



# Proof of Evidence of Rawdon Gascoigne BA (Hons), MRTPI

Outline planning application for the erection of up to six  
dwellings with associated works – Land at Manchester  
Road, Tunstead Milton, SK23 7ES

for Mr & Mrs Bevan

EP ref: 14-148

PINS ref: APP/H1033/W/16/3147726

LPA ref: HPK/2015/0351



Project : 14-148  
Site address : Land at Manchester  
Road, Tunstead Milton,  
SK23 7ES  
Client : Mr & Mrs Bevan  
| Date : November 2016  
Author : Rawdon Gascoigne

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## 1. Introduction

- 1.1 This Proof of Evidence is submitted on behalf of Mr G Bevan (the Appellant) in support of a planning appeal against the High Peak Borough Council's decision to refuse to grant outline planning permission for the erection of up to six dwellings with associated works to include the creation of a new Nature Reserve on land at Manchester Road, Tunstead Milton, High Peak (PINS ref: APP/H1033/W/16/3147726).
- 1.2 This evidence should be read alongside the evidence presented by Ben Pycroft of Emery Planning in respect of Housing Land Supply matters, Una Maginn of Avian Ecology in respect of Biodiversity and Ecology and Lynn Jones of Emery Planning on landscape matters.

### Qualifications

- 1.3 I am Rawdon Edward William Gascoigne. I have a Bachelor of Arts with Honours in the subject of Town and Country Planning, from the University of Newcastle-upon-Tyne. I am a Chartered Town Planner with over 20 years' experience in local government and private practice, 10 of which were as a senior planning officer dealing with development control and enforcement matters for the Lake District and subsequently, Peak District National Park Authority which I left in 2002 to take up my current position.
- 1.4 I am a director in the firm of Emery Planning (EP), chartered town planners and development consultants, based in Macclesfield, Cheshire where I deal with a range of developments across the UK. This has included planning and enforcement matters covering a diverse range of development. I am therefore familiar with the tests applied in such cases.
- 1.5 Emery Planning was the agent for the outline planning application HPK/2015/0351, which is now the subject of this appeal. I am therefore familiar with the appeal site and the planning history.
- 1.6 The evidence which I have prepared and provide for this appeal (PINS ref: APP/H1033/W/16/3147726)) is true and has been prepared and given in accordance with the guidance of my professional institution and I confirm that the opinions expressed are my true and professional opinion.
- 1.7 I provide a separate summary and set of appendices.

## Propositions

1.8 The case for the Appellant will be addressed through the following propositions:

- **Proposition 1** - a) The Council cannot demonstrate a deliverable five year supply of housing land in accordance with paragraph 47 of the Framework and new housing is therefore needed now to address the significant shortfall b) All development plan policies relevant to the supply of new housing development should be considered to be out-of-date in accordance with paragraphs 49 and 14 of the Framework.
- **Proposition 2** – The proposed residential development relates to a sustainable edge-of-settlement site and would be fully compliant with Policy H1 of the adopted local plan.
- **Proposition 3** – Notwithstanding the proposal constituting acceptable and appropriate development, ‘very special circumstances’ can be demonstrated to justify the grant of planning permission in accordance with Policy C1 of the Chapel-en-le-Frith Neighbourhood Plan and paragraph 78 of the Framework.
- **Proposition 4** - Any harm associated with the impact on the character and distinctiveness of the area is outweighed by the benefits associated with the appeal proposal.
- **Proposition 5** – The proposal represents a high quality development in a sustainable location which would deliver a range of social, economic and environmental benefits in accordance with paragraph 7 of the NPPF.
- **Proposition 6** - There are no other site specific or policy considerations which would prevent planning permission from being granted in accordance with the guidance in paragraph 14 of the NPPF.
- **Proposition 7** - The proposed development will provide for the necessary infrastructure and/or financial contributions to meet the needs arising from the development.

1.9 The evidence in respect of Proposition 1 is primarily dealt with by Mr Pycroft and this Proof concludes on the planning balance in respect of Housing Land Supply matters. Similarly, matters relating to the effect on the character and appearance of the area relevant to Proposition 4 are dealt with by Mrs Jones and weighed in the balance within this Proof.

## 2. The appeal proposal

- 2.1 An outline planning application was submitted to the Council in June 2015 for a residential development comprising the erection of up to six family-sized houses with associated works to include the creation of a new Nature Reserve (access to be considered with all other matters reserved).
- 2.2 Indicative plans were submitted showing that the appeal site could accommodate six dwellings with generously sized gardens and parking for at least two cars clear of the highway within each plot. The indicative plans show that the proposed new houses would front onto Manchester Road and would integrate well with the existing built form along this established linear settlement. The proposed new houses would be built to an energy-efficiency standard equivalent to Code Level 5 of the Code for Sustainable Homes, exceeding mandatory requirements, and it is proposed that two of the new properties would comprise live/work units.
- 2.3 The existing frontage of the appeal site, together with land leading to the bus stop beyond the road serving the reservoir car park to the east, comprises a grass verge with no pedestrian access for local residents to safely and conveniently access the bus services available along Manchester Road and the wider public right of way network. The proposed development would provide a new dedicated footway along the entire frontage of Manchester Road and up to the existing bus stop, approximately 70m beyond my client's land ownership.
- 2.4 The new footway would not only secure the sustainability credentials of the proposed development in terms of access for future residents, it would also benefit local residents, including school children using the school buses to Chapel-en-le-Frith High School and Marple Sixth Form College, and it would facilitate tourism with visitors able to safely and conveniently alight a bus and access Combs Reservoir and the wider public right of way network.
- 2.5 The development incorporates a substantially sized area of open space (hereafter referred to as Nature Reserve), approximately 0.5ha in area, to the rear of the new housing development. The Nature Reserve would comprise an area of public open space that would be accessible to all and would comprise a shared community space to the benefit of local residents and would result in net positive impacts for biodiversity with ecological enhancement works to include the following:

- Low intensity grassland management regime to increase species diversity and develop more structural variety than currently exists.
- Shrub and tree planting including over 200m of new native species hedgerow.
- Creation of a small orchard area using heritage species.
- Wetland area/pond creation taking advantage of the natural hollow in the land.
- Bird and bat boxes installed on suitable buildings and mature trees.
- Creation of 'refuge' habitat including log piles and two hibernaculae.
- Creation of a 'bug hotel' feature for invertebrates, including pollinating insects.
- Creation of a new west-east footpath access route through the nature reserve linking the existing public footpath with the road serving the reservoir car park to the east and access to the reservoir.
- Provision of a 'wildlife information board' and seating bench for the public within the nature reserve.

2.6 The matters related to biodiversity enhancement and ecology are dealt with in the evidence of Una Maginn of Avian Ecology.

2.7 The proposed development would result in the removal of four trees along the Manchester Road frontage and a tree within the centre of the appeal site. The existing hedgerow along the appeal site frontage would be removed with a new hedgerow replanted further back from the road frontage. Extensive new hedgerow and tree planting would be carried out as a result of the proposed development with the new Nature Reserve.

2.8 During the course of the planning application, Emery Planning submitted a letter to the local planning authority on 25<sup>th</sup> September 2016 further to various consultee comments having been received. This letter provided an overview of our position at the time regarding the Council's five-year housing land supply position, the emerging local plan, the adopted neighbourhood plan and matters relating to ecology, flooding, trees and the definition of sustainable development for the purposes of the NPPF.

2.9 The Council refused planning permission on 9<sup>th</sup> October 2015 on the basis of the following three reasons for refusal:

1. *The site is allocated as a Local Green Space within the Chapel-en-le-Frith Neighbourhood Plan. The development of the site for 6 residential dwellings is*

*considered to be inappropriate development within the Local Green Space for which there have been no very special circumstances demonstrated. Approval of the development would be contrary to Policy C1 of the Chapel-en-le-Frith Neighbourhood Plan and paragraphs 78 and Section 9 of the National Planning Policy Framework.*

- 2. The site is located within an area of open countryside as defined by the High Peak Saved Local Plan Policies 2008. In principle and by virtue of its siting, scale and indicative appearance the proposed development would represent an inappropriate and undesirable urban intrusion which would adversely affect the character and distinctiveness of the immediate area and surrounding countryside. As such the proposal would comprise an unsustainable form of development and is contrary to High Peak Saved Local Plan Policies GD4, OC1, OC4, Chapel-en-le-Frith Neighbourhood plan policy H1 and H2, High Peak Emerging Plan Policy S1, S1A, S6, EQ2 and EQ3 and Paragraphs 17, 55 and Section 11 of the National Planning Policy Framework 2012.*
- 3. No Section 106 Obligation has been submitted for consideration or has been agreed therefore there is no mechanism in place to secure the required affordable housing which is necessary and required to support the proposed development. The development is therefore contrary to Policy CNP1 of the Chapel-en-le-Frith Neighbourhood Plan, Policy H9 of the adopted High Peak Saved Local Plan Policies 2008, Planning Obligations SPD 2005 and advice contained within the National Planning Policy Framework.*



### **3. Site and area description**

- 3.1 The appeal site is located to the edge of Tunstead Milton, which is an established settlement located between the principal market towns of Chapel-en-le-Frith and Whaley Bridge. The built-up area of Tunstead Milton, which is predominantly residential in character, fronts onto Manchester Road in a linear fashion.
- 3.2 The site is gently sloping and comprises grazing land. It is bound immediately by a road serving the reservoir car park to the east with the reservoir embankment beyond, a storage building and a residential property known as Higher Birches to the west with a large manufacturing plant known as Morten's Yard beyond, Manchester Road and residential properties beyond to the north and open land to the south. The site could reasonably be described as an infill plot as it is bounded by built development to the north and west and the reservoir embankment to the east.
- 3.3 There are public rights of way either side of the application site and these footpaths provide linkages to Combs Reservoir, which is a man-made feature within the landscape having been developed during the 19<sup>th</sup> Century, and the public rights of way network beyond, providing access to Combs village and Chapel-en-le-Frith train station.
- 3.4 Tunstead Milton benefits from excellent public transport provision with regular and direct bus services along Manchester Road providing access to key destinations such as Buxton, Manchester Airport, New Mills, Stockport, Whaley Bridge and Chapel-en-le-Frith. There are also a number of services within easy and convenient walking distance such as the Hanging Gate public house, Chapel-en-le-Frith Golf Club, Combs Reservoir with its range of outdoor recreational opportunities and the employment premises known as Morten's Yard. The village of Combs and Chapel-en-le-Frith rail station can be reached via the public right of way network. A footway also extends all the way from the site along the northern side of Manchester Road to Chapel-en-le-Frith.

### **4. Relevant planning history**

- 4.1 There is no relevant planning history relating to the appeal site. Relevant planning decisions made elsewhere are discussed at Section 5 of this Proof.

### **5. Planning policy context**

## National planning policy and guidance

### National Planning Policy Framework (NPPF)

- 5.1 The Framework was published in March 2012 and I address relevant sections of it within my Proof of Evidence below.
- 5.2 At the heart of the NPPF, there is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.
- 5.3 Paragraph 6 of the NPPF states that *"The purpose of the planning system is to contribute to the achievement of sustainable development. The policies in paragraphs 18 to 219, taken as a whole, constitute the Government's view of what sustainable development in England means in practice for the planning system"*.
- 5.4 Paragraph 7 states that *"There are three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:*

*An economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;*

*A social role – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of the present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being;*

*An environmental role – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy."*

- 5.5 Paragraph 14 states that for decision-taking the presumption in favour of sustainable development means:

- 1) *“approving development proposals that accord with the development plan without delay; and*
- 2) *where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:*
  - *any adverse impact of doing so would significantly or demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole; or*
  - *specific policies in the NPPF indicate development should be restricted.”*

5.6 Of particular relevance to the consideration of this appeal proposal are Sections 6, 8, 9 and 11 of the Framework.

### **National Planning Practice Guidance (PPG)**

5.7 The PPG was originally published in March 2014. I refer to the relevant sections of the PPG in within this Proof further below.

### **Development plan context**

5.8 The development plan comprises the High Peak Local Plan 2011-2031, which was adopted in April 2016, and the Chapel-en-le-Frith Neighbourhood Plan, which was made in July 2015.

### **High Peak Local Plan**

5.9 The Proposals Map for the adopted local plan shows that the appeal site is located beyond the identified settlement boundaries for Tunstead Milton and within the 'Open Countryside'.

5.10 The most relevant planning policies of the adopted local plan for the determination of this appeal are as follows:

- S1: Sustainable Development Principles.
- S1A: Presumption in Favour of Sustainable Development.
- H1: Location of Housing Development.
- H2: Housing Allocations.
- H3: New Housing Development.

- H4: Affordable Housing.
- S2: Settlement Hierarchy.
- S3: Strategic Housing Development.
- S6: Central Sub-area Strategy.
- EQ2: Landscape Character.
- EQ3: Countryside and Green Belt.
- EQ5: Biodiversity.
- EQ6: Design and Place Making.
- EQ8: Green Infrastructure.
- EQ9: Trees and Hedgerows.
- CF4: Open Space, Sports and Recreation Facilities.
- CF5: Provision and Retention of Local Community Services and Facilities.
- CF6: Accessibility and Transport.
- CF7: Planning Obligations and Community Infrastructure Levy.

5.11 The background to the formulation of the wording for Policy H1 is relevant to the determination of this appeal. This policy had not included any flexibility in terms of windfall sites beyond the established settlement boundaries through the submission version of the local plan. During the course of the examination hearings, and further to representations made regarding the lack of any flexibility in the housing trajectory for the emerging local plan, the Council proposed the following main modification to Policy H1 such that it would include the following text (April 2015):

*“Where there is less than a five year land supply of deliverable housing sites, the Council will give consideration to approving sites outside the defined built up area boundaries, taking into account other policies in this Local Plan, provided that:*

- *The development would be adjacent to the built up area boundary and be well related with the existing pattern of development and surrounding land uses and of an appropriate scale for the settlement; and*
- *the development would not lead to prominent intrusion into the countryside or have a significant adverse impact on the character of the countryside; and*
- *it would have reasonable access by foot, cycle or public transport to schools medical services, shops and other community facilities; and*

- *the local infrastructure can meet the additional requirements arising from the development."*

5.12 The Local Plan Inspector wrote to the Council on 23<sup>rd</sup> October 2015 suggesting his own main modification to the wording of Policy H1 of the adopted local plan. The Inspector noted the point made by those represented at the examination hearings that Policy H1 would become out-of-date in accordance with paragraph 49 of the NPPF in the absence of a five-year housing land supply. Accordingly, Policy H1 worded in the way in which the Council suggested would have been entirely ineffective. Instead, the Inspector suggested the removal of reference to the absence of a 5-year housing land supply in order to assist the Council in meeting the windfall requirement and this is reflected in the adopted version of the local plan. The provisions of this policy therefore apply regardless of the absence of a 5-year housing land supply in order to provide the Council with some flexibility in order to meet their overall housing requirements. Paragraph 68 of the Local Plan Inspector's report states the following with respect to Policy H1 of the adopted local plan:

*"The Council's suggested modification to Policy H1 included an appropriate commitment to review the Local Plan if necessary to bring forward additional sites for housing. It also proposed that where there is less than a 5-year supply of deliverable sites the Council would give consideration to approving sites adjacent to built up area boundaries where various criteria are met. However, the Framework requires Councils to plan positively and to identify a 5-year supply of deliverable sites. As Policy H1 is clearly a policy for the supply of housing it would be regarded as out of date if the required supply could not be demonstrated. The policy would be ineffective therefore and, as such, it is inappropriate to plan for failure in this way. However, sustainable sites that meet the specific and limited circumstances consistent with the criteria proposed in the Council's modification would assist in meeting the windfall requirement. I have therefore amended the suggested modification to enable such sustainable sites to be considered even if there is a 5-year supply."*

### **Chapel-en-le-Frith Neighbourhood Plan (CNP)**

5.13 The CNP designates the appeal site as part of a much wider Local Green Space (hereafter referred to as LGS). This is referred in the CNP as Land Around Combs Reservoir or LGS 6.

5.14 The most relevant planning policies of the CNP for the determination of this appeal are as follows:

- H1: Housing Allocations
- H2: Smaller Sites

- C1: Local Green Spaces
- C2: Biodiversity
- C3: Walking, Footpaths and Public Rights of Way
- CNP1: Provision of Infrastructure and Facilities and Developer Contributions.

5.15 Policy H1 identifies sites for a minimum of 454 homes and this takes into account planning permissions granted during 2013 and is based upon the emerging High Peak Local Plan, which had not been subject to independent examination at the time. Policy H1 allocates a minimum of 42 dwellings on sites known as Pickford Meadow and Park Road Factory. Together with commitments on other sites, this equates to a minimum 855 dwellings. Policy S3 of the adopted local plan states that the CNP shall deliver a minimum of 850 dwellings over the plan-period plus a small sites allowance of 100 dwellings.

5.16 Policy H2 relates to 'Smaller Sites' and states that planning permission will be granted for residential developments of fewer than six units on infill and redevelopment sites within the settlement boundaries of the Parish, subject to criteria concerning the character of the area and the amenity of neighbouring properties.

5.17 Paragraph 57 of the Examiner's Report (CD4.1) for the Neighbourhood Plan states the following with regard to 'smaller sites' for the purposes of Policy H2 with the Examiner making it clear that larger sites (i.e. more than 5 dwellings being proposed) should be considered on their individual merits in accordance with the development plan and national planning policy:

*"This policy only relates to small housing sites in accordance with the title of the policy. Therefore, in my opinion, it does not preclude otherwise sustainable development from going ahead on larger sites. Such larger sites would have to be considered on their individual merits in accordance with national and development plan policy."*

5.18 Policies H1 and H2 of the Neighbourhood Plan provide the overarching strategy for housing provision within the Parish area. These policies relate to housing allocations or otherwise 'smaller sites' within the established settlement boundaries. However, these policies were prepared and examined prior to the main modifications being made to Policy H1 of the emerging local plan regarding windfall sites outside of the settlement boundaries (December 2015), and the subsequent adoption of the local plan (April 2016). The development plan should be read in the whole with due regard for the provisions of Policy H1 of the adopted local plan, which is the guiding policy for windfall developments falling outside of the identified settlement boundaries.

- 5.19 The Appellant was not directly consulted, did not make any representations to the emerging CNP and the Appellant's views were not taken into account through the formulation of the Examination Version of the CNP.

## **Other material considerations**

### **Richborough Estates Court of Appeal Judgment (2016)**

- 5.20 This conjoined Court of Appeal Judgment concerned the cases of Hopkins Homes Ltd vs Suffolk Coastal District Council and Richborough Estates vs Cheshire East Borough Council. It was handed down in March 2016.
- 5.21 The Judgment confirms that if a local planning authority cannot demonstrate a five-year housing land supply then all policies that restrict the locations of new housing development should be considered out-of-date in accordance with paragraph 49 of the NPPF. Such policies include the designated Green Belt, Areas of Outstanding Natural Beauty and Green Gap and other policies for the general protection of the countryside and local environment such as Local Green Space designations.

### **Crane vs. Secretary of State for Communities and Local Government Judgment 2015**

- 5.22 This High Court Judgment related to an outline planning application for the erection of up to 110 dwellings with a sports hall, a neighbourhood centre, sports pitches and associated parking, open space, access and landscaping on a site off Crowfoot Way, Broughton Astley in Leicestershire.
- 5.23 The outline planning application had been refused planning permission by Hartborough District Council in August 2012. An appeal was subsequently submitted to PINS by the applicant, Mr Crane, with an Inquiry taking place during May 2013. In August 2013, the appeal was recovered for determination by the Secretary of State. The Planning Inspector's report was issued in November 2013, which recommended that the appeal should be allowed and planning permission granted subject to conditions. The Inspector concluded that conflict with the Broughton Astley Neighbourhood Plan, which had been subject of the examiner's report by the time of the Inspector's recommendation, was 'moderate' and it would not significantly and demonstrably outweigh the benefits associated with the proposal (the Inspector found that the housing land supply policies of the local plan and the neighbourhood plan were out-of-date given that paragraph 49 of the NPPF was engaged).

- 5.24 The Broughton Astley Neighbourhood Plan was subsequently 'made' in January 2014 and thereafter formed part of the development plan. The Secretary of State's decision letter was issued in April 2014 with the appeal being dismissed and planning permission refused. Although the Secretary of State agreed that the relevant housing supply policies of the development plan should be considered 'out-of-date', he found that the adverse impacts of the appeal proposal, especially in terms of the conflict with the Broughton Astley Neighbourhood Plan, would significantly and demonstrably outweigh the benefits in terms of increasing housing supply. The Secretary of State afforded 'very substantial negative weight' to conflict with the neighbourhood plan.
- 5.25 Mr Crane subsequently applied for an order to quash the Secretary of State's decision to dismiss the appeal. One of the two main issues raised by Mr Crane was whether there was any conflict with the provisions of the Broughton Astley Neighbourhood Plan in the first instance.
- 5.26 In handing down Judgment in February 2015, Mr Justice Lindblom rejected Mr Crane's submission that the Secretary of State had misinterpreted and misapplied the development plan. Mr Justice Lindblom agreed with the Secretary of State's interpretation that the appeal scheme was contrary to the neighbourhood plan on the basis that it did not comprise an allocated site for the purposes of Policy H1 and it did not comprise a windfall site for the purposes of Policy H3 (small sites not exceeding five units and relating to previously developed land). Mr Justice Lindblom's comments were made within the context of the following points:
- The site in question had been fully considered by the Parish Council through the site-selection process for the purposes of Policy H1 through the drafting of the Neighbourhood Plan. It had been discounted on the basis of it being too remote from the village centre. Further to Mr Crane actively promoting the site for residential development through the neighbourhood plan preparation process, the Parish Council had already rejected the site as a housing allocation.
  - Policy H1 of the Neighbourhood Plan allocated two sites for 500 dwellings with a further reserve site for 28 dwellings to come forward only in the event that the phasing arrangements for the 500 dwellings did not come forward as proposed. This policy was worded such that this was the maximum permissible number of housing (paragraph 42 of the Judgment) within the context of the Neighbourhood Plan explicitly stating that facilities and amenities within the Parish were already stretched and that "*housing should not be built before additional facilities are provided.*" Policy H1 stated that the identified number of housing should be delivered simultaneously with new infrastructure to include a supermarket, medical centre, recreational and community open space.



- 5.27 Policy H3, which related to windfall sites of fewer than 5 units on previously developed sites, was worded such that new housing provision would not unduly undermine the identified pressures on existing facilities and amenities within the Parish.
- 5.28 Within the context of the above, Mr Justice Lindblom agreed with the Secretary of State that the appeal proposal was contrary to the strategy for housing development in Policies H1 and H3 of the Neighbourhood Plan. For a number of reasons that are discussed within this Proof, the findings in that case cannot be readily applied to the neighbourhood plan in this case and do in fact lead to a positive conclusion on the appeal proposals.

#### **Landscape Impact Assessment 2014 (Wardell Armstrong)**

- 5.29 Wardell Armstrong (WA) were commissioned by High Peak Borough Council in order to produce a Landscape Impact Assessment (LIA) as part of the evidence base for the local plan, which was adopted earlier this year. WA published their LIA in January 2014 and it assesses the landscape potential at the time for sites identified for development by the Council and other sites at the edge of identified 'Market Towns' or 'Larger Villages' as listed in the High Peak Preferred Options Settlement Hierarchy (February 2013) only.
- 5.30 The LIA was very much 'broad-brushed' in its approach to assessing the potential for sites to accommodate development in landscape terms. Indeed, sites within High Peak found by WA to be unacceptable for development in landscape impact terms have subsequently been found by the Council to be acceptable at a planning application stage, subject to mitigation measures such as new planting and screening.
- 5.31 The work undertaken by WA did not consider the potential for sites within settlements such as Tunstead Milton to accommodate development in landscape terms.
- 5.32 However, WA did consider one site beyond the settlement boundaries of Tunstead Milton through their Update Report in August 2014. The site in question is referred to in this report as '*Land to the rear of Milton Meadow*'; the site extends beyond the linear form of built development beyond the northern side of Manchester Road and into the open countryside. See a copy of the location plan of the site at **EP5** of this Proof. The assessment by WA is as follows with the conclusion being that the site is suitable for development in landscape terms subject to flood issues being resolved and the creation of an appropriate landscape framework (see their report at CD3.3):

*"This site is located outside the Area of Search assessed in the original Landscape Impact Assessment. A single, semi-enclosed field of semi-improved grassland to the rear of linear development on Manchester Road, north of Tunstead Milton. The topography of the site is predominantly flat, with a stream located in a ditch on the north-western boundary. The site is well screened from short to medium distance views by boundary vegetation and built development. Combs Reservoir is located 220m south-east of the site and is designated as a SSSI and SINIC, however there are no habitat connections with the site. The majority of the site is located within Flood Zone 2. Long distance views may be available from the Peak District National Park (PDNP) (located approximately 11m to the south), and from high topography to the north. Development of the site would have a limited adverse impact on the setting of the PDNP, however it would be seen beyond existing development within the settlement. The existing settlement edge is well defined and vegetated. However the boundaries to the site are also well vegetated. If the site was to be developed gaps in vegetation on the existing boundaries should be planted up, particularly on the northern boundary to provide screening from the surrounding area. Potential site identified as suitable for development in landscape terms subject to flood issues being resolved and the creation of an appropriate landscape framework which include the retention and reinforcement of the existing boundary vegetation."*

- 5.33 The above represents the only landscape appraisal undertaken for any site within Tunstead Milton that I am aware of. It clearly states that Tunstead Milton has the capacity to accommodate residential development beyond the settlement boundaries in landscape terms with due regard for the Peak District National Park, even where that development extends beyond the linear form of built development through the settlement.
- 5.34 The appeal site at Tunstead Milton falls within the 'Settled Valley Pastures' of the 'Dark Area' Landscape Character Area identified by WA. They note the following with regard to this landscape character area:

*"A settled, pastoral farming landscape on gently sloping lower valley sides, dissected by stream valleys. The landscape has a strong network of winding lanes and roads and railways along the lower slopes above the floodplain. There are scattered farmsteads outside the compact settlements. The permanent improved pasture gives way higher up the slopes to poorer grazing where the ecological value is higher. Dense watercourse trees, scattered boundary trees and tree groups around settlements contribute to a strongly wooded character. This is the dominant LCT in the Dark Peak (para. 4.3.5)"*

*"The only LCT which allows for extensive development is Settled Valley Pastures, which dominates the northern and central regions of the High Peak (para. 4.5.1)"*

## 6. Relevant planning decisions

### Land adjacent to no. 129 Manchester Road, Chapel-en-le-Frith

- 6.1 This site relates to an area of land beyond the settlement boundaries of Chapel-en-le-Frith and within the open countryside. The site is located on the southern side of Manchester Road and is approximately 1.2km to the east of my client's appeal site.
- 6.2 An outline planning application was submitted in May 2014 for up to 49 dwellings with associated works (LPA ref: HPK/2014/0210). This application was supported by an indicative layout plan; see the location plan, indicative layout plan and officer's report are at **EP1** of this Statement. The submitted plans show that the residential development would extend beyond the pattern of linear built development along Manchester Road and into the open countryside.
- 6.3 The site at the time was identified through the Draft Chapel-en-le-Frith Neighbourhood Plan as being within a Special Landscape Area and a Local Green Space designation.
- 6.4 The officer's Committee report for the planning application includes a section titled '*Landscape Considerations*' (again, see a copy of the report at **EP1** of this Proof). The report notes that the site is located within the Dark Peak National Character Area and the Settled Valley Pastures Landscape Character Area, as defined by the adopted Landscape Character Assessment Supplementary Planning Document (SPD). Excerpts of the officer's assessment of the landscape impact of the proposed development are provided below (copied from the officer's Committee report):

*"To the west, although within the 'countryside', linear development of substantial detached dwellings, and a residential care home extends along the southern side of Manchester Road. When viewed along Manchester Road from the east and the west, the site will be viewed in its context with surrounding built form, comprising the care home, the substantial dwelling of 129 Manchester Road and the development to the east."*

*"To the south of the site, the land falls away to the valley floor and then rises gradually up to the railway line. Public footpaths to the south of the site which run through the valley and those beyond, along the railway line, enable long range views into the site."*

*"Within the January 2014 'Landscape Impact Study' commissioned as part of the evidence base for the emerging Local Plan, the site is identified as being 'could not accommodate development in landscape terms.' However, it is noted within the study*

*that the assessment of land was undertaken at a strategic level and there will inevitably be variations in the level of landscape impacts."*

*"However, despite its countryside designation, the land has no policy designations to suggest that it is of intrinsically high landscape value such that would warrant it being protected solely on landscape grounds; it is not within a special landscape area or greenbelt"*

*"... the site could be viewed as an obvious enlargement of the built up area boundary in long distance views from land to the south of the site and would mesh with the existing grain of development which surrounds the site on 3 sides."*

- 6.5 The Council granted planning permission on 7<sup>th</sup> August 2014 and the decision notice is at **EP1**. Although extending beyond the linear pattern of built development along Manchester Road and into the open countryside, the Council found the landscape impacts associated with the development to be acceptable.

**Land at no. 141 Oldcourt, Manchester Road, Chapel-en-le-Frith**

- 6.6 This site relates to an area of land beyond the settlement boundaries of Chapel-en-le-Frith and within the open countryside. The site is also located on the southern side of Manchester Road and is located approximately 1.1km to the east of my client's appeal site.
- 6.7 An outline planning application was submitted in June 2014 for up to 28 dwellings with associated works (LPA ref: HPK/2014/0263). This application was supported by an indicative layout plan; see the location plan and submitted indicative layout plan is at **EP2** of this Proof. In a similar fashion to the scheme referred to above adjacent to no. 129 Manchester Road, the submitted plans show that the residential development would extend beyond the pattern of linear built development along Manchester Road and into the open countryside.
- 6.8 The site at the time was also identified through the Draft Chapel-en-le-Frith Neighbourhood Plan as being within a Special Landscape Area and a Local Green Space designation.
- 6.9 The Council refused planning permission on 2<sup>nd</sup> October 2014 on the basis of the following reason for refusal:

*"The proposed development, in principle, would be an urban form of backland development which would conflict with the overall settlement pattern of this area. Such development would be materially harmful to the character of this part of the countryside contrary to the provisions of Policies GD4, OC1, OC4 and OC5 of the Saved High Peak Local Plan Policies 2008 and Paragraphs 17 and 109 of the National*

*Planning Policy Framework which seek to protect the character of an area and its valued landscape characteristics."*

- 6.10 A subsequent appeal was dismissed by the Planning Inspectorate on 9<sup>th</sup> March 2015. Paragraph 18 of the Planning Inspector's appeal decision letter addresses the landscape impact of the proposed development:

*"From the majority of these and other localised viewpoints I visited, the development of some 28 dwellings would be observed on rising land just below the low ridgeline of Manchester Road, albeit to varying degrees. The linear pattern of development along the road is a strong and distinctive element in the composition and character of this part of the settlement and markedly distinguishes it from the adjacent countryside. The greater part of the site does not adjoin built development but open areas, and although its visual impact would be tempered slightly by the bulk of the adjoining care home, the development in depth proposed would depart from and be wholly incompatible with the prevailing form and pattern of housing, effectively introducing an urban form of estate development into a largely rural landscape. As such, the harm to the settlement pattern of the area and its landscape character would be significant and the landscape characteristics of the National Park would be unacceptably compromised."*

- 6.11 The appeal was dismissed on the basis that the scheme would be out of keeping with the settlement pattern of the area and would significantly undermine the landscape character of the area. The basis for the Inspector's concerns related to the manner in which the development would extend beyond the linear form of built development along Manchester Road. See a copy of the appeal decision letter at **EP2** of this Proof.

#### **Land to the rear of Meadow Lodge, Tunstead Milton**

- 6.12 This site relates to an area of land beyond the settlement boundaries of Tunstead Milton and within the open countryside. The site is located on the northern side of Manchester Road and is located approximately 200m to the north-west of my client's appeal site.
- 6.13 An outline planning application was submitted in December 2013 for the erection of one bungalow with associated works (LPA ref: HPK/2013/0705). This application was supported by an indicative layout plan; the location plan and submitted indicative layout plan is at **EP3** of this Proof. In a similar fashion to the two schemes referred to above (i.e. adjacent to no. 129 Manchester and adjacent no. 141 Manchester Road), the submitted plan shows that the new bungalow would be positioned beyond the existing pattern of linear built development along Manchester Road, extending into the open countryside.

6.14 The applicant subsequently submitted an appeal to the Planning Inspectorate against non-determination. For the purposes of the appeal, the Council indicated that they would have refused planning permission for reasons relating to the sustainability of the location, the potential impact on the character and appearance of the area and an adverse impact on the living conditions of future and nearby residents.

6.15 Paragraph 12 of the Inspector's appeal decision letter addresses the potential landscape impact of the proposed development:

*"I appreciate that the proposed layout plan is only indicative; however the introduction of a bungalow, a hardsurfaced driveway and a large curtilage area onto this piece of land, beyond the settlement edge, would introduce an isolated built development that would appear obtrusive and encroach into the unspoilt countryside. This change would clearly have an adverse impact on the open rural landscape and character of this area."*

6.16 Again, the basis of the Inspector's concerns in terms of landscape impact was that the development in question would have extended beyond the linear form of built development along Manchester Road.

6.17 Paragraph 13 of the Inspector's appeal decision letter addresses the accessibility of the site in question:

*"Whilst I also saw on my site visit that the appeal site is within walking distance of two bus stops, I could not locate any important local services or facilities such as schools, shops, or health centres within the vicinity and I have not been provided with any details of these. In the absence of any evidence to the contrary, I am therefore unable to conclude that there would be a sufficient provision of local services and community facilities to meet the everyday needs of future local residents. There would also be a strong likelihood that most future occupiers would be dependent on the private car for the majority of trips to access local services further afield. As such I do not consider this to be a sustainable location."*

6.18 The appeal decision letter is at **EP3**. The key point that the Inspector makes in terms of accessibility is that he had no evidence on which to fully assess the availability of public transport and local facilities. Evidence was advanced in respect of my clients application and there are no objections in the reasons for refusal relating to the sustainability of the appeal proposals.

### **Land off Long Lane, South of Chapel-en-le-Frith High School, Chapel-en-le-Frith**

- 6.19 This site relates to an area of land beyond the settlement boundaries of Tunstead Milton and within the open countryside. The site is located to the south of Chapel-en-le-Frith High School and to the west of the settlement boundaries of Chapel-en-le-Frith and approximately 1.6km to the east of my client's appeal site. The site does not relate to the Manchester Road frontage. However, the appeal decision is of relevance as the Inspector made an assessment of the scheme against the provisions of Policy H1 of the adopted local plan in terms of it being a windfall site beyond the existing settlement boundaries. The Inspector also makes comments upon any conflict with Policies H1 and H2 of the Chapel-en-le-Frith Neighbourhood Plan (hereafter referred to as CNP).
- 6.20 An outline planning application was submitted in January 2015 for up to 250 dwellings, although the quantum of development was subsequently reduced to up to 210 dwellings by the applicant (LPA ref: HPK/2015/0058). This application was supported by an indicative layout plan; the location plan and submitted indicative layout plan is at **EP4** of this Proof.
- 6.21 The Council refused planning permission on 24<sup>th</sup> September 2015 on the basis of the following two reasons:
- The severe adverse impacts of granting permission would significantly and demonstrably outweigh the very significant benefits of the development contrary to Policies H1 and H2 and the objectives, aims and vision of the Chapel-en-le-Frith Neighbourhood Plan and the provisions of the National Planning Policy Framework.
  - No S106 Obligation has been submitted for consideration or has been agreed therefore there is no mechanism in place to secure the required affordable housing, off site highway works, on site play space, off site open space and education provision which are necessary and required to support the proposed development.
- 6.22 An appeal was subsequently submitted to the Planning Inspectorate and a Public Inquiry held between 5<sup>th</sup> and 8<sup>th</sup> April 2016. A decision was issued by the Planning Inspectorate on 27<sup>th</sup> June 2016. See the appeal decision letter at **EP4**.
- 6.23 The Inspector's decision letter notes that the proposed development did not relate to an allocated housing site for the purposes of Policy H1 of the CNP. The Inspector also noted that Policy H2 of the CNP would not be engaged given that the scale of development at up to 210 dwellings meant that the scheme did not relate to a 'smaller site'. Paragraph 22 of the appeal decision letter states that the CNP is silent on the manner in which development falling outside



of the scope of Policies H1 and H2 should be considered. The Inspector goes on to conclude that the consideration of large windfall proposals should be guided by Policy H1 of the adopted local plan, which is permissive of the release of edge-of-settlement windfall sites for residential development subject to the four listed criteria.

- 6.24 The Inspector also considers the implications of the Crane High Court Judgment (Crane vs. SoSCLG 2015) for the CNP and the adopted local plan at paragraph nos. 49 to 55 and I copy paragraphs 54 and 55 below:

*“The nub of the distinction between Crane and the present case is said to be the very different relationship between the Neighbourhood Plans and their respective Local Plans in that, unlike its counterpart, the High Peak Borough Local Plan contains a policy (H1) on how applications on non-allocated sites should be assessed. “*

*“Accordingly, I have considered the proposal against the criteria set out in the second strand of Local Plan Policy H1 with a finding of material conflict with the policy when read as a whole. Moreover, that is reinforced by reference to related Local Plan Policies EQ3 and S3.”*

- 6.25 I discuss matters relating to any conflict with my client's appeal proposal and Policies H1 and H2 of the CNP within this Proof. The overriding point is that the context within which the CNP had been 'made' is fundamentally different to the Broughton Astley Neighbourhood Plan, which was the subject of the Crane Judgment.

- 6.26 The Inspector assessed the development of the site at Long Lane for up to 210 dwellings against the listed criteria of Policy H1 of the adopted local plan:

- the site has limited affinity with the pattern of development on the south-western edge of Chapel-en-le-Frith;
- the loss of open fields in this location would have a locally significant impact on the character of the countryside; and
- the erection of up to 210 dwellings would not be of an appropriate scale for the town.

- 6.27 The Inspector concluded that the proposed development would be contrary to Policy H1 of the adopted local plan, together with Policies S3 and EQ3, and Policies H1 and H2 of the Neighbourhood Plan and it would therefore be contrary to the development plan when read as a whole.



6.28 In terms of the first bullet point of Policy H1 of the adopted local plan and the issue of whether the site 'adjoined' the settlement boundary, the Inspector suggested at paragraph 27 that the wording of the Policy H1 requires a broad assessment for the purposes of the definition of 'adjoin':

*"The need, or otherwise, to take a wider definition of 'adjoin' (in the sense of being close to) can be embraced by the consideration of whether the site would be 'well related with the existing pattern of development and surrounding land uses' and whether the development would '..... lead to prominent intrusion into the countryside or have a significant adverse impact on the character of the countryside.'"*

## 7. Background to the designation of the appeal site as part of a wider Local Green Space Designation

7.1 The Chapel-en-le-Frith Parish Council (CPC) website contains the background evidence documents on the countryside section of the CNP (CD4.4 – 4.10). The CPC Countryside Evidence documentation explains the process for the designation of LGS across the Parish area as follows:

- Chapel Vision Survey 2012 forms were sent to interested parties within the Parish. Any countryside area of the Parish named more than once by interested parties for special protection was the subject of an assessment by local volunteers as to whether that area comprised LGS in accordance with the criteria for LGS provided within the NPPF.
- Public consultation events were subsequently carried out for the Consultation Version of the Neighbourhood Plan with interested parties able to make general comments. At these events, interested parties were able to place stickers on countryside areas of the Parish that should be protected through the emerging neighbourhood plan.
- Public consultation carried out for the Examination Version of the Neighbourhood Plan with interested parties able to make general comments.

7.2 At no point through the published Countryside Evidence documentation does the CPC state that any consultation on LGS was carried out within the relevant landowners. This is a requirement of the PPG (paragraph 37-019) and it is a particularly important stage of the process of designating any LGS given the implications of this designation and the fact that the management of LGS will remain the responsibility of the landowner. Paragraph 37-019 of the PPG states the following:

*"A Local Green Space does not need to be in public ownership. However, the local planning authority (in the case of local plan making) or the qualifying body (in the case of neighbourhood plan making) should contact landowners at an early stage about proposals to designate any part of their land as Local Green Space. Landowners will have opportunities to make representations in respect of proposals in a draft plan."*

7.3 The Appellant confirms that the CPC did not at any stage of the neighbourhood plan preparation process make any contact in order to provide notification of the intentions to designate part of his land as LGS. This represents a fundamental flaw in the preparation of the CNP with respect to LGS. The Appellant was deprived of a proper opportunity to object.

7.4 Emery Planning submitted a request to CPC that they confirm whether they had any evidence that the Appellant was notified at any stage in the preparation of the CNP that his land would

be subject to LGS. We received a letter reply dated 5<sup>th</sup> October 2016 stating that *"I am aware that an invitation was extended to your client by Chapel Vision to discuss the designation of his land on 18 May 2012, there was also an invitation extended to all landowners in the local press."* See a copy of the letter at **EP6**. This does not constitute confirmation that the Appellant was indeed notified. We subsequently requested that CPC provide any evidence to substantiate their suggestion that the Appellant was invited to discuss the LGS with Chapel Vision in May 2012. CPC have confirmed that they are unable to provide any such evidence and referred us instead to the Chapel Vision group. We have subsequently made contact with Chapel Vision and have requested once again confirmation that the Appellant was informed that the appeal site would be subject to a LGS. However, a response from Chapel Vision has not been forthcoming. See the correspondence exchange at **EP6**.

- 7.5 Clearly, had the Appellant been notified of the intentions to designate part of his land as LGS then he would have made representations at some point to the various iterations of the emerging CNP.
- 7.6 The failure to inform the landowner about the proposal to designate his land as part of a LGS is a fundamental failing of the CNP. The Appellant was deprived of a proper opportunity to object. It is demonstrated through this Proof that compelling reasons would have been provided as to why this site would not have been appropriate for inclusion within the designation had such an opportunity been given for the Appellant to make representations.
- 7.7 The Countryside Evidence Paper CD4.5 also states that all of the areas of the Parish designated as LGS were located within areas classified as Areas of Primary Sensitivity through the Derbyshire AMES Study (areas where the landscape remains intact both visually and structurally). The map showing the extent of the Area of Primary Sensitivity within the Countryside Evidence Paper shows that all of the land beyond the settlement boundaries of the Parish is identified as being part of the Area of Primary Sensitivity; the only exception is the large industrial premises known as Mortens Yard to the east of my client's appeal site.
- 7.8 The CPC has provided us with a summary of the responses that they received to the Chapel Vision Survey 2012 with reference to land around Combs Reservoir (**EP7**). None of the comments received related directly to my client's appeal site with very generalized areas being mentioned as deserving of special protection:

- Combs Reservoir.
- Fields around Combs Reservoir.
- Entrance opposite Combs Yacht Club.
- Land between Chapel-en-le-Frith and Combs village.
- Land between Manchester Road and Combs Moss.

7.9 The reference to land between Manchester Road and Combs Moss relates to a particularly extensive area of land with Combs Moss being located almost 2km away from Manchester Road. Otherwise, the areas mentioned cannot be said to have any relevance to my client's appeal site.

7.10 The following table provides a summary of the comments made by interested parties with reference to land around Combs Reservoir:

**Table 1: Summary of comments made further to the Chapel Vision Survey 2012 that relate to Combs Reservoir or land surrounding it**

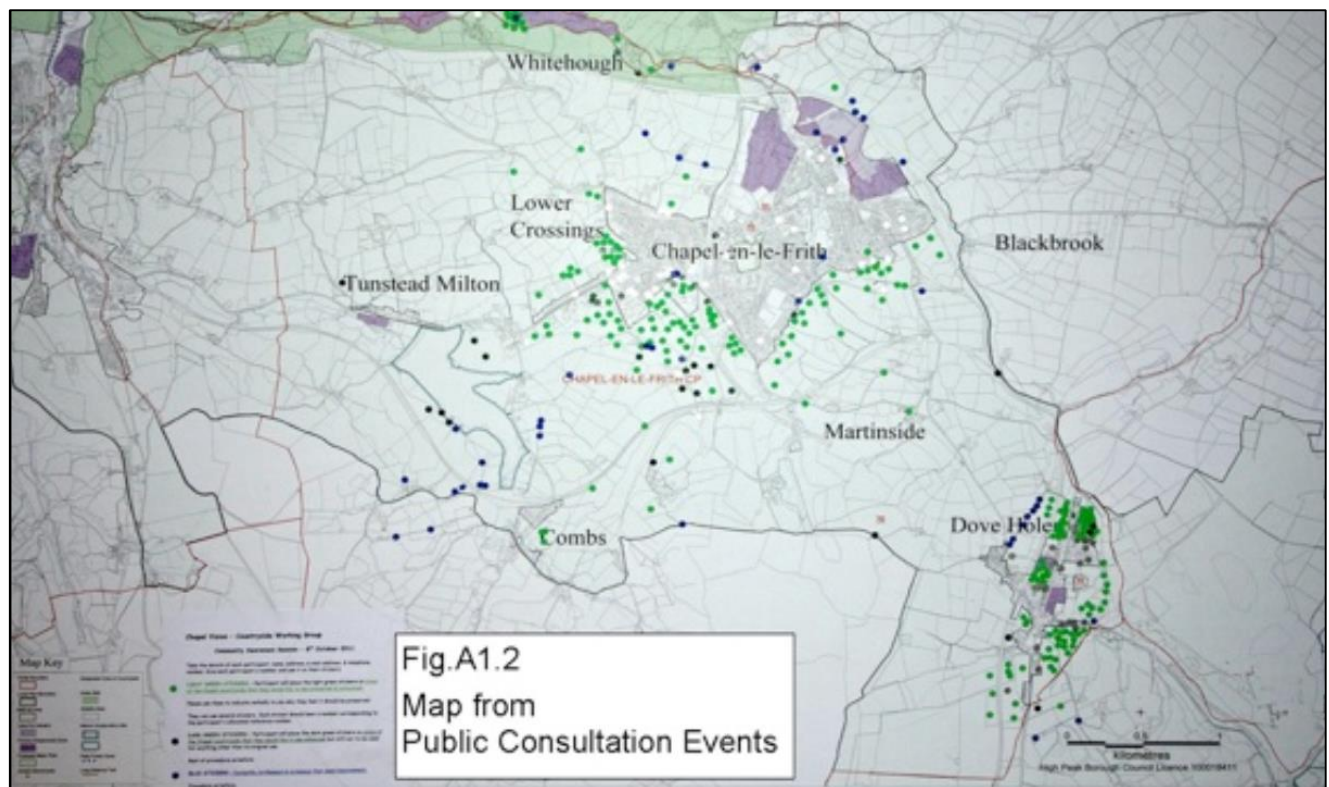
Chapel Vision Survey 2012 question	Summary of survey responses
<b>Countryside you think needs protecting</b>	Combs Reservoir; Fields around Combs Reservoir; Entrance opposite Combs Yacht Club; Land between Chapel-en-le-Frith and Combs village; Land between Manchester Road and Combs Moss.
<b>Features you would like to see preserved</b>	Combs Reservoir; Wildlife close to Combs Reservoir; improve footpaths to Eccles Pike.
<b>Features you would like to see enhanced</b>	Combs Reservoir; Improved paths around Combs Reservoir.
<b>Improvements to public services</b>	Improved paths around Combs Reservoir.
<b>Leisure and tourism</b>	Improved paths and leisure offer around Combs Reservoir.
<b>Recreation areas</b>	Combs Reservoir and footpaths around Combs Reservoir.

7.11 I demonstrate through this Proof that the appeal site is not demonstrably special in respect of any of the matters highlighted on the left-hand side of Table 1 above. The site does not have any merit in terms of recreation and it does not play a role in contributing towards any of the issues highlighted by interested parties for enhancement i.e. improved footpaths and an enhanced leisure offer. On the contrary, there will be net positive benefits in terms of leisure and

recreation as a result of the proposed development (amongst other matters) as I discuss within this Proof.

- 7.12 I also refer to the map within the Countryside Evidence Paper CD4.5 that shows areas of the Parish where interested parties at public consultation events had placed stickers denoting parcels of land that should be afforded special protection. The map shows that no stickers were placed within the appeal site or within close proximity to it. See a copy of the relevant map below:

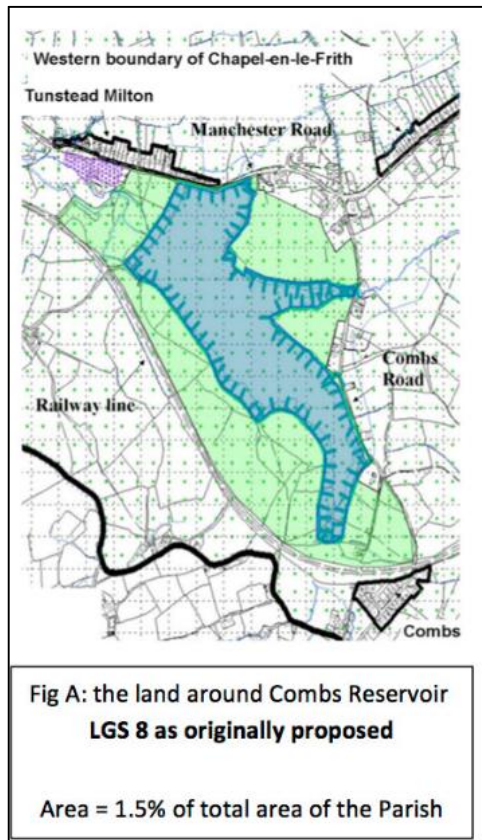
**Image 1: Map showing areas of the Parish identified by interested parties as being demonstrably special and deserving of special protection**



- 7.13 The CPC has provided us with all the comments provided by interested parties in response to the Consultation Version of the Neighbourhood Plan that related to Local Green Space designations (**EP8**). None of the comments raised by interested parties made any reference to whatsoever to Combs Reservoir or land surrounding it.

7.14 On the basis of the information summarised at Table 1 and provided through Image 1 above, the CPC proposed a LGS around Combs Reservoir through the Consultation Version of the Neighbourhood Plan as shown on the map below:

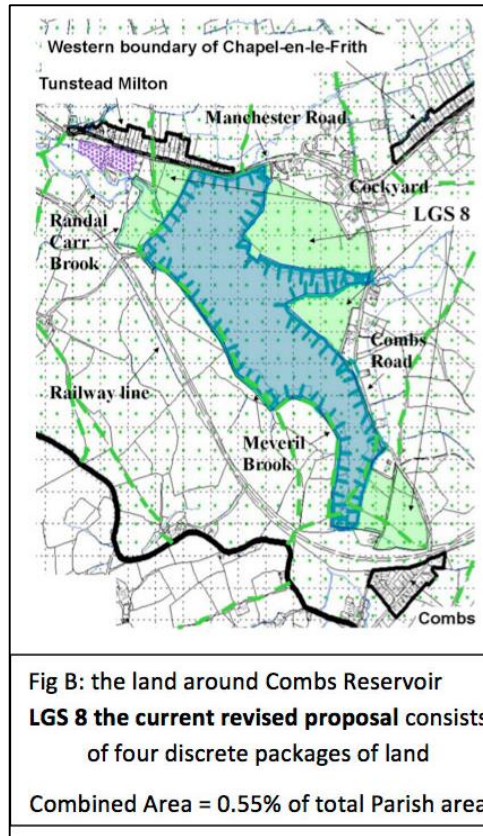
**Image 2: LGS around Combs Reservoir as proposed through the Consultation Version of the CNP**



7.15 In response to the Consultation Version of the Neighbourhood Plan, High Peak Borough Council advised that the area of LGS shown above failed to satisfy the requirements of the NPPF. The Council's response (**EP9**) stated that the LGS proposed was not local in character and evidence was required to show that the LGS is demonstrably special to the local community. For the purposes of the Examination Version of the Neighbourhood Plan, the Parish Council subsequently reduced the extent of the LGS around Combs Reservoir with the justification provided by the Parish Council being that the new boundaries occupied only a '*tiny fraction of the total area of the Parish*'. I am not aware that any additional evidence was submitted by the CPC in response to the comments made by the local authority in terms of the absence of justification to show that the LGS in question was demonstrably special to the community. See the revised LGS through the map below:



**Image 3: LGS around Combs Reservoir as proposed through the Examination Version of the CNP**



7.16 The CPC completed a proforma justifying the boundaries of the LGS around Combs Reservoir as drawn on the map copied above (CD4.10). The proforma is summarised through our table below:

**Table 2: Summary of comments made by the CPC for the Consultation Version of the CNP and the LGS identified for land around Combs Reservoir**

Stated reason for 'protection'	Comment provided by the Parish Council
<b>Are there significant views from the local area into and across the site?</b>	Views identified of the reservoir, across the reservoir from Combs Road, from nearby footpaths and from nearby hills such as Eccles Pike, Ladder Hill and Castle Naze.
<b>Does the site afford the public with significant views out into the wider countryside?</b>	Views identified from the site across the reservoir to the surrounding hills.
<b>Does the site have recreational value?</b>	Walking, fishing, sailing, canoeing, golf, bird-watching.
<b>Is the site particularly tranquil?</b>	Answered yes - particularly the southern end near the feeder stream.
<b>Does the site have ecological value?</b>	Reservoir is noted as being a SSSI. The reservoir and surrounding fields are noted as being home to fish, mammals, amphibians and providing support over 40 species of nesting birds (e.g. Lapwings, Yellow Wagtails). The area of Alder Carr is said to play a significant biological role in hosting species of birds and land to the west of the reservoir is noted as being subject to Higher Level Stewardship agreements with Natural England.
<b>Does the site form a significant green break within the settlement?</b>	No.
<b>Are there other reasons that make the site special to local people?</b>	No.
<b>Evidence that the site is special to local people.</b>	Over 50 responses identified the area through the Chapel Vision Survey 2012.
<b>Is there public access?</b>	Yes – via public rights of way and access to the dam, shore and track to available boat storage.
<b>Summary</b>	<ul style="list-style-type: none"> <li>• Tranquil multi-functional space.</li> <li>• Major recreational site.</li> <li>• Supports an amazing variety of wildlife.</li> </ul>

7.17 Public consultation was carried out for the Examination Version of the CNP during October and November 2014. Having read through the representations received from interested parties, it is clear that no interested party expressed support for the designation of land around Combs Reservoir as a LGS. None of the comments submitted to this consultation referenced Combs Reservoir or the land surrounding it.



- 7.18 We are not aware of any other evidence underpinning the identification of the appeal site as part of a wider LGS through the CNP.
- 7.19 With due regard for the points made above and the facts of this case, I attribute substantially reduced weight to the designation of the appeal site within the LGS 6 accordingly.

## 8. Planning considerations

**Proposition 1 - a) The Council cannot demonstrate a deliverable five year supply of housing land in accordance with paragraph 47 of the Framework and new housing is therefore needed now to address the significant shortfall b) All development plan policies relevant to the supply of new housing development should be considered to be out-of-date in accordance with paragraphs 49 and 14 of the Framework**

- 8.1 In the first instance, I have demonstrated through this Proof of Evidence and Propositions 2, 3 and 4 in particular, that the appeal proposal is fully compliant with the provisions of the development plan. There is no conflict between the development proposed and the provisions of the adopted local plan or the CNP.
- 8.2 Notwithstanding the above, Mr Pycroft's evidence concludes that the Council cannot demonstrate a deliverable five year supply of housing land as required by paragraph 47 of the NPPF.
- 8.3 Paragraph 3-033 of the PPG confirms that the demonstration of a deliverable five year supply of housing land is a key material consideration in the determination of planning appeals. The absence of a demonstrable five year housing land supply is therefore a material consideration, which weighs in favour of the appeal proposal. New housing is required across the Borough now in order to address the identified shortfall.
- 8.4 The implications of the absence of a five-year housing land supply are that all of the policies of the development plan that serve to restrict the location of new housing should be considered out-of-date for the purposes of paragraphs 49 and 14 of the Framework. In accordance with the Richborough Estates Court of Appeal Judgment 2016, this includes Policies H1, H2, EQ3 and S3 of the adopted local plan and Policies H1, H2 and C1 of the CNP.
- 8.5 In the event that the Inspector finds there to be a five-year housing land supply contrary to Mr Pycroft's evidence and disagrees with my position that there is no breach with the development plan, then the planning balance at Proposition 5 of this Proof of Evidence shows that the sustainable benefits associated with the appeal proposal outweighs any such perceived conflict in any event.

## **Proposition 2 – The proposed residential development relates to a sustainable edge-of-settlement site and would be fully compliant with Policy H1 of the adopted local plan**

8.6 The background to Policy H1 of the adopted local plan is provided at Section 5 of this Proof in terms of the Local Plan Inspector suggested modification to the wording such that it is permissive of the release of sustainable sites outside of the defined built-up area boundaries regardless of there being a 5-year housing land supply, subject to the following criteria being met (CD 3.7):

- The development would adjoin the built up area boundary and be well related with the existing pattern of development and surrounding land uses and of an appropriate scale for the settlement; and
- the development would not lead to prominent intrusion into the countryside or have a significant adverse impact on the character of the countryside; and
- it would have reasonable access by foot, cycle or public transport to schools medical services, shops and other community facilities; and
- the local and strategic infrastructure can meet the additional requirements arising from the development

8.7 The purpose of the Local Plan Inspector's suggested main modification, which was accepted by the Council, was to provide some flexibility to the housing trajectory for the local plan. We turn to each of the four listed criteria below.

### **Relationship to the built up area boundary, pattern of development and settlement of Tunstead Milton**

8.8 The Inspector's decision letter for the Long Lane appeal summarised at Section 4 of this Proof (EP4) addressed the need for a broader definition of 'adjoin' for the purposes of the first bullet point of Policy H1, given the references within the same bullet point to the need for qualifying sites to relate well to the pattern of development and the settlement in question. Paragraph 27 of the Inspector's decision letter states the following:

*"the need to take a wider definition of 'adjoin' (in the sense of being close to) can be embraced by the consideration of whether the site would be well related with the existing pattern of development and surrounding land uses' and whether the development would '.....lead to prominent intrusion into the countryside or have a significant adverse impact on the character of the countryside."*

- 8.9 In this instance, the settlement boundary for Tunstead Milton shown through the adopted local plan extends along the northern side of Manchester Road. The appeal site is only separated from the settlement boundary to the north by the Manchester Road highway itself. The land to the west of the appeal site comprises land associated with a storage building and a residential dwelling (Higher Birches) and a large industrial estate known as Mortens Yard beyond. The land to the east comprises the road serving the reservoir car park with the man-made reservoir embankment beyond.
- 8.10 The perception as one travels through Tunstead Milton along Manchester Road, and from long-distance views from vantage points within the wider countryside, is that the settlement comprises existing built development to both sides of Manchester Road. The existing built development within the settlement extends along the road frontage in a linear fashion. Notwithstanding the identified settlement boundaries, the settlement of Tunstead Milton is very much viewed as comprising the existing residential properties to the northern side of Manchester Road together with Mortens Yard, Higher Birches and Combs Reservoir, which is a man-made feature within the landscape, to the southern side.
- 8.11 The appeal site comprises an infill site within the existing settlement and the linear pattern of built development. It adjoins the identified settlement boundary to the north, existing built development to the west and the road serving the reservoir car park to the east with the embankment to the man-made Combs Reservoir beyond. There is a very strong affinity between the appeal site and the built development and settlement of Tunstead Milton and it has a weak association with the wider open countryside.
- 8.12 The Inspector's appeal decision letter at EP2 for the appeal scheme on land adjacent to no. 141 Manchester Road summarises the linear pattern of built development along Manchester Road. The appeal site at Tunstead Milton relates well to this key characteristic of the existing built development:
- "The linear pattern of development along the road is a strong and distinctive element in the composition and character of this part of the settlement and markedly distinguishes it from the adjacent countryside."*
- 8.13 The strong affinity between the appeal site and the settlement of Tunstead Milton as one passes through is emphasised through the siting of the road sign along Manchester Road welcoming

visitors to the settlement, which is located immediately adjacent to the appeal site. See the image below:

**Image 4: Showing the appeal site to the left hand side of the image adjacent to the Tunstead Milton village sign**



- 8.14 Turning to issues of scale, the scale of development proposed is entirely commensurate with the scale and nature of Tunstead Milton. The number of houses proposed represents a low proportion of the number of existing properties within the settlement and there can be no question that the scale of the development proposed is appropriate for the existing settlement.
- 8.15 Further to the above point, the village of Tunstead Milton is highly constrained in terms of future development opportunities with the settlement boundaries drawn very tightly along the northern side of Manchester Road only. Policy S2 of the adopted local plan recognises the need for 'smaller villages' such as Tunstead Milton to accommodate limited development for housing, economic and community purposes. I am not aware of any infill or previously developed sites within the settlement boundaries available for housing. The appeal site, which is bounded by physical man-made and defensible boundaries and follows the linear pattern of built development through the settlement, arguably represents the only site that could be developed for new housing development without encroaching into areas identified as being at risk of flooding or introducing significantly adverse impacts on the surrounding landscape in terms of stepping beyond the existing pattern of development in the village. The proposed development of six dwellings is consistent with Policy S3 of the adopted local plan, which envisages limited development being permissible within 'smaller villages' such as Tunstead Milton. The appeal decisions summarised at Section 6 of this Proof and appended at **EP2** and **EP3** show that new residential development extending beyond the linear form of built

development along Manchester Road has been found to introduce significantly harmful landscape impacts.

- 8.16 The proposed development satisfies the first bullet point of the windfall policy outlined through Policy H1 of the adopted local plan.

### **Impact on the character of the countryside and landscape impact**

- 8.17 As discussed above, the perception as one travels through Tunstead Milton along Manchester Road and from long-distance views, is that the settlement is a linear settlement, which is very much viewed as comprising the existing residential properties to the northern side of Manchester Road together with Mortens Yard, Higher Birches and Combs Reservoir, which is a man-made feature within the landscape, to the southern side. The appeal site has a strong affinity with the existing built form of Tunstead Milton and is greatly influenced by the heavily trafficked Manchester Road and would maintain this linear form but within the current scale of Tunstead Milton.
- 8.18 I refer to the Proof of Evidence of my colleague, Lynn Jones, regarding landscape matters and the potential impact on the character of the countryside, which includes an assessment of the appeal proposal from a number of close, medium and long-distance viewpoints within the surrounding area (including the Peak District National Park). The points made through Lynn Jones' Proof of Evidence are summarised as follows:
- the scale, grain and variety in the landscape, means that there is the potential for new features to be absorbed with minimal impacts where development is of an appropriate scale, nature and design;
  - the proposed development follows a linear arrangement, which relates well to the ribbon development along Manchester Road, and it would not extend beyond the established pattern of built development;
  - the indicative layout plan shows that the properties would be of a similar density and spacing to development on the opposite side of Manchester Road;
  - the proposed development would comprise infill development on the southern side of Manchester Road with the reservoir to the east providing a clear and defensible boundary to the village on the southern side of Manchester Road;
  - existing properties within the vicinity do not contribute positively to local character and the site is strongly influenced by noise associated with Manchester Road;

- the existing open land associated with the appeal site is not significant in terms of the setting of the village or the overall character of the area;
- the appeal site is well contained and is more connected to the settlement of Tunstead Milton than the wider open countryside;
- the proposal would not appear as an intrusion into the countryside and it would not lead to any significant adverse impact on the character of the immediate area or the wider countryside.

8.19 The proposed development satisfies the second bullet point of the windfall policy outlined through Policy H1 of the adopted local plan.

### **Accessibility to schools, medical services, shops and other community facilities**

8.20 Tunstead Milton benefits from excellent public transport provision with regular and direct bus services along Manchester Road. Future occupiers of the proposed new houses would benefit from the following services from the existing bus stop beyond the road serving the reservoir car park to the east, just 70m away from the appeal site:

- No. 199 'Skyline Bus' between Buxton and Manchester Airport with services commencing at 04:30 and running every half-hour until 23:00 and stopping at key destinations such as Manchester Airport, Stockport town centre, Stepping Hill Hospital and several stops within Whaley Bridge, Chapel-en-le-Frith and Buxton.
- Nos. 38, 39 and 42 Chapel-en-le-Frith High School Bus Service, which picks up children in Tunstead Milton at 08:20 and drops off at 15:12.
- Nos. 398 and 399 Marple Sixth Form College Bus Service, which picks up students in Tunstead Milton at 08:15 and drops off at 16:47.

8.21 The direct and regular bus services summarised above would provide future occupiers with easy and convenient accessibility to the wide range of key services available within Whaley Bridge and Chapel-en-le-Frith. Travel time for the Skyline bus travelling between Tunstead Milton and Chapel-en-le-Frith is approximately 2 minutes in the easterly direction and is approximately 5 minutes to Whaley Bridge in the westerly direction:

- Chapel-en-le-Frith CoE Primary School.
- Whaley Bridge Primary School.
- Taxal & Fernilee CoE Primary School.
- Chapel-en-le-Frith High School.

- A wide range of medical services available at establishments such as Goyt Valley Medical Centre (centres in both Chapel-en-le-Frith and Whaley Bridge), High Peak Dental Care and Chapel Health Centre.
- The wide range of key services and employment opportunities available within the town centres of Chapel-en-le-Frith and Whaley Bridge, which comprise principal market towns of the Borough.

8.22 Key services and employment opportunities beyond Chapel-en-le-Frith and Whaley Bridge are easily accessible by the aforementioned bus services include direct connections to key transport hubs of Stockport, Buxton and Manchester Airport, train stations and access to interconnected services beyond e.g. the metrolink system across Greater Manchester and direct and regular train services to Manchester city centre.

8.23 There are also a number of key services available within walking distance of the appeal site that include the following:

- Combs Reservoir for its recreational opportunities including sailing and canoeing at the Combs Sailing Club and angling (approx. 300m walking distance from the appeal site).
- J.E. Morten Ltd Industrial premises for employment opportunities (approx. 60m walking distance from the appeal site).
- Chapel-en-le-Frith Golf Club (approx. 500m walking distance from the appeal site).
- Hanging Gate Public House (approx. 700m walking distance from the appeal site)
- Access to the public right of way network immediately adjacent to the appeal site for walking and recreational opportunities with destinations such as Combs village, the Peak District National Park boundaries and Chapel-en-le-Frith train station beyond.

8.24 Accordingly, Tunstead Milton is identified through the adopted local plan as a 'Smaller Village' within the settlement hierarchy for the purposes of Policy S2. The adopted local plan envisages limited development within such locations in order to meet housing, economic and community needs of such settlements. Policy S2 of the adopted local plan lists 'Smaller Villages' above 'Other Rural Areas' for the purposes of the settlement hierarchy, which relate to villages with reduced accessibility to key services and other isolated hamlets and groups of dwellings.

8.25 The appeal site is locationally sustainable in relation to key services and community facilities in accordance with the provisions of Policy H1 of the adopted local plan.



8.26 I also make reference to a number of appeal decisions that establish the point that the Framework does not advocate a tick-box approach to assessing accessibility. The definition of sustainable development is more than a narrow tick-boxing exercise. This is particularly the case in rural areas where the NPPF, the PPG and the development plan take a positive approach to new housing in order to support existing services and thriving rural communities. A Secretary of State appeal decision relating to land off Nantwich Road, Tarporley endorses such an approach through the decision letter at **EP10**. Paragraphs 24 and 25 are of particular relevance, which discuss the Inspector's views that sustainability is a '*multi-faceted concept*'. Reference within the letter is made to another appeal decision letter relating to land off Henthorn Road, Clitheroe (see **EP11**) whereby the Inspector concluded as follows:

*"Accessibility is but one element of a sustainable development; it is not synonymous with it. Thus, a proposal can be a sustainable one even if it suffers from limitations in terms of its accessibility by walking, cycling or public transport"* (paragraph 27).

*"There are many other components of sustainability other than accessibility. The concept includes such matters as meeting housing needs in general and affordable housing in particular; ensuring community cohesion; economic development; ensuring adequate provision of local health facilities and providing access for recreation in the countryside. Many of these aspects of the proposed development are uncontested by the Council and are consistent with the concept of sustainability"* (paragraph 28).

8.27 Another appeal decision for 25 dwellings at Brereton Heath, Cheshire takes the same approach (see **EP12** for the decision letter). Emery Planning acted as the agents in this appeal. The Inspector endorsed the Tarporley and Clitheroe decisions referred to above in concluding that a proposal can be sustainable even if it suffers from limitations in terms of accessibility. The Inspector also formed a number of conclusions in relation to sustainable development in rural areas in terms of supporting thriving rural communities, which are relevant here. Refer to paragraphs 25 to 40 of this appeal decision letter in particular.

### **Local Infrastructure impacts**

8.28 There is no evidence to suggest that local infrastructure cannot cope with the number of dwellings being proposed as part of this appeal. There have been no objections from consultees for the planning application and no requests made for contributions towards local infrastructure within the surrounding area e.g. schools, highways and medical services.

### **Summary and conclusion for Proposition 2**

- 8.29 The proposed development is fully compliant with the provisions of Policy H1 of the adopted local plan, which is the principal policy of the development in terms of windfall developments.

### **Proposition 3 – Notwithstanding the proposal constituting acceptable and appropriate development, ‘very special circumstances’ can be demonstrated to justify the grant of planning permission in accordance with Policy C1 of the Chapel-en-le-Frith Neighbourhood Plan and paragraph 78 of the Framework**

- 8.30 Paragraph 78 of the Framework states that local policy for managing development within a Local Green Space should be consistent with policy for Green Belts. Paragraph 87 of the Framework states that inappropriate development is by definition harmful to the Green Belt and should be approved except in very special circumstances in accordance with paragraph 87 of the Framework. Paragraph 88 notes that ‘very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
- 8.31 Policy C1 of the CNP states that development shall not be allowed within LGS except where ‘very special circumstances’ have been demonstrated. Similarly, paragraph 76 of the Framework notes that local communities will be able to rule out new development within LGS other than in very special circumstances. As with Green Belt policy, in order to determine whether very special circumstances exist, it is necessary to ask whether those circumstances weighing in favour of the development ‘clearly outweigh’ any relevant harm. However, whereas in the case of Green Belt ‘substantial weight’ is required to be given to harm by way of inappropriateness and any other Green Belt harm, in the case of Local Green Spaces there is no presumption as to what weight should be given to any particular form of harm. Rather, this requires an individual case-by-case judgment. Therefore, one must return to the question of what purposes the LGS in question serves in the first instance. Table 1 of Policy C1 of the CNP is very clear that there were three reasons why LGS 6 (Land around Combs Reservoir) was considered to be ‘demonstrably special’:

1. Wildlife.
2. Walking and recreation.
3. Tranquility.

8.32 Whilst there was information before the Neighbourhood Plan Inspector which might have justified the designation of other land around Combs Reservoir for these reasons, it is apparent that there was none specifically justifying the conclusion that the appeal site should be included for these reasons. However, as a result of the failure to consult with the Appellant over the inclusion of his land within the designation, this point was not able to be drawn to the attention of the Neighbourhood Plan Inspector. Furthermore, it is noteworthy that where objections were raised in respect of specific areas of land proposed for inclusion within an LGS the Inspector upheld those objections. In my view, had an objection been made to her in respect of this site she would have been likely to reach a similar conclusion.

**Failure to notify the Appellant of the intentions to designate the appeal site as part of a LGS**

8.33 As noted at Section 6, the failure to notify the Appellant of the intentions to designate the appeal site as part of a wider LGS is a fundamental flaw in the CNP and is contrary to the provisions of the PPG. Indeed, the CPC makes no reference to actively engaging the relevant landowners for any of the LGS across the Parish area.

8.34 The basis for designating the appeal site as part of the LGS 6 (Land around Combs Reservoir) is summarised at Section 6 of this Proof. The designation was made on the basis of the following:

- Chapel Vision 2012 survey responses that reference Combs Reservoir and surrounding land in the most generic manner with no reference to any particular parcel of land or indeed the appeal site.
- Public consultation events whereby local residents were able to pinpoint areas of the countryside that they considered to warrant special protection through the CNP. None of the stickers applied to the relevant maps at the events related to the appeal site.
- Comments made to the Consultation Version of the CNP in terms of areas of the countryside that warranted special protection. None of the comments submitted related to Combs Reservoir or land surrounding it.

8.35 There was no basis on which to designate the appeal site as part of a wider LGS. This point is emphasised through the CPC's justification for the designation of LGS 6 (Land around Combs Reservoir), summarised at Table 2 of this Proof. None of the comments made by the CPC in support of this designation can be said to apply to the appeal site. For instance, the comments made include the following and I provide a brief response in bold against each one:

- The LGS has recreational value in terms of canoeing, golf, bird-watching, walking, fishing and sailing - **None of these points apply to the appeal site, which has no authorised public access.**
- The LGS has ecology value with a number of points noted including reference to the Reservoir comprising a SSSI, surrounding fields supporting a range of species and over 40 species of nesting birds and Alder Carr playing a significant role in terms of wider biodiversity networks – **I am not aware of any evidence or assessment carried out by a suitably qualified ecologist to substantiate these points. I refer to the points made further below and the evidence provided by Una Maginn of Avian Ecology, which demonstrates that the appeal site has limited ecological value with the site being intensively grazed as pasture with unsuitable habitats for important and notable species and birds.**
- The LGS benefits from public access – **The appeal site is private ownership with no authorised public access.**
- The LGS is tranquil, particularly the southern end near the feeder stream – **The appeal site adjoins the busy and heavily trafficked B5470 Manchester Road and is influenced by such noise and disturbance and the site is also heavily influenced by the industrial estate known as Mortens Yard, recreational activities on Combs Reservoir and nearby residential properties.**
- Evidence that the LGS is demonstrably special to the local community to local people is in the form of over 50 responses to the Chapel Vision 2012 Surveys – **As noted further above, such responses made in the most generic of terms and do not express support for the designation of the appeal site as part of a LGS.**
- The LGS comprises a tranquil multi-functional space, a major recreational site and supports an amazing variety of wildlife – **There cannot be any basis for suggesting that the appeal site comprises any of these characteristics.**

8.36 The evidence in support of the inclusion of the appeal site as part of a wider LGS is weak and unsubstantiated. It does not in my view stand up to robust interrogation. Had the Appellant been provided with the opportunity to object during the emerging neighbourhood plan process, compelling reasons would have been before the Examiner to demonstrate that the designation does not meet the basic conditions set out through paragraph 8 of Schedule 4B of the Town and Country Planning Act 1990 (as amended). Accordingly, I consider that the designation of the site as part of a LGS6 and Policy C1 of the CNP should be given substantially reduced weight in the circumstances of this case.

8.37 In addition to this, I set out below an overview of the appeal site with regard to the three stated reasons for the designation of the LGS 6 (Land around Combs Reservoir) relating to wildlife, walking and recreation and tranquility with assessment made in terms of the value of the

existing site and how the site would contribute towards such matters in the event that this appeal is allowed.

## Wildlife

### The existing site

8.38 Avian Ecology have undertaken a habitat assessment of the appeal site and their findings are contained within their Biodiversity Management Plan. The existing site can be summarised as follows in terms of its ecological value:

- the appeal site is managed as open grassland by sheep grazing and is in private ownership with no authorised access;
- the land provides some local biodiversity interests and contributes to the wider biodiversity network as species-poor grassland with trees and some gappy hedgerow to the site boundaries;
- although the surrounding area contains a range of habitats of greater value to biodiversity and supports protected and notable species, opportunities for protected or notable species within the appeal site itself are limited due to the intensive grazing regime and the limited habitats present;
- the appeal site provides unsuitable habitat for a number of protected and notable species recorded locally, particularly those associated with the Combs Reservoir SSSI;
- during the planning application process, Derbyshire Wildlife Trust concluded that the site is *"highly unlikely to qualify as a Local Wildlife Site"* and that setting land aside as a Nature Reserve *"could be beneficial to the local area's biodiversity and increase the diversity of the grassland's flowering species by appropriate control of thistle and management of grazing to allow flowering and seed fall"*;
- Derbyshire Wildlife Trust also concluded that the site provides limited opportunity for reptile refugia an existing pond within the appeal site being of poor quality habitat for great nested newts.

8.39 The work undertaken by Avian Ecology represents the only ecological assessment that I am aware of relating to the appeal site. I am not aware of any ecological appraisal underpinning the inclusion of the appeal site within the LGS for ecological purposes. The site has limited ecological value and provides a limited contribution to wider biodiversity network.

8.40 Should this appeal not be successful then the site will remain in private ownership with no authorised access and it will continue to be used for intensive sheep grazing purposes. In such

circumstances, there is no scope for the ecological value of the appeal site or its contribution to the wider biodiversity network to be enhanced.

8.41 In terms of the CPC comments made in relation to LGS 6, summarised at Table 2 of this Proof, the following comments are made in relation to the ecological value of this LGS:

*“Reservoir is noted as being a SSSI. The reservoir and surrounding fields are noted as being home to fish, mammals, amphibians and providing support over 40 species of nesting birds (e.g. Lapwings, Yellow Wagtails). The area of Alder Carr is said to play a significant biological role in hosting species of birds and land to the west of the reservoir is noted as being subject to Higher Level Stewardship agreements with Natural England.”*

8.42 The work undertaken by Avian Ecology demonstrates that the appeal site has no particular value in connection with the reservoir or its status as a SSSI, with no suitable habitat provided for important or notable species such as wetland species and species reliant upon open vistas with clear views (e.g. lapwing).

8.43 I refer to the expert evidence of Una Maggin of Avian Ecology on the detailed assessment of ecological issues.

### **The proposed development**

8.44 The proposed development would result in approximately half of the appeal site (4,898sqm) being set aside as a Nature Reserve to be sustainably managed in perpetuity. The Biodiversity Management Plan prepared by Avian Ecology includes a detailed landscaping scheme that can be summarised as follows:

- Low intensity grassland management regime to increase species diversity and develop more structural variety than currently exists.
- Shrub and tree planting including over 200m of new native species hedgerow.
- Creation of a small orchard area using heritage species.
- Wetland area/pond creation taking advantage of the natural hollow in the land.
- Bird and bat boxes installed on suitable buildings and mature trees.
- Creation of 'refuge' habitat including log piles and two hibernaculae.
- Creation of a 'bug hotel' feature for invertebrates, including pollinating insects.

- Creation of a new west-east footpath access route through the nature reserve linking the existing public footpath with the road serving the reservoir car park to the east and access to the reservoir.
- Provision of a 'wildlife information board' and seating bench for the public within the nature reserve.

8.45 The proposed development would provide new opportunities for breeding, shelter and foraging of a wider range of species from pollinating insects and invertebrates to small mammals, bats and birds.

8.46 The Biodiversity Management Plan prepared by Avian Ecology demonstrates how retained habitat features will be protected during construction works and it sets out a detailed management plan such that the net positive ecological benefits will be secured in perpetuity. The proposed detailed management measures, indicative management schedule and the monitoring procedures are summarised at Tables 4.2 and 7.1 and Section 6 of the Avian Ecology Biodiversity Management Plan.

8.47 The appeal proposal would secure net positive impacts in terms of biodiversity that would not be possible in the event that this appeal fail to succeed. This should be seen within the context of Policies EQ5 and EQ8 of the adopted local plan, paragraphs 109 and 118 of the Framework and Policy C2 of the CNP. Indeed, Policy C2 of the CNP states the following:

*"Proposals which achieve a net biodiversity gain across the Neighbourhood Plan Area will be supported, subject to the other policies of this Plan."*

8.48 Again, I refer to the expert evidence of Una Maggin of Avian Ecology on the detailed assessment of the ecological issues.

## **Walking and recreation**

### **The existing site**

8.49 The appeal site is within private ownership and it is grazed for agricultural purposes. There is no authorised or discretionary access for members of the community or the wider public. The site as it presently exists makes no contribution whatsoever to opportunities for walking and recreation. Furthermore, there is no available dedicated footpath along the southern side of Manchester Road as it extends along the frontage of the appeal site.

- 8.50 Part of the appeal site also incorporates grassed land in-between the road serving the reservoir car park to the east of my client's land and extending up to an existing bus stop located on the same side as Manchester Road, approximately 70m further beyond. The bus stop in question is presently served by a small area of hardstanding adjacent to the existing highway, which is effectively an 'island' with grass verge to either side. Members of the community, including school children using the special school services (nos. 38, 39, 42, 398, 399 – see paragraph 8.18 of this Proof) and visitors to the area must presently cross Manchester Road, which is a particularly busy and heavily trafficked route with vehicles travelling at high speeds, in order to access a safe and dedicated footway clear of the highway. Visibility to oncoming traffic from the easterly direction is undermined a bend in the road meaning that crossing the road is not desirable or safe for those with mobility issues such as the elderly or those with a pushchair.
- 8.51 A visitor to Combs Reservoir alighting the bus from the Buxton/Chapel-en-le-Frith direction must therefore first cross Manchester Road and then walk in a westerly direction before crossing the road once again in order to access Combs Reservoir and the public rights of way network. An alternative route is to walk along the existing grass verge, which does not comprise a safe route in such close proximity to the highway and is clearly not desirable for those with mobility issues or those with pushchairs.
- 8.52 The comments made by the CPC in relation to the recreational value of LGs 6 (Land around Combs Reservoir) can be summarised as follows (see Table 2 of this Proof):
- walking;
  - fishing;
  - sailing;
  - canoeing;
  - golf; and
  - bird-watching.
- 8.53 The appeal site makes no contribution whatsoever to any of the activities referenced through the consultation process for the CNP.



### **The proposed development**

- 8.54 The appeal proposal would result net positive impacts in terms of walking and recreation as a result of the following:
- a new publicly accessible footpath through the proposed Nature Reserve that would link the existing two public rights of way either side of the appeal site;
  - a new dedicated and safe footway extending approximately 70m along the southern side of Manchester Road in-between the road serving the reservoir car park to the east and the existing bus stop beyond where there is presently grass verge; and
  - a new dedicated and safe footway extending along the entire frontage of the appeal site.
- 8.55 The new footpath through the Nature Reserve would link two existing public rights of way either side of the appeal site. The publicly accessible Nature Reserve would form a short circular walk for members of the local community whereby the new areas of tree/hedgerow planting and areas of new habitat (e.g. pond) can be appreciated. There is the opportunity for information boards to be provided within the Nature Reserve informing of members of the community of the habitats that have been created and what species may be viewed as a result of the proposed development. Furthermore, there is scope for local schools to utilise the Nature Reserve as part of educational classes relating to wildlife and habitats.
- 8.56 The new Nature Reserve would create a shared recreational community space with the potential for incidental meetings between members of the community. This attracts particularly positive weight in the decision-making process given that there is presently no such community space within the settlement of Tunstead Milton for members of the public to utilise.
- 8.57 The proposed new footway in-between the road serving the reservoir car park to the east and the existing bus stop would facilitate safe and convenient access for visitors to the area to Combs Reservoir and the wider public right of way network. Users of the bus stop would thereby be able to walk along the southern side of Manchester Road and cross the busy road where there is much better visibility to oncoming traffic from the easterly direction as vehicles emerge from the bend in the road.
- 8.58 The new footway would benefit the tourism and visitor industry for the local area and beyond and it would allow school children and other local residents to safely and conveniently access the available bus services.

8.59 The proposed development would result in significant net positive impacts in terms of the walking and recreation, which is noted as being one of the reasons why the community considers land around Combs Reservoir to be demonstrably special. These benefits should be seen within the context of Policy C3 of the CNP, which states the following:

*"In any new developments, provision should be made to extend the routes for walkers and cyclists, including, where possible, routes linking into the countryside network as well as into the town and to accommodate people of all ages and abilities, including those with push chairs and wheel chairs."*

## **Tranquility**

### **The site as it presently exists**

8.60 The appeal site frontage, which would be developed for the erection of up to 6 dwellings and associated works, is not informed by a quiet and tranquil setting. It is heavily influenced by the following:

- Manchester Road B5470 to the immediate northern boundary;
- Existing residential properties to the immediate western boundary and beyond Manchester Road to the north;
- Mortens Yard, which is an industrial premises, approximately 60m to the west of the appeal site.
- Noise associated with the recreational activities taking place on and around Combs Reservoir to the east of the appeal site (e.g. sailing and canoeing).

8.61 The B5470 Manchester Road is the principal route between Chapel-le-Frith and Macclesfield within the boundaries of Cheshire East approximately 12 miles to the west. It is a heavily trafficked route for commuters, tourist and commercial traffic with vehicles travelling at speed through Tunstead Milton. The only available traffic census data that I am aware of along the B5470 is within Kettleshulme, a village approximately 3m to the west and beyond Whaley Bridge to the east of Tunstead Milton; the website [www.uktrafficdata.info](http://www.uktrafficdata.info) shows the following average daily flows along the B5470 for the year 2014 from this census point:

- 4,077 cars.
- 519 light goods vehicles.
- 112 heavy goods vehicles.

- 30 motorcycles and mopeds.
- 35 buses and coaches.

8.62 The appeal site is heavily influenced by the noise and associated activities in connection with such regular traffic movements that include heavy goods commercial vehicles and large tourist buses.

8.63 The industrial estate known as Mortens Yard approximately 60m to the west of the appeal site accommodates a company known as J.E. Morten Ltd, which manufactures liquid animal feeds and urea solutions for the reduction in pollution in the haulage industry. The manufacturing plant creates a certain amount of background noise and disturbance given the nature of the processes involved. It also supports the employment a number of staff with between 5 and 10 HGVs usually on the site at any one time with significant comings and goings.

8.64 There are a number of recreational activities available on Combs Reservoir with opportunities for sailing and canoeing in association with the Combs Sailing Club and competitive events taking place twice weekly with training on other days. There is also an angling club (Prince Albert Angling Society) that uses the reservoir and a number of public rights of way around the water itself. There are a range of recreational activities emanating from the reservoir that creates a certain amount of noise and disturbance.

8.65 We would refer back to the comments made by the CPC in respect of LGS 6 (Land around Combs Reservoir) (see Table 2 of this Proof). In relation to the question relating to tranquility, the CPC answered that the southern end of the LGS near the canal feeder stream was particularly tranquil. Although it may well be the case that much of the LGS is tranquil, the same cannot be said of the appeal site area for the reasons outlined above.

### **The proposed development**

8.66 The proposed development of the site for six dwellings and a new Nature Reserve would not have any material impact on the tranquility of the LGS.

### **Summary and conclusion for Proposition 3**

8.67 Today the appeal site comprises intensively grazed sheep pasture within private ownership and with no authorised public access. The site has limited ecological value and makes a limited contribution towards the wider biodiversity network. In terms of tranquility, the site is heavily

influenced by its location adjacent to the busy and heavily trafficked B5470 Manchester Road and in close proximity to Mortens Yard Industrial Estate, the recreational activities taking place at Combs Reservoir and nearby residential properties.

8.68 Furthermore, the existing bus stop beyond the road serving the reservoir car park to the east of the appeal site does not benefit from any safe and convenient dedicated footway along the southern side of the B5470 Manchester Road. This undermines the accessibility of Tunstead Milton for visitors to Combs Reservoir and the surrounding area and school children and other local residents with mobility issues.

8.69 The appeal site makes a very limited contribution, or no contribution at all, to the three stated main purposes of designated the site as part of a wider LGS.

8.70 Should the appeal not be successful then the site will remain in its existing state as heavily grazed pasture land within private ownership and with no authorised public access.

8.71 This Proof of Evidence, alongside the evidence of Una Maggin of Avian Ecology, demonstrates clear and overriding benefits associated with the appeal proposal that outweigh any potential harm associated with the development of a modestly sized strip of a much larger LGS. I undertake a planning balancing exercise at Proposition 5 of this Proof of Evidence, and the benefits can be summarised as follows:

- The provision of a new shared community space (Nature Reserve) for residents of Tunstead Milton with accessible opportunities for walking, recreation and incidental social meetings with other members of the community. There is no such shared community space within the settlement. **Significant benefit.**
- The provision of a dedicated footway along the southern side of the B5470 Manchester Road between the existing bus stop and the road serving the reservoir car park to the east and across the appeal site frontage. This will facilitate safe and convenient for visitors to access Combs Reservoir and the wider public right of way network and will enable local school children (and other members of the community, including those with mobility issues) to cross the busy and heavily trafficked B5470 further along Manchester Road where there is enhanced visibility of oncoming traffic to the east. **Significant benefit.**
- The provision of a new Nature Reserve that would secure net positive impacts in terms of the ecological value of the site and its contribution to wider biodiversity networks. These benefits will be secured in perpetuity through the detailed management plan provided by Avian Ecology and are only possible as a result of the proposed development. **Significant benefit.**

- The delivery of new housing within Tunstead Milton that would add quality and quantity to the local housing market. This should be seen within the context of the appeal site comprising the only logical infill opportunity within or surrounding the settlement. The appeal proposal represents the only way in which the housing, economic and community needs of Tunstead Milton can be addressed without incurring significant landscape impacts into the surrounding open countryside. **Significant benefit.**
- The provision of a sum equivalent to £35,550.00 for the Council to use for affordable housing provision within the surrounding area. **Significant benefit.**
- The proposed new houses would be built to energy efficiency standards equivalent to the Code for Sustainable Homes Level 5. **Significant benefit.**
- Two of the proposed dwellings would comprise live/work units whereby occupiers are able to secure a continuing ratio between workspace and living space. **Positive benefit.**
- The provision of a New Homes Bonus and increased council-tax receipts. **Positive benefit.**

8.72 The above set of circumstances should be balanced against the harm associated with the presumption against new development within a LGS as outlined through paragraph 76 of the Framework. It is considered that the harm associated with the proposed development is limited given the very limited contribution that the appeal site makes towards the three stated reasons for designating it is part of a wider LGS and the failure of the CPC to notify the Appellant of their intentions to designate the appeal site as such.

8.73 The benefits associated with the proposed development when taken as a whole very clearly outweigh the limited harm that would occur to the LGS in the first instance. This is particularly the case given that the appeal proposal would result in net positive impacts to two of the stated reasons for designating the appeal site as part of a wider LGS:

- 1) Wildlife: **Significant net positive impacts.**
- 2) Walking and recreation: **Significant net positive impacts.**
- 3) Tranquility: **The appeal proposal would not have any material impact on this stated reason.**

8.74 Finally, the benefits in terms of providing opportunities for public access, outdoor recreation and enhancements to biodiversity should be seen within the context of paragraph 81 of the Framework. The appeal proposal would result in the beneficial use of the LGS for the purposes

of this paragraph, which should be supported positively by local planning authorities in accordance with this paragraph. This weighs heavily in favour of granting planning permission.

- 8.75 All of the points made above should be seen within the context of the clear failure of the CPC to inform the Appellant of their intentions to designate the appeal site as part of a wider LGS. This is a fundamental flaw in the CNP. Had the opportunity been provided then the Appellant would have been in a position to highlight the compelling reasons, outlined within Proposition 3 of this Proof, for the deletion of the appeal site from the LGS. This fundamental failing of the CNP should be taken into account when considering the weight to be given to the designation of the site and Policy C1 of the CNP and also in determining whether very special circumstances exist to clearly outweigh any harm to the purposes of the designation.
- 8.76 In my view, whatever weight is given to the designation of the land as a LGS, the matters above demonstrate that there are 'very special circumstances' sufficient to justify the grant of planning permission in accordance with Policy C1 of the CNP and paragraphs 76-78 of the Framework.

**Proposition 4 - Any harm associated with the impact on the character and distinctiveness of the area is outweighed by the benefits associated with the appeal proposal**

- 8.77 I refer to Proposition 2 of this Proof whereby it is established that the appeal site enjoys a strong affinity with the built-up settlement of Tunstead Milton. The site comprises an infill opportunity with well-defined and defensible development to both side boundaries. The proposed development would relate well to the linear pattern of built development that already exists along Manchester Road.
- 8.78 I also refer to the evidence presented by my colleague Lynn Jones with respect to landscape matters and the potential impact on the character and appearance of the countryside. A summary of Lynn Jones' Proof of Evidence is provided at paragraphs 8.17 to 8.19 of my Proof.
- 8.79 The proposed development would in my view result in very limited, if any, harm to the character and appearance of the area and the wider countryside.

**Proposition 5 – The proposal represents a high quality development in a sustainable location which would deliver a range of social, economic and environmental benefits in accordance with paragraph 7 of the NPPF**

8.80 The Framework includes a presumption in favour of sustainable development which should be seen as a golden thread running through both plan-making and decision taking (paragraph 14). Having assessed the various planning considerations, I assess the appeal against the three roles that comprise sustainable development as set out in paragraph 7 of the Framework:

**An economic role**

8.81 The proposed development would support construction-related jobs as a direct consequence and it would have positive impacts on the supply-chain with increased householder spend on the local economy on goods and services. The proposal would also bring about a New Homes Bonus Payment and a boost in council-tax receipts.

8.82 The economic role of sustainable development is met.

**A social role**

8.83 The evidence of my colleague Ben Pycroft has demonstrated that there is a compelling need for open market and affordable housing across the Borough. The Council is not ensuring that sufficient land of the right type is available in the right places and at the right time. The appeal proposal seeks to address the identified shortfall in deliverable housing land and it will add much-needed quality and quantity to the local housing market. This attracts significantly positive weight in the decision-making process.

8.84 Furthermore, the provision of a sum equivalent to £35,550.00 will be transferred to the Council as a result of the proposed development for affordable housing provision within the surrounding area. There is a significant shortfall in affordable housing provision across the Borough. The commuted sum to be provided thereby attracts significantly positive weight in the decision-making process.

8.85 The proposed Nature Reserve would secure a shared community space for the benefit of residents of Tunstead Milton that would be accessible for all members of the public. It would provide opportunities for walking, recreation and incidental social meetings. There are presently no such shared community spaces within the settlement for local residents to use and this attracts significantly positive weight in the decision-making process.

- 8.86 The provision of a safe and dedicated footway, extending along the Manchester Road frontage encompassing the appeal site and land beyond the reservoir car park road to the east to the bus stop, would provide safe and convenient access for visitors to the area and local residents, including school children using the special school bus services and those with mobility issues such as the elderly. This attracts significantly positive weight in the decision-making process.
- 8.87 The appeal proposal would help to support the broader sustainability of the local community through the erection of family-sized houses. As noted in the PPG, rural housing is essential to ensuring the viable use of local facilities in rural communities. In this instance, the proposal would help to sustain services such as the Hanging Gate Public House and the excellent bus services available along Manchester Road. This attracts significantly positive weight in the decision-making process.
- 8.88 The significant positive social benefits arising as a result of the proposed development should be seen within the context of the appeal site arguably comprising the only deliverable infill plot within the settlement of Tunstead Milton, albeit to the edge of the identified settlement boundaries, which would not result in significantly harmful landscape impacts. The ability of the village, identified for limited development through the adopted local plan, to meet the needs of the community is highly constrained by the designated open countryside and areas at high risk of flooding. The expansion of the village beyond the northern, southern, eastern or western extent of the existing built development of Tunstead Milton is likely to incur significantly harmful landscape impacts. This is reflected in the appeal decision letters for two residential developments along Manchester Road whereby the Inspector concluded that extending beyond the existing linear form of built development would introduce significantly harmful landscape impacts (see the appeal decisions at **EP2** and **EP3** and summarised at Section 4 of this Proof).
- 8.89 The above should also be seen within the context of the objectives of the CNP, which include the following:
- “Providing sufficient new homes for local housing needs, to enable young people and families to buy their first home and subsequent homes within the Parish.”*
- 8.90 The social role of sustainable development is met.



### **An Environmental Role**

- 8.91 The expert evidence of Una Maggin is that the appeal site as it presently exists as limited ecological value and makes limited contribution to the wider biodiversity networks. The site is in private ownership and is grazed for sheep. There is no prospect in the absence of the development proposed for the ecological value of the site to be enhanced.
- 8.92 Conversely, the appeal proposal would result in significant net positive impacts in terms of the ecological value of the site and its contribution towards wider biodiversity networks. These net benefits would be secured in perpetuity through the detailed and robust management procedures and schedule and monitoring arrangements proposed through the Biodiversity Management Plan, prepared by Avian Ecology. The net overall enhancement to the ecological value of the site attracts significantly positive weight in the decision-making process.
- 8.93 It has been established through my Proof of Evidence and the evidence presented by my colleague, Lynn Jones, that the appeal proposal would result in very limited, if any, harm to the character and appearance of the area and the wider countryside.
- 8.94 The proposed development would result in the loss of four trees along the Manchester Road frontage, which are assessed by Cheshire Woodlands through their September 2015 report (ref: CW/7645-AS1) as being of moderate quality. The removal of these trees did not attract an objection to the proposed development from the Council's Arboricultural Officer. The limited harm associated with the removal of these trees would be outweighed by the opportunities for new tree planting within the new Nature Reserve area proposed. Trees will be replaced on a more than '2 for 1' basis across the site. There would be no net overall harm associated with the removal of the trees in question.
- 8.95 The proposed development would also result in the removal of the existing hedgerow that extends along the appeal site frontage. The report prepared by Cheshire Woodlands ((ref: CW/7645-AS1 – September 2015) concludes that this hedgerow is partly poor, partly moderate and partly good in quality. The hedgerow is gappy with sparse areas and there is evidence that elements have been colonised by ivy. The visual prominence of the hedgerow within the landscape is assessed by Cheshire Woodlands as being low.
- 8.96 The loss of the frontage hedgerow would result in limited visual and landscape harm. Such harm would be mitigated through the replacement hedgerow further back from the Manchester

Road frontage together with the opportunities for new tree planting within the new Nature Reserve area proposed. The proposed development would also result in the planting of over 200m of new hedgerow across the site. There would be no net overall harm associated with the removal of the hedgerow in question.

- 8.97 The proposed new houses would be built to energy efficiency standards equivalent to the Code for Sustainable Homes Level 5 with significant benefits thereby arising in terms of sustainability. This attracts significantly positive weight in the decision-making process given the Ministerial Statement of 25<sup>th</sup> March 2015 (**EP13**), which makes it clear that new development proposals need only meet the minimum statutory building regulations standards, presently equivalent to the Code for Sustainable Homes Level 3, in order to be acceptable in planning terms.

### **The Planning Balance**

- 8.98 In this Proof of Evidence I have assessed the various planning considerations. For the purposes of paragraph 14 the benefits from the appeal are as follows:

- The provision of a new shared community space (Nature Reserve) for residents of Tunstead Milton with accessible opportunities for walking, recreation and incidental social meetings with other members of the community. There is no such shared community space within the settlement. **Significant benefit.**
- The provision of a dedicated footway along the southern side of the B5470 Manchester Road between the existing bus stop and the road serving the reservoir car park and across the appeal site frontage. This will facilitate safe and convenient for visitors to access Combs Reservoir and the wider public right of way network and will enable local school children (an other members of the community, including those with mobility issues) to cross the busy and heavily trafficked B5470 further along Manchester Road where there is enhanced visibility of oncoming traffic to the east. **Significant benefit.**
- The provision of a new Nature Reserve that would secure net positive impacts in terms of the ecological value of the site and its contribution to wider biodiversity networks. These benefits will be secured in perpetuity through the detailed management plan provided by Avian Ecology and are only possible as a result of the proposed development. **Significant benefit.**
- The delivery of new housing within Tunstead Milton that would add quality and quantity to the local housing market. This should be seen within the context of the appeal site comprising the only logical infill opportunity within or surrounding the settlement. The appeal proposal represents the only way in which the housing, economic and community needs of Tunstead Milton can be addressed without incurring significant landscape impacts into the surrounding open countryside. **Significant benefit.**

- The provision of a sum equivalent to £35,550.00 for the Council to use for affordable housing provision within the surrounding area. **Significant benefit.**
- The proposed new houses would be built to energy efficiency standards equivalent to the Code for Sustainable Homes Level 5. **Significant benefit.**
- Two of the proposed dwellings would comprise live/work units whereby occupiers are able to secure a continuing ratio between workspace and living space. **Positive benefit.**
- The provision of a New Homes Bonus and increased council-tax receipts. **Positive benefit.**

8.99 Against this range of significant benefits are the following adverse impact arising as a result of the proposed development:

- The development of a strip of land associated with a wider LGS, which makes very little contribution towards the stated reasons why the community considers the LGS to be demonstrably special, and which has been designated without providing the Appellant with the opportunity to object. **Limited adverse impact.**
- Very limited, if any, harm to the character and appearance of the area and the wider countryside.

8.100 The adverse impacts summarised above would not demonstrably and significantly outweigh the range of significant benefits that are proposed and can be delivered as part of this appeal proposal.

8.101 Therefore to conclude, the proposed development meets the criteria in Framework and is sustainable development. On that basis, the presumption is in favour of the proposed development and planning permission should be granted accordingly.

**Proposition 6 - There are no other site specific or policy considerations which would prevent planning permission from being granted in accordance with the guidance in paragraph 14 of the NPPF**

8.102 The Council's Statement of Case states that the appeal proposal would conflict with Policies S2, S3, S6 and EQ3 of the adopted local plan. I would respond as follows:

- Policy S2 of the adopted local plan is permissive of limited development to meet the needs of 'smaller villages' such as Tunstead Milton. This policy should be read within the context of the windfall policy set out within Policy H1 of the adopted local plan. There is no conflict with Policy S2 of the adopted local plan.

- Policy S3 of the adopted local plan makes it clear that the Chapel Neighbourhood Plan should deliver a minimum number of 850 dwellings, in addition to the small sites allowance, over the plan-period. In accordance with the provisions of paragraph 47 of the NPPF and the presumption in favour of sustainable development, there is no suggestion that this figure should be seen as a ceiling to new housing development. There is no conflict with Policy S3 of the adopted local plan.
- There is no basis for suggesting that the appeal proposal is contrary to the sub-area strategy for the central area as set out within Policy S6 of the adopted local plan, which includes objectives such as promoting and maintaining the distinct identity of the market and mill towns and providing for housing needs of the community by planning for sustainable housing developments. There is no conflict with Policy S6 of the adopted local plan.
- Policy EQ3 of the adopted local plan is permissive of new housing development within the open countryside that accords with Policy H1 of the adopted local plan. There is no conflict with Policy EQ3 of the adopted local plan.

8.103 All other aspects of the proposed development including matters relating to design, flooding and drainage, ecology, arboriculture and highways access design were all agreed through the planning application. I have sought to agree these matters with the Council as part of the statement of Common Ground.

8.104 The Council's Statement of Case states that the appeal proposal would conflict with Policies H1 and H2 of the CNP. We discuss perceived conflict with the CNP below.

8.105 I have provided an overview of the Crane Judgment (CD6.1) at Section 5 of this Proof. Mr Justice Lindblom found that the development in question was contrary to the Broughton Astley Neighbourhood Plan on the basis that it did not comprise an allocated housing site for the purposes of Policy H1 or a smaller windfall site for the purposes of Policy H2. However, this Judgment was made within the set of circumstances before Mr Justice Lindblom:

- The site in question had been fully considered by the Parish Council through the site-selection process for the purposes of Policy H1 through the drafting of the Neighbourhood Plan. It had been discounted on the basis of it being too remote from the village centre. Further to Mr Crane actively promoting the site for residential development through the neighbourhood plan preparation process, the Parish Council had already rejected the site as a housing allocation.
- Policy H1 of the Neighbourhood Plan allocated two sites for 500 dwellings with a further reserve site for 28 dwellings to come forward only in the event that the phasing arrangements for the 500 dwellings did not come forward as proposed. This policy was worded such that this was the maximum permissible number of housing (paragraph 42 of the Judgment) within the context of the Neighbourhood Plan explicitly stating that facilities and amenities within the Parish were already stretched and that "housing

*should not be built before additional facilities are provided."* Policy H1 stated that the identified number of housing should be delivered simultaneously with new infrastructure to include a supermarket, medical centre, recreational and community open space.

8.106 The appeal proposal is fundamentally different to the case that was the subject of the Crane Judgment for a number of reasons that are discussed below.

8.107 Firstly, the Chapel-en-le-Frith Neighbourhood Plan does not provide for a ceiling in terms of new housing development in any way. The vision statement for the CNP includes the provision of affordable and quality homes to provide for local needs and the objectives of the plan include providing sufficient new homes to enable young people and families to buy their first home and subsequent homes within the Parish. The introductory text to the Housing Section of the CNP (Section 1) makes it clear that the provision of new housing enables people to remain within the Parish with benefits to the community including additional residents supporting and sustaining local businesses and facilities. The CNP thereby provides for a minimum number of new housing.

8.108 The Chapel-en-le-Frith Neighbourhood Plan is fundamentally different to the Broughton Astley Neighbourhood Plan in that the latter was explicit in restricting further housing development, which was not in accordance with Policies H1 and H2, in the interests of local services that were '*already stretched*'. There is no basis in principle for resisting further housing development within the Parish area of Chapel-en-le-Frith and the CNP is written in this way.

8.109 Secondly, my client's appeal proposal was not promoted as a housing site through the preparation process for the CNP and it has not already been discounted as a potential housing option by the Parish Council.

8.110 Thirdly, the development plan should be read as a whole and the provisions of the CNP should be read alongside the adopted local plan. I have provided an overview of the background to Policy H1 of the adopted local plan at Section 5 of this Proof. It is important to note that the Local Plan Inspector's suggested main modification regarding this policy was published through a letter (October 2015) some three months subsequent to the referendum for the CNP taking place (July 2015). The Council accepted the Inspector's suggested modification to Policy H1 of the adopted local plan such that it is permissive of windfall sites beyond the settlement boundaries of the Borough, subject to certain criteria. Paragraph 67 of the Local Plan Inspector's report makes it clear that Policy H1 of the adopted local plan is the principal policy

dealing with windfall housing, which is a point noted by the Inspector for the Long Lane, Chapel-en-le-Frith appeal decision **(EP4)**:

*"In a suggested main modification the Council has proposed several changes to Policy H1 which is the principal policy dealing with windfall housing" (paragraph 67 of the Local Plan Inspector's report).*

- 8.111 With due regard for the points outlined above, the appeal proposal would not conflict with Policy H1 of the CNP as it is not an allocated housing site and was not considered as such through the CNP preparation process. Furthermore, the appeal proposal does not comprise a 'smaller site' for the purposes of Policy H2 of the CNP i.e. a scheme within the settlement boundaries of fewer than six dwellings. It has been demonstrated through this Proof that the proposal is compliant with the windfall policy set out within Policy H1 of the adopted local plan.
- 8.112 In any event, the Council cannot demonstrate a five-year housing land supply and Policies H1, H2 and C1 of the CNP are out-of-date accordingly for the purposes of paragraphs 49 and 14 of the Framework.
- 8.113 Accordingly, in my view permission should be granted on the basis that the development accords with the development plan (NPPF para. 14, first bullet point) or, alternatively, on the basis that the adverse impacts of granting consent would not significantly and demonstrably outweigh the benefits and no specific policies indicate otherwise (NPPF para. 14, second bullet).

**Proposition 7: The proposed development will provide for the necessary infrastructure and/or financial contributions to meet the needs arising from the development**

- 8.114 There is no evidence to suggest that the proposed development would place undue and unacceptable pressure on local infrastructure provision.
- 8.115 The proposed area of open space (Nature Reserve) would be the subject of robust management, as detailed through the Biodiversity Management Plan prepared by Avian Ecology. This can be secured through an appropriately worded planning condition. Equally, the provision of the new dedicated footway extending along the southern side of Manchester Road and up to the existing bus stop beyond the road serving the reservoir car park can also be secured through an appropriately worded planning condition.

8.116 In terms of affordable housing, we have agreed with the Council to provide a commuted sum equivalent to £35,550.00 for the Council to use for off-site affordable housing provision within the area. This satisfies Policy H4 of the adopted local plan and will be subject to a S106 legal agreement.

## 9. Summary and conclusions

- 9.1 This Proof of Evidence is submitted on behalf of the Appellant in support of planning appeal APP/H1033/W/16/3147726.
- 9.2 In the first instance, this Proof demonstrates that the appeal proposal is fully compliant with the provisions of the development plan. There is no conflict with the provisions of the adopted local plan or the Chapel-en-le-Frith Neighbourhood Plan. Planning permission should thereby be granted without delay in accordance with paragraph 14 of the Framework.
- 9.3 Furthermore, Mr Pycroft's evidence demonstrates that there is a significant shortfall in deliverable housing land as required by paragraph 47 of the Framework. New housing is required across the Borough now in order to address the identified shortfall. In such circumstances, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits in accordance with paragraph 14 of the Framework.
- 9.4 I have undertaken the planning balancing exercise at Proposition 5 of this Proof of Evidence and conclude that the limited harm associated with the development of part of a Local Green Space designation, together with the limited, if any, harm to the character and appearance of the area and wider countryside as a result of the proposal, would not significantly and demonstrably outweigh the range of significant and overriding benefits associated with the appeal proposal.
- 9.5 In the event that the Inspector finds there to be a five-year housing land supply contrary to Mr Pycroft's evidence and disagrees with my position that there is no breach with the development plan, then the planning balance at Proposition 5 of this Proof of Evidence shows that the sustainable benefits associated with the appeal proposal outweighs any such perceived conflict in any event.
- 9.6 I respectfully request therefore that the appeal is allowed and planning permission granted for the development proposed.



## 10. Appendices

- EP1** Location plan, indicative layout plan and officer's report for planning application HPK/2014/0210 (129 Manchester Road, Chapel-en-le-Frith)
- EP2** Location plan, indicative layout plan and appeal decision letter for planning application HPK/2013/0263 (141 Oldcourt, Manchester Road, Chapel-en-le-Frith).
- EP3** Location plan, indicative layout plan and appeal decision letter for planning application HPK/2013/0705 (Land to the rear of Meadow Lodge, Tunstead Milton).
- EP4** Location plan, indicative layout plan and appeal decision letter for planning application HPK/2015/0058 (Land off Long Lane, South of Chapel-en-le-Frith High School, Chapel-en-le-Frith).
- EP5** Location Plan relating to Wardell Armstrong Landscape Impact Assessment of Additional Sites (August 2014).
- EP6** Letter dated from Chapel Parish Council 7<sup>th</sup> October 2016; Emery Planning email exchange with the Clerk of Chapel Parish Council 10<sup>th</sup> October 2016 – 11<sup>th</sup> October 2016; Emery Planning email to Chair of Chapel Vision 11<sup>th</sup> October 2016.
- EP7** Summary of responses with respect to land around Combs Reservoir further to the Chapel Vision Survey 2012 (provided by the parish Council).
- EP8** Comments made by interested parties to the Chapel-en-le-Frith Neighbourhood Plan Consultation Version with respect to land around Combs Reservoir (Provided by the Parish Council).
- EP9** High Peak Borough Council response to the Consultation Version of the Chapel Neighbourhood Plan with respect to LGS 6.
- EP10** Appeal decision APP/A0665/A/11/2167430 relating to land at Nantwich Road, Tarporley.
- EP11** Appeal decision APP/T2350/A/11/2161186 relating to land at Henthorn Road, Clitheroe.
- EP12** Appeal decision APP/R0660/A/13/2192192 relating to land at Brereton Heath, Cheshire.
- EP13** Ministerial Statement March 2015.