



**LAND SOUTH OF WARTON RECREATION GROUND
REBUTTAL EVIDENCE BY TONY KERNON
APP/R3705/W/25/3371526**

18th November 2025

1 Introduction

- 1.1 This short note of rebuttal follows the exchange of evidence and focuses on the Proof of Evidence of Andrew Collinson, especially section 6. It precedes completion of a Statement of Common Ground.
- 1.2 This response focuses on the references to national planning policy and development plan policy in Mr Collinson's Proof of Evidence at paragraphs 6.1, 6.3, 6.5, 6.7 and 7.9 and their relevance.

2 Relevant Policies

- 2.1 The only policies referred to in the putative Reason for Refusal 5 (RfR5) (CD3.1, PDF page 25 (internal page 61/374)) are:
- Local Plan policy LP1;
 - NPPF paragraph 187.

Policies LP1 and LP16

- 2.2 Mr Collinson's Proof of Evidence Section 6 on Agricultural Land only refers to Local Plan policy LP16 (CD4.1, p51), which was not referred to in RfR5. Where LP1 is referred to (for example in Mr Collinson's paragraph 2.15) no reference is made to agricultural land. The Council therefore provides no explanation or evidence that policy LP1 (identified as harmed in RfR5) is relevant, and no evidence that there will be harm in this respect. As I have set out in my Proof of Evidence (for example, at paragraph 8.1), there will be no conflict with LP1.

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- 2.3 Mr Collinson's paragraph 6.3 refers to Policy LP16. However, he does not explain why LP16 is relevant, nor does he provide any evidence that there will be harm in this respect.

NPPF 187(a) and 188 and footnote 65

- 2.4 RfR5 refers to NPPF paragraph 187. Mr Collinson's Proof of Evidence, paragraph 6.3 refers to paragraph 187(a). He does not then go on to explain why he considers 187(a) relevant. NPPF 187(a) only relates to soils where their quality has been specifically identified in the development plan. It is agreed in the Statement of Common Ground that these soils are not specifically identified in the development plan. He does not provide any evidence that these soils are identified in the local plan, and therefore that they are covered by 187(a). In summary, he gives no evidence that there will be any harm in respect of this part of national policy either.
- 2.5 RfR5 refers to NPPF paragraph 187, and Mr Collinson's paragraph 6.3 states that the economic and other benefits need to be recognised, which is a reference to 187 (b). Mr Collinson does not then seek to identify what the economic and other benefits actually are, how they have been weighed in the balance, and why there is considered to be harm.
- 2.6 Mr Collinson's paragraph 6.3 then refers to the policy set out in footnote 65 of the NPPF, although his text does not cite the text itself. Footnote 65 relates to paragraph 188 of the NPPF, which is not referred to in RfR5. NPPF paragraph 188 itself refers only to plan-making: "Plans should...". Accordingly the Council does not identify why this policy is relevant when it is not within the reasons for refusal.
- 2.7 NPPF footnote 65 simply states that, where "significant development" of agricultural land is necessary, poorer quality land should be used in preference. Mr Collinson's paragraph 6.4 states that the development would lead to "**significant loss ...because the development is irreversible**". That is not a correct interpretation or application of the policy. The Council does not explain how irreversibility equates to "significant development" in the context of footnote 65, and consequently why footnote 65 is considered to be relevant. As I have explained in my Proof, paragraphs 5.9, 5.10, 6.14 there will be no conflict with NPPF 187 or 188 or footnote 65.
- 2.8 Mr Collinson's paragraph 6.8 then states that "**the proposal would lead to the loss of a significant amount of BMV**". He does not identify how he has determined that 5.6 ha is "**significant**". He goes on in paragraph 6.10 to state that "**Albeit the loss of 5.7 ha is small**". He does not explain how a small loss can be significant. Accordingly the Council

does not establish why footnote 65 is relevant and more particularly does not establish how a small loss can also be significant in the footnote 65 context. As I have explained in my Proof of Evidence at paragraphs 7.4 to 7.9, the appeal development is clearly not “significant development”. This is now agreed in the Statement of Common Ground, section 2.5.

2.9 Mr Collinson’s paragraphs 6.3 and 6.5 appear to follow on from the advice given to the Planning Committee. Mr Collinson refers to the availability and importance of food production. The Officer’s Report to Committee paragraph 8.22 (CD3.1, PDF page 14 (internal page 61/363) appeared to refer to footnote 65 of the NPPF. Footnote 65 does not refer to availability and importance of food production. Reference to food production was added in December 2023 to footnote 62 of the December 2023 NPPF, and then removed in December 2024 when the NPPF was revised. Yet Mr Collinson explicitly refers to footnote 65 providing this policy, when it does not. This error has clearly influenced the weight he accords matters, and therefore his assessment will need to be reviewed in light of this not being what footnote 65 now says. In the Statement of Common Ground it is now accepted that food production is not referred to in footnote 65 (section 2.4).

2.10 In paragraph 6.10 Mr Collison states that the site’s proximity to urban areas for sale of goods makes the land important as an agricultural asset. He does not explain how he reaches this conclusion or provide any evidence. The land is farmed for cereals with periodic break crops. The cereals are all feed varieties, going to animal feed, and the oilseed rape is usually sold for industrial purposes. The Council provides no evidence that this site has a particular locational advantage that would affect the planning balance.

Harm Overall

2.11 Mr Collinson ultimately accepts at paragraph 7.13 (iv) that there will be limited harm in respect of the loss of BMV by reference to conflict with Policy LP1. For the reasons stated in my Proof of Evidence and in this Rebuttal, his policy analysis is flawed.

Conclusion

3.1 In summary, the Appellant’s case is that there will be full compliance with both development plan policy and national policy.