

WEST LANCASHIRE LOCAL PLAN AND
BURSCOUGH PARISH NEIGHBOURHOOD
PLAN – RED CAT LANE, BURSCOUGH

ADVICE

David F Delaney
Legal Assistant (Planning)
West Lancashire Borough Council

WEST LANCASHIRE LOCAL PLAN AND BURSCOUGH PARISH NEIGHBOURHOOD
PLAN – RED CAT LANE, BURSCOUGH

ADVICE

Introduction

1. I am asked in this case to advise West Lancashire Borough Council (“the Council”) in relation to how it should approach the question of a potential conflict between policy in the West Lancashire Local Plan 2012-2027 (“WLLP”) and the Burscough Parish Neighbourhood Plan (“BPNP”) in the light of an expected planning application which will seek to exploit that conflict to the advantage of the prospective applicant.
2. The WLLP was adopted in October 2013. The relevant starting point for present purposes is Policy GN2: Safeguarded Land. This policy provides that the land identified on the Policies Map as safeguarded land is within the settlement boundaries but will be protected from development and planning permission will be refused for development proposals which would prejudice the development of this land in the future.
3. The policy then goes on to explain that the safeguarding is necessary for one of two following reasons. The first is where the land is allocated for what is called the “Plan B” in which case the land will be safeguarded from development for the needs of the “Plan B” should it be required. If the “Plan B” is not required, then the land will be safeguarded from development until 2027 for development needs beyond 2027. The “Plan B” is essentially a reserve or contingency designed to come into play in the plan period if allocated sites fail to deliver the required amount of development to meet needs in that period.
4. The second reason for safeguarding is where the land is safeguarded for development for needs beyond 2027, in which case the sites comprising such safeguarded land will

only be considered for development after 2027 if there is not a sufficient supply of other suitable sites within the settlement boundaries to meet any identified needs at that time.

5. Policy GN2 finally identifies the sites which are safeguarded, breaking them down into (a) the "Plan B" sites and (b) the sites safeguarded until 2027 with, in each case, the potential capacity of the site for housing and/or employment also being shown. One "Plan B" site is identified in Burscough, namely, land at Red Cat Lane shown to have a potential capacity for 60 dwellings. It is this site (shown on the WLLP Policies Map as a GN2(a) Safeguarded Land "Plan B" Site) which is the particular focus of concern in the present case. For completeness, I ought to add that Policy GN2 also identifies a site in Burscough within the second safeguarded land category (safeguarded until 2027), that being land at Yew Tree Farm shown to have a potential capacity for 500 dwellings and 10ha of employment land.
6. Policy GN2 must be read alongside Policy RS6: A "Plan B" for Housing Delivery in the Local Plan of the WLLP. Policy RS6 provides that the "Plan B" sites safeguarded in Policy GN2 will only be considered for release if one of three triggers (which are then set out) is met. The triggers relate to a failure to meet 80% of the pro-rata housing target at the 5 year review point, a failure to meet 80% of the pro-rata housing target at the 10 year review point and an increase in the housing target as a result of new evidence.
7. None of the triggers is presently applicable. Nevertheless, [REDACTED] [REDACTED] are pressing the case that the present release of part of the "Plan B" safeguarded land site at Red Cat Lane for residential development (a proposed [REDACTED] dwelling scheme) would be consistent with the development plan. Their argument is that Policy BPH1: New Residential Development of the BPNP supports the present development of the site in principle and that, while this policy conflicts with policies GN2 and RS6 of the WLLP, Policy BPH1 of the BPNP must be given precedence on the basis of section 38(5) of the Planning and Compulsory Purchase Act 2004 ("the PCPA 2004").
8. Section 38(5) of the PCPA 2004 provides that "[i]f to any extent a policy contained in a development plan for an area conflicts with another policy in the development plan

the conflict must be resolved in favour of the policy which is contained in the last document to become part of the development plan."

9. The BPNP was "made" (using the language of section 38A of the PCPA 2004) by the Council on 26th July 2019. And it is, of course, part of the development plan for Burscough: see 38(3)(c) of the PCPA 2004.

10. Policy BPH1 provides that "*[n]ew residential development within the existing settlement boundary of Burscough will be supported providing it meets, where relevant, the following criteria:*
 1. *It has good access or the potential to improve access by alternative modes of travel to local services and facilities;*
 2. *It includes housing of a mix, tenure and size that meets identified needs in line with Policy BPH2: Housing Mix;*
 3. *It is appropriate in scale and design to its local context and adjacent properties;*
 4. *It provides or contributes towards the provision of infrastructure made necessary by the development or where it gives rise for a need for additional or improved infrastructure in line with Policy BPI1: Development and Infrastructure; and*
 5. *It provides adequate vehicular and non-vehicular access arrangements."*

11. Policy BPH1 also deals with proposals for further new development beyond the existing settlement boundary of Burscough but it is unnecessary to rehearse this part of the policy as the issue which is the subject of this advice concerns safeguarded land which (as provided in Policy GN2 of the WLLP) is within settlement boundaries.

12. The relevant part of Policy BPH1 which I have quoted in paragraph 10 above is silent in relation to land within the settlement boundary of Burscough designated as safeguarded land in the WLLP (whether safeguarded for the purposes of "Plan B" or for the purposes of development after 2027). It simply provides in unqualified terms that new residential development within the existing settlement boundary of Burscough will be supported provided the listed criteria are met. No exception from that support is made for the land within the settlement boundary of Burscough at Red Cat Lane despite its status in the WLLP as land safeguarded for the purposes of "Plan B" (nor,

for that matter, is any exception made for land safeguarded until 2027 at Yew Tree Farm). The listed criteria do not bear on the issue of safeguarded land.

13. There are, however, two references to safeguarded land in the reasoned justification which follows Policy BPH1 in the BPNP. The first occurs in paragraph 6.2.3 which notes that the minimum housing target for Burscough set in the WLLP is 850 dwellings of which Yew Tree Farm is to provide for 500 dwellings within the plan period with the remainder to come from existing commitments and windfalls. The paragraph then goes on to state that there *"is also safeguarded land at Yew Tree Farm for 500 dwellings and 60 dwellings at land at Red Cat Lane. The former is only to be released for development after the end of the plan period. The latter site, known in the WLLP as a Plan B site, will only come forward if allocated sites fail to deliver the required amount of development."*

14. Before setting out the second reference I should also refer to paragraph 6.2.4 of the reasoned justification. This sets out that *"[t]he scale and location of growth within the Parish has been established through the WLLP. This local plan process examined the housing requirements for the Borough as a whole and produced a strategy for the distribution of future housing to meet this need. Burscough as a Key Service Centre is fulfilling its role in providing for growth. As such, it is considered unnecessary for the BPNP to make additional allocations for housing development. Instead, the BPNP seeks to influence the type and design of housing to ensure that it provides for local housing need as well as for the wider housing market area and delivers high quality and inclusive places for people to live."*

15. The second reference is in paragraph 6.2.5 which states that it *"is clear that Government Policy seeks to increase housing provision and that requirement figures are set as minimums and not maximums. The BPNP seeks to allow additional sustainable residential development within the existing settlement limits of Burscough providing it meets certain criteria aimed at ensuring that new housing is sustainable including the provision of infrastructure to meet the needs of that development. The strategic site at Yew Tree Farm and the Plan B site at Red Cat Lane are now part of the settlement. The BPNP will not support additional housing development beyond the*

settlement boundary during the plan period unless it is demonstrated that the tests within the policy and relevant national and local policy can be met.”

16. References to safeguarded land and Policies GN2 and RS6 are also found in Part 2 of the BPNP dealing with the planning policy context. This part of the BPNP records (in paragraph 2.7) that a neighbourhood plan's policies once brought into force will take precedence over non-strategic policies in a local plan for the neighbourhood plan area where there may be conflict. It then (paragraph 2.8) states that there are a number of strategic policies within the WLLP which are relevant and with which policies within the BPNP have to be in general conformity. Amongst the policies then identified as strategic policies in the WLLP are Policies GN2 and RS6. The WLLP itself only contains three strategic policies in its chapter 4 which deals with strategic policies. Neither Policy GN2 nor Policy RS6 is designated a strategic policy in the WLLP. Policy GN2 is found in chapter 5 of the WLLP dealing with general development policies and Policy RS6 is found in chapter 7 dealing with providing for housing and residential accommodation.

17. Before incorporating in this advice the explanation for the fact that the strategic policies identified in the WLLP do not correspond with what the BPNP identifies as the strategic policies in the WLLP, I set out the content of the references to safeguarded land and Policies GN2 and RS6 in Part 2 of the BPNP. First, paragraph 2.16 of the BPNP summarises Policy GN2 of the WLLP and states that safeguarded land includes “Plan B” land (to meet development needs in the plan period if allocated sites fail to deliver the required amount of development) and land that will only be considered for development after 2027. It then refers to the fact that there are two such sites within the area of the BPNP, the “Plan B” site – land at Red Cat Lane (60 dwellings) – and safeguarded land until 2027 – land at Yew Tree Farm (500 dwellings and 10ha of employment land). Secondly, paragraph 2.21 of the BPNP summarises Policy RS6 of the WLLP and states that the “Plan B” sites will only be considered for release under certain triggers relating to delivery against the Borough's housing target. Paragraphs 2.16 and 2.21 do no more than rehearse (in short form) the content of Policies GN2 and RS6 of the WLLP. They are not statements setting out the policy (or policies) of the BPNP.

18. As for the explanation of the differing identification in the WLLP and the BPNP of what are the strategic policies in the former document, I am told that the Council considered that the WLLP did not properly identify which policies were its strategic policies. Matters which it is presently considered should be the subject of strategic policies are provided for in paragraph 20 of the current version of the National Planning Policy Framework ("the NPPF") and paragraph 21 states that "*plans should make explicit which policies are strategic policies.*" At the time that the WLLP was adopted, the 2012 version of the NPPF contained not dissimilar provisions in paragraphs 156 and 184 respectively.
19. I am further told that the preparation of the BPNP was the first opportunity to address the lack of proper identification in the WLLP of the strategic policies contained within it and that this opportunity also presented the ability to do so in the context of assessment of the BPNP in accordance with the basic conditions set out in paragraph 8 of Schedule 4B to the Town and Country Planning Act 1990 ("the TCPA 1990"). One of the basic condition to be met (found in paragraph 8(2)(e)) is that the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area. Accordingly, the Council agreed with Burscough Parish Council what policies of the WLLP were its strategic policies and those policies were then listed in the BPNP. The list was not disputed by any party, including [REDACTED], during the preparation of the BPNP, its examination and subsequent making.
20. In order to complete my survey of the BPNP, I note that its key diagram shows the land at Red Cat Lane as a safeguarded land "Plan B" site although this simply replicates the existing designation in the WLLP rather than being a designation of the BPNP as such.
21. [REDACTED] say that the development their client proposes on part of the "Plan B" safeguarded land site at Red Cat Lane is new residential development within the settlement boundary of Burscough and therefore supported in principle by Policy BPH1 of the BPNP notwithstanding the safeguarded "Plan B" status of the land under the WLLP and the lack of any trigger which would allow for its release under that plan. They seek to draw strength for this argument from so much of paragraph 6.2.5 of the reasoned justification for Policy BPH1 which states (see paragraph 15 above) that "*[t]he BPNP seeks to allow additional sustainable residential development within the existing*

settlement limits of Burscough providing it meets certain criteria aimed at ensuring that new housing is sustainable including the provision of infrastructure to meet the needs of that development” and which goes on to confirm that “[t]he strategic site at Yew Tree Farm and the Plan B site at Red Cat Lane are now part of the settlement.” ■■■■ acknowledge that their client’s proposal conflicts with Policies GN2 and RS6 of the WLLP but say that Policy BPH1 of the BPNP must take precedence by virtue of section 38(5) of the PCPA 2004.

The questions in my instructions

22. Having set out the above introduction, I turn to the questions in my instructions. I will set out all the questions and the context in which they are posed (to the extent that I have not already covered it above) before providing my answers under a separate sub-heading of this advice.

Question 1: As the BPNP is more up to date than the WLLP which policies take precedence?

23. In respect of this question my advice is sought on what is described in my instructions as an apparent contradiction between the NPPF and section 38(5) of the PCPA 2004.

24. I have already set out section 38(5) of the PCPA 2004 and described the reliance placed on it by ■■■■ (in paragraphs 7, 8 and 21 above). So far as concerns the NPPF, my instructions direct my attention to a number of its paragraphs. First, I am referred to paragraph 13 of the NPPF which provides that “[n]eighbourhood plans should support the delivery of strategic policies contained in local plans or spatial development strategies; and should shape and direct development that is outside of these strategic policies.” Next, I am referred to paragraph 29 which provides that “[n]eighbourhood plans should not promote less development than set out in the strategic policies for the area, or undermine those strategic policies.” The accompanying footnote to this paragraph (footnote 18) provides that “[n]eighbourhood plans must be in general conformity with the strategic policies contained in any development plan that covers their area.” This is a reference to the basic condition in paragraph 8(2)(e) of Schedule 4B to the TCPA 1990 (see paragraph 19 above). Finally, I am referred to paragraph 30 of the NPPF which provides that “[o]nce a neighbourhood plan has been brought into

force, the policies it contains take precedence over existing non-strategic policies in a local plan covering the neighbourhood area, where they are in conflict; unless they are superseded by strategic or non-strategic policies that are adopted subsequently.”

25. I am told that, if the answer to this question is that, where a contradiction arises, policies in the BPNP take priority over those in the WLLP (both strategic and non-strategic policies) then there is no need to provide advice in relation to question 2 but advice in relation to question 3 is still required.

Question 2: Do strategic policies of the WLLP take priority over all policies within the BPNP and, if so, what are considered to be the strategic policies of the WLLP?

26. The context which is provided in my instructions in respect of this question is as I have set it out in paragraphs 16-19 above. I am asked what weight can be placed on the BPNP's identification of strategic policies in the WLLP when deciding which are the WLLP's strategic policies as opposed to the WLLP's own identification of its strategic policies.

Question 3: (a) Is BPNP Policy BPH1: New Residential Development in conflict with WLLP Policies GN2 and RS6?

(b) If so, what is the nature of this conflict and is it material in determining whether the Safeguarded Land Plan B site at Red Cat Lane can be brought forward for development now (and therefore prior to 2027 as identified by Policy GN2)?

27. By way of context for this question my instructions inform me that Burscough Parish Council (now the Town Council) was the “qualifying body” responsible for preparing the BPNP and that they did so with the assistance of consultants, Cass Associates. The Council's officer input into the BPNP was in the form of professional advice relating to policy content and the evidence base. The Council did not therefore draft the BPNP policies and there were some limitations upon how these policies were able to be influenced by Council officers. The examination of the BPNP was, I am told, “light touch”.

28. My instructions state that it is apparent that there may be some inconsistencies in the wording of Policy BPH1 of the BPNP and that this may be at the root cause of the conflict with Policies GN2 and RS6 of the WLLP. I am told that the Parish/Town Council would be extremely concerned if it were the case that Policy BPH1 allows for development of the safeguarded land at Red Cat Lane immediately (that is, without there being any need to wait until the end of the WLLP period in 2027 or until any of the “triggers” in WLLP policy RS6 have been “pulled”) as this would not have been their intention.

29. In seeking my advice my instructions draw attention to the policy wording in BPH1 (set out in paragraph 10 above) and aspects of the wording in paragraphs 6.2.3, 6.2.4 and 6.2.5 of the reasoned justification (set out in paragraphs 13, 14 and 15 above). A comment is added that there may appear to be conflict with Policies GN2 and RS6 of the WLLP or even between Policy BPH1 and its own reasoned justification. Paragraph 6.2.5 is particularly highlighted as appearing to give cause for the view that Policy BPH1 may conflict with Policies GN2 and RS6 of the WLLP.

Answers to the questions and discussion

Question 1

30. The short answer to question 1 is that, if there is a conflict between Policy BPH1 of the BPNP and Policies GN2 and RS6 of the WLLP, that conflict must, in accordance with section 38(5) of the PCPA 2004, be resolved in favour of Policy BPH1 because that policy is contained in a document which became part of the development plan later than the WLLP. Any conflict must be resolved according to the law and the law is set out in clear and unambiguous terms in statutory form in section 38(5).

31. The conflict (if it exists) is not to be resolved by policy in the NPPF. Policy is not law and law prevails over policy. Neither is it the case that section 38(5) could in any way be read down, in the light of the NPPF policy statements I have set out in paragraph 24 above, to mean something other than it says. The NPPF is not an aid to the interpretation of the PCPA 2004. Section 38(5) simply refers to the conflict of one policy in the

development plan with another and sets out how that is to be resolved when the conflicting policies in question are contained in documents which became parts of the development plan at different times. Nothing in section 38(5) qualifies the type of policies which are within its ambit. And section 38(5) does not contain any exception whereby the conflict is to be resolved in favour of the policy contained in the later document unless the policy in the later document is a policy in a neighbourhood plan which conflicts with a strategic policy in a local plan. No such wording can be added to section 38(5). If a policy in a later neighbourhood plan conflicts with a policy (or policies) in an earlier local plan, then the conflict must be resolved in favour of the policy in the neighbourhood plan regardless of whether the policy in the local plan is strategic or not.

32. The potential objection to this analysis that neighbourhood plans are not meant to undermine strategic policies cannot displace the natural and ordinary meaning of section 38(5) of the PCPA 2004 or be used to read into it any qualification which it does not contain.

33. Of course, it is not to be expected that the type of situation that arises in the present case is one that is likely to occur very often given the basic condition required to be met in paragraph 8(2)(e) of Schedule 4B to the TCPA 1990 that a neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area in question. This provision is designed to ensure an appropriate degree of consistency between a neighbourhood plan and the strategy of the extant, statutorily adopted development plan¹. However, that basic condition only requires the neighbourhood plan as a whole to be in “general” conformity with the strategic policies of the adopted development plan as a whole and, in testing this position, there is no need to consider whether there is a conflict or tension between one policy of a neighbourhood plan and one element of the local plan². Thus, conflicts and tensions with strategic policies may exist. And, if they exist, they are to be resolved according to section 38(5) of the PCPA 2004.

¹ See *DLA Delivery Ltd v Lewes DC* [2017] EWCA Civ 58 at [22].

² See *Crownhall Estates Ltd v Chichester DC* [2016] EWHC 73 (Admin) at [29].

Question 2

34. Given my answer to question 1, question 2 falls away as recognised in my instructions. I therefore say no more about question 2.

Question 3(a)

35. The question of whether Policy BPH1 of the BPNP is in conflict with Policies GN2 and RS6 of the WLLP is, I think, one which turns on the interpretation of Policy BPH1. I refer to the interpretation of Policy BPH1 rather than the interpretation of Policies GN2 and RS6 because it seems to me that these latter policies are clear and do not require interpretation. If there is any uncertainty about a policy meaning in this case, that uncertainty is associated with Policy BPH1, not Policies GN2 and RS6.
36. The starting point for considering the right approach to the interpretation of Policy BPH1 must be the Supreme Court decision in *Tesco Stores Ltd v Dundee City Council*³ which makes it clear that policy statements are to be interpreted objectively in accordance with the language used read in its proper context. Policy statements are not to be interpreted as if they were statutory or contractual provisions but nevertheless the authors of planning policy cannot simply make it mean what they would like it to mean.
37. Turning to the question of how to approach the relationship between policy statements in the BPNP and their reasoned justification, that may be understood from the Court of Appeal decision in *Cherkley Campaign Limited v Mole Valley District Council*⁴. The salient points are that: whether a proposal accords with the development plan is to be determined by reference to the plan's policies; reasoned justification is relevant to the interpretation of a policy to which it relates but it is not itself a policy or part of a policy, it does not have the force of policy and it cannot trump the policy; and it cannot operate independently so as to impose an additional requirement not contained in a policy.

³ [2012] UKSC 13 at [18]-[19].

⁴ [2014] EWCA Civ 567. This was a case about a local plan but the analysis holds equally good for neighbourhood plans.

38. Moreover, section 38B(3) of the PCPA 2004 provides that *"[i]f to any extent a policy set out in a neighbourhood development plan conflicts with any other statement or information in the plan, the conflict must be resolved in favour of the policy."*

39. Approaching question 3(a) by reference to the principles I have set out, my view is that, on a proper approach to the interpretation of Policy BPH1, it does conflict with Policies GN2 and RS6 of the WLLP. My reasons are as follows.

40. First, an objective interpretation of the language of Policy BPH1 is that new residential development within the existing settlement boundary of Burscough will be supported provided the listed criteria are met. This is stated in clear and unequivocal terms without qualification. No exception from this support is made for land within the settlement boundary of Burscough which is safeguarded in the WLLP and there is no suggestion in the policy wording that the trigger criteria have to be met in respect of "Plan B" safeguarded land before the support of Policy BPH1 is forthcoming (nor is there any suggestion that there can be no residential development of other safeguarded land before 2027). The listed criteria do not bear on the issue of safeguarded land but deal with detailed development management matters to ensure that the supported residential development is sustainable. Safeguarded land as land within the settlement boundary of Burscough is therefore land to which the in principle support of Policy BPH1 for new residential development applies.

41. So interpreted, Policy BPH1 does conflict with Policies GN2 and RS6 of the WLLP because, subject to the listed criteria being met, this interpretation allows the immediate release (that is, without there being any need to wait until the end of the WLLP period in 2027 or until any of the "triggers" in Policy RS6 of the WLLP have been "pulled") of "Plan B" safeguarded land in Burscough (and also allows the immediate release of land in Burscough otherwise safeguarded until 2027).

42. Secondly, while the reasoned justification to Policy BPH1 does bear on its interpretation, that reasoned justification cannot be used to impose the additional requirement (not found in the policy wording) that new residential development within the settlement boundary of Burscough but on "Plan B" safeguarded land will only be supported if it would be supported under the trigger provisions of Policy RS6 of the

WLLP (or to impose the restriction that new residential development on other safeguarded land will not be supported at all before 2027). It also seems to me that, at best, the messages from the reasoned justification to Policy BPH1 are mixed and that paragraph 6.2.5 can be read as expressing the intention that, provided the listed criteria of Policy BPH1 are met, development on the safeguarded land within the settlement boundary of Burscough is supported. But, in any event, if there is any conflict between Policy BPH1 and its reasoned justification, any such conflict is to be resolved in favour of the policy under section 38B(3) of the PCPA 2004.

43. Thirdly, and turning to the issue of context, I do not consider that the statutory and policy context in which the interpretation of Policy BPH1 falls to be considered can deflect from the objective interpretation of what its language provides as I have set it out in paragraphs 40 and 41 above. The requirement (in law and policy) for the BPNP to be in general conformity with the strategic policies of the WLLP and the fact that, in order to have been "made", the BPNP must be taken to have passed that test does not mean (see paragraph 33 above) that conflicts and tensions with the strategic policies in the WLLP will not exist⁵. And the general conformity requirement cannot be used in order to read into Policy BPH1 wording which is simply not there.

44. Fourthly, and in relation to what I am told is the extreme concern of the Parish/Town Council if it is the case that Policy BPH1 allows for development of the safeguarded land at Red Cat Lane immediately (as I think it does if the policy's listed criteria are met), the Council cannot make Policy BPH1 mean what the Parish/Town Council would like it to mean any more than the Parish/Town Council would be able to do that themselves. The ultimate question is not what was intended but what, as a matter of objective policy interpretation (approached as set out above), Policy BPH1 says.

Question 3(b)

45. The nature of the conflict (the first part of question 3(b)) between Policy BPH1 of the BPNP and Policies GN2 and RS6 of the WLLP is set out in paragraphs 40 and 41 above.

⁵ If Policies GN2 and RS6 of the WLLP are taken at the face value of the WLLP not to be strategic policies of this plan, then no conflict with strategic policies would arise anyway.

46. The second part of this question is whether the conflict is material in determining whether the "Plan B" safeguarded land site at Red Cat Lane can be brought forward for development now and therefore prior to 2027 as identified by Policy GN2.

47. It is clearly is material. Any planning application for [REDACTED] on land at Red Cat Lane will, under section 38(6) of the PCPA 2004, have to be determined in accordance with the development plan unless material considerations indicate otherwise. The BPNP is (see 38(3)(c) of the PCPA 2004) just as much a part of the development plan as the WLLP. If there is a conflict (as there is) between Policies GN2 and RS6 of the WLLP and Policy BPH1 of the BPNP, that conflict must, under section 38(5) of the PCPA 2004, be resolved in favour of Policy BPH1. It seems to me that, in the present case, this can only mean that new residential development on Red Cat Lane is to be supported in principle at this present point in time in accordance with Policy BPH1 and that, although such development would conflict with Policies GN2 and RS6, those latter policies cannot be applied to prevent it. Any other conclusion would contradict the statutory requirement that the conflict between the policies must be resolved in favour of Policy BPH1. It seems to me that the way in which the resolution of conflict between policies provided for in section 38(5) of the PCPA 2004 is to be achieved in practice is by according priority to the favoured policy when it comes to applying the policies to the determination of the planning application in question.

48. I trust that I have now dealt with the questions in my instructions. If I can assist further, my Instructing Solicitor should not hesitate to contact me.

Kings Chambers
36 Young Street
Manchester M3 3FT

[REDACTED]
Alan Evans
22nd November 2021