the access to Appeal B be considered on the basis of a revised plan. On 8 April 2016, this revised plan was corrected by a further revision. On 3 May 2016 Appellant B requested that Appeal B be determined on the basis of a yet further revised access plan, drawing number

0988/F01/revision F.¹ The Council agrees to the determination of the appeal on the basis of this revised plan.²

5. The April revisions to Appeal B were substantially different from the original proposal. The May revision largely reverted to the original proposal, with only minor differences. The Council consulted the public on the May version but only in relation to a duplicate application which they were still considering, not in relation to the current appeal. However, copies of representations made in respect of that duplicate application are provided and so they can be considered in relation to this appeal. Moreover, I specifically asked a member of the public who spoke at this Inquiry and who lives close to the proposed access about her understanding of the basis on which the appeal was proceeding. She confirmed her understanding that it was to proceed on the basis of the May revision. Accordingly, I consider that nobody would be prejudiced if Appeal B proceeds on the basis of the revised access drawing 0988/F01/revision F.
6. Details of the proposed access to appeal site A were changed several times prior to the appeal being made, the most recent drawing being numbered SK21338-012 but no further changes have been requested during the course of the appeal. By e-mail dated 27 May 2016³ Appellant A seeks to amend the description of Appeal A from "up to 375 dwellings" to "up to 350 dwellings". It is understood that this request derives from revisions to the illustrative material supporting the proposal. There is no information to show that these revisions have been the subject of consultation with the public in relation to this appeal.
7. Because "dwelling" is an imprecise unit of measurement and also because the principles of *I'm Your Man Ltd v SSE (1998)* establish that there is no direct or implied power to impose limitations on a permission except by means of a planning condition, this request does not, of itself, have any significance except in relation to possible conditions to apply in the event of permission being granted. Details of layout and of scale are reserved matters but it may be necessary to impose limitations on those matters at this outline stage in order to make the proposal acceptable in principle. I consider the matter in that section of my report.
8. In respect of Appeal A, on 21 May 2015 the Secretary of State directed that the development is not Environmental Impact Assessment (EIA) development. In respect of Appeal B, the Council issued a Screening Opinion under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (as amended) in respect of a proposed development at Clifton House Farm on 1 May 2015.⁴ This concluded that the proposed development is not EIA development.
9. Not far from Warton is the Ribble and Alt Estuary Special Protection Area (SPA) and Ramsar, the Ribble Estuary Site of Special Scientific Interest (SSSI) and the Newton Marsh SSSI. Natural England advises that, in considering these appeals,

¹ Found at document 13.3(10)

² Paragraphs 2.5 to 2.9 of Planning Statement of Common Ground between Hallam Land Management & Fylde Borough Council signed and dated 1 July 2016 (document 11.26)

³ The e-mail is at Appendix 7 to Mr Griffiths's Proof of Evidence (document 9.2, provided in hard copy only)

⁴ Document 12.2

regard should be had to any potential impacts these proposals may have on these protected sites. This consideration is given later in my report.

10. The appeals were made against the failure of the Council to give notice of its decisions on the planning applications within the prescribed period.
11. By resolution of its Development Management Committee on 29 July 2015, preparation of the Council's case in response to appeal A was delegated to the Head of Planning and Regeneration, in consultation with the Chairman and Vice-Chairman of Development Management Committee and representatives of the Warton and Westby ward.
12. The resulting Statement of Case dated August 2015⁵ accepted that the normal position in the preparation of a Statement of Case would involve the Council expressing a clear view over the merits of the principle of the proposal. However uncertainty over the outcome of the Blackfield End Farm appeal⁶ was of such significance to that view that it was not possible to conclude on that point at the time. The Council expressed a precautionary view and outlined the areas on which it would present evidence should that remain necessary once the Blackfield End Farm decision was known.
13. A duplicate application identical to Appeal A was considered on 25 May 2016 and a decision made to refuse that application for two reasons;
 - 1 *The applicant has failed to demonstrate to the reasonable satisfaction of the local planning authority that the traffic generated by the development can be accommodated within the local highway network without the implementation of a series of highway improvements that are outside the control of the applicant. In the absence of being able to deliver the necessary highway improvements, the impact of the development on the local highway network will be severe, contrary to the provisions of the National Planning Policy Framework and Criterion 9 of Policy HL2 of the Fylde Borough Local Plan (as amended October 2005).*
 - 2 *The proposed development is required to make contributions towards the delivery of affordable housing and public open space on the site and financial contributions off-site towards the provision of new primary and secondary school places, public realm enhancements and transport improvements. The applicant has failed to put any mechanism in place to secure these contributions and, accordingly, the development is contrary to the requirements of Fylde Borough Local Plan policies TREC17, CF2, EP1, TR1, TR3 and TR5, policies SL3 and H4 of the Fylde Local Plan to 2032: Revised Preferred Option (October 2015), the submission version of the Bryning-with-Warton Neighbourhood Plan and chapters 4, 6 and 8 of the National Planning Policy Framework.*
14. Immediately before the Inquiry commenced, agreement was reached between the Council and Appellant A on most outstanding matters. A Statement of Common Ground on Highway matters between SK Transport Planning (on behalf of Appellant A) and Lancashire County Council is signed and dated 13 June

⁵ Document 8.1

⁶ APP/M2325/A/14/2217060, determined on 24 September 2015 (document 6.17)

2016.⁷ A Statement of Common Ground (Planning Issues) is signed and dated 11 July 2016.⁸ Although the Council had by then produced proofs of evidence, it did not present any evidence at the Inquiry, nor did it cross-examine the appellant's case. However, its proofs of evidence were not withdrawn and indeed, that of Martin Porter is specifically referred to by the Council's advocate as providing a detailed explanation for the Council's conclusion.⁹

15. Appeal B was the subject of a report to the Council's Development Management Committee on 27 April 2016 at which time the following putative reasons for refusal were agreed;

1. *The proposed access for the development is onto the busy thoroughfare of the A584 (Lytham Road) – a main arterial road which provides a direct route between Lytham St Annes and Preston. The proposed access is located approximately 0.75km from the Lytham Road/Church Road/Highgate Lane junction. Once other committed developments in Warton are implemented (most notably that associated with planning permission 13/0674 at Blackfield End Farm) this junction will operate over capacity and, accordingly, will be incapable of accommodating the level of additional traffic generated by the development. The proposed development, when considered in combination with increased vehicle movements arising as a result of other committed developments in Warton, would have significant adverse effects for traffic movements at the Lytham Road/Church Road/Highgate Lane junction and would lead to greater, unacceptable queue lengths at this junction which would obstruct the free flow of traffic along Lytham Road. The additional vehicle movements arising as a result of the development would unacceptably exacerbate existing network capacity issues and, accordingly, its residual cumulative impact would be severe. No mitigation measures have been proposed in order to alleviate this impact. The proposal is therefore contrary to the requirements of Fylde Borough Local Plan policy HL2, policy BWH2 of the submission version of the Bryning-with-Warton Neighbourhood Plan, and paragraph 32 of the National Planning Policy Framework.*
2. *The proposed development is required to make contributions towards the delivery of affordable housing and public open space on the site and financial contributions off-site towards the provision of new secondary school places, public realm enhancements and transport improvements. The applicant has failed to put any mechanism in place to secure these contributions and, accordingly, the development is contrary to the requirements of Fylde Borough Local Plan policies TREC17, CF2, EP1, TR1, TR3 and TR5, policies SL3 and H4 of the Fylde Local Plan to 2032: Revised Preferred Option (October 2015), the submission version of the Bryning-with-Warton Neighbourhood Plan and chapters 4, 6 and 8 of the National Planning Policy Framework.*

16. A month later, a duplicate application identical to Appeal B was considered and refused for two reasons, the second of which was identical to the second of the putative reasons for refusal for Appeal B. But the first reason for refusal was modified as follows;

⁷ Document 9.15

⁸ Document 15.3

⁹ Paragraph 11 of Mr Easton's opening position statement (Document 15.22).

1. The applicant has failed to demonstrate to the reasonable satisfaction of the local planning authority that the traffic generated by the development can be accommodated within the local highway network without the implementation of a series of highway improvements that are outside the control of the applicant. In the absence of being able to deliver the necessary highway improvements, the impact of the development on the local highway network will be severe, contrary to the provisions of the National Planning Policy Framework and Criterion 9 of Policy HL2 of the Fylde Borough Local Plan (as amended October 2005).

17. Immediately before the Inquiry commenced, agreement was reached between the Council and Appellant B on outstanding matters. A Statement of Common Ground on Highway matters between Hallam Land Management (Appellant B) and Lancashire County Council is signed and dated 1 July 2016.¹⁰ A Planning Statement of Common Ground is signed and dated 8 July 2016.¹¹ Although the Council had by then produced proofs of evidence, it did not present any evidence at the Inquiry, nor did it cross-examine the appellant's case.
18. In addition to the two appellants, thirteen individuals participated to a significant degree, including representatives from the local Parish Council and from the Bryning-with-Warton Neighbourhood Plan Steering Group. In response to the notification of the appeals there are 3 letters relating to appeal A and 2 relating to appeal B. There are also copies of 19 representations relating to appeal A and 11 relating to appeal B made by the public at the application stage to be taken into account, together with the 10 representations made to application 15/0903 (the resubmission of scheme B)¹².

The Sites and Surroundings

19. Warton is a settlement of about 3,600 people. It has developments with planning permission or under construction which would increase this to about 5,400 people.¹³ It lies on the south side of the Fylde peninsula, about half-way between Preston and Blackpool but on the A584 coastal road rather than the direct A583.
20. Most of the village lies to the north of the A584, which at this point runs generally east-west. Most of the village's facilities¹⁴ are dispersed along the length of this road. There are permissions to expand retail facilities and sites fronting the main road which could be made available for additional facilities¹⁵. It is a busy road carrying two-way flows of 1700-1800 vehicles in peak hours,¹⁶

¹⁰ Document 11.25

¹¹ Document 11.26

¹² These are appended to e-mail to the Inspectorate from Graham Lamb of Pegasus dated 8 July 2016, held on PINS's pink case file.

¹³ Colin Griffiths proof of evidence (Document 9.1) paragraph 2.2

¹⁴ Listed in appendix 8 of Colin Griffiths proof of evidence (document 9.2) and in paragraph 9.2 of each of Andrew Stell's proofs of evidence (documents 10.1 and 14.1)

¹⁵ Mr Tibbenham's response to my questions

¹⁶ Document 7.16, table 2.2. Appendix 4 to Martin Porter's proof of evidence (document 10.4) shows peak one-way flows of 820 (am) and 838 (pm). In oral evidence Jaqueline McDermott reported one-way morning peak hour counts of 1140 and 1280 vehicles

though these are reducing as local employment restructures.¹⁷ At its east end the village conjoins the neighbouring village of Freckleton. The area to the south of the A584 is largely occupied by Warton Aerodrome and the associated aircraft manufacturing plant of BAE Systems. Employment at BAE Systems Warton is being restructured and an Enterprise Zone has been established.

21. The site of appeal A lies to the north of Warton, at its eastern end. There are numerous descriptions of the site in the supporting documentation.¹⁸ It is reported to be about 12.78 ha in extent. It comprises four agricultural fields bounded by drainage ditches and hedgerows. Within the site are three ponds, drainage ditches and hedgerows. To its south and west it borders existing residential development and a caravan park. On its north side it borders the Bridges recreation ground and open countryside, which also lies to its east. The land slopes gently upwards from south to north. Its shape is largely rectangular except for an area which protrudes to the north alongside the eastern edge of the Bridges recreation ground and for an area to the south east which provides a corridor for the vehicular link to an existing roundabout on the A584 Lytham Road.
22. The site of appeal B is at the western edge of Warton, north of the A584 Lytham Road. Its frontage to Lytham Road is separated into two parts by an existing dwelling and its curtilage (278 Lytham Road) around which the site wraps. It is reported to be about 3.74 ha in extent. There are several descriptions of the site in the appeal documentation.¹⁹ It comprises one large agricultural field and part of a second to the north. The boundary of the site cuts across the second field in a line connecting the northern boundaries of developed sites to east and west. The site slopes up from the Lytham Road on its southern boundary. The site is generally open apart from a residual hedgerow on the boundary between the two fields. There are mature hedgerows on the other three boundaries. Those to east and west include native trees. To the east of the site is a caravan park and storage depot, part of which is subject to proposals for housing development. To

¹⁷ Clifton House Farm Transport Assessment (document 11.8) paragraphs 2.4.3 to 2.4.6

¹⁸ Arboricultural and Hedgerow Assessment (document 7.5) paragraph 1.3, Design and Access Statement (document 7.6) section 1, Flood Risk Assessment (document 7.8) section 2, Phase 1 Geo-Environmental Site Assessment (document 7.9) section 2, Planning Statement (document 7.14) paragraph 2.3, Transport statement (document 7.16) section 2, Framework Travel Plan (document 7.16a) section 2, Colin Griffiths proof of evidence (document 9.1) paragraphs 2.6-2.11, David Appleton's proof of evidence (document 9.10) section 2 and Statement of Common Ground (Planning Issues)(document 15.3) section 1.

¹⁹ Statement of Case (document 11.22) section 2, Planning statement (document 11.5) section 3, Design and Access Statement (document 11.6) page 7 and chapter 5, Landscape and Visual Impact Assessment (document 11.7) section 3 paragraphs 3.2 and 3.85 to 3.99, Transport Assessment (document 11.8) section 2, Flood Risk assessment (document 11.9) section 2, Preliminary Ecological Appraisal (document 11.11) paragraph 2.4.2, Tree survey Report (document 11.12) paragraph 5.2.1, Bat survey Report (document 11.13) paragraphs 2.4.2 and 4.2.1, Great Crested Newt survey (document 11.14) paragraphs 1.4 and 2.5.2, Noise assessment (document 11.17) paragraph 2.1, Soil Resources and Agricultural Use & Quality of Land Report (document 11.19) paragraphs 1.2 to 1.4, Sebastian Tibenham's proof of evidence (document 13.1) paragraphs 3.9 to 3.16, Brian Denney's Landscape and Visual Impact Statement (document 13.5) paragraphs 4.1 to 4.6 and Planning statement of Common Ground, section 3.

the west of the site is Clifton House Farm itself and employment uses on the site known as Braithwaite's Yard.

Planning Policy

The Local Plan

23. The development plan consists of the saved policies of the Fylde Borough Local Plan As Altered, October 2005. As altered, the extended plan period runs up to 2016 and it is therefore, dated, if not actually out of date.
24. On the Proposals Map, the sites of both appeals are outside the Limits of Development (policy SP1). This policy establishes a settlement hierarchy of five levels, of which Warton comprises one of three settlements in the second level of the hierarchy. As a result of various constraints limiting significant further growth at Kirkham, the plan envisages that most development under this policy will take place at Wesham and Warton. Subject to other policies, this policy would permit development within the defined settlement limits.
25. The sites of both appeals are designated Countryside Areas on the Proposals Map. Subject to certain exceptions not applicable to either appeal, policy SP2 would not permit development in countryside areas. The reasoned justification to the policy makes reference to an urban concentration strategy, a fundamental element of which is the need for strict control of development in the open countryside, commensurate with the objective of sustainable development and the (then) government's policies of safeguarding the countryside for its own sake and protecting non-renewable and natural resources.
26. Neither of the above policies is referred to in the putative reasons for refusal of either appeal. Those which are referenced include policy EP1 which proposes to maintain and improve environmental conditions within the urban areas, HL2, TREC17, CF2, and TR1, 3 and 5. The Statement of Common Ground (Planning Issues) for appeal A²⁰ agrees that policies SP1, SP2 and HL2 are out of date. The Planning Statement of Common Ground for appeal B²¹ agrees that policies SP1 and SP2 have been satisfied.
27. Policy HL2 establishes a sequential approach to prioritise brownfield land before greenfield and sets eleven criteria for permitting housing; (i) acceptability in principle and compatibility with adjacent and nearby land uses, (ii) the character of the locality, (iii) a net density of 30-50 dwellings per hectare, more where public transport is good, (iv) the amenity and privacy of neighbours, (v) maintaining or enhancing biodiversity, (vi) taking account of archaeological and historic features, (vii) the sustainability of the location, (viii) prejudice to the development of a larger area, (ix) access, parking and highway safety, (x) the capacity of essential services including drainage and, (xi) the adequacy of amenity space.
28. Policy TREC17 sets standards for the provision of amenity open space and play areas within housing developments. Policy CF2 is to negotiate s106 agreements to ensure the provision of primary and secondary school places needed as a result of new housing development. Policy TR1 lists measures to be taken to

²⁰ Document 15.3, paragraph 6.4

²¹ Not provided as a Core Document but held on PINS's pink case file

improve facilities for pedestrians and to encourage walking. Policy TR3 is to increase provision and facilities for cycling. Policy TR5 requires developments of more than 100 dwellings to be located where served by adequate public transport.

29. In addition to the above, the Planning Statement of Common Ground for appeal B lists the following relevant policies which are satisfied by that proposal (third parties disagree with the compliance of either or both appeals in some cases);

- HL6 – Design of Residential Estates
- EP10 – Character, habitat and landscape features to be protected
- EP11 – Development in rural areas to be sited in keeping with landscape character types and features
- EP12 – Conservation of Trees, Woodland and Hedgerows
- EP13 – Plant new trees
- EP14 – Landscape planting to be made in new housing
- EP21 – Regard given to archaeology
- EP22 – Protect best and most versatile agricultural land
- EP25 – Adequate design and capacity of foul sewers
- EP26 – New residential development not permitted if subject to Air Pollution
- EP27 – Noise Pollution

Emerging Local Plan

30. The Local Plan is being reviewed to cover the period to 2032. Issues and Options were published in June/July 2012.²²

31. Preferred Options were published in June 2013.²³ In these, Warton was identified as a Local Centre and as a Strategic Location for Development for 1,160 new homes by 2030 across four strategic sites, including both the appeal sites.

32. Revised Preferred Options were published in October 2015.²⁴ In these, Warton was identified as a Local Centre and as a Strategic Location for Development for 650 dwellings by 2032, to be allocated through the Neighbourhood Plan process.

33. The publication version of the Fylde Local plan to 2032²⁵ was approved by the Council on 15 June 2016 for publication during August 2016. In this, Warton is identified as a Local Centre and as a Strategic Location for 840 dwellings reflecting the number of dwellings approved in recent permissions and in resolutions to grant permission. No site allocations in Warton are put forward.

²² Document 2.1

²³ Document 2.5

²⁴ Document 2.28

²⁵ Document 2.36

Emerging Neighbourhood Plan

34. The Bryning-with-Warton Neighbourhood Plan (BWNP) was submitted to Fylde Council on 23 September 2014.²⁶ Formal consultation took place from 9 October to 28 November 2014. It proposed defining a new settlement boundary including all of appeal site A and most of appeal site B. It proposed that 650 homes would be developed within the settlement boundary by the year 2030 and that the bulk of this housing development (353 dwellings) would be on two sites H1 and H2, developed at only 55% of their potential density. Part of H1 comprised much of appeal site B. Site H2 extended slightly more widely than appeal site A.
35. Section 1.6 of the Submission Neighbourhood Plan explains that there are two European sites within the NP boundary and that plans that may have a significant effect on these have to undergo a Habitat Regulations Assessment (HRA). The BWNP reported the Habitat Regulations Assessment carried out for the Fylde Local Plan Preferred Options and its conclusion that further assessment of these could be avoided if policies were strengthened to include specific references to European sites and to seek project specific HRA. The two development allocations within the BWNP are both smaller allocations of sites made in the Preferred Options and project specific HRA was specified. For those reasons, it was concluded that a separate HRA was not required for the BWNP.
36. The Neighbourhood Plan Examiner disagreed. In the section on European Union (EU) Obligations on page 10 of his report²⁷ he comments that it is inappropriate in such an environmentally sensitive area as Bryning-with-Warton, for the Neighbourhood Plan to place reliance on supporting evidence for emerging local policy in respect of demonstrating compatibility with European obligations. He goes on (on page 11 of his report) to note Fylde Borough Council's reservations about compliance with EU regulations and that it is for Fylde Borough Council to be satisfied of such compliance before the Neighbourhood Plan proceeds to a referendum or is made. He concludes (on page 12) that there is no certainty that the part of the Neighbourhood Plan which allocates land would be compatible with European Union obligations and so recommends that these allocations be deleted together with the whole of section 4.2 of the neighbourhood plan defining a new settlement boundary and proposing that 650 homes be developed within that settlement boundary.
37. The Examiner recognises that these recommendations would fundamentally alter the content of the BWNP. The Neighbourhood Plan has not progressed further since the publication of the Examiner's report in April 2016.

Planning History

38. A site of 15.4 ha of land, similar in extent to that of appeal A, was the subject of a planning application made in January 1999 for the construction of the first phase of the then proposed Warton bypass and development of land for residential purposes. The Council failed to issue a decision on this application within the prescribed period and an appeal was made (reference APP/M2325/A/99/1032594). Like the current appeals, that appeal was recovered for the Secretary of State's own decision.

²⁶ Document 3.5

²⁷ Document 3.10

39. After an Inquiry held in March and April 2000 and reopened in August 2001 a report recommended that permission be granted subject to conditions. The Secretary of State disagreed with the Inspector's conclusions, largely in the light of weaknesses in the Council's 1998 Urban Capacity Study providing basic justification for the development as against the then national policy expressed in paragraph 32 of Planning Policy Guidance 3 which emphasised the importance of making more efficient use of land by maximising the re-use of previously developed land and the conversion and re-use of existing buildings. The appeal was therefore dismissed.²⁸
40. Also relevant to these cases are recent housing development proposals permitted or submitted in Warton. They are tabulated in paragraph 3.13 of the Planning Statement of Common Ground for site B, reproduced here.

HLM Ref (App 2 CD13.3)	LPA Ref (CD8.9)	Address	Status/ Comments	Units
2	4	Blackfield End Farm	Granted. Discharging conditions and preparing RM	360
3	3	Riversleigh Farm	Granted and under construction	83
5b	9	Georges Garage	Granted (also permission for 7 dwellings)	16
6	10	GEC Marconi	Granted and under construction	254
9a	7	Meadows View	Completed	66
9c	5	Nine Acres Nursery (West)	Granted	9
SUB TOTAL PERMITTED				788
1	1	Clifton House Farm	Refused/ Decision awaited (this appeal)	115
7	8	Land East of Warton	Refused/ Decision awaited (other appeal to be heard here). Scheme reduced from 375 to 350 dwellings.	350
8	2	Oaklands Caravan Park	Supported subject to S106, new application relating to continued use as caravan park	53
9b	6	Nine Acres Nursery (North)	Issues with Ecology and Newt Licensing. Scheme reduced from 13 to 9 dwellings	9
SUB TOTAL PENDING DECISION				527
OVERALL POSSIBLE TOTAL				1,315

41. An Enterprise Zone for advanced engineering and manufacturing uses was designated at Warton in 2012.²⁹ It was extended in 2015. It lies on land in the southern part of the village, between Lytham Road and the airfield. Its job growth is expected to balance the restructuring effects of BAE. A Masterplan for Phase 1 of the Enterprise Zone has been prepared and adopted by the Council for development management purposes.³⁰

²⁸ Appendix 10 to Colin Griffiths proof of evidence (document 9.2)

²⁹ Document 5.1

³⁰ Document 5.4

42. Certain of its access provisions are relevant to these appeals. The main access to the Phase 1 site would be from a new road on the eastern side of Warton (referred to in the Masterplan as the GEC eastern access road, now constructed as part of the GEC Marconi development referred to in the table above, originally known as Liberator Way and now known as Typhoon Way³¹). This access would also serve BAE Systems and the firm's gatehouse would be relocated from Mill Lane to a position on the southern side of the Phase 1 site.³²

The Proposals

43. Appeal A proposes the development of up to 375 dwellings on a site of 12.78ha comprising four fields (and parts of two others required for access) at the east end of Warton village. Following changes to the supporting documentation, a request has been made to reduce the number of dwellings proposed to up to 350.
44. Details of the site access show that it would be taken as a fourth arm of the existing three arm roundabout junction between Lytham Road and the Freckleton bypass. The vehicular approach to the roundabout would have a half width of 3.65m and an entry width of 6m.³³ The east side of the access would have a footway 2m wide. The west side would have a combined footway/cycleway 3m wide. This would continue round the west side of the roundabout to connect with an existing provision on the north side of Lytham Road. There would also be provision of a 3m footway/cycleway crossing the new site access at its entry to the roundabout, passing alongside the north of the roundabout to a new toucan crossing of the A584 Freckleton bypass, then passing alongside the east of the roundabout as far as its existing southern arm. Cyclists would rejoin the carriageway of the southern arm at that point but a 2m footway would continue along the eastern side of the southern approach to the roundabout as far as an existing footway in Lytham Road.
45. Appeal B proposes the development of up to 115 dwellings on a site of 3.74ha comprising one field and part of a second at the west end of Warton village. The Transport Assessment accompanying the application was based on the site delivering up to 120 dwellings, although the illustrative masterplan actually shows only 114.³⁴
46. Details of the site access show that it would form a T junction positioned towards the western end of the site opposite numbers 297 and 299 Lytham Road. The new access would have a carriageway width of 6.5m with 2m footways on either side. The radii of the kerb line at the junction would be 10m. The carriageway of Lytham Road would be widened within the existing extent of the adopted highway to provide a right turn lane from the east into the site and a central

³¹ Paragraph 3.5 of Martin Porter's Proof of Evidence, document 10.3. It is shown as Thunderbolt Avenue on Google Maps and is so named in the Parish Council clerk's evidence (document 15.27).

³² Shown on Access Strategy Plan on page 15 of Warton EZ Phase 1 Masterplan (document 5.2)

³³ Roundabout geometry data provided in Appendix 16a to Martin Porter's proof of evidence (document 10.4)

³⁴ Paragraphs 4.1.1 and 7.4.3 of Phil Wooliscroft's evidence (document 13.7)

pedestrian refuge to the west of the site entrance with facilities to assist pedestrians crossing the road at that point.³⁵

47. There are a number of supporting documents. For Appeal A there is an Indicative Masterplan, a Lytham Road/Church Road Junction Improvement Scheme drawing number SK21338-013 revision A, an Affordable Housing Statement, an Agricultural Land Classification report, an Air Quality Assessment, an Arboricultural and Hedgerow Assessment, a Design and Access Statement³⁶, an Ecological Survey and Assessment together with a Response to Ecological Comments 7 August 2014 and a Response to Further Ecological Comments 1 December 2014, a Flood Risk Assessment, a Phase 1 Geo-Environmental Assessment, a Noise Impact Assessment, a Planning Statement, a s106 pro-forma, a Transport Assessment with supplementary Information following consultation dated 18 September 2014 and a Supplementary Information Update Note of 23 October 2014, a Framework Travel Plan, a Utilities Statement and Wintering Birds Survey Results. Later in this report I consider the degree to which the recommendations of these supporting documents need to be applied by condition.
48. For appeal B there is an Illustrative Masterplan (13-006-P009 rev C), a Site Parameters Plan (013-006-P007 rev D)(paper copy only), Illustrative House Types and Street Scenes (013-006-P013)(paper copy only), a Warton West Spatial Masterplan (013-006-P008), a Planning Statement, a Design and Access Statement, a Landscape and Visual Impact Assessment together with a Landscape response to the Regeneration Team comments (electronic copy only), a Transport Assessment, a Flood Risk Assessment and Outline Drainage Strategy, a Phase 1 Detailed Desk Top Study, a Preliminary Ecological Appraisal Report, a Tree Survey Report (with covering letter), a Bat surveys Report, a Great Crested Newt Surveys Report, a Utilities Report, a Heritage Statement, a Noise Assessment, an Air Quality Assessment, a Soil Resources and Agricultural Use report and a Planning Obligations Statement. Later in this report I consider the degree to which the recommendations of these supporting documents need to be applied by condition.
49. Both schemes have completed Unilateral Undertakings.³⁷ For appeal A, this provides that 30% of the number of dwellings approved at reserved matters stage shall be affordable housing. It also provides for financial contributions, in accordance with formulae for additional primary school places at St Peter's Catholic Primary School Lytham and secondary school places at St Bede's Catholic High School, of £126,000 towards improved footpath links to, and public realm improvements in, the centre of Warton, of £375,000 over five years (£75,000 pa) to provide enhanced evening and weekend services on bus route 78 and of £24,000 towards administering and monitoring a Travel Plan. It also requires the developer to ensure that the Travel Plan includes a funding budget of £73,500.
50. For appeal B, the Unilateral Undertaking provides that 30% of the number of dwellings shall be provided as affordable housing. It also provides for financial

³⁵ Paragraphs 4.2.5 and 4.2.8 of Phil Wooliscroft's evidence (document 13.7)

³⁶ On purple PINS file

³⁷ Documents 15.16 and 15.17

contributions of £125,000 (£25,000 pa for five years) towards improvements in the service and frequency of bus route 68, in accordance with formulae for additional primary school places at Bryning-with-Warton St Paul's Church of England Primary School and additional secondary school places at Lytham St Anne's Technology & Performing Arts College, of £41,567 towards public realm improvements in the centre of Warton or between the centre and the site, of £24,150 towards the provision of green transport initiatives in the event that targets in the Travel Plan are not met and of £6,000 towards the cost of travel plan support and monitoring.

Agreed Matters

51. For appeal A there is a Statement of Common Ground (Planning Issues)³⁸ and a Statement of Common Ground on Highways Matters.³⁹ These describe the application site, the surrounding area, the application proposals, the planning history of the site, the evaluation of the development's impact on the highway network, its sustainable accessibility and policy matters. They confirm agreement between the appellant and the Council (but not between the appellant and any interested party) on the following matters

- The NPPF is a significant material consideration.
- Paragraph 49 of the NPPF is engaged because there is less than 5 years' supply of housing in the Borough.
- NPPF paragraph 216 is engaged and although it is for the decision maker to determine, the parties consider that emerging local and neighbourhood plans carry limited weight.
- The March 2016 Council Monitor confirms less than five years (4.8 years) supply currently exists within the Borough.
- The Council regards the 4.8 year figure as robust. The appellant does not.
- There should be a buffer of 20% in recognition of persistent underdelivery.
- Warton is a sustainable settlement and site A is a sustainable location.
- Subject to design, layout and infrastructure improvements, the scheme is capable of delivering sustainable development so NPPF paragraph 14 is engaged.
- The Development Plan comprises the saved policies of the Fylde Borough Local Plan as altered October 2005.
- The Development Plan was prepared against a background of severe housing restraint which no longer applies.
- The role of Warton within the Development Plan is as one of the main urban areas capable of accommodating development.

³⁸ Document 15.3

³⁹ Document 9.15

- Policies SP1, SP2 and HL2 are out of date in so far as they relate to the location of new housing and, in any event, are overtaken by events set out in the local plan review.
- The local plan review continues Warton's role as a main urban area capable of accommodating development and development of a strategic scale is appropriate at the settlement.
- The Neighbourhood Plan has limited weight.
- There is not expected to be any landscape objection and so the development could comply with policy SP2 in relation to harmful effects arising.
- There are no harmful ecological issues which could not be dealt with through conditions or through Natural England licensing and so the proposal would comply with policy EP19.
- On and off-site drainage and infrastructure matters can be dealt with by conditions and so policies EP23, 24, 25 and 30 of the Local Plan would be met.
- Internal layout matters can be dealt with by condition or at reserved matters stage by reducing the scale of development below the upper limit proposed and so the development is capable of complying with policy HL6.
- A secondary education contribution is necessary and provided for through the Unilateral Undertaking.
- A primary education contribution is necessary and provided for through the Unilateral Undertaking.
- A safe and suitable access for the site can be achieved as shown in submitted drawing SK21338-012
- A package of highway mitigation measures.

52. For appeal B there is a Planning Statement of Common Ground⁴⁰ with an Addendum⁴¹ and a Statement of Common Ground on Highway matters between Hallam Land Management (Appellant B) and Lancashire County Council.⁴² These describe the appeal proposal and its supporting documents and plans, the appeal site and planning background, the Council's post-appeal determination, the responses from Statutory Consultees and from third parties, relevant planning legislation, policy and guidance. They confirm agreement between the appellant and the Council (but not between the appellant and any third party) on the following matters

- The proposal is not EIA development.
- The differences between the originally submitted access plan and the latest revision are negligible.

⁴⁰ Document 11.26

⁴¹ Document 15.1

⁴² Document 11.25

- All parties were consulted on the latest access plan by reference to a duplicate application.
- The appeal ought to be determined on the basis of the latest access plan.
- The table of committed and proposed developments in Warton.
- The Core documents referencing the Enterprise Zone.
- The Council's case is limited to (i) cumulative effect on the capacity of the surrounding highway network and (ii) the need for the development to contribute to the provision and enhancement of local infrastructure.
- A Unilateral Undertaking would address the second strand of the Council's case.
- The responses and objections received
- Relevant planning policy and guidance includes
 - The Town and Country Planning Act 1990
 - The Localism Act 2011
 - Community Infrastructure Levy Regulations 2010
 - NPPF
 - National Planning Practice Guidance (Guidance)
- The Development Plan predates NPPF, was not prepared in accordance with the now revoked Regional Strategy but was founded on two now revoked Structure Plans.
- Policies referred to in the putative reasons for refusal are HL2, TREC17, CF2, EP1, TR1, TR3 and TR5 which can all be addressed through a Unilateral Undertaking.
- Other relevant policies include the following and have been satisfied; SP1, SP2, HL6, EP10, EP11, EP12, EP13, EP14, EP21, EP22, EP25, EP26 and EP27.
- No other policies have a bearing on the appeal.
- Evidence based documents relevant to the determination of the appeal⁴³
- Planning law requires determination in accordance with the development plan unless material considerations indicate otherwise and that the NPPF is a material consideration.
- The Development Plan is the Fylde Borough Local Plan As Altered (2005)
- The only policies relevant to determination are those listed above
- Warton is identified as a settlement where development should take place under policy SP1.

⁴³ Documents 1.9, 2.4, 2.8, 2.10, 2.12, 2.13, 2.14, 2.16, 2.17, 2.18, 2.19, 2.20, 2.34, 2.42, 5.1, 5.5 and 5.7

- A twelve month period has expired since publication of the NPPF so paragraph 215 applies.
- Local plan policies relating to the supply of housing and employment land are time expired but remain the statutory development plan policies and their relevance must be tested in accord with NPPF paragraph 215.
- Points which demonstrate that various policies relating to the supply of housing development are out of date.
- Other policies such as HL2 broadly accord with the NPPF and can still be afforded some weight.
- No policy applies the presumption in favour of sustainable development, the need to boost significantly the supply of housing or the balancing exercise imposed by NPPF paragraph 14.
- NPPF paragraph 47 requires LPAs to boost significantly their supply of housing by identifying a five year housing supply with a 5% or 20% buffer.
- A 20% buffer should be applied. Guidance recommends the Sedgfield approach to shortfalls.
- The Council cannot demonstrate a five-year housing land supply.
- Irrespective of the exact five-year supply, substantial weight should be given to additional housing where a five-year supply cannot be demonstrated.
- The Council's evidence base suggests that an OAN of 440-450 would be required to support forecast economic growth
- A requirement of 445 dpa would mean a supply of 3.74 years.
- The Council's method of calculating its five year supply includes a 10% allowance for sites not coming forward.
- The LPA cannot demonstrate a five year housing land supply and NPPF paragraph 49 applies.
- The proposal would make a valuable contribution to the LPA's housing requirement which represents a key benefit of the proposal.
- The weight to be given to the emerging plans should be limited.
- The site is within a countryside area (policy SP2), adjacent to the Warton Settlement Boundary (policy SP1) but neither policy is referred to in the reasons for refusal.
- The Fylde SHLAA identifies the site as being potentially suitable, not at risk from flooding, accessible and making a suitable extension to the settlement.
- The appeal site is not located within the Green Belt, National Park, AONB or any other landscape or ecological designation listed within NPPF footnote 9.
- The site falls within Flood Zone 1 and therefore complies with policy EP30.
- The site predominantly comprises Agricultural Land grades 3b and 4, loss of which would accord with policy EP22.

- The site occupies a sustainable location in accordance with policies HL2, TR1, TR3 and TR5.
- The site is contained on three sides by existing development. Rising land levels minimise impact to open areas to the north.
- The proposal will not have an unduly harmful impact on visual amenity or landscape character within the countryside and so accords with policies HL2, EP10, EP14 and EP18.
- Submitted ecological reports and consultation responses confirm that the site has low ecological value and that the habitats of greatest importance are capable of retention and enhancement.
- All other technical matters such as air quality, drainage, heritage, noise, ground conditions, trees, utilities and construction impacts can be effectively mitigated on site and/or controlled through conditions.
- There are no other technical constraints which would prevent residential development of the site.
- The indicative masterplan provides 0.87ha of open space, representing an overprovision of approximately 20% in accordance with the requirements of policy TREC17. Its provision and future maintenance can be secured through a condition.
- The appellant will provide 30% affordable housing on site, a valuable contribution to the Council's affordable housing requirements and a key benefit of the proposal.
- The Council's Housing Officer originally requested a tenure split of 60% affordable rented and 40% low cost home ownership but subsequent negotiation agreed 60% affordable rented and 40% intermediate housing for sale only.
- An education contribution for secondary school places is required.
- There is no current need for a primary school contribution but such could be required if both current appeals come forward and so provision is made in the Unilateral Undertaking.
- The education contributions meet the CIL tests.
- On completion of the Unilateral Undertaking, the proposal will comply with policy CF2 and NPPF paragraph 72.
- Shops, community facilities and the public realm at the Church Road/Lytham Road junction are likely to be used by future occupants of the development.
- A public realm contribution of £41,567 is proportionate to the contribution made by the Riversleigh Farm Scheme.
- The proposed public realm contribution meets the CIL tests.
- These works will have several important benefits and will comply with policy EP1, emerging policy TR1 and NPPF paragraph 32.

- The Unilateral Undertaking makes provision for all necessary contributions and so the proposals comply with policies EP1, TR1, TR3, TR5, CF2 and TREC17.
- The development will generate significant economic benefits which should be given positive weight.
- The principle and detail of access into the site.
- The committed developments, the extent of junctions, traffic count data and their suitability, times of greatest traffic impacts, modelling assessment years, trip distribution and estimates of generated traffic to be included within the Transport Assessment.
- The residual impact of the appeal proposals when considered in conjunction with other relevant schemes is not considered severe.
- Inevitable disruption during construction will be minimised through a Construction Management Plan, secured by condition.
- Pedestrian and cycle improvements are a benefit of the scheme.
- Contributions to public transport are acceptable.
- A planning condition is capable of requiring a final version of a Travel Plan.

The Case for Warton East Developments Ltd (Appeal A)

53. The original application was not determined because the Council wanted to await the determination of an appeal on the Blackfield End Farm site. A subsequent duplicate application was refused against officer advice.⁴⁴ This recommended that the application be accepted in principle.⁴⁵

Warton; a sustainable location

54. Warton has a good range of facilities including primary schools, food shops, newsagent, library, village hall and church. It is the location of regionally important employment areas. It is recognised in both statutory and emerging development plans as an appropriate location for significant additional development.⁴⁶

Outdated policy

55. Inspector JS Nixon held a public inquiry into appeals for residential development of the site in April/May 2000 and August 2001. His recommendation that permission be granted was rejected, based upon the then national policy that prioritised the development of previously developed sites. That reasoning no longer applies as the NPPF has not continued the sequential approach to site selection.⁴⁷

⁴⁴ Mr Barrett's opening remarks, paragraphs 7-8 (document 15.20)

⁴⁵ Mr Barrett's closing remarks, paragraphs 24-25 (document 15.29)

⁴⁶ Mr Barrett's opening remarks, paragraphs 4-6 (document 15.20), referencing the Council's officer report, appendix 4 of Mr Griffiths's evidence (document 9.2)

⁴⁷ Paragraph 9 of Mr Barrett's closing remarks (document 15.29) referencing appeal decision APP/M2325/A/99/1032594 (Appendix 10 to document 9.2)

56. The development plan as adopted in 2005 is a product of its time, reflecting national and regional policies of growth and development in the main urban areas of the north-west and restraint in Fylde. It is accepted that the proposal would be contrary to policy SP2 which contains a prohibition on most forms of development within the countryside. But this should not be determinative as the policies are clearly out of date, conflict with the NPPF and the Council is unable to identify a five year housing land supply.⁴⁸

The emerging plans supportive but of little weight

57. The stage reached gives the emerging local plan little weight but consideration was given to the acceptability of the site in principle and the proposal was the subject of Sustainability Appraisal. The Preferred Options of the emerging local plan published in 2013 confirmed Warton as one of only four strategic locations for development of up to 1,160 homes in the plan period. It included the appeal A site within proposal site H10.⁴⁹

58. The Revised Preferred Options published in October 2015 retained Warton as one of only four strategic locations for development of a reduced requirement of 650 dwellings. Site allocations in Warton were devolved to a Neighbourhood Plan. The reduced requirement and the absence of allocations are the subject of major objections to the emerging local plan.⁵⁰ As noted in the Inspector's report on the Blackfield End Farm appeal, there is no clear explanation in the Responses Report to justify the reduction in housing numbers. There remains no clear explanation to this day, as the representative of the Neighbourhood Plan Steering Group confirmed in cross-examination.⁵¹

59. The Neighbourhood Plan, published in September 2014 allocated appeal site A for development under policy H2. The Neighbourhood Plan (including its allocations) was said to ensure that the essential character and function of the village was maintained. The allocation was not revisited despite the Blackfield End Farm decision in September 2015. The Examiner's Report was published in April 2016. It rejected much of the plan as submitted because of the lack of an Appropriate Assessment and a failure to meet Basic Conditions. It is not logical to oppose the development of the most appropriate sites that the local plan, the neighbourhood plan and the community identified for development on the basis of the Blackfield End Farm decision.⁵²

⁴⁸ Mr Barrett's opening remarks, paragraphs 10-11 (document 15.20) and his closing remarks, paragraphs 3-8 (document 15.29), referencing paragraphs 4.13-14 of Mr Griffiths's evidence (document 9.1) and paragraph 22 of the Secretary of State's decision letter on the Blackfield Farm End appeal (appendix 3 of document 9.2 also available as document 6.17)

⁴⁹ Mr Barrett's opening remarks, paragraph 12 (document 15.20) and his closing remarks, paragraph 11 (document 15.29), referencing appendix 11 to Colin Griffiths's evidence (document 9.2)

⁵⁰ Mr Barrett's opening remarks, paragraphs 13-14 (document 15.20)

⁵¹ Mr Barrett's closing remarks, paragraphs 13-14 (document 15.29) referencing paragraph 4.61 of Colin Griffiths's evidence (document 9.1), paragraph 130 of the inspector's report on appeal reference APP/M2325/A/14/2217060 (Appendix 3 to Colin Griffiths's evidence, document 9.2 also available as document 6.17) and Mr Child's response to cross-examination

⁵² Mr Barrett's closing remarks, paragraphs 15-21 (document 15.29), referencing Appendices 3, 12 and 14 to Colin Griffiths's evidence (document 9.2) and Mr Woods's response to cross-examination

No five-year housing land supply

60. The Council claims a 4.8 year supply. But even this is predicated on an out of date requirement of 370 dwellings per annum. The latest SHMA indicates a requirement of 440-450 dpa. But even this does not include a market signals uplift. The appellant suggests an objectively assessed need in the range of 425-460 dpa which results in a 3.5 year housing land supply. The supply side of the equation is also disputed. Further dispute is unnecessary because the Council accepts the application of NPPF paragraphs 14 and 49.⁵³

Highways

61. Detailed examination of the highways issues by all parties has resulted in agreement that appeal A

- Would have a safe and suitable form of access
- Is a location that affords opportunities for access by a range of travel modes
- Will be supported by a Travel Plan to maximise the uptake of sustainable transport opportunities
- Will support additional evening and weekend bus services
- Attracts no remaining objection from the Highway Authority as a result of the identification of a package of highway and mitigation measures.⁵⁴ Subject to the delivery of the mitigation package, Lancashire County Council agrees that the cumulative impact of the development on the highway network would not be severe.⁵⁵

62. Both appellants' transport experts regard the analysis of future traffic conditions to be extremely robust because

- it has applied both full NRTF growth forecasts without deductions for individual development sites as well as forecasts for the individual development sites themselves, which is an element of double counting
- high occupancy presumptions have been made for the Enterprise Zone
- no deduction has been made for the sustainable locations of the sites
- no deduction has been made for the effects of the travel plan.⁵⁶

Infrastructure

63. Appeal A is supported by a planning obligation providing for an off-site public open space contribution,⁵⁷ education contributions, a contribution to public realm

⁵³ Mr Barrett's opening remarks, paragraphs 17-19 (document 15.20) and his closing remarks, paragraphs 26-32 (document 15.29), referencing document 9.7 and Colin Griffiths's evidence paragraph 8.16.5, document 9.1

⁵⁴ Mr Barrett's opening remarks, paragraph 21 (document 15.20) and his closing remarks paragraph 35 (document 15.29), referencing table 3.2 of John Thompson's evidence (document 9.13)

⁵⁵ Mr Barrett's closing remarks paragraph 35 (document 15.29), referencing paragraph 4.26 of John Thompson's evidence (document 9.13)

⁵⁶ Mr Barrett's closing submission, paragraph 35 (document 15.29)

improvements, 30% affordable housing, contributions for five years towards bus service improvements and a travel plan with funding for mitigation measures. Highways Act agreements will provide for an improvement scheme at Church Road (in the event that it is not implemented as a condition of the Blackfield End Farm development) and an improved traffic signal control system and junction re-markings at Typhoon Way^{58, 59}.

A sustainable development

64. The appeal A proposal is locationally sustainable. It would make a significant contribution to economic growth both directly through construction spend and indirectly through additional expenditure in the area. The contribution of market and affordable housing would assist the social component of sustainability, a matter given considerable weight by the Secretary of State in the Blackfield End Farm decision. The more than adequate provision of open space would promote a healthy community. Although there would be a loss of greenfield land the impact on the landscape would be minor and there would be ecological benefits.⁶⁰
65. Conflict with locational policies of the statutory development plan should be afforded little weight because the plan is out of date, conflicts with the NPPF and the Council cannot demonstrate a five-year housing land supply, a shortfall in supply which is significant. Warton is a sustainable location. It should be regarded as a strategic location for development, consistent with the emerging local plan and the presence of the Enterprise Zone. Appeal site A adjacent to the existing settlement is locationally sustainable. The benefits of the proposal would not be significantly and demonstrably outweighed by the limited adverse effects. It represents a sustainable development.⁶¹

The Case for Hallam Land Management Ltd (Appeal B)

66. The appellant is a company (part of the Henry Boot Group) which specialises in the promotion of land for development. Its interests in Warton include the Blackfield End Farm development allowed on appeal where both sale of the land and submission of reserved matters are being progressed. The appellant intends to facilitate development on the appeal site in like manner.⁶²
67. Somewhat late in the day, Statements of Common Ground have been agreed. They confirm the position of the main parties that, subject to appropriately

⁵⁷ By the end of the Inquiry, it was agreed that it was sufficient to require on-site public open space as a condition, rather than off-site through an obligation.

⁵⁸ Also referred to as Liberator Way and as Thunderbolt Avenue by other parties.

⁵⁹ Mr Barrett's opening remarks, paragraphs 22-23 (document 15.20) and his closing remarks, paragraph 37 (document 15.29), referencing section 11 of Colin Griffiths's evidence (document 9.1)

⁶⁰ Mr Barrett's opening remarks, paragraphs 24-27 (document 15.2) and his closing remarks, paragraphs 38-44 (document 15.29), referencing section 12 of Colin Griffiths's evidence (document 9.1), paragraph 22 of the Blackfield End Farm decision letter and paragraph 130 of the Inspector's report (appendix 3 of document 9.2 also available as document 6.17), the Council officer's report (appendix 4 to document 9.2) and paragraph 8.4 of David Appleton's evidence (document 9.10)

⁶¹ Mr Barrett's closing remarks, paragraph 45 (document 15.29)

⁶² Paragraph 3 of Mr Williamson's opening remarks (document 15.21)

worded planning obligations and conditions, there are no matters of principle between the main parties and that the appeal should be allowed.⁶³

Local and national policy

68. Section 38(6) of the Town and Country Planning Act 1990 demands that the decision maker starts with the development plan. This comprises the saved policies of the Fylde Local Plan Alterations Review (2004-2016), adopted in October 2005, updating the Fylde Borough Local Plan (1996-2006). The policies were saved by direction dated 2 October 2008 in the expectation that they would be replaced promptly. Some eight years later, there is still a considerable way to go.⁶⁴

69. The Local Plan predates the NPPF. Due weight should be given to its policies according to their degree of consistency with the NPPF. All its policies relevant to the supply of housing are out of date because

- It is out of date on its face
- It was adopted over ten years ago, based on evidence even older
- It was not prepared in accordance with the 2004 Act or the NPPF
- It was prepared in line with revoked and outdated national planning policy guidance which sought to constrain housing development on greenfield sites
- It was prepared in accordance with Regional Planning Guidance for the North West (March 2003) and the Joint Lancashire Structure Plan (March 2005) not the North West Regional Spatial Strategy (September 2008) which superseded them
- Policies specifically relating to housing needs/growth were not saved
- The Council cannot demonstrate a five year housing supply.

It makes no reference to the presumption in favour of sustainable development nor to the need to boost housing supply. Its main housing policy HL1⁶⁵ is the antithesis of current housing policy.⁶⁶

70. Relevant policies for the supply of housing which are out of date include policies SP1 and SP2, irrespective of Mr Guest's argument that the first of these is invalid anyway. In so far as it remains relevant, appeal B accords with it. The status of Warton as a location for growth continues through various iterations of the emerging local plan, the Enterprise Zone and the Neighbourhood Plan.⁶⁷

⁶³ Paragraphs 4 and 5 of Mr Williamson's opening remarks (document 15.21) and paragraph 4 of his closing (document 15.30)

⁶⁴ Paragraphs 10 and 11 of Mr Williamson's closing remarks (document 15.21) referencing paragraph 8.16 of Mr Tibenham's evidence (document 13.2)

⁶⁵ Not saved. See document 1.11

⁶⁶ Paragraphs 12-18 of Mr Williamson's closing remarks (document 15.30)

⁶⁷ Paragraphs 19-22 of Mr Williamson's closing remarks (document 15.30)

Emerging plans

71. The emerging local plan is at an early stage and subject to a number of objections, so it has limited weight. But it does describe Warton as a Strategic location for Development, as a Local Service Centre and the Preferred Options version of the plan identified four strategic locations for development, two of which included the appeal sites.⁶⁸
72. Warton's role as a strategic location for growth is underpinned by the Enterprise Zone, the Lancashire Local Economic Partnership's Strategic Economic Plan and its strategic transport programme seeking funding (now granted) to release both economic and housing growth potential. The Lancashire Growth Deal and City Deal support that growth by way of investments such as the Preston Western Distributor Road.⁶⁹
73. The emerging Neighbourhood Plan can carry only limited weight and, in the form recommended by the Examiner, it will not now provide for the delivery of housing. But its submitted draft did include appeal B as part of allocation H1, which is evidence of published local interpretation of the site's suitability.⁷⁰

Highways

74. No specific evidence was presented to undermine the detailed documentation submitted by the appellants and agreed with the County and Borough Councils, including;
- The principle and design of the vehicular access is acceptable
 - The transport analysis takes proper account of committed development
 - The traffic count data used is a reasonable and acceptable basis for the transport analysis. It was recently validated.
 - Notwithstanding local accounts of congestion at other times, including holiday weekends, the traffic impact of the development would be greatest during the weekday peak hours used for analysis
 - Trip generation rates used in analysis are extremely robust because
 - Analysis tested 120 dwellings, whereas the proposal is for up to 115
 - Analysis makes no allowance for the effects of the Travel Plan
 - Analysis makes no reduction for lower trip rates generated by affordable housing
 - Trip distribution
 - Effects during construction can be minimised by a construction management Plan

⁶⁸ Paragraphs 23-24 of Mr Williamson's closing remarks (document 15.30) referencing chapter 6 of Mr Tibenham's evidence (document 13.2)

⁶⁹ Paragraph 25 of Mr Williamson's closing remarks (document 15.30)

⁷⁰ Paragraphs 27-28 of Mr Williamson's closing remarks (document 15.30) referencing paragraphs 6.77 and 6.79 of Mr Tibenham's evidence (document 13.2)

- Improvements to pedestrian, cycle and public transport accessibility
- The locational sustainability of the site.⁷¹

75. Ruth Fraser's dossier of photographs of traffic accidents is consistent with Mr Wooliscroft's data. Speed is a contributing factor to accidents. Speeds would be reduced by the effects of the Appeal B highway scheme and so there would be a net benefit to safety.⁷²

76. Jacqueline McDermott's counts of traffic flows are also consistent with Mr Wooliscroft's data. The data is objective. Judgment of severe impact is subjective. The A584 is a busy main road. It is reasonable to expect some queuing. Mr Wood (for the Parish Council) confirmed in cross-examination that a severe queue might involve a motorist waiting 4 or 5 cycles of the lights to transit the junction. Mr Wooliscroft's capacity analysis shows that even in the worst case scenario, the Church Road junction would operate at about 105% capacity. That would result in only about 10-15% of the traffic not transiting in one cycle. In this light, the Highway Authority expressly states that the appeal should be allowed.⁷³

Infrastructure

77. Appeal B is supported by a planning obligation providing for affordable housing, education, public realm improvements, highway improvements including bus and cycle facilities and a travel plan. Open space provisions will be dealt with by condition.⁷⁴

Other matters

78. Mr Denny's evidence acknowledges some effect on the character and appearance of the local area through the loss of agricultural fields but the development of appeal B would not extend the settlement into the countryside to any notable degree nor would it conflict with the local settlement pattern or overall character of Warton. Mr Bennett's concerns about the effect of appeal B on his amenities are understood and noted for attention at reserved matters stage.⁷⁵

79. The appellant's experts' view is that the sources of air quality information presented by interested parties are wholly misleading and inaccurate and that air quality monitored in Warton is actually very good, clearly demonstrated through local monitoring data and the absence of a declared Air Quality Management Area.⁷⁶

80. Despite residents' concerns about flooding, the site is at low risk, detailed design will ensure that discharge will be minimised and there are no objections to the development from the Environment Agency, the Council's Environmental Health Officer or the statutory drainage undertaker.

⁷¹ Paragraph 29 of Mr Williamson's closing remarks (document 15.30)

⁷² Paragraph 30 of Mr Williamson's closing remarks (document 15.30)

⁷³ Paragraphs 30-32 of Mr Williamson's closing remarks (document 15.30)

⁷⁴ Paragraphs 35-36 of Mr Williamson's closing remarks (document 15.30)

⁷⁵ Paragraph 36 of Mr Williamson's closing remarks (document 15.30), referencing paragraph 8.3 of Mr Denny's Statement (Document 13.5)

⁷⁶ Paragraph 36.6 of Mr Williamson's closing remarks (document 15.30) referencing documents 11.18 and 15.12

The benefits

81. The principal benefits of appeal B are the delivery of 115 dwellings including 34 affordable homes, clearly needed. There is no dispute that there is no five-year housing land supply and agreement that there is no need to quantify the shortfall precisely. Other benefits include public open space, support for local bus and other services, improved opportunities for biodiversity and public realm improvements. There are direct and indirect financial and economic benefits.⁷⁷

The overall balance

82. A grant of planning permission would

- Accord with local development plan policy so far as relevant and up to date
- Be consistent with emerging development plan and neighbourhood plan policy
- Constitute sustainable development benefitting from NPPF paragraph 14
- Deliver significant benefits including market and affordable housing
- Provide a safe means of access with acceptable impacts on the highway network
- Provide a package of measures through unilateral undertaking and conditions sufficient to support the scheme

83. These substantial benefits would override the very limited harm of a loss of greenfield land and related impacts. Adverse impacts would not significantly and demonstrably outweigh the benefits when assessed against the NPPF taken as a whole.⁷⁸

The Case for Fylde Borough Council (Both appeals)

84. Warton is earmarked as a strategic location for development in the emerging Local Plan. The Council recognises that it cannot demonstrate a five-year housing land supply. Neither site exhibits landscape or visual qualities which cannot be properly addressed at reserved matters stage. Natural England was originally concerned about the effect on over-wintering birds using the nearby SPA but that concern has now been addressed and Natural England has withdrawn its objection.

85. Lancashire County Council, with unrivalled experience of the local highway network has been instrumental in bringing forward proposals for the Preston Western Distributor Road (PWDR). This should divert a proportion of traffic away from local roads in Warton. It is to be delivered through City Deal funding, which is committed. This, together with other off-site highway improvements lead to a conclusion that the consequences for the road network would not be severe (in the terms used by NPPF paragraph 32) if these appeals were allowed.⁷⁹

⁷⁷ Paragraphs 37-39 of Mr Williamson's closing remarks (document 15.30), referencing paragraphs 12.13-12.15 of Mr Tibenham's evidence (document 13.2)

⁷⁸ Paragraphs 40-42 of Mr Williamson's closing remarks (document 15.30)

⁷⁹ Paragraphs 6-11 of Mr Easton's opening Position Statement (document 15.22)

86. Although not presented or tested by cross-examination at the Inquiry, Mr Porter's proof of evidence gives a detailed explanation of this conclusion.⁸⁰ Significant points from this proof are as follows

- Peak flows are relatively short, resulting from BAE start and finish times⁸¹
- Accident rates are not unusual for this type of urban road⁸²
- There is a potential grand total of 1344 new dwellings in Warton⁸³
- When the new BAE gatehouse and access is opened, Mill Lane will be relieved but traffic on Typhoon Way⁸⁴, which has been designed to cope, will increase⁸⁵
- The new BAE Systems access is not expected to be delivered and operational for a few years but a scenario with it in place is still believed correct⁸⁶
- A planning application has been submitted for the Preston Western Distributor Road (PWDR) which is to provide a link between a new junction 2 on the M55 and a new junction on the A583 at Lea Gate⁸⁷
- The PWDR has two key aims, one of which is to improve access from the motorway network to the Warton Enterprise Zone⁸⁸
- The PWDR is due to start on site in January 2018 and to be completed during 2020⁸⁹
- Funding for the PWDR is through the Lancashire Enterprise Partnership which supports the Preston, South Ribble and Central Lancashire City Deal delivery Programme which includes the PWDR⁹⁰
- There is a "Saturn model" of Central Lancashire which has been interrogated to report on the effects of the PWDR on junctions in Warton. It shows
 - Increased traffic along the A584 to the east of Warton in both directions
 - Reduced traffic along Church Road
 - A lesser reduction in traffic on Lytham Road to and from the west of Warton
 - A small increase in traffic on Harbour Lane

This output has been used to test scenarios for 2024.⁹¹

⁸⁰ Paragraph 11 of Mr Easton's opening Position Statement (document 15.22)

⁸¹ Mr Porter's proof paragraph 3.14

⁸² Mr Porter's proof paragraph 3.16

⁸³ Mr Porter's proof paragraph 4.3

⁸⁴ Also known as Liberator Way and as Thunderbolt Avenue

⁸⁵ Mr Porter's proof paragraph 5.2

⁸⁶ Mr Porter's proof, unnumbered paragraph following paragraph 5.2

⁸⁷ Mr Porter's proof paragraph 6.1

⁸⁸ Ibid

⁸⁹ Mr Porter's proof paragraph 6.2

⁹⁰ Ibid. Funding for the PWDR was announced during the Blackfield End Farm Inquiry. See footnote 15 on page 11 of the Inspector's report (Appendix 3 to Mr Griffiths's proof of evidence (Document 9.2) also available as document 6.17)

- Conditions 16 and 17 of the Blackfield End Farm decision⁹² require no development to take place until details of a junction improvement at Lytham Road/Church Road have been submitted to and approved by the local planning authority and for no more than 119 dwellings to be occupied until the junction improvement has been implemented⁹³
- Elements of the Lytham Road/Church road junction design assist the Council's public realm improvements⁹⁴
- The design of the public realm improvements incorporates the junction changes⁹⁵
- Drawing SK21338-012 represents a safe access to appeal site A⁹⁶
- Appeal A offers⁹⁷
 - Provision of MOVA/UTC control at the junctions of Lytham Road with Typhoon Way, Mill Lane and Church Road
 - Provision of the Church Road junction improvements if not previously implemented
 - A five-year financial contribution to improvement of route 78 bus service
 - Funding for a travel plan team and a budget for additional measures initiated through the travel plan
- Drawing 0988-F01 revision F represents a safe access to appeal site B⁹⁸
- Appeal B offers
 - Provision of the Church Road junction improvements if not previously implemented
 - Improvements to bus stops on Lytham Road
 - A five-year financial contribution to improvement of route 68 bus service
 - Funding for a travel plan team
- Although neither the new BAE access nor the PWDR delivery is within the control of the appellants, there is a real prospect that they will be delivered in realistic timescales, so no request for a condition limiting approval of the appeals to the delivery of these road schemes. This is consistent with the view taken by the Blackfield End Farm Inspector⁹⁹

⁹¹ Mr Porter's proof paragraphs 6.4-6.6

⁹² Appendix 10 to Mr Porter's proof (document 10.4)

⁹³ Mr Porter's proof paragraph 7.3

⁹⁴ Mr Porter's proof paragraph 8.2

⁹⁵ Mr Porter's proof paragraph 9.2

⁹⁶ Mr Porter's proof paragraph 10.3

⁹⁷ Mr Porter's proof paragraph 10.5

⁹⁸ Mr Porter's proof paragraph 11.4

⁹⁹ Mr Porter's proof paragraph 12.5

- For approved housing sites in North West Preston, Lancashire County Council accepts the risk of the PWDR not being in place¹⁰⁰
 - The scenario testing for 2024 shows that all junctions within Warton will operate within capacity except that of Lytham Road/Church Road¹⁰¹
 - The Lytham Road/Church Road junction will operate over capacity but to a lesser degree than that found acceptable in the Blackfield End Farm appeal.¹⁰²
 - In contrast to the acceptance of the risk of PWDR not being delivered, the Church Road junction improvement is necessary because otherwise, pedestrian safety would be compromised, as would the feasibility or viability of the intended public realm enhancements.¹⁰³
87. The putative reasons for refusal did not make positive assertions of harm, rather a failure to demonstrate the acceptability of the proposals. Despite appeals being made, the Council has sought to engage proactively with the appellants. This process has been successful. The agreed position between the parties is set out in the Statements of Common Ground. It is subject to two caveats; (i) that the section 106 obligations are executed in the agreed form to provide affordable housing, education contributions, public realm enhancement, public open space¹⁰⁴ and transport improvements, (ii) that an appropriately worded condition requires junction improvements at Church Road/Lytham Road to be provided as a means of accommodating the traffic generated by the two appeal schemes.¹⁰⁵

The Case for Bryning-with-Warton Parish Council (Both appeals)

88. The Parish Council came to the Inquiry with the intention of supporting objections made by Fylde Council's Development Management Committee against the recommendations of its officers. The Parish Council is perplexed and frustrated by the last minute agreement between the developers, Fylde Council and the Highway Authority on Common Ground to address all traffic concerns. That reflects the experience of the Local Plan Preferred Options to 2030 which proposed an allocation of nearly 1200 new homes to Warton without previous consultation with the local community or Parish Council.
89. The Parish Council fully acknowledges national and local needs for new housing but it is the scale of development proposed which is the overriding issue to the Parish Council. Four major residential developments have been approved in Warton in the past five years (Meadow View, Riversleigh, Highgate (formerly Marconi) and Blackfield End Farm). They total 850 dwellings, yet now the submitted appeals seek approval for a further 465. This equates to some 85% growth, virtually doubling the size of the village.
90. All have been approved and progressed without any tangible improvements to local facilities, amenities, highways or drainage systems. The village has no

¹⁰⁰ Mr Porter's proof paragraph 12.5

¹⁰¹ Mr Porter's proof paragraphs 13.10-11 and table 1

¹⁰² Mr Porter's proof paragraph 13.12

¹⁰³ Mr Porter's proof paragraphs 14.6-14.9

¹⁰⁴ By the end of the Inquiry, all three main parties agreed that it was sufficient to require public open space as a condition, rather than through an obligation.

¹⁰⁵ Paragraphs 1-5 of Mr Easton's opening Position Statement (document 15.22)

doctor's surgery, dentist or pharmacy. There is no bank. Post office services are limited to a counter at the local convenience store. Local highways are at capacity. Transport links are poor and certain areas are subject to minor flooding. All that is proposed is a superficial change to the main junction, a proposal for more traffic lights along the main road and a payment to continued hourly bus trips. No credence is given to local knowledge.

91. The Parish Council has progressed community participation through a Parish Plan, a Design Statement and a Neighbourhood Plan as well as facilitating the local referendum on the Local Plan Preferred Options for a scale of development on par to what is now put forward. All evidence and consultation identified highways issues and a lack of facilities.
92. Historically, both a planning Inspector and a representative of the County Highway Authority had concluded that the road system at certain points in Warton had reached, if not exceeded capacity.¹⁰⁶
93. Three infrastructure schemes are supposed to facilitate improved traffic flows. These are at the junction of Lytham Road with Church Road, the Preston Western Distributor Road and Lytham Road at the west end of the village.
94. Revision of the junction of Lytham Road with Church Road is a condition of the development of Blackfield End Farm, allowed on appeal. But, even so, the junction would still operate over capacity. The certainty of heavy traffic queuing longer in the village centre at certain times of day poses health and safety concerns. Impact during its construction would be horrific. There is no certainty over the timescale of its delivery. Yet it is suggested that up to 15% of appeal sites A and B could be completed without it. Common sense would indicate that in all reason these conditions should not be exacerbated by further traffic both from the construction and subsequent operation of either appeal.
95. For the Enterprise Zone to be successful will require better links to the motorway network. The Parish Council appreciates the concept of the PWDR shifting access traffic from a north-south route through Wrea Green, Bryning Lane and Church Road onto an eastern approach along the A584 Freckleton bypass. But that will only feed traffic onto the very roundabout proposed for the access to appeal site A. It is yet to be explained how this will alleviate or improve existing or future traffic flow to points further west.
96. Moreover, the PWDR is not currently scheduled to open until 2021/22. It is reliant on government funding. Full planning permission has not yet been sought. Likewise, the new BAE access is not expected to be delivered and operational for a few years. The Parish Council would plead for common sense; no further development should be allowed at this time and not until the indicated highway infrastructure is fully operational.
97. The proposed junction to provide access to appeal site B represents a further hazard at a point where the speed of traffic and the curvature of the road gives

¹⁰⁶ Understood to be a reference to paragraphs 71, 102-104 and 112 (summarising parties' cases), and 168 and 177 (Appraisal and conclusions) of the Inspector's report into Appeal reference APP/M2325/A/99/1032594. (Found at Appendix 10 to Mr Griffiths's Proof of evidence, document 9.2 (provided in hard copy only))

- safety concerns. A preferred alternative would be to provide access via a roundabout further to the west.
98. The significance of BAE Systems is immense. Improved access and egress to the east or west of the site, has the potential to alleviate traffic in the centre of the village, specifically if the main entrance were to close. But the Parish Council has been advised that this is not likely.
99. Moreover, there are issues created at the east end of the village where Lytham Road reduces from two lanes to one west of the new junction with Thunderbolt Avenue.¹⁰⁷ Several serious collisions have occurred in this proximity and it is the consensus of local opinion that it is only a matter of time before a fatality occurs.
100. Growth of the Enterprise Zone will add to existing problems on Lytham Road. Development of the two appeal sites in close proximity will not alleviate traffic problems. Attestations that people will move to be close to their place of work are not supported in practice; some employees at BAE Systems at Warton are known to commute from Merseyside, Manchester and Yorkshire.
101. Likewise, residents' trip rates used in the modelling process seem vastly disproportionate to real life experience. The nearest significant grocery stores are based in Preston, Kirkham or Lytham. The numbers of additional cars in the village during busy times is likely to be in the hundreds, in addition to the hundreds likely to be generated from existing approved developments not yet completed.
102. Air quality and developing health issues have become a recent concern in Warton. Figures and reassurances from experts have been accepted unchallenged. Recent reports in the media and subsequent investigation with the local authority have identified this as an area of concern that has been significantly overlooked.
103. Despite the strong and emotive views of a large proportion of the local electorate, the Parish Council fully embraced the Neighbourhood Plan concept in the understanding that it is not about preventing future growth but working together to provide sound and robust policies for a sustainable future for Warton. But attempts to progress the plan have reached impasse with the Local Planning Authority.
104. Ministerial statements encourage hope of influencing future growth but the relevance and need for Parish Councils is questionable if their views and representations are ignored. Members of the Parish Council and the Neighbourhood Plan Steering Groups are volunteers, from diverse walks of life. They offer a broad representation of community views and opinions as well as unique local knowledge often overlooked by professionals. If the concept, principles and policies of neighbourhood planning fail then the legislation, however well-intentioned would be a complete waste of time and money.

¹⁰⁷ Referred to as Liberator Way or Typhoon Way in Martin Porter's proof of evidence

The Case for Bryning-with-Warton Neighbourhood Plan Steering Group (Both appeals)

105. Despite meeting with Council officers on 7 July 2016, no intimation was given to the Neighbourhood Plan Steering Group of the made or impending Statements of Common Ground with appellant B.
106. The Council initiated the concept of a masterplan coordinating the development of Warton in a meeting on 20 November 2013, following the receipt of a number of uncoordinated planning applications. It had previously itself promoted development on land without consulting the landowner. The Council continues to support the concept of masterplanning in its Fylde Local Plan Revised Preferred Options October 2015. Yet its lead Councillor had expressed the view that the lack of a five-year housing land supply would undermine the masterplanning approach.
107. Two years after the November 2013 meeting, the Council's Director of Development and Regeneration expressed an observation to the effect that planning in Fylde is determined by developers. Two and a half years after the November 2013 meeting, Mark Menzies MP expressed the view that applications submitted before the new local plan has been ratified represent a clear case of wilful abuse of the local plan process.¹⁰⁸
108. Nevertheless, Bryning-with-Warton Parish Council sought to influence the development of the village through the Neighbourhood Plan process. Its process was robust. The Neighbourhood Plan Steering Group continues to inform residents of planning matters in ways such as the publicity it gave to this Inquiry.
109. The Parish Council, through its Steering Group submitted the Bryning-with-Warton Neighbourhood Plan to Fylde Borough Council in September 2014. It is now stalled and has not progressed to a referendum. But the Inquiry should recognise the fact that Bryning-with-Warton Parish Council, through its Steering Group produced a document which truly reflected the will of the residents to see the village grow in a structured, planned way.
110. The Neighbourhood Plan has been recognised as a substitute for the originally intended masterplanning exercise. It envisaged development to the east and west of the village. But that concept has been undermined by applications at Blackfield End Farm, Riversleigh and Oaklands. In response to cross-examination, Mr Child, the Steering Group's representative confirmed that the BWNP had regarded the appeal sites as the best location for development in Warton but subject to a cap of 650 on development in total.
111. Many in the village cannot understand how the absence of a five-year housing land supply and the absence of an adopted local plan can lead to approval of such a large number of dwellings in the village. If Warton is a Strategic Location for development, then all planning decisions should be taken on a strategic basis. Yet approval has been given for over 300 dwellings at Blackfield End Farm, despite recognition in the Preferred Options consultation in 2013 that "of the three sites for development in Warton, infrastructure issues indicate that development could start on land in the east first."

¹⁰⁸ Document 15.9

112. Similarly, development as a strategic location is expected to involve improved local facilities and an improved local centre. Yet there is no evidence of any such enhancements associated with developments approved to date or with the two current appeal proposals. By contrast, major enhancements to the site access to BAE Systems's other site at Samlesbury looks like strategic planning as does the approval for a new 1500 dwelling development in Warwickshire, preceded by a major infrastructure project including a network of access and relief roads.
113. Planning approvals in Warton so far total 778 dwellings. The two appeal proposals would add 475, totalling 1253. By comparison, the Council proposed 1160, reduced through debate and discussion to 650. The village will be transformed into a town with few facilities to meet its needs. It is highly unlikely that Warton will provide sources of employment for a massive increase in its population. Consequently, those residents who are employed would experience the frustrations of an inadequate road system. It would be a disgraceful epitaph for a planning process which has failed to pay due regard to local democracy.

The Case for Jaqueline McDermot (Both appeals)

114. She has been a resident of Lytham Road for two years. She experiences traffic fumes. She is concerned about traffic on Lytham Road and feels that the road is not big enough to take the traffic. She is concerned about the impact of cars on children walking to school.
115. She asserts that there is no demand for new housing and reports that developers do not necessarily deliver what they are required to do, citing new houses built behind hers where drainage gullies were not completed.

The Case for Jean King (Both appeals)

116. More houses would lead to more cars, in turn leading to more fumes. Research from BBC News shows that there are an estimated 29,000 deaths annually in the UK from air pollution. Developments should not add to or cause significant additional issues. Air quality considerations are national policy.¹⁰⁹ Mitigation measures should be developed.
117. The Journal of Thoracic Disease reports that rapid and poorly planned urbanisation is associated with high levels of ambient air pollution, mainly caused by increasing emissions from motor vehicles. Exposure to outdoor air pollution is associated with increased mortality from pollution-based respiratory complaints. Larger effects were observed in older people. It is a major environmental health problem leading to 3.7 million premature deaths world-wide in 2012.
118. Young people are more susceptible to air pollution because their lungs are growing and developing and because they spend more time outdoors. Children living in areas with high levels of nitrogen dioxide have up to 10% less lung capacity than normal. The Sunday Times has mapped school locations against government data of NO₂ emissions per square kilometre and found that about 3,000 British Schools were sited in areas with potentially dangerous levels of air pollution. Both the Royal College of Physicians and Parliament's Environment Audit Committee have drawn attention to planning in relation to air pollution at schools because of their proximity to roads. The situation is exacerbated by new

¹⁰⁹ She referred to NPPF paragraphs 109, 110 and 120

housing in rural areas which increase the burden on local schools and the pollution associated with increased traffic.

119. Fylde Borough Council's Green Infrastructure Strategy Baseline Review acknowledges that air quality is poorest around Kirkham, Warton and the northern housing estates of St Annes. In Warton, this is attributed to traffic and to operations associated with BAE Systems. DEFRA's 2014 data (on its website) confirms Warton as an area at risk having nitrogen dioxide background levels of between 30 and 40 parts per billion, a significant increase over the Council's 2009 readings of 23 ppb.
120. Warton has two primary schools, two child nurseries and a community centre at the epicentre of the cumulative development that is planned. There is no evidence that the Council has sought independent opinion on the cumulative impact of 1,300 new homes and the Enterprise Zone¹¹⁰ within a mile radius of the centre. The developer's case is that impact on air quality is predicted to be negligible but that is based on modelling, not substantive evidence. It is obvious that almost doubling the population of the village, combined with the Enterprise Zone will make a very significant increase in traffic volume and therefore an unacceptable risk until independent and reliable evidence is available.
121. In response to questions put on behalf of Warton East Developments she confirmed that she supported the Neighbourhood Plan for Warton which promoted added development. She accepted that any housing will produce more pollution and that it is sensible to locate new housing where it was not necessary to use cars but that development should be focussed on the regeneration of Blackpool and Preston.

The Case for John Rowson (Both appeals)

122. Mr Rowson contests the TRICS data which underlines the appellants' estimates of traffic generation. These are usually related to suburban areas. Traffic generation in Warton is likely to be twice as high.
123. He is a former police officer, resident of Wrea Green, about two miles north of Warton and has experienced increases in traffic speeds and congestion as a result of development there and in Warton. Because of congestion on the A584, much traffic comes and goes via Wrea Green but there has been no improvement to infrastructure.
124. Even after the Western Distributor Road is completed in five years time, peak congestion on the A584 will still encourage traffic to seek an alternative route through Wrea Green. Road infrastructure improvements need to be completed before further development is approved.
125. If developments are completed within five years, they will pre-exist the Western Distributor Road. Yet, if they are not completed within five years, they will not be needed as other development will be on stream by then and meet housing needs.

¹¹⁰ Environment Zone was the term initially used, with the abbreviation EZ, but the abbreviation means Enterprise Zone, which term is used later in her statement

126. The developments would conflict with paragraphs 9, 17, 21, 32, 132 and 172 of the NPPF. The draft Local Plan for Fylde and the draft Neighbourhood Plan would address issues but the developments fall outwith the cap of 650 in those emerging plans, although the sites are included. The cumulative effects of development in Wrea Green need to be taken into account together with that in Warton.

The Case for Michael Gilbert (Both appeals)

127. If one were to stand outside the Inquiry venue at about 5pm, traffic from the Lytham direction would be constant as far as the eye can see. The same would also be true of the stream of traffic emerging from BAE.

128. The traffic produces fumes. The Sun newspaper reported on 3 May¹¹¹ that the ninth worst kilometre grid square in the country was in Warton, including the site of St Paul's Primary School. The Sunday Times carried a similar report referring to the location of Holy Family Primary School in Warton within a grid square experiencing 166 tonnes of NO₂,¹¹² many times the safe limit. The appellants forecast minimal effects from their developments but when the limits are already well exceeded, then they should not be added to.

129. There are three suggestions for resolving Warton's problems; (i) the Preston Western Distributor Road (PWDR) would reduce traffic; (ii) moving the entrance to BAE to the east of the village would reduce traffic in the village; (iii) improvements to the Church Road junction. But sequencing is important. If the last were to precede the others, the effects would be chaotic. PWDR could be four years away. The BAE move is still a few years away. So, development should be deferred until road capacity is complete.

The Case for John Barton Bennett (Appeal B)

130. Mr Bennett and his wife have lived for 41 years in the property which would be surrounded on three sides and is currently blighted by the uncertainty of the development proposed in appeal B. Unless separated by a reasonable distance from the development, privacy would be lost.

131. The site of appeal B drains towards their property. Localised flooding occurs. Hard surfacing with roads and tarmac will make matters worse.

132. The proposed site access is too close to Brook Corner which drivers take at speed. Much more traffic will use the A584. Turning movements will lead to accidents.

133. The capacity of infrastructure such as medical surgeries, schools, and shops together with the lack of a library is a concern.

The Case for Ruth Fraser (Appeal B)

134. Ruth Fraser and her partner live on Lytham Road opposite appeal site B. Her concern is with highway safety. The proposed site access is close to a bend which reduces visibility. The bend has been the site of many accidents.¹¹³ The

¹¹¹ Document 15.6

¹¹² Document 15.7

¹¹³ Document 15.8

access would add complexity to a location with five other access points already¹¹⁴ and three bus stops. She points out that the Neighbourhood Plan proposed access to the site in a different location.

135. Help for pedestrians to cross at any point on Lytham Road is appreciated but speeding traffic and the visibility of proposed central refuge from the Lytham direction would not reassure pedestrians. A similar refuge outside the Land Registry¹¹⁵ was hit and overturned.

The Case for Tony Guest (Both appeals)

136. When the Local Plan was being prepared, policy SP1 set out a development hierarchy in general conformity with the Lancashire Structure Plan of the time. Before the adoption of the Local Plan the Secretary of State intervened and directed non-adoption because of inconsistency with the emerging Joint Lancashire Structure Plan. Fylde Borough Council adopted the plan unaltered, was challenged in the High Court and the Plan quashed.
137. When the plan was reviewed in 2006, the Council was not consistent in its alterations to the Local Plan so the hierarchy was not changed. At the time, this did not matter because the new Joint Lancashire Structure Plan supervened and policy SP1 was incapable of having effect.¹¹⁶
138. But the joint Lancashire Structure Plan was subsequently revoked. In 2007 the Secretary of State directed that certain policies in the Fylde Borough Local Plan should be saved beyond 27 September 2007.¹¹⁷ These included policy SP1. Yet this policy should have no validity.
139. The emerging Local Plan proposed to identify Warton as a Strategic Location, nearly doubling the size of the village. This proposal did not emerge from consultation. Previous consultation had not included that option and no response to consultation suggested it.
140. The response was dramatic. Although only 30 people attended a Local Plan meeting in St Annes, 600 attended in the village. A petition against designation as a Strategic Location was signed by 830 Warton residents.
141. Warton is inappropriate as a Strategic Location. The term is better used to identify sites such as the Royal Ordnance site at Chorley. BAE Systems is a major employer. The case for housing is based on proximity to employment. But a very small proportion of BAE employees live in Warton. BAE recruits skilled personnel from around the world. They live elsewhere. Support services have all been outsourced to companies such as G4S, Compass etc. They are headquartered elsewhere and do not recruit locally.
142. Warton is remote from the motorway system, so BAE is moving investment to Samlesbury. What Warton offers is a long runway. But BAE is moving away

¹¹⁴ Florence Avenue, the entrance to Clifton House Farm, the access road for residents of Denwood Bank and the driveways of 291 and 278 Lytham Road.

¹¹⁵ Located on Lytham Road to the west of Warton

¹¹⁶ As explained in the Preface to the Fylde Borough Local Plan As Altered, October 2005 (Document 1.1)

¹¹⁷ Document 1.11

- from aircraft assembly and flight testing. It is likely that within the period of the emerging Local Plan BAE will have moved out of Warton and closed the runway.
143. The Enterprise Zone is a response to redundancies at Warton and Samlesbury. It has been established four years. It is one of the worst-performing Enterprise Zones in the country. Its goal was 1,200 new jobs in the short term, 4-6,000 in the medium term. In the past four years it has created 12 new jobs. So the idea that the Enterprise Zone will be a major employer is fanciful.
144. The Preston Western Distributor Road will not move Warton closer to the motorway. It won't change the crucial point of the access to the motorway system. For each enquiry made in relation to the Warton EZ, 8-10 are made at Samlesbury. There is a rival EZ at Blackpool Airport. Warton's one asset is a military airfield.
145. Warton is promoted as a major service centre but is surrounded by others of longer standing; Freckleton to the east includes a health centre, Lytham to the west offers the complete range of services. To the north is Kirkham, a major town. The traditional pattern of development is directed by the road and rail system. There is no evidence that the effects of the PWDR will change that. It is laughable to think that people will come to Warton.
146. In response to cross-examination, Mr Guest accepted that both appeal sites were promoted within the emerging Local Plan and emerging Neighbourhood Plan process and both found acceptable within a much reduced housing figure but, he pointed out that since then, the decision on the Blackfield End Farm appeal (permission given for 360 units) makes the addition of the two appeal sites much less sustainable.
147. During his questioning of Mr Thompson (the transport expert for appeal A), Mr Guest pointed out that Warton is located in a holiday area. He obtained confirmation from Mr Thompson that holiday traffic had not been modelled because of its exceptional nature but Mr Guest made the point in response that holiday traffic is not exceptional for a holiday area.

Written Representations (Both appeals)

148. In response to notifications of the appeals, three respondents made written representations on appeal A¹¹⁸ and two in response to appeal B.¹¹⁹
149. In relation to appeal A, they point out that the Council originally proposed 1160 houses for Warton in its emerging local plan, subsequently reduced to 650 but that has not progressed to examination, that a neighbourhood plan for 650 houses is progressing, that the A584 is inadequate and land is needed for a bypass, that houses are not needed and that local employment is in decline. Doubts are cast on the dimensional adequacy of the land required for the access to appeal site A, of the need to raise land to provide the access and of its unsuitability because located within flood zone 3. Alternative land is sequentially preferable and available.

¹¹⁸ K D Copson, J H Ashworth and de Pol Associates on behalf of Chris Hill

¹¹⁹ Bryning-with-Warton Parish Council the case for which was presented to the Inquiry and reported elsewhere and Sally Wright representing Warton Residents Against Poor Planning (WRAPP)

150. In relation to appeal B, the increased risk from the access to pedestrians crossing Lytham Road was of concern. Flood risk was pointed out as was the fact that the neighbourhood plan promoted a large public open space on the site and wide buffer areas around development for walking and traffic calming on Lytham Road.
151. Nineteen representations were made to the Council in relation to the application which has resulted in appeal A. These raised concerns regarding the proposal's inconsistency with people's preferences, a change in the character of the village, the scale of development, its height, its need in the light of new housing remaining unoccupied, the availability of alternative sites, insufficient employment, the type of housing, traffic generation, the need for a bypass, lack of facilities, drainage, sewerage and infrastructure, flooding, loss of playing fields and recreation area¹²⁰ and loss of open aspect, privacy and light.
152. Eleven representations were made to the Council in relation to the application which has resulted in appeal B, including one each from Mr Bennett and Ruth Fraser whose cases are reported separately. The additional representations raise concerns of a loss of view, the quantity of development in the village, the loss of its character, the lack of infrastructure, capacity for wastewater, the capacity of the highways, the safety of the access location proposed, the need for cycle priorities, facilities for pedestrians, the inability of houses to sell, the type of housing proposed and prejudice to the Neighbourhood Plan
153. Ten representations were made to the duplicate application on appeal site B including the access detail as now proposed. These include one from Mr Bennett, whose case is reported separately. Others raise concerns of compliance with the BWNP, the sustainability credentials of Warton, the lack of need for housing, the lack of employment, excessive numbers of houses, their saleability, the swamping of village character, the loss of green sites, the lack of infrastructure, drainage, added traffic, the danger of the location of the access, a preferred location for the access, obstruction to existing accesses, the need for a cycle path, loss of green belt¹²¹ and the loss of a view.

Inspector's Conclusions

154. In this section of my report, references in square brackets [] are to previous paragraphs of this report on which my conclusions are based.
155. At the opening of the Inquiry, I identified the main issues in both appeals to be the effects of each proposal on the demand for and supply of supporting facilities and services and the supply of housing in the local housing market area but I also advised that, in the light of the agreements reached at the last moment between the parties, the Inquiry would focus on matters raised by those not party to these agreements. In the light of the cases presented by interested parties during the Inquiry I now revise my identification of the two main issues which arise from these cases and add two more.

¹²⁰ A mistaken fear; the site of appeal A does not involve any loss of playing field or recreation area.

¹²¹ But, as a matter of fact, the site is not designated green belt.

156. The main disputed issues are the effects of development on the character of Warton and the capacity of its services and facilities; the capacity of the highway network to accommodate the cumulative effects of development in Warton; the suitability of Warton as a location for residential development in terms of air quality and; the effects of the proposals on the demand for and supply of housing in the local housing market area.
157. In addition there are considerations which are not disputed but which must be taken into account and on which I report because both these appeals result from the failure of the Council to give notice of a decision within the required timescale. These include consideration of the three dimensions to sustainable development set out in paragraph 7 of the NPPF, the twelve core planning principles set out in paragraph 17 of the NPPF and specific policies within the NPPF which apply those principles.

Habitats Regulations Assessment

158. But before I report on any of these matters, it is necessary to give consideration as to whether there is a need for an Appropriate Assessment to be made for either appeal in accordance with the Habitats Regulations. Regulation 61(1) of the Habitats Regulations makes it clear that if a plan or project is likely to have a significant effect on a protected site (either alone or in combination with other plans or projects) and it is not directly connected with or necessary to the management of the site, the competent authority shall undertake an Appropriate Assessment of the implications for the site in view of its conservation objectives.
159. The Ribble and Alt Estuaries Special Protection Area (SPA) and Ramsar Site, and the Ribble Estuary Site of Special Scientific Interest (SSSI) are about 1.6km from appeal site A and less than 1km from site B. The Newton Marsh SSSI is about 2.5km from appeal site A. These are important for wintering birds and migratory birds in spring and autumn.
160. The distance between the appeal sites and any protected site and the intervention of existing development is such that direct disturbance to species on the protected sites is unlikely.¹²² The most likely concerns in relation to the appeal sites are that the appeal proposals may lead to a loss of habitat functionally linked to a protected site (i.e that they may be used by overwintering birds for foraging), that they may lead to increased recreational pressure of the protected site, or that they may lead to changes in water quality in watercourses hydrologically linked to a protected site.¹²³

Appeal A

161. Natural England is the government's adviser for the natural environment in England. Its letter of 21 July 2014¹²⁴ comments on appeal A. It advises that in relation to the second of these three concerns, a Visitor's Pack be prepared and made available to future homeowners, highlighting the sensitivity of the

¹²² Comment of Greater Manchester Ecology Unit in their letter of 6 October 2015 relating to appeal B (filed on Council's questionnaire response for appeal B)

¹²³ Risks identified in the Habitats Regulation Assessment of the Local Plan Revised Preferred Options (document 2.32)

¹²⁴ Attached to the Council's questionnaire response for appeal A

protected sites to recreation and highlighting alternative recreational opportunities in the vicinity. This can be required by condition.

162. In relation to the last concern it points out that the drain to the east of the site flows to Pool Stream and so directly to the designated site. It suggests that details be required of suitable measures to prevent run-off and debris entering the watercourse during construction and the installation of silt traps to ensure that drainage water is uncontaminated when it leaves the site. Drainage details can be required by condition.
163. In relation to its first concern, it sought additional information. Following a Wintering Bird Survey carried out for appellant A,¹²⁵ Natural England advises that the proposed development of appeal A would not result in a Likely Significant Effect on the designated sites either alone or in combination.¹²⁶

Appeal B

164. For appeal B, the Greater Manchester Ecology Unit (GMEU) advises that the site does not provide suitable habitat for the important water and wading birds which use the Estuary. It is close to other built developments and the main road, meaning that it will be subject to levels of disturbance such that birds are unlikely to settle in any numbers.
165. GMEU points out that the potential increase in population arising from the development of appeal site B would be less than 4% of the existing population of Warton and that it is unlikely that all new residents will use the nearby Estuary for regular recreation. Appeal site B is separated from the Estuary by a busy main road, the aerodrome and other residential development, discouraging casual access. The part of the Estuary closest to appeal site B is not readily accessible and is not well developed for recreational use. Open space will be provided within appeal site B, providing a diversionary attraction. The conclusion is that appeal B would not result in a significant increase in recreational disturbance.
166. Nevertheless, as a precautionary measure, GMEU recommends, similar to the recommendation of Natural England in respect of appeal A, that for appeal B a Visitor's Pack be prepared and made available to future homeowners, highlighting the sensitivity of the protected sites to recreation and highlighting alternative recreational opportunities in the vicinity. This can be required by condition.
167. Similar to the suggestion by Natural England in respect of appeal A, Lancashire County Council as the Lead Local Flood Authority recommends that drainage details be required by condition for appeal B.¹²⁷

Advice

168. It is for the Secretary of State to make determinations whether Appropriate Assessments are required in each case. No Appropriate Assessment would be necessary if the Secretary of State decides to refuse permission for reasons other than the effect on a designated site. An Appropriate Assessment is required if

¹²⁵ Document 7.20

¹²⁶ Document 8.11

¹²⁷ By letter of 22 September 2015 (filed on the Council's appeal B questionnaire response)

the Secretary of State intends to grant permission and considers that the proposal would lead to a significant effect on the designated site.

169. On the basis of the judgement in *Hart District Council v SSCLG, Luckmore Limited & Barratt Homes Limited (2008)*, any proposed avoidance or mitigation measures which form part of the proposal should normally be taken into account when deciding whether the proposed development would be likely to have a significant effect on the European Site. Where appropriate mitigation has been secured, no further consideration of Habitats Regulation Assessment (HRA) is required.
170. My advice is that, provided the two conditions suggested by Natural England (in respect of Appeal A) and the Lead Local Flood Authority and GMEU (in respect of appeal B) are imposed on any permission in either appeal so that the mitigation measures are secured as a part of the proposal, then the view should be taken that each appeal would be unlikely to have a significant effect on the European Site. In that case, no Appropriate Assessment would be necessary for appeal A or for appeal B.
171. In the event that the Secretary of State takes the contrary view and decides that either appeal would be likely to have a significant effect on the designated site, then it would not be necessary to read the rest of my report in respect of the relevant appeal because the information necessary to undertake an Appropriate Assessment is not provided in either case. As with the Neighbourhood Plan [36, 37], the absence of an Appropriate Assessment where one is needed would be a "show-stopper" and it would be necessary to go no further.

The character of Warton, its services and facilities

172. Both appellants conducted a conventional Landscape and Visual Impact Assessment. That for appeal A leads to the conclusion that although there would be a loss of greenfield land the impact on the landscape would be minor [64]. There is no landscape objection to appeal A and so it is claimed that the development could comply with policy SP2 in relation to harmful effects arising [51 (bullet 15)].
173. Mr Denny's evidence for appeal B acknowledges some effect on the character and appearance of the local area through the loss of agricultural fields but the development would not extend the settlement into the countryside to any notable degree nor would it conflict with the local settlement pattern or overall character of Warton [78]. It is claimed that appeal B will not have an unduly harmful impact on visual amenity or landscape character within the countryside and so accords with policies HL2, EP10, EP14 and EP18 [52 (bullet 42)].
174. There is no evidence presented which would lead me to disagree with the claims of either appellant in relation to the landscape impacts of each scheme.
175. Valuable though they are as a component in the evaluation of these two appeals, these landscape assessments are somewhat off the point in so far as the representations made by interested parties are concerned, since the latter focus more on whether the developments proposed (in conjunction with others already with planning permission) would change the character of Warton from that of a village to that of a town [113, 151-153].

176. Warton is a settlement of about 3,600 people. It has developments with planning permission or under construction which would increase this to about 5,400 people [19]. The population resulting from these appeals, even in combination with developments already permitted, might take the population of Warton up to about 6,500 people. It would, as interested parties report [89, 139], nearly double in size as a result of all developments combined, these two appeals included. But, it would still be no more than the few thousand population which characterises a village and nowhere near the tens of thousands which would characterise a town.
177. The obverse is also a concern, namely that the village facilities would be inadequate and would not increase to serve the increased population [90, 91, 112, 113, 133, 151, 153]. It is correct to say that, other than public open space and recreation facilities, neither development would make physical provision on site for additional services. But that belittles the disproportionately large contribution to the recreation facilities of the village which each appeal development would provide on site [52 (bullet 46), 64].
178. It also overlooks the financial contributions to the expansion of both primary and secondary schools serving the village which both appeals would make [49, 50]. It also overlooks the fact that private enterprise has been responding to the growth of the village by expanding its retail facilities, both at the new Tesco Express and permitted at J Townsend & Sons and that there are further opportunities to do so [20].
179. It is true that health facilities would remain absent from the village but there is no suggestion from the health authority that the provision which exists in nearby Freckleton is inadequate to serve Warton. Of necessity, to retain its character as a village, Warton will not be provided with the facilities of a town, such as a bank [90] but, in other respects, the perception that facilities in Warton would not increase is simply untrue.
180. I therefore conclude that neither proposal would alter the fundamental character of Warton. No party raising this point suggested any specific contravention of development plan policy. All parties accept that both appeal proposals would contravene Local Plan policies SP1 and SP2 which set limits to development for Warton [24, 25] but it is also accepted that these policies are out of date or satisfied [26]. Both proposals would comply with Local Plan policy HL2(1) which requires housing developments to be acceptable in principle.

The highway network

181. The Inspector reporting on the Blackfield End Farm case concluded that that proposed development (of up to 360 dwellings) would be likely to cause significant adverse effects for traffic movement at the Lytham Road/Church Road junction and that there would be a limited adverse effect on highway safety but that taking account of the overall implications of the proposal on the local highway network, he did not consider the residual cumulative effects to be severe.¹²⁸

¹²⁸ Inspector's report paragraph 125 (Appendix 3 to Mr Griffiths's proof of evidence (document 9.2), also available as document 6.17)

182. With that conclusion in mind, one can understand why the Parish Council is perplexed [88] at the Council's conclusion [85] that the consequences for the road network would still not be severe with the addition of traffic from the two appeals' further 490 dwellings, apparently without additional highway capacity other than that resulting from the application of MOVA/UTC to the traffic lights along Lytham Road [86 (bullet 15)], notwithstanding Mr Porter's comments that it has now reached a point where it will be very difficult for further developments in Warton to mitigate their impacts using the current analysis information.¹²⁹
183. The resolution of this conundrum is twofold. Firstly, the Blackfield End Farm Inspector reached his conclusion without quantification of the effects of the PWDR (its anticipated construction "reinforced" his view, it did not contribute to it), whereas quantification is now available [86 (bullet 10)]. Secondly, peak traffic on the network through Warton is dominated by BAE Systems [86 (bullet 1)]. Compared with that, the effects of development are relatively insignificant as can be seen by an examination of the traffic flow diagram included as Appendix 15 to Mr Porter's proof of evidence.¹³⁰ The flows in and out of Lytham Road from the three junctions on its southern side (largely BAE Systems traffic) represent a much larger component of the total flows along Lytham Road than the relatively small flows emanating from appeal site A. Traffic generation from appeal B would be even less.
184. These same two considerations should however give pause to an acceptance of the highway impacts of the two appeal schemes because neither the delivery of the PWDR, nor the relocation of the access to BAE systems can be guaranteed. The former is said to be funded [85] but at the time of writing does not yet have planning permission [86 (bullet 6)]. The latter has permission but there is no requirement for it to be implemented [86 (bullet 5), 98].
185. The County Council as highway authority is willing to take the risk [86 (bullets 5, 18 and 19)] and does not seek a condition limiting the implementation of the two appeal schemes to the implementation of the PWDR or to the BAE gateway relocation. Local residents argue the contrary [96, 124 and 129] in the cases they make, although it was not specifically revisited during the discussion on conditions. I agree with them for the reasons set out in my discussion of conditions below but the Secretary of State may feel that the inbuilt pessimism of the traffic forecasts [62 and 74 (bullet 5)] does not justify the concern and that the short duration of any harm arising from congestion on the highway [86 (bullet 1)] does not outweigh the benefits of avoiding delays to the delivery of housing which the imposition of the conditions I recommend might bring.
186. I conclude that with the conditions recommended, neither proposed development would cause the capacity of the highway network to accommodate the cumulative effects of development in Warton to be exceeded. Each proposal would therefore comply with criterion 9 of Local Plan policy HL2.

Air quality

187. There is a clear tension between the evidence presented by third parties [94, 102, 114, 118-120 and 128] and that presented by the appellants [79]. The

¹²⁹ Paragraph 13.14 of Mr Porter's proof of evidence

¹³⁰ Document 10.4

third parties rely on newspaper reports (specifically, in *The Sun* and *The Times*), Fylde Borough Council's Green Infrastructure Strategy Baseline Review and the DEFRA website.

188. Newspaper reports can be unreliable; both in their reporting of facts and, more so, in their interpretation of them but the other two sources of information are more credible. The Council's Green Infrastructure Baseline Review is not provided in evidence but it is publicly available. Its figure T14 on its page T8 does indeed record the air quality of the two Census Lower Layer Super Output Areas which encompass Warton within the two poorest categories. The source of the table is recorded as data extracted from ONS. The commentary speculates that in Warton, it may well relate to traffic and operations associated with the BAE Systems Aerospace Engineering site.
189. The submitted extract,¹³¹ reportedly from the DEFRA website simply records 166 tonnes of NO₂ in a square kilometre encompassing the eastern part of Warton. It does not encompass the site of either of the two appeals. It has no key to provide a context.
190. The appellants were unable to replicate the extracted map. The Air Quality Note submitted by appellant B examined projections for 2011 from the DEFRA website.¹³² Those figures complied with the Air Quality Objective. The appellant's Air Quality Note also corroborates the speculations of the Council's Green Infrastructure Baseline Review that the elevated figure for the grid square concerned derives from sources other than road traffic such as BAE Systems engine tests.
191. I conclude that although background air quality in the eastern part of Warton may have higher levels of pollutants than surrounding areas and be the poorest quality in Fylde, it is not, in absolute terms, poor. In terms of air quality, Warton is suitable as a residential location. There is no information sufficient to contradict the findings of appellant B's experts that the effects of both appeals on air quality would be negligible.¹³³ Objectors make no reference to any specific local plan policy but I observe that both the appeal proposals would accord with Local Plan policy EP26 which would not permit development which would give rise to unacceptable levels of air pollution [29].

Housing

192. All main parties agree that the Council can only demonstrate a supply of housing land of between 3.5 and 4.8 years depending on whether the latest SHMAA or the last adopted plan is used as defining the requirement and without undergoing a forensic examination of the supply component of the equation [60]. Appellant B argues that an examination of the supply component would reduce the overall figure by a further 0.6 years.¹³⁴ Appellant A offers a similar critique of the housing supply component but refrains from quantifying its implications.¹³⁵ In the absence of any further evidence from any party, I have no reason to

¹³¹ Document 15.7

¹³² Document 15.12

¹³³ Documents 7.3, 11.18 and 15.12

¹³⁴ Table 10.4 of Mr Tibenham's evidence (document 13.2)

¹³⁵ Paragraph 4.57 of document 9.7

- disagree with the common view that the Council cannot demonstrate a five-year supply and so relevant parts of the NPPF become material considerations.
193. Some take the view that the size of the five-year housing supply shortfall is an indication of the benefits which would result from the housing development proposed. The appellant for appeal B accepts the Council's estimate of build-out rates as reasonable¹³⁶, which implies it would be built out in about 4 years from permission. So, appeal B by itself, would make good the shortfall on the Council's assessment, but not on either appellant's assessment. To make good the shortfall as assessed by either developer would require both sites to be included in the calculation of supply.
194. The appellant for appeal A argues for a longer lead-in time than the Council allows for building out large sites¹³⁷, accepts that larger sites (such as appeal site A) may be built out by more than one developer/outlet but should be assessed on a site by site basis but does not offer the information whether appeal site A would in fact be built out using one or two outlets. So, appeal site A might be completed within six or eleven years. By itself, it would make good the shortfall in the five-year housing supply on the Council's assessment but not on either appellant's assessment, although it would come close to doing so if built out with two outlets or developers.
195. In the light of uncertainties regarding delivery, perhaps a more meaningful measure of benefit is to relate the proposals to the housing requirement. Although both appeal schemes would be developed over time, appeal A represents the equivalent of a year or nearly a year's requirement, or 16-20% of the total five year requirement for the whole of Fylde. It would clearly represent a highly significant contribution to housing land supply in the borough. Likewise, appeal B would represent about one-third of a year's supply or about 7% of the total five year supply, a not inconsiderable contribution.
196. None of the parties in the present appeal comment on the need for, or provision of affordable housing, save to remark that the proposals would accord with the Council's requirements. Mr Stell's proof of evidence refers me to the Housing Needs Survey 2007¹³⁸ and the latest SHMA.¹³⁹ The former notes that it has become more difficult to afford market housing in the borough.¹⁴⁰ The latter records¹⁴¹ that the 2013 SHMA suggested that there was a relatively small backlog of need within Fylde, with the majority of future need newly arising.
197. The Annual Monitoring Report December 2011¹⁴² shows no consistent pattern of under or over delivery of affordable housing against target.¹⁴³ Neither appeal would exceed the Council's requirements, so although there is clearly benefit in delivering affordable housing, there is no disproportionate benefit to be ascribed to either appeal in this case.

¹³⁶ Paragraph 10.17 of Mr Tibenham's evidence (document 13.2)

¹³⁷ Paragraph 4.44 of document 9.7

¹³⁸ Document 2.42

¹³⁹ Document 2.20

¹⁴⁰ Box following paragraph 4.17

¹⁴¹ At paragraph 4.27

¹⁴² The most recent supplied to the Inquiry (Document 2.13)

¹⁴³ Chart H5

198. I conclude that the effects of the proposals on the demand for and supply of housing in the local market area would be beneficial. This would be highly significant in the case of appeal A, not inconsiderably so in the case of appeal B. Both appeals would offer the benefit of affordable housing but not to any disproportionate degree. There is no currently extant adopted local plan policy governing the provision of housing or affordable housing.

Other matters

199. Highway safety can never be guaranteed. Lytham Road is a busy main road [76] but its accident record, some of which is recorded in Ruth Fraser's photographs, is not out of the ordinary [86 (bullet 2)]. The access to site B meets normally accepted standards for visibility and I have no reason to disbelieve the evidence of the experts [75] that the measures intended, including a central refuge and road markings, will slow traffic and so increase road safety at that location.

200. Both proposals are accompanied by Flood Risk Assessments.¹⁴⁴ These confirm that appeal site B and the majority of appeal site A lie within Flood Zone 1 in terms of flood risk from rivers. The part of appeal site A which is to be used for the access road is partly within flood zone 3 but no housing is proposed there and the access would have to be elevated above flood level in order to connect with the A584, which is already elevated to pass over the Pool Stream at that point¹⁴⁵.

201. The Flood Risk Assessments also confirm interested parties' reports of surface water flooding in parts of each site (in the south-east and south-west corners of site A and on the southern boundary of site B). Both Assessments make recommendations in principle for how this would be handled without causing downstream flooding problems. This would require details of surface water drainage to be submitted when the details of each scheme are submitted. There is no evidence to suggest that acceptable details could not be devised and submitted for approval.

Sustainable development

202. The NPPF reminds me that there are three dimensions to sustainable development: economic, social and environmental, giving rise to the need for the planning system to perform a number of roles. The effects of these two appeals on certain of these roles have already been examined where they are raised in contention by interested parties. For completeness, I now report briefly on other roles and on specific policies in the NPPF which have a bearing on these appeals.

The economic role

203. This seeks sufficient land of the right type, in the right place and at the right time, and the identification and coordination of development requirements, including the provision of infrastructure. In analysing housing requirements, I have already reported on the contribution which these appeals would make to a sufficiency of housing land supply. In reporting (below) on conditions and planning obligations I note their coordination with identified development and infrastructure requirements.

¹⁴⁴ Documents 7.8 (Appeal A) and 11.9 (Appeal B)

¹⁴⁵ Colin Griffiths's evidence paragraph 2.8 (document 9.1)

204. The right type of land is described in NPPF paragraph 17 (bullet 7 – land of lesser environmental value, bullet 8 – brownfield land and bullet 9 – recognising the existing use value of some open land). The first point is elaborated in NPPF paragraph 109 (valued landscapes and polluted or degraded land), 116 and 118 (designated areas and sites) and 121 (land stability). The second point is repeated in paragraph 111. The last point is elaborated in NPPF paragraphs 74 (existing open space), 76 (Local Green Space), 89 (Green Belt) and 112 (best and most versatile agricultural land) and 143 and 144 (safeguarding minerals sites and facilities).
205. My earlier Habitats Regulations Assessment considers the relationship between the appeal sites and designated sites. In reporting on the character of Warton, I have already noted both appellants' uncontested Landscape and Visual Impact Assessments which confirm that the sites are not part of valued landscapes. Other undisputed studies¹⁴⁶ confirm that the sites are of lesser environmental value but do not fall into the categories of degraded or polluted land. The sites are not existing open space, Local Green Space or sited in the Green Belt. Both appeals are accompanied by uncontested Agricultural Land Assessments¹⁴⁷ which confirm that they do not comprise best or most versatile agricultural land. There is no suggestion that the sites are geologically unstable or that they would prejudice the winning or distribution of minerals. Both sites appear to be land of the right type in all respects save that they are not brownfield land.
206. The right place is described in NPPF paragraph 17 (bullet 11 – make fullest use of public transport, walking and cycling and focus development in locations which are or can be made sustainable). This precept is elaborated in NPPF paragraphs 23 (bullet 9 – residential development in town centres), 32 (sustainable transport modes, limit transport impacts), 34 (minimise the need to travel), 35 (accommodate efficient deliveries, prioritise pedestrians and cyclists, access to high quality public transport, safe layouts, facilities for low-emission vehicles and for disabled people), 38 (within walking distance of key facilities), 55 (enhance or maintain the vitality of rural communities), 95 and 97 (locations which reduce greenhouse gas emissions and collocate heat customers and suppliers), 99-101 and 106 (away from flood risk and coastal erosion).
207. I have already reported that the two developments would have limited traffic impacts, would provide safe access and would avoid flood risk. Even though the two sites are not in a town centre, they would enhance or maintain the vitality of a rural community which has been identified as a sustainable location in general terms [51 (bullets 7, 11 and 13), 52 (bullets 19 and 40), 54, 57, 58, 59, 71, 73 and 84].
208. The accessibility of the two sites varies somewhat. Appeal site B is less extensive and directly abuts Lytham Road so is directly accessible to public transport and cycling facilities. Its illustrative masterplan¹⁴⁸ demonstrates that it offers the potential of great connectivity to adjoining development. Figure 03.03 on page 21 of its Design and Access Statement¹⁴⁹ demonstrates that the site is

¹⁴⁶ Documents 7.5, 7.7 and 7.9 (Appeal A) and 11.10, 11.11 and 11.12 (Appeal B)

¹⁴⁷ Documents 7.2 (Appeal A) and 11.19 (Appeal B)

¹⁴⁸ Document 11.2

¹⁴⁹ Document 11.6

within 5-10 minutes walking distance of all necessary facilities which Warton offers.

209. By contrast, the site of appeal A is more remote, offers less connectivity and is more extensive, so its accessibility varies across its extent. Although figure 5 of its Design and Access Statement¹⁵⁰ appears to show that all necessary facilities which Warton offers can be found within a 10-minute walk, that is potentially misleading, as is plan JT1 within Mr Thompson's proof of evidence¹⁵¹, showing distances around bus stops. In both cases, radii as the crow flies are used, whereas actual routes to all facilities are limited and, in some cases, very circuitous because of the limited connectivity of the site.
210. For example, Mr Thompson's plan JT1 shows that the nearest bus stop to the majority of the site would be on Lytham Road near its junction with Mill Lane. This is close to the Tesco Metro, one of the nearest retail units potentially serving the site. Yet these facilities are only reached circuitously by a pedestrian/cycle link into Butler's Meadow at the south-west corner of the site and from Butler's Meadow towards its eastern end onto Lytham Road by a pedestrian path which is a contested right of way and which has been physically barred since 2008,¹⁵² remained so at the time of my site visit and may require enforcement action by the Highway Authority to secure its reopening.
211. A more convincing analysis of the accessibility of site A is given by Table 5.2 of the Transport Assessment, which is based on actual walking distances.¹⁵³ This shows that, other than the recreation facility at Bridges Playing Field, all facilities would be beyond a "desirable" walking distance of site A, though all other than the Post Office and GP surgery would be within an "acceptable" walking distance.¹⁵⁴ Nevertheless, even allowing for this correction, it is clear that both appeal sites are located in the right place.
212. The right time, in relation to these developments, is less clear cut. Clearly, the need for housing is present and pressing, as earlier analysis demonstrates. On the other hand, analysis of the effects of the proposals on the highway network suggests that timing in relation to the highway infrastructure improvements (the PWDR and the relocation of the BAE Systems gateway) may be relevant to their acceptability.
213. Overall, in relation to the economic role of sustainability, despite the negative characteristic of their being greenfield land, these two sites score highly.

¹⁵⁰ Document 7.6

¹⁵¹ Document 9.13

¹⁵² Document 15.18

¹⁵³ Document 7.16

¹⁵⁴ Using the commonly accepted *Guidelines for Providing Journeys on Foot* of the Institution of Highways and Transportation. Paragraph 4.4.1 of the government's *Manual for Streets* describes "walkable neighbourhoods" as having a range of facilities within about 800m walking distance, which corresponds with the "acceptable" category of the IHT guidance. The older IHT *Guidelines for Planning for Public Transport in Developments* (document 4.15) recommend a maximum 400m walk to a bus stop, 800m to a railway station

The social role

214. This seeks a supply of housing, a high quality environment and accessible local services. These points have already been largely addressed in previous paragraphs.
215. As already noted, appeal A would make a highly significant contribution to housing land supply in the borough and appeal B would make a not inconsiderable contribution. Because these are both proposals made in outline, details are not presently available to demonstrate that a high quality environment would be achieved but there is no suggestion that there is any inherent obstacle to a good result. And, as already noted, both appeal proposals score moderately well in terms of their accessibility to local services, site B rather more so than site A.
216. I conclude therefore that in relation to the social role of sustainability, both these appeal sites score well.

The environmental role

217. This is concerned with protecting and enhancing the natural, built and historic environment, improving biodiversity, using natural resources prudently, minimising waste and pollution and mitigating and adapting to climate change. Many of these matters can only be determined when details of the proposals are considered. Although the appellants for Appeal B have suggested that a condition be imposed in response to the concerns of Mr Bennett, I do not adopt that suggestion because the matter would be better dealt with when considering the layout of appeal scheme B during the consideration of reserved matters.
218. As already noted, when considering the effects of the proposals on the character of Warton, and in considering whether the appeal sites are land of the right type in reference to the economic role of sustainability, I have concluded that there is no evidence presented which would lead me to disagree with the claims of either appellant in relation to the landscape impacts of each scheme. Both appellants' uncontested Landscape and Visual Impact Assessments confirm that the sites are not part of valued landscapes. Other undisputed studies confirm that the sites are of lesser environmental value.
219. By definition, the development of a greenfield site does not protect the natural environment as presently existing but, because the sites are of lesser environmental value, the harm from their loss is also lesser. Furthermore, as noted in the discussion below on potential conditions, there is scope for improving biodiversity, minimising pollution and mitigating climate change. The intensity of development implied by the numbers proposed would be consistent with Local Plan policy HL2(3) which requires housing to be developed at a net density of between 30 and 50 dwellings per hectare [27].¹⁵⁵ This would be a prudent use of natural resources.

¹⁵⁵ Before deductions for open space which would be provided on both appeal sites, their gross development densities are each about 30 dph, so net densities would be higher. For Appeal B, Mr Tibenham's evidence at paragraph 5.31 records that the illustrative masterplan for that scheme demonstrates a net density of 40 units per hectare on a net developable area of 2.87 ha and a gross density of 30 units per hectare when measured across the full 3.47 ha of the site.

220. In summary, given the mitigations and enhancements which could be achieved through conditions, the development of these two appeal sites would only be moderately adverse in relation to the environmental role of sustainability.
221. Taking the NPPF as a whole and bearing in mind that the need for housing in Fylde is such that greenfield sites will inevitably be used, the overall performance of these two appeal sites in relation to the three roles of sustainable development is such that I regard them as sustainable development. Adverse impacts are relatively few and minor and would certainly not outweigh the benefits.

The Planning Balance

222. Starting with the development plan, it is common ground, with which I concur, that both these appeals would be contrary to Local Plan policies SP1 and SP2 which set limits to development for Warton. But it is also common ground, with which I concur, that these policies are out of date both because they were only intended to guide the development of Warton up to 2016 [23] and also because these are policies which would have the effect of controlling the supply of housing and the Council cannot demonstrate a five-year housing supply [51 (bullets 2, 4, 10 and 12) and 52 (bullets 22, 27, 28 and 32)]. Emerging plans would have set different development limits with which appeal A and most of appeal B would comply [31, 34].
223. It is common ground, with which I have no reason to disagree, that with planning obligations in place both appeals comply, or could be made to comply by condition, with all other Local Plan policies [51 (bullets 15 – 22) and 52 (bullets 13, 14, 18, 38, 39, 40, 42, 44, 45, 46, 47, 53, 57, 58)]. Where compliance is contested, I have found the proposals to comply with Local Plan policy HL2 (1) which requires housing developments to be acceptable in principle, HL2(9) which requires highway safety to be a criterion in considering housing development and policy EP26 which would not permit development which would give rise to unacceptable levels of air pollution. Taking a broad view of the development plan as a whole, it can be said that both appeals accord with its remaining relevant parts and that permission should be granted in each case, without delay.
224. But, in part, the Local Plan is not up to date. The NPPF advises that, in such cases, permission should be granted unless either the adverse impacts of so doing would significantly and demonstrably outweigh the benefits when assessed against policies in the Framework, taken as a whole, or specific policies in the Framework indicate that development should be restricted. As I have already concluded in paragraph 221 above, that proviso does not apply to either of these sites and so I recommend that both appeals be allowed, subject to conditions, to which I now turn.

Conditions and Obligations

225. The contents of the two Unilateral Undertakings have been described previously [49, 50]. The Council has supplied a Statement of Compliance with the CIL Regulations.¹⁵⁶ Mr Barrett for appeal A pointed out that the Public Realm works are, at this stage, somewhat ill-defined and questioned whether they had

¹⁵⁶ Document 15.19

been costed, how the contribution had been calculated and how it reasonably related to the development. Mr Williamson, for appeal B, pointed out that the estimated cost is £200,000 and felt that the contribution sought was proportionate. These questions are answered more fully in the Council's Statement of Compliance which I find convincing. I therefore accept that the obligations are necessary to make the developments acceptable in planning terms, directly related to the developments and are fairly and reasonably related in scale and kind.

226. The parties submitted agreed conditions for both appeals.¹⁵⁷ I have considered these with reference to national Guidance and to the model conditions set out in the otherwise cancelled Circular 11/95, *the Use of Conditions in Planning Permissions*.
227. The subject matter of both sets of suggested conditions is similar and so, for convenience and to avoid repetition, I will report on both sets of conditions together, except where the circumstances of one appeal or the other cause me to report specifically on one or other appeal alone.
228. Both appeals would be large enough to be carried out in phases and so, a condition requiring the submission and approval of a phasing plan is necessary (Recommended condition 1 in both appeals). Both appeals are in outline and so, the standard conditions are applied, adjusted to reflect the fact that each development will be phased (Recommended conditions 2, 3 and 4 in both appeals). In both cases, access to the site is submitted for approval now and, so as to be clear about which drawing is approved, a condition is necessary in each case (Recommended condition 5 in both appeals).
229. Although the terms of the two appeals specify a certain number of dwellings, the implications of *I'm Your Man Ltd v SSE (1998)* establish that there is no direct or implied power to impose limitations on a permission except by means of a planning condition. In the light of Mr Porter's comments that it has now reached a point where it will be very difficult for further developments in Warton to mitigate their impacts on the highway network using the current analysis information,¹⁵⁸ I concur that a limitation on the quantity of development is necessary.
230. However, there are two difficulties with both parties' suggestion that a condition be applied limiting each development to the number of dwellings applied for. The first is that "dwelling" is not a finite unit and may range from a studio bedsit to a multi-roomed mansion, so a condition framed using that term would be imprecise. The second is that the developers' preferred number of dwellings stated in the appeals derives from a particular view of the layout, scale and mix of dwellings and not from the evaluation of impacts on the highway networks. The former are not before me and are to be the subject of reserved matters. The latter were carried out for a different number of dwellings but would be the reason for imposing the condition.
231. I accept that the highway impact analyses have been carried out on the basis of "dwellings" but in fact, as Mr Wooliscroft and Mr Thompson confirmed in

¹⁵⁷ Documents 15.14 and 15.15

¹⁵⁸ Paragraph 13.14 of Mr Porter's proof of evidence

- response to my questions, the analysis presumed a developer's standard profile of dwelling mix¹⁵⁹, whereas (according to paragraphs 8.5 and 8.11 of the Planning Statement for appeal B¹⁶⁰) the mix and type of dwellings is yet to be confirmed.
232. Several residents argued in their written representations on both appeals [151 and 152] that the types of houses described in the illustrative material supporting the applications would not meet local needs. Mr Tibenham, in response to a question from Mr Wood acknowledged that Barratt, in developing their GEC/Marconi site had had to chop and change their house types to reflect local demand. It would therefore be wrong to enshrine a developer's standard profile of dwelling mix into a condition because that would predetermine a matter which ought to be considered in detail at a later stage in the light of Warton's needs.
233. Yet limitation is necessary. I have therefore framed recommended condition 6 in each appeal by reference to a quantity of development which would give rise to no greater projected traffic generation than that projected in the respective Transport Assessments for each appeal. These projections were based on 375 and 120 units respectively of a standard dwelling mix for each site.
234. All parties are agreed that certain urban traffic control schemes are necessary to make the developments acceptable. I have no reason to disagree and so recommend condition 8 in each case.
235. In addition the parties have drafted a condition making progress beyond 15% of the developments conditional on the completion of highway schemes which would be under the appellants' control through the mechanism of s278 agreements under the Highways Act. There is no suggestion but that such a condition is necessary; rather, third parties argue that the developments should also be conditional on the prior completion of the Preston Western Distributor Road and the relocation of the BAE Systems gatehouse from Mill Lane to Thunderbolt Avenue [96, 124, 129].¹⁶¹
236. These arguments were not challenged by the appellants. Although these two schemes are outside the control of the appellants, there is common consensus that they will be implemented within the next few years in any event [86 (bullets 5, 6-9 and 18)]. Other than the obvious point that many factors can delay or stymie good intentions, I have no evidence to suggest that this expectation will be confounded and so do not recommend that permission be refused because of doubts over the eventual delivery of both these schemes. But, it is open to the Secretary of State to take a different view of the prospects for the Preston Western Distributor Road and the progress of BAE Systems reconfigurations at Warton.

¹⁵⁹ Paragraph 6.1 of the Transport Assessment for appeal A (document 7.16) records the use of TRICS land use 03/A (houses privately owned) to forecast trip generation, taking no account of affordable housing. Paragraph 6.5.2 of the Transport Assessment for appeal B (document 11.8) records the use of trip rates requested by highways officers at Lancashire County Council

¹⁶⁰ Document 11.5

¹⁶¹ Also known as Typhoon Way and Liberator Way

237. For the reasons given in my conclusions, I tend to agree with the interested parties' arguments about the sequencing of events and so have expanded the main parties' agreed suggested condition to include the two additional system improvements (Recommended condition 7 in both appeals). Guidance warns that conditions requiring works on land that is not controlled by the applicant, or that requires the consent or authorisation of another person or body often fail the tests of reasonableness and enforceability, but the condition is not phrased in that positive form.
238. Guidance advises that it may be possible to achieve a similar result using a condition worded in a negative form (a *Grampian* condition such as that suggested by the parties) – i.e. prohibiting development authorised by the planning permission or other aspects linked to the planning permission (e.g. occupation of premises) until a specified action has been taken (such as the provision of supporting infrastructure). Such conditions should not be used where there are no prospects at all of the action in question being performed within the time-limit imposed by the permission. That is not the case here, where the expectation of all parties is that the actions in question will be performed.
239. However, the Secretary of State may prefer to agree with Lancashire County Council as highway authority which is prepared to risk the consequences in highway congestion of housing development in Warton progressing faster than some of the supporting highway network, except for the scheme at the Lytham Road/Church Road junction where it is thought safety concerns would arise if the junction works were not completed before the developments [86 (bullet 18)]. If the Secretary of State prefers that approach, clauses (a) and (b) should be deleted from my recommended condition (7) in each appeal.
240. As noted earlier, the Environment Agency (for appeal A) and GMEU (for appeal B) both request conditions securing the production of Visitors Packs giving advice about the environmental sensitivity of the nearby protected environments. This would be necessary to ensure that the two developments would have no adverse effect on the nearby Ribble and Alt Estuaries Special Protection Area (SPA) (Recommended condition 10 in both appeals).
241. The Environment Agency seeks a condition on appeal A requiring the submission of drainage details so that the proposal can be seen to include suitable measures to prevent run-off and debris entering the Pool Stream during construction and the installation of silt traps to ensure that drainage water is uncontaminated when it leaves the site and so would cause no harm to the nearby SPA. United Utilities, the local drainage undertaking, also seeks a condition requiring the submission of drainage details on both appeal sites, as does the Lead Local Flood Authority for appeal site B. These would not be provided through reserved matters and so I agree that recommended condition 11 is necessary in each case to require the submission of details for approval.
242. The Flood Risk Assessment for site A carried out by Betts Associates dated June 2014 observes that there is potential for surface water flooding in the south-east and south-west corners of appeal site A.¹⁶² The Flood Risk Assessment for site B¹⁶³ likewise observes the susceptibility of the southern

¹⁶² Paragraph 4.2.5 of document 7.8

¹⁶³ Document 11.9

boundary of that site to surface water flooding. Betts Associates advise that finished floor levels are raised 150 mm above external levels to allow overland flood routes for excess surface water run-off.¹⁶⁴ They also make a recommendation for a minimum finished floor level of 13.27mAOD.¹⁶⁵ Taking these recommendations on board, I adopt the parties' suggested condition on each appeal requiring the submission of details of external ground levels and finished floor levels for both sites (Recommended condition 12 in both appeals).

243. The "Phase 1 Detailed Desk Top Study" by "Curtins" dated 29 June for appeal site B¹⁶⁶ records a negligible to moderate risk from contaminants but a high/moderate risk from ground gases and unexploded ordnance and recommends an intrusive investigation. Although the Phase 1 Geo-Environmental Assessment by Resource and Environmental Consultants Ltd¹⁶⁷ submitted with appeal A advises in its Initial Conceptual Site Model that the likelihood of the site being affected by the presence of any on-site contamination is low, anecdotal advice given at the Inquiry reported that much land around Warton was used during World War II for the storage of ordnance. Consequently all parties are agreed that a condition requiring intrusive investigations for contamination on that site is also necessary. I have no reason to disagree (Recommended condition 13 in both appeals).

244. The Heritage Assessment for site B¹⁶⁸ finds high potential for the presence of as yet undiscovered heritage assets with archaeological interest but low significance. It recommends a programme of archaeological mitigation to provide a record of the assets, to be secured by condition. The County Archaeologist agrees and I concur. There is no equivalent assessment for appeal site A and there is no record of any comment from the County Archaeologist, so no positive evidence to say that there is or that there is not archaeological interest on site A. In the absence of positive information, it is necessary that at least a desk study be carried out before development commences (Recommended condition 14 in both appeals).

245. The appellants' suggested condition 12 in respect of appeal B and suggested conditions 12 and 13 in respect of appeal A call for the submission of details of the site access amongst other matters. Yet this is a matter for which details are already submitted and consent is sought as part of these appeals. National Guidance advises that a condition requiring the re-submission and approval of details that have already been submitted as part of the planning application is unlikely to pass the test of necessity and so, I do not recommend the imposition of those parts of these conditions.

246. What is necessary is a condition requiring the implementation of these accesses before other development on site is occupied and for the sightlines shown on the approved drawings to be retained thereafter. I have added these requirements to my recommended condition (5) specifying the drawings of the access which have been approved. It is not necessary to specify in the conditions the details which are shown on the drawings; it is enough that the conditions

¹⁶⁴ Paragraph 4.2.6 of document 7.8

¹⁶⁵ Paragraph 4.1.8 of document 7.8

¹⁶⁶ Document 11.10

¹⁶⁷ Document 7.9

¹⁶⁸ Document 11.16

require that the details shown on the approved plans have been completed before any dwelling is occupied. That includes such matters as the Toucan crossing (for appeal A) and the upgraded bus stops (for appeal B).

247. A number of the parties' suggested conditions¹⁶⁹ seek not to place limitations on the developments proposed but instead seek to prescribe the contents of the applications which may be made under reserved matters where there is no evidence of the necessity of doing so. Since a condition cannot preclude more than one reserved matters application being made, these would be effectively unenforceable and so contrary to the advice contained in NPPF paragraph 206. They provide useful information to the appellants as indications of the Council's desires but unless there is evidence that these developments would not be acceptable without the requirement, I do not include them in my recommended conditions. These include the parties' suggested condition 10 (for both appeals) seeking to require the provision of waterbodies within any application for the approval of layouts and suggested conditions 18, 19, 20 and 21 (for appeal A) and 16, 17 and 18 (for appeal B) which seek to prescribe the contents of the layout and landscaping details which are reserved matters.
248. All that is necessary at this stage is to specify the total quantity of open space and recreational facilities to be provided on each scheme¹⁷⁰ (which I do in recommended condition 1 in both appeals), to require that they are completed and that there is a maintenance regime in place before the final phase of dwellings is occupied (Recommended condition 17 in both appeals), to control the timing of site clearance so as to protect nesting birds (Recommended condition 20 in both appeals) and to specify which existing features are to be retained and protected before any other details are submitted or development commences. The parties' consultants' recommendations for tree and hedgerow, pond and ditch protection¹⁷¹ provide the evidence which demonstrates the necessity of these limitations at this outline stage (Recommended conditions 18 and 19 in both appeals). It will be for the local planning authority to apply the other recommendations of the ecologists and landscape architects when considering the submission of reserved matters of layout and landscaping.
249. Similarly, other conditions suggested by the parties seek not just the submission of a certain detail which is necessary to be approved but which would not otherwise be submitted as a reserved matter but also seek to specify the content or nature of the detail where there is no evidence of the necessity of doing so. These include the suggested conditions (numbered 14 for appeal A, 13 for appeal B) for Travel Plans and for pedestrian and cycle connections (numbered 15 for appeal A, 14 for appeal B), which all are agreed would be a necessary part of any mitigation of the traffic impacts of the two schemes. In such cases, I include within my recommended conditions 9 and 15 a requirement

¹⁶⁹ In documents 15.14 and 15.15

¹⁷⁰ For appeal A, Mr Appleton's evidence (document 9.10) paragraph 7.4 offers not less than 2ha in quantity. Mr Griffiths (document 9.1) at paragraph 11.1 offers the facility of one LEAP/LAP. For appeal B, Mr Tibenham's evidence (document 13.2) paragraph 5.32 offers a quantity of 0.87ha including 0.4ha as a village green and (on figure 5.1) a play area.

¹⁷¹ In documents 7.5, 7.7, 9.11 and 9.12 for appeal A and in documents 11.7, 11.11 and 11.12 for appeal B

for the submission of the detail but omit the specification for what the details might show.

250. Suggested condition 16 for appeal A is proposed in the event that I found the provision made for a scheme of public realm improvement in the Unilateral Undertaking to be contrary to the CIL regulations. As noted earlier, I am convinced by the arguments put forward by the Council in favour of the public realm improvements and so I advise that this condition is unnecessary.

251. Both appeals are accompanied by Noise Assessments. These make specific recommendations. There is no suggestion that these recommendations are unnecessary or should not be followed. They can be translated into requirements in recommended condition 16 in both appeals and so obviate the necessity of a further submission of details implied in the parties' suggested condition.

252. Both sites are bordered by other residential development and access for construction purposes may have effects on those residential areas or on the safe operation of the Lytham Road, so Construction Method Statements will be required for both appeals (Recommended condition 21 in both appeals).

Recommendations

Appeal A

253. I recommend that appeal A (reference APP/M2325/W/15/3004502) be allowed and that planning permission be granted subject to the conditions annexed to this report.

Appeal B

254. I recommend that appeal B (reference APP/M2325/W/15/3141398) be allowed and that planning permission be granted subject to the conditions annexed to this report.

P. W. Clark

Inspector

Conditions applicable to Appeal A (APP/M2325/W/15/3004502)

- 1) No development shall take place until a plan detailing the phasing of development and the allocation to each phase of a share of a total open space provision of not less than 2ha including a LEAP/LAP has been submitted to and agreed in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 2) Details of the access within each phase of the site, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins on the phase in question and the development shall be carried out as approved.
- 3) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 4) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 5) The access on to Lytham Road to the development hereby permitted shall be carried out in accordance with approved plan number SK21338-12. No dwelling shall be occupied until the details shown on the approved plan have been completed and made available for use. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(England) Order 2015 (or any equivalent Order following the revocation or re-enactment thereof) the area indicated as an area to be kept free of obstruction to visibility shall thereafter be kept free of any obstruction higher than 0.6m above the level of the carriageway.
- 6) No greater quantity of housing shall be built than that which would give rise to traffic generated by the development no greater than that forecast in the submitted Transport Assessment 140603/SK21338/TA02 June 2014 by SK Transport Planning Ltd.
- 7) No more than 15% of the development hereby approved shall be occupied until the completion and bringing into use of
 - a) The Preston Western Distributor Road
 - b) The relocation of BAE Systems gate from Mill Road to the road known variously as Liberator Way, Typhoon Way and Thunderbolt Avenue
 - c) The works at the junction of Church Road, Lytham Road and Highgate Lane required by conditions 16 and 17 of appeal decision APP/M2325/A/14/2217060
- 8) No dwelling hereby approved shall be occupied until a MOVA/UTC control has been installed and brought in to use at
 - a) the Church Road/Lytham Road/Highgate Lane junction
 - b) the Lytham Road/Mill Lane junction and
 - c) the junction of Lytham Road and the road known variously as Liberator Way, Typhoon Way and Thunderbolt Avenue

- 9) No dwelling shall be occupied until details of travel mode share targets for the development and measures to achieve them (a Travel Plan) have been submitted to and approved in writing by the local planning authority. The development shall be carried out and retained in accordance with the approved details.
- 10) No dwelling shall be occupied until it has been provided with a Visitors Pack which shall have been previously submitted to and approved by the local planning authority, highlighting the sensitivity of the Ribble & Alt Estuaries to recreation activity and highlighting alternative recreational opportunities. The Visitors Pack shall thereafter be kept available in the dwelling for the use of future occupants.
- 11) No development shall take place on any phase of the site until details of foul and surface water drainage for that phase have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details. No dwelling shall be occupied until it is provided with its drainage as approved.
- 12) No development shall take place on any phase of the site until details of finished floor levels and external ground levels of each plot on that phase have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 13) No development shall take place on any phase of the site until an intrusive site investigation of the nature and extent of contamination and unexploded ordnance has been carried out in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be made available to the local planning authority before any new construction begins on that phase. If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate that phase of the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority. That phase of the site shall be remediated in accordance with the approved measures before new construction begins. If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the relevant phase of the site shall incorporate the approved additional measures.
- 14) No development shall take place within any phase of the site until a programme of archaeological work for that phase has been implemented in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority.
- 15) No development shall take place on the relevant phase until details of the pedestrian and cycle access to Canberraway at the north-western corner of the site and to Butlers Meadow at the south-western corner of the site (both shown indicatively on the illustrative master plan accompanying the application) have been submitted to and approved in writing by the local planning authority. No dwelling on the relevant phase shall be occupied

- until the relevant pedestrian and cycle access shall have been completed and made available in accordance with the approved details.
- 16) The external fabric of any dwelling hereby approved having a direct line of sight to Lytham Road and the boundary fences around their rear or private amenity areas shall be constructed so as to comply with the sound reduction performance recommended in section 5 of the Noise Impact Assessment by Resource & Environmental Consultants Ltd reference 90342R2.
- 17) No dwelling on any particular phase shall be occupied until the public open space allocated to that phase has been laid out and made available for its intended purpose. The public open space shall be retained thereafter in accordance with a maintenance scheme which shall have been submitted to and approved by the local planning authority before development commences on the relevant phase. No dwelling on the last of any phase of the development which includes residential dwellings shall be occupied until the LEAP/LAP and all the public open space on all phases has been laid out and made available for its intended purpose.
- 18) In this condition "retained tree" means an existing tree or hedgerow which is to be retained in accordance with the recommendations contained in section 5 and drawing 60072-002 of the Arboricultural and Hedgerow Assessment reference 60072P1R4 by Resource and Environmental Consultants Ltd dated 2 June 2014 and paragraphs (i) and (ii) below shall have effect until the expiration of 1 year from the date of the first occupation of the last completed dwelling for its permitted use.
- i. No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the local planning authority. Any topping or lopping approved shall be carried out in accordance with British Standard 3998 (Tree Work).
 - ii. If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the local planning authority.
 - iii. The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written approval of the local planning authority.
- 19) None of the ponds and ditches shown on figure 2 of the Ecological Survey and Assessment reference 2013_089 by ERAP Ltd dated September 2013 (Updated June 2014) shall be removed or filled in except in accordance with details submitted and approved in compliance with other conditions of this permission. A buffer zone of 10m around the edge of each pond shall be kept free of development.

- 20) No clearance of any vegetation in preparation for or during the course of development shall take place during the bird nesting season (March to July inclusive) unless an ecological survey has first been submitted to and approved in writing by the local planning authority. Should the survey reveal the presence of any nesting species, then no clearance of any vegetation shall take place during the bird nesting season until a methodology for protecting nest sites during the course of the development has been submitted to and approved in writing by the local planning authority. Nest site protection shall thereafter be provided in accordance with the approved methodology.
- 21) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
- The hours of site operation
 - the parking of vehicles of site operatives and visitors
 - loading and unloading of plant and materials
 - storage of plant and materials used in constructing the development
 - the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 - wheel washing facilities
 - measures to control the emission of dust and dirt during construction
 - a scheme for recycling/disposing of waste resulting from demolition and construction works.

Conditions applicable to Appeal B (APP/M2325/W/15/3141398)

- 1) No development shall take place until a plan detailing the phasing of development and the allocation to each phase of a share of a total open space provision of not less than 0.87ha including a play area has been submitted to and agreed in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 2) Details of the access within each phase of the site, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins on the phase in question and the development shall be carried out as approved.
- 3) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 4) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 5) The access on to Lytham Road to the development hereby permitted shall be carried out in accordance with approved plan number 0988-F01 revision F. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any equivalent Order following the revocation or re-enactment thereof) the area indicated as an area of verge to be kept free of all obstructions above 0.6m shall thereafter be kept free of any obstruction higher than 0.6m above the level of the carriageway. No dwelling shall be occupied until the details shown on the approved plan have been completed and made available for use.
- 6) No greater quantity of housing shall be built than that which would give rise to traffic generated by the development no greater than that forecast in the submitted Transport Assessment July 2015 by Croft Transport Solutions.
- 7) No more than 15% of the development hereby approved shall be occupied until the completion and bringing into use of
 - a) The Preston Western Distributor Road
 - b) The relocation of BAE Systems gate from Mill Road to the road known variously as Liberator Way, Typhoon Way and Thunderbolt Avenue
 - c) The works at the junction of Church Road, Lytham Road and Highgate Lane required by conditions 16 and 17 of appeal decision APP/M2325/A/14/2217060
- 8) No dwelling hereby approved shall be occupied until a MOVA/UTC control has been installed and brought in to use at the Church Road/Lytham Road/Highgate Lane junction
- 9) No dwelling shall be occupied until details of travel mode share targets for the development and measures to achieve them (a Travel Plan) have been submitted to and approved in writing by the local planning authority. The development shall be carried out and retained in accordance with the approved details.

- 10) No dwelling shall be occupied until it has been provided with a Visitors Pack which shall have been previously submitted to and approved by the local planning authority, highlighting the sensitivity of the Ribble & Alt Estuaries to recreation activity and highlighting alternative recreational opportunities. The Visitors Pack shall thereafter be kept available in the dwelling for the use of future occupants.
- 11) No development shall take place on any phase of the site until details of foul and surface water drainage for that phase and of its management have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and retained thereafter in accordance with the approved management details. No dwelling shall be occupied until it is provided with its drainage as approved.
- 12) No development shall take place on any phase of the site until details of finished floor levels and external ground levels of each plot on that phase have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 13) No development shall take place on any phase of the site until an intrusive site investigation of the nature and extent of contamination and unexploded ordnance has been carried out in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be made available to the local planning authority before any new construction begins on that phase. If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate that phase of the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority. That phase of the site shall be remediated in accordance with the approved measures before new construction begins. If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the relevant phase of the site shall incorporate the approved additional measures.
- 14) No development shall take place on any phase of the site until a programme of archaeological work for that phase has been implemented in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority.
- 15) No development shall take place on the relevant phase until details of the pedestrian and cycle accesses to the southern and eastern boundaries of the site (shown indicatively on the illustrative master plan drawing number 013-006-P009 REV C accompanying the application) have been submitted to and approved in writing by the local planning authority. No dwelling on the relevant phase shall be occupied until the relevant pedestrian and cycle access shall have been completed and made available in accordance with the approved details.
- 16) The external fabric of the dwellings hereby approved and the boundary fences around their rear or private amenity areas shall be constructed so as

to comply with the sound reduction performance recommended in section 5 of the Noise Assessment version number 2 by SLR global environmental solutions reference 410.02826.00007.

- 17) No dwelling on any particular phase shall be occupied until the public open space allocated to that phase has been laid out and made available for its intended purpose. The public open space shall be retained thereafter in accordance with a maintenance scheme which shall have been submitted to and approved by the local planning authority before development commences on the relevant phase. No dwelling on the last of any phase of the development which includes residential dwellings shall be occupied until the play area and all the public open space on all phases has been laid out and made available for its intended purpose.
- 18) No development shall take place until details of existing trees or hedgerows which are to be retained on site and the manner of their protection have been submitted to and approved by the local planning authority and paragraphs (i) and (ii) below shall have effect until the expiration of 1 year from the date of the first occupation of the last completed dwelling for its permitted use.
 - i. No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the local planning authority. Any topping or lopping approved shall be carried out in accordance with British Standard 3998 (Tree Work).
 - ii. If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the local planning authority.
 - iii. The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written approval of the local planning authority.
- 19) No development shall take place within 6m of the ditch immediately to the east of the application site.
- 20) No clearance of any vegetation in preparation for or during the course of development shall take place during the bird nesting season (March to July inclusive) unless an ecological survey has first been submitted to and approved in writing by the local planning authority. Should the survey reveal the presence of any nesting species, then no clearance of any vegetation shall take place during the bird nesting season until a methodology for protecting nest sites during the course of the development has been submitted to and approved in writing by the local planning authority. Nest site protection shall thereafter be provided in accordance with the approved methodology.

21) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

The hours of site operation

the parking of vehicles of site operatives and visitors

loading and unloading of plant and materials

storage of plant and materials used in constructing the development

the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate

wheel washing facilities

measures to control the emission of dust and dirt during construction

a scheme for recycling/disposing of waste resulting from demolition and construction work.

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Jonathan Easton, of Counsel	Instructed by the Solicitor to Fylde Borough Council
Andrew Stell BA MRTPI did not give evidence but participated in the discussions on conditions	Development Manager, Fylde Borough Council
Martin Porter did not give evidence but participated in the discussions on conditions	Lancashire County Council
Mark Evans did not give evidence but participated in the discussions on conditions	Regeneration Manager, Fylde Borough Council

FOR APPELLANT A:

John Barrett, of Counsel	Instructed by Satnam Planning Services
He called	
John Thompson BEng MIHT CMILT	Project Director, SK Transport Planning Limited
David Appleton MA NDH CMLI	Director, Appletons
Colin Griffiths BA(Hons) MRTPI	Director, Satnam Planning Services Limited
Sebastian Heeley did not give evidence but participated in the discussions on conditions	Redwaters

FOR APPELLANT B:

Andrew Williamson BA, DipTP, MRTPI	Partner, Walker Morris Solicitors
He called	
Phil Wooliscroft MSc HNC	Director, Croft Transport solutions
Chris May BA(Hons) MRTPI	Director, Pegasus Planning Group
Sebastian Tibenham MTPC MRTPI MIED	Regional Director, Pegasus Group
Graham Lamb did not give evidence but participated in the	Pegasus Group

discussions on
conditions
Katie Dean did not give Hallam Land
evidence but
participated in the
discussions on
conditions

INTERESTED PERSONS:

Jacqueline McDermot	Local resident
Jean King	Local resident
David Hoyle	Local resident
Gail Gallacher	Local resident
Tony Guest	Local resident
Alan Child	Bryning-with-Warton Neighbourhood Plan Steering Group
Anthony Wood	Clerk for Bryning-with-Warton Parish Council
Margaret Scott	Local resident
John Rowson	Local resident
Michael Gilbert	Local resident
John Barton Bennett	Local resident
Ruth Fraser	Local resident
Howard Ashworth	Local resident

DOCUMENTS

Documents Common to both appeals

1. Adopted Local/ Regional Development Plan and SPDs/SPGs (provided electronically)

- 1.1 Fylde Borough Local Plan Alterations Review (and Proposals Map) (2004-2016)- October 2005
- 1.2 Fylde Borough Local Plan (1996-2006) - May 2003
- 1.3 Lancashire Structure Plan (1991-2006)- 1997 (*extracts*)
- 1.4 Landscape Strategy for Lancashire – 2000
- 1.5 Regional Planning Guidance for the North West (RPG13) (2001-2016) - March 2003
- 1.6 Joint Lancashire Structure Plan (2001-2016)- March 2005
- 1.7 RSS for the North West of England (2003-2021)- September 2008
- 1.8 Fylde Interim Housing Policy – Updated February 2013
- 1.9 Fylde Regeneration Framework- September 2010
- 1.10 Fylde Interim Housing Policy - July 2008
- 1.11 Local Plan Saving Letter- October 2008
- 1.12 Fylde Coast Highways and Transport Masterplan

2. Emerging Local Plan and Evidence Base Documents (provided electronically)

- 2.1 Fylde Local Plan to 2030 'Issues and Options'- June/ July 2012
- 2.2 Fylde Local Plan to 2030- Interim Sustainability Appraisal- May 2012
- 2.3 Developing Infrastructure Delivery Plan- June 2013
- 2.4 Employment Land and Premises Study (AECOM) - August 2012
- 2.5 Fylde Local Plan to 2030: Part 1- Preferred Options- July/ August 2013 (An extract is also provided at Appendix 11 of document 9.2)
- 2.6 Fylde Local Plan to 2030: Part 1- Preferred Options Sustainability Appraisal- June 2013
- 2.7 Fylde Local Plan to 2030: Part 1- Preferred Options Responses Report- July 2014
- 2.8 Fylde Coast SHMA (December 2013) - Issued February 2014
- 2.9 FBC Report Adopting Fylde Coast SHMA- 29.04.2014
- 2.10 Housing Land Availability Schedule- Base date 31.03.2014
- 2.11 FBC Local Plan Steering Group Report on Housing Requirement- 16.04.2014
- 2.12 Fylde Annual Monitoring Report 2005
- 2.13 Fylde Annual Monitoring Report March 2010/2011
- 2.14 Strategic Housing Land Availability Assessment (March 2013 base date)
- 2.15 Local Plan Steering Group Meeting- November 2014
- 2.16 Five Year Housing Supply Statement- March 31st 2015
- 2.17 Five Year Housing Supply Statement- March 31st 2016
- 2.18 Housing Land Availability Schedule- March 2015
- 2.19 Fylde Coast SHMA Addendum 1- November 2014
- 2.20 Fylde Coast SHMA Addendum 2 for Fylde – May 2015
- 2.21 Development Management Policy Committee- 17.06.2015 (Housing Requirement Paper 2015)
- 2.22 Development Management Policy Committee- 16.09.2015

- 2.23 Draft Statement of Community Involvement- September 2015
- 2.24 Draft Infrastructure Delivery Plan – September 2015
- 2.25 Site Assessment Background Paper- October 2015
- 2.26 Health Impact Assessment- October 2015
- 2.27 Rural Proofing Assessment
- 2.28 Local Plan Revised Preferred Option (RPO) - October 2015
- 2.29 RPO Proposals Maps of Warton (1 & 2)
- 2.30 RPO Proposals Maps of Blackpool Periphery (1 of 2)
- 2.31 RPO Sustainability Appraisal (& Non-Technical Summary) - 19th November 2015
- 2.32 RPO Habitats Regulation Assessment – 17th November 2015
- 2.33 RPO Responses Report- March 2016
- 2.34 Settlement Hierarchy Background Paper – March 2016
- 2.35 Council Report on Publication Draft Local Plan (15th June 2016)
- 2.36 Publication Draft Local Plan (as reported 15th June 2016)
- 2.37 Proposals Map of Publication Draft Local Plan (as reported 15th June 2016)
- 2.38 HLM Repts to Revised Preferred Options- December 2015 (duplicate copy at Appendix A to Statement of Case (document 11.22))
- 2.39 FBC Regeneration Scheme for Warton Village Centre (hard copy also provided)(duplicate copy at Appendix 23 of Sebastian Tibenham’s evidence (document 13.3))
- 2.40 FBC Regeneration Scheme for wider Warton improvements (hard copy also provided)(duplicate copy at Appendix 23 of Sebastian Tibenham’s evidence (document 13.3))
- 2.41 Confirmation of support to concept of enhanced public realm from Warton PC (hard copy also provided)
- 2.42 Housing Needs Survey 2007 (Hard copy also provided)

3. Emerging Neighbourhood Plan (provided electronically)

- 3.1 Draft Warton Neighbourhood Plan 2030- July/ August 2014
- 3.2 Warton Draft Neighbourhood Plan Sustainability Appraisal- July 2014
- 3.3 FBC Representations to Draft Warton Neighbourhood Plan 2030- 13.08.2014
- 3.4 HLM Representations to Draft Warton Neighbourhood Plan 2030 - 20.08.2014
- 3.5 Warton Submission Neighbourhood Plan- 23.09.2014 (Extracts are also provided at Appendices 12 and 13 to document 9.2)
- 3.6 Warton Submission Neighbourhood Plan Consultation Statement- 21.09.2014
- 3.7 Warton Submission Neighbourhood Plan ‘Basic Conditions Statement’- 21.09.2014
- 3.8 Warton Submission Neighbourhood Plan Sustainability Appraisal- 19.09.2014
- 3.9 HLM Representations to Submission Warton Neighbourhood Plan – 28.11.2014
- 3.10 Warton Neighbourhood Plan Examiners Report, Nigel McGurk – April 2016 (A duplicate is also provided at appendix 14 to document 9.2)

4. National Planning Policy and Companion Guides and Legislation (provided electronically)

- 4.1 Laying the Foundations- November 2011
- 4.2 DCLG: National Planning Policy Framework - March 2012
- 4.3 Localism Act- 15.11.2011
- 4.4 Housing and Growth- Ministerial Statement - September 2012

- 4.5 National Planning Practice Guidance – March 2014
- 4.6 Community Infrastructure Levy, England and Wales SI 2010 No 948
- 4.7 Planning Policy Guidance 3: Housing-2000
- 4.8 Town and Country Planning Act 1990
- 4.9 Planning and Compulsory Purchase Act 2004
- 4.10 Neighbourhood Planning Ministerial Statement July 2014
- 4.11 Planning Advisory Service - Objectively Assessed Need and Housing Targets (Second Edition July 2015) Peter Brett Associates
- 4.12 Local Plans Expert Group Report- March 2016
- 4.13 PBA Representations on Local Plan Experts Group Report - April 2016
- 4.14 Fixing the Foundations- July 2015
- 4.15 IHT Guidelines for Planning for Public Transport in New Developments – March 1999
- 4.16 The Lancashire Strategic Transport Prospectus – January 2016

5. Other Documents (Enterprise Zone/ Blackpool Core Strategy Committee & Meeting Notes) (provided electronically)

- 5.1 Warton Enterprise Zone Local Development Order - adopted October 2012
- 5.2 Warton Enterprise Zone Phase 1 Masterplan- July 2014
- 5.3 Planning Committee Report on Warton EZ Phase 1 Masterplan - 03.09.2014
- 5.4 Warton Enterprise Zone Phase 1 Final Masterplan- (Rev 3) – September 2014 (duplicate copy provided as Appendix 7 to Martin Porter's proof of evidence (document 10.4))
- 5.5 Enterprise Zone Local Development Order – Extended October 2015
- 5.6 Section 106 for GEC Marconi Site (Ref 12/0550) – 08.07.2013
- 5.7 Lancashire Strategic Economic Plan- March 2014
- 5.8 LEP's Growth Deal Implementation document- November 2015
- 5.9 Preston, South Ribble and Lancashire City Deal
- 5.10 City Deal Implementation Plan 2015-2018
- 5.11 Economic Contribution of BAE Systems to the UK (Oxford Economics) - April 2011
- 5.12 Blackpool Core Strategy Inspectors Report – 23.11.2015
- 5.13 Preston Western Distributor Road Planning Application Details- (Including Environmental Statement)
- 5.14 Tree Preservation Order, 1994 No.7 (Warton)
- 5.15 Riversleigh Farm Committee Report – 07.05.2014

6. Appeal Decisions and Court Judgements (provided electronically)

- 6.1 Tewkesbury Judgement [2013] EWHC 286 (Admin) – 20.02.2013
- 6.2 R v Rochdale Metropolitan Borough Council ex parte Milne [2000] – 31.07.2000
- 6.3 Tenbury Wells appeal (Ref: APP/J1860/A/13/2194904) - 13.08.2013
- 6.4 Colman Judgement [2013] EWHC 1138 (Admin) – 09.05.2013
- 6.5 South Northamptonshire vs SoS & Barwood Homes [2014] EWHC 570 & 573 (Admin) – 13.02.2014 & 14.02.2014
- 6.6 Queensway and Lytham Moss appeals (Refs: APP/M2325/A/09/2103453 & APP/Q2371/V/11/2157314) - 21.010.2012
- 6.7 Mowbreck Lane, Wesham appeal (Ref: APP/M2325/A/12/2186415) – 01.08.2013
- 6.8 54 Bryning Lane, Wrea Green appeal (Ref: APP/M2325/A/13/2196494) –

- 110.04.2014
- 6.9 53 Bryning Lane, Wrea Green appeal (Ref: APP/M2325/A/13/2200215) – 110.04.2014
- 6.10 Moss Side Road, Wrea Green appeal (Ref: APP/M2325/A/13/2200856) – 110.04.2014
- 6.11 Ribby Road, Wrea Green appeal (Ref: APP/M2325/A/13/2209839) - 10.04.2014
- 6.12 Droitwich Spa appeals (Refs: APP/H1840/A/13/2199085 & APP/H1840/A/13/2199426) – 02.07.2014
- 6.13 Hunston Properties V SoS [2013] EWHC 2678 HC Judgement – 05.09.2013
- 6.14 Hook Norton appeal (Ref: APP/C3105/A/12/2184094) – 23.09.2013
- 6.15 Hunston Court of appeal [2013] EWCA 1610 – 12.12.2013
- 6.16 Shottery appeal (Ref: APP/J3720/A/11/2163206) – 24.10.2012
- 6.17 Blackfield End Farm appeal (Ref: APP/M2325/A/14/2217060) – 24.09.2015 (duplicate copy at Appendix 3 of document 9.2 and (electronic copy only) at appendix 10 of Martin Porter’s proof (document 10.4))
- 6.18 Chard appeals (Refs: APP/R3325/A/13/2209680 & APP/R3325/A/13/2203867) – 03.06.2016
- 6.19 Wychavon Judgment [2016] EWHC 592 (Admin) – 16.03.2016
- 6.20 Aston Clinton appeal (Ref: APP/J0405/A/13/2210864) – 21.10.2014
- 6.21 Crane Judgment [2015] EWHC 425 (Admin) – 23.02.2015
- 6.22 Suffolk Coastal and Hopkins and Richborough and Cheshire East Court of Appeal [2016] EWCA Civ 168 – 17.03.2016 (a duplicate copy is also provided in document 9.3)
- 6.23 Gallagher v Solihull MBC Judgment [2014] EWHC 1283 (Admin) – 30.04.2014
- 6.24 Clenchwarton Kings Lynn Judgment [2015] EWHC 2464 (Admin) – 09.07.2015
- 6.25 Oadby and Wigston Judgment [2015] EWHC 1879 (Admin) – 26.06.2015
- 6.26 Daventry Judgment [2015] EWHC 3459 (Admin) – 02.12.2015
- 6.27 Gallagher v Solihull MBC Court of Appeal [2014] EWCA Civ 1610 – 17.12.2014
- 6.28 Stroud Judgement [2015] EWHC 488 (Admin) – 06.02.2015
- 6.29 Cawrey Judgment [2016] EWHC 1198 (Admin) – 23.05.2016
- 6.30 Cheshire East Judgment [2016] EWHC 571 (Admin) – 16.03.2016

APPEAL A- Warton East Developments (Ref: 3004502) – Case Specific Docs List

7. Application and Appeal Documents (provided electronically and in hard copy)

- 7.1 Affordable Housing Statement - June 2014
- 7.2 Agricultural Land Classification – May 2014
- 7.3 Air Quality Assessment – 3rd June 2014
- 7.4 Application Form – 11th June 2014
- 7.5 Arboricultural and Hedgerow Assessment – 2nd June 2014
- 7.6 Design and Access Statement – June 2014
- 7.7 Ecological Survey and Assessment – September 2013 (Updated June 2014) (duplicate copy provided as Appendix 1 to Appendix 2 of David Appleton’s proof of evidence (document 9.12))
- 7.8 Flood Risk Assessment – June 2014

- 7.9 Geo-environmental Assessment Phase 1 – June 2014
- 7.10 Illustrative Masterplan 1_1000 – 29th May 2014
- 7.11 Illustrative Masterplan 1_2000 – 29th May 2014
- 7.12 Location Plan – 9th June 2014
- 7.13 Noise Assessment – 1st May 2014
- 7.14 Planning Statement – June 2014
- 7.15 S106 proforma – June 2014
- 7.16 Transport Assessment – June 2014 (includes Framework Travel Plan June 2014 at appendix C)
- 7.16a Framework Travel Plan September 2014 (Hard copy only)
- 7.17 Utility Survey – June 2014
- 7.18 Warton Masterplan Residential – 13th August 2014
- 7.19 Revised Landscape Masterplan for 14/0410 and 15/0303
- 7.20 ERAP Wintering Bird Survey 2015-16 (duplicate copy provided at Appendix 3 of Appendix 2 to David Appleton's proof of evidence (document 9.12))

8. Council and Third Party Appeal Documents and Correspondence (provided electronically and in hard copy)

- 8.1 Statement of Case (August 2015)
- 8.2 LCC Education Assessment- March 16
- 8.3 Development Management Committee Report (Appeal Scheme)- 29.07.2015
- 8.4 DM Committee Minutes (Appeal Scheme)- 29.07.2015
- 8.5 Development Management Committee Report & late observations (Resubmission Scheme)- 25.05.2016 (duplicate copy at Appendix 4 of document 9.2)
- 8.6 DM Committee Minutes (Resubmission Scheme)- 25.05.2016
- 8.7 Decision Notice (Resubmission Scheme) – 25.05.2016 (duplicate copy at appendix 5 of document 9.2)
- 8.8 (number not used)
- 8.9 Plan of Development Sites in Warton
- 8.10 Natural England Original Consultation Letter
- 8.11 Natural England Revised consultation letter (duplicate copy provided at Appendix 7 to Appendix 2 of David Appleton's proof of evidence (document 9.12))
- 8.12 Third party representations at application stage (Hard copies only, attached to Council's Questionnaire)

9. Appellant's Proofs of Evidence (provided electronically and in hard copy)

- 9.1 CG1 – Proof of Evidence – Colin Griffiths
- 9.2 CG2 – Volume of Appendices (hard copy only)
- 9.3 CG3 – Volume of Authorities
- 9.4 CG4 – Site Plan
- 9.5 CG5 – Illustrative Layout
- 9.6 CG6 – Facilities Plan
- 9.7 CG7 – Housing Requirement Technical Paper
- 9.8 Statement of Common Ground, Planning Issues
- 9.9 Draft Unilateral Undertaking (S106)
- 9.10 Proof of Evidence – David Appleton
- 9.11 LVIA
- 9.12 Volume of Ecology Surveys and Correspondence

- 9.13 Proof of Evidence – John Thompson
- 9.14 Summary Proof - John Thompson
- 9.15 Statement of Common Ground on Highways Matters.

10. Council & Third Party Proofs of Evidence (provided electronically and in hard copy)

- 10.1 Planning Proof of Evidence- Andrew Stell
- 10.2 LCC Highways Proof- Martin Porter
- 10.3 LCC Highways Summary Proof- Martin Porter
- 10.4 LCC Highways Proof Appendices (x19)

APPEAL B- Hallam Land Management (Ref: 3141398) – Case Specific Docs List

11. Application and Appeal Documents (provided electronically and in hard copy)

- 11.1 Application Form and Certificates
- 11.2 Illustrative Masterplan (Ref: 13-006-P009 Rev C)
- 11.3 Site Location Plan (Ref: 13-006-P002 Rev C)
- 11.4 Warton West Spatial Masterplan (Ref: 13-006-P008 Rev B)
- 11.5 Planning Statement (including Statement of Community Involvement)
- 11.6 Design and Access Statement
- 11.7 Landscape and Visual Impact Assessment
- 11.8 Transport Assessment and Travel Plan (duplicate copy of Travel Plan Framework at Appendix 17 of Phil Wooliscroft's evidence (document 13.8))
- 11.9 Flood Risk Assessment and Outline Drainage Strategy
- 11.10 Phase 1 Detailed Desk Top Study
- 11.11 Preliminary Ecological Appraisal Report
- 11.12 Tree Survey Report (with covering letter)
- 11.13 Bat Survey Report
- 11.14 Great Crested Newt Report
- 11.15 Utilities Report
- 11.16 Heritage Assessment (and figures)
- 11.17 Noise Assessment
- 11.18 Air Quality Assessment
- 11.19 Soils and Agricultural Land Report
- 11.20 Planning Obligations Statement
- 11.21 Screening Request
- 11.22 Statement of Case and appendices (R004v1) - 23.12.2015
- 11.23 Draft Statement of Common Ground (R005v1) – 23.12.2015
- 11.24 Additional Landscape Impact Note- October 2015
- 11.25 Highways Statement of Common Ground signed and dated 1 July 2016 (Hard copy only)
- 11.26 Planning statement of Common Ground (R005v5) signed and dated 8 July 2016 (Hard copy only)

12. Council & Third Party Appeal Documents and Correspondence (provided electronically and in hard copy)

- 12.1 Appeal Questionnaire – 03.02.2016
- 12.2 Screening Opinion – 01.05.2015

- 12.3 3rd Party Representations to Application (September 2015)(supplemented by email 8 July 2016 (Hard copy only on file))
- 12.4 Statement of Case (and Appendices- several of which are covered under separate core docs) – 03.05.2016
- 12.5 DM Committee Report and Late Observations (Appeal Scheme) – 27.04.2016
- 12.6 DM Committee Minutes (Appeal Scheme)- 27.04.2016
- 12.7 DM Committee Report and Late Observations (Resubmission Scheme) – 25.05.2016
- 12.8 DM Committee Minutes (Resubmission Scheme)- 25.05.2016 (duplicate copy provided at Appendix 13 of Sebastian Tibenham's proof of evidence (document 13.3))
- 12.9 LCC Highways Consultation Response – 23.03.2016
- 12.10 Environmental Health Officer Consultation Response – 10.09.2015
- 12.11 Greater Manchester Ecological Unit Response – 06.10.2015
- 12.12 Natural England Response – 23.09.2015
- 12.13 LCC Education Assessments – 20th May 2016 for application ref: 15/0562
- 12.14 LCC Education Assessments – 20th May 2016 for application ref: 15/0903
- 12.15 LCC Education Assessments – 6th April 2016 for application ref: 15/0903
- 12.16 LCC Education Assessments – 12th January 2016 for application ref: 15/0903
- 12.17 LCC Education Assessments – 11th September 2015 for application ref: 15/562
- 12.18 LCC Education Assessments – 21st May 2015 for Clifton House Farm Pre-App
- 12.19 Methodology for Education Contributions in Lancashire- May 2016 Update
- 12.20 Decision Notice (Resubmission Scheme) – 25.05.2016
- 12.21 Regeneration Team Comments (Landscape) – 29.09.2015
- 12.22 Housing Officer Response – 25.02.2016

13. Appellant's Proofs of Evidence (provided electronically and in hard copy)

- 13.1 Summary Planning Proof of Evidence (Enclosure 1) prepared by Sebastian Tibenham of Pegasus Group
- 13.2 Planning Proof of Evidence (Enclosure 2) prepared by Sebastian Tibenham of Pegasus Group (see also document 15.11)
- 13.3 Planning Proof of Evidence Appendices (Enclosure 3) prepared by Sebastian Tibenham of Pegasus Group (Including Proposed Access Arrangement, Drawing number 0988-F01 revision F at Appendix 10)
- 13.4 Objectively Assessed Housing Need Paper (Enclosure 4) prepared by Chris May of Pegasus Group
- 13.5 Landscape and Visual Impact Paper (Enclosure 5) prepared by Brian Denney of Pegasus Group
- 13.6 Highways and Transport Summary Proof of Evidence prepared by Phil Wooliscroft of Croft Transport Solutions
- 13.7 Highways and Transport Proof of Evidence prepared by Phil Wooliscroft of Croft Transport Solutions
- 13.8 Highways and Transport Proof of Evidence Appendices prepared by Phil Wooliscroft of Croft Transport Solutions

14. Council & Third Party Proofs of Evidence (provided electronically and in hard copy)

- 14.1 Planning Proof of Evidence- Andrew Stell
- 14.2 (see Document 10.2)

14.3 (see Document 10.3)

14.4 (see Document 10.4)

15. Additional documents handed in at Inquiry (Common to both appeals)

- 15.1 Addendum signed and dated 11 July 2016 to Statement of Common Ground signed and dated 8 July 2016, attaching draft Unilateral Undertaking for Appeal B
- 15.2 Crashmap data
- 15.3 Statement of Common Ground (Planning Issues) for Appeal A, signed and dated 11 July 2016
- 15.4 Suggested conditions for Appeal A
- 15.5 Suggested conditions for Appeal B
- 15.6 Article from "Sun" newspaper 3 May 2016
- 15.7 Extract from UK emissions interactive map
- 15.8 Bundle of photographs of traffic accidents
- 15.9 Letter from Mark Menzies MP to Alan Child
- 15.10 Speech by Theresa May 11 July 2016
- 15.11 Errata sheet for Sebastian Tibbenham's Proof (document 13.2)
- 15.12 Air Quality Note from Pegasus Group
- 15.13 Development Management Committee Minutes 6 January 2016
- 15.14 Suggested conditions for Appeal A with tracked changes
- 15.15 Suggested conditions for Appeal B
- 15.16 Signed and dated Unilateral Undertaking for appeal A
- 15.17 Signed and dated Unilateral Undertaking for appeal B
- 15.18 Lancashire County Council Definitive Map and Statement of Public Rights of Way (Definitive Map Modification)(N^o 7) Order 2012 Order Decision FPS/Q2371/7/54
- 15.19 Statement of Compliance with CIL Regulations
- 15.20 Opening on behalf of Warton East Developments Limited
- 15.21 Opening on behalf of Hallam Land Management Limited
- 15.22 Position Statement on behalf of Fylde Borough Council
- 15.23 Mrs King's Statement
- 15.24 John Rowson's speech to the Inquiry
- 15.25 Mr John Barton Bennett's statement
- 15.26 Ruth Fraser's Statement
- 15.27 Statement on behalf of the Parish Council
- 15.28 Statement on behalf of the Neighbourhood Plan Steering Group
- 15.29 Closing on behalf of Warton East Developments Limited
- 15.30 Closing on behalf of Hallam Land Management Limited



RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

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

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

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

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

Challenges under Section 288 of the TCP Act

With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the day after the date of the decision.

SECTION 2: ENFORCEMENT APPEALS

Challenges under Section 289 of the TCP Act

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

SECTION 4: INSPECTION OF DOCUMENTS

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