AGENDA

Part 1

Items during the consideration of which the meeting is expected to be open to members of the public (including the press) subject to any statutory right of exclusion.

Item

1. Apologies for Absence

To record any apologies received.

2. Code of Conduct - Declarations of Interest Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012

Members are reminded of their responsibility to declare any disclosable pecuniary or non-pecuniary interest which they have in any item of business on the agenda no later than when the item is reached.
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Page Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.</td>
<td><strong>Minutes</strong></td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>To confirm the minutes of the meeting held on 1 August 2013 as a correct record.</td>
<td></td>
</tr>
<tr>
<td>4.</td>
<td><strong>Planning Applications (Main Plans List)</strong></td>
<td>Attached as a separate document</td>
</tr>
<tr>
<td></td>
<td>Report of the Executive Director of Environment and Regeneration.</td>
<td></td>
</tr>
<tr>
<td>5.</td>
<td><strong>Results of Planning and Enforcement Appeals</strong></td>
<td>11</td>
</tr>
<tr>
<td></td>
<td>Report of the Executive Director of Environment and Regeneration.</td>
<td></td>
</tr>
<tr>
<td>5.1</td>
<td>Lymm Rugby Football Club, Crouchley Lane, Lymm</td>
<td></td>
</tr>
<tr>
<td>5.2</td>
<td>Land off Mill Lane (Part of Peel Hall Farm) and land off Windermere Avenue/Grasmere Avenue</td>
<td></td>
</tr>
<tr>
<td>5.3</td>
<td>70 Clarence Road, Grappenhall</td>
<td></td>
</tr>
<tr>
<td>5.4</td>
<td>90 Higher Lane, Lymm</td>
<td></td>
</tr>
<tr>
<td>5.5</td>
<td>5 Clay Lane, Burtonwood</td>
<td></td>
</tr>
</tbody>
</table>

**Part 2**

Items of a “confidential or other special nature” during which it is likely that the meeting will not be open to the public and press as there would be a disclosure of exempt information as defined in Section 100I of the Local Government Act 1972.

**Nil**
Present: Councillor T McCarthy (Chair)  
Councillor J Richards (Deputy Chair)  
Councillors B Barr, J Davidson, T Higgins  
(substituted for M McLaughlin), C Jordan, L Ladbury,  
L Murphy, G Settle, S Woodyatt and S Wright

DM21 Apologies for Absence

Apologies for absence had been received from Councillor M McLaughlin and Councillor F Rashid.

DM22 Code of Conduct – Declarations of Interest

<table>
<thead>
<tr>
<th>Councillor</th>
<th>Minute</th>
<th>Reason</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>Councillor B Barr</td>
<td>DM25</td>
<td>Councillor Barr had been a customer of the applicant</td>
<td>Councillor Barr remained in the meeting and took part in both the discussion and voted thereon</td>
</tr>
</tbody>
</table>

DM23 Minutes

Resolved,

That the minutes of the meeting held on 20 June 2013 were agreed as a correct record and signed by the Chair with the amendment of the inclusion of apologies for absence from Councillor S Wright.

DM24 Planning Applications

Resolved,

That Pursuant to the Town and Country Planning Act 1990 (As Amended) the applications for permission to develop land be considered and dealt with in the manner agreed.

DM25 2012/20700 – Land at Chester Road / Pool Lane, Warington, WA4 6EP - Proposed change of use of land and depot for car sales, use of buildings for car preparation, associated landscaping and alteration to access

The Executive Director of Environment and Regeneration submitted the above application with a recommendation of approval subject to section 106 conditions.
Representations were heard in support of and against the Officer recommendation.

Resolved,

That application 2012/20700 be approved subject to S106 conditions and subject to an additional condition in relation to the detail of the revised position of access bollards

**DM26 Results of Planning and Enforcement Appeals**

A report of the Executive Director of Environment and Regeneration set out the result of recent appeals along with the Inspector’s findings and the Executive Director’s subsequent comment:

<table>
<thead>
<tr>
<th>Application/Appeal Reference</th>
<th>Location and Description</th>
<th>Committee/Delegated Decision</th>
<th>Appeal Decision</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012/20436</td>
<td>Land adjacent to Higher Lane, Lymm, Warrington, WA13 0RE</td>
<td>Refuse</td>
<td>Allowed</td>
</tr>
<tr>
<td>APP/M0655/D/13/2191643</td>
<td>Construction of stables with associated forecourt track, fencing, gates and new access with dropped kerb</td>
<td>Refuse</td>
<td>Allowed</td>
</tr>
<tr>
<td>2012/21021</td>
<td>64 London Road, Stockton Heath, Warrington, WA46HR</td>
<td>Refuse</td>
<td>Allowed</td>
</tr>
<tr>
<td>APP/M0655/H/12/2194703</td>
<td>Proposed advertisements – one internally illuminated fascia sign, one internally illuminated hanging sign and one internally illuminated other sign</td>
<td>Refuse</td>
<td>Allowed</td>
</tr>
<tr>
<td>2013/21320</td>
<td>4 Beech Road, Stockton Heath, Warrington, WA4 6LT</td>
<td>Refuse</td>
<td>Dismissed</td>
</tr>
<tr>
<td>APP/M0655/D/13/2197388</td>
<td>Proposed demolition of single storey rear extension, and the erection of 2 storey extension and part single storey rear extension</td>
<td>Refuse</td>
<td>Dismissed</td>
</tr>
<tr>
<td>2013/21247</td>
<td>16 Agden Park Lane, Lymm, Warrington, WA13 0TS</td>
<td>Refuse</td>
<td>Dismissed</td>
</tr>
<tr>
<td>APP/M0655/D/13/2198417</td>
<td>Proposed 2 storey side extension</td>
<td>Refuse</td>
<td>Dismissed</td>
</tr>
</tbody>
</table>
Resolved,

That the report be noted

DM27  Planning Appeals – Awards of Costs against the Council

A report of the Executive Director of Environment and Regeneration was submitted to the Members, the purpose of the report was to provide information in relation to appeals where costs had been awarded against the Council (2013-2014 period), additionally the report detailed the amounts of money that the Council had paid out to appellants.

It was reported that when making planning application decisions both Members and officers should be mindful of Circular 03/2009 (Costs Wards in Appeals and Other Planning Proceedings). The costs awards regime sought to increase the discipline of parties when taking action within the planning system, through financial consequences for those parties who have behaved unreasonably and had caused unnecessary or wasted expense in the process.

The Circular states “Planning authorities are not bound to accept the recommendations of their officers. However, if officers’ professional or technical advice is not followed, authorities will need to show reasonable planning grounds for taking a contrary decision and produce relevant evidence on appeal to support the decision in all respects. If they fail to do so, costs may be awarded against the authority”. In addition the Circular states “While planning authorities are expected to consider the views of local residents when determining a planning application, the extent of local opposition is not, in itself, a reasonable ground for resisting development. To carry significant weight, opposition should be founded on valid planning reasons which are supported by substantial evidence. Planning authorities should therefore make their own objective appraisal and ensure that valid planning reasons are stated and substantial evidence provided”.

Awards of costs can be awarded against the Council in the following circumstances:

- Failure to substantiate reasons for refusal including a lack of evidence.
- Vague, generalised or inaccurate assertions about a proposal’s impact, which are unsupported by any objective analysis.
- Ignoring relevant national policy – for example, the advice in PPG 8 on Telecommunications concerning health risks arising from a mobile phone base Station.
- Where a proposal is contrary to the development plan but the relevant policy has been superseded by national policy which advocates an entirely different approach.
- Acting contrary to, or not following, well-established case law.
- Persisting in objections to a scheme, or part of a scheme, which has already been granted planning permission or which the Secretary of State or an Inspector has previously indicated to be acceptable.
• Not determining like cases in a like manner – for example, imposing a spurious additional reason for refusal on a similar scheme to one previously considered by the planning authority where circumstances have not materially changed.
• Failing to grant a further planning permission for a scheme the subject of an extant or recently expired permission where there has been no material change in circumstances.
• Refusing to approve reserved matters when the objections relate to issues that should already have been considered at the outline stage.
• Imposing a condition that is not necessary, precise, enforceable, relevant to planning, and relevant to the development permitted or reasonable and thereby does not comply with the advice in DOE Circular 11/95 on The Use of Conditions in Planning Permissions.
• Requiring the appellant to enter into or complete a planning obligation which does not accord with the tests in ODPM Circular 05/2005 on Planning Obligations.
• Not imposing conditions on a grant of planning permission where conditions could effectively have overcome the objection identified – for example, in relation to highway matters.

To date and for the 2013-14 periods the total cost of appeals - where costs had been awarded against the Council (inclusive of Council barrister fees) – totalled £46,647.50 (excluding VAT).

Resolved,

That the report be noted and that Members continue to be mindful of the potential for awards of costs when refusing planning permissions and/or imposing planning conditions taking into account the advice in Circular 03/2009 (Costs Wards in Appeals and Other Planning Proceedings) and, that a working group be formed to further consider issues relating to the report

DM28  Planning Application and Appeal Performance – Quarter 1 (April to June 2013)

A report of the Executive Director of Environment and Regeneration was submitted to Members, the purpose of the report was to provide summary information in relation to planning application determination timescales.

It was noted that the Government required each Local Authority to provide information about the time taken to determine planning applications (8 and 13 week timescales) on a quarterly basis. The Council also monitors planning application performance. The Government does not require the Local Authority to provide quarterly updates in terms of appeal performance. However, appeal performance is monitored by the Council.

The table below provided planning application performance data for 2013-14 and a comparison against the cumulative 2012-13 performance.
The following table provided planning appeal performance data for 2013-14 and a comparison against the cumulative 2012-13 performance. The Local target for appeal performance was no more than 25% of appeals allowed. Last year’s performance was 25%, current performance was 55.5%. This was an area that needed to be improved. There have been no major appeal decisions this quarter. The Local Planning Authority is still awaiting a major planning application appeal decision for Land off Mill Lane (Part of Peel Hall Farm).

<table>
<thead>
<tr>
<th></th>
<th>2012-13 (Cumulative)</th>
<th>April-June 2013</th>
</tr>
</thead>
<tbody>
<tr>
<td>Majors (Local Target 70%)</td>
<td>57.70%</td>
<td>59.0%</td>
</tr>
<tr>
<td>Minors (Local Target 75%)</td>
<td>63.90%</td>
<td>80.0%</td>
</tr>
<tr>
<td>Others (Local Target 80%)</td>
<td>76.50%</td>
<td>92.4%</td>
</tr>
</tbody>
</table>

Each of the five applications allowed at appeal, were refused by the Development Management Committee following a recommendation to approve with conditions by Officers.

It was reported that in nine months’ time the Government’s target would be to assess major appeal performance as a measure of the quality of decision making. After the nine month period they will then look back over two years and if more than 20% of majors were allowed on appeal the Local Planning Authority would be placed in special measures. In summary, making major planning application decisions in time is important but it is also important that refusals can be substantiated and that there is a real prospect of success for major appeal applications.

Major planning application performance for the last quarter of the 2012-13 period was 36.6%; it was now almost 60%. Major planning application performance is, however, now improving and currently there are no risks. Applicants/agents will be required to ensure that Section 106 agreement heads of terms accompany major planning applications and that such agreements are signed before the statutory 13 week determination period expires. The Local Planning Authority now operated a formalised pre-application advice service. Applicants/agents will be encouraged to use the pre-application advice service, particularly for major applications, and this will afford them the opportunity to address Section 106 agreement issues in advance of the submission of planning applications.

Resolved,
That the report be noted

**DM29 Agents Customer Satisfaction Survey – Assessment and Actions**

A report of the Executive Director of Environment and Regeneration was submitted to Members, the purpose of the report was to provide Members with the results of an agent’s customer satisfaction survey relating to the submission of planning applications and obtaining pre-application advice from the Development Control Service.

It was reported that Agents regularly used the Development Control Service were asked to complete an on-line customer satisfaction survey in June 2013. Twenty eight agents were asked for their views and a total of seven agents responded (a response rate of 25%). Although this was a low response rate the information provided was useful as part of the drive to continuously improve the Service.

The Development Control Service had made a number of improvements over the past months. Progress had been monitored and assessed by the Planning Improvement Board and Audit Services. A new staffing structure was now in place together with performance management systems and new processes.

The results of the customer satisfaction provided a useful benchmark in which to measure user satisfaction. A similar customer satisfaction survey would be completed in 12 months’ time. Development Control was making a number of positive steps to improve the service it provided to its customers; this should be seen in the context of an historic period of time when staffing levels were low and processes and procedures needed to be reviewed.

The Planning Advisory Service will be asked to undertake a further “light touch” Peer Review of the Development Control/Planning Service at the end of the year.

In summary the following improvements/changes have been introduced over past six months:

- Preparation of a Planning Improvement Plan and the establishment of a Planning Improvement Board – most of the Development Control actions have now been actioned.
- Development Control Service restructure including the selection and recruitment of new members of staff (there is now no agency staff in Development Control).
- Validation checklists prepared and adopted and placed on the web site.
- Pre application advice protocol and charges adopted and placed on the web site.
- Model planning conditions prepared and agreed.
- Development control procedures manual prepared and issued to all members of staff.
Agenda Item 3

- Non material amendment policy prepared and placed on the web site.
- Training for both ward and parish councillors – 3 sessions for the 2013-14 period – using funds from a successful North West Employers bid.
- Weekly meetings and weekly performance monitoring reports for enforcement, pre application advice and planning applications.
- Improved quarterly return performance (i.e. 8/13 week statutory determination times) for 2013-14 compared to 2012-13.
- Weekly enforcement surgeries for Councillors
- Weekly list of enforcement cases received and “on hand” enforcement report emailed to all ward Councillors on a weekly basis.
- New enforcement team formed – Planning obligation and conditions monitoring officer post advertised.
- Committee report format improved including full planning conditions, drawings, photographs.
- Time extension letters issued for those applications nearing to the 8/13 week statutory timescales.
- Amended notification / validation letters.
- Amended press notices as a means of reducing costs.
- Communication of recent permitted development rights changes and display of forms and advice on the Councils web site.
- Changes to the Council’s Constitution and scheme of officer delegation.
- Preparation of committee site visit protocol.
- Commencement of work to enable electronic display of photographs and drawings at committee meetings.
- Improvements to the “search for planning applications” part of the web site.
- Review of Development Control Charges.
- All staff to attend a “working with the customer” training session on 1st October 2013.
- Local Plan Core Strategy prepared and examination held.
- Performance reports for planning applications, section 106 agreements and enforcement reported to DMC every six months.
- Back log of planning applications (validation stage) cleared.
- Risk Assessment prepared for Planning (BC/DC/Policy) and issued.
- Local Government Association / PAS likely to undertake a further review of the Planning service at the end of the year.

Resolved,

That the report be noted

DM30 PASC and DMC Site Visit Protocol

A report of the Executive Director of Environment and Regeneration was submitted to Members, the purpose of the report was for Members to consider the draft protocol.

It was reported that a protocol for Development Control Committee site visits would ensure that there was a clear and consistent approach laid out, that site
visits were better organised to enhance Member decision making, the majority of site visits take place, where necessary, before committee meetings, the number of meetings that the public have to attend relating to one planning application was one and as many decisions as possible were made within the statutory 8 and 13 weeks determination timescales.

Draft Protocol

- For those applications that are to be considered by PASC or DMC, ward Councillors (in consultation with the relevant Parish Council) should request a site visit by no later 14 days before the PASC or DMC committee date (if members can notify officers earlier than this would help). Requests for site visits should be made by emailing Devcontrol@warrington.gov.uk referring to the planning application reference number and site address. NB: Only ward Councillors can request a site visit before a committee meeting although ward councillors are encouraged to first consult the Parish Council.

- Development Control to send a list of sites to be visited to Democratic and Member Services 10 days before the committee meeting.

- Democratic and Member Services to send a list of sites to be visited to all members of PASC/DMC on the Monday of the Friday site visit.

- Members to inform Democratic and Members Services of their intention to attend the site visit by no later than 12 noon on the Wednesday of the Friday meeting.

- Democratic and Members Services to inform Development Control of those members that will be on the site visit by 12 noon on the Thursday before the Friday meeting.

- Planning application sites to be visited by members on the Friday before the committee meeting.

- Members can still request a site visit at DMC / PASC as is currently the case.

- For those members that cannot make a site visit they should endeavour to visit the site themselves – in these instances telephone advice can be first sought from the planning case officer in terms of matters that they may wish to specifically look at.

Resolved,

That the protocol be adopted for the purposes of site visits

DM31 Planning Enforcement Performance Update 1st April – 30th June 2013

A report of the Executive Director of Environment and Regeneration was submitted to Members, the purpose of the report was to provide the committee
with statistical data relating to the progression and resolution of planning enforcement casework for the first quarter of 2013.

It was reported that new enquiries were logged and then allocated to Enforcement Officers to investigate. The target to carry out the initial investigation was within four weeks of receipt and aimed to resolve it within thirteen weeks. As might be expected, the number of new enquiries received and the total number of cases tended to track each other. There were currently 151 outstanding enforcement complaints to be resolved.

Records showed that a total of 351 enforcement enquiries were received in the year 2012-2013, with a further 81 received during the first quarter of 2013/14. On average, more than half of new enquiries were investigated within 28 days.

<table>
<thead>
<tr>
<th>Quarter</th>
<th>Enquiries received</th>
</tr>
</thead>
<tbody>
<tr>
<td>01/04/2012 – 30/06/2012</td>
<td>77</td>
</tr>
<tr>
<td>01/07/2012 – 30/09/2012</td>
<td>92</td>
</tr>
<tr>
<td>01/10/2012 – 31/12/2012</td>
<td>91</td>
</tr>
<tr>
<td>01/1/2013 – 31/03/2013</td>
<td>91</td>
</tr>
<tr>
<td>01/04/2013 – 30/06/2013</td>
<td>81</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>432</strong></td>
</tr>
</tbody>
</table>

During the same period, 370 enquiries were closed with a further 94 closed during the quarter of 2013/14.

<table>
<thead>
<tr>
<th>Quarter</th>
<th>Cases closed</th>
</tr>
</thead>
<tbody>
<tr>
<td>01/04/2012 – 30/06/2012</td>
<td>70</td>
</tr>
<tr>
<td>01/07/2012 – 30/09/2012</td>
<td>124</td>
</tr>
<tr>
<td>01/10/2012 – 31/12/2012</td>
<td>89</td>
</tr>
<tr>
<td>01/1/2013 – 31/03/2013</td>
<td>87</td>
</tr>
<tr>
<td>01/04/2013 – 30/06/2013</td>
<td>94</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>452</strong></td>
</tr>
</tbody>
</table>

During the quarter the following formal enforcement actions had been taken:

<table>
<thead>
<tr>
<th>Enforcement notices issued</th>
<th>1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Breach of condition notices issued</td>
<td>0</td>
</tr>
<tr>
<td>Planning Contravention Notices issued</td>
<td>0</td>
</tr>
<tr>
<td>S.215 (untidy land notice)</td>
<td>0</td>
</tr>
<tr>
<td>Requisitions for Information issued</td>
<td>0</td>
</tr>
<tr>
<td>Advertisement related notices issued</td>
<td>0</td>
</tr>
<tr>
<td>Stop notices issued</td>
<td>0</td>
</tr>
<tr>
<td>Prosecutions initiated</td>
<td>0</td>
</tr>
<tr>
<td>Injunction applications made</td>
<td>0</td>
</tr>
</tbody>
</table>
Agenda Item 3

<table>
<thead>
<tr>
<th>Formal Cautions given</th>
<th>0</th>
</tr>
</thead>
<tbody>
<tr>
<td>Other formal actions taken (specify)</td>
<td>0</td>
</tr>
</tbody>
</table>

Additionally this quarter, 83 sites had been monitored to ensure that planning conditions/requirements of Section 106 Agreements were complied with. This showed an increased performance and compared favourably to the total of 175 cases that were monitored during the previous 12 months.

Resolved,

That the report be noted

Signed…………………………

Dated ………………………
## DEVELOPMENT MANAGEMENT COMMITTEE

Thursday 22nd August 2013

Start 18:30

<table>
<thead>
<tr>
<th>Item</th>
<th>Page</th>
<th>App number</th>
<th>App Location/Description</th>
<th>Recommendation</th>
</tr>
</thead>
</table>
| 1    | 2    | 2012/20529 | LAND OFF MARSDEN AVENUE, LATCHFORD, WARRINGTON, WA4 1UB  
Construction of 104no. dwellings (comprising 58no. semi-detached dwellings and 46no. terraced dwellings) including new access road from Marsden Avenue, car parking, landscaping, public amenity areas and sustainable urban drainage/ eco zone. | Approve sub. Sec 106 |
DEVELOPMENT CONTROL COMMITTEE DATE: 22-Aug-2013

ITEM 1

<table>
<thead>
<tr>
<th>Application Number:</th>
<th>2012/20529</th>
</tr>
</thead>
<tbody>
<tr>
<td>Location:</td>
<td>Land off Marsden Avenue, Latchford, Warrington, WA4 1UB</td>
</tr>
<tr>
<td>Ward:</td>
<td>Latchford East</td>
</tr>
<tr>
<td>Development</td>
<td>Construction of 104no. dwellings (comprising 58no. semi-detached dwellings and 46no. terraced dwellings) including new access road from Marsden Avenue, car parking, landscaping, public amenity areas and sustainable urban drainage/ eco zone.</td>
</tr>
<tr>
<td>Date Registered:</td>
<td>20-Aug-2012</td>
</tr>
<tr>
<td>Applicant:</td>
<td>Halebank Developments (Warrington) Ltd.</td>
</tr>
<tr>
<td>8/13/16 Week Expiry Date:</td>
<td>18-Nov-2012</td>
</tr>
</tbody>
</table>

**Reason for Referral to Committee**

Ward Cllr Steve Wright has requested that the application be referred to committee due to concerns about land contamination.

**Human Rights**

The relevant provisions of the Human Rights Act 1998 and the European Convention on Human Rights have been taken into account in the preparation of this report, particularly the implications arising from the following rights:-

Article 8 - The right to respect for private and family life, home and correspondence.

Article 1 of Protocol 1 - The right of peaceful enjoyment of possessions and protection of property.

**Site and Proposal**

The application site is located approximately 1.5 miles east of Warrington Town Centre and is approximately 3.4 hectares in size. It lies on the eastern edge of the residential suburb of Latchford, approximately midway between the River Mersey to the north and the Manchester Ship Canal to the south.

The majority of the site is elevated above the surrounding ground level by approximately 2 metres and currently consists of an area of unmaintained scrubland with trees around its periphery. The north and east boundary of the
site is formed by Morris Brook. The land to the east and south-east of the application site is currently being developed in phases as a new residential development accessed from Thelwall Lane. A public open space for this development is proposed to the east of Morris Brook. Further to the east is Woolston Eyes SSSI. To the west is Westy Park, which is a Council owned parcel of open space. There are existing residential properties along the southern boundary of the site and a residential care home (Westy Hall Care Home) adjacent to the southwest corner of the site. An unadopted footpath runs along the western boundary of the application site separating it from the public open space to the west.

The proposal seeks full planning permission for 104 dwellings in a mix of 2 and 3 bedrooms. 72 of the units are for affordable rent and 32 are proposed for open market sale. The layout is in the form of semi-detached properties and short terraces situated around a new loop road. Access to the proposed development would be taken from Marsden Avenue immediately to the east of Westy Hall Care Home. The proposals involve providing an additional ‘soil cap’ to the site which is already elevated above the surrounding ground level by approximately 2 metres. There are three areas of amenity space near to the entrance to the site, which are proposed to be grassed with peripheral tree and shrub planting.

Relevant Planning History

81/12586 - Proposed construction of light industrial units – Approved 9th December 1981.
88/22343 – Outline application for the erection of Industrial units (Use Classes B1/B3 and B8) – Withdrawn 14th December 1988.
A02/44759 - Outline application for residential development (max 150 units) – Withdrawn 3rd February 2006.

Planning Policies

National Planning Policy Framework (NPPF)

Unitary Development Plan (UDP)
Policy DCS1 Development Control Strategy
Policy DCS3 Engineering Services
Policy DCS7 Provision and Enhancing of Landscaping in New Development
Policy LUT1 Land Use / Transportation Strategy
Policy LUT2 Transport Priorities in Development Control
Policy LUT3 Walking
Policy LUT5 Cycling
Policy LUT7 Public Transport
Policy LUT12 Transport Impact Assessment
Policy LUT20 Parking
There are concerns about land contamination therefore it is requested that the application go to Committee.

Neighbours: Letters of objection received from 3 neighbouring properties
1. Lack of highway infrastructure to support the level of proposed development.
2. Impact on views from properties in Edgewater Park.
3. Loss of Urban Green Space contrary to Policies GRN10 and GRN12 of the adopted UDP.
4. The Local Authorities SHLAA does not see the land coming forward for development for 11-15 years due to the requirement for significant remediation.
5. Site investigations submitted with the application identify high levels of methane in the south west corner of the site, where POS is proposed. The use of this contaminated area for POS is a concern.

Consultation Responses

Housing Services: No objections
The statement on affordable housing submitted with the application and the proposed housing mix contained therein is generally consistent with the findings of the updated SHMA. The Housing Service can confirm that it is fully supportive of the proposals. Although the emerging LPCS requires on-site affordable provision to deliver a mix of social rent and intermediate tenures, in this case the provision of all the affordable properties as a single tenure type (affordable rent) represents a better outcome in terms of the overall quota of affordable homes to be delivered and eligibility for government subsidy.

Environment Agency: No objection
Whilst the submitted FRA does not adequately assess the risk of flooding to the proposed development site from the Manchester Ship Canal (MSC) the EA's flood modelling has assessed the potential flow rates across the floodplain from the MSC. These indicate that the proposed development is located outside of the 1 in 100 year flood zone (Flood Zone 3). Surface water discharge from the site should be the same as the discharge rate from the undeveloped greenfield site. The discharge of surface water should, wherever practicable, by to Sustainable Drainage Systems (SuDS). Conditions are recommended to require the submission of schemes to limit the surface water run-off generated by the proposed development; to manage the risk of flooding from overland flow of surface water and to demonstrate a minimum site level of 10.50 AOD.

The land is known to have had an industrial use that is very likely to have led to elevated levels of contamination. The land was previously used by the nearby tannery site and known to have received wastes from the tannery. Site investigations have identified elevated concentrations of contamination, both on the proposed development site and in the adjacent watercourse.
Based on the information presented will the application it is considered that pollution linkages continue to be present and that the change of use and disturbance through development would not improve the site conditions or risks to controlled waters. Further work and possibly remediation aimed at lowering risks to controlled waters may be needed.

Nevertheless, it is considered that planning permission could be granted for the proposed development if the EA’s prescribed standard national condition requiring the submission of a remediation strategy to deal with the risks associated with contamination of the site is imposed. Without the proposed condition development of the site poses an unacceptable risk to the environment and the EA would object to consent being granted.

**Environmental Health:**
No objections subject to specific prior-to- commencement conditions
The site was formerly used for the disposal of slurred waste from local tanneries by constructing a low retaining bund approximately 3 metres high around the perimeter of the lagoon. Once this method of tannery waste disposal was finished in the mid 1970’s, the site was subsequently used as a landfill for the disposal of solid construction, demolition and some commercial waste. Tipping of wastes on the site was completed in approximately 1980 when the site was capped with a thin covering of soil and allowed to re-vegetate. No further disposal activities have occurred on site since this time and the re-vegetation of the site is now fairly advanced.

The remediation proposals have gone through several iterations and whilst the remedial measures proposed for internal gas protection and ground contamination have remained the same throughout the duration of the consultation the Remediation Strategy and remedial proposals for the site have evolved significantly in terms of external ground gas protection.

As a result of 18 months detailed discussions with different consultants, the current recommendations for remedial measures and protection for existing off site residential properties along Pichael Nook are significantly different to those originally proposed. The science underpinning the proposals has changed significantly during discussions. The origin of the source of the ground gas is now thought to be from an on-site source as opposed to the off-site source (ie.Westy Park) originally envisaged. This being Peat, Made Ground and Tannery Waste deposits under the site, with gas freely venting to atmosphere via diffusive flow (flowing freely through the site surface), rather than the pressure-driven flow as previously thought.

Consequently, the external gas protection now proposed, comprises three ‘Virtual Curtains', which are essentially a network of permeable conduit tubes sunk into the ground and ventilated using ‘above ground’ inlet and exhaust pipes, which allow generated gases to be diluted and to vent freely from the ground to atmosphere. These Virtual Curtains are substantial engineering structures extending across the south-west corner and along the complete southern and south-eastern boundaries of the site and extend to 7.00m below ground level. The two Virtual Curtains along the southern site boundaries are
proposed to protect off-site residential properties along Pichael Nook, with the
third Virtual Curtain positioned to isolate the south-west corner (the
undevelopable area) from the wider site. The south-west corner is also
proposed to comprise up to 12 'Venting Nodes', which will extend into
underlying Peat and Tannery Waste deposits, again allowing free venting of
gases to atmosphere (See Proposed Layout of Virtual Curtain Plan, Drg no.
12/6520/5, in Appendix 1).

The other significant difference is that although the original Environmental
Consultant initially recommended 3 months of post-completion gas-
monitoring, the current Ground Gas Consultant (EPG) has subsequently
recommended that no post-project gas-monitoring is required.

The human health, controlled waters and ground gas issues can be
summarised as follow;

- Ground contamination is relatively light and the robust cover system
  proposals for the site should protect site users from ground
  contamination within sensitive areas.
- The Environment Agency (EA) has confirmed they are content to
  condition any forthcoming consent in order to resolve any potential risk
to ground or surface waters.
- The gas origin is thought to be the site itself, as opposed to an off-site
  source. The south-west corner of the application site (Gas Risk
  Classification: CS04) has been declared 'undevelopable' due to human
  health risk from ground gases. However, for the remainder of the site
  (determined Gas Risk Classification: CS02), internal gas protection
  measures for new buildings and/or confined spaces should mitigate
  risk to site users although a higher standard of gas protection
  measures (CS04/Amber02) is to be incorporated into all buildings. The
  risk posed to on-site users by external gas protection measures are
  thought not to be significant either. Whereas the risk posed to off-site
  residents (dwellings along Pichael Nook) from gas is undetermined but
  the applicant’s Ground Gas Consultants maintain that the current
  external gas protection proposals (virtual curtains) should mitigate all
  risk.

There remain concerns in respect of some of these issues which are outlined
in more detail in the Environment & Public Protect Service full comments
contained in Appendix 3.

Whilst, concerns are expressed over the development of the site for a
sensitive end use, the external gas protection measures now proposed
changes the nature of the site from a freely gassing site to one with
impermeable structures, with gas protection and additional large-scale
external engineering venting structures to allow built development to be
considered feasible. The consultant has through design and proposed
indemnity made the site one which could be developed provided that tight
control through necessary conditions and on-going monitoring of the virtual
curtains in combination with rigorous enforcement of conditions through the
build process. Ordinarily, risk classifications for a site of this size would be uniform. It is unusual for such different levels of risk to exist on small sites. Typically if a portion of a small site is deemed “undevelopable”, then the entire site would be classified as “undevelopable”. However, the extreme magnitude of remedial measures proposed requires a less conventional approach to contaminated land regulation in this case and the rationale behind the assessment of risk as presented appears robust, such that we cannot reasonably question further the proposed measures, providing the requested assurances/indemnities are supplied.

United Utilities: No objections
The development should be drained on a totally separate system with only foul drainage connecting into the foul sewer. Surface water should be discharged into the adjacent watercourse. The water main will need to be extended to serve the development and the applicant may be required to pay a capital contribution for its provision.

Public Realm Asset & Flood Risk: No objections
The proposals are acceptable as long as United Utilities agree to adopt the surface water system and the system will not flood any part of the site in a 1:30 year return period design storm. The additional 190m$^3$ of storage which has been identified as surface water attenuation for the 1:100 year return period design storm should not flood properties internally and when detailed design has been completed on the drainage network, flow paths should be agreed with the planning authority.

Highways: No objections
The proposed amended site access arrangements, shown on Drg no.2479-01-003 Rev B, are acceptable and should be secured by way of planning condition. Although, it should be noted that the northerly visibility splay extends across land that is in the ownership of the Council and confirmation should be sought from the Council’s Estates Department that the land within the splay will remain permanently free from obstruction. The amended internal site layout, Shown on Drg no. 2479-01-002 Rev P, meets the Council’s design standards for adoption. The proposals retain access to the existing footpath that runs along the western boundary of the site. A contribution, of £38,500 in support of the Council’s Local Transport Strategy towards footway/tactile paving improvements in the vicinity of the site has been agreed.

Natural Environment Officer: Some Concerns Expressed
The application was accompanied by a Protected Species Survey carried out by ADK in September 2012 and supplemented by further reports by SLR Consulting and Amenity Tree Care (Great Crested Newt Survey - dated 26th May 2013)(Bat Survey – dated 31st July 2013)(Ecological Overview and Commitment to Mitigation/Enhancement Statement - dated 1st August 2013) that demonstrate that there are no badgers, great crested newts or bats on the site. Nevertheless, the application proposes to retain trees in various locations around the periphery of the site, as shown on the Overall Site Layout Plan (Drg no. 2479-01-002 Rev P) that have potential as bat roosts.
and retain the reed bed to the north of the site. This is welcomed and should retain some foraging habitat for bats and other species.

However, the proposals do not adequately address; the loss of habitat for breeding birds; the need to provide details of the treatment of the brook corridor and the retention of an adequate buffer zone for the ditch along the eastern boundary of the site. The 6m buffer, shown on the Overall Site Layout Plan (Drg no. 2479-01-002 Rev P), does not seem to be taken from the 'bank top' as directed in the ADK Protected Species Survey report. It seems to be a strip encompassing the ditch that is just 6 metres wide in total. Also, the watervole mitigation plan referenced does not detail any habitat enhancements works to the length of the ditch channel and there is no access provision to the area for maintenance.

**Arboricultural Officer**
No objections - The majority of the mature trees within the site are Poplar, which are very poor quality specimens and not worthy of protection. However, they probably have some ecological value with numerous decay pockets and crevices providing habitats for small mammals and invertebrates. The existing planting on the edge of the playing fields is of some collective merit and should be retained with some additional planting and maintenance.

The remainder of the site is predominantly natural regeneration of native species. This is widespread across the site but not of sufficient size to warrant any special protection measures and any replacement planting in mitigation of their loss should soon achieve similar height and coverage. A condition is recommended to require suitable replacement planting to be provided as part of a landscaping scheme for the site.

**Estates**
The Estates Department are negotiating with the developer’s agent with regards to the developer acquiring the Councils interest in the land required for the visibility splay.

**Education**
No comments received.

**Observations**

**Principle of Housing**
The application site is within the defined town of Warrington and within this an area defined as Inner Warrington. These designations are common to both the UDP and the emerging LPCS.

LPCS Policy SN1, which guides the nature and distribution of new housing within the Borough, specifies that “The majority of new homes delivered within the borough will be focussed on previously developed land within Inner Warrington inclusive of the Town Centre, where development will be
welcomed as a catalyst to secure physical, environmental, social and economic regeneration in accordance with Core Strategy Policy CS8”.

LPCS Policy CS8 prescribes, through a criterion based approach, objectives which development proposals within Inner Warrington are expected to aid the delivery of. The proposal conforms with those objectives which relate to the delivery of housing and the redevelopment of underused and derelict land. As such it is considered that the proposals align with the Council’s spatial approach to housing land release.

Whilst assessment against the emerging LPCS is deemed most appropriate, it may also be beneficial to note that the proposal is also deemed to comply with UDP policies which govern housing land release. This owes to the proposed development clearly fulfilling two of the criterion specified in UDP Policy HOU2, in that if approved the proposal would contribute to:

- the regeneration of inner urban areas in need of investment and improvement; and
- the available supply of affordable or social housing in relation to identified needs.

In respect of affordable housing requirements, both the UDP (Policy HOU15) and LPCS (Policy SN2) require 20% of the total number of residential units proposed on sites within Inner Warrington to be provided as affordable. It is noted that the submission proposes a level of provision (70%) considerably in excess of this requirement, driven by Registered Provider activity utilising funding secured through the Affordable Homes Programme. There are no objections to this level of provision which evidently complies with policy requirements.

With regards to the tenure mix of the affordable housing proposed. This has been informed by way of discussions with Council officers in the Housing Strategy Team and as such is considered acceptable. The applicant proposes to secure the specified level of affordable provision by way of a condition an example of which they set out in Annex One of their submitted Affordable Housing Statement. Securing the provision in this manner is deemed necessary and there are no objections to the employment of the condition put forward to secure this objective.

Design

Policies LUT1, REP1, GRN2 and DCS1 of the UDP are general policies that seek to guide new development to existing built up areas, encouraging the redevelopment previously developed and degraded sites in order to make efficient use of land, natural resources and promote sustainable development. They also seek to preserve the character and appearance of an area, whilst ensuring that development deters crime, is accessible, preserves the amenities of neighbours, incorporates attractive landscaping, promotes energy efficiency and is designed to a high standard. Policy HOU3 indicates that all housing developments should be well designed and planned so as to
enhance the local community and specifies a number of criteria that they should take account of in order to achieve this. Policy HOU4 specifies the level of open space provision that housing developments should provide in order to meet the recreational needs of its future residents. Policy HOU6 seeks to achieve net site densities of between 30-50 dwellings per hectare and to create mixed and inclusive communities by providing an appropriate mix of dwelling size, type and affordability in relation to local housing need. Policies CS1, SN2, QE1, QE3 and QE7 of the emerging LPCS have similar criteria.

The application is supported by a Planning and Regeneration Statement (PARS); an Affordable Housing Statement (AFS) (both by Mosaic and dated August 2012); a Design and Access Statement (DAS) (by Pozzoni and dated July 2012) and a Statement of Community Involvement (SCI) (by Mosaic dated August 2012). The site and its surrounds are described in the PARS (page 6 and 7) and indicated that there are a wide range of services available within approximately 0.5 mile of the site despite its location on the edge of the urban area.

The scheme is fairly high density (31 dwellings per hectare) with a mix of dwelling types consisting of 52 two bedroom houses and 52 three bedroom houses, 70% of which would be for affordable rent, which accords with the prevailing need as identified by the Strategic Housing Market Availability Assessment and the Council’s Housing Strategy Team.

Whilst, the site is located at the rear of existing properties on Marsden Avenue and is accessed via a gap between Westy Hall Care Home and Pichael Nook the layout provides a pleasant entrance to the scheme with properties fronting on to open space. A loop road serves the site with development fronting onto it on all sides providing a secure surveyed environment.

The development is two-story in scale, which is consistent with existing properties in the area and contains a mixture of semi-detached and terraced properties, which is again consistent with style of dwellings in the area. The design of the properties and the materials used in their construction is essentially conventional, although there are some contemporary elements to both the design and materials, including the use of render and timber cladding.

The DAS (para 3.01) indicates that there is 158% level of parking provision across the site with all parking spaces located either immediately adjacent to properties or within their curtilage. In addition, all dwellings have cycle storage provision. The level of parking provision is considered to be acceptable and to accord with the provisions of Policies LUT2 and LUT5 in that parking provision, including cycle parking has been made that does not exceed the Council’s maximum standards.

The site is included in the Council’s open space audit and benefits from protection through the development plan. Policy QE3 of the LPCS seeks to continue the same approach as that of UDP Policy GRN10. Essentially, these
polices do not preclude outright the development of green or open spaces but instead seek to ensure that no unacceptable losses occur by way of determining the value of the space in question. The site is in private ownership and no formal arrangements are in place to facilitate public use of the site. Whilst, it is accessed on an informal basis and fulfils a limited recreational function from a quantitative perspective the value of the site is deemed to be limited due to its proximity to a wide range of alternative sites of a similar character.

In addition, the proposals include approximately 6000 sq metres of informal open space in five separate parcels, which is significantly in excess of the requirement in Policy HOU4. The policy requirement in respect of children’s play equipment has been wavered, in this instance, by agreement with Officers due to the close proximity of Westy Park and the formal play opportunities (2 MUGA’s, large equipped playground) that are on offer there.

Whilst the site was previously identified, via UDP Policy GRN12, as one of a number of specific opportunities to improve open space provision within the borough, this aspiration has not been rolled forward into the emerging LPCS, owing to a lack of resources to realistically acquire any of the identified sites within the plan period, all of which are in private ownership.

In is proposed that the development will be constructed to Code for Sustainable Homes (CfSH) Level 3 using a “fabric first” approach, with the dwellings being both highly insulated and constructed with recyclable materials. Both Policies REP1 of the UDP and QE1 of the emerging LPCS require development to be as energy efficient as possible and to seek to minimise carbon dioxide emissions. The proposal to provide CfSH’s Level 3 is broadly in accordance with the UDP, the emerging LPCS and the NPPF with regard to sustainability, climate change and energy issues.

Residential Amenity

There have not been any objections from neighbouring properties in respect of perceived impact upon outlook, daylight or privacy.

Policy HOU13 of the UDP states that when considering proposals for housing development the Council will assess privacy and day lighting standards by reference to the following recommended distances:-

For conventional house types up to two storeys in height:
- a minimum distance of 21 metres between main face elevations containing windows of living rooms; and
- a minimum distance of 13 metres between main face elevations containing windows of living rooms, and windows of living rooms and a gable or windowless elevation.

These distances may need to be increased where:
- there are significant differences in site levels; or
• residential properties of three storeys or more adjoin conventional house types.

Policy QE6 of the emerging LPCS also seeks to maintain privacy and daylight standards but without specifying the specific distances that policy HOU13 does.

Application of the standards in Policy HOU13 to the current proposal demonstrates compliance with both the 13 metre and the 21 metre requirement where appropriate. All the proposed dwellings retain adequate separation distances to existing dwellings in excess of the minimum requirements set out within policy HOU13. Drs no. P2479-01-004 Rev C demonstrates that the separation distance to the nearest properties to the southeast (Morris Homes Development) would be approximately 24 metres (window to window), whilst to the existing properties in Pichael Nook to the south it would be 20 metres (gable to gable).

Although, the site is elevated in respect of some of the surrounding land levels and there are proposals to raise the level of the site further in order to resolve contamination issues, Drs no. P2479-01-009 Rev A shows that the properties would not be significantly elevated in respect of the Morris Homes Development. In addition, whilst, there would be a change in level of approximately 2 metres between the properties at the end of Pichael Nook and those at the southern end of the application site (Plots 65 to 68) these properties would be 20 metres apart between their side gables.

Policies REP1, DCS1, GRN2, HOU7, REP7, REP8 and REP12 of the UDP seek to avoid impacts arising from land contamination and adverse impacts on water quality, including ground water. Policy REP8 specifically requires a site investigation ad assessment to be undertaken prior to any development, where it is considered that the land may be contaminated or where the development is classified as being sensitive by government guidance. In addition, both Policies HOU7 and REP12, seek to ensure a safe and healthy living environment for both existing and proposed development and will not permit the introduction of land uses that are sensitive to pollution into areas near to sources of pollution if unacceptable injury to amenity or nuisance to the new or existing use would be likely. Policies CS1 and QE6 of the emerging LPCS contain similar criteria.

A major consideration for the development of the site is with regard to the potential impact for off-site residents and the changes to the gassing regime on the site should the permeable nature of the site change as a consequence of development.

Notwithstanding the concerns expressed, the Council’s Environmental & Public Protection Service consider that provided that conditions are imposed to ensure the;

• implementation of an appropriate contaminated land mitigation strategy;
• submission of statements of indemnity or surety underwriting the suitability of the external gas protection measures;
• submission and/or implementation of on-going gas protection monitoring and maintenance programme, and
• the submission of a framework for an adverse odour action management plan

and the payment of a suitable bond (to be agreed) secured through S106 Agreement, development could proceed. However it should be noted that if such conditions and requirements are not imposed, then Environmental Protection Officers would strongly recommend refusal of this application. The approval of these proposals is entirely contingent on the implementation and maintenance of external gas protection measures and submission of indemnities regarding the reported effectiveness of said remedial measures.

Therefore, it is considered that, provided that the stringent measures outlined in the detailed Environmental & Public Protection Service memorandum (dated 8th August 2013) are imposed the proposal would not have a materially harmful impact upon the living conditions of either the existing or the proposed residential properties.

Highways

Policies LUT2, LUT3, LUT5 and LUT7 outline the transport priorities that development proposals should adhere to with the highest priority been given to the needs and safety of pedestrians, cyclists and access to public transport. Policy LUT20 requires all new development to make provision for safe and secure off-street car and cycle parking in accordance with the Council’s approved standards. Whilst Policy LUT12 requires that all proposals likely to have significant transport implications must be accompanied by a Transport Assessment. Policies QE6, MP1, MP3, MP4 and MP7 of the LPCS seek to achieve similar objectives.

Whilst, the proposed development would generate an increase in traffic levels on the surrounding road network the Transport Assessment demonstrates that the level of increase would not have a material impact upon the highway network. The access arrangements have been revised from when the application was originally submitted. The amended, Site Entrance Junction Plan (Drg no. P2479-01–003 Rev E) now proposes appropriate visibility splays and junction radius. The internal site layout is in accordance with the Council’s adopted standards. There are adequate visibility splays at all the junctions and driveways and the road width and turning heads are of the appropriate dimensions to allow larger service and refuse vehicles to access the development. The level of parking provision proposed is in accordance with the Council’s standards and is considered to be acceptable and an acceptable commuted sum has been negotiated towards footway and tactile paving improvements within the vicinity of the site. Whilst, there is no specific agreement in respect of the use of council land to achieve the required northern visibility splay there seems to be a reasonable proposed of this being achieved during the life of the planning permission. As such, Circular 11/95
as amended) on *The Use of Planning Conditions* allows for the imposing of a condition worded in a negative form, prohibiting development until an agreement has been reached.

In conclusion, there are no objections to the proposals from a highway perspective, subject to the imposition of suitable conditions to ensure the surfacing and retention of the car parking spaces, the submission of full construction details of the access road, internal highways and the means of controlling vehicular traffic along the footpath adjacent to the western boundary of the site; the submission of a scheme for the implementation and retention of the visibility splay at the access to the site and the provision of a commuted sum of £38,500 (via a S106 Agreement) to fund improvements to pedestrian footways and tactile paving in the vicinity of the site.

**Biodiversity**

The Natural Environment and Rural Communities Act (NERC)(2006), places a duty on local authorities to have regard to the conservation of biodiversity in exercising their functions. One of the key aspects of the NPPF is that planning decision should aim to conserve and enhance biodiversity and incorporate it into and around developments. Paragraph 118 indicates that where a planning decision would result in significant harm to biodiversity which cannot be mitigated, appropriate compensation measures should be sought. If that significant harm cannot be prevented, adequately mitigated against, or compensated for then planning permission should be refused. The Conservation of Habitats and Species Regulations (2010) implemented the European Habitats Directive, part of which makes it an offence to deliberately capture, kill or disturb a member of a European Protected Species or to damage or destroy the breeding site or resting place of such an animal.

Policies GRN2 and GRN22 of the UDP require development proposal to maintain and where possible enhance biodiversity and to identify and protect important landscape features. Whilst Policies GRN16, GRN17, GRN20 and GRN21 seek to protect designated sites of national and local importance for nature conservation and wildlife corridors, will not permit development that will have an adverse effect on them unless the reasons for the development clearly outweigh the nature conservation value of the sites and requires development proposals to be accompanied by a site survey, an assessment of the likely impacts, proposals for protection and management of features identified for retention and proposals for compensating for any features that are lost. LPCS Policies CS5, QE3 and QE5 have similar aspirations.

There are several sites of nature conservation importance (Woolston Eyes SSSI, Westy Point local nature reserve and the Mersey Valley Wildlife Corridor) in the vicinity of the application site. However, none are considered to be sufficiently close to be adversely affected by the proposed development.

A number of recent surveys have been undertaken that demonstrate that great crested newts, badgers and bats are not present on the application site. Nevertheless, there is some limited potential for roosting bats to be present.
within certain trees around the site boundary and bats are likely to continue to make use of the site periphery for foraging and commuting purposes. Also all habitats on the site are considered to be suitable for use by breeding birds, including some UK and local BAP species. Whilst, water vole presence cannot be completely discounted it is considered to be unlikely.

The Ecological Overview & Commitment to Mitigation/Enhancement Statement produced by SLR Consulting Ltd and dated 1st August 2013 outlines a number of mitigation measures that include; retention of trees suitable for roosting bats, the retention of a 6 metre buffer of vegetation around the ditch to be managed for the benefit of wildlife, including water voles and removal of vegetation on the site outside of the bird breeding season.

The Council’s Natural Environment Officer has expressed concerns about the lack of detailed proposals for the treatment of the brook corridor and the width of the buffer (6 metres). It is considered that enhancements to the brook corridor should be provided prior to a decision being made on the application and that the buffer for the brook should be 6 metres either side of the ditch measured from the bank top. The applicant has indicated that to provide the requested 6m buffer from the bank top of the ditch would fundamentally compromise the viability of the scheme. Plans have been provided to demonstrate that this requirement would necessitate altering the layout of the scheme, impacting on road layout, interface distances, garden space and the building line of the crescent, and that this would result in the loss of 10 plots.

Whilst, ideally details of the treatment of the ditch corridor should be provided up front and a greater separation distance from the bank top should be provided it is accepted that to do so would compromise the viability of the scheme and hence the provision of a significant amount of much needed affordable housing. It has been adequately demonstrated that the proposals would not impact on any protected species and it is considered that an acceptable level of compensatory habitat can be provided. Consequently, if the application is to be approved conditions are recommended relating to the time of year when site clearance can be undertaken; the eradication of Japanese Knotweed, the provision of nesting habitat for roosting bats and birds; the provision of a habitat management plan and limiting the level of the lighting at the site periphery.

Flooding

Policy REP4 of the UDP states that in areas at risk of flooding and in circumstances where the risk of flooding elsewhere would increase as a consequence, new development or land raising will not be permitted unless appropriate flood protection and mitigation measures are installed as part of the development. Policy QE4 of the emerging LPCS indicates that only development proposals where the risk of flooding has been fully assessed and justified by an appropriate Flood Risk Assessment (FRA) will be supported. A site specific FRA is required for all development on sites of 1 hectare or more in Flood Zone 1 and all proposals in Flood Zones 2 and 3 and
Critical Drainage Areas. Policy REP5 requires new development generating surface water run-off that would result in adverse impacts should include appropriate attenuation measures.

A Flood Risk Assessment and Drainage Impact Assessment (Doc Ref: 37716A/FRA-Rev A) (by Curtins dated July 2012) have been submitted in support of the application. Whilst, the FRA failed to adequately assess the risk of flooding to the proposed development site from the Manchester Ship Canal (MSC), the Environment Agency have assessed the potential flow routes across the floodplain from the MSC and these indicate that the site is located outside of the 1 in 100 year flood outline. As such there are no objections to the proposals from the EA subject to the imposition of conditions; demonstrating a minimum site level of 10.50 metres AOD; requiring a scheme to limit the surface water run-off generated by the proposed development and to manage the risk of flooding from overland flow of surface water.

Trees

Policies GRN2, GRN22 and GRN24 of the UDP seek to protect and promote trees and woodland, incorporate these features into the layout and landscape of developments and provide new planting in landscaping proposals. Policies QE3 and QE7 of the LPCS have similar requirements.

The majority of the trees within the site are either of very poor quality or are immature specimens that have naturally regenerated. Neither of which, are worthy of retention or protection from an arboricultural point of view. However, the mature Poplars have some ecological value with numerous decay pockets and crevices providing habitats for small mammals and invertebrates, including bats. These trees are shown to be retained with some remedial pruning and the Overall Site Layout Plan (Drg no. P2479-01-002 Rev P) shows some indicative replacement planting along the edge of the playing fields and the southern boundary of the site. The retention of the mature Poplar trees as habitat and suitable replacement planting can be secured by way of conditions.

Recommendation

The proposals are in accordance with the Council’s Housing Policy Framework and align with the spatial approach to housing land release. Provision is made for on-site affordable housing (70%) that is considerably in excess of the current and emerging policy requirements. Adequate separation is retained to existing properties and there would be no material harm to outlook or privacy. The layout and design of the dwelling units is acceptable and reflects the local vernacular. Whilst, the proposed scheme would generate an increase in traffic levels the level of increase would not have a material impact upon the highway network. The level of parking provision proposed is in accordance with the Council’s standards and is
considered to be acceptable. Whilst, ideally details of the treatment of the
ditch corridor should be provided up front and a wider buffer should be
provided along the ditch it is accepted that to do so would compromise the
viability of the scheme and hence the provision of a significant amount of
much needed affordable housing. It has been adequately demonstrated that
the proposals would not impact on any protected species and it is considered
that an acceptable level of compensatory habitat can be provided for bats,
birds and water voles. Whilst, the FRA failed to adequately assess the risk of
flooding to the proposed development site from the Manchester Ship Canal
(MSC), the Environment Agency have assessed the potential flow routes
across the floodplain from the MSC and these indicate that the site is located
outside of the 1 in 100 year flood outline. Surface water discharge rates,
attenuation measures, overland flood flow routing, finished site levels and
land remediation can be satisfactorily addressed by way of appropriate
conditions. The landscaping proposals are acceptable and will enhance the
appearance of the development providing some features to encourage
biodiversity. Notwithstanding the concerns expressed, the Council’s
Environmental & Public Protection Service consider that provided that the
stringent measures and requirements outlined in the detailed Environmental &
Public Protection Service memorandum (dated 8th August 2013) are imposed
in full the proposal would not have a materially harmful impact upon the living
conditions of either the existing or the proposed residential properties.
(However it should be noted that if such measures and requirements are not
imposed there would be unresolved concerns about the risks posed to off-site
residents from potential gas migration and the Environmental Protection
Officers would be recommending refusal of this permission).

The proposals are therefore considered to be in accordance with the National
Planning Policy Framework and the relevant provisions of; Polices DSC1,
DCS3, DCS7, LUT1, LUT2, LUT3, LUT5, LUT7, LUT12, LUT20, HOU1,
HOU2, HOU3, HOU4, HOU6, HOU7, HOU13, HOU15, GRN2, GRN10,
GRN12, GRN16, GRN17, GRN21, GRN22, GRN24, REP1, REP4, REP5,
REP7, REP8 and REP12 of the adopted Warrington UDP, and Polices CS1,
CS5, CS8, SN1, SN2, QE1, QE3, QE4, QE5, QE6, QE7, MP1, MP3, MP4 and
MP7 of the submission version of the Warrington LPCS.

In conclusion, it is recommended that planning permission is approved subject
to the following conditions; the submission of a satisfactory programme of
monitoring and maintenance for the external gas protection measures that are
to be installed on site, and a S106 Agreement to be secured within 3 months
of the date of this committee to make provision for affordable housing (70%) a
financial contribution for highway improvements (£38,500) and a bond to be
held until such time as the maintenance programme associated with external
gas protection measures to be installed on site ceases.
Conditions

1. The development must be begun not later than three years from the date of this permission.

2. The development hereby approved shall be carried out entirely in accordance with the following plans and specifications, unless amendments are otherwise agreed in writing with the Local Planning Authority.

- Site Location Plan (Drg no. P2479-01 - 001 Rev A)
- Overall Site Layout Plan (Drg no. P2479-01 - 002 Rev P)
- Site Entrance Junction Plan (Drg no. P2479-01 – 003 Rev E)
- Southern Section Site Plan (Drg no. P2479-01 – 004 Rev C)
- Eastern Section Site Plan (Drg no. P2479-01 – 005 Rev C)
- Western Section Site Plan (Drg no. P2479-01 – 006 Rev C)
- Street Elevation Sheet 1 (Drg no. P2479-01 – 007 Rev B)
- Street Elevation Sheet 2 (Drg no. P2479-01 – 008 Rev C)
- Sketch Site Sections (Drg no. P2479-01 – 009 Rev A)
- Plans & Elevations - Plots 1-5 (Drg no. P2479-01 – 010 Rev A)
- Plans & Elevations - Plots 6-10 (Drg no. P2479-01 – 011 Rev A)
- Plans & Elevations - Plots 11-14 (Drg no. P2479-01 – 012 Rev A)
- Plans & Elevations - Plots 15-18, 19-22, 33-36, 41-44 (Drg no. P2479-01 – 013 Rev A)
- Plans - Plots 23-30 (Drg no. P2479-01 – 014 Rev A)
- Elevations - Plots 23-30 (Drg no. P2479-01 – 015 Rev A)
- Plans & Elevations - Plots 31-32, 90-91, 96-97 (Drg no. P2479-01 – P016 Rev B)
- Plans & Elevations – Plots 37-40, 45-48 (Drg no. P2479-01 – P017 Rev A)
- Plans & Elevations - Plots 49-50, 59-60 (Drg no. P2479-01 – 018 Rev A)
- Plans & Elevations – Plots 51-52, 57-58 (Drg no. P2479-01 – 019 Rev A)
- Plans & Elevations – Plots 53-56 (Drg no. P2479-01 – 020 Rev A)
- Plans & Elevations – Plots 61-64, 77-80, 98-101 (Drg no. P2479-01 – 021 Rev A)
- Plans & Elevations – Plots 65-68 (Drg no. P2479-01 – 022 Rev A)
- Plans & Elevations – Plots 69-72, 73-76 (Drg no. P2479-01 – 023 Rev A)
- Plans & Elevations – Plots 81-83, 102-104 (Drg no. P2479-01 – P024 Rev B)
- Plans – Plots 84-89 (Drg no. P2479-01 – 025 Rev A)
- Elevations – Plots 84-89 (Drg no. P2479-01 – 026 Rev A)
- Public Amenity Area Plan (Drg no. P2479-01 – 027 Rev A)

3. No site clearance/vegetation removal shall be carried out on the site between 1st March and 31st August inclusive in any year, unless approved in writing by the Local Planning Authority.
4. No development shall commence until full details of a scheme for the eradication of Japanese Knotweed has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include a timetable for implementation and clearly identify the extent of the Japanese Knotweed on a scaled plan.

5. Prior to the commencement of any development, a scheme for protecting from construction damage of all trees/the reed beds at the northern end of the site and the ditch and its embankment along the eastern boundary of the site, shown to be retained on the approved Proposed Overall Site Plan (Drg no. P2479-01-002 Rev P) shall be submitted to and approved by the Local Planning Authority. The approved scheme shall be implemented before any site works commence and shall be retained during the period of construction.

6. No development shall take place until a mechanism is agreed with the Local Planning Authority to ensure the implementation and retention of visibility splays of 2.4 metres by 43 metres in both directions to the proposed site access at the junction of Marsden Avenue and Nook Lane. Once implemented nothing shall be erected or allowed to grow above a height of 0.6 metres within the splays.

7. Development works of any kind shall not begin until the following conditions have been satisfied and discharged by the Local Planning Authority (LPA) and written approval to commence development works has been issued by the LPA. All requirements to be completed in accordance with the following guidance references: CLR11 (Environment Agency/DEFRA, 2004); BS10175 (British Standards Institution, 2011); C665 (CIRIA, 2007).

   **A: CHARACTERISATION:** With specific consideration to human health, controlled waters and wider environmental factors, the following must be provided (as required) to fully characterise the site in terms of potential risk to sensitive receptors:

   - Preliminary Risk Assessment (PRA or Desk Study)
   - Intrusive Site Investigation
   - Generic Quantitative Risk Assessment (GQRA)
   - Detailed Quantitative Risk Assessment (DQRA)
   - Remedial Options Appraisal

   PRA is the minimum requirement. DQRA only to be submitted if GQRA findings require it. The investigation(s) and risk assessment(s) must be undertaken by competent persons and all findings must form the subject of a written report.

   **B: SUBMISSION OF A REMEDIATION & VERIFICATION SCHEME:** If required by Section A, a remediation scheme must be agreed with the LPA to ensure the site is suitable for the intended use and mitigate risks.
to human health, controlled waters and environmental receptors. Proposals should be derived from the Remedial Options Appraisal and form the subject of a written Remediation & Verification Strategy Report, detailing proposed remediation measures/objectives and how proposed remedial measures are to be verified/validated. All must be agreed in writing with the LPA.

8. Prior to the commencement of any works on site, the applicant shall submit, in writing, to the Local Planning Authority, details of statements of indemnity or surety underwriting the suitability of the external gas protection measures (proposed as part of the agreed remediation strategy for the site) and guaranteeing their effectiveness in mitigating ground gas risk. Once approved in writing by the LPA, all remedial works required to achieve compliance with the statements of indemnity or surety shall be implemented in accordance with the agreed remediation strategy.

9. Prior to the commencement of any construction works on site, the applicant shall submit, in writing to the Local Planning Authority, proposals for a programme of maintenance associated with external gas protection measures to be installed on site. Once approved in writing by the Local Planning Authority the maintenance programme shall be implemented, in full, until such time as ground gas emissions are no longer a potential risk to human health or adversely impact residential amenity. Cessation of the maintenance programme will be contingent on further future site assessment and agreement, in writing with the Local Planning Authority, that ground gas emissions from the site no longer represent a potential risk to human health or adversely impact residential amenity.

10. Prior to the commencement of any construction works on site, the applicant shall submit to the Local Planning Authority in writing, the framework of an adverse odour action management plan in case of malodourous emissions resulting from or associated with, external gas protection measures. The agreed adverse odour action management plan shall be enacted upon receipt of any substantiated odour complaint advised to the applicant by any representative of the Local Planning Authority or by any Environmental Protection Official. The adverse odour action management plan shall overview all key steps necessary for the applicant to ascertain the origin and nature of any malodours and shall detail an options appraisal with recommendations for the remediation of said malodour. Any remedial actions recommended by the options appraisal in case of complaint shall be implemented within a period not exceeding 5 working days.

11. Prior to the commencement of the construction of any dwellings, samples of the external roofing and facing materials (including colour or render, paintwork and colourwash) shall be submitted to the local planning authority for approval. The development shall only be constructed in accordance with the approved details.
12. Prior to the commencement of the construction of any dwellings, a scheme demonstrating a minimum site level of 10.50 metres AOD, shall be submitted to and approved in writing by the Local Planning Authority. The agreed scheme shall be implemented in full as an integral part of the development.

13. Prior to the commencement of the construction of any dwellings, a scheme to limit the surface water run-off generated by the proposed development shall be submitted to and agreed in writing by the Local Planning Authority. The agreed scheme shall be fully implemented, in accordance with the timing/phasing arrangements embodied within the scheme and maintained thereafter.

14. Prior to the commencement of the construction of any dwellings, a scheme for the disposal of foul drainage shall be submitted to and agreed in writing by the Local Planning Authority. The site must be drained on a totally separate system, with only foul drainage connected into the public foul sewerage system.

15. Prior to the commencement of the construction of any dwellings, and notwithstanding the indicative details shown on the Proposed Overall Site Layout Plan (Drg no. P2479-01 - 002 Rev P), precise details of all hard and soft landscaping shall be submitted to and approved by the Local Planning Authority. These details shall include; the size, species and spacing of all planting and areas to be grassed; the enhancement of the reed bed at the northern end of the site; replacement tree planting to provide bat foraging habitat; a scheme of enhancements to the ditch that runs along the eastern boundary of the site to provide suitable habitat for water voles; the hardstanding of all the car parking and turning areas and a programme of works. The approved landscaping scheme shall be implemented in accordance with an agreed timescale. If any trees, plants or shrubs within a period of 5 years from the date of planting die, are removed or become seriously damaged or diseased they shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

16. Prior to the commencement of the construction of any dwellings, a scheme for the incorporation of features suitable for use by roosting bats and breeding birds shall be submitted to and agreed with the Local Planning Authority. The agreed scheme shall be implemented prior to the completion of construction and retained thereafter.

17. Prior to the commencement of the construction of any dwellings, full construction details of the proposed access road and internal highways serving the development shall be submitted to and agreed with the Local Planning Authority. The access road and internal highways shall be constructed in accordance with the agreed construction details prior to the occupation of any of the dwelling units.
18. Prior to the commencement of the construction of any dwellings, full construction details of, and the means of controlling vehicular traffic along, the footpath extending northwards from the site access to the northern boundary of the site shall be submitted to and agreed with the Local Planning Authority. The upgraded footpath shall be constructed in accordance with the agreed construction details prior to the occupation of any of the dwelling units.

19. Each dwelling unit hereby permitted shall be constructed to achieve Code for Sustainable Homes Level 3. No phase or sub-phase of the construction of any dwelling units shall begin until details of a ‘Design Stage Assessment’ and related certification have been submitted to and approved in writing by the Local Planning Authority to show how the development will meet Code level 3. The development shall be carried out entirely in accordance with the approved assessment and certification.

20. Prior to the commencement of the construction of any dwellings, a lighting plan for the application site shall be submitted and approved in writing by the local planning authority. The lighting plan shall ensure ecological receptors remain dark and unaffected from light spillage.

21. Prior to the commencement of the use of any of the dwellings, the car parking spaces and turning areas, shown on the approved Section Site Plans (Drg nos. P2479-01-004 Rev B, P2479-01-005 Rev B and P2479-01-006 Rev B), shall be laid out and made available for use. These facilities shall be retained at all times thereafter.

22. Prior to the commencement of the use of any of the dwellings a habitat management plan shall be submitted to and approved by the Local Planning Authority. The plan shall include:

(i) a description and evaluation of the features to be managed;
(ii) ecological trends and constraints on the site that may influence management;
(iii) the aims and objectives of management;
(iv) appropriate management options for achieving the aims and objectives;
(v) prescriptions for management actions;
(vi) preparation of a work schedule (including a 5 year project register, an annual work plan and the means by which the plan will be rolled forward annually);
(vii) personnel responsible for the implementation of the plan; and
(viii) monitoring and remedial/contingency measures triggered by monitoring.

The agreed habitat management plan shall be carried out as approved.

23. Prior to the commencement of the use of any of the dwellings a scheme shall be submitted to and approved by the Local Planning Authority relating to the management and maintenance of the communal areas of
open space outlined in red hatched lines on the Public Amenity Area Plan (Drg no. P2479-01-027). The scheme shall be implemented as approved.

24. Prior to the commencement of the use of any of the dwellings the following conditions shall be satisfied and discharged by the Local Planning Authority. All requirements to be completed in accordance with the following guidance references: CLR11 (Environment Agency/DEFRA, 2004); BS10175 (British Standards Institution, 2011); C665 (CIRIA, 2007).

A: REMEDIATION & VERIFICATION: The remediation scheme approved by the LPA shall be carried out in accordance with the agreed Remediation Strategy and remedial works shall be verified in accordance with the agreed Verification Strategy. Following completion of all measures, a Verification/Validation/Completion Report must be produced and submitted to the LPA for approval.

B: REPORTING OF UNEXPECTED CONTAMINATION: Unexpected or previously-unidentified contamination encountered during development works must be reported immediately to the LPA and works halted within the affected area. Contamination must then be characterised by intrusive investigation and risk assessment reporting, with remediation/verification measures (if required) being agreed with the LPA. An updated Remediation & Verification Strategy Report must then be submitted to the LPA for approval and procedures followed as per Section A of this Condition.

C: LONG-TERM MONITORING & MAINTENANCE: If required as part of the agreed remediation scheme, monitoring and/or maintenance of remedial measures may be required to be carried out post-completion of development works and in accordance with the ‘Model Procedures for the Management of Land Contamination’ (Ref: CLR11) guidance document, published by DEFRA and the Environment Agency. Following completion of all works, findings must form the subject of a written report and be submitted to the LPA for approval.

Reasons

1. To ensure that the Local Planning Authority retains the right to review unimplemented permissions and to comply with provisions of Section 91 (as amended) of the Town & Country Planning Act 1990.

2. To ensure a satisfactory development and to avoid any ambiguity as to what constitutes this permission.

3. To ensure the protection of wildlife and its supporting habitat so as to accord with Policies GRN2 and GRN21 of the Warrington Unitary Development Plan and Policies CS1 and QE5 of the emerging Warrington Local Plan Core Strategy.
4. To eradicate Japanese Knotweed from the development site and to prevent the spread of the plant through development works in accordance with the Wildlife and Countryside Act and to accord with biodiversity objectives of National Planning Policy Framework, Policies GRN18 and GRN21 of the Warrington Unitary Development Plan and Policy QE5 of the emerging Warrington Local Plan Core Strategy.

5. To ensure the retention of features which are important to the character and amenity of the surrounding area so as to accord with Policies DCS1, GRN2, GRN9 and GRN22 of the Warrington Unitary Development Plan and Policies QE3, QE7 and CC2 of the emerging Warrington Local Plan Core Strategy.

6. In the interests of highway safety so as to accord with Policies DCS1, LUT1 and HOU3 of the Warrington Unitary Development Plan and Policies CS1 and QE6 of the emerging Warrington Local Plan Core Strategy.

7. To mitigate risks posed by land contamination to human health, controlled water and wider environmental receptors on the site (and in the vicinity) during development works and after completion so as to accord with Policies GRN2 and REP8 of the Warrington Unitary Development Plan, Policies CS1 and QE6 of the emerging Warrington Local Plan Core Strategy and paragraph 121 of the National Planning Policy Framework.

8. To provide a guarantee of the effectiveness of the proposed external gas protection measures so as to accord with Policies GRN2 and REP8 of the Warrington Unitary Development Plan, Policies CS1 and QE6 of the emerging Warrington Local Plan Core Strategy and paragraph 121 of the National Planning Policy Framework.

9. To ensure the external gas protection measures are maintained in such a manner that gas emissions associated with the site do not adversely impact on either residential amenity or human health so as to accord with Policies GRN2, HOU2, REP8 and REP12 of the Warrington Unitary Development Plan, Policies CS1 and QE6 of the emerging Warrington Local Plan Core Strategy and paragraph 121 of the National Planning Policy Framework.

10. To protect the amenity of residential properties from the adverse effects of malodour from the external gas protection measures so as to accord with Policies GRN2, HOU2, REP8 and REP12 of the Warrington Unitary Development Plan, Policies CS1 and QE6 of the emerging Warrington Local Plan Core Strategy and paragraph 121 of the National Planning Policy Framework.

11. In the interests of visual amenity so as to accord with Policies DCS1 and HOU3 of the Warrington Unitary Development Plan and Policy QE6 of the emerging Warrington Local Plan Core Strategy.

12. To reduce the risk of flooding to the development and its future occupants so as to accord with Policies REP4 and REP5 of the Warrington Unitary
Development Plan and Policies CS1 and QE4 of the emerging Warrington Local Plan Core Strategy.

13. To prevent the increased risk of flooding by ensuring the satisfactory storage/disposal of surface water from the site so as to accord with Policies REP4 and REP5 of the Warrington Unitary Development Plan and Policies CS1 and QE4 of the emerging Local Plan Core Strategy.

14. To ensure that an adequate foul drainage system is provided so as to accord with Policies DCS1 and DCS3 of the Warrington Unitary Development Plan and Policies CS1 and QE6 of the emerging Local Plan Core Strategy.

15. In the interests of improving the visual amenity of the area and to promote wildlife interests so as to accord with Policies DCS1, DCS7, GRN2, GRN22 and GRN24 of the Warrington Unitary Development Plan and Policies QE3, QE5 and QE7 of the emerging Warrington Local Plan Core Strategy.

16. In order to preserve the habitat of protected species and promote wildlife interests in accordance with the Conservation of Habitats and Species regulations 2010, Policies GRN2 and GRN21 of the adopted Warrington Unitary Development Plan and Policies CS1 and QE5 of the emerging Warrington Local Plan Core Strategy.

17. In the interests of highway safety so as to accord with Policies DCS1, LUT2 and GRN3 of the Warrington Unitary Development Plan and Policies CS1 and QE6 of the emerging Warrington Local Plan Core Strategy.

18. In the interests of highway safety so as to accord with Policies DCS1, LUT2 and GRN3 of the Warrington Unitary Development Plan and Policies CS1 and QE6 of the emerging Warrington Local Plan Core Strategy.

19. In order to facilitate reductions in energy requirements and the associated carbon emissions so as to contribute towards the objectives of the Government’s Climate Change Programme as outlined in the National Planning Policy Framework; Policies REP1 and DCS1 of the adopted Warrington Unitary Development Plan and Policies CS1 and QE1 of the emerging Warrington Local Plan Core Strategy.

20. To ensure the protection of wildlife, their supporting habitat and to secure opportunities for the enhancement of the nature conservation value of the site in line with national planning policy and to accord with Policies DCS1, GRN2, GRN3 and GRN21 of the Warrington Unitary Development Plan and Policies QE5, QE7 and CC2 of the emerging Warrington Local Plan Core Strategy.

21. In the interests of highway safety so as to accord with Policies DCS1, LUT2 and GRN3 of the Warrington Unitary Development Plan and Policies CS1 and QE6 of the emerging Warrington Local Plan Core Strategy.
22. To ensure the protection of wildlife, their supporting habitat and to secure opportunities for the enhancement of the nature conservation value of the site in line with national planning policy and to accord with Policies DCS1, GRN2, GRN3 and GRN21 of the Warrington Unitary Development Plan and Policies QE5, QE7 and CC2 of the emerging Warrington Local Plan Core Strategy.

23. To ensure a satisfactory form of development and adequate provision of communal public open space to accord with Policies DCS1, DCS7, HOU7 and GRN2 of the Warrington Unitary Development Plan and Policies QE3 and QE7 of the emerging Warrington Local Plan Core Strategy.

24. To mitigate risks posed by land contamination to human health, controlled water and wider environmental receptors on the site (and in the vicinity) during development works and after completion so as to accord with Policies GRN2 and REP8 of the Warrington Unitary Development Plan, Policies CS1 and QE6 of the emerging Warrington Local Plan Core Strategy and paragraph 121 of the National Planning Policy Framework.

Informatives

1. The Local Planning Authority has worked positively and proactively with the applicant to ensure that the proposal is a sustainable form of development without any significant impact upon the amenity of adjoining properties, character of the area, road network, trees or the environment from land quality issues. The proposal was the subject of negotiated amendments. As a result the proposal accords with the development plan. The Local Planning Authority has therefore implemented the requirements in Paragraphs 186-187 of the National Planning Policy Framework.

2. Reason for approval - The proposal is considered to be acceptable as it accords with the relevant guidance in the NPPF and Warrington Borough Council Unitary Development Plan Policies: DCS1 Development Control Strategy, DCS3 Engineering Services, DCS7 Provision and Enhancement of Landscaping in New Development, LUT1 Land Use/Transportation Strategy, LUT2 Transport Priorities in Development Control, LUT3 Walking, LUT5 Cycling, LUT7 Public Transport, LUT12 Transport Impact Assessment, LUT20 Parking, HOU1 Housing Land, HOU2 Housing Development – Restrictions, HOU3 Housing Development – Development Control, HOU4 Open Space, HOU6 Housing Density and Mix, HOU7 The Residential Environment, HOU13 Privacy and Daylight, HOU15 Affordable Housing, REP1 Prudent Use of Resources, Policy REP4 Protection of the Floodplain, REP5 Surface Water Run-off and Sustainable Drainage Systems, REP7 Ground Water Quality REP8 Land Contamination, REP12 Development Near Existing Sources of Pollution, GRN2 Environmental Protection and Enhancement, GRN10 Protection and Enhancement of Urban Green Space, GRN12 Opportunities to Improve Open Space Provision, GRN16 Sites of Natural Importance for Nature Conservation,

3. This consent is granted subject to conditions and it is the owner and the person responsible for the implementation of the development who will be fully responsible for their compliance throughout the development and beyond.

If there is a condition that requires work to be carried out or details to be approved prior to the commencement of the development this is called a "condition precedent". The following should be noted with regards to conditions precedent:

(a) If a condition precedent is not complied with, the whole of the development will be unauthorised and you may be liable to enforcement action.

(b) In addition if a condition precedent is breached, the development is unauthorised and the only way to rectify the development is the submission of a new application. If any other type of condition is breached then you will be liable to a breach of condition notice.

4. If your proposal involves activities that could affect the operations/installations of the Statutory Undertakers you are advised to consult the relevant party BEFORE commencing work. The Local Planning Authority disclaims all responsibility in the event of any accident, mishap or damage should you fail to act on this advice.

5. Works audible at the site boundary should not exceed the following times unless with the written permission of the LPA or Environmental Health & Protection. Monday to Friday 08.00 to 18.00 hrs, Saturday 08.30 to 13.30 hrs and at no time whatsoever on Sundays or Public/Bank Holidays. This includes deliveries to the site and any work undertaken by contractors and sub contractors. Contractors and sub contractors must have regard to BS 5228 and the Control of Pollution Act 1974. Where permission is sought for works to be carried out outside the hours stated, applications in writing must be made with at least seven days notice to Environmental Health & Protection, Warrington Borough Council, New Town House, Buttermarket Street, Warrington, WA1 2HN. Local residents that may be affected by the
work shall also be notified in writing, after approval is received from the LPA or Environmental Health & Protection. Works audible at the site boundary outside these hours may result in the service of a Notice restricting the hours as above. Breach of the notice may result in prosecution and fines of up to £5000 plus £50 for each further breach and/or six months imprisonment.

6. The applicant is reminded that under the Wildlife and Countryside Act 1981 (Section 1) (as amended) it is an offence to take, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning permission for a development does not provide a defence against prosecution under this Act. Trees and scrub are likely to contain nesting birds between 1 March and 31 August. Trees and scrub are present on the application site and should be assumed to contain nesting birds between the above dates unless survey has shown it is absolutely certain that nesting birds are not present.

7. The scheme, required by condition 11, to limit the surface water run-off generated by the proposed development should include a surface water discharge directly into the adjacent watercourse.

8. The schemes required by condition 14, to provide features suitable for use by roosting bats and breeding birds should incorporate bat and bird boxes of the schwegler type.

9. United Utilities water main will need extending to serve the development site. The applicant may be required to pay a capital contribution for these works and will need to sign an Agreement under Sections 41, 42 and 43 of the Water Industry Act 1991. A separate metered supply will be required to each unit and all internal pipework must comply with current water supply (water fittings) regulations 1999.

10. The proposed development site is known to be located within 250m of a potential ground gas generation source (landfill site). As such, new buildings and/or confined spaces at the site may potentially be affected by hazardous ground gases. The Applicant/Developer should ensure that the appointed Contractors and Building Control Officer are made aware of the above, so that adequate precautions can be taken to protect construction workers and future site users from possible ground gas issues associated with the site and vicinity. Further information regarding this matter can be obtained from the Council’s Environmental Protection Team (Tel: 01925 442581). Irrespective of any involvement by the LPA, the responsibility to address land quality issues, including safe (re)development and secure occupancy, resides entirely with the Landowner/Developer of the site.

11. Any external lighting associated with car park areas and immediate building illumination should be designed and installed by competent persons. The system should be designed according to best practice in respect of glare, light spill and efficiency. Advice can be obtained from:
12. The formation of the site access makes it necessary to execute works for the construction of a vehicle crossing over a kerbed footway which is a highway maintainable at the public expense. These highway works must be specified and carried out in accordance with the requirements of the Highway Authority, Warrington Borough Council.

13. In order to construct the access roads to a standard capable of future adoption by the Council, the applicant will need to enter into a S.38 Agreement with the Council. This agreement will need to include a means of ensuring 20 mph maximum traffic speeds within the site and any necessary Traffic Regulation Orders to ensure safe access. The applicant is advised to contact Chris Bluck, the Council’s Highways Adoption Engineer, on 01925 442688 in respect of these matters.
Appendix 1 – Drawings/Plans

Location Plan – showing context in relation to Westy Care Home and Park.
Public Amenity Area Plan (Drg no. P2479-01-027)

Proposed Site Plan (Drg no. P2479-01-002 Rev M)
Proposed Layout of Virtual Curtain Plan (Drg no. 12/6520/5)
Street Elevations (Drg no. P2479-01-007 Rev B)

Street Elevations (Drg no. P2479-01-008 Rev C)
Proposed Site Sections (Drg no. P2479-01-009 Rev A).
Appendix 2 – Photographs of Site

Aerial photographs of application site.
General photographs of area around application site

Marsden Avenue - North-East Elevation

Marsden Avenue - South-West Elevation

General photographs of area around application site
General photographs of application site.

Photographs of Morris Brook

The site was formerly used for the disposal of slurried waste from local tanneries by constructing a low retaining bund approximately 3 metres high around the perimeter of the lagoon.

The precise commencement date of this use is unknown but appears to be between the late 1940’s and the mid 1960s. Tannery waste was piped to the site from nearby tanneries as an aqueous slurry arising from the lime treatment of hides and then latterly chrome tanning. Once this method of tannery waste disposal was finished in the mid 1970’s, the site was subsequently used as a landfill for the disposal of solid construction, demolition and some commercial waste. Tipping of wastes on site was completed in approximately 1980 when the site was capped with a thin covering of soil and allowed to re-vegetate. No further disposal activities have occurred on site since this time and the re-vegetation of the site is now fairly advanced.

The planning application is for the construction of residential housing and public amenity areas. The amenity elements previously proposed for the site had not been developed because it was declared ‘undevelopable’ due to human health risk from ground gases.

We were also concerned regarding the remediation strategy for the site initially and through extensive consultation with ground and gas consultants, the original remediation strategy has now been modified.

A major consideration for the development of the site was with regard to the potential impact for off-site residents and the changes to the gassing regime on the site should the permeable nature of the site change as the development proceeds.

I have summarised how this remediation strategy has altered over this period to incorporate our concerns.

REMEDIATION EVOLUTION SUMMARY:

Initial Remediation Proposals: Initial proposals to mitigate risk from ground contamination were to fit a robust cover system, underlain with a Geotextile (anti-dig) layer, to all Gardens and Soft-landscaped areas of the site.

There were no proposals to remove any ground contamination sources from the site.

Gas origin at this time was thought to be an off-site source (Westy Park) with gas migrating onto site by means of pressure-driven advective flow.
Required internal gas protection measures were calculated as only being of CS02 specification (with the SW corner of the site removed from the risk assessment), but this was upgraded to CS04 voluntarily, as a precaution.

External gas protection proposals were simply to isolate the SW corner of the site (deemed undevelopable due to gas generation and emission) from the wider site using a Bentonite Cut-off Trench, extending 8.00m beneath ground level. This would not allow any venting of ground gases and would simply act as a physical barrier. No other remedial measures were recommended for the site.

To summarise:

<table>
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<tr>
<th>GROUND CONTAMINATION</th>
<th>Gardens</th>
<th>Soft Landscaping</th>
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<tbody>
<tr>
<td>Source Removal</td>
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<tr>
<td>Encapsulation</td>
<td>1000mm Top/Sub-soil Cover System + Geotextile</td>
<td>1000mm Granular Fill Cover System + Geotextile</td>
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<td>Monitoring/Maintenance</td>
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<th>GROUND GASES</th>
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<th>External</th>
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<td>Source Removal</td>
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<tr>
<td>Gas Protection Measures</td>
<td>CS04 / Amber 02</td>
<td>8.00mbgl Bentonite Cut-off Trench (SW corner)</td>
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<td>Monitoring/Maintenance</td>
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<td>3 months gas-monitoring</td>
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<tr>
<td>Gas Source</td>
<td>OFF-SITE (Land-filled material at Westy Park)</td>
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<tr>
<td>Gas Migration Method</td>
<td>Pressure-driven Advective Flow</td>
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Current Remediation Proposals: After 18 months of detailed consultation with two ground/gas consultants, the remediation proposals for ground contamination have remained the same, as do proposals for internal gas protection measures. The scope and control method of external gas protection has been increased markedly and is utilising a different control technique.

The Authority suggested gas venting trenches may be a prudent consideration on 01/11/2012 and these (in various guises) have been incorporated into the a revised Remediation Strategy throughout the consultation.

The origin of the gas source is now thought to be from an on-site source, that being Peat, Made Ground and Tannery Waste deposits under the site, with gas freely venting to atmosphere via diffusive flow, rather than the pressure-driven flow as previously thought.
The external gas protection now proposed, comprises 3x 'Virtual Curtains', which are essentially a network of permeable conduit tubes sunk into the ground and ventilated using 'above ground' inlet and exhaust pipes, which allow generated gases to be diluted and to vent freely from the ground to atmosphere.

These Virtual Curtains are substantial engineering structures extending across the south-west corner and along the complete southern and south-eastern boundaries of the site and extend to 7.00m below ground level.

The two Virtual Curtains along the southern site boundaries are proposed to protect off-site Residential properties along Pichael Nook, with the third Virtual Curtain positioned to isolate the south-west corner (the undevelopable area) from the wider site.

The south-west corner is also proposed to comprise up to 12x 'Venting Nodes', which will extend into underlying Peat and Tannery Waste deposits, again allowing free venting of gases to atmosphere.

The other significant difference is that although the original Environmental Consultant initially recommended 3x months of post-completion gas-monitoring, the Ground Gas Consultant (EPG) has subsequently recommended that no post-project gas-monitoring is required.

To summarise:
Ground contamination remedial measures remain as previously recommended.

Ground gas remedial proposals are updated according to the following table (property protection measures remain the same but external gas control has changed significantly)

<table>
<thead>
<tr>
<th>GROUND GASES</th>
<th>Internal</th>
<th>External</th>
</tr>
</thead>
<tbody>
<tr>
<td>Source Removal</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>Gas Protection Measures</td>
<td>CS04 / Amber 02</td>
<td>2 x 3.00mbgl Virtual Curtains (S &amp; SE boundaries) 1 x 7.00mbgl Virtual Curtain (SW corner) 12 x 7.00mbgl Venting Nodes (SW corner)</td>
</tr>
<tr>
<td>Monitoring/Maintenance</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>Gas Source</td>
<td>ON-SITE (Peat, made ground, tannery wastes)</td>
<td>None</td>
</tr>
<tr>
<td>Gas Migration Method</td>
<td>Diffusive Flow</td>
<td>None</td>
</tr>
</tbody>
</table>

In summary, the Remediation Strategy and remedial proposals for the site have evolved significantly in terms of external ground gas protection.
Theories as to the source of the ground gas have also changed completely, from the original off-site source (ie: Westy Park), to the current determination of an on-site source (ie: Peat, Made Ground and Tannery Wastes).

Remedial measures proposed for internal gas protection and ground contamination have remained the same throughout the duration of the consultation.

HUMAN HEALTH, CONTROLLED WATERS & GROUND GAS SUMMARY:

Human Health: Ground contamination was relatively light and the robust cover system proposals for the site should protect Site Users from ground contamination within sensitive areas.

Controlled Waters: Undetermined at present, but the Environment Agency (EA) have confirmed they are content to Condition any forthcoming consent in order to resolve any potential risk to groundwaters or surface waters.

Ground Gas: Gas origin is thought to be the site itself, as opposed to an off-site source. South-west corner of the subject site (Gas Risk Classification: CS04) is declared 'undevelopable' due to human health risk from ground gases. For the remainder of the subject site (determined Gas Risk Classification: CS02), internal gas protection measures for new buildings and/or confined spaces should mitigate risk to Site Users although a higher standard of gas protection measures (CS04/Amber02) is to be incorporated into all buildings. Risk posed to On-Site Users by external gas protection measures are thought not to be significant either. Risk posed to Off-site Residents from gas is undetermined, but Ground Gas Consultants maintain that the current external gas protection proposals (virtual curtains) should mitigate all risk.

CURRENT CONCERNS

These will require additional conditions to the standard land quality condition to control the risks at the site:

Odour: Odour generation potential of external gas protection measures (i.e.: Virtual Curtains and Venting Nodes) bedded into anaerobic Peat and underlying Tannery Waste (organic silts) is currently uncertain. Assurances have been provided that no odour will be generated, but this is based solely on the lack of odour generation at other sites, where similar remedial measures have been employed. No details are provided as to whether these sites comprised similar geology to the subject site; whether remedial measures were of the same scale as those proposed for the subject site; or indeed whether these sites were in a similar residential/urban setting as that of the subject site.
As such, whether the proposed external gas protection measures will generate odours that may impact on residential amenity is undetermined at present.

Off-site Impacts: Regarding gas, Ground Gas Consultants have stated that the proposed development will likely "seal" the site with buildings/hard-standing (preventing diffusive gas flow), leading to off-site migration of gases and that this effect has been seen before on other similar sites. External gas protection measures have been proposed to mitigate off-site gas migration, but these are unproven (see bullet point below). Regarding odour, if odour generation does occur, it is theorised that odours are likely to dissipate rapidly and as such, will not migrate off-site. As such, whether the proposed development will have any gas or odour off-site impacts is undetermined at present.

Effectiveness of External Gas Protection Measures: Design calculations appear consistent with guidance and best practice. Assurances have been provided that the proposed external remedial measures will prevent off-site migration of ground gases, but only in the context of the technology being used successfully on other sites. Again, it is unclear whether these 'other sites' share similar environmental conditions to the subject site or indeed if the technology employed was of similar specification to that recommended here. Statements of indemnity or surety that the proposed remedial measures will mitigate risk and off-site migration were requested, but will only be provided after planning permission is granted and the Ground Gas Consultants (EPG) are appointed to install/oversee remedial works. As such, whether the proposed external gas protection measures will prove effective in mitigating risk and preventing off-site gas migration is undetermined at present.

Long-term Maintenance: Large-scale external engineering structures are likely to require periodic maintenance, especially if they are open to atmosphere and/or are partially buried in the ground. ‘Virtual Curtains’ and conventional venting trenches are susceptible to clogging or ‘silting-up’ with particulates over time, this reduces their effectiveness by reducing gas venting capacity. In addition, exposed elements of the venting system are susceptible to damage either by vandalism or accidentally, which would otherwise impede the effective performance of integrated venting measures. No long term maintenance of external gas protection measures was proposed for the subject site. However the Ground Gas Consultants have now conceded that some maintenance/inspections will be required to ensure the continued effective performance of the virtual curtains/venting nodes. Environmental Protection concur with the potential risk posed by particulates (clogging/silting up), but also the risk posed by potential damage to exposed elements from human interference.

Controlled waters: As stated above, the controlled waters aspect of the Contaminated Land Consultation is incomplete, with the EA content to Condition any forthcoming planning permission. However, the EA have stated
that "...pollution linkages continue to be present (on-site) and that the change of use and disturbance through development would not improve the site conditions or risks to controlled waters". As such, the impact of the proposed development on underlying groundwaters and nearby surface waters is undetermined at present and is unlikely to improve the current environmental/ecological position.

Whilst we have concerns over the development of the site, this proposal changes the nature of the site from a freely gassing site to one with impermeable structures, with gas protection and additional large-scale external engineering venting structures to allow built development to be considered feasible. The consultant has through design and proposed indemnity made the site one which could be developed provided that tight control through necessary conditions and ongoing monitoring of the virtual curtains in combination with rigorous enforcement of conditions through the build process. It is of concern that the area will be developed for a sensitive end use as a lower risk use class, would be considered more suitable.

Should planning permission be granted, the following list of conditions MUST BE INCLUDED, IN FULL, in any decision notice otherwise our recommendation would be for REFUSAL:
TITLE OF REPORT: Appeal decisions for period between 22nd July and 9th August.

1. PURPOSE OF THE REPORT

1.1 To advise members of the results of the above planning appeals.

- Lymm Rugby Football Club, Crouchley Lane, Lymm (2012/20018) – appeal dismissed.
- Land off Mill Lane (Part of Peel Hall Farm) and land off Windermere Avenue/Grasmere Avenue (2012/20610) – appeal dismissed.
- 70 Clarence Road, Grappenhall (2012/20617) – appeal allowed.
- 90 Higher Lane, Lymm (2012/21253) – appeal dismissed.
- 5 Clay Lane, Burtonwood (2012/20212) – appeal allowed.

2. REPORT BODY

2.1 The Inspector’s reports and appeal decisions are attached.

2.2 Members will note three dismissed appeal decisions.

2.3 The appeal at Lymm Rugby Club followed Officers delegated decision to refuse consent. The Inspector agreed that the development would have an adverse impact on the openness of the green belt.

2.4 Again the appeal at 90 Higher Lane, Lymm was dismissed following a delegated Officer decision to refuse consent. The Inspector agreed with Officers approach as they felt the development would have a detrimental effect on the dwellings character and appearance. In addition due to the number of extensions proposed at the front, together with their size, scale and elongated form, the Inspector considered the proposal would not be compatible with the street scene.

2.5 The appeal at Peel Hall Farm was dismissed. This followed a DMC decision to refuse consent in line with Officers recommendation. The Inspector agreed that
the site did not accord with the National Planning Policy Framework, particularly in terms of sustainable development, due to the location outside of the inner area of Warrington and would not support the creation of a strong vibrant and healthy community with accessible local services that would reflect the communities needs and support its health, social and cultural well-being. The Inspector also agreed with the Council in respect of the lack of compelling need for additional housing land supply on unallocated sites.

2.6 Two appeals have been allowed by the Planning Inspectorate.

2.7 The Inspector allowed 70 Clarence Road. This went against a DMC decision to refuse permission against Officers recommendation. Members considered the development would create a dominant feature with an overbearing impact and a loss of outlook for the occupiers of no.’s 68 and 72 Clarence Road, contrary to the 45-degree code detailed in the Council’s Supplementary Planning Guidance (SPG) B – Side Extensions.

The Inspector did not concur with the use of the SPG as the development was not a house extension, and therefore afforded it little weight. Furthermore the Inspector concluded that the living conditions of both neighbouring dwellings would not be materially affected as the windows in the side elevations are secondary windows rather than principal openings. Thus, the Inspector did not consider the scheme conflicted with Policies DCS1 or HOU8 of the UDP.

2.8 5 Clay Lane was a joint planning application and enforcement notice appeal. This was also allowed, as the residential garden land use was deemed consistent with the locality. The Inspector did agree with the Council’s concern at the loss of a wildlife habitat as a result of the construction of a concrete footpath. Therefore a fresh enforcement notice is required to ensure the footpaths removal and subsequent reinstatement of the wildlife habitat.

3. CONFIDENTIAL OR EXEMPT

3.1 Not confidential or exempt.

4. FINANCIAL CONSIDERATIONS

4.1 None.

5. RISK ASSESSMENT

5.1 No risks identified.

6. EQUALITY AND DIVERSITY/EQUALITY IMPACT ASSESSMENT

6.1 Not required.

7. CONSULTATION
7.1 No required.

8. **REASON FOR RECOMMENDATION**
8.1 To inform Members of the results of appeals.

9. **RECOMMENDATION**
9.1 That members note the appeal decision.

10. **BACKGROUND PAPERS**
10.1 None

**Contacts for Background Papers:**

<table>
<thead>
<tr>
<th>Name</th>
<th>E-mail</th>
<th>Telephone</th>
</tr>
</thead>
<tbody>
<tr>
<td>Andrew McGlone</td>
<td><a href="mailto:amcglone@warrington.gov.uk">amcglone@warrington.gov.uk</a></td>
<td>01925442845</td>
</tr>
</tbody>
</table>
Appeal Decision

Site visit made on 12 June 2013

by David Kaiserman BA DipTP MRTPI
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 29 July 2013

Appeal Ref: APP/M0655/A/13/2191197
Lymm Rugby Football Club, Crouchley Lane, Lymm WA13 0AT

• The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
• The appeal is made by Everything Everywhere Ltd against the decision of Warrington Borough Council.
• The application Ref 2012/20018, dated 8 May 2012, was refused by notice dated 27 November 2012.
• The development proposed is the erection of a 20m telecommunications monopole (mast) and associated works.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are whether the proposal constitutes inappropriate development in the Green Belt and the effect of the proposals on the openness of the Green Belt and on the character and appearance of the area; and if I find that the scheme is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

3. The appeal site is part of a large area of open land, within the extensive grounds of a rugby club, containing pitches, a large club house and substantial areas roughly surfaced for car parking. It lies along a semi-rural lane south-east of the main built-up area of Lymm village: there is agricultural land to the west and south, but also some houses to the north which are part of a small “finger” of residential development which projects into what is otherwise open land. The site lies within the Green Belt.

4. There is an existing telecommunications mast in the south-western corner of the site, and the appeal scheme proposes a similar installation about 20m away from it. A meter cabinet would be sited some distance away, close to the main entrance to the club and grounds. The Council do not challenge the need for a
new mast in the area, to improve and maintain the operators’ network capacity, and I have no reason of my own to take a different view.

5. “Saved” policy GRN1 of the Unitary Development Plan states that, within the Green Belt, planning permission will not be granted for inappropriate development except in very special circumstances. The policy goes on to say that the erection of new buildings will be considered inappropriate unless it is for a range of purposes, none of which is relevant to the present appeal.

6. However, the appellants suggest that the proposed mast does not constitute a “building” for these purposes: instead, they consider it capable of being classified as an engineering operation, which policy GRN1 states would not be inappropriate in the Green Belt, so long as it maintains the openness of the Green Belt and does not conflict with the purposes of including land within it. As an alternative, they consider that since communications infrastructure is needed to support the kinds of activities which are acceptable within rural areas (including those within the Green Belt), then the equipment itself should be considered appropriate in policy terms.

7. I do not agree with either analysis. Firstly, a building is defined in s.336 of the Act, and includes “any structure or erection.........” In my opinion, telecommunications equipment would fall within the definition of a building for these purposes, and I am confident that this is an interpretation of the legislation which has held good for a considerable period of time. I have noted the appellants’ reference to appeal decision ref: APP/K3605/A/11/2166000, where my colleague described a street pole and cabinets as “an engineering operation in the Green Belt”. While he did not set out his reasoning for coming to that view, I note that he did not conclude (and nor, it would seem, did the appellants in that case argue) that the proposal was therefore in some way not inappropriate, by definition. The present appellants’ other suggestion about the supporting role of telecommunications equipment has no basis in any expression of local or national planning policy that I am aware of.

8. In any event, on the first of these two propositions, I consider that the requirements of policy GRN1 (reflected in paragraph 90 of the National Planning Policy Framework) would not be met, since I do not agree that the appeal scheme would maintain the openness of the Green Belt. The mast would be a free-standing monopole 20m high, placed within a security compound with a 2.4m high fence. It would, I accept, be a relatively slender structure, whose impact would be seen within the context of the existing Vodaphone mast, as well as the floodlights and goal posts of the pitches.

9. Nevertheless, it would be a solid and prominent feature which would add to the perception that the openness of the Green Belt at this point was being further eroded. It would also add to the visual clutter and incipient urbanisation of this generally open area of land. While the belt of trees to the south and west would shield most of it from middle-distance views (including from the popular visitor attraction of Lymm Dam), this is not true in views from the north and east. I note from the officer report that another Inspector came to a similar view about a 15m mast on the site (or nearby) in February 1997.
10. I have concluded that the proposal constitutes inappropriate development in the Green Belt, and that its effect on the openness of the Green Belt and on the character and appearance of the area would be harmful.

11. In the event that I would come to that conclusion, the appellants argue that very special circumstances apply in this case which are sufficient to outweigh any harm which I might identify. This derives from one factor only: the lack of availability of any suitable alternative site for their operational needs.

12. I have seen a schedule of 14 sites in the locality which was submitted with the planning application, all of which the appellants have discounted, for a variety of reasons. I am not in a position to reach any judgements about the practical availability of any of these sites, and the Council offer no comment on them. The appellants provide no supporting information about them in their appeal documents. Instead, the focus of the dispute between the parties is centred on the potential offered by Lymm Water Tower to accommodate the necessary equipment. This is a local sandstone landmark, about 300m away (as the crow flies) to the north-east which, while being a private house, also contains telecommunications equipment belonging to a number of operators, including the appellants themselves. The masts etc are almost entirely hidden from public view.

13. Despite some apparent earlier misunderstandings, it is common ground that the tower has the physical capacity to accommodate the appellants’ requirements in an appropriate manner, and that there are no operational drawbacks. The appellants say they have attempted to locate the additional equipment in this building, and have only failed to do so because agreement could not be reached with the owner on the appropriate level of rent. The owner, for his part, confirms that he has been open to negotiations.

14. I am not convinced that this evidence constitutes the very special circumstances that need to be demonstrated, for a number of reasons. Firstly, I am not persuaded that the failure of the parties to agree financial terms ought properly to be treated as a material consideration in cases of this kind. I come to that view notwithstanding paragraphs 42 and 43 of the National Planning Policy Framework, which require the planning system to give a high priority to the facilitation of modern communications networks. I have also borne in mind the principle embodied in paragraph 21 of The Planning System: General Principles that, whilst difficulties for businesses of value to the local community may be material, such arguments seldom outweigh the general planning considerations in any particular case. For the reasons I have given, and bearing in mind the force of Green Belt policy in particular, I am clear in relation to the present appeal that these considerations should prevail.

15. Even if this matter were to be seen as a material consideration, however, I would attach very little weight to it in the present case. The appellants, no doubt for understandable reasons, decline to offer any details of the failed negotiations, nor do they provide to provide me with any understanding of the scale of the disparity between what the site owner is said to want and their view of what the current market would consider a fair rent. Instead, they explain that there is a downward pressure on rental levels nationally, for several reasons; that they might be exposed to commercial risk should it
become widely known that they had paid an unreasonable sum to lease a site (because other site owners might treat this as some sort of precedent); and that they are concerned that any lack of harmony in their relations with the owner of the water tower would lead to uncertainty in the longer term.

16. These arguments seem to me to be too vague to be relied upon for the purposes of the appeal. Paragraph 43 of the NPPF states that “the numbers of radio and telecommunications masts and the sites for such installations (should) be kept to a minimum consistent with the efficient operation of the network. Existing masts, buildings and other structures should be used, unless the need for a new site has been justified”. When this objective is combined with the presumption against inappropriate development in the Green Belt, it seems to me clear that any argument that very special circumstances exist needs to be particularly persuasive. I do not consider that that test has been passed in the present case.

17. I have noted the appellants’ brief comment in the document accompanying the application to the effect that it would not be possible to add their equipment to the existing mast on the site without increasing its height and (possibly) adding a lattice construction. No details have been provided which would allow a reasoned comparison of the visual impact of this option as against the appeal scheme. This adds weight to my conclusion that the circumstances of the case are insufficiently special to justify the development applied for. For these reasons, I have decided to dismiss the appeal.

David Kaiserman

INSPECTOR
Appeal Decision

Inquiry held on 29, 30 and 31 May 2013
Site visit made on 7 June 2013

by Julia Gregory  BSc (Hons) BTP MRTP MCMII
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 31 July 2013

Appeal Ref: APP/M0655/A/13/2192076
Land off Mill Lane, Warrington WA2 0SU (Part of Peel Hall Farm) and land
off Windermere Avenue/Grasmere Avenue, Warrington, Cheshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990
  against a failure to give notice within the prescribed period of a decision on an
  application for outline planning permission.
- The appeal is made by Satnam Millennium Ltd against Warrington Borough Council.
- The application Ref 2012/20610, is dated 7 September 2012.
- The development proposed is residential development of up to 150 homes with access
  from Mill Lane and associated works, together with improvements and refurbishment of
  sports pitches, flood lights, and improved car parking and access at Grasmere
  Avenue/Windermere Avenue.

Preliminary matters

1. The application is in outline with all matters apart from the access via Mill Lane
   reserved for future determination. Prior to the Inquiry, the appellant increased
   the offer of affordable housing to 50% or up to 75 dwellings. The Council has
   no in principle planning objections to the improvement of the playing fields at
   Windermere Avenue/Grasmere Close.

2. Had the application been determined by the Council then planning permission
   would have been refused. The Council resolved the putative reasons for refusal
   at its Development Management Committee on 7 March 2013. The reasons
   given refer to the Regional Spatial Strategy for the North West 2008 (RSS).
   The RSS has been revoked and so no longer forms part of the development
   plan.

3. At the Inquiry the appellant submitted an unsigned Unilateral Planning
   Obligation. A signed version of the Unilateral Planning Obligation dated 3 June
   2013 was accepted after the close of the Inquiry enclosed with covering letter
   also dated 3 June 2013. The Unilateral Planning Obligation relates to open
   space ownership and maintenance and to education and highways
   contributions.

Decision

4. The appeal is dismissed and planning permission for residential development of
   up to 150 homes with access from Mill Lane and associated works, together
   with improvements and refurbishment of sports pitches, flood lights, and
   improved car parking and access at Grasmere Avenue/Windermere Avenue, at
   land off Mill Lane, Warrington WA2 0SU (Part of Peel Hall Farm) and land off
   Windermere Avenue/Grasmere Avenue, Warrington, Cheshire is refused.
Main Issues

5. The main issues are:

- whether the scheme would comprise sustainable development that would accord with national planning policy;
- whether the release of the land for housing would prejudice the Council’s approach to the release of housing land;
- the adequacy of road and footway access and the effect on highway safety; and
- whether there are material considerations such as the provision of affordable housing and improvements to sports facilities that would be of sufficient weight to outweigh any harm and any conflict identified with local or national planning policy.

Reasons

Sustainability

6. The site of the proposed housing comprises some 6.4 ha of agricultural land that lies immediately to the south of the M62 motorway between junctions 9 and 10. Access to the site would be from the end of Mill Lane which is an adopted highway that serves existing predominantly residential properties. The land does not lie within the Green Belt, the boundary of which follows the line of the M62.

7. The National Planning Policy Framework (the Framework) explains that the purpose of the planning system is to contribute to the achievement of sustainable development. This is defined as meeting the needs of the present without compromising the ability of future generations to meet their own needs. There are three dimensions to sustainable development. These are environmental, social and economic.

Environmental

8. The development would comprise some 150 homes on undeveloped land. Although concerns have been expressed locally about ecological matters, there has been a Phase 1 habitat survey the site. Local ponds have been surveyed for Great Crested Newts but none were found. The surveys have revealed that the unused agricultural land has little ecological importance. The Secretary of State has issued a screening direction that the development is not Environmental Impact Assessment development.

9. The Framework recognises the intrinsic character and beauty of the countryside. I acknowledge the value placed on the open countryside setting surrounding local dwellings by local residents. There are some hedgerows to boundaries including trees and the land is undulating. However, it has no particularly important features that would lend it special landscape significance. Furthermore, the context of this land is that it is on the urban fringe adjacent to the M62 motorway where there are air quality and noise issues.

10. Whilst there would be some loss of views for some local residents, there is no reason to conclude that this could not be a high quality development that would include attractive built and landscaped areas. Noise from the M62 could
be addressed by appropriate attenuation measures. Minimum separation distances from the motorway could overcome difficulties with air quality.

11. Boundaries to public areas could be well planted. Sustainable design, construction methods and materials could be used, and the density of housing proposed would make good use of the land without harming neighbouring residents living conditions. Community allotments and orchards would be provided.

12. Conditions could require substantial landscaping including adjacent to the motorway, the protection of existing trees and hedgerows and the restriction of works during the March-August bird breeding season. There would be an attenuation pond included in the drainage proposals and drainage issues are potentially capable of resolution.

13. This land is greenfield, whereas the Framework promotes the use of brownfield land and it would result in the loss of some of the best and most versatile agricultural land. It would not be within the inner area of Warrington that would aid regeneration and would better serve the sustainability principles of the Framework. There is no real distinction between this site and other land at Peel Hall that might be similarly developed contrary to planning policy.

Social

14. The development would provide a supply of housing that would include a substantial amount of affordable housing that would contribute to meeting local needs.

15. The location of the site is at the extremities of the wider area of Warrington. Manual for Streets defined a walkable neighbourhood as being typically characterised by having a range of facilities within 10 minutes or up to about 800m walking distance of residential areas which residents without mobility impairments may access comfortably on foot.

16. There is a Public House in Mill lane but otherwise there is no reasonable access to facilities, shops or schools. The bus stop in Enfield Park Road is at the outer edge of the 800m recommended walking distance specified in Manual for Streets. It is much more than the 400m maximum walking distance to bus stops recommended nationally by the Institute of Highways and Transportation Guidelines for Planning for Public Transport in Developments.

17. There are several bus routes that use that stop but there are only three buses an hour to Warrington town centre during the day and less in the evenings. It would be well away from Warrington town centre which is more than a 20minute cycle distance away. The rail station at Padgate is some 2469m away, and so is not within easy walking distance.

18. The appellant has investigated moving the bus stop for the Bus service No 23 and the bus operator has indicated a willingness to run an extended service. However, it would only be funded for a short period of 3 years, 18 months after the first occupation of the development, and its continuance would depend on the profitability of the route. The frequency combined with location of the bus service is inadequate to encourage the use of public transport.

19. Whilst a Residential Travel Plan would be secured and payments of vouchers to first occupiers to provide bus travel tickets and assist with cycle provision, this
would also be a short term measure. This would not make up for the inadequacies of the development to provide for the long term needs of its residents.

20. Footpath and cycle links could be provided to Radley Lane which leads onto residential areas to the south, but this route would be unattractive in the winter and after dark as it is a country lane with no footway or street lighting.

21. In addition, the footways in Mill Lane are substandard in width and in some sections are missing entirely which again is an impediment to walking, especially for those with young children or for those with disabilities. Most journeys would be too far to realistically consider walking. Those who could not afford market housing and would occupy the 75 affordable homes, half the development, may well be more reliant on public transport, which would be limited.

22. Against the standard in Providing for Journeys on Foot (Institute of Highways and Transportation) only Peel Hall Park and the Plough PH are within desirable walking distances. Most local amenities, which are dispersed and so do not encourage joint trips, would be above the preferred maximum distances. The nearest convenience store is 1060m from the centre of the site. The nearest primary school, although within the preferred maximum, is some 1275m from the centre of the site. Based against an assessment using a good practice example in the Joint Lancashire Structure Plan 2005, it would score just 9 against a total potential of 35.

23. Whilst the site would include some provision for local play, and Peel Hall Park is some 750m away, the improvements envisaged at Grasmere Avenue, although they would help to make up for local deficiencies, would be remote from the site. The development would not optimise the potential of the site to create and maintain an appropriate mix of uses. In the absence of provision for local facilities, shops and businesses it would not ensure an integrated approach to the location of housing, economic uses and community facilities envisaged by the Framework and would not serve to promote a healthy community.

24. Whilst this might be addressed as part of a much larger scheme, and the Draft Strategic Housing Land Availability Assessment 2012 (SHLAA) looks at a larger scheme, that would need to be linked to a comprehensive plan rather than piecemeal development. The substantial size of that site would warrant consideration as part of preparation of a local plan which would consider strategic choices. Although I note that two smaller areas of land are identified in the SHLAA as being sustainable, the SHLAA is not part of the development plan and those sites are not allocations in any development plan.

25. Although the scheme would contribute to primary school facilities, those would be over a mile away. The provision of 150 houses now with off site provision would dilute the contribution that might one day be provided as part of a much larger scheme. In addition the appeal proposal would not provide funding for secondary school provision as there is spare capacity in one High school in the area.

Economic

26. Whilst the development would create construction jobs, this would be a short term benefit. The development would however bring people into the area which would be a continuing economic benefit that would support growth.
However, that would not outweigh that the development would not fulfil the social dimension of sustainable development and that there is some negative impact against the environmental role of sustainable development. It would not support the creation of a strong vibrant and healthy community with accessible local services that would reflect the communities needs and support its health, social and cultural well being.

27. The pattern of development would still not be linked to facilities that promote the use of sustainable transport modes. The development would not promote sustainable means of transport as promoted in the Framework. It would not balance land uses so as people can be encouraged to minimise journey lengths for employment, shopping, leisure, education and other activities which is one of the core planning principles of the Framework.

28. I conclude that the development would not comprise sustainable development and would not therefore accord with the Framework.

**Housing**

29. The New Town Outline Plan, the Padgate District Area Local Plan 1975 and the Outer Warrington Local Plan are not current plans and so although they include references to proposals for residential development at Peel Hall, they are historic. There were also a number of refused planning applications for housing on the site in the 1990s.

30. Although the Draft Warrington Local Plan showed Peel Hall as an area of search, that plan was never adopted and work stopped on it in 1999 and it is therefore of little consequence.

31. Following the revocation of the RSS, the development plan for the area now comprises the saved policies of the Warrington Unitary Development Plan 2006 (UDP).

32. Saved UDP policy HOU1 seeks to provide sufficient land for housing at an annual average of 380 dwellings net of clearances between April 2002 and March 2016. It specifies, amongst other matters, that permission will not be granted for housing on greenfield sites and the proportion of new housing on previously developed land will at least meet the 80% sub regional target set by the then RPG13. There is no housing allocation for the site on the proposals map.

33. The policy is not wholly in accordance with the Framework because it seeks to put a cap on housing development whereas the Framework seeks to significantly boost housing land supply nationally. Also it prioritises brownfield land development. Nonetheless the Framework encourages the effective use of brownfield land and allows for Council’s to consider the case for setting a locally appropriate target for its use.

34. The Framework sets a presumption in favour of sustainable development. Where the development plan is absent, silent or relevant policies are out of date, planning permission should be granted unless adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole or where specific policies in the Framework indicate development should be restricted.
35. Where there is not a five year supply of deliverable housing sites, relevant policies for the supply of housing should not be considered up to date. The UDP is aged. The RSS has been revoked, but it nevertheless represents the last independently examined set of housing figures and the Council uses this to calculate housing land supply. It is the same as that specified in the UDP. Although some more recent studies indicate that higher amounts of housing should be provided, there is still a robust supply of housing land locally, based on the RSS. Indeed there has been over supply.

36. The Council calculates in its SHLAA that it has a residual balance of almost 14 years of additional supply against the UDP/RSS requirement. Even if the residual over supply were to be discounted, the 5 year supply would be some 7.27 years. It is common ground that there is a 5 year plus 5% buffer housing land supply. As far as the ten year supply is concerned there would be a positive residual balance of 13 years supply.

37. In these circumstances, whilst there is a national imperative to boost the supply of housing, there is no difficulty doing that in Warrington.

38. Although the sequential approach to the development of brownfield land no longer exists, the Framework encourages the effective use of brownfield land. The use of such land contributes to sustainability objectives and also to the economic regeneration of inner Warrington. I acknowledge that there is scant evidence that the release of the land would undermine the development of brownfield sites, but the development of this greenfield site is not required to make up the Council’s land supply.

39. The Council has published the Warrington Local Plan Core Strategy (CS). CS policy CS1 sets the overall spatial strategy for delivering sustainable development. It is a priority to accommodate growth in inner Warrington through the use of previously developed land. CS policy CS2 refers to the quantity and distribution of development, prioritising the use of previously developed land with at least 80% of homes being built upon it. Around 60% of new residential development is expected to be delivered in the defined inner Warrington area.

40. The plan proposes an annual increase of 500 dwellings over the period to 2027 which is based on the Mid-Mersey Strategic Housing Market Assessment, October 2011. Even against that unexamined figure, the Council would have an adequate 5 year housing land supply because there would be 5.5 years plus a residential balance from previous over supply of 4.4 years supply. Over the ten year period there would be a shortfall but that would be more than made up for by the high level of earlier building and the potential for windfalls to make up that amount, which have been significant in the Borough.

41. CS policy CS9 safeguards land referred to as *strategic locations*. These function to preclude the need to review green belt boundaries and to identify safeguarded land. Four strategic locations are identified including Peel Hall. This comprises a much larger area of land of some 65ha that could accommodate some 1550 homes, of which the appeal site is a part. The other three sites, Appleton Cross, Grappenhall Heys and Pewterspear Green are much smaller sites. These sites would only be released if an ongoing deliverable and developable ten year supply of housing could no longer be sustained, or where housing need is not being met.
42. The CS is currently being examined. However, that examination has been taking place over a protracted period of time. There has been an exploratory meeting, the Inspector has asked some detailed questions and he has expressed concern about soundness. There are weighty objections to it submitted by, amongst others, house builders and from the appellant. The Inspector has some serious questions about the plan, including its plan period of 2006 to 2027, which results in some 5075 housing units being carried forward, and how the housing land supply should be calculated.

43. There are also questions about CS policy CS9, how the policy would operate and whether there are reasons why it should be deleted. The appellant is promoting an additional policy in respect of the wider Peel Hall land. It would be unsafe to conclude that the submitted CS will not be modified in some way pertinent to this scheme in the light of the Examination. It is uncertain either whether the Inspector will go on to find the CS to be sound. Because there are significant unresolved objections to relevant policies, I accord it limited weight.

44. Nevertheless, it is material that if the CS is found to be sound in its current form, there is little to indicate that this would lead to the development being acceptable under policy CS9. That is because there would have to be a trigger of the 10 year supply of housing land supply not being met. In Warrington there is evidence to suggest that there is a robust housing land supply.

45. Additionally, it is intended by the policy that if any one of the strategic locations is required, it would trigger a requirement for a further local plan to be prepared and the Council would require a comprehensive approach. That further local plan adoption would be required before any planning permission was granted to ensure that the development was comprehensively planned to ensure that sustainability was achieved.

46. It is not clear which of the strategic locations would come forward first. The release of part of the Peel Hall could have implications for pre-empting that process and would be outside any phasing policy.

47. It is common ground that there is an annualised demand for approximately 477 affordable dwellings identified in the SHMA. Expected supply based on 20% to 30% of the annual housing requirement would not fulfil this demand based on the level of completions 2006 to 2012 of 845 dwellings per annum. The provision of 30% or 45 homes would accord with emerging SN2. Subsequent to the appeal the appellant has offered 50% or 75 dwellings. This has substantial weight.

48. Nevertheless, I have already concluded that there is no compelling need for a substantial amount of additional housing land supply on an unallocated site in order to comply with the Framework. The development would prejudice the Council’s current approach to the release of housing land.

Access and highway safety

49. The Framework requires that decisions should take account of whether safe and suitable access to the site can be achieved for all people. The application is in outline and it is possible for the housing to be laid out and car parking provision made so that it would not harm highway safety. The only matter not reserved is the vehicular access that would be provided from the end of Mill Lane. Because there would no longer be a dead end, this would remove the
ease of turning at the end of Mill Lane. Nevertheless, it is entirely possible that such a turning facility could be provided close by in the new access road.

50. The appellant argues that inadequacies in the existing road network should not be considered against the Council’s Design Guide Residential and Industrial Estate Roads 2008, adopted as a Supplementary Planning Document, as it specifically relates to new development. However, I see no reason why that should not be taken into consideration, since all vehicular movements would have to access via Mill Lane and its adequacy to serve the development is a material consideration. Nevertheless, these are guidelines rather than rigid requirements that need to be applied with a degree of flexibility, so long as the result of that would produce a safe and accessible environment.

51. Mill Lane has street lighting and for the most part has a width of between 5.5m and 6.2m, more than the 5.5m width in the Council standards. It has for a short stretch of some 4m, a width of some 5.4m. This would still allow a car and a heavy goods vehicle to pass, albeit that there are unlikely to be many heavy goods vehicles accessing the residential estate.

52. In that particular stretch some dwellings do not have off street parking. However, most properties in Mill Lane have driveways and there is a large public house customer car park clear of the highway. Because it is only a short stretch of road that would be less than desirable width, it would not cause harm to access.

53. The narrowing in the width of the carriageway may also serve to slow vehicle speeds to much less than the 30 mph speed restriction applicable in Mill Lane. Speeds are unlikely to be high in any event on this residential road where there is some on street parking.

54. I saw on my accompanied site visit that it is possible for parked vehicles to cause difficulties for access along Mill Lane. Nevertheless inconsiderate parking could readily be replicated on many residential streets nationwide if householders chose to do so. It is a common daily occurrence for drivers to have to wait to overtake a parked car when there is an opposing vehicle approaching.

55. It is also intended to introduce a speed table at the junction of Radley Lane and Mill Lane in the interests of slowing traffic at a location where there has been one minor injury accident in recent years comprising a collision between two vehicles at the junction. There would also be an emergency access to Radley Lane that could be to required standards.

56. It is estimated that the development would generate some 89 vehicle movements (two way) per hour in the am peak and 97 vehicle movements (two way) per hour during the pm peak hour. The two way flow of vehicles including the existing traffic would be some 129 vehicle movements per hour in the am peak hour and 174 vehicle movements per hour in the pm peak hour.

57. Whilst this would be a substantial increase in existing traffic, this is equivalent to two or three vehicles per hour at peak times and there would be much less traffic at other times. This would not be so significant that Mill Lane or its junction with Delph Lane would cease to cope with the traffic. That junction has appropriate visibility splays. Whilst I acknowledge that development of a larger expanded site might enable an alternative access arrangement, that is not before me.
58. The scheme would increase pedestrian movements by an estimated 36
movements an hour at peak times. The development includes footway links to
Mill Lane. There are not footways for the entirety of the length of Mill Lane on
both sides of the road, and in some parts the footways are below the Manual
for Streets standard recommended width of 2m, some parts are as little as
1.2m wide. There is also some overgrowth restricting the width of footpaths,
but that could be removed.

59. Nevertheless there is at least 1.8m width on one side of Mill Lane for
the majority of its length, which is the absolute minimum width identified in
Guidelines for Providing for Journeys on Foot. That document acknowledges
that existing narrow footways do provide some level of pedestrian amenity.
Whilst there are instances of parking on the pavement, that is a matter for the
Police. Because vehicle speeds would be slow, and also because pedestrian
visibility would be good, this inadequacy of the footways to meet desirable
standards would not be a fundamental objection to the scheme.

60. There would also be connections to Radley Lane via Peel Cottage Lane. There
would then be an improved pedestrian access to Ballater Drive and Lockerbie
Close. Those connections would be to lightly trafficked country lanes, with
mostly no footways or street lighting where there are drainage deficiencies.

61. These routes would have limitations in as far as their usefulness at night and in
winter for pedestrians and cyclists, but I do not consider that they would be
unsafe to use with care. However, I do acknowledge that the inadequacies in
all the footways do not overall promote pedestrian activity, which is a
sustainability and health issue rather than a matter for highway safety.

62. The new junction with Mill Lane will result in the end of Mill lane that gives
access to a private road being an offshoot from the new road. That the Council
refuses to adopt that section would not harm the acceptability of the proposal.

63. I conclude that the road and footway access would be adequate and the
development would not be harmful to highway safety.

Other matters to be weighed in the balance

64. The quality of sports pitches in Warrington is poor. The Unilateral Planning
Obligation would make an open space contribution of one million pounds, much
of which would be used for the provision, maintenance and improvement of
sports open space detailed in the Council’s Open Space Strategy.

65. This could be used on the existing Council owned playing pitches at
Windermere Avenue and Grasmere Avenue. There would be a substantial
qualitative rather than a quantitative improvement to the sports provision which
would be a public benefit. Although Winwick Athletic FC have expressed an
interest in using that improved facility, it would be very much up to the Council
to how any improved facilities should operate. This provision is a material
consideration to which I attach substantial weight.

66. The Unilateral Planning Obligation would also provide for the transfer of land
and maintenance of proposed open space on the Mill Lane site. I consider that
these contributions adequately reflect what is proposed in the application and
what is necessary on the Mill Lane site.
67. There would be provision of a sum of money to provide a speed table at the junction of Mill Lane and Radley Lane and footpath links to Ballater Drive and Lockerbie Close that is based on the costs of the works. A bus contribution of £90,000 would be paid to cover 3 years extended service for the bus service provider. The Highways contribution overall would amount to some £343,141 which would be a reflection of the requirements for the site.

68. An education contribution of £367,710 for primary school provision would be paid which would make provision for children living on the Mill Lane site. I consider that all of the provisions of the Obligation are necessary, directly related to the development and fairly and reasonably related in scale and kind to the development. They therefore comply with the provisions of S122 of the Community Infrastructure Levy Regulations 2010 and can therefore be accorded weight in the determination of the appeal.

69. I have already concluded that the provision of affordable housing would be a substantial benefit. This needs to be added to the public benefit of improving the playing fields at Windermere Avenue and Grasmere Avenue. The development would also deliver a significant amount of open market housing. However, these matters do not outweigh my conclusions in respect of sustainability and the Council’s approach to the release of housing land.

Conclusions

70. For the reasons given above I conclude that the appeal should be dismissed.

Julia Gregory

INSPECTOR
APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

David Manley QC
Instructed by Andrew Harrison, Solicitor to the Council
He called
Gary Rowland
Atkins
Graham Bolton
The Graham Bolton Planning Partnership

FOR THE APPELLANT:

Christopher Lockhart Mummery QC
Instructed by Satnam Ltd
He called
Colin Griffiths
Appellant
David Tighe
Transport Planning Associates

INTERESTED PERSONS:

Helen Jones MP Warrington North
Cllr John Kerr brown Local Councillor
Margaret Steen Local resident
Ste Dodd Local resident
Richard Ward Parish Council

DOCUMENTS SUBMITTED AT THE INQUIRY

1 Notification documents
2 Appellants appearance list
3 Outline opening submissions on behalf of the appellant
4 Extract of APP/4230/A/12/2170252 Land at Melton Road, Barrow on Soar, Leicestershire
5 TPA Designer’s response to TMS Stage 1 Road Safety Audit
6 Email correspondence from Dave Tighe to Colin Griffiths 29 May 2013
7 Public Transport Isochrone Map SK22/A
8 Site Access Strategy Figure 3.1 Revision A
9 Email correspondence from David Tighe to Colin Griffiths 28 May 2013 enclosing letter and email from Network Warrington
10 Email from Garry Legg to Graham Bolton dated 15 May 2013 regarding the soundness of Transport policies within the emerging LPCS
11 Progress with CS examination
12 CS Examination Draft Programme and attendees for Examination Hearings
13 Extract from decision APP/F4410/A/12/2169858 Land East of Hatfield Lane, Armthorpe
14 Statement of Richard Ward on behalf of Winwick Parish Council and 4 appendices containing CS Examination documents
15 Letter from Richard Ward of Winwick Parish Council dated 30 May
2013
16  Draft Unilateral Planning Obligation
17  Further Draft Unilateral Planning Obligation
18  Final Draft Unilateral Planning Obligation
19  Draft conditions v3
20  Draft conditions v4
21  Closing submissions on behalf of the appellant
22  Signed Unilateral Planning Obligation dated 3 June with covering letter
Appeal Decision

Site visit made on 11 June 2013

by Farooq Rafiq BSc (Hons), MCD, MRTPI

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

Decision date: 2 August 2013

Appeal Ref: APP/M0655/A/13/2192225
70 Clarence Road, Grappenhall, Warrington, WA4 2PQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr & Mrs Colin Bland against the decision of Warrington Borough Council.
- The application Ref 2012/20617 dated 15 September 2012 was refused by notice dated 3 January 2013.
- The development proposed is demolition of an existing bungalow and erection of a pair of semi detached houses.

Decision

1. The appeal is allowed and planning permission is granted for demolition of an existing bungalow and erection of a pair of semi detached houses at 70 Clarence Road, Grappenhall, Warrington, WA4 2PQ in accordance with the terms of the application, Ref 2012/20617 dated 15 September 2012 subject to the conditions in the attached schedule.

Procedural matter

2. Notwithstanding the description of the development given in the application, I have used the Council's description, which I consider to be more concise.

Main Issue

3. I consider the main issue to be the effect of the proposed houses on the living conditions of the occupiers of Nos 68 and 72 Clarence Road with regard to outlook and daylight.

Reasons

4. Reference has been made to the Supplementary Planning Guidance 'House Extension Guidelines' which sets out amongst other matters a '45 Degree Code' to protect the living conditions of adjacent occupiers from harm by way of overshadowing and outlook. Although these considerations are similar to those raised by this appeal, the guidance relates specifically to house extensions and not new development and I therefore attribute limited weight to it.
5. Apart from the appeal site, which is occupied by a bungalow, the remaining properties on Clarence Road are two-storeys high. Nos 68 and 72 lie adjacent to the appeal site and are semi-detached dwellings which have both previously been extended and contain side-facing windows.

6. The proposed development would be closer and higher than the existing bungalow to both neighbouring properties and would have two storeys with accommodation in the roof. The relationship created by the appeal proposal with its neighbours would not however be significantly different to that which currently exists between other 2 storey dwellings in the area. It would maintain a broadly consistent building line both to the front and the back ensuring that the rooms served by windows on the main elevations of the adjoining properties would be unaffected. The windows on the side elevations of both neighbouring properties serve a variety of secondary living spaces such as bathrooms and landing areas and as such, although there would be some effect on outlook and daylight, this needs to be considered in the context of the less frequented nature of these spaces.

7. I have carefully considered the concerns expressed by local residents including the status of the ground floor room served by a side facing window at No. 68 Clarence Road. I observed on my visit the open plan arrangement incorporating both kitchen and dining facilities. However, the areas are clearly demarcated with the space nearest the side window comprising a fitted kitchen. The dining area is also served by double patio doors on the rear elevation. This dual aspect and the kitchen window being a secondary source of light is sufficient to ensure that the living conditions of residents would not be materially affected by a loss of daylight. The proposed two storey dwellings in replacing the bungalow would potentially have a greater enclosing effect on this neighbour. I don't however find this to be harmful given the presence of a high boundary fence between the two properties and the open plan internal layout which allows views into their garden. The other neighbour with an adjoining boundary, No. 72 Clarence Road is set some distance away and separated from the proposed building by a drive and garage. Further windows on the flank wall of this house face north. Occupiers of this dwelling would not therefore experience any unreasonable loss of daylight or outlook.

8. Having regard to all these considerations, I am satisfied that the appeal proposal would not result in material harm to the living conditions of the neighbouring residents at Nos 68 and 72 Clarence Road. The proposal does not generate any conflict with Policies DCS1 and HOU3 of the Warrington UDP which seek to preserve the amenities of near neighbours.

Other matters

9. Concern has been raised that the appeal proposal would give rise to overlooking from windows on its the front and rear elevations that face properties on Albert Road to the rear and properties on the opposite side of Clarence Road. A distance of over 20m exists between properties across the public street and across private gardens to the rear which is also similar to the relationship between other existing dwellings. The separation and the prevailing relationship is sufficient to ensure that there is no unacceptable impacts from overlooking. The proposed side windows on the appeal site that face No's 68 and 72 could be
fitted with obscure glazing and controlled by condition. I do not therefore consider that this would result in an unacceptable loss of privacy.

10. The siting, scale and appearance of the development in terms of the building line, footprint and height and fenestration details are appropriate to the area and will not harm its character and appearance. The development also provides sufficient parking and no objection has been received from the Highway Authority.

Conclusion

11. For the reasons above and having regard to all other matters raised, I conclude that the appeal should be allowed.

Conditions

12. In addition to the standard implementation condition it is necessary, for the avoidance of doubt and in the interests of proper planning, for the development to be carried out in accordance with the approved plans. So as to protect privacy, the Council's suggested conditions 3 and 4, restricting the future insertion of windows or dormer windows and requiring the fitting of non-opening or top-opening obscure glazing to the side elevations are imposed. To ensure the satisfactory appearance of the scheme it is appropriate for samples of external surface materials to be submitted and approved by the Council as is the condition relating to the working hours to protect living conditions of surrounding residents from potential noise disturbance. I consider suggested conditions 7 and 8 as necessary to ensure the availability of sufficient accessible parking in the interests of highway safety. The suggested condition in respect of the future use of the garages however is not necessary in the interests of highway safety as the proposal provides sufficient off-road parking per dwelling. In the interests of conciseness and enforceability, I have amended the wording of some of the Council's suggested conditions without changing their overall aim.

Farooq Rafiq

INSPECTOR

Schedule of Conditions: 1 to 8

1) The development hereby permitted shall begin not later than three years from the date of this decision.

2) The development hereby permitted shall be carried out in accordance with the following approved plans: 107/970/5L (dated 19 November 2012) and 107/961/SP, 107/958/25, 107/959/25 (dated September 2012).

3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking, re-enacting or modifying that Order), no windows or dormer windows other than those expressly authorised by this permission shall be constructed on the side elevations facing Nos 68 and 72 Clarence Road.

4) Before the first occupation of the building hereby permitted the second floor windows on the side elevations facing Nos 68 and 72 Clarence Road shall be
fitted with non-opening obscured glazing or top-hung obscured glazing, the
details of which will have first been submitted to and approved in writing by
the local planning authority. The obscured glazing shall be permanently
retained in that condition thereafter.

5) No development shall take place until samples of the materials to be used in
the construction of the external surfaces of the building hereby permitted
have been submitted and approved in writing by the local planning authority.
Development shall be carried out in accordance with the approved details.

6) No demolition, construction works or deliveries shall take place outside
08.00 hours to 18.00 hours Mondays to Fridays and 08.30 hours to 13.30
hours on Saturdays nor at any time on Sundays or Bank Holidays.

7) Prior to the commencement of development, a scheme for the construction
of a new vehicle crossing over the adopted highway verge to facilitate the
new vehicle access point for the dwelling to the south of the site shall be
submitted to and agreed in writing by the local planning authority. The
approved scheme shall be implemented prior to first occupation of the
dwelling and retained thereafter.

8) No dwelling shall be occupied until parking spaces has been laid out within
the site in accordance with drawing No 107/961/SP (dated 19th October
2012). The parking spaces shall be permanently retained thereafter.
Appeal Decision

Site visit made on 5 August 2013

by Matthew Birkinshaw BA(Hons) MSc MRTPI
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 7 August 2013

Appeal Ref: APP/M0655/D/13/2199646
90 Higher Lane, Lymm, Cheshire, WA13 0BY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Gary Beckett against the decision of Warrington Borough Council.
- The application Ref 2013/21253, dated 18 January 2013, was refused by notice dated 26 March 2013.
- The development proposed is described as a first floor extension to front elevation and side elevation, bedroom/ensuite to first floor. Garage to ground floor, rear extension to ground floor and re-model existing ground and first floors.

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the host property and the streetscene within Higher Lane.

Reasons

3. The appeal relates to a relatively modern detached house set back from Higher Lane. The L-shaped property currently has a double garage forward of the front elevation which is attached to the main house by single storey living accommodation. As part of the appeal proposal this would be extended at first floor level, dormers would be incorporated above the garage, and a new double garage would be added to the existing one. At the rear a single storey extension would also replace an existing conservatory.

4. There is disagreement between the parties regarding the size of the proposed extensions, with the appellant confirming that the actual increase in floorspace at first floor level would be approximately 48%. However, even when considering the appellant’s calculation, because of the substantial size, scale and massing of the alterations at first floor level, in addition to the new double garage and dormer windows proposed, I consider that the scheme fails to remain subservient to the main house. Combined with their position forward of the front elevation and elongated form, the number of alterations proposed would visually dominate the host property.

5. As a consequence, despite keeping below the current ridge height, I consider that the appeal scheme would have a detrimental effect on the character and appearance of the host property.
6. I note the appellant’s comments that the adjacent 2-storey property used to be a bungalow, and that this is why the ground floor living accommodation is only single storey where it joins the existing garage. However, the redevelopment of the bungalow does not justify granting planning permission for a scheme which would substantially alter, and dominate the character and appearance of the host property. Similarly, I appreciate that the design of the new garage would be consistent with the one adjacent to it. However, this individual element of the scheme does not minimise the cumulative effect of the overall scale and massing of the extensions, or the harm that they would cause.

7. With regard to the effect of the proposal on the wider streetscene, during my site inspection I saw a varied mix of residential properties within Higher Lane. Several also have a similar, L-shaped layout with first floor dormer windows above garages, including immediately opposite the appeal site. Viewed in this context, I therefore agree with the appellant that a similar approach would not be an uncharacteristic feature in such a varied streetscene. Furthermore, given the spacious nature of the plot and the set back from Higher Lane, the proposal would also largely retain the staggered building line with the properties on either side.

8. However, due to the number of extensions proposed at the front of the appeal property, combined with their overall size, scale and elongated form, the scheme before me would be substantially larger, and significantly different to the others that I saw. Because of these factors, I consider that the extensions would also appear unduly prominent and incongruous within the streetscene, despite the mix of architectural styles.

9. I appreciate that there are also several mature trees along Higher Lane which restrict views of the property from further up the street, including one within the front garden. However, the front of the property, where the majority of extensions are proposed, is still clearly visible within the public domain. As a consequence, I am not persuaded that either the existing landscaping, or the set back from the roadside would be sufficient to adequately screen the proposal, or mitigate the harm that it would cause.

10. I therefore conclude that by reason of the size, scale, massing, and number of extensions proposed at the front, the appeal scheme would be harmful to both the character and appearance of the host property, and the streetscene within Higher Lane. Of the policies referred to by the Council I consider Warrington Unitary Development Plan (UDP) Policies DCS9 and HOU8 most relevant. In this regard the scheme conflicts with their requirement that alterations and extensions should complement the scale and general massing of an existing building, respect the character of an original dwelling, and preserve the character of the street. The proposal also conflicts with UDP Policy DCS1 which requires all proposals to preserve or enhance the character and appearance of the area.

**Other Matters**

11. I note the appellant’s comments regarding the planning application process and inconsistencies in decisions. However, these are not a matter for me. Instead, I am obliged to consider the proposed development on its specific merits, having due regard to the development plan and other relevant policy and I have determined the appeal on this basis.
12. That being the case, in reaching my conclusion against the main issue I have also taken into account the need for additional living accommodation and extra garage space, that the garage would be sited on an existing part of the driveway, and that no objections have been submitted by local residents, or by the Parish Council in response to the first application. However, these factors do not overcome the harm that I have identified to the character and appearance of the host property and the streetscene within Higher Lane, or the subsequent conflict with development plan policy.

13. Finally, the Council has not raised any concerns in relation to the rear extension, and based on the evidence before me, I have no reason to disagree with this stance. However, the appellant has not indicated that they would wish to implement this aspect of the scheme in isolation from the front extensions, or that they are severable from one another. I have therefore determined the appeal on this basis.

Conclusion

14. For the reasons given above, and having regard to all other matters raised, including support for the scheme from immediate neighbours, I conclude that the appeal should be dismissed.

Matthew Birkinshaw

INSPECTOR
Appeal Decision

Site visit made on 5 August 2013

by D C Pinner  BSc (Hons) DipTP MRTPi
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 8 August 2013

Appeal Ref: APP/M0655/A/12/2188636 (Appeal A)
Land at 5 Clay Lane, Burtonwood, Warrington WA5 4HH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr and Mrs John Speakman against the decision of Warrington Borough Council.
- The application Ref: 2012/20212 , dated 20 June 2012, was refused by notice dated 3 October 2012.
- The development proposed is change of use of land to domestic curtilage, erection of potting shed, wall and formation of concrete footpath (retrospective).

Appeal Ref: APP/M0655/C/12/2189147 (Appeal B)
Land at 5 Clay Lane, Burtonwood, Warrington WA5 4HH

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr John Speakman against an enforcement notice issued by Warrington Borough Council.
- The notice was issued on 15 November 2012.
- The breach of planning control as alleged in the notice is without planning permission, the material change of use of land to domestic curtilage, the construction of a potting shed, wall and formation of a concrete footpath.
- The requirements of the notice are:
  (a) cease the unauthorised use of the land for domestic curtilage;
  (b) remove from the land and not return the potting shed;
  (c) (i) submit a scheme for the reinstatement of the river bank to be agreed by the local planning authority;
     (ii) remove and not return to the land the concreted and compacted rubble as shown on the drawings 1084/PL/002 and 1084/PL/004 attached to the enforcement notice
     (iii) reinstate the river bank in accordance with the approved scheme set out in (c)(i).
- The periods for compliance with the requirements are 28 days for items (a), (b) and (c)(i) and 90 days for items (c)(ii) and (c)(iii).
- The appeal is proceeding on the grounds set out in section 174(2)(a), (c), (f) and (g) of the Town and Country Planning Act 1990 as amended.
- An application for planning permission is deemed to have been made under section 177(5) of the Act as amended.
**Decisions**

**Appeal A**

1. The appeal is dismissed insofar as it relates to the concrete footpath. The appeal is allowed insofar as it relates to the use of that part of the appeal site lying to the rear of 1a Clay Lane as residential garden land; to the erection of a potting shed and to the erection of a wall/fence.

2. Planning permission is granted for the use of that part of the appeal site lying to the rear of 1a Clay Lane as residential garden land; to the erection of a potting shed and to the erection of a wall/fence at Land at 5 Clay Lane, Burtonwood, Warrington WA5 4HH in accordance with the terms of the application, Ref: 2012/20212, dated 20 June 2012, and the plans submitted with it, so far as relevant to that part of the development hereby permitted.

**Appeal B**

3. Since the notice is found to be a nullity no further action will be taken in connection with this appeal. In the light of this finding the Local Planning Authority should consider reviewing the register kept under section 188 of the Act.

**Preliminary matters**

4. It has been established through the courts that an enforcement notice which requires the submission of a scheme to be agreed by the local planning authority is a nullity. Relevant cases are *Kaur v SSE and Greenwich LBC* [1990] JPL 814 and more recently *Payne v NAW and Caerphilly CBC NO.CO/6451/2004*. The requirement (c)(i) for the submission of a scheme to be agreed renders the whole enforcement notice a nullity. In other words, it does not exist in law and there can be no appeal against it. I can take no further action with regard to the enforcement appeal.

5. The description “change of use to domestic curtilage” is incorrect. “Curtilage” is not a use but is an entity, the extent of which would have to be determined as a matter of fact and degree. Land used in connection with a residential use would not necessarily become part of the domestic curtilage. I have considered the s78 appeal on the basis that, amongst other things, it seeks planning permission for the change of use of land to residential garden use.

**Reasons**

6. The appeal site is part of a larger area of land located within the settlement boundary of Burtonwood and lying to the rear of numbers 1a to 5 Clay Lane. The appeal site itself comprises the piece of land behind 1a Clay Lane together with a narrow strip of land upon which the concrete pathway has been constructed to provide a link to the land behind 4 Clay Lane, which the appellant is using. The land behind 3 Clay Lane is not fenced off from the land to the rear of either 1a or 4 Clay Lane and it appears that the appellant is therefore using the whole parcel of land extending from the rear of 5 Clay Lane, his dwelling, to the land to the rear of 1a Clay Lane.

7. It is clear from the representations that the ownership of this larger area of land is in dispute. However, that is not a planning matter and the grant of planning permission would not grant ownership rights where none exist. It is a private matter for the various individuals concerned to resolve any ownership disputes and to take any necessary action against any trespass.

8. The Council’s reason for refusing planning permission relates only to the loss of potential wildlife habitat. The officer’s report makes it clear that the concrete footpath that has been constructed is the primary cause for concern since it
was constructed on the bank of Phipps Brook and destroyed potential wildlife habitat for water voles.

9. There is a boundary wall and fence separating the larger area of land from Phipps Brook and the concrete path has been constructed on the brook side of that wall/fence. It would appear that, since the matter was considered by the Council, the wall/fence has been extended across the front of the potting shed constructed on the part of the land to the rear of 1a Clay Lane so that there is now no access from the potting shed to the concrete pathway. As internal access is available to the potting shed over the part of the larger area of land to the rear of 3 Clay Lane, the footpath currently serves no purpose.

10. The officer’s report concludes that the use of the land as residential garden land is consistent with its location adjoining existing residential gardens and that there are no amenity issues arising from its use as such. They also consider that the potting shed causes no harm because it is constructed in appropriate materials and is viewed against a backdrop of existing buildings and boundary treatments. I agree.

11. The destruction of the watercourse bank by the construction of the concrete footpath has meant that nobody can now know whether any water vole habitat was destroyed or not. However, water voles have been detected within reasonably close proximity of the site (within 1km) and the bank could potentially have provided a suitable habitat. As habitat protection is an important planning consideration given considerable force through the National Planning Policy Framework (NPPF) and relevant saved development plan policies that are consistent with the NPPF, it is clear that, if planning permission had been sought for the footpath before the works were undertaken, it would not have been granted because of the resultant habitat loss. Whilst it is quite legitimate to make a retrospective application for planning permission, developers should not gain an advantage by presenting their proposals as faits accompli. The lost habitat could be reinstated upon removal of the offending development, but that is a matter for consideration in the context of enforcement action. I am not persuaded that the proposed mitigation measures would achieve a similar result.

12. As the concrete footpath now serves no useful purpose and has resulted in habitat loss, I conclude that it is contrary to saved policy GRN18 of the Warrington Unitary Development Plan and planning permission should not be granted for it. I conclude that the use of the part of the site that lies to the rear of 1a Clay Lane as residential garden land (whether by the appellant or by anybody else with a claim on the land) is acceptable and the potting shed and boundary wall/fence are also acceptable, particularly as the wall/fence blocks access to the potting shed from the concrete footpath and creates a strong boundary between the residential garden land and Phipps Brook. I have therefore split my decision so that only those aspects of the scheme I have found to be acceptable are granted planning permission.

David C Pinner
Inspector
Update Report

Report Prepared by Development Control Manager

2012/20529 Land off Marsden Avenue, Latchford

Public Consultation Update

For the avoidance of doubt the Local Planning Authority has advertised the planning application by way of site notice and press notice. In addition the Local Planning Authority has notified occupiers of properties surrounding the site and in this case the Local Planning Authority included more properties than the normal “50 metre radius” as outlined in the Council’s notification procedure. Officers are satisfied that the requisite and statutory public consultation has been carried out.

In addition to the above the applicant has sent a copy of the statement of community involvement document to members (sent on 20.8.13 along with a covering letter. The statement of community involvement states that ward Councillors (including Councillors Wright and Hans Mundry) were consulted by email in August 2012, a public exhibition took place on 7th August 2012 at Richmond’s Social Club and 70 letters were sent to residents on 3rd August 2013.

Planning Application Update

Since the report was written the applicant has been in further discussions with the Council’s Environmental Protection Team and Planning Officers.

In respect of the virtual curtains, soil capping and conduit tubes to control gases the applicant has now submitted (dated 20/8/13 and received 21/8/13) an inspection / maintenance programme detailing how and when the system will be maintained and regularly inspected to ensure that there is no risk to human health. The Council’s Environmental Protection Team considers the programme to be acceptable subject to it being included within a Section 106 agreement and to enable appropriate control from an enforcement point of view. In view of receipt of this programme a bond is no longer recommended/required. The contaminated land planning conditions listed in the committee report are recommended to remain.

Condition 23 in the planning committee report recommends that a management company is set up to manage and maintain communal areas of open space. It is considered more appropriate to include the establishment of a management company in a Section 106 agreement and that condition 23 is deleted. Such a management company would be responsible for maintaining areas of open space and areas of highway/car parking areas to be not adopted by WBC Highways as well as ensuring compliance with the contaminated land maintenance/inspection
programme. As maintenance and inspection of the “contaminated land system” would be dealt with via a Section 106 agreement condition No. 09 can be deleted.

Condition 4 refers to a scheme for the eradication of Japanese knotweed. Councillor Settle has indicated that there may be the potential for Giant Hogweed to be on/close to the site. It is therefore recommended that condition 4 is amended so that reference is also made to a scheme for the eradication of Giant Hogweed in the event that it is found/identified on site.

**Amended Recommendation**

(i) That planning permission is approved subject to the deletion of planning conditions 23 and 9 as listed in the report and an amended condition 4 and subject to the applicant first entering into a Section 106 agreement relating to the following:

- Compliance with a contaminated land protection and maintenance programme.
- Affordable housing (70%).
- Financial contribution of £38,500 for highway improvements in the vicinity of the site including footway/tactile paving improvements.
- The establishment of a management company to maintain areas of identified open space, any area(s) of land (including car parking areas / roads) that are not to be adopted by WBC Highways (management company plan to accompany agreement) and the implementation / management of the contaminated land protection/maintenance programme (Registered Provider/landowner(s)/successor(s) in title to also have responsibilities and obligations where appropriate).

(ii) That delegated authority is given to the Executive Director - Environment and Regeneration - to refuse planning permission if the Section 106 agreement has not been satisfactorily completed within 3 months of the committee meeting.