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STATEMENT OF EVIDENCE

Evidence is co-authored by Gateley, Icení, JLL, Plan Red & FIREM

Matter 1a – Legal Compliance

Issue 1: Has the Council complied with the duty to co-operate and other relevant procedural and legal requirements in the preparation of the Local Plan

Response to Question 1.1

The Duty to Co-operate is a statutory obligation imposed under section 33A of the Planning and Compulsory Purchase Act 2004. This requires the CLAs to co-operate with each other and with prescribed bodies "in maximising the effectiveness" of activities relating to the planning of sustainable development, particularly in the preparation of development plan documents and other strategic planning activities.

It specifically requires authorities to engage "constructively, actively and on an ongoing basis" in plan-making processes relating to strategic matters, which include issues that significantly impact more than one planning area or involve infrastructure of strategic importance. Authorities must also have regard to any guidance issued by the Secretary of State about duty compliance. An inspector considering whether the s.33A duty has been met has to conduct a rigorous examination of the evidence and reach a planning judgment on whether there had been an active and ongoing process of co-operation (***R. (on the application of St Albans City and District Council) v Secretary of State for Communities and Local Government, [2017] EWHC 1751 (Admin)***).

The CLAs have failed to discharge their statutory duty to co-operate here under section 33A of the Planning and Compulsory Purchase Act 2004 and the relevant provisions of the National Planning Policy Framework. This is based on engagement with officers of Blackburn with Darwen Council (BWDC) on the representor's live planning application for a XL Big Box logistics development at Junction 3 of M65. From these discussions it is understood that there has been an absence of focused, substantive dialogue between the CLAs (specifically BWDC) regarding the potential for the emerging CLLP to accommodate unmet development needs arising within BWDC's administrative area. There are clear geographic links and economic synergies between the main settlements in the CL area and BWDC. There appears to have been no meaningful consideration of the strategic opportunity to allocate land within CL, immediately adjacent to the southwestern boundary of BWDC, to support cross-boundary growth.

The above suggests a failure to undertake constructive, active, and ongoing cooperation on strategic planning issues, as required by national policy. Accordingly, the plan is unsound on the basis that it fails the legal compliance and effectiveness tests set out in the NPPF.

Response to first bullet under Question 1.1:

As above.

Response to second bullet under Question 1.1:

As above.

Response to Question 1.2:

Preparation of the CLLP has not been carried out in accordance with the adopted LDS, contrary to the requirements of section 15 of the Planning and Compulsory Purchase Act 2004 and associated Regulations.

The LDS sets out the timetable and procedural stages for the preparation of development plan documents, including the anticipated sequence and scope of Regulation 18 consultations.

The CLAs initially published a Regulation 18 version of the CLLP for consultation between 19 December 2022 and February 2023, which explicitly indicated that the Regulation 18 process would be conducted in two distinct stages – Part One to address key strategic matters and Part Two to cover further substantive issues, including emerging housing and employment land requirements and related strategies to deliver developments to meet the two needs. All consultees thus anticipated being able to comment in detail on key matters like land requirements and development opportunities to deliver them which was denied to them because of the CLAs abandoning the Part Two element such that the CLA proceeded straight to Regulation 19 version stage.

This procedural deviation is particularly significant in light of the replacement of the 2022 Employment Land Review (ELR) by the updated 2024 ELR, both prepared by BE Group. The 2024 ELR introduces a materially different approach and methodology and set of findings, including a revised employment land requirement.

The decision to bypass the Part Two Regulation 18 consultation stage deprived stakeholders, including FIREM, of the opportunity to scrutinise and respond to this new evidence base leaving many matters open ended or unsatisfactorily addressed, including the employment land requirement, at the appropriate stage in the plan-making process.

This failure to adhere to the LDS undermines the transparency and procedural integrity of the plan-making process. It has resulted in a lack of meaningful engagement on critical evidence, contrary to the principles of effective and inclusive plan preparation as set out in the NPPF.

Accordingly, the plan is procedurally unsound and should not proceed to adoption without rectification of this failure.

Response to Question 1.3:

Consultation undertaken in respect of the CLLP does not fully comply with the requirements of the Planning and Compulsory Purchase Act 2004 (as amended), the Town and Country Planning (Local Planning) (England) Regulations 2012 and the Council's adopted Statement of Community Involvement (**SCI**).

Under section 19(3) of the 2004 Act, local planning authorities are required to prepare development plan documents in accordance with their SCI. The SCI sets out how the authority will involve stakeholders and the wider community at each stage of plan preparation. Regulation 18 and Regulation 19 of the 2012 Regulations further prescribe the procedural requirements for consultation, including the need to make documents available, notify prescribed bodies, and allow sufficient time for representations.

As set out in the response to Question 1.2, the CLAs departed from the consultation framework set out in the LDS by omitting the Part Two Regulation 18 consultation. This stage was expected to address substantive matters including employment land provision, which was subsequently informed by a materially different evidence base in the 2024 ELR.

The decision to proceed directly to Regulation 19 consultation, without first consulting on the revised employment land evidence, undermines the principles of transparency and inclusivity embedded in the SCI. Affected parties, including FIREM, were denied the opportunity to engage with and scrutinise the new evidence at the appropriate plan stage, contrary to the expectations set out in the SCI and the statutory framework.

Accordingly, the consultation process was procedurally flawed. The plan has not been prepared in accordance with the SCI or the legal requirements of the 2004 Act and 2012 Regulations. This raises serious concerns regarding the procedural soundness of the plan.

Response to Question 1.4:

Point (a):

An issues and options consultation took place between November 2019 and February 2020 and a Consultation Outcomes report was published in September 2020. This was followed by Part One Reg 18 version of the CLLP in consulted on between 19th December 2022 and 26th February 2023.

The CLAs position is that this contains details of the vision, objectives, and spatial strategy, reflecting the ambitions for the CL economy, communities, and environment.

However, a key aspect of this version of the plan was the intention it be followed by a Part Two Reg 18 version of the CLLP. In essence, the Part One Regulation 18 version

of the CLLP has to be acknowledged as not being 'complete.' The desired level of 'completeness' could only be reached through the Part Two Reg 18 version of CLLP.

It is therefore wrong to try for CLAs to argue that this version of the plan contains full details of the vision, objective and spatial strategy etc. since a key stage of planned plan making was dropped.

This act has had the effect of removing the opportunity for interested parties to comment on relevant strategies, policies and proposals once they were worked up into an appropriate state of detail and certainty pre-Reg 19 stage. This raises the question as to whether the CLLP can be regarded as procedurally and legally sound.

A number of policies and related allocations specifically concerning planned employment land requirement and allocations to deliver it have not been comprehensively and robustly tested to ascertain whether these elements of the plan can be and will be delivered within the plan period.

As its evidence on Matters 1A & 1B and Matter 2 sets out, FIREM has concerns about the Preston West strategic site (Policy SS5) and Cuerden Mixed Use Site (Policy EC6.1), specifically whether the amount of land scheduled for employment development can and will be brought forward within the plan period.

On Preston West, FIREM, like the lead promoter, Harworth Developments, has concerns about whether all 63.3 ha of planned employment development can and will be brought forward at the site. BE Group, through its 2024 ELR, raises concerns regarding the potential of the site to deliver anything other than a small amount of employment development.

The Cuerden allocation was originally planned as a strategic site, mainly employment uses / developments, in the Central Lancashire Core Strategy 2012. 13 years later it remains largely undelivered and may never fully deliver. Under Policy EC6.1 it is planned to deliver 50 ha of employment uses / developments. However, it is well known that 15.5 ha will be brought forward for a new hospital. At best, this site will only deliver 34.5 ha land for employment uses.

There also has to be some concerns regarding delivery of the Policy EC 2.1 site, Land East of M61, Chorley, expected to deliver 6.92 ha. And 6.70 ha of employment land at Botany Bay / Great Knowley, covered under Policy EC5.5, is being delivered now.

Based on the analysis above, it is FIREM's position that the CLLP is short of at least circa 57.5 ha of deliverable employment sites (land that will not come forward at Preston West and Cuerden) to meet the CLLP employment land requirement.

There are significant differences between the approach and methodology and key findings and recommendations arising out of the 2022 and 2024 BE Group ELRs. The reasons and justifications for the later version of the BE Group ELR, (see FIREM's evidence on Matter 8 & 9), now relied upon in the Reg 19 version of the CLLP, does not bear scrutiny and testing, which brings into doubt the CLLPs overall strategy for

dealing with provision and delivery of employment land. Again, this raises issues of soundness.

Point (b):

The IA accompanying the CLLP does not adequately demonstrate that reasonable alternatives – particularly in relation to the quantum and spatial distribution of employment development have been identified, assessed, and compared on a consistent and transparent basis, as required by Regulation 12(2)(b) of the Environmental Assessment of Plans and Programmes Regulations 2004 and paragraph 32 of the NPPF.

The CLLP employment land requirement and related strategy for delivering developments, does not get to grips with the types of employment development that are most needed, nor where they most needed. See evidence on Matter 2, Matter 4 and Matters 8 & 9.

This suggests that, overall, the CLAs have not adequately considered nor planned for the best sites / options to deliver identified needs (specific forms of employment development).

FIREM strongly maintains there is a need for a strategic employment site in Chorley Borough served by a motorway junction for XL Big Box logistics. This need was broadly identified through the 2022 BE Group ELR and reflected in Policy Direction 2: Spatial Approach of the Part One Reg 18 version of CLLP. However, for reasons not made clear by CLAs, nor in the subsequent version of the CLLP or the 2024 BE Group ELR, this initiative / identification was dropped. The originally identified need for this form of employment development, and at this location, remains. FIREM is also of the view that the CLLP does not fully consider reasonable alternatives, based on what FIREM regards as the appropriate employment land requirement and best delivery strategy (meeting need where need exists).

We question whether the plan can be regarded as sound.

Point (c)

By reference to its evidence on Matters 8 & 9, FIREM it is its view that no proper or adequate explanation has been provided as to why the key findings and recommendations of the 2022 BE Group ELR were effectively dropped in favour of the same set out in the 2024 BE Group ELR. The later ELR is materially different to the earlier ELR in terms of approach / methodology and as a result its key findings and recommendations are different.

It is our experience that ELRs forming part of the evidence base in support of an emerging development plan might need to be updated but rarely is a completely new approach / methodology followed. The CLAs need to be challenged as to why such an approach was followed and endorsed.

In FIREM's position that this brings into doubt the veracity of the 2024 BE Group ELR and whether it is appropriate to rely on it as the key item of evidence in support of the CLLP employment land requirement and development delivery strategy. The introduction of the 2024 BE Group ELR was so late in the plan making process that no proper opportunity was presented for it to be properly and fully tested.

We question whether the plan can be regarded as sound.

Point (d):

By reference to points made above and evidence submitted on Matters 8 & 9, the CLLP will underperform, probably by a large measure, particularly regarding the amount of land that can and will be delivered for employment development - this is a key concern.

In particular, under evidence presented in connection with Matter 2 and Matter 4, FIREM has raised concerns regarding the Preston West Strategic Site and the Cuerden Mixed Use Site. These allocations are subject to known constraints, including infrastructure limitations, land assembly challenges, and viability issues, which cast doubt on whether the employment development envisaged can be brought forward within the plan period.

The IA fails to provide a clear and evidence-based assessment of how much employment development is likely to be delivered, taking into account these constraints. It also does not appear to model or test alternative delivery scenarios, nor does it transparently reconcile the employment land requirement with the realistic capacity of the proposed allocations.

Accordingly, the IA does not provide a legally compliant or sound basis for assessing the amount of employment development that will arise from the plan's provisions.

Response to Question 1.5:

No comment

Response to Question 1.6:

The CLLP fails to adequately address the strategic priorities for the development and use of land in Central Lancashire, particularly in relation to employment land provision and the delivery of strategic employment sites.

The priority for strategic sites with the potential to deliver development for logistics, in key locations and on a borough-by-borough basis, and in the short term, is not dealt with through CLLP. This is covered in FIREM's evidence relating to Matters 8 & 9.

Response to Question 1.7:

No Comment.

Response to Question 1.8:

No Comment.

Response to Question 1.9:

No Comment.

Response to Question 1.10:

No Comment

Matter 1b - Overarching Matters

Response to Question 1.11:

No. The current plan period is not justified or consistent with national policy. 2025 is nearing its end. Development plans should look at least 15 years ahead. If it is adopted in 2026 it will just about cover the minimum time period - 15 years to 2041. If in 2027 it will only look 14 years ahead.

To ensure legal compliance and soundness, the plan period should be extended to at least 2042, thereby safeguarding against the risk of premature expiry and ensuring that the Plan remains effective for a full 15-year period post-adoption, regardless of the final adoption date.

Response to Question 1.12:

Paragraphs 234 and 235 of the NPPF (December 2024) set out transitional arrangements for the examination of local plans. These provisions confirm that, from **12 March 2025**, the policies in the December 2024 version of the NPPF will apply to all plans unless one or more of the specified exceptions apply.

The CLLP does not benefit from the transitional protections set out in paragraph 234 of the NPPF. In particular:

- **Paragraph 234(a)** requires that, to qualify for transitional treatment, a plan must have reached Regulation 19 (pre-submission) stage on or before 12 March 2025, and its draft housing requirement must meet at least 80% of local housing need. The CLLP **did not** reach Regulation 19 stage until **30 June 2025**, and therefore fails this test.
- **Paragraph 234(b)** requires submission for examination under Regulation 22 on or before 12 March 2025. The CLLP was **not submitted** by this date.
- **Paragraphs 234(c)–(e)** provide further exemptions for plans that:
 - Deliver the level of development set out in a preceding local plan adopted since 12 March 2020 (**not applicable** to the CLLP);
 - Are prepared in areas with an operative Spatial Development Strategy and reached Regulation 19 by 12 March 2025 (**not applicable**); or
 - Deal solely with minerals and/or waste and reached Regulation 19 or submission stage by 12 March 2025 (**not applicable**).

Accordingly, none of the transitional criteria are met, and the CLLP should be examined in full accordance with the **December 2024 NPPF**.

This has significant implications for the soundness of the Plan. In particular:

- The Plan must now be assessed against the revised policy framework, including any changes to the tests of soundness, housing delivery expectations, and approach to evidence.
- If the Plan's housing requirement does not meet the minimum threshold of 80% of local housing need, it may be considered unsound or require early review.
- The Plan's evidence base, including the Employment Land Review and Integrated Assessment, must be demonstrably aligned with the updated national policy context.

The CLLP is subject to the full force of the December 2024 NPPF and must be examined accordingly. Any failure to align the Plan's strategy, policies, and evidence base with the revised national policy framework would render the Plan unsound and legally non-compliant.

Response to Question 1.13:

No Comment.