To: Members of the Development Management Committee

Councillors: Chair – T McCarthy
Deputy Chair – J Richards
P Carey, F Rashid, L Morgan, L Murphy,
B Barr, J Wheeler, S Woodyatt, D Keane
S Wright and A Heaver

17 June 2015

Development Management Committee

Thursday, 25 June 2015 at 6.30pm

Council Chamber, Town Hall, Sankey Street, Warrington, WA1 1UH

Agenda prepared by Julie Pickles, Democratic and Member Services Officer – Telephone: (01925) 443212 E-mail: jpickles@warrington.gov.uk

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>Minutes</th>
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<td>3.</td>
<td>To confirm the minutes of the meeting held on 14 May 2015 as a correct record.</td>
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<tr>
<th>Item</th>
<th>Planning Applications (Main Plans List)</th>
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<td>4.</td>
<td>Report of the Executive Director Economic Regeneration, Growth and Environment</td>
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<td></td>
<td>Attached as a separate document</td>
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<th>Item</th>
<th>Results of Appeals</th>
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<td>5.</td>
<td>Report of the Executive Director Economic Regeneration, Growth and Environment</td>
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<tr>
<th>Item</th>
<th>Appeal Details</th>
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<tbody>
<tr>
<td>5.1</td>
<td>Arpley Landfill Site, Forrest Way, Sankey Bridges, WA4 6EX</td>
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<tr>
<td>5.2</td>
<td>1 Lodge Close</td>
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<tr>
<td>5.3</td>
<td>4 Dounrey Close</td>
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<td>5.4</td>
<td>32 Whitfield Avenue</td>
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<td>5.5</td>
<td>Birch Tree Farm</td>
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<td>5.6</td>
<td>Culcheth Hall Drive</td>
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<td>5.7</td>
<td>Rhinewood</td>
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<td>5.8</td>
<td>Costs Decision – Culcheth Hall Drive – Appellant</td>
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<tr>
<td>5.9</td>
<td>Costs Decision – Culcheth Hall Drive – WBC</td>
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<tr>
<td>5.10</td>
<td>Fit In</td>
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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

If you would like this information provided in another language or format, including large print, Braille, audio or British Sign Language, please call 01925 443322 or ask at the reception desk in Contact Warrington, Horsemarket Street, Warrington.
DEVELOPMENT MANAGEMENT COMMITTEE

14 MAY 2015

Present: Councillor J Richards (Chairman)
Councillors A Heaver, L Morgan, L Murphy,
K Morris, F Rashid, S Woodyatt and J Wheeler
(Substituted for B Barr)

DM85 Apologies for Absence

Apologies for absence were received from Councillors T McCarthy, B Barr and K Bennett.

DM86 Code of Conduct – Declarations of Interest

<table>
<thead>
<tr>
<th>Councillor</th>
<th>Minute</th>
<th>Reason</th>
<th>Action</th>
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<tbody>
<tr>
<td>Councillor F Rashid</td>
<td>DM89</td>
<td>Cllr Rashid represented the area as a Ward Councillor he had taken part in some discussions but had not expressed a view in relation to the application.</td>
<td>Cllr Rashid remained in the meeting and took part in the discussion and vote thereon</td>
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DM87 Minutes

Resolved,

That the minutes of the meeting held on 12 March 2015 were agreed as a correct record and signed by the Chairman.

DM88 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.

DM89 2015/25467 – Land Bounded by Lingley Green Avenue, Omega Boulevard, Orion Boulevard, Whittlehall Avenue & Burtonwood Road, Great Sankey, Warrington Full Planning (Major) - Proposed construction of a three form entry primary school, siting of mobile unit, sports pitches and sprinkler tank with new north-south access road including a pedestrian and cycle way.

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

Resolved,

That application 2015/25467 be approved subject to condition no. 2, to include reference to the detailed design of the electricity sub-station

**DM90 Appeal Decisions for Period Between 5th March – 28th April 2015**

Members were presented with a report of the Executive Director of Economic Regeneration, Growth and Environment that 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>APP/M0655/A/14/2228302</td>
<td>12 Cranleigh Close, Stockton Heath, Warrington WA4 6SD</td>
<td>Refused</td>
<td>Dismissed</td>
</tr>
<tr>
<td>APP/M0655/D/15/3003188</td>
<td>56 Woodlands Drive, Thelwall, Warrington, Cheshire WA4 2JL</td>
<td>Refused</td>
<td>Allowed</td>
</tr>
<tr>
<td>APP/M0655/D/14/2229134</td>
<td>76 Irwell Road, Warrington WA4 6BB</td>
<td>Refused</td>
<td>Dismissed</td>
</tr>
<tr>
<td>APP/M0655/D/15/3003511</td>
<td>97 Common Lane, Culcheth, Cheshire WA3 4HF</td>
<td>Refused</td>
<td>Dismissed</td>
</tr>
<tr>
<td>APP/M0655/A/14/2219538</td>
<td>Vacant land at Station Approach, Great Sankey, Warrington WA5 1RQ</td>
<td>Refused</td>
<td>Dismissed</td>
</tr>
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</table>

**DM84 Planning Application and Appeal Performance - 2014/2015**

Members were presented with a report of the Executive Director of Economic Regeneration, Growth and Environment that set out a summary of planning application and appeal performance for the 2014/2015 period.

It was reported that the target for 2015 was no more than 25% of appeals allowed. This was in the context of 44% of appeals being allowed in the 2013-14 period coupled with cost awards against the Council totalling approximately £80,000. It was important to recognise that there was always a time lapse relating to appeals in so far that appeal decisions usually related to Council decisions made approximately six months earlier.

For 2014-15 33% of appeals were allowed. In that same period there had been no cost awards against the Council. This was a vast improvement relative to the 2013-14 position. The target of no more than 25% of appeals being allowed will remain for 2015-16.
The graph below showed performance since 2008 (allowed / dismissed) and against the performance target of 25% allowed. It showed that performance was moving in the right direction. The Planning Inspectorate currently had a backlog of work and hence a number of appeals are still awaiting decision.

The current trend showed that more appeals were being dealt with by means of the written representations method and that there were far fewer Inquiries. This trend was likely to have some benefits going forward from a budget point of view in so far as the Council had to employ fewer barristers for inquiry work.

Despite a reduction in staffing levels (compared to 2013-14) the service has managed to sustain good levels of performance in terms of determining planning applications within statutory timescales (ie 8 and 13 weeks). Changes to the Council’s Constitution had also helped with a more rigorous case management process in place.

It was noted that for 2014-15 100% of major planning applications were decided within agreed timescales (against a target of 90%), 88% of minor applications were decided within 8 weeks (against a target of 80%) and 90% of other applications were decided within 8 weeks (against a target of 80%). Performance was now amongst the top 20% in the country.
Resolved,

That the report be noted.

DM85  Section 106 Report 2014/2015 (1 April 2014 to 31 March 2015)

Members were presented with a report of the Executive Director of Economic Regeneration, Growth and Environment that updated members in relation to the status of planning obligations and S106 Agreements.

It was reported that the Council was currently updating the way in which it monitored S106 planning obligations and how it reported on the status of schemes being implemented through S106 monies. As such, the document was limited to reporting on the value of agreements signed and payments received during the last financial year. A full report, including updated tables showing the progress of expenditure of S106 monies, will be included in the next update to be presented to Members at the end of the first quarter of the new financial year.

- Value of Agreements Signed - (1st October 2015 & 31st March 2015) £4,150,253.72
- Payments Received - (1st October 2015 & 31st March 2015) £1,380,458.31
- Four new Section 106 agreements were signed between 1st April 2014 & 31st March 2015 to the value of £4150,253.72.
- The total payments received during 2014/15 were to the value of £1,380,458.31.

Resolved,

That the report be noted.
WARRINGTON BOROUGH COUNCIL
DEVELOPMENT MANAGEMENT COMMITTEE 25th June 2015

Report of the: Executive Director Economic Regeneration, Growth & Environment
Report Author: Andrew McGlone
Contact Details: Email Address: amcglone@warrington.gov.uk
Telephone: 01925 442845
Ward Members: All

TITLE OF REPORT: Appeal decisions for period between 29th April & 16th June 2015.

1. PURPOSE OF THE REPORT

1.1 To advise members of the planning appeal decisions at:

- 1 Lodge Close – appeal dismissed
- 32 Whitfield Avenue - appeals dismissed
- Fit In – appeal allowed
- 4 Dounrey Close – appeal dismissed
- Arpley landfill – appeal allowed
- Rhinewood – appeal allowed
- Birch Tree Farm – appeal dismissed
- Culcheth Hall Drive – appeal dismissed and costs awarded to WBC
- Caddicks Nursery – appeal dismissed. No costs awarded to WBC

2. REPORT BODY

1 Lodge Close

2.1 The main issue is the effect of the dormer extension on the living conditions of the occupiers of neighbouring properties by reason of overlooking and loss of privacy.

2.2 The Inspector felt that the sub-standard interface (circa 2 metres) would have undoubtedly resulted in an unacceptable degree of direct overlooking from habitable rooms that currently do not exist onto bungalows on Heatley Close. Accordingly, it would unduly prejudice the levels of privacy that the occupiers of those properties, in particular 6 Heatley Close, can reasonable expect to enjoy in their home and rear garden area. The current occupiers may well currently choose to have net curtains up at the window but that cannot be relied upon and does not justify an extension that would result in intensified and unacceptable levels of overlooking and loss of privacy.
2.3 It was noted that a similar dormer extension had been constructed at number 7 Lodge Close but there are no rear windows of properties directly opposite that property. The dormer extension at 8 Heatley Close is set back from the eaves ensuring a greater degree of separation between habitable windows in the dormer and number 3 Lodge Close directly opposite.

**Vacant Land, Station Approach**

2.4 This is a double appeal decision for the same property – both have been dismissed. The applicant proposed a first floor side extension in the case of appeals A and B, though slightly different approaches which are explained in paragraphs 4 and 5 of the appeal decision.

2.5 Our decision was taken prior to the Core Strategy adoption, and thus permission was refused on the basis of UDP policies. Although they have been replaced, the Inspector was satisfied they have been replaced by similar policies consistent with the NPPF.

2.6 For Appeal A the Inspector agreed with the Council that the extension would fail to reinforce local distinctiveness or to enhance the character, appearance and function of the street scene due to the lack of a 1 metre gap to no. 30.

2.7 For Appeal B a 1 metre gap was achieved which overcame appeal A’s reason for refusal, however the ridge line in appeal B contained a changed design, which saw the ridge line mirroring the host property and a small set back from the front elevation. Although this provided a break line, the Inspector considered the minimum set back in conjunction with the roof height would result in an extension that would not appear subordinate to the original dwelling. Accordingly, it would not reinforce local distinctiveness.

2.8 The proposals were deemed to be contrary to LPCS Policy QE7.

**Fit In**

2.9 This appeal has been allowed with conditions. Our reasons for refusal focussed on the effect of the proposal in terms of highway safety as a result of insufficient off-street car parking and the consequential effect on the living conditions of nearby residents.

2.10 The Inspector has accounted for our adopted parking standards SPD in making this decision and gave it significant weight albeit not the same weight as the LPCS. In paragraph 14 the Inspector commented on the SPD in light of the recent Secretary of State statement and stated that they “are of course material and while it is not for me to consider whether the deployment of the standards in the borough as a whole is justified in that context, it seems to me that the application of those standards in any particular case, including this one, falls to be considered on its merits in the light of those intentions.” Paragraph 27 neatly sums up the position and application of the SPD:
2.11 “The parking standards in the adopted SPD are essentially guidance to supplement adopted development plan policy and failure to comply does not automatically lead to unacceptable conflict with the intentions of the development plan. For the reasons given, I do not consider there would be such conflict in this case. Nevertheless, the adoption of the standards does impose an evidential burden on developers to demonstrate why non-compliance with the guidelines in a material supplement to adopted development plan policy would be acceptable in any particular case.”

2.12 Tesco had informed WBC Highways that they controlled the lion share of the car park and it only a small portion would be available for the dental surgeries use. Paragraphs 10 and 11 addresses the lease arrangement which essentially restricts the number of spaces available to employees and patients of the surgery. The Inspector has placed the responsibility of this and its enforcement on Tesco. Ultimately it is a matter for them to reach an agreement on pending this decision, rather than the planning process to intervene.

2.13 The Inspector agreed with the appellants Highway evidence which was regarded as credible and logical. It moreover corresponded with the Inspectors findings during their visit. Perhaps disappointingly the Inspector visited the site during the day and during school holidays, so it is not likely they witnessed matters at their busiest. However, nonetheless the Inspector has not been persuaded despite the existing mode of travel existing patients clearly show that the merge of both dental practices will lead to an unsatisfactorily highway safety issue.

2.14 The Inspector gave consideration to the nature of the dental surgery’s use. They concluded that “Most dental patients are regular but relatively infrequent visitors to their practice, and while I accept the Council’s evidence-based contention that most will come by car notwithstanding the accessibility of the site to other transport modes, I would therefore anticipate they would adjust their parking habits according to their origin and any subsequent destination and their personal preference and experience of the site, walking as necessary the short distance from on-street parking opportunities if chosen. Some trips might be undertaken for family appointments as the appellant observes, thereby reducing the number of trips and parking demand associated with appointments. I do not anticipate dental patients would generally be inclined to park hurriedly or inconsiderately as might occur, for example, when people are collecting a pre-ordered takeaway meal. They might combine the trip with a visit to the convenience store and use the car park for that purpose, or they might choose to park further away on-street.”

2.15 Despite significant parking may take place off-site, and that on-street parking is not inherently safe, the Inspector was not persuaded in these circumstances that highway safety would be significantly compromised by the proposed development. This was influenced by the lack of pressure and on-street parking congestion in this area – they were of the view that Clifford Road and Lyons Road, which are both capacious and convenient, are most likely to attract those with local knowledge, such as dental patients. Moreover, there is no cogent evidence to
suggest that dental patients or other users of the centre are likely to routinely park unacceptably close to the junctions of the site access, lay-by or side roads with the A562 Warrington Road.

2.16 So despite non-compliance with the SPD the Inspector concluded the proposal did not unacceptably conflict with LPCS QE6. As a consequence of this view, the proposals impact on living conditions of nearby residents was also not upheld.

2.17 On a side note in considering the entirety of the proposal, the Inspector considered compliance with the twelve bullet point of paragraph 17 (NPPF), together with the re-use of a vacant premises and presumption in favour of sustainable development all weighed in favour of allowing the appeal.

2.18 This appeal was dismissed for the conversion of part of the dwelling into a hair salon. The applicant sought consent for this on the basis of needing to attend to her mother throughout the day. The Inspectors report (main issues) follows each of the three reasons for refusal.

2.19 **Issue 1 – vitality and viability of town centres -** The Inspector agreed with our approach and found conflict with paragraph 24 of the NPPF and policy PV5 of the LPCS - both require a sequential approach for town centre uses that are not in the existing centre. It is essentially a town centre first approach. The appellant did not undertake a sequential test as they believed sufficient justification lied in her personal circumstances. We highlighted the close proximity of the nearest neighbourhood centre only some 0.3 miles away as an example that could potentially suit the appellant’s requirements.

2.20 **Issue 2 – living conditions of neighbours -** The Inspector agreed that the proposal would result in activity which would be likely to lead to noise and activity during the day, including the comings and goings of customers on foot and in cars. This was despite acknowledging control could be applied via suitable planning conditions to manage customer numbers at the property at any one time and the opening hours.

2.21 **Issue 3 – highway safety -** This issue centred on whether the appeal site had sufficient off-street car parking for the development proposed. Our stand point was that the existing two spaces are required for the house, and an additional space should be provided for customers. No additional car parking was proposed by the applicant as the business would be operated on an appointment system with a maximum of one customer present on site at any one time.

2.22 The Inspector agreed with the appellant in that subject to the imposition of conditions that the site benefitted from sufficient off-street provision, with one space being retained for the appellants car and one for customers use. The appellant confirmed only one customer at a time would be present on site with a 15 minute stagger between appointments.
2.23 The Inspector also considered the appellants personal circumstances. However they did not regard the circumstances described whereby the appellant could work at home to provide care for a family member, to be particularly unique or unusual such that they would be regarded as such an exceptional occasion. In my view this benefit of the scheme is insufficient to outweigh the harm identified in relation to the first two main issues in this case.

**Arpley Landfill**

2.24 The appeal has been allowed subject to conditions. This was expected given our re-defined position following the earlier 12 year decision.

As per Members re-considered position the key points are:

- Landfilling will cease on or before 31\textsuperscript{st} October 2017 with restoration completed within 12 months of the final date of landfilling;
- There will be a reduction in the amount of waste being tipped, a lower landform and reduced footprint compared to the original 5 year proposal;
- The amount of waste going into the site is capped at 690,000m\textsuperscript{3} between November 2014 and 31\textsuperscript{st} October 2017 at the latest;
- There is an annual cap of waste arriving – this is controlled at 400,000 tonnes in 2015 and 2016 and 333,333 tonnes in 2017;
- Moore Nature Reserve will continue to be managed / funded in some capacity until October 2021
- Permissive pathways will over time become available across the restored site for a 30 year period after restoration.

2.25 Ultimately this decision brings certainty for all and will bring an end to landfilling at Arpley by the end of October 2017 which is really positive. From a regulation point of view, the decision now equips the Council with a clear means of ensuring the operators appropriately control the amount of waste going into the site, odours, dusts, noise, general residents amenity and dirt on the roads. There is now accountability placed on FCC. FCC will now have to discharge a series of planning conditions over the next weeks and months as stipulated on the decision notice.

2.26 In terms of the decision, the Inspector found that the proposal accorded with LPCS policy MP8 and national policy for waste management. In terms of the proposals effect on the environment and living conditions the Inspector concluded that the continuation of operation notwithstanding the mitigation measures would not negate the potential harm identified to residents. But, with the shorter time period, a more positive approach to management of odour issues compared to the reactive approach historically witnessed and the implementation of a more robust wheel wash to comprehensively address tracking out of dirt and debris onto the local highways, the Inspector balanced the conflict with LPCS QE6 and UDP
MWA5 against the very special circumstances presented in favour of the development.

2.27 The Inspector agreed the proposal represents inappropriate development in the green belt and weighed this against the proposal. However they acknowledged it was only a temporary harm to openness and the areas visual appearance. Changes to the overall footprint and gradient of the eastern flank would contrast less strongly with the receiving landscape. The main factors weighing in favour of the proposal were considered to be its adequate provision for landfill capacity in accordance with NPPW and would enable the planned restoration of the site. These carry very considerable weight. The proposal would also support the beneficial use of the Green Belt through the provision of opportunities for recreation, such as through the arrangements for a network of permissive footpaths for a 30 year period; and to improve damaged and derelict land through the extended period of aftercare, which attracted a moderate amount of weight.

2.28 The planning obligation and conditions were attached weight in favour of the development. When assessed overall, the Inspector considered that these other considerations are sufficient to clearly outweigh the harm to the Green Belt and other harm so that the very special circumstances necessary to justify the proposal have been demonstrated.

**Rhinewood Hotel**

2.29 This appeal was allowed. An application for costs was refused.

2.30 Members refused consent on two grounds contrary to Officer recommendation - sustainability and design. These formed the focus of the Inspectors decision and considerations. The Inspector considered the development would not be inappropriate development in the green belt, because compared to the existing hotel it would not have a greater impact on the openness of the land and the purposes of including the land within it.

2.31 **Sustainability:**- our evidence countered the appellants analysis of the proximity of local services, amenities, community facilities and the availability/frequency of public transport. In our view, the site was of poor accessibility when applying a scoring system when judged against industry standard travel distances to each amenity that persons would typically rely upon every day.

2.32 The Inspector acknowledged the proximity of the train station and the connections it offers to Birchwood, Warrington, Manchester and Liverpool and its limitations insofar as service frequency outside of peak hours. They also detailed the presence of Birchwood Station which lies adjacent to a large shopping park and close to a secondary school is the next westbound stop with a journey time of 4 minutes. The centre of Warrington can be reached in just over 10 minutes and the journey time to Manchester is about 25 minutes. The proposal would also allow access for pedestrians to and from the station through the provision of a new
footway along the site frontage to facilitate crossing the road away from the humped railway bridge. Overall the Inspector felt that persons would be able to plan their journeys so as to make use of this convenient mode of travel.

2.33 In paragraphs 11 and 12 the Inspector explored the sites proximity to a series of services and amenities. There were clear deficiencies to a number of typical services – a point our evidence made. But, the Inspector took the view that despite these deficiencies the residential development would be served by a reasonable range of services accessible from the site by walking, cycling and rail. Whilst car borne travel would still be the most common form of transport, alternative modes would be likely to be used more than in association with the hotel and car trips would be relatively short.

2.34 In conclusion on this issue, the proposal was considered to represent a reasonably sustainable development that people would need to travel from the site to reach services and employment including by car. But overall the development would not have any significant adverse impacts by reason of the need to travel, particularly in comparison with the existing use of the site. The last part of this sentence in my view was key to the Inspector arriving at this judgement.

2.35 Design:-- The Inspector noted that there was no prevailing local characteristics that formed a clear basis for designing a scheme for the site. Due to topography, the alignment of Glazebrook Lane and the existence of vegetation on the site and in the surrounding area, the proposed development would not be readily seen from most visual receptors, including those of high sensitivity such as nearby dwellings. The development would be most apparent to those passing on the B5212.

2.36 Most of the housing would be contained in small terraces of three dwellings or pairs of semi-detached properties. The three storey apartment block would be the building of the greatest scale on the site and in the locality and would be relatively close to Glazebrook Lane. However, the block would be in a location where the road rises towards the railway bridge and its base would sit below street level, so it would not be overly dominant. Moreover, the stepping up of buildings on the site frontage would add some variety to the street scene. Overall the development would have a scale that would be more sympathetic to the nearby residential buildings than the hotel and would sit more comfortably in its setting. The Inspector also considered the apartment block would contain fenestration and detailing which would break up the buildings mass and utilise features of the Grade II listed station building. Render was also deemed an appropriate material and provide variety.

2.37 Trees (TPO) will be in part be removed, though others retained and 43 new trees planted which would help assimilate the apartment block into the street scene, soften the built form and filter views from Glazebrook Lane.

2.38 Housing:-- although we have lost this appeal, the scheme does contribute 36 units towards our housing supply and provide a planning obligation that will deliver an off-site provision of £405,000 for affordable housing (30% of the total build).

2.39 Parking:-- the Inspector felt 2 spaces per dwelling and 15 communal spaces for 9 apartments was acceptable.
Costs Decision

2.40 The appellants argued the Council had acted unreasonably and not substantiated our reasons for refusal nor followed appropriate procedure in determining the application.

2.41 The Inspector considered that we appropriately evidenced and analysed the information available in defending the sustainability reason for refusal and simply deemed notwithstanding they arrived at a different conclusion, that tensions remained in respect of LPCS CS4 nor was the case clear cut.

2.42 Although the appellants commissioned an analysis of the design by a landscape architect, we were deemed to have supported our own judgement by providing evidence prepared by a professional office and drawing attention to relevant factors to determining whether the apartment block would be acceptable in its setting. Whilst accessibility and design are only two aspects of sustainable development, it is a matter for the decision maker to decide on the harm to be ascribed to these factors and whether benefits flowing from other dimensions of sustainable development would outweigh the harm. The Council’s statement undertook that balance.

2.43 Aside from raising issues about the substance of the matters under appeal, the appellants also referred to some procedural matters. The fact that extensive negotiation took place with the Council demonstrates co-operation. However, the Council was not bound by its officers’ recommendation.

2.44 The Council put forward an objective analysis of the impact rather than vague, generalised or inaccurate assertions. Even though the Ward Councillor missed the 21 day deadline for asking that the application be referred to the DMC, the Council’s Constitution allows the relevant Executive Director to refer applications to the DMC. There is no evidence that the officer went beyond his powers. The number of Councillors present at the DMC indicates that the Quorum requirements of the decision making body were met. There is no requirement for a particular number of applications to be considered at any one DMC meeting. Therefore the Council’s handling of the planning application should not lead to an award of costs.

Birch Tree Farm

2.45 This appeal has been dismissed. Permission was sought for a detached bungalow on the land. The appellant presented information seeking to justify very special circumstances on the basis of their medical conditions.

2.46 Consent was refused for two reasons – inappropriate development in the green belt & lack of ecological surveys due to the presence of habitats/protected species in the vicinity.

2.47 Ecological surveys were lodged with the appeal. Having reviewed these surveys, the second reason for refusal could not be sustained, so we wrote to the Inspectorate on this basis, who agreed with our approach.

2.48 The Inspector took the view the new dwelling was inappropriate development which is harmful to the green belt’s openness and purposes – substantial weight
should be given to this notwithstanding paragraphs 14 and 49 of the NPPF which are engaged due to the lack of our 5 year housing supply.

2.49 Our reason for refusal also referred to visual harm through a loss of openness, but harm resulting from a loss of Green Belt openness occurs regardless of whether or not a view can be taken of it. Harm to the openness of the Green Belt is not diminished by vegetative or other screening. Unbuilt areas of the plot that includes the appeal site contribute to the openness of the Green Belt. While the overall scale of the bungalow would not be as large as other potential structures or dwellings, it would nonetheless be sufficient to cause a significant loss of Green Belt openness in this location.

2.50 In terms of character and appearance the Inspector considered that the site contributes to the open character of the Green Belt in this location. This is especially apparent in views from the towpath of the Bridgewater Canal, which is a well-used recreational route given its proximity to, and the density of, the development to the north of the waterway and to the east of Red Lane.

2.51 By reducing the sites openness, it would create a harmful impact on distinctiveness to the character and appearance to the local area. This harm is not outweighed by the suitability of the proposed building design in respect to residential architecture in the locality. Accordingly, the proposal conflicts with CS Policy QE 7, and this harm attracts significant weight against the appeal scheme.

2.52 The Grounds of Appeal highlight that the appellant and his wife have lived at Birch Tree Farm for 29 years, and now have a number of medical conditions that have been the subject of representations from their doctors. These suggest that a two storey house is no longer appropriate for them, and to move away from Birch Tree Farm would be unsettling. However the medical evidence does not appear to address the potential for someone with the disorientating condition described to adjust to a new residential environment that includes their possessions, or the time that might be required for this to occur. A building of this scale reasonably could be considered larger than necessary to meet the personal circumstances, and household, described.

2.53 Evidence from the Council has addressed the past availability of two and three bedroom bungalows in the locality and their proximity (in drive time) to the appeal site. These fall within a wide range of prices and would suggest that there is a potential supply of alternative dwellings in the locality.

2.54 There are a number of dwellings at Birch Tree Farm. It has not been adequately explained: why any of these that are available to the appellant could not be modified to accommodate the needs of the appellant and his wife; and, the likely cost of such works in comparison to those for the construction of a new dwelling. As such, the evidence is not convincing that: if this appeal were to be dismissed, the appellant and his wife would ‘…be required to move away…’; or, these personal circumstances could amount to an ‘exception to Green Belt policy’. The Inspector deemed that the appellant’s personal circumstances can only attract some weight in favour of the appeal scheme though not enough to warrant VSC.

2.55 Social and environmental benefits would arise from the scheme due to an environmentally efficient dwelling suitable for the intended residents, its edge of settlement location with good access to shops and services whilst economic
benefits would arise from its constriction and occupation in accordance with paragraph 19 of the NPPF. But these factors do not outweigh the green belt harm.

**Culcheth Hall Drive**

2.56 This appeal has been dismissed and costs have been awarded to the Council. No costs have been awarded against the Council.

**Appeal Decision**

2.57 The application sought to develop the site with 9 detached dwellings with vehicular access taken from Culcheth Hall Drive.

2.58 Our reason for refusal took a holistic view of several disciplines and outlined consequences of the development upon the natural and built environment. In short the land’s sub surface is clay which would form an impervious barrier to surface waters and the soakaways proposed, which would have adverse impacts on TPO’s and their roots, causing various trees to be lost, as well as highway safety through surface waters pooling. The loss of the mature trees would adversely result in a loss of character and appearance which typifies the site and wider area.

2.59 The Inspector agreed that the mature trees and vegetation are an important feature in the townscape and that large detached dwellings characterise the area. The appellants scheme followed the theme here, but it was the consequences of the development which the Inspector focussed on. The appellants proposed a ‘no dig’ construction technique and cellular confinement system for the access road in order in their view to protect tree roots. Our evidence highlighted flaws with the construction and use of this system for this particular site, due to the presence of clay which was highlighted in the appellants Basic Preliminary Risk Assessment which included geological maps. Clay would prevent surface waters percolating through the access road. The appellants scheme did not contain technical calculations to prove soakaways, the access road and ground could accommodate expected drainage rates. An infiltration report was provided with the appeal submission by the appellants, which cohobated an issue with the western part of the site.

2.60 A soakaway was shown within the root protection area (RPA) of T11 on the site frontage with Culcheth Hall Drive. Our estimates in line with British Standard’s placed the harm to the roots at 25%. Furthermore the Inspector agreed with harm caused to a neighbour’s Beech tree, the Yew Hedge and shared concern as to whether the appellant could successfully position soakaways outside RPA’s given a Building Regulation requirement to place them 5 metres from a dwelling. A plan drafted by ourselves to highlight each RPA and 5 metre buffer zones around each dwelling (soakaway) was useful in demonstrating this point. Overall the Inspector stated that “notwithstanding the feasibility of the ground conditions for this arrangement, the Council indicates that these would need to be positioned at least 5 metres from buildings. Given the proximity of the trees, on the western part of the site in particular, the Council is concerned that it may therefore be necessary to position the soakaways in the RPAs of the protected trees on the site. This would be likely to give rise to the severance of roots during their installation, along with the potential for changes in water levels, the creation of impermeable areas, and the waterlogging of tree roots. This would be to the detriment of the health of the
affected trees and could lead to their loss. The trees along the frontage of the site contribute significantly to the character and appearance of this part of Culcheth Hall Drive. These trees, along with trees and vegetation on the north side of the site, are part of its mature leafy appearance and the loss of trees here would harm this established character and distinctiveness.”

2.61 Concluding on this matter the Inspector said:

“Bringing these matters together, the use of a permeable surface for the access and soakaways is dependent on suitable ground conditions. Given the ground conditions described by the Council, and in the absence of any further information to support the planning application, I share the Council’s concern that these approaches may not be suitable. Moreover, even if it were to be established that they were, the soakaway pit to serve the drainage channel for the access would be within the RPA of a protected tree. Furthermore, although the appellant considers there to be sufficient locations within the site away from RPAs and houses, the submitted plans do not indicate where the soakaways for the houses would be provided. In the absence of this information I share the Council’s doubts as to whether there is scope on the site to locate them at sufficient distances from the RPAs of trees and the proposed dwellings. As such, on the basis of the information before me, I find that the proposed drainage arrangements described would be likely to have an unacceptable impact on highway safety and protected trees.”

2.62 Our case also raised issue with how each dwelling would be serviced by utilities. A utilities trench was proposed along the northern boundary. The Inspector agreed with our stance in that this trench could adversely affect the neighbours Beech tree and the Yew hedge, notwithstanding the appellants proposals to carefully excavate and root prune both. Essentially the appellants case was not fully evidenced or demonstrated to counter valid concerns – “Even though these are not the subject of a TPO, they are existing landscape features outside the appeal site which contribute to the character and appearance of the area. Whilst I appreciate the appellant’s view that the hedge could be replaced if damaged, it would be likely to be unacceptably affected by the proposed works for a good deal of its length along the northern boundary of the site. Also, since the affected tree and hedge are outside of the appeal site the appellant has no control over them.”

2.63 The appellants case hinged on whether planning conditions could be used to ‘make the development acceptable’. Given the Inspector found conflict with LPCS policies CS1, CC1 SN1, QE3, QE6 and QE7 it was considered that they could not “be content that adequate details could be provided in this case. Planning Practice Guidance (the Guidance) indicates that it is important that the local planning authority limits the use of conditions requiring their approval of further matters after permission has been granted. Where it is justified, the ability to impose conditions requiring submission and approval of further details extends to aspects of the development that are not fully described in the application. In this case, drainage and utilities details were provided as part of the planning application and included on the submitted drawings. The Guidance further advises that a condition requiring the re-submission and approval of details that have already been submitted as part of the planning application is unlikely to pass the test of necessity.”

2.64 In terms of sustainable development and the planning balance the Inspector has agreed with our approach to the balance attributed to the social, economic and environmental factors, finding that a modest scale could be attributable to economic factors, fail with regards to social as it would fail to create a high quality
WBC Costs Application

2.65 A full award of costs have been awarded to the Council as the appellants were proven to have acted unreasonably. Given the adverse impacts and policy conflicts of granting consent identified in the decision itself and advising the appellants to withdraw their appeal and re-submit an application early on in the appeals process, together with the appellants infiltration report confirming the unsuitability of the site’s ground conditions for the proposed drainage strategy, the Inspector felt the appeal had been unnecessarily pursued causing expense to ourselves.

Appellants Costs Application

2.66 Costs were sought against WBC based on the lack of co-operation via our pre-application process regarding trees and subsequent late comments from highways. The Inspector did not agree with the appellants on either issue, as we had provided consistent comments on both throughout the application and had given the appellants opportunity to comment/amend their scheme.

2.67 “I am not convinced that the dialogue between the Council and the appellant had broken down during this period. The perceived technical deficiencies with the scheme had been an on-going theme of discussion between the parties. As I see it, the appellant was given sufficient opportunity throughout the life of the planning application to resolve the concerns of the Council that ultimately led to the refusal of the planning application. At the time of referring the application to committee, and on the basis of appellant’s previous responses to the issues raised, I have some sympathy with the Council’s view that it had no comfort that these constraints could necessarily be overcome.”

Caddicks Nursery

2.68 This appeal against the refusal of retrospective planning consent has been dismissed.

2.69 Planning permission was granted in 2012 for various retrospective works, including the cabin subject to this current appeal, for use as an office and toilet in association with the horticultural activity. Condition 3 of this permission required that the buildings only remained on site as long as they were required in connection with the horticultural use. The cabin has been occupied by the appellant and his family for residential use since June/July 2013.

2.70 There is some dispute regarding the legality of the building and the parties point to various matters regarding the previous use and lawfulness of the cabin. This includes whether the appellant is in breach of condition 3 of the 2012 permission, if it has ceased to be used in connection with the horticultural/agricultural use of the site in accordance with the R v Mid Bedfordshire District Council, ex p Grimes [1999] judgement. It has also been put to me that the site has a mixed use.

2.71 Notwithstanding this, the Inspector took the view that the buildings lawfulness was not a matter for them to determine in the context of a s78 appeal. They saw from
their site visit that the building has been erected is being used as residential accommodation and therefore considered it as a retrospective application for the use of a cabin building. Given the lack of clarity regarding the previous use and lawfulness of the cabin that consideration will be on the basis of a new building rather than a re-use of an existing structure. My determination of the appeal on that basis would not affect any application regarding the lawfulness of the building under sections 191 or 192 of the Act.

2.72 The appellants submission was not made on the basis of a functional need for an agricultural worker. From the evidence put before me and the limited scale of the existing horticultural business on site the Inspector concurred with this assessment. Nor has a detailed business plan or financial information been provided to demonstrate the appellant’s ability to develop the enterprise concerned. Thus, the residential occupation of the cabin does not relate to an ‘essential need’ for a rural worker to live permanently or near their place of work as defined in paragraph 55 of the NPPF.

2.73 Therefore the appeal followed the typical considerations for a new dwelling in the green belt. The Inspector agreed that the building represented inappropriate development which is harmful by definition as per paragraph 87 of the NPPF. Very special circumstances are required to justify development. The Inspector concurred with our approach that this development represented an encroachment on the countryside and conflicted with one of the five green belt purposes which was not diminished by the applicants proposal for a temporary consent only. Conditions controlling permitted development would not outweigh this. Notably the Inspector felt the development post 2012 has encroached further into the open countryside.

2.74 In terms of openness like other recent green belt decisions, Inspectors are taking the tact that openness is reduced irrespective of the size of new buildings. The Inspector did not agree with the appellants that a temporary harm would reduce the impact on openness. Due to the cabin’s position and screening by hedgerow and tree planting together with additional proposed landscaping the Inspector concluded the cabin does not have a detrimental effect on the areas character and appearance.

2.75 The Inspector agreed that the appellants need to be on-site despite several instances of theft/vandalism, was not essential to support the viability of the business as CCTV or other surveillance methods could be used. Insufficient information was provided by the appellants as to regard the financial impact of having to reside off-site. This point was not particularly well made out by the appellants given previous proprietors of the nursery did not live on site.

2.76 A fall-back position was portrayed by the appellant, however the Inspector took the view it was not for them to decide whether the building legally benefitted from permitted development rights, given the application type presumably. No weight was therefore attached to it.

2.77 Overall, the Inspector felt the appellants plan to re-establish the nursery in three years was somewhat optimistic given their lack of experience. The Inspector was also unable to determine whether the proposal accorded with the sequential or exception tests in the NPPF given the sites location in flood zone 3. On balancing the scheme, including the appellants Human Rights claim and personal circumstances, the Inspector concluded the proposal was inappropriate
development which is harmful to the green belt which was not clearly outweighed
by such considerations and that very special circumstances do not exist.

Costs Decision

2.78 No costs have been awarded against the appellant. The nub of the claim and
whether it was successful or not hinged on whether the Inspector felt the
appellants needed to hurdle a financial and functional akin to agricultural workers
dwellings. In this case the Inspector did not, so our claim followed suit.

2.79 The Council will now need to consider enforcement action, given the building does
not benefit from planning permission having extinguished its right of appeal.

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 Not required.

8. REASON FOR RECOMMENDATION
8.1 To inform Members of the outcome of the appeal decisions.

9. RECOMMENDATION
9.1 That members note the appeal decisions.

10. BACKGROUND PAPERS
10.1 None

Contacts for Background Papers:

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<th>Name</th>
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12. CLEARANCE DETAILS
<table>
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<tr>
<th>Andy Farrall</th>
<th>Yes</th>
<th>No</th>
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Appeal Decision

Inquiry held on 24 February 2015
Site visits made on 23 and 24 February

by Mrs KA Ellison BA, MPhil, MRTPI
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 15 May 2015

Appeal Ref: APP/M0655/A/14/2222229
Arpley Landfill Site, Forrest Way, Sankey Bridges, Warrington WA4 6EX

- 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 3C Waste Limited against the decision of Warrington Borough Council.
- The application Ref 2013/22598 dated 9 October 2013 was refused by notice dated 23 January 2014.
- The development proposed is the extension of operational life of Arpley Landfill Facility to no later than 31st October 2017; restoration complete by no later than 31st October 2018; revised sequence of landfill phasing and restoration works; revised landform; continued use of the existing leachate treatment facility and landfill gas utilisation plant and ancillary infrastructure including access roads, site compound, weighbridges, wheel washes, fences, surface water management, site offices and transfer pad associated with the operations of the landfill.

Decision

1. The appeal is allowed and planning permission is granted for the proposed extension of the operational life of Arpley Landfill Facility to no later than 31st October 2017; restoration complete by no later than 31st October 2018; revised sequence of landfill phasing and restoration works; revised landform; continued use of the existing leachate treatment facility and landfill gas utilisation plant and ancillary infrastructure including access roads, site compound, weighbridges, wheel washes, fences, surface water management, site offices and transfer pad associated with the operations of the landfill at Arpley Landfill Site, Forrest Way, Sankey Bridges, Warrington in accordance with the terms of the application Ref 2013/22598 dated 9 October 2013, as amended, subject to the conditions set out in the Annex to this decision.

Background

The implications of the Secretary of State’s decision

2. This proposal originally concerned a five year extension of the life of the landfill to October 2018 and restoration by October 2019. It was made following the Council’s decision to refuse an earlier application to extend the life of the site to 2025 (the ‘12 year scheme’). The Council refused planning permission for the 12 year scheme and an appeal was made. The Secretary of State issued his
decision on that appeal on 23 October 2014. Given the similarities between the two schemes, the Council and Appellant were agreed that, as a matter of law, the Secretary of State’s findings in respect of certain matters were binding. Findings of particular relevance to the current appeal are:

(i) that the proposals comprised inappropriate development in the Green Belt; there would be temporary harm to openness but not to the purposes of including land within the Green Belt;

(ii) that there presently exists a strategic landfill which is incomplete. The importation of material would still be needed so as to create an appropriate landform;

(iii) there is need for landfill capacity at Arpley in the "short term", in particular to accommodate Municipal Solid Waste (MSW) arising from the Merseyside authorities until the 30 year resource recovery contract at Teesside becomes fully operational; the need "beyond about 2017" is not compelling;

(iv) the use of dredgings to provide cover and the afteruse of the site for recreation and opportunities for recreation would accord with the objectives of the National Planning Policy Framework (NPPF);

(v) there would be no significant harm in respect of air quality; the changes to PM\(_{2.5}\) and PM\(_{10}\) particulates would be "imperceptible" and the significance of the change "negligible";

(vi) there would be "continuing harm" to the living conditions of residents around the site and along the routes to it which would be mitigated though not altogether avoided.

The basis for the proposed amendments

3. In view of the Secretary of State’s decision, exchanges took place during the run up to the inquiry between the Appellant and the Council as to the scope to agree further common ground. The Appellant indicated possible amendments. The Council reconsidered its position. It accepted a need for landfilling to continue until 31 October 2017 and resolved to seek further common ground with the Appellant on the basis of the proposed amendments and measures to address the continuing harm to living conditions. The Appellant then formally proposed amendments to the appeal scheme, notably an earlier date for the cessation of landfilling and completion of restoration; a minor reduction in waste capacity resulting in a slightly lower landform; and an annual cap to inputs. These changes were to be assessed within an Addendum to the Environmental Statement.

4. Given that the amended scheme was of reduced scale and in view of the proposed consultation arrangements, I was satisfied that appropriate consideration had been given to the importance of minimising the risk of prejudice to others with an interest in the appeal. I therefore agreed that the inquiry should proceed on the basis of the amended scheme.
The Amended Scheme

5. The Council and Appellant agreed a revised description, as confirmed in the SOCG Addendum. The proposal before the inquiry now includes:

- the cessation of landfilling on or before 31st October 2017 with restoration to be completed within a 12 month period from the final date of landfilling
- a reduction in the overall waste tipping void, resulting in circa 690,000m\(^3\) of waste capacity from the end of November 2014 and a lower landform and reduced footprint;
- an annual cap to inputs of 400,000 tonnes in 2015 and 2016 and 333,333 tonnes in 2017;
- measures within the planning obligation to provide for an extended 5 year period of aftercare of the site, management of Moore Nature Reserve until October 2018 with a further 3 years of reduced funding between 2019-2021, and provision of permissive paths across the restored landfill site for a 30 year period post restoration.

6. In effect, the extension being sought under the Amended scheme is for a shorter period of four years, with consequential amendments to the restored landform as a result of the reduced quantity of waste to be accepted.

The Environmental Statement

7. An Environmental Statement (ES) was provided in October 2013 setting out the likely environmental effects of the five year scheme (CD1.2). An Addendum to the ES assessing the implications of the Amended Scheme was provided in January 2015 (CD1.4). These documents comprise the substantive ES. I am satisfied that the ES provides adequate information on the likely main impacts of the proposed development and the mitigation measures that may be required so that it meets the requirements of the relevant Regulations.

The Local Plan Core Strategy

8. The Core Strategy was adopted in July 2014. The numbering of some policies was revised at this stage so that, for example, CS4 identified in the reasons for refusal has now become CS5. In addition, those UDP policies identified in the reasons for refusal have been replaced by their equivalents in the Core Strategy, except for policy MWA5.

9. At the inquiry the Council advised that, by order of the High Court, parts of the Core Strategy were to be quashed\(^7\). However, it was clear from the terms of the Draft Order (which has now been confirmed) that none of the policies to be removed from the Core Strategy are of relevance to this appeal.

Other procedural matters

10. The appeal was initially recovered for determination by the Secretary of State. However, that decision was revoked following the issue of the decision on the 12 year scheme\(^8\).

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\(^7\) Doc 2: [2015] EWHC 370 (Admin) 19 February 2015 and accompanying note
\(^8\) Letter from Planning Inspectorate dated 15 January 2015

www.planningportal.gov.uk/planninginspectorate
11. The second of the reasons for refusal refers to adverse impacts on air quality but, in the wake of the Secretary of State’s finding that such impact would be negligible, the Council advised that it no longer considered changes to air quality could be sustained as a reason for refusal.

12. A planning obligation has been submitted which makes arrangements in relation to Moore Nature Reserve, an extended aftercare period, permissive paths and Arpley Community Liaison Group.

**Main Issues**

13. In the light of the above, I consider that the main issues in the appeal are:

(i) whether the proposal, as amended, accords with local and national policies for the management of waste

(ii) the effect of the proposal on the environment and on the living conditions of residents, particularly in terms of odour and HGV traffic

(iii) whether the harm to the Green Belt 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**

14. The appeal site is some 160 hectares in extent. It is bounded to the north by the River Mersey and to the south by the Moore Nature Reserve. To the west, south and south-east, the wider area is largely agricultural; to the north and east, it is mainly urban. There is a wastewater treatment works (WwTW) to the north of the site. Access is from Forrest Way via a bridge over the River Mersey. Saxon Park, a residential area of some 360 dwellings, lies on the east side of Forrest Way some 400m from the site.

15. The landfill has been in operation since 1986. Three of the original five phases have been completed so that a substantial proportion of the site has either been filled and restored to grassland or capped but not yet restored. Part of the current phase (Phase 4: Boundary) has been filled. Disposal presently takes place in Cell 4 of that phase. Under the amended scheme, one further cell would be constructed. The fifth phase, Arpley, serves as a borrow pit for daily cover and restoration materials. The main structures on the site are the site office, weighbridge and office and gas utilisation plant (GUP).

**Issue 1 - policies for the management of waste**

16. The Waste Management Plan for England 2013 (WMPE) aims to work towards a zero waste economy by use of the waste hierarchy. Under this hierarchy, landfill should usually be the last resort, particularly for biodegradable waste. This is confirmed in the National Planning Policy for Waste 2014 (NPPW), which states that disposal is the least desirable solution and should be used when none of the options further up the hierarchy are appropriate. However, whilst NPPW expects Authorities to drive waste management up the waste hierarchy, it also requires adequate provision to be made for waste disposal. Through Core Strategy policy MP8, the Council is committed to promoting sustainable waste management in accordance with the waste hierarchy and seeks to
achieve a continuing reduction in the amount of waste materials imported into the borough.

17. As a result of the previous appeal, the need for landfill has been established in principle on two counts: firstly, the need for capacity in the area until ‘about 2017’; and secondly, the need to achieve an acceptable restoration of the existing site. The question for this appeal therefore, is whether the provision to be made through the amended scheme would be proportionate to those aspects of identified need.

18. On capacity, the Appellant advises that the Arpley site accepted about 435,000 tonnes of waste in 2014. Some 300,000 tonnes of this comprises residual waste from the Merseyside Waste Disposal Authority (WDA), the remainder being commercial and industrial (C&I) waste. The amended scheme has been designed to allow acceptance of 340,000 tonnes in 2015, 310,000 tonnes in 2016 and 8,000 tonnes in 2017.

19. The acknowledged need for landfill facilities at Arpley relates to the waste management requirements of the Merseyside WDA. In December 2013 Merseyside WDA entered into a 30 year Resource Recovery Contract for its residual waste to be treated at an Energy from Waste facility on Teesside. The most recent evidence is that the Teesside facility is expected to reach the commissioning phase from March 2016 and to become operational after October 2016. Construction of the plant is on schedule. Nonetheless, some uncertainty still exists as to whether the facility will complete the commissioning phase in the time anticipated, bearing in mind that delays have occurred at other plants of this type. For this reason, I agree that some margin beyond October 2016 is warranted.

20. It is clear that this proposal has been designed to facilitate closure. In the event that the Teesside facility is delayed for any reason, Arpley would not be in a position to accept a greater quantity of waste than allowed for in the current proposal. Landfill beyond October 2017 would not be an option. Conversely, it may be that commissioning of the Teesside facility proceeds smoothly so that it could become operational before the final cell at Arpley is filled. However, given the limited availability of other open-gate landfill sites in the region, it seems reasonably clear that any remaining void could be filled with locally sourced C&I waste within the timescale for completion.

21. In addition, although described as ‘landfill’, Arpley is in fact a landraise site. The Environmental Statement notes that the site is an exception within the flat topography of the Mersey Basin. At the time of my site visit, I was able to observe that the site is in an obviously unfinished state so that there is a clear need for additional material to be imported in order to create an acceptable landform. The amended scheme proposes a slightly reduced footprint with a shallower gradient to the eastern flank. The proposed volume of waste therefore appears appropriate in order to secure an acceptable landform.

22. As it now stands, the proposal would make adequate provision for landfill in accordance with an identified need. Moreover, the proposed date for completion is appropriate in view of the likely date at which an option will

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9 Doc 4, Merseyside WDA budget report, 6 February 2015 was provided by the Appellant but the Council also advised that, in its view, this was the best available evidence of the likely timescale for the Teesside facility.

10 CD 1.4, ES Vol 1, paragraph 8.4.20
become available to process that waste further up the waste hierarchy. On that basis, I conclude on my first issue that the proposal would accord with Core Strategy policy MP8 and national policy for the management of waste.

**Issue 2 - effect on environment and living conditions**

23. In relation to the previous appeal, the Secretary of State concluded that the extension of operations would lead to continuing harm to living conditions, particularly in respect of odours and HGV traffic. The Appellant points to the scope to mitigate these effects through measures set out in the planning obligation and through the range of conditions which have been agreed with the Council. However, as I understand it, a similar range of measures was proposed at the time of the last appeal, when the Secretary of State nevertheless found that the harm would not be negated.

24. As with other aspects of pollution, the main controls over potential odour emissions from the site are those operated through the Environmental Permitting regime, which must be assumed to be operating effectively. The amended proposal involves the use of a single, larger cell for the final period of landfill. This means that there is some potential for odours to extend further from the site than under the former proposal. Even so, modelling conducted on a 'worst case' scenario indicates that odour concentrations at nearby Saxon park should achieve the desired standard of being below $1.5 \text{ouE/m}^3$ at the 98th percentile ($C_{98}$). Nonetheless, it has to be acknowledged that even at this standard, nearby residents will be at continued risk of experiencing occasional adverse effects due to odour.

25. It seems that at the time of the last appeal there was insufficient co-ordination between the operator, the Environment Agency and the Council in relation to recording and responding to complaints. This, together with the presence of other potential odour sources in the locality, has made it difficult to establish the proper weight which should be attached to residents’ accounts of the frequency with which they are affected by odour from the landfill. As part of the current appeal, the Council and Appellant have submitted a composite odour complaints log (CD9.10). This shows that a small proportion of complaints were substantiated by the Council’s investigations, particularly in the early part of 2014. I emphasise that, just like the previous Inspector, I am mindful that the absence of independent verification does not necessarily mean that the other complaints were unfounded. On the other hand, a two week survey by the Council in August 2014 failed to identify any odour effects from the landfill. The Council also observes that it received no complaints during the last 3 months of 2014.

26. At the inquiry, some residents stated that their lives continued to be adversely affected by odour emissions, commenting that they seemed to have become more noticeable at night. Others remarked that there had been some improvement. It was also pointed out that the adverse effects related to the unpredictability of the emissions as well as to the actual odour events, as well as the perception that previous complaints had not resulted in any overall improvement for residents.

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11 This is the level at which odour will be detectable; the 98th percentile means it should not be exceeded for more than 175 hours in a 12 month period.
27. This proposal concerns a much shorter period of operation than the previous appeal, with no further tipping to take place after October 2017. In addition, a condition has been proposed which would require measures to reduce odour nuisance from landfill operations. That would be likely to promote a more proactive approach to the management of odour issues instead of the previous reactive approach which has been much criticised by residents.

28. The indications are that the adverse effects of odour have probably moderated when compared with previous years. Nevertheless, it appears that odour events do still occur and, when they do, the effects for residents are significant and unpleasant. The ES indicates that although the desired standard could be met, this would still leave some margin when odour could be detectable in the surrounding area. When taken overall therefore, I accord a limited amount of weight to the harm from odour, mainly on the basis that, although the risk may be much reduced, it is unlikely to be eliminated entirely during the remaining period of active landfill.

29. In the experience of residents, the main adverse effects from HGV traffic associated with the site appear to relate to disturbance, odour and dirt and debris on the highway. The severity of such effects is likely to vary according to the number of vehicles involved.

30. Data provided by the Appellant indicates that waste inputs in 2008/9 were associated with some 250-300 vehicles per day whereas by 2012 this stood at about 130-180 vehicles per day. Under the amended scheme, average daily traffic levels are predicted to be, at most, 125 vehicles during 2015 and 2016, falling to 105 during 2017. I recognise that these are still substantial numbers of vehicles. Also, residents report that vehicles often travel to and from the site in groups. Thus, whilst I take the point that the effects of disturbance or odour from passing vehicles would be transient, this would not make them any the less noticeable, particularly for those whose properties sit close to the carriageway.

31. I observed during my site visit that waste is delivered directly to the tip face. By the nature of the activity, the internal layout of the site contains few sealed road surfaces so that the very basic nature of the current wheel washing facility is largely ineffective against the material which collects on vehicles. Consequently, it comes as no surprise that waste vehicles give rise to ‘track out’, generating complaints of dirt and debris on the highway. Although the carriageway did show signs of having been cleaned, the pattern of dried residue gave a fairly clear indication of the extent of such deposits, including for quite a considerable distance outside the appeal site. At the inquiry, the Appellant gave assurances that the new wheel wash facility, as discussed at the previous inquiry, was to be installed imminently. Providing it was of suitable design and in regular use, I accept that it would be likely to greatly ameliorate the effects of track out. This could be secured by way of a condition. Also, other conditions have been proposed which seek measures to reduce odour nuisance from the delivery of waste and to prevent material being deposited on the highway. These would provide the means for the worst of such adverse effects to be addressed.

12 FCC1-C, pp46-7
13 Amongst other things, residents suggested a hotline to deal with complaints and measures to ensure the acceptability of vehicles arriving at and leaving the site with regard to cleanliness and odour.
32. Although the numbers of vehicles using the site would be materially less than the 12 year scheme, it seems to me residents would still be likely to experience adverse effects from noise. Other measures, particularly the wheel wash, would help to lessen the adverse effects on the locality. Again, however, such effects would be likely to persist, albeit to a lesser degree. As such, I consider that the adverse effects associated with HGV traffic should carry a limited amount of weight.

33. The adverse effects in relation to odour and traffic would be less than in the past and less than with the 12 year scheme, through a combination of improved measures to address impacts on amenity and the reduced scale and length of the landfill operation. However, these effects would still be likely to persist to some degree so that there would be a continuing adverse effect on the living conditions of residents. On that basis, I consider that some conflict would remain with the relevant criteria of Core Strategy policy QE6 and UDP policy MWA5.

**Issue 3 - Green Belt**

34. Bearing in mind the findings of the previous appeal, it follows that the scheme before this inquiry must also comprise inappropriate development in the Green Belt and will cause temporary harm to openness. This must carry substantial weight, by virtue of NPPF paragraph 88, but it is of relevance that the degree of harm would be less, in proportion to the much shorter period of operation than with the 12 year scheme. NPPF states\(^\text{14}\) that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. These will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

35. Harm associated with the visual effect of the landfill would continue to some degree but again this would be materially less than with the 12 year scheme. Furthermore, the reduced overall footprint and the shallower gradient of the restored eastern flank would contrast less strongly with the receiving landscape. The visual harm should also carry limited weight.

36. Other harm comes in the form of the adverse effects on living conditions although, again, the extent of harm would be significantly less than with the last appeal. Moreover, this scheme provides a high level of reassurance that the end date for landfill operations at Arpley has now hoved into view. On that basis, although I understand the strength of local feeling on this subject, I consider that the identified adverse effects on living conditions should now carry limited weight.

37. The main factors which weigh in favour of the proposal are that it would provide adequate capacity for landfill in accordance with NPPW and would enable the planned restoration of the site. These carry very considerable weight. The proposal would also support the beneficial use of the Green Belt through the provision of opportunities for recreation, such as through the arrangements for a network of permissive footpaths for a 30 year period; and to improve damaged and derelict land through the extended period of aftercare. These benefits carry a moderate amount of weight.

\(^{14}\) NPPF paragraphs 87-88
38. The planning obligation also makes provision to extend the Appellant’s responsibility for management of the Moore Nature Reserve for two years to 2018, as well as a further three year transitional period (2019-2021) where funding will be tapered while efforts are made to make alternative management arrangements. Some concerns were expressed at the inquiry as to whether the restoration scheme allowed sufficient time for it to be completed to an acceptable standard, based on experiences at other sites. However, the success of a restoration programme is often heavily reliant on particular features or characteristics of an individual site so that the experience of one site does not necessarily hold good for another. There is nothing before me to indicate that the restoration scheme for Arpley, as currently outlined, could not be achieved as intended. Such details could be secured through the relevant condition. I attach significant weight to the benefits associated with the arrangements for the nature reserve.

39. Finally, the Arpley Community Liaison Group, which has operated for some time, would be put on a more formal footing. Its purpose would be to provide a forum for the discussion of issues relating to the landfill and to Moore Nature Reserve. Based on the representations at the inquiry, it seems this group has offered only limited benefits to residents thus far. The Appellant points out that, under the proposed arrangements for the Liaison Group, the Council and residents would be able to press for certain matters to be addressed. Even so, this does seem to suggest that the operator is still more inclined to react to problems after the event rather than to be proactive in minimising the adverse effects in the first place. On that basis, I attach limited weight to the benefits of the proposed Liaison Group.

40. The harm to the Green Belt carries substantial weight. Harm to living conditions and visual harm each carry limited weight. On the other hand, the provision of adequate capacity for landfill and enabling restoration each carry very considerable weight. To this should be added the moderate benefits in terms of recreation and the extended period of aftercare as well as the significant benefits to the Moore Nature Reserve and the more limited benefit of the arrangements for the Arpley Community Liaison Group. When assessed overall, I consider that these other considerations are sufficient to clearly outweigh the harm to the Green Belt and other harm so that the very special circumstances necessary to justify the proposal have been demonstrated.

Conditions and planning obligation

41. I have imposed conditions based on those suggested by the parties and in the light of the matters discussed at the inquiry, with minor modifications to ensure that they accord with the advice in Planning Practice Guidance (PPG).

42. Conditions 1-4 clarify and define the permission. They are necessary for the avoidance of doubt and in the interests of good planning.

43. The extension of the operation of the landfill would result in continued harm to the living conditions of residents in the area around the site and the routes leading to it. Conditions 5, 6, 7, 9, 10, 11, 13, 15 and 19 set out requirements for measures to address the impacts of dust, odour, material being carried beyond the site boundary, limitations on the hours of operation and HGV movements associated with the site, the annual quantities of waste, noise monitoring and the installation of a wheel wash. In addition, the retention of
topsoil within the site would help avoid unnecessary vehicle movements. These are all necessary in order to mitigate the impact of the development on local living conditions.

44. To ensure operation and restoration of the site in accordance with the application, a condition to secure a scheme for phased engineering and waste disposal operations and restoration of the site is necessary (16). The annual topographical survey would then enable the local planning authority to monitor the development and enforce requirements as to the landform as the development progresses (8).

45. In the interests of the natural environment, measures are necessary to deal with protected species and to ensure that barn owl boxes are provided on the site (14 and 18).

46. Finally, a scheme for landscaping and aftercare is necessary in the interests of the character and appearance of the area, the natural environment and the proper ongoing management of the site (17).

*The planning obligation*

47. The provisions within the planning obligation have all been shown to be necessary in order to make the development acceptable in planning terms. They are directly related to the development and are fair and reasonable in scale and kind so that they meet the tests set out at NPPF paragraph 204 and Regulation 122 of the Community Infrastructure Levy Regulations 2010

*Conclusion*

48. Although the proposal would represent inappropriate development, I have found that there are sufficient other considerations to clearly outweigh the harm and that the very special circumstances necessary to justify the proposal have been demonstrated, in accordance with Core Strategy policy CS5. Since landfill would only continue during the period for which need has been demonstrated, it would represent a sustainable form of waste management, as required by Core Strategy policy MP8. Thus, whilst there would still be some conflict with Core Strategy policy QE6 and UDP policy MWA5 in relation to residential amenity, I consider that the proposal accords with Core Strategy policy CS1 overall and with the development plan as a whole.

49. For the reasons given above, I conclude that the appeal should succeed.

*K.A. Ellison*

Inspector
APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

David Manley QC instructed by Andrew McGlone, Warrington Borough Council
He called
Andrew McGlone, BSc, MCD, MRTPi Senior Planning Officer (Appeals), Warrington Borough Council

FOR THE APPELLANT:

Paul Tucker QC instructed by Alistair Hoyle, AXIS
He called
Katrina Hawkins BSc (Hons), MSc, C.Env, MIAQM, MIES, MIEMA Partner, Smith Grant LLP(SGP)
Nicholas Roberts BA(Hons), DipLA, CMLI Director, AXIS

INTERESTED PERSONS:

Cllr Pat Wright member, Bewsey and Whitecross ward
Robert Hardie Agenda 21 Waste Group
John Mulhall local resident
Andie Harper Sankey Bridges Residents Association
Cllr Steve Parish member, Bewsey and Whitecross ward
Cllr Geoff Settle member, Poulton North ward
Bob Morris local resident
Sharmaleni Patel local resident
Tari Roberts local resident
Shelley Crompton Sankey Bridges Residents Association
### DOCUMENTS

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<td>Update on status of the Warrington Borough Local Plan Core Strategy (CD6.3)</td>
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<td>Response by K Hawkins on questions of odour and air quality</td>
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### CD 1 – Arpley Landfill Planning Application and Decision Documents

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### CD 2 – Arpley Landfill Environmental Permit Documents

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[www.planningportal.gov.uk/planninginspectorate](http://www.planningportal.gov.uk/planninginspectorate)
| CD3.1 | Merseyside Environmental Advisory Service (MEAS) (January 2014) | LPA/Appellant |
| CD 4 – Arpley Landfill Appeal Documentation | Submitted on behalf of: |
| CD4.1 | Statement of Case on behalf of Warrington Borough Council (4th November 2014) | LPA |
| CD4.2 | Statement of Common Ground between Warrington Borough Council and the Appellant (4 November 2014) | Appellant / LPA |
| CD4.3 | Addendum to Statement of Common Ground between Warrington Borough Council and the Appellant (27th January 2015) | Appellant / LPA |
| CD4.4 | Pre-Inquiry Meeting Note (11th November 2014) | Appellant / LPA |
| CD4.5 | Inspectors Note (8th January 2015) | Appellant / LPA |
| CD 5 – Development Management Committee Documents | |
| CD5.1 | WBC Committee Report (11th December 2014) | Appellant / LPA |
| CD5.2 | WBC Committee Update Report (11th December 2014) | Appellant / LPA |
| CD5.3 | WBC minutes of Development Management Committee 11th December 2014 | LPA |
| CD 6 – Development Plan Documents | |
| CD6.1 | Warrington Local Plan Core Strategy (July 2014) | Appellant / LPA |
| CD 7 – Planning Policy Documents and Guidance | |
| CD7.1 | National Planning Policy Framework (March 2012) | Appellant / LPA |
| CD7.2 | National Planning Policy for Waste (October 2014) | Appellant / LPA |
| CD7.3 | National Planning Practice Guidance (March 2014) | Appellant / LPA |
| CD7.4 | The Waste Management Plan for England (December 2013) | Appellant |
| CD 8 – Relevant Appeal Decision | |
| CD8.1 | Appeal Decision Reference APP/M0655/14/2201665 | Appellant / LPA |
| CD 9 – Other Miscellaneous Documents | |
| CD9.1 | Warrington Borough Council, 2014 Air Quality Progress Report, April 2014 | Appellant / LPA |
| CD9.3 | Sniffer: Odour Monitoring and Control on Landfill Sites, ER31, January 2013 (and associated documents) | Appellant / LPA |
| CD9.4 | Defra: Odour Guidance for Local Authorities (March 2010) | Appellant |
| CD9.6 | Environmental Protection Review of Complaint Data | LPA |
| CD9.7 | IAQM: Guidance of the Assessment of Odour for Planning | LPA |
| CD9.8 | Environmental Protection UK: Development Control: Planning for Air Quality (2010 Update) | Appellant |
| CD9.9 | FCC Site Complaint Record (Jan 2014 – Dec 2014) | Appellant |
| CD9.10 | Composite Odour Complaint Log | Appellant / LPA |
| CD9.11 | Agreed wording for a planning condition relating to the installation of a new wheelwash | Appellant / LPA |
Annex: Conditions

1) The conditions listed below take effect on the date of this decision.

2) The importation and disposal of waste on site (inputs from off-site either for waste disposal or restoration purposes) shall cease on 31st October 2017 and site restoration shall be completed by 31st October 2018.

3) The development hereby approved shall only be carried out in accordance with the following documents:
   i) Application Form dated 10th October 2013
   ii) 1439-01-01 Statutory Plan
   iii) 1439-01-02 Rev A General Arrangement Plan
   iv) 1439-01-03a-f Rev A Phasing of Operations
   v) 1439-01-04b Rev A Pre-Settlement Restoration Contours
   vi) 1439-01-05 Rev A Post Settlement Restoration Contours
   vii) 1439-01-06a Rev A Site Cross Sections
   viii) 1439-01-06b Rev A Site Cross Sections
   ix) 1439-01-07 Site Containment Engineering
   x) 1439-01-08 Cell Leachate Management System
   xi) 1439-01-09 Surface Water Management Scheme
   xii) 1439-01-10 Rev B Restoration & Landscaping Scheme
   xiii) 1439-01-11 Leachate Treatment Facility General Arrangement
   xiv) 1439-01-12 Leachate Treatment Facility Cross Sections
   xv) 1439-01-13 Landfill Gas Utilisation Plant General Arrangement
   xvi) 1439-01-14 Rev A Landfill Gas Utilisation Plant Elevations
   xvii) 1439-01-15 Warrington Transfer Pad
   xviii) 1439-01-16 Site Compound (Arrangement and Elevations)
   xix) 1439-01-17 Site Office and Car Park General Arrangement
   xx) 1439-01-18 Site Office Elevations
   xxi) 1439-01-19 Weighbridge and Office Elevations

4) A copy of this decision and the approved documents as set out in condition no. 3 shall be present at the site office and available for inspection at all times throughout the operational life of the site. Any subsequent approved amendments shall also be present.

5) Within 3 months of the date of this decision, a scheme and programme of measures for the suppression of dust arising from the landfill and site restoration works shall be submitted to the Local Planning Authority for approval. The scheme shall include:
   a) Measures to suppress dust caused by the movement and storage of materials and the deposit of waste within the site;
   b) Dust suppression measures relating to the movement of vehicles to and from the site whilst travelling on public highways;
   c) Provision for monitoring and review of the scheme.
Thereafter, the approved scheme shall be implemented in full and the measures complied with at all times throughout the lifetime of the development.

6) Within 3 months of the date of this decision the operator shall submit a scheme of mitigation measures to reduce odour nuisance from the delivery of waste and from the landfill operations. The scheme shall include a provision for revision (including trigger points) and a timetable for implementation. The scheme shall be submitted to the Local Planning Authority and the development shall operate in accordance with the approved scheme.

7) Within 3 months of the date of this decision, a scheme detailing the facilities and/or methods to prevent deleterious material (including litter, dust and mud) being carried onto the public highway shall be submitted for the approval of the Local Planning Authority. The scheme shall include provision for revision (including trigger points) in the event of the scheme being ineffective, remedial measures to be put in place to clear the public highway of such material and a timetable for implementation. The approved scheme, including any subsequent approved amendments, shall be implemented throughout the lifetime of the development.

8) The site operator shall at their own cost, carry out a detailed topographical survey of the site each year by 1st April each year until site restoration has been completed. Copies of the surveys and electronic survey data shall be made available to the Local Planning Authority within 28 days of a written request to the site operator.

9) Waste, engineering and restoration materials shall only be received at the site between 0800 to 1730 hours, Mondays to Fridays; and 0800 to 1300 hours on Saturdays and not at all on Sundays and bank or public holidays.

10) No vehicles or Heavy Goods Vehicles used to carry waste, engineering and restoration materials shall be permitted to enter the site (defined as crossing the weighbridge) before 0800 hours each day and not at any time on Sundays and bank or public holidays. No vehicles or Heavy Goods Vehicles used to carry such materials shall be permitted to exit the site after 1800 hours on weekdays and 1330 on Saturdays and not at any time on Sundays and bank or public holidays.

11) Site engineering and/or restoration works shall only be carried out between the hours of 07.00 to 18.00 hours Mondays to Fridays and 07.00 to 13.00 on Saturdays and not at all on Sundays and bank or public holidays.

12) Any topsoil, subsoil, earth and soil making materials shall be retained on site.

13) The site operator shall keep a record of all inputs entering the site and make this available to the Local Planning Authority within 14 days of a request being made in writing to the site operator. Inputs to the site shall not exceed:
- During the 2015 calendar year 400,000 metric tonnes.
- During the 2016 calendar year 400,000 metric tonnes.
- During the 2017 calendar year 333,333 metric tonnes.
14) Within 3 months of the date of this decision, a Method Statement detailing the methodologies, mitigation and non-licence avoidance measures as detailed in the “Argus Ecology Great Crested Newt Risk Assessment and non-licensable avoidance measures” dated 25th September 2013 shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

15) Within 2 months of the date of this decision, a noise control scheme (incorporating noise monitoring programmes and mitigation measures) shall be submitted to the Local Planning Authority for approval. The noise control scheme shall include the following components:
   i) A schedule detailing how, when and where quarterly noise measurements and recordings will be taken.
   ii) Details of measuring equipment used or to be used.
   iii) Details of methodologies that will be used to analyse the measurements and recordings and how the records will be kept, so as to ensure their fitness for future use.
   iv) A strategy to prevent, reduce or abate any noise resulting from site operations (excluding those associated with short term restoration as defined at (vi) below) which exceeds 51 dB(A) (L(A eq)1hr) when measured or calculated at the nearest residential boundary on Sunflower Drive.
   v) With respect to steps (i) to (iii) above, all measurements and recordings taken under the approved scheme shall be provided to the Local Planning Authority within 28 days of being taken.
   vi) When measured or calculated at the nearest residential boundary on Sunflower Drive, the noise level from restoration or engineering activities shall not exceed 65dB(A) Leq (1hr) for more than 8 weeks in total during any one calendar year.
   vii) The noise control scheme shall include a protocol to ensure that, in the event of noise levels exceeding the limits specified in (vi) above, noise generating activities creating more than 65dB(A) Leq (1hr) are ceased at the end of the 8 week period unless a revised noise control scheme has been approved in writing by the Local Planning Authority.
   viii) In the event of noise levels exceeding the limits specified in (iv) or (vi) above, a revised noise control scheme shall be submitted to the Local Planning Authority within 21 days of noise levels first exceeding the approved limits.

The development shall be carried out wholly in accordance with the most up to date noise control scheme and implemented throughout the lifetime of the development.

16) Within 3 months of the date of this decision a scheme for phased engineering and waste disposal operations and restoration of the site based on the provisions of Drawings 1039-01-3a to 1039-01-3f Rev A shall be submitted for approval to the Local Planning Authority. The site shall be developed in accordance with the approved scheme and drawings.
17) Within 3 months of the date of this decision, details of a scheme of landscaping and aftercare for a minimum period of 5 years from final restoration of an individual Phase as illustrated in the approved drawings shall be submitted for approval to the Local Planning Authority. Where a Phase has already been restored, the period of aftercare shall be deemed to commence on the date of this decision and shall run for 5 years thereafter. The scheme of landscaping and aftercare shall include long term design and habitat objectives, method statements for site preparation and establishment of key habitats, management responsibilities and maintenance schedules. The scheme shall also include details and provision for:-

i) Soil preparation;
ii) Application of fertiliser;
iii) Sowing and establishment of green cover;
iv) Tree hedgerow and scrub planting, inclusive of sources, species, sizes, planting density mix and number;
v) Grassland planting, inclusive of sources, species, sizes, planting density mix and number;
v) Wetland margin and aquatic planting, inclusive of sources, species, sizes, planting density mix and number;
vi) Maintenance/aftercare provisions which shall include a scheme which ensures that if within a period of 5 years from the date of the planting of any tree or shrub, that tree or shrub or any tree or shrub planted in replacement for it, is removed, uprooted or destroyed or dies (or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective), another tree or shrub of the same species, size and maturity as that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written consent to any variation.

The approved landscaping and aftercare scheme shall thereafter be carried out in full.

18) Within 12 months of the date of this decision, the operator shall submit for the approval of the Local Planning Authority a scheme detailing the barn owl boxes to be provided as shown on Restoration drawing Ref: 1439-01-10 Rev B dated October 2013. The scheme shall include a specification of the barn owl boxes (including materials and colour). The approved scheme shall be implemented in full, within 3 months of the land on which they are to be sited being restored.

19) Within 28 days of the date of this decision a scheme for the installation of an automated jetted wheel wash must be submitted in writing to the Local Planning Authority for approval. The new wheel wash shall be installed and operating within 28 days of receiving approval in writing from the Local Planning Authority in accordance with the approved scheme. The new wheel wash shall thereafter be retained and used for the duration of the development (including restoration). If the approved scheme is not implemented within 28 days of the Local Planning Authority’s approval, the use of the site shall cease until such time as implementation of an approved scheme begins.

END
Appeal Decision

Site visit made on 2 March 2015

by C L Sherratt  DipURP MRTP
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 6 May 2015

Appeal Ref: APP/M0655/D/14/2221019
1 Lodge Close, Lymm, Cheshire WA13 9HG

- 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 Ms Paula Le Flohic against the decision of Warrington Borough Council.
- The application Ref 2014/23536, dated 27 March 2014, was refused by notice dated 30 May 2014.
- The development proposed is Loft conversion to incorporate a dormer extension at the rear of the bungalow giving three bedrooms and one bathroom, and simple velux windows at the front of the property so as not to make any aesthetics changes to the front of the property. Also to amend the existing ground floor layout including moving the front door to make the front bedroom an entrance hall and brick up the existing front door. Convert the garage into a fourth bedroom. Block the existing door into the sitting room, and make a double door entrance to the sitting room from the hall. Block up the existing kitchen door, expand the existing bedroom door to a double door into a 'snug', and open up the wall between the new 'snug' to the kitchen to create larger living space. Two double bi-fold doors; one from the ‘snug’ out to the garden, another from the ‘family room’ which is currently the master bedroom. In general, it is to make the downstairs area living space, and create a first floor with three bedrooms, landing and a bathroom with a bath!

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the dormer extension on the living conditions of the occupiers of neighbouring properties by reason of overlooking and loss of privacy.

Reasons

3. The dormer extension would extend the full width of the existing semi-detached bungalow to accommodate three bedrooms and a bathroom in the roof space. Three windows within the dormer extension would each serve a bedroom.

4. Policies DCS1, DCS9 and HOU8 of the Warrington Unitary Development Plan (UDP) were cited on the decision notice. However, they have since been replaced by similar policies in the Local Plan Core Strategy (LPCS). In particular, Policy QE6 concerns amenity protection, ensuring that the need for development to respect the living conditions of existing neighbouring
residential occupiers and future occupiers of new housing schemes in relation to overlooking / loss of privacy, outlook, sunlight, daylight, overshadowing, noise and disturbance are considered.

5. The Council has produced Supplementary Planning Guidance ‘House Extensions’. It stipulates that any extension should respect the privacy of adjoining dwellings, and windows should be sited so that they do not overlook adjoining properties or gardens. It advises that principal windows on an extended property should be not less than 21 metres from any others to ensure reasonable privacy for all parties. The Council calculates that the separation distances from the proposed dormer extension to the rear windows of bungalows opposite on Heatley Close is about 19 metres.

6. Given the close relationship between the appeal bungalow and bungalows opposite on Heatley Close, the proposed dormer extension would undoubtedly result in an unacceptable degree of direct overlooking from proposed habitable rooms that does not currently exist. Accordingly, it would unduly prejudice the levels of privacy that the occupiers of those properties, in particular 6 Heatley Close, can reasonable expect to enjoy in their home and rear garden area. The current occupiers may well currently choose to have net curtains up at the window but that can not be relied upon and does not justify an extension that would result in intensified and unacceptable levels of overlooking and loss of privacy.

7. I saw that a similar dormer extension had been constructed at number 7 Lodge Close but there are no rear windows of properties directly opposite that property. The dormer extension at 8 Heatley Close is set back from the eaves ensuring a greater degree of separation between habitable windows in the dormer and number 3 Lodge Close directly opposite. To conclude, the proposed development would conflict with relevant LPCS policies that replaced UDP policies and the House Extensions Guidelines SPG. For the reasons given above I conclude that the appeal should be dismissed.

Claire Sherratt

Inspector
Appeal Decision

Site visit made on 28 April 2015

by Elaine Worthington BA (Hons) MTP MUED MRTPi
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 15 May 2015

Appeal Ref: APP/M0655/W/15/3005597
4 Dounrey Close, Fearnhead, Warrington, Cheshire, WA2 0PW

- 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 Miss Theresa Fildes against the decision of Warrington Borough Council.
- The application Ref 2014/24698, dated 20 October 2014, was refused by notice dated 11 December 2014.
- The development proposed is described as ‘proposing to change the use of one bedroom at my home to somewhere to work from home as a hairdresser’.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are:

   - Whether the proposal would provide a suitable site for development having regard to policies which seek to support the vitality and viability of town centres; and
   - The effect of the proposal on the living conditions of nearby occupiers, with particular reference to noise and disturbance; and
   - The effect of the proposal on highway safety, with particular reference to car parking.

Reasons

The vitality and viability of town centres

3. The appeal property is a semi-detached bungalow on a cul-de-sac of similar properties within a residential area. The proposal is for a hairdressing business to be run from the appellant’s home.

4. The National Planning Policy Framework (the Framework) requires main town centre uses, such as the appeal proposal, to be located in town centres in the first instance. Paragraph 24 states that a sequential approach should be applied to proposals for town centre uses that are not in an existing centre. Local authorities should require applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered.
5. Policy PV5 of the Warrington Core Strategy (Core Strategy) relates to enhancing the town centre economy and advises that proposals for all town centre uses which are proposed outside the town centre will need to provide justification in the form of a sequential test and demonstrate that no suitable sites are available within the town centre or more sequentially preferable locations to that proposed.

6. The appellant indicates that the locational justification for the proposal relates to her personal circumstances. Her mother’s ill health means that the appellant needs to work from home, so that she can provide care and continue to work. The appellant considers that the only site suitable for the use is therefore her home and so she has not undertaken a sequential test.

7. The Council indicates that the nearest neighbourhood centre at Fearnhead Cross is some 0.3 miles from the appeal property and local residents refer to vacant units within close walking distance of the appeal property. Notwithstanding the appellant’s personal circumstances, which I will consider under other matters below, I cannot be satisfied that there are not suitable preferable sites in existing centres that would accommodate the proposed development. The proposal therefore fails the sequential test.

8. I appreciate that the appellant’s current premises from which the business would re-locate are not within a defined centre. The proposal is small in scale and in itself its impact on the vitality and viability of defined centres would be limited. However, the development would not be located in accordance with the sequential test, and to allow it would undermine both the Council’s regime for the location of retail uses and the town centre first approach set out in the Framework. This in turn would be likely to harm the vitality and viability of the established centres within the retail hierarchy and weaken the Council’s aims of enhancing the town centre economy. This would be the case even if planning permission were granted subject to a personal condition tying the proposed use to the appellant (as suggested by the appellant in order to guard against the Council’s concerns in relation to precedent).

9. I therefore conclude on this issue that the proposal would fail to provide a suitable site for development having regard to policies which seek to support the vitality and viability of town centres. It would thus be contrary to Core Strategy Policy PV5 and paragraph 24 of the Framework.

**Living conditions**

10. The proposal would result in activity that would be likely to lead to noise and activity during the day. This would include the comings and goings of customers both on foot and in cars. The appellant indicates that a maximum of one customer would visit the premises at any one time by appointment only. Each appointment would last around 45 minutes. The proposed hours of operation indicated by the appellant in her final comments would be 09.00 – 18.00 hours Tuesday to Friday, and 09.00 to 16.00 hours on a Saturday.

11. Even under the terms of the original proposal (whereby two customers would be at the premises at any one time and the premises would be open for longer), the Council’s Environmental Protection Officer raised no objections to the proposal. The number of customers on the premises and the opening hours could be controlled via planning conditions.
12. That said, Dounrey Close is a quiet residential cul-de-sac which is subject to limited existing pedestrian and vehicular activity, with an associated low level of noise and disturbance. The appellant estimates the proposal would lead to one or two vehicle movement to the appeal property each hour. Given the low existing levels of activity in the area, and since the comings and goings associated with the appeal proposal would be likely to be consistent and sustained throughout the hours of operation, in my view the increase in traffic movements to the appeal property would be readily discernable and significant. As such, the proposal would lead to an unacceptable increase in noise and disturbance to local residents. This would be so even if customers parked within the appeal site and did not turn their cars in the head of the cul-de-sac.

13. I therefore conclude on this issue that the proposal would be harmful to the living conditions of nearby occupiers, with particular reference to noise and disturbance. This would conflict with Core Strategy Policy QE6 which is supportive of development where it would not lead to an adverse impact on the environment or amenity of those currently adjoining or nearby properties, or have an unacceptable impact on the surrounding area. It would also be contrary to the core planning principle of the Framework to secure a good standard of amenity for all existing and future occupants of land and buildings.

Highway safety

14. The appeal property has two driveways which provide two existing car parking spaces. Although these spaces would be retained, no additional parking would be provided. The business would not employ any staff (apart from the appellant) and would be operated on an appointment system with a maximum of one customer present on site at any one time. To meet its parking standards the Council advises that the existing two spaces are required for the house, and an additional space should be provided for customers.

15. The appellant indicates that one of the existing car parking spaces on the frontage would be made available for customers during operating hours. This arrangement would allow a space to be retained for the appellant to park her own car. As well as restricting the number of customers on the premises to one at any one time, the appellant confirms that appointments would be staggered and a 15 minute gap could be provided between them.

16. Subject to the imposition of conditions in these regards, I am not persuaded that the on site parking provision proposed would be insufficient to meet the appellant’s business and residential needs as set out. Nor do I envisage that instances of overlapping whereby a new customer would arrive prior to the previous customer having left (and vacated the customer parking space) would be great in number. Thus, the proposal would not result in any undue increase in demand for on street car parking in Dounrey Close, where at the time of my visit in the middle of the morning, on street parking was available.

17. On this basis, whilst I note the concerns of local residents and accept that the Council’s parking standards would not be met, I am satisfied that the proposal would provide sufficient parking for customers. Consequently, I see no reason why it would be likely to lead to any undue increase in on street parking to the extent that the safe and free flow of traffic in Dounrey Close would be adversely affected.
18. I therefore conclude on this issue that the proposal would cause no harm to highway safety, with particular reference to car parking. I see no conflict with Core Strategy Policy QE6 which indicates the Council will take into consideration the effect and timing of traffic movement to, from and within the site and car parking including impacts on highway safety. However, the absence of harm in this regard counts neither for, nor against the proposal, and does not alter the harm I have identified in relation to the first two main issues.

Other matters

19. I appreciate the appellant’s mother’s health issues and have had regard to her personal circumstances. Planning Practice Guidance (the Guidance) advises that unless the permission otherwise provides, planning permission runs with the land and it is rarely appropriate to provide otherwise. There may be exceptional occasions where granting planning permission for development that would not normally be permitted on the site could be justified on planning grounds because of who would benefit from the permission. The proposal would provide personal benefits for the appellant. However, I do not regard the circumstances described whereby the appellant could work at home to provide care for a family member, to be particularly unique or unusual such that they would be regarded as such an exceptional occasion. In my view this benefit of the scheme is insufficient to outweigh the harm I have identified in relation to the first two main issues in this case.

20. The appellant refers to other examples of commercial uses within residential areas including one where a personal condition was used, and another where a condition limits customer numbers. The Council confirms that these cases differ from the appeal proposal. Since I have not been provided with the full details of the circumstances that led to those permissions, I cannot be sure that they are directly comparable with the appeal proposal. I confirm, in any case, that I have considered the appeal scheme on its own merits.

21. The proposal would accord with the aims of the Framework to build a strong and competitive economy. However, given its limited scale, and since it involves the re-location of an existing business, its contribution to economic development would not be great. The appellant also refers to the Framework’s presumption in favour of sustainable development, along with Core Strategy Policy CS1 which sets out a strategy for delivering sustainable development. However, it has not been put to me that the relevant development plan policies in this case are out of date, and I have seen nothing to suggest that this is the case. Because I have found that the proposal would not accord with the development plan, I cannot see that it is the type of development that paragraph 14 of the Framework indicates should be approved without delay.

22. Finally, I note the appellant’s reference to paragraph 187 of the Framework which advises that local planning authorities should look for solutions rather than problems. However, I have seen nothing to suggest that the Council has not worked with the appellant, and given my findings on the first two main issues, do not consider that the scheme would improve the social or environmental conditions of the area.
Conclusion

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

Elaine Worthington

INSPECTOR
Appeal Decisions

Site visit made on 2 March 2015

by C L Sherratt  DipURP MRTPi
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 06 May 2015

Appeal A - APP/M0655/D/14/2221025
32 Whitfield Avenue, Paddington, Warrington WA1 3NF

- 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 Anthony Forrester against the decision of Warrington Borough Council.
- The application Ref 2014/23298, dated 21 February 2014, was refused by notice dated 11 April 2014.
- The development proposed is first floor side extension.

Appeal B - APP/M0655/D/14/2221442
32 Whitfield Avenue, Paddington, Warrington WA1 3NF

- 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 Anthony Forrester against the decision of Warrington Borough Council.
- The application Ref 2014/23667, dated 23 April 2014, was refused by notice dated 13 June 2014.
- The development proposed is first floor side extension.

Decisions

Appeal A - APP/M0655/D/14/2221025

1. The appeal is dismissed.

Appeal B - APP/M0655/D/14/2221442

2. The appeal is dismissed.

Main Issue

3. The main issue in both appeals is the effect of the development on the character and appearance of the street scene.

Reasons

4. The appeal property comprises a two storey detached dwelling with a hipped roof. It benefits from an existing two storey rear extension and single storey side extension. The proposal that is the subject of Appeal A comprises a first floor side extension to provide one bedroom above the existing single storey extension. It would be set back from the front elevation and be flush with the side elevation. The roof would remain lower than that of the existing dwelling.
5. The proposed extension that is the subject of Appeal B differs in that it is set only slightly back from the front elevation and extends a greater depth along the side elevation. It is set back from the side boundary 1 metre. The proposed ridge height would be the same as that of the host property. It would provide one additional bedroom and increase the size of an existing bedroom.

6. In both cases the decision notices cite policies from the Warrington Unitary Development Plan. However these have since been replaced with similar policies in the adopted Local Plan Core Strategy (LPCS). In particular Policy QE7 confirms that the Council will look positively on proposals that are designed, amongst other criteria, to reinforce local distinctiveness and enhance the character, appearance and function of the street scene, local area and wider townscape. It also requires developments to harmonise with the scale, proportions and materials of adjacent and / or existing buildings. This is consistent with the National Planning Policy Framework that places significant emphasis on the design of the built environment and is clear that poor quality design should be refused.

7. Whitfield Avenue comprises predominantly semi-detached properties of uniform appearance with the approximate width of a drive between the original property and the common boundary. There were numerous examples of single storey side extensions occupying this space to the side of the property but fewer two storey side extensions. The appeal property and number 34 are detached.

8. The Council’s Supplementary Planning Guidance ‘House Extensions’ explains that to ensure that extensions harmonise visually with existing dwellings they should be subordinate in scale to the building which is to be extended. It also refers to the ‘terracing code’ which aims to protect the street scene and the amenities of areas that were originally laid out as detached or semi-detached properties. The Council will normally require a first floor extension to be set in by 1m from the side boundary. A 2m gap should be retained between both properties.

9. In the case of Appeal A, the proposed extension would be set back from the front elevation about 1m with a lower ridge line. Overall it would appear subordinate to the host dwelling. However, a 1m gap is not achieved. This would not reflect the existing pattern and character of development along Whitfield Avenue, failing to reinforce local distinctiveness or to enhance the character, appearance and function of the street scene. It would therefore be contrary to LPCS Policy QE7.

10. Appeal B proposes a larger extension, but provides for a 1m gap from the common boundary. However, the ridge line of the proposed roof would be the same height as that of the existing dwelling. The extension would only be set back slightly from the front elevation of the host property. This would provide a ‘break line’ in the masonry and in the front roof plane. However the minimum set back in conjunction with the roof height, would result in an extension that would not appear subordinate to the original dwelling. Accordingly, it would not reinforce local distinctiveness in accordance with LPCS Policy QE7. It would fail to enhance the character and appearance of the street scene.
11. I am aware that planning permission was secured for a two storey extension at no 28. This extension, if implemented, would be set back from the front elevation by about 1m and have a lower roof line to that of the original property. However a 1m gap would not be retained from the common boundary. There are other limited examples of extensions in the street scene that are not subordinate in scale or appearance to the original property or breach the terracing code. However, I am not persuaded by these examples that the character and appearance of the street scene would be retained should the appeals succeed.

12. The extension would be visible from the side kitchen window of no 30. However a rear facing primary window also serves the kitchen. The proposed extension would not therefore unacceptably prejudice the living conditions of the occupiers of the neighbouring property.

13. To conclude, the proposed developments would conflict with LPCS Policy QE7 and the House Extensions Guidelines SPG. For the reasons given above I conclude that the appeals should be dismissed.

Claire Sherratt
Inspector
Appeal Decision

Site visit made on 15 April 2015

by C Sproule  BSc MSc MSc MRPI MIEvSc CEnv

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

Decision date: 5 June 2015

Appeal Ref: APP/M0655/W/14/3001392
Birch Tree Farm, Red Lane, Appleton, Warrington, Cheshire WA4 5AB

- 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 J Bryan against the decision of Warrington Borough Council.
- The application Ref 2014/23826, dated 16 May 2014, was refused by notice dated 14 July 2014.
- The development proposed is erection of a bungalow.

Decision

1. The appeal is dismissed.

Background and Main Issues

2. The appeal site lies between the dwellings at Birch Tree Farm and the Bridgewater Canal, which runs along the north western boundary of the site. Development along the northern bank of the waterway, and to the south on the opposite side of Red Lane highlights the openness on the appeal site. This openness extends along the southern edge of the canal, and is especially evident in the absence of summer foliage and to the west of the appeal site.

3. There are two reasons for refusal on the Council’s decision notice: the first is in relation to Green Belt; and, the second concerns the potential for a pond in the northern corner of the appeal site to provide habitat for great crested newts. No ecological survey had been carried out to address the potential for the appeal site to be habitat for great created newts, nor was there information regarding badgers which are known to be present in the locality.

4. Policy CS 1 of the Local Plan Core Strategy, adopted July 2014 (CS), seeks to deliver sustainable development by approving development proposals that accord with national and local planning policy frameworks, and which must have regard to matters that include the need to sustain and enhance the borough’s built heritage, biodiversity and geodiversity. CS Policy QE 5 addresses biodiversity and geodiversity, and only in certain circumstances is permissive of development that would adversely affect protected species.

5. These reflect paragraph 109 of the National Planning Policy Framework – March 2012 (‘the Framework’), which states that the planning system should contribute to and enhance the natural and local environment by, amongst other things, minimising impacts on biodiversity and providing net gains where possible.
6. An ecological survey entitled Report on Great Crested Newt Assessment on Land at Birch Tree Farm, Red Lane, Appleton WA4 5AB, dated September 2014, was provided by the appellant after the Council’s decision. A report on a survey for signs of badger activity was included with this. In a letter, dated 8 January 2015, the local planning authority noted that its ecologist: considered the report to have been carried out by a suitably qualified person to an appropriate and proportionate standard; did not disagree with the reports’ findings; and, considered that no further surveys were necessary to support the application. The Council concluded that, following the provision of the reports, the second reason for refusal could no longer be sustained at appeal and have proceeded on that basis. I have considered the reports’ findings,¹ and have no reason to disagree with the Council’s conclusions on this matter. In respect to this and the associated evidence, the appeal scheme complies with CS Policies CS 1 and QE 5, and the relevant parts of the Framework.

7. The appeal site is within the Green Belt. Paragraph 89 of the Framework states that a local planning authority should regard new buildings as inappropriate in the Green Belt and lists exceptions to this. The construction of a new dwelling outside a village is not one of the exceptions listed. CS Policy CS 1 notes that sustainable development must have regard to the priority afforded to the protection of the Green Belt. CS Policy CS 2 provides the overall spatial strategy for the quantity and distribution of development in the Borough and its principles include that only development that accords with national policy will be permitted in the Green Belt.² This is reflected in CS Policy SN 1 which addresses the distribution and nature of new housing.

8. It is a clear objective of the Framework to boost significantly the supply of housing, with paragraph 49 of the document stating Housing applications should be considered in the context of the presumption in favour of sustainable development. Paragraph 14 of the National Planning Policy Framework (‘the Framework’) confirms the presumption in favour of sustainable development to be at the heart of the guidance. For decision-taking, the paragraph notes the presumption to mean: approving development proposals that accord with the development plan without delay; and, where the development plan is absent, silent or out-of-date, granting planning permission unless any 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 specific policies of the Framework indicate that development should be restricted. Footnote 9 of the Framework confirms the ‘specific’ policies to include those relating to land designated as Green Belt.

9. Planning policy allows limited infilling in villages (and limited affordable housing for local community needs). However, the Council's Officer report on the proposal states clearly that the appeal site does not fall within a ‘Green Belt Village’ where infilling may be permitted if certain criteria are met.³ It has not been shown that the appeal proposal reasonably could be considered ‘limited infilling’ within the context provided by adopted local and national planning polices in regard to the Green Belt.

¹ Which include the likelihood of great crested newt being present on the site to be very low, and that Pond 1 is not a breeding pond
² Consideration has been given to the parts of CS Policy CS2 and associated text that remain following Satnam Millennium Limited vs Warrington Borough Council [2015] EWHC 370 Admin CO/4055/2014
³ With reference to the Warrington Unitary Development Plan (January 2006)
10. The proposed dwelling would not fall within one of the exceptions to Green Belt policy referred to above, and it would be inappropriate development in the Green Belt. This is a matter on which the two main parties to the appeal agree.4

11. Accordingly, the main issues in this case are: (a) the effect of the development proposed on the openness of the Green Belt; (b) the effect of the development proposed on the character and appearance of the locality; and, (c) whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

12. The proposal would be inappropriate development in the Green Belt. Paragraph 87 of the Framework confirms that inappropriate development is, by definition, harmful to the Green Belt and in this regard the appeal scheme conflicts with CS Policies CS2, CS1 and SN1, and Section 9 of the Framework. Framework paragraph 88 states that substantial weight should be given to any harm to the Green Belt, and this is what the harm by inappropriateness attracts in this case.

Openness

13. Paragraph 79 of the Framework states that: the fundamental aim of Green Belts is to prevent urban sprawl by keeping land permanently open; and, the essential characteristics of Green Belts are their openness and permanence.

14. The Council’s reason for refusal refers to visual harm through a loss of openness, but harm resulting from a loss of Green Belt openness occurs regardless of whether or not a view can be taken of it. Consequently, harm to the openness of the Green Belt is not diminished by vegetative or other screening.

15. Unbuilt areas of the plot that includes the appeal site contribute to the openness of the Green Belt. While the overall scale of the bungalow would not be as large as other potential structures or dwellings, it would nonetheless be sufficient to cause a significant loss of Green Belt openness in this location.

16. The Framework does not seek to make a distinction regarding the level of harm from a reduction in Green Belt openness. It would be a harm to the Green Belt, which is the subject of Framework paragraph 88 referred to above.

17. In this respect the appeal scheme would be unacceptably harmful to the Green Belt and contrary to the fundamental aim of Green Belt policy as described by Framework paragraph 79. For the reasons above, this harm also attracts substantial weight against the appeal scheme.

Character and appearance

18. CS Policy QE7 seeks to ensure a high quality place through proposals that are designed to reinforce local distinctiveness and enhance the character, appearance and function of the street scene, local area and wider townscape.

4 Including paragraphs 8 and 9 of the Grounds of Appeal and paragraph 3.1 of the application’s Supporting Planning Statement
19. At present, the appeal site contributes to the open character of the Green Belt in this location. This is especially apparent in views from the towpath of the Bridgewater Canal, which is a well used recreational route given its proximity to, and the density of, the development to the north of the waterway and to the east of Red Lane.

20. The appellant states that the proposed development would be within the curtilage of Birch Tree Farm, where a certain degree of domestic paraphernalia reasonably would be expected to be present. This is a point on which the Council disagrees. Nevertheless, paragraph 3.4 of the appellant's Supporting Planning Statement is explicit that ‘...We acknowledge that there is also harm to one of the purposes of including land within the Green Belt which include assisting and safeguarding the countryside from encroachment. We do not believe there is any harm to any of the other Green Belt purposes...’.

21. In addition to this, by reducing the characteristic openness on the appeal site in a particularly prominent location next to a recreational route, the proposed development would be harmful to the distinctiveness and the character and appearance of the local area. This harm is not outweighed by the suitability of the proposed building design in respect to residential architecture in the locality. Accordingly, the proposal conflicts with CS Policy QE 7, and this harm attracts significant weight against the appeal scheme.

Other considerations

22. The Grounds of Appeal highlight that the appellant and his wife have lived at Birch Tree Farm for 29 years, and now have a number of medical conditions that have been the subject of representations from their doctors. These suggest that a two storey house is no longer appropriate for them, and to move away from Birch Tree Farm would be unsettling. However, the medical evidence does not appear to address the potential for someone with the disorientating condition described to adjust to a new residential environment that includes their possessions, or the time that might be required for this to occur.

23. Evidence from the Council has addressed the past availability of two and three bedroom bungalows in the locality and their proximity (in drive time) to the appeal site. These fall within a wide range of prices and would suggest that there is a potential supply of alternative dwellings in the locality.

24. There are a number of dwellings at Birch Tree Farm. It has not been adequately explained: why any of these that are available to the appellant could not be modified to accommodate the needs of the appellant and his wife; and, the likely cost of such works in comparison to those for the construction of a new dwelling. As such, the evidence is not convincing that: if this appeal were to be dismissed, the appellant and his wife would ‘...be required to move away...’; or, these personal circumstances could amount to an ‘exception to Green Belt policy’.

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5 The Council Officer’s application report under ‘Other Matters’ states that ‘this use has not been recognised in planning terms’. In contrast, paragraph 10 of the Grounds of Appeal refer to the appellant having ‘a Certificate of Lawfulness for domestic use’ and paragraph 5.2 of the appellant's final comments refer to planning permission drawings that show it as domestic curtilage or garden land.

6 Paragraph 5.30 and Appendix C to the Council’s Statement of Case

7 Grounds of Appeal paragraph 15, referring to the representation by Mr Mowat MP
exceptions that it addresses, and they do not include personal circumstances of the type described.

25. For these reasons the appellant’s personal circumstances can only attract some weight in favour of the appeal scheme. In reaching this conclusion I have considered the proposed scale of the dwelling. Application drawings show it to have three bedrooms and a study, with the design and access statement noting it to be 208.75m$^2$, including the garage. A building of this scale reasonably could be considered larger than necessary to meet the personal circumstances, and household, described. In this regard, the effects of the scale of the proposal on local distinctiveness and character and appearance are addressed above.

26. Attention has been drawn to the ‘right to build’ scheme. However, this is not a plot of land obtained under the scheme, nor has the scheme removed adopted planning policy. Both development plan and Framework policies in relation to this Green Belt location remain extant. It has not been shown that the ‘right to build’ scheme can provide anything other than minimal weight in favour of the appeal scheme.

27. There would be social and environmental benefits through the provision of an additional environmentally efficient dwelling that would be suitable for residents with specific needs. The edge of settlement location would provide good access to the shops and services in the locality. These social and environmental benefits provide considerable weight in favour of the appeal proposal.

28. Developing a new home would result in some economic benefit through the economic activity associated with its construction and occupation. In accordance with Framework paragraph 19, economic growth through the provision of construction jobs and the sale of construction materials, and expenditure during occupation of the house, attracts significant weight in this case.

Very special circumstances and conclusion

29. For the reasons above, the substantial and significant weights attributed to the harms to the Green Belt and any other harm, are not clearly outweighed by other considerations that weigh in favour of the appeal scheme, which include the scope of suggested planning conditions. Following consideration of the various matters raised by the appellant, no very special circumstances have been found to exist in this case.

30. Framework paragraph 7 outlines the three dimensions to sustainable development, which are the economic, social and environmental roles. The appeal scheme conflicts with CS Policies CS1, CS2, SN1 and QE7, and Framework policies in regard to Green Belt that indicate development should be restricted. The proposed development would provide the economic, social and environmental benefits described above. However, the identified harm to the Green Belt and other harms,\(^8\) significantly and demonstrably outweigh the benefits when considered within the context of local and national planning policy. As a result, the appeal scheme would not be a form of sustainable development.

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\(^8\) That are relevant to the social and environmental dimensions
31. All matters raised in this case have been taken into account, but none have been found to indicate that planning permission should be granted. Accordingly, the appeal should be dismissed.

*Clive Sproule*

INSPECTOR
Appeal Decision

Site visit made on 28 April 2015

by Elaine Worthington BA (Hons) MTP MUED MRTP
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 16th June 2015

Appeal Ref: APP/M0655/W/15/3005910
Land off Culcheth Hall Drive, Culcheth, Cheshire, WA3 4PX

- 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 Patrick Seed, Evoke Homes against the decision of Warrington Borough Council.
- The application Ref 2014/24507, dated 16 September 2014, was refused by notice dated 12 December 2014.
- The development proposed is the erection of 9 dwellings on land off Culcheth Hall Drive, Culcheth.

Decision

1. The appeal is dismissed.

Applications for Costs

2. An application for costs was made by Warrington Borough Council against Mr Patrick Seed, Evoke Homes. An application for costs was also made by Mr Patrick Seed, Evoke Homes against Warrington Borough Council. These applications are the subject of separate Decisions.

Procedural Matters

3. The reason for refusal in this case refers to the drainage of the site (along with the provision of utilities to it) and the potential effects this could have on trees and highway safety. The appellant has sought to amend the way the site would be drained and serviced during the appeal process in order to overcome this reason for refusal. Paragraph M.1.1 of Annex M of the Planning Inspectorate’s Procedural Guidance advises that in such instances a fresh planning application should normally be made.

4. Therefore, in line with this advice and to ensure the suggested change to the development does not prejudice interested parties, I confirm that the appeal has been decided on the basis of the proposal as set out in the submitted planning application. Despite this, and since they are referred to by both parties, I have had regard to the findings of the appellant’s infiltration test report and drainage strategy report in the context of whether the use of conditions could in this instance make otherwise unacceptable development acceptable.

5. Based on a detailed analysis of a number of land registry titles, the Council is concerned that other land owners may have an interest in part of the appeal site and should have been served notice in relation to the planning application.

www.planningportal.gov.uk/planninginspectorate
Although it is arguable that the application site includes a narrow triangular strip of land outside the appellant’s title, to establish the true position would require more exhaustive examination of the titles than is possible or appropriate in this appeal. This being so, I confirm that the appeal will be determined on the basis that the whole site is within the appellant’s ownership (as was the case for the planning application).

6. Drawing numbers A179_P_20L dated June 2014 and 2677-C-010 C2 dated November 2014 were both submitted as part of the planning application and are listed on the decision notice. However, these show different routes for the proposed underground services zone. The earlier plan shows an arrangement whereby the zone is split into two trenches one from Culcheth Hall Drive to serve the west of the site and another from Withington Avenue to serve the east of the site. The later plan shows a single trench from Culcheth Hall Drive which in part would be located underneath the proposed access. Both the Council and the appellant have referred in their cases to both schemes and I will do the same.

Main Issue

7. The main issue in this case is the effect of the proposed arrangements for drainage and utilities on trees and highway safety.

Reasons

Drainage – the access and the use of soakaways

8. The appeal site is a cleared area of land between Culcheth Hall Drive and Withington Avenue. There are a number of protected trees on the site which are subject to Tree Preservation Orders. The surrounding area is residential and characterised by large detached dwellings. Mature trees and vegetation are an important feature of the townscape here.

9. The proposed houses would be accessed via a new driveway from Culcheth Hall Drive which would pass through the site between the trees and culminate in a courtyard. The access would be built using a ‘no dig’ construction technique and a cellular confinement system to protect retained tree roots. Known as geoweb, I understand that this is an industry tried and tested method which reduces the compaction of roots. It provides a load bearing system above ground removing the requirement for excavation (save for a scrape of the top surface).

10. The access would be flat with no camber or drainage gullies and constructed of a fully permeable surfacing. This is intended to absorb runoff and allow water to permeate through the ground, mimicking the current situation on the site and has been chosen as the most sustainable drainage option. It would be subject to a maintenance strategy as set out in the submitted unilateral undertaking and the appellant sees no reason why it would be susceptible to ruts and deformation. No existing ponding of water on the site has been identified and the appellant considers that since the area of the highway is relatively small, there would be no risk of water surcharging to cause a highway safety issue.

11. However, details of the underlying sub soil were not provided as part of the planning application to demonstrate that the ground conditions at the appeal site have sufficient permeability for this solution to be feasible. On the basis of
the appellant’s Basic Preliminary Risk Assessment submitted with the planning application, the British Geological Survey Geological Map and the Environment Agency’s Mapping for Drift Geology, the Council is concerned that due to the likely presence of clay (along with the site’s location on a major aquifer) the proposed permeable access road arrangements would not be feasible (since the clay could form an impervious barrier).

12. In this context, the Council is concerned that standing water on the carriageway surface of the access road would result. This would be exacerbated in freezing weather when it would create a skidding hazard. Since the site has a change in levels across it the Council is also concerned that the access would have a gradient that would lead to the pooling of water. It considers that surface water from the access would be likely to drain down dropped kerbs from the access road to some of the houses and the courtyard. All these issues would be detrimental to vehicle and pedestrian safety.

13. Despite the views of the appellant to the contrary, submitted drawing 2677-C-10 C2 shows a drainage channel where the access meets Culcheth Hall Drive, which discharges to a stone filled soakaway pit. Although the appellant indicates that the access was never intended to be connected to soakaways, I understand that this was included as part of the proposal to satisfy the Council’s concerns in relation to the drainage of the access, and to avoid any surface water run off to Culcheth Hall Drive. The appellant’s response to highways and technical matters raised by the Council during the consideration of the planning application confirms that, even though the access road was considered permeable, a drainage channel was proposed to ensure no run off to the highway. As such, it seems to me that this element formed part of the scheme considered by the Council.

14. No technical calculations to demonstrate that the soakaway pit shown here would be of sufficient capacity to accommodate the expected drainage rates have been provided. Furthermore, the line of the proposed drainage channel and soakaway would be within the Root Protection Area (RPA) of a protected sycamore tree (T11). The Council estimates that the works would have the potential to affect 25% of its root zone.

15. Surface water from the dwellings is also proposed to be dealt with using soakaways. The intention is to allow rainwater from the properties to pass through a gravity network to individual soakaways where the water would infiltrate into the ground. The appellant indicates that 2 metre deep precast soakaway chambers for each property would be provided. Notwithstanding the feasibility of the ground conditions for this arrangement, the Council indicates that these would need to be positioned at least 5 metres from buildings. Given the proximity of the trees, on the western part of the site in particular, the Council is concerned that it may therefore be necessary to position the soakaways in the RPAs of the protected trees on the site. This would be likely to give rise to the severance of roots during their installation, along with the potential for changes in water levels, the creation of impermeable areas, and the waterlogging of tree roots.

16. This would be to the detriment of the health of the affected trees and could lead to their loss. The trees along the frontage of the site contribute significantly to the character and appearance of this part of Culcheth Hall Drive. These trees, along with trees and vegetation on the north side of the site, are
part of its mature leafy appearance and the loss of trees here would harm this established character and distinctiveness.

17. Bringing these matters together, the use of a permeable surface for the access and soakaways is dependent on suitable ground conditions. Given the ground conditions described by the Council, and in the absence of any further information to support the planning application, I share the Council’s concern that these approaches may not be suitable. Moreover, even if it were to be established that they were, the soakaway pit to serve the drainage channel for the access would be within the RPA of a protected tree. Furthermore, although the appellant considers there to be sufficient locations within the site away from RPAs and houses, the submitted plans do not indicate where the soakaways for the houses would be provided. In the absence of this information I share the Council’s doubts as to whether there is scope on the site to locate them at sufficient distances from the RPAs of trees and the proposed dwellings. As such, on the basis of the information before me, I find that the proposed drainage arrangements described would be likely to have an unacceptable impact on highway safety and protected trees.

Utilities/services and foul drainage

18. The scheme shows the provision of an underground services zone (for gas, water and electricity) to be provided across the site. The Council is concerned that the trench from Withington Avenue shown on drawing number A179_P_20L can only be provided over third party land. This would also be the case for the underground foul surface drainage connection to the public sewer shown here. The appellant confirms that the drainage connection through this third party land would be afforded via a requisition with United Utilities and that undertakers have rights of wayleave over third party land and statutory powers to install services. I appreciate that the use of third party land is not an uncommon situation in urban areas such as this, and have seen no substantiated evidence to suggest that this arrangement could not be implemented.

19. The Council confirms that the proposed utilities route shown on drawing A179_P_20L for the most part overcomes the provision of trenches within the RPAs. That said, both submitted drawings show an underground services zone running from Culcheth Hall Drive along the northern boundary of the site with 48 Culcheth Hall Drive. Drawing number A179_P_20L also shows the proposed underground foul drainage route along this boundary, in part within the underground services zone.

20. Both these routes pass through the root zone of a beech tree and yew hedge within No 48’s garden. The appellant indicates that the crown spread of this does not overhang the site boundary and the encroachment into the RPA would be minimal (affecting only approximately 10% of it). Nevertheless, since it would be within the root zone it would be likely to adversely affect the tree. The appellant accepts that the yew hedge is a good quality boundary treatment and that the trench shown on drawing A179_P_20L could potentially damage it.

21. The appellant considers that easements required by United Utilities (in relation to distances from shrubs and bushes and buildings) do not apply since the drainage within the site would remain private (rather than being adopted). Whilst I note the appellant’s view that careful hand excavation and root pruning methods would be used, I share the Council’s concerns as to how part of the
underground foul drainage run would be provided within the utilities trench, and have seen no evidence to demonstrate how this would be achieved.

22. In practical terms, given their close proximity, I am concerned that the proposed arrangements for utilities and foul drainage as proposed would harm the beech tree and the yew hedge. Even though these are not the subject of a TPO, they are existing landscape features outside the appeal site which contribute to the character and appearance of the area. Whilst I appreciate the appellant’s view that the hedge could be replaced if damaged, it would be likely to be unacceptably affected by the proposed works for a good deal of its length along the northern boundary of the site. Also, since the affected tree and hedge are outside of the appeal site the appellant has no control over them.

Conclusions on the main issue

23. Overall, I have seen nothing to suggest that the Council has failed to understand the technical evidence provided with the planning application. On the basis of the submitted information, I am not content that the site would be sufficiently serviced by drainage (including foul drainage) and utilities without compromising both highway safety, and the health of trees and vegetation (some protected) which play a key role in defining the character and appearance of the area. This being so, I am conscious that other alternative arrangements to provide for drainage and utilities may be required. Given the constrained nature of the site in relation to existing trees and vegetation, I consider that these could not necessarily be accommodated as part of the proposal before me.

24. I therefore conclude on this main issue that the proposed arrangements for drainage and utilities would have a harmful effect on trees and highway safety. This would be contrary to Policy CS1 of the Warrington Borough Council Adopted Local Plan Core Strategy (Core Strategy) which sets out the overall spatial strategy and indicates that development must have regard to (amongst other things) the need to safeguard environmental standards, public safety and residential amenity. It would conflict with Core Strategy Policy SN1 which is supportive of proposals in defined settlements which constitute low impact infill development, and with Core Strategy Policy QE3 which relates to green infrastructure and states that the assessment of applications will be focussed on protecting the existing provision and the function it performs.

25. Additionally the proposal would be at odds with Core Strategy Policy QE6 which concerns environment and amenity protection and takes into account impacts on highways safety (amongst other things), and with Core Strategy Policy QE7 which seeks to ensure a high quality place where proposals reinforce local distinctiveness and enhance character, appearance and function of the street scene, local area and wider townscape and harmonise with its surroundings. It would fail to align with Core Strategy Policy CC1 which is permissive of new build development in inset settlements such as Culcheth provided they comply with national planning policy and are sustainable in terms of Core Strategy Policy CS1. Furthermore, the proposal would not support the core planning principle of the National Planning Policy Framework (the Framework) to secure high quality design.
The possible use of planning conditions

26. Paragraph 203 of the Framework advises that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions. As set out in the procedural matter, the appellant has undertaken further work which he considers demonstrates that the site is capable of being adequately drained and serviced. In his view this provides sufficient comfort for the submission of further details to be required via a planning condition.

27. Initial trial pits have determined the ground conditions to encompass a shallow depth of sandy clay over sands and gravels. The infiltration test report finds that within the western part of the site the firm clay ground would not be suitable for soakaway infiltration as proposed. This new information has resulted in a change in the drainage strategy put forward. On the eastern side of the site roof water would go to a large infiltration tank within the courtyard area where favourable infiltration has been found. However, on the western side of the site surface water from the three houses would be directed to the public sewer via a below ground gravity drainage network. This is shown to follow the northern boundary of the site. The proposed foul water drainage is also shown here. As such the amended proposal would be likely to lead to the unacceptable impacts on No 48’s beech tree and boundary hedge that are discussed above in relation to the proposed underground services zone.

28. Additionally, the appellant indicates that utilities and foul drainage would be provided using trenchless technology. Drilling would be used to provide the drains and ducts for services underneath the tree roots at a depth of 900mm below the surface. Whilst I acknowledge the appellant’s view that this is a common construction technique, no further information as to how or where the ducts would be provided is given. Additionally, the advice referred to in the appellant’s tree report indicates that launch and reception pits should be located outside the prohibited or precautionary zones. I have seen no information to demonstrate the size of these or where they would be located. In the absence of any such details I cannot be satisfied that utilities and foul drainage could be successfully accommodated using trenchless technology, or that they would have no adverse effect on the existing trees and vegetation.

29. In terms of the access, hydraulic calculations have been undertaken which indicate that the access stone sub base material has sufficient capacity to retain water even before permeating through the existing sub strata without it flooding the highway. This is based on an extremely low infiltration rate to account for the worst case scenario. I appreciate that no pooling of water on the surface was evident, and the appellant considers that the top soil and made ground present would enable infiltration for a permeable surfacing to be a viable option. However, no formal infiltration tests were carried out at the surface.

30. The appellant’s infiltration tests at pits across the site show that aswell as infiltration within the clay ground to the west of the site being of an unsuitable rate for soakaways, a pit on the eastern side of the site although encompassing a more sand based material also indicated very little infiltration. In this context, even based on an extremely low infiltration rate, it has not been demonstrated that the water from the access would be able to permeate through the existing sub strata (including the top layer of sandy clay). This
being so, in addition, I cannot be sure that the channel drain at the entrance of the site to the highway is superfluous and could be removed from the scheme.

31. I accept that there are instances where technical solutions can be dealt with via conditions and am aware of the standard conditions in relation to drainage schemes. Be that as it may, on the basis of the information before me, I cannot be content that adequate details could be provided in this case. Planning Practice Guidance (the Guidance) indicates that it is important that the local planning authority limits the use of conditions requiring their approval of further matters after permission has been granted. Where it is justified, the ability to impose conditions requiring submission and approval of further details extends to aspects of the development that are not fully described in the application. In this case, drainage and utilities details were provided as part of the planning application and included on the submitted drawings. The Guidance further advises that a condition requiring the re-submission and approval of details that have already been submitted as part of the planning application is unlikely to pass the test of necessity.

32. For these reasons, I am not persuaded that the development proposed could be made acceptable through the use of conditions.

Whether the proposal is a sustainable form of development

33. The Council accepts that the lack of a housing supply weighs in favour of the scheme. Paragraph 49 of the Framework indicates that where local planning authorities are unable to demonstrate a five year supply of deliverable housing sites, relevant housing supply policies should be considered out of date.

34. Paragraph 49 of the Framework requires housing applications to be considered in the context of the presumption in favour of sustainable development. This is set out at paragraph 14 of the Framework and indicates that where relevant policies are out of date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole. Paragraph 7 of the Framework establishes the three dimensions to sustainable development; economic, social and environmental.

35. In terms of the economic role of sustainable development the proposal would provide short term construction employment. Future occupants would be likely to spend money in local shops and businesses and thereby support the local economy. New housing has the potential to attract and retain a skilled workforce and the appellant considers that lower density housing will retain more affluent households and attract professional workers who are more likely to generate new business, jobs and investment in the area. Capital receipts and revenue to the Council from the new homes bonus and council tax would also arise as a result of the proposal. However, the extent of this economic contribution would be limited by the relatively modest scale of the proposal.

36. With regard to the social role, in providing family homes the proposal would ensure local schools, shops and services are supported. A contribution would also be made to providing affordable housing elsewhere and is contained within the submitted planning obligation. As such the proposal would support strong, vibrant healthy communities, and boost the supply of housing to meet the needs of present and future generations. However, given my findings in
relation to the access and highway safety, in this sense it would fail to create a high quality built environment.

37. In terms of the environmental role, the proposal would bring an unused site in an urban area into positive use. The principle of development is accepted by the Council as infill within the settlement boundary and no concerns are raised as to its architectural quality or design. The site is in walking distance of nearby shops and services and would reduce the need to travel using a private car. The proposal includes replacement planting, a landscaping scheme and a management plan to benefit wildlife. Subject to mitigation measures there would be no undue impacts on biodiversity or protected species. The houses would be energy efficient and provide facilities for recycling. I appreciate that the Council has raised no objections to the scheme in these regards. Nevertheless, for the reasons given, I consider that the proposal would have an unduly harmful effect on trees (and therefore the character and appearance of the area) and so would fail to protect and enhance the natural environment. This being so, it would not accord with the environmental dimension of sustainable development.

38. Overall, whilst the proposal would make a limited contribution to economic activity, and would for the most part be consistent with the social dimension of sustainable development, it would fail to fulfil the environmental role. Thus I do not regard the proposal to represent a sustainable form of development that paragraph 14 of the Framework indicates should be granted permission. In any event, I confirm that in this instance the adverse effects of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

Other matters

39. In its statement the Council raises additional concerns in relation to the access in particular regarding road geometry, the non-adoptance of the road and the swept path analysis provided by the appellant. These are not part of the reasons for refusal and nor are they considered in the committee report. Since I am dismissing the appeal on other grounds, I confirm that it is not necessary for me to consider these matters further.

40. The appellants have provided a unilateral undertaking in relation to the provision of a management and maintenance agreement and a financial contribution for affordable housing. Since the appeal is to be dismissed on the substantive merits of the case, it is not necessary for me to consider this planning obligation given that the proposal is unacceptable on other grounds.

41. I have had regard to the appellant’s reference to paragraph 187 of the Framework which indicates that local authorities should look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. I note his points as to the inconsistency in advice from different tree officers involved over the overall course of negotiations, and the lateness of the highway officer’s objection to the scheme in the run up to planning committee. These matters are also raised in the appellant’s costs claim and considered in my corresponding Costs Decision.
42. I also appreciate that a previous application for 11 houses on the site was withdrawn on the basis of a number of draft reasons for refusal which did not include issues of drainage. I also note that pre-application discussions took place and that the plans were revised through the Council’s consideration of the planning application. However, these are matters between the appellant and the Council. I confirm that I have considered the proposal on its individual merits and made my own assessment as to its impact.

**Overall Conclusion**

43. The proposed arrangement for drainage and utilities would have an adverse effect on trees and highway safety and this harm is not outweighed by any other matters. So, for the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*Elaine Worthington*

INSPECTOR
Appeal Decision

Site visit made on 17 March 2015

by Mark Dakeyne  BA (Hons) MRTPi
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 4 June 2015

Appeal Ref: APP/M0655/W/14/3001339
The Rhinewood Hotel, Glazebrook Lane, Glazebrook, Warrington WA3 5BB

- 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 Westby Homes Ltd against the decision of Warrington Borough Council.
- The application Ref 2014/24573, dated 26 September 2014, was refused by notice dated 21 November 2014.
- The development proposed is the demolition of an existing hotel and the erection of 36 dwellings (comprising a mix of 27 houses and 9 apartments), with associated access, parking, landscaping and ancillary works.

Decision

1. The appeal is allowed and planning permission is granted for the demolition of an existing hotel and the erection of 36 dwellings (comprising a mix of 27 houses and 9 apartments), with associated access, parking, landscaping and ancillary works at The Rhinewood Hotel, Glazebrook Lane, Glazebrook, Warrington WA3 5BB in accordance with the terms of the application, Ref 2014/24573, dated 26 September 2014, subject to the conditions set out in the attached schedule.

Application for costs

2. An application for costs was made by Westby Homes Ltd against Warrington Borough Council. This application is the subject of a separate decision.

Procedural Matters

3. Parts of the Warrington Local Plan Core Strategy (WLPCS) were quashed following a successful High Court challenge. However, the status of those policies of the WLPCS referred to in this decision is not affected.

4. Revised site location and layout plans were submitted with the appeal documentation to rectify a minor discrepancy between the previous plans in terms of the boundaries of the appeal site and to annotate the extent of the un-adopted highway. No party would be prejudiced by me considering the appeals on the basis of the amended plans that do not change the substance of the proposal.

5. A completed legal agreement under Section 106 of the Planning Act (S106) dated 26 March 2015 between the appellant and the Council has been submitted. The obligation includes provision for a contribution for off-site
affordable housing and safeguards relating to the private drives proposed within the development. I deal with the S106 later in this decision.

**Background and Main Issues**

6. The site lies within the Green Belt. The proposal involves complete redevelopment of an existing two-storey hotel with the footprint of the new buildings being less than that of the existing and being confined to the developed parts of the site. The height of most of the new dwellings would be less than the hotel with the apartment block being only marginally higher. The development would have no greater impact on the openness of the Green Belt and the purposes of including land within it than the existing development. Therefore, the scheme would comply with Policy CC 1 of the WLPCS, meet one of the exceptions set out in paragraph 89 of the National Planning Policy Framework (the Framework) and would not be inappropriate development in the Green Belt.

7. Taking into account this background the main issues are:
   (1) whether the proposal represents sustainable development having regard to the site location; and,
   (2) the effect on the character and appearance of the area.

**Reasons**

**Sustainability of Location**

8. Glazebrook comprises a linear settlement spread along the B5212 with two distinct parts to the north and south of the railway separated by an appreciable gap of open countryside to the south of the railway in the vicinity of the appeal site. As such the development would not be located within the settlement of Glazebrook, albeit in relatively close proximity.

9. However, despite its open countryside location, the housing development would be only about a 170m walk from Glazebrook Railway Station where trains can be caught to destinations such as Warrington, Manchester and Liverpool. There are trains travelling in both directions during the morning and early evening peak periods. The service is less regular outside peak hours but residents would be able to plan their journeys so as to make the most of this convenient mode of travel.

10. Birchwood Station which lies adjacent to a large shopping park and close to a secondary school is the next westbound stop with a journey time of 4 minutes. The centre of Warrington can be reached in just over 10 minutes and the journey time to Manchester is about 25 minutes. The proposal incorporates a new footway along the site frontage which would allow access for pedestrians to and from the site to the railway station. There would be opportunities to cross the road away from the humped railway bridge.

11. Glazebrook Post Office is some 325m to the south. The B5212 has a pavement and street lighting. Housing development on the appeal site would assist in sustaining this rural facility. Other services are farther away in Cadishead and Hollins Green but some facilities in the former, such as a primary school and convenience store, are within 1000m walking and cycling distance of the site reached by a footbridge across Glaze Brook near the post office.
12. Some other services such as child care, a medical centre and pharmacy are further away from the site, well in excess of 1000m. There are no regular bus services passing the site. The nearest bus stop is in Cadishead close to the convenience store. However, despite these deficiencies the residential development would be served by a reasonable range of services accessible from the site by walking, cycling and rail. Whilst car borne travel would still be the most common form of transport, alternative modes would be likely to be used more than in association with the hotel and car trips would be relatively short.

13. In conclusion the proposal represents reasonably sustainable development having regard to the site location and would comply with Policies CS 1 and MP 1 of the WLPCS as the site would be accessible by public transport, walking and cycling and would reduce the need for private car use in comparison to the existing hotel. The site is not in an urban area and people would need to travel from the site to reach services and employment, including by car, so there is some tension with the strategy of the WLPCS and Policy CS 4. I also note the Council’s categorisation of the accessibility of the site as low. But overall the development would not have any significant adverse impacts by reason of the need to travel, particularly in comparison with the existing use of the site.

**Character and Appearance**

14. The site is not directly adjacent to other built development. A terrace of railway cottages lies below the site on the opposite side of the road, next to the station. The ribbon of development to the north separated by the railway bridge and cutting contains a mix of dwelling types whereas the other part of Glazebrook some way to the south-east, near the post office, primarily consists of an estate of mid-20th century housing. The site is currently dominated by the existing hotel building, a large monolithic block of fairly bland appearance, and the associated parking areas. As such there are no prevailing local characteristics that form a clear basis for designing a scheme for the site.

15. Due to topography, the alignment of Glazebrook Lane and the existence of vegetation on the site and in the surrounding area, the proposed development would not be readily seen from most visual receptors, including those of high sensitivity such as nearby dwellings. The development would be most apparent to those passing the site along the B5212.

16. Most of the housing would be contained in small terraces of three dwellings or pairs of semi-detached properties. The three storey apartment block would be the building of the greatest scale on the site and in the locality and would be relatively close to Glazebrook Lane. However, the block would be in a location where the road rises towards the railway bridge and its base would sit below street level, so it would not be overly dominant. Moreover, the stepping up of buildings on the site frontage would add some variety to the street scene. Overall the development would have a scale that would be more sympathetic to the nearby residential buildings than the hotel and would sit more comfortably in its setting.

17. The apartment block would contain fenestration to all its elevations and would include detailing such as Juliet balconies, decorative bargeboards and contrasting brick sills and window headers. These design devices would adequately break up the mass of the building and, in the case of the bargeboards, pick up on a feature used on the Grade II listed station building.
The use of render on the block and a number of the other buildings within the development would reflect the materials used on the vernacular railway cottages and would provide variety alongside the brick elevations of the other dwellings.

18. The trees on the site are subject to a tree preservation order. A number of trees would be removed but the majority would be retained and 43 new trees would be planted. The roadside landscaping comprising a combination of existing and proposed trees would help to assimilate the apartment block into the street scene. An area of open space would be located on an existing grassed area to the eastern end of the site which would relate well to the open fields beyond the site boundary and allow the retention of some mature trees along its edge. The landscaping would soften the appearance of the development and filter views from Glazebrook Lane.

19. Accordingly the proposal would have an acceptable impact on the character and appearance of the area and would comply with Policies CC 2 and QE 7 of the WLPCS as the development would relate satisfactorily to its rural setting, respect local landscape character and would enhance the character and appearance of the street scene and local area.

Other Matters

20. The development would be well-separated from existing dwellings so no undue overlooking would occur. Additional ground investigation work is recommended by the Geo-Environmental Site Assessment Report which would inform foundation design and take into account the proximity of the railway cutting. The potential route of the HS2 line in the area would not be a reason to withhold permission.

21. The vehicular access would have adequate visibility in both directions for a 30mph road and the additional traffic would not give rise to safety or capacity issues on the local highway network. Parking provision comprising 2 spaces per house and 15 communal spaces for the flats would be satisfactory.

22. A survey did not reveal the presence of bats within any trees on the site. Four Category 2¹ trees are to be removed as part of the proposal. The survey report recommends Reasonable Avoidance Measures, including a ‘soft fell approach’ in implementing the proposal.

Obligations

23. The affordable housing obligation facilitates a financial contribution of £405,000 towards off-site provision which would result in the equivalent of 30% affordable housing in accordance with Policy SN 2 of the WLPCS.

24. The obligations relating to the private drives would ensure that they would be properly constructed and maintained so that a safe access would be retained for the dwellings served by them.

25. The obligations within the S106 are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. Therefore, they

¹ Trees with some features which may have limited potential to support bats
meet the tests within CIL Regulation 122. I have taken them into account in the decision.

**Conditions**

26. I have considered the conditions suggested by the Council and raised elsewhere in the appeal documentation. I make changes and combine conditions suggested by the Council where necessary to avoid repetition and for clarity, having regard to the tests set out at paragraph 206 of the Framework.

27. A condition setting out the approved plans is necessary for the avoidance of doubt and in the interests of proper planning. Policies QE6 and QE7 of the WLPCS justify the provision of higher standards than the Building Regulations during the transitional period pending the full implementation of the national standards for energy performance. Conditions are needed to ensure suitable drainage and highways infrastructure are implemented. Details of levels and boundary treatments are required in the interests of the appearance of the development, to protect the living conditions of future residents and to maintain the integrity of the adjacent transport routes. The construction of the footpath along the frontage needs to take into account the adjacent retained trees so a method statement is required.

28. Bicycle parking is needed to encourage sustainable trips. The Phase 1 Geo-Environmental Report Site Assessment flagged up potential contaminants and the need for consideration of ground conditions so further investigation and any remedial action is required. I have worded the condition so that it is proportionate to the level of risk.

29. Controls on tree removal and tree protection are necessary in the interests of nesting birds and ensure that existing trees are not damaged. The Bat Report recommends Reasonable Avoidance Measures which should be implemented by a condition (paragraph 22 refers). In view of the proximity of the railway, safeguards are needed in relation to piling works.

30. The implementation and future management of open space and landscaping are required in the interests of the appearance of the development and to provide suitable amenities for future residents. Noise mitigation measures are needed in view of the proximity of the railway line. The provision of acoustic fencing to the Glazebrook Lane boundary would have adverse impacts on the appearance of the development so I have amended the condition to exclude such works. Appropriate boundary treatment could be secured through condition No 7.

31. Visibility splays need to be provided and maintained in the interests of highway safety. Parking should be provided as shown on the plans for the convenience of residents and to prevent parking on the highway and internal access roads. Obscure glazing is required to one of the elevations to the flats to protect the privacy of the future occupants of the adjacent dwellings. Permitted development rights should only be removed in exceptional circumstances and the scope of such conditions needs to be precisely defined. Having regard to the siting of some of the dwellings relative to Glazebrook Road and to the preserved trees on the site, restrictions on some plots are justified but only in relation to development that is likely to be more than small scale and involve significant ground disturbance.
32. Affordable housing and private drive maintenance are covered by the S106 obligation. Conditions are to be imposed to require construction details of the estate roads and their timely provision such that they can be secured to adoptable standards. The materials are specified on one of the approved plans. They appear to be suitable so a condition is not necessary.

Conclusions

33. The proposal would be acceptable judged against the main issues and the other matters raised by local residents. The proposal would provide market housing on the site and facilitate affordable homes off-site. It would have economic benefits from construction jobs, increased local spend and the New Homes Bonus. These benefits would offset the loss of jobs from the closure of the hotel, particularly as the owner indicates that the operation is struggling to keep going. The development would make effective use of previously-developed land. There are limitations with regard to the sustainability of the location because it lies outside an urban area but the benefits of the scheme would outweigh any harm.

34. The proposal would achieve sustainable development in accordance with the National Planning Policy Framework when considering the economic, social and environmental dimensions in the round and would comply with the development plan overall. Therefore, it should be approved without further delay.

35. For the reasons given above the appeal should be allowed.

Mark Dakeyne
INSPECTOR

SCHEDULE OF CONDITIONS

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:
   (i) Location Plan dated 6 March 2015
   (ii) Topographic Survey Drawing No 100-01
   (iii) Planning Layout Revision I dated 19 May 2014
   (iv) Hotel Footprint dated 19 May 2014
   (v) Tree Survey Drawing No LDS313-01 dated May 2014
   (vi) Tree Works/Protection Drawing No LDS313-02A dated June 2014
   (vii) Planting Plan Drawing No LDS313-03A dated June 2014
   (viii) Boundary Treatment dated 25 September 2014
   (ix) Materials Schedule dated 15 August 2014
   (x) Apartments Plots 9-17 Floor Plans and Elevations dated 5 June 2014
   (xi) House Type A 2B 675 Floor Plans and Elevations
   (xii) House Type B Floor Plans and Elevations Drawing Nos 104.16.3B790.02 Rev A, 104.16.3B790.03 Rev A, 104.16.3B790.06, 104.16.3B790.07, 104.16.3B790.08, 104.16.3B790.08 Plots 5, 6 and 7 only all dated May 2014
   (xiii) House Type C Floor Plans and Elevations Drawing Nos 104.16.3B790.02 Rev A, 104.16.3B790.03 Rev A, 104.16.3B790.066, 104.16.3B790.077 Rev A, 104.16.3B790.088, 104.16.3B790.088 Plots 4
8 only all dated May 2014
(xiv) House Type D 3B 935 Floor Plans and Elevations
(xv) Window Detail (all windows recessed from façade 100mm)
(xvi) Street Scene of Plots 18 to 25 dated 14 April 2014.

Pre-commencement conditions

3) Prior to the commencement of the development hereby permitted, details of the measures to be implemented to minimise carbon dioxide emissions and the impacts of climate change shall be submitted to and approved in writing by the local planning authority. The details shall demonstrate to what extent the proposals shall exceed the carbon dioxide emission requirements of Part L1A of the Building Regulations at the time that the scheme is submitted. All the approved measures shall be implemented as part of the construction process and retained thereafter.

4) Prior to the commencement of the development hereby permitted, details of the means of disposal of foul and surface water shall be submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details prior to the occupation of any dwellings and retained thereafter.

5) Prior to the commencement of the development hereby permitted, details of the development’s highway infrastructure including construction details of the site access onto Glazebrook Lane, pedestrian crossing points, the 2m wide footway to Glazebrook Lane and access roads and pavements within the site; and measures to restrict parking on Glazebrook Lane, shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details prior to the occupation of any dwellings hereby permitted.

6) No development shall commence on site until existing and proposed ground levels, including works adjacent to the railway line and road embankment, and proposed finished floor levels have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with those approved details.

7) No development shall take place until there has been submitted to and approved in writing by the local planning authority a plan indicating the positions, design, materials and type of boundary treatment to be erected, including trespass proof fencing to the boundary with the railway line. The boundary treatment to the railway and other site boundaries shall be completed before the occupation of any dwelling and boundary treatment specific to a dwelling or group of dwellings shall be completed prior to the occupation of the dwelling or group of dwellings to which it relates.

8) Prior to the commencement of the development, a Method Statement setting out how the construction of the footpath along Glazebrook Lane is to be undertaken so that the adjacent trees are protected, shall be submitted to and approved in writing by the local planning authority. The works shall be carried out in accordance with the approved method statement.

9) Prior to the commencement of the development hereby permitted, details of bicycle parking to serve the development shall be submitted to and
approved in writing by the local planning authority. The bicycle parking shall be implemented in accordance with the approved details prior to the occupation of the dwellings to which it relates and retained thereafter.

10) No development approved by this permission shall be commenced until a detailed Phase II intrusive Geo-Environmental Ground Investigation has been undertaken and the resultant report has been submitted to and agreed in writing by the local planning authority. The report shall include recommendations as to foundation design and an appropriate remediation strategy, including details of how any contamination shall be dealt with. The approved scheme shall be implemented in accordance with the approved recommendations and any remediation works so approved shall be carried out prior to any dwelling first being occupied.

Construction phase conditions

11) No trees or shrubs shall be removed between 1 March and 31 August in any year unless a detailed bird nest survey by a suitably experienced ecologist has been carried out immediately prior to clearance. The acceptability of the survey shall be agreed in writing with the local planning authority prior to the commencement of the removal of the trees or shrubs.

12) The Reasonable Avoidance Measures set out in Section 4.0 of the Bat Roost Inspection of Trees Report dated 14 August 2014 (Ref:60320p2r0) shall be adhered to during the removal of any Category 2 trees on the site.

13) No works, including ground preparation, shall commence on the site until all existing trees to be retained as indicated on Drawing No LDS313-02A dated June 2014 are fully safeguarded by protective fencing in accordance with the said drawing and BS5837:2012. The protective fencing and the other tree protection measures specified on the said drawing shall be retained and complied with for the duration of the construction works.

14) Before any vibro-impact works are undertaken on site, a risk assessment and method statement shall be submitted to and approved in writing by the local planning authority. Construction shall proceed in accordance with the approved details.

15) If during development, contamination not previously identified is found to be present at the site, no further development shall take place until an addendum to the remediation strategy is submitted to and approved in writing by the local planning authority which shall include details of how the unsuspected contamination shall be dealt with. Any remediation works so approved shall be carried out prior to any dwelling first being occupied.

Pre-occupation conditions

16) Prior to the occupation of any dwelling hereby permitted, an Open Space and Landscape Implementation, Maintenance and Management Scheme shall be submitted to and approved in writing by the local planning authority. The Scheme shall include a timetable for the implementation, and maintenance and management of the following:
(i) the planting shown on Drawing No LDS313-03A dated June 2014
(ii) the open space and play area to the eastern section of the site
(iii) other communal areas of landscaping, open space and car parking shown on Drawing No LDS313-03A dated June 2014
The scheme shall be implemented, maintained and managed as approved.

17) Prior to the occupation of any dwelling identified as requiring mitigation measures in the AEC Noise Assessment Report P2997/R1/PJK dated 29 May 2014, the specified acoustic mitigation measures shall be implemented in accordance with paragraphs 6.2, 6.3 and 6.4 of the Report. A verification report confirming the installation of the mitigation measures shall be submitted to the local planning authority before the occupation of the final dwelling on the site.

18) Prior to the occupation of the development, a visibility splay of 2.4m by 43m shall be provided at the junction of the site access with Glazebrook Lane and retained thereafter. No obstruction exceeding 0.6m in height measured from the level of the adjoining carriageway shall be erected, placed or allowed to grow within the splay.

19) Prior to the occupation of the dwellings to which they relate, the car parking and turning areas and the access thereto shall be provided in accordance with Planning Layout Revision I dated 19 May 2014.

20) The obscure glazing shall be fitted to the windows in the south-east elevation of the apartment building as shown on the Floor Plans and Elevations dated 5 June 2014 prior to the occupation of the flat to which it relates and retained thereafter.

Ongoing Controls

21) Notwithstanding the provisions of Classes A and E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no extensions, garages or outbuildings shall be erected within the curtilages of the dwellings on Plots 1, 4, 5, 6, 7, 8, 18, 24, 25, 26, 27, 28 and 34.

END OF SCHEDULE OF CONDITIONS
Costs Decision

Site visit made on 28 April 2015

by Elaine Worthington BA (Hons) MTP MUED MRTPI
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 16th June 2015

Costs application in relation to Appeal Ref: APP/M0655/W/15/3005910
Land off Culcheth Hall Drive, Culcheth, Cheshire, WA3 4PX

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Mr Patrick Seed, Evoke Homes for a full award of costs against Warrington Borough Council.
- The appeal was against the refusal of planning permission for the erection of 9 dwellings on land of Culcheth Hall Drive, Culcheth.

Decision

1. The application for an award of costs is refused.

Reasons

2. Planning Practice Guidance (the Guidance) advises that where a party has behaved unreasonably and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs. One of the aims of the process is not to add to development costs through avoidable delay.

3. An example given in the Guidance of behaviour that may give rise to a procedural award against a local authority is a lack of co-operation with the other party. Another is delay in providing information. Although costs can only be awarded in relation to unnecessary or wasted expense at the appeal, the Guidance advises that behaviour and actions at the time of the planning application can be taken into account.

4. The appellant considers that the Council failed to provide comprehensive advice under its chargeable pre-application process, particularly in relation to trees. The Council accepts that a written response in relation to trees was not given. Even so, from the information provided it appears that despite this, informal discussions on trees took place with the planning officer which informed the submission of the planning application.

5. Additionally, further advice was subsequently provided through the Council’s consideration of the planning application. As such, I do not regard the lack of written advice at pre-application stage is the reason why matters involving trees have not been adequately resolved through the planning application. I agree that the matter of whether the Council has fulfilled its pre-application obligations is a matter for the Council’s complaints system.
6. In terms of the handling of the planning application, the appellant considers that he was not advised of the adverse final comments from the highway officer for a number of days (at a time when he was in discussion with the Council). Although the target date for the application had passed, the appellant considers that the Council sought to present the application to committee, rather than defer to a later meeting as requested to allow the objections from the highway officer to be addressed.

7. Although the highway officer’s final comments were not passed on to the appellant for a number of days, they were provided in the light of the appellant’s response to the highway officer’s original comments. As such, the appellant had already had the chance to respond to the concerns raised. Despite the appellant’s opinion that the case officer had supported the scheme and was going to recommend it for approval, the highway officer’s final comments were for the most part based on his original concerns. As such, I am not persuaded that the appellant had no prior warning of the highway officer’s response.

8. The appellant was advised of the highway officer’s final comments in advance of the committee agenda being released and around a week before the committee meeting. The appellant presented further technical comments to counter them and an update report was presented to Members with this information. The appellant sought to justify the proposal as submitted, but did not include amendments to the scheme (save for the offer of a filter drain beneath the access).

9. Moreover, the highway officer’s objections related to matters of highway safety alone and as such formed only part of the Council’s overall (and overlapping) concerns in relation to the scheme. It is clear from the submitted correspondence that the matter of the scheme’s impact on trees was an issue between the parties. Despite the lack of written pre-application advice in relation to trees, and the Council’s use of a number of different tree experts, the Council provided advice in relation to trees throughout the life of the application. Notably, this issue was being discussed between the parties and their advisers in the run up to the committee report being prepared and the committee meeting. Amendments to the plans were also made during this period.

10. As such, I am not convinced that the dialogue between the Council and the appellant had broken down during this period. The perceived technical deficiencies with the scheme had been an on going theme of discussion between the parties. As I see it, the appellant was given sufficient opportunity throughout the life of the planning application to resolve the concerns of the Council that ultimately led to the refusal of the planning application. At the time of referring the application to committee, and on the basis of appellant’s previous responses to the issues raised, I have some sympathy with the Council’s view that it had no comfort that these constraints could necessarily be overcome. Thus, I am not persuaded that the application was determined prematurely.
11. Whilst I note the appellant’s view, I have seen nothing to suggest that the Council’s determination of the application at the committee meeting (rather than its deferral as requested by the appellant and put to Members) was motivated by the fee income that would be associated with a further planning application having to be made. Nor am I convinced that the Council issued the decision notice any more quickly than would normally be the case, or see any reason why it would seek to do so.

12. It seems to me that there was a generally on going dialogue between the parties in relation to the drainage and servicing of the site along with its impact on trees. Overall I am satisfied that the Council co-operated with the appellant, caused no undue or avoidable delay in providing information and worked within the spirit of paragraph 187 of the National Planning Policy Framework.

13. An example of the type of behaviour that may give rise to a substantive award against a local planning authority also given in the Guidance is refusing planning permission on a planning ground capable of being dealt with by conditions (where it is concluded that suitable conditions would enable the proposed development to go ahead). Having regard to the appellant’s infiltration test and drainage strategy report submitted in relation to the appeal, for the reasons set out in my Appeal Decision, I have found that the appeal proposal could not be made acceptable through the use of conditions. As such, the Council has not refused planning permission on a planning ground capable of being dealt with via conditions.

14. I therefore conclude overall that the Council’s behaviour has not been unreasonable and the appellant’s costs in mounting the appeal were not unnecessarily incurred. For the reasons given above, the application for an award of costs is refused.

Elaine Worthington

INSPECTOR
Costs Decision

Site visit made on 28 April 2015

by Elaine Worthington BA (Hons) MTP MUED MRTP

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

Decision date: 16th June 2015

Costs application in relation to Appeal Ref: APP/M0655/W/15/3005910

Land off Culcheth Hall Drive, Culcheth, Cheshire, WA3 4PX

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Warrington Borough Council for a full award of costs against Mr Patrick Seed, Evoke Homes.
- The appeal was against the refusal of planning permission for the erection of 9 dwellings on land off Culcheth Hall Drive, Culcheth.

Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. Planning Practice Guidance (the Guidance) advises that where a party has behaved unreasonably and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs. One of the aims of the costs regime is to discourage unnecessary appeals by encouraging all parties to consider a revised planning application which meets reasonable local objections.

3. The Guidance provides examples of the type of behaviour that may give rise to a substantive award of costs against an appellant. This section of the Guidance indicates that the right of appeal should be exercised in a reasonable manner. An appellant is at risk of an award of costs being made against them if the appeal or ground of appeal has no reasonable prospect of succeeding.

4. The Council’s cost claim refers to procedural elements of the application and appeal in relation to land ownership issues. As set out in my Appeal Decision I have found that although it is arguable that the application site includes a narrow triangular strip of land outside the appellant’s title, to establish the true position would require more exhaustive examination of the titles than is possible or appropriate in this appeal. Whilst it may be that Certificate B ought to have been completed and notice served on the respective land owners, I have seen nothing to suggest that this was anything other than an omission on the appellant’s behalf. Whilst I appreciate that the Council has undertaken work in this regard, I do not consider the appellant to have behaved unreasonably.

5. The Council’s cost claim also refers to substantive issues around the appellant’s submission of amended drainage and servicing arrangements at appeal. As set out in my Appeal Decision, in my view the appellant has sought to amend the
way the site would be drained and serviced through the appeal process in order to overcome the reason for refusal of the planning application. Paragraph M.1.1 of Annex M of Planning Inspectorate’s Procedural Guidance advises that in such instances a fresh planning application should normally be made.

6. Whilst the appellant considers that it would be highly unusual for a neighbour to comment on the technical means by which drainage would be achieved, in this instance a number of local residents raised the issue of the site’s drainage. Additionally, it is clear from the Council’s update to the Planning Committee that the neighbouring occupier raised specific issues about the proposed utilities trench along the northern boundary of the site. Since the appellant has sought to evolve the scheme through the appeal process, the revised plans put to me were not those which were considered by the local planning authority or on which interested people’s views were sought. As such, the suggested amendments may prejudice others with an interest in the appeal.

7. On this basis the appellant was invited to withdraw the appeal and re-submit a planning application to address the reason for refusal. Despite the appellant’s infiltration test confirming the unsuitability of the site’s ground conditions for the drainage strategy put forward as part of the planning application, the appellant has pursued the appeal. Because the inclusion of the amended plans as part of the proposal was not accepted, the appellant’s grounds of appeal hinge on the argument that the revised technical details provide sufficient comfort (that the site can be adequately drained and serviced) for the submission of further details to be required via a planning condition.

8. However, for the reasons set out in my Appeal Decision I have found that the appeal proposal could not be made acceptable through the use of conditions. As such, in my view the appellant has pursued the appeal when it had no reasonable prospect of succeeding and has failed to consider a revised planning application to meet the objections raised. I therefore conclude that, although I have found no unreasonable behaviour in relation to the procedural matters raised, the appeal has nevertheless been unnecessary and the appellant’s behaviour has been unreasonable. Thus, the Council’s costs in defending the appeal were unnecessarily incurred. For the reasons given, the application for a full award of costs is justified.

Costs Order

9. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Mr Patrick Seed, Evoke Homes shall pay to Warrington Borough Council, the costs of the appeal proceedings such costs to be assessed in the Senior Courts Costs Office if not agreed. The proceedings concerned an appeal more particularly described in the heading of this decision. The applicant is now invited to submit to Patrick Seed, Evoke Homes, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

Elaine Worthington

INSPECTOR
Appeal Decision

Site visit made on 10 April 2015

by Keith Manning  BSc (Hons) BTP MRPI
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 01 May 2015

Appeal Ref: APP/M0655/W/14/3001775
Fit In, Unit 2, Cronton Cottages, Warrington Road, Penketh, Warrington WA5 2JW

- 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 Gavin Moran against the decision of Warrington Borough Council.
- The application Ref 2014/23404, dated 7 March 2014, was refused by notice dated 9 July 2014.
- The development proposed is change of use of 1st Floor Unit from D2 Fitness Club to D1 Dental Use.

Procedural Matters

1. The Council has confirmed that its new parking standards, anticipated in its statement of case to be adopted on 23 March 2015, were adopted without relevant modification as planned.¹

2. On 25 March 2015, the following advice, to be read alongside paragraph 39 of the National Planning Policy Framework ('the Framework') was included in a written statement to Parliament by the Secretary of State:

"Local planning authorities should only impose local parking standards for residential and non-residential development where there is a clear and compelling justification that it is necessary to manage their local road network”.

As this is a new material consideration, I afforded the parties an opportunity to comment on any implications for their respective cases. I have taken the comments received into account.

Decision

3. The appeal is allowed and planning permission is granted for change of use of 1st Floor Unit from D2 Fitness Club to D1 Dental Use at Fit In, Unit 2, Cronton Cottages, Warrington Road, Penketh, Warrington WA5 2JW in accordance with the terms of the application, Ref 2014/23404, dated 7 March 2014, subject to the conditions set out in the annex hereto.

¹ Email: Andrew McGlone to PINS 10 April 2015 @ 09:12
Main Issues

4. The main issues, having regard to the level of parking provision proposed, are as follows:
   - the effect of the proposed development on highway safety; and
   - the effect of the proposed development on the living conditions of nearby residents

Reasons

Background

5. The appeal site is the upper floor of a modern two-storey building, known as “Cronton Cottages”, constructed to accommodate retail use on the ground floor and offices above. A change of use of the first floor was granted from Use Class B1 offices to D2 fitness club (gymnasium) on 10 February 2009. That use has now ceased and the unit is vacant. The retail unit on the ground floor is occupied by a Tesco Express store.

6. The unit is located in the Penketh local centre alongside Warrington Road, a main thoroughfare. This is a dual carriageway at this point. Other businesses in the centre, in addition to Tesco, include takeaways and a barber’s shop. A parking lay-by off Warrington Road, immediately west of Cronton Cottages, is arranged so as to facilitate access onto Clifford Road or back onto Warrington Road. It is capable of comfortably accommodating around half a dozen vehicles at any one time, possibly more. Shortly after entering Clifford Road, a right turn enables motorists to access Lyons Road. Access to Grange Drive is to the east of the local centre. Parking is, in the main, unrestricted on these residential roads.

7. The access to the parking area behind and to the side of Cronton Cottages is immediately to the east of the building and is left in left out only. Vehicular access to the residential properties 3 and 4 Cronton Cottages is off the access to the parking area and is signified by notices intended to prevent inconsiderate parking which has, apparently, been experienced when the fitness club was operating.

8. The existing ‘Heath Road’ dental practice is located opposite the appeal site on the north side of Warrington Road and the ‘Warrington Road’ practice is again on the far side of the road some distance to the west. Both practices are largely dependent on on-street parking, being conversions of residential property, although the latter may benefit from an adjacent public house car park. I have observed conditions in the vicinity of both.

9. The appellant’s intention is to merge the two practices in a single, modern, suite of rooms at the appeal site, with consequential advantages for the quality of service offered.

10. The current lease arrangements at Cronton Cottages are apparently to the effect that 4 of the spaces are formally allocated to the appeal site, i.e. the upper floor, with the balance being formally allocated to Tesco Express. This is plainly a matter between the tenants and their landlord as condition 4 of the original permission for the building\(^2\) simply states that...

\(^2\) Ref 2007/11164
commencement of use)... “the approved parking spaces shall be made available for use in accordance with the approved site plan. The car parking spaces shall be retained and made available for use at all times thereafter.” However, it is clear from the lease extract plan appended to the Council’s statement along with communication from the store manager that Tesco expects the lion’s share of the available spaces, including one disabled space, to be reserved for its use, although it is unclear whether or how, in practical terms, that would be enforced.

11. While the store manager’s communication\(^3\) indicates an expectation of 18 spaces for Tesco and 4 for the upper floor (exceeding the Council’s understanding of capacity\(^4\)) the lease extract (paragraph 5.4.2) sent to the Council by Tesco in February 2015\(^5\) indicates that the landlord is obliged to......

“ensure that at all times the 15 spaces measuring 2.4 by 4.8 metres within the Car Park are available for use by the Tenant its customers, employees and workmen and to keep the Car Park in good and proper repair clean and properly lit at all times.” Theoretically at least, it appears that the proposed dental practice could be denied the use of most of the car park.

12. Relevant policy includes the Framework at national level and policy QE 6 of the Local Plan Core Strategy (LPCS), adopted on 21 July 2014. The currency of policy QE 6 is not affected by the partial quashing of the LPCS as a result of a recent High Court ruling, whilst the policies of the former Warrington Unitary Development Plan referred to in the Council’s decision notice have been superseded and can be accorded no weight.

13. Policy QE 6 of the LPCS embodies development management criteria including protection of residents from noise and disturbance and the effects of car parking, including on highway safety. Self-evidently, this policy is broadly consistent with the Framework, which was published in 2012, the LPCS having been subsequently subject to independent examination. It carries the full weight of the development plan.

14. The Council’s Supplementary Planning Document (SPD) *Standards for Parking in New Development* is intended to supplement LPCS policy QE6, amongst others. It has been adopted following public consultation and may be accorded significant weight, albeit not the weight accorded to the development plan itself. The intentions behind the Secretary of State’s more recent statement are of course material and while it is not for me to consider whether the deployment of the standards in the borough as a whole is justified in that context, it seems to me that the application of those standards in any particular case, including this one, falls to be considered on its merits in the light of those intentions.

15. In any event, the Council itself has indicated that deviation from the standards will be considered on the merits of the case and site circumstances in the light of evidence provided by the developer.\(^6\) Paragraph 5.5 of the Parking Standards background Report conveys a similar message.

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\(^3\) In Appendix D to Council’s statement  
\(^4\) Memorandum from Maria Barry to Jason Lewis dated 26 June 2014 refers to 20 spaces in total  
\(^5\) Email: Stephen Judson to Andrew Burrows 02 February 2015 @14:21  
\(^6\) Email: Andrew McGlone to Team P16 (PINS) 14 April 2015 @ 16:06
Highway safety

16. I have considered very carefully the evidence presented by both parties and it seems to me that the starting point in a practical sense is that the Cronton Cottages commercial building already exists and that its upper floor has an authorised D2 use, previously manifest in its use as a gymnasium or fitness club. It could lawfully be occupied by any one of the range of uses falling within the D2 Use Class. It is most improbable that the landlord would maintain Unit 2 in a vacant condition. Therefore the prospect of an alternative, lawful, D2 use, or indeed another fitness club is a form of ‘fallback’ to which some weight may be accorded. This is the fact of the matter irrespective of whether or not the terms of Tesco’s lease regarding assigned parking spaces are rigorously enforced.

17. That said, however, there is no dispute that the 4 spaces currently allocated to Unit 2 are nowhere near the number that would have been permitted under the previous maximum standards applicable to D1 uses or the increased quantity aimed for by the newly adopted standards, in total a maximum of 34 spaces according to paragraph 7.6 of the Council’s statement. It would appear from the Council’s newly adopted standards for D2 uses (Row ID 26) that the aim for such a use would be, at one space per 23 square metres, provision of around half that number. In the event that the privately controlled allocation of spaces to Tesco was to be rigorously enforced, this would also represent a substantial shortfall relative to the new standards, albeit not of the same magnitude as for the D1 use now proposed.

18. Be that as it may, it appears from my observations when visiting the site that that established practice is likely to include linked trips combining a visit to the Tesco store with one or other of the various businesses within the local centre, the cash machine outside the store and trips which may not include a visit to Tesco at all. It seems that visitors to the local centre generally will either park in the car park, or the lay-by, or on nearby streets as they prefer. Moreover, the appellant’s detailed analysis of the extant use relative to demand and parking does withstand scrutiny, as do tables 1, 2 and 3 which respectively analyse walking distances/times from adjacent streets, and the parking capacities thereof on a Fridays and Saturday. In fact, the overall thrust of the detailed analyses previously prepared by the appellant’s transport consultants accords with my impression of the site and its surroundings at the time of my visit.

19. This was late morning on a Friday (albeit during the school holidays) and there were no more than 3 or 4 cars in the car park and no more than 5 in the lay-by at any one time, frequently less. Moreover, the three nearest residential roads were under little if any pressure from on-street parking. This is unusual in my experience in an urban area, even near essentially local centres which are adjacent to suburban housing with driveway parking and garaging, which is the situation here.

20. The nature of the actual use proposed should also be taken into account in a practical fashion. Most dental patients are regular but relatively infrequent visitors to their practice, and while I accept the Council’s evidence-based
contention\textsuperscript{9} that most will come by car notwithstanding the accessibility of the site to other transport modes, I would therefore anticipate they would adjust their parking habits according to their origin and any subsequent destination and their personal preference and experience of the site, walking as necessary the short distance from on-street parking opportunities if chosen. Some trips might be undertaken for family appointments as the appellant observes, thereby reducing the number of trips and parking demand associated with appointments. I do not anticipate dental patients would generally be inclined to park hurriedly or inconsiderately as might occur, for example, when people are collecting a pre-ordered takeaway meal. They might combine the trip with a visit to the convenience store and use the car park for that purpose, or they might choose to park further away on-street.

21. In either eventuality, I am not persuaded in the circumstances that highway safety would be significantly compromised by the proposed development even though significant parking might take place off-site. On-street parking is not inherently unsafe and the lack of pressure and on-street parking congestion in this area lends weight to the proposition that, in this instance, the proposed development would not give rise to highway safety issues or have a detrimental effect on the free flow of the local highway network. The lack of parking stress in the nearby streets is notable and I am of the view that Clifford Road and Lyons Road, which are both capacious and convenient, are most likely to attract those with local knowledge, such as dental patients. Moreover, there is no cogent evidence to suggest that dental patients or other users of the centre are likely to routinely park unacceptably close to the junctions of the site access, lay-by or side roads with the A562 Warrington Road.

22. For the above reasons, notwithstanding the acknowledged failure to comply with the Council’s newly adopted generic standards, I do not consider the proposal would lead to unacceptable conflict with the intentions of Policy QE 6 of the LPCS regarding highway safety.

\textit{Living conditions}

23. Bearing in mind the measured and observed capacity of nearby residential streets to accommodate on-street parking, to which I have already referred, I remain unconvinced by the Council’s proposition that residential amenity would be adversely affected to an unacceptable degree. On-street parking of varying duration is nationally ubiquitous on residential streets where there are no parking restrictions, quite apart from being entirely legal. Indeed, it represents efficient use of shared public space, including near centres of activity. It is only restricted or reserved for local residents where pressure for it gives rise to demonstrable problems, which is not the case here.

24. There will of course always be instances of inconsiderate parking or behaviour but, in the main, I would not anticipate local dental patients to be inclined to disregard the normal standards expected of people. At paragraph 10.3 of its evidence the Council lists a number of adverse consequences which could potentially be experienced by local residents. Of course, all are possibilities, but there is no substantial evidence to suggest that they would occur to an extent which would exceed normal expectations, thereby significantly harming accepted standards of residential amenity on public streets.

\textsuperscript{9} Section 4 of the Council’s statement
25. For the above reasons, notwithstanding the acknowledged failure to comply with the Council’s newly adopted generic standards, I do not consider the proposal would lead to unacceptable conflict with the intentions of Policy QE 6 of the LPCS regarding the living conditions of residential occupiers in the vicinity of the site.

Other considerations

26. Policy QE 6 contains a further criterion potentially relevant in this case, namely the scope for and effect of change within the proposed Use Class. However, the considerations outlined above would by and large apply to any of the range of uses embraced by Class D1 and I therefore do not foresee significant conflict with its intentions in that regard.

27. The parking standards in the adopted SPD are essentially guidance to supplement adopted development plan policy and failure to comply does not automatically lead to unacceptable conflict with the intentions of the development plan. For the reasons given, I do not consider there would be such conflict in this case. Nevertheless, the adoption of the standards does impose an evidential burden on developers to demonstrate why non-compliance with the guidelines in a material supplement to adopted development plan policy would be acceptable in any particular case.

28. In this case, the appellant has discharged that burden with detailed, credible and logical evidence, leading me to my conclusion that there would be no conflict with the intentions of the development plan itself. Moreover, it is material that the recent amplification of national policy regarding the imposition of parking standards through the medium of the Framework and the ministerial statement referred to above places an evidential burden on local planning authorities to demonstrate why specific local standards should be imposed. Whatever the position is for the borough as a whole, it seems to me that the circumstances of the appeal site, for the reasons I have given, merit an exception to the generic requirement in any event.

29. There are further material considerations in favour of such an exception, notably the limited opportunity to improve the dental services locally available through the achievement of better critical mass in modern premises, a consideration which reflects the twelfth listed core principle of planning set out in paragraph 17 of the Framework. Moreover, it would make beneficial use of vacant premises in a local centre in a relatively controlled fashion, bearing in mind the Council’s suggested conditions concerning a travel plan, considered below. It is doubtful in my opinion, albeit not beyond the bounds of possibility, that the vacated premises currently used by the existing dental practices to be merged would be occupied by other dental practices or D1 uses. If they were, it is likely that there would be no net reduction in the overall demand for on-street parking in their vicinity. Whilst alternative uses less prone to generating on-street parking could ultimately occupy them, I place very limited weight on that potential benefit as it is essentially a matter of conjecture. Moreover, the Warrington Road site is at some distance, while the Heath Road site is on the far side of the main road, which creates significant separation from the local centre and any improvement from that source would be of limited effect therein.

30. The Council’s suggested conditions include the necessary standard types to define and time limit any permission granted, albeit a requirement to simply
accord with the submitted highway statements is inherently imprecise and therefore inappropriate. They also include a suggested restriction on the hours of operation, which is not disputed by the appellant and which coincides with the working hours proposed in the application in any event. I consider this suggested condition to be necessary because, notwithstanding my overall conclusions in respect of on-street parking, I consider that reliance on this at night-time and on Sundays and Bank Holidays would have the potential to adversely affect normal expectations of residential amenity, contrary to development plan intentions. As far as emergencies are concerned, I would not consider it necessary to cater for those specifically by reference to them within such a condition, as the potentially harmful environmental consequences of occasionally using the premises for such purposes would be negligible in the case of a dental practice.

31. The Council also suggests a condition requiring a travel plan, something which has previously been offered by the appellant prior to the Council’s refusal. On balance, I consider this would be necessary, notwithstanding my conclusion that there would be no conflict with the development plan on the basis of the specific merits and circumstances of the appeal site and my reasonable expectations of how car-borne users of the practice would conduct themselves. It remains the case, and is a material consideration, that the Council’s most recently adopted generic standards would not be complied with and there is also a possibility that the lease arrangements in favour of Tesco’s majority use of the car park could be strictly enforced, albeit this is largely a matter between the landlord and both tenants. It seems to me that a travel plan would potentially assist in the management of that relationship and would, inter alia, encourage sustainable travel choices, encourage and reinforce responsible behaviour by car-borne patients, and address staff travel and parking choices in the context of their anticipated working patterns. It could also be instrumental in the encouragement of linked trips to the local centre. The details are not a matter for me but would properly be resolved between the appellant, his landlord, any other relevant parties and the Council. Subject to changes to achieve more precision and other improvements, the condition proposed by the Council is, in general terms, appropriate.

Conclusion

32. Paragraph 14 of the Framework is to the effect that the presumption in favour of sustainable development means that, unless material considerations indicate otherwise, proposals that accord with the development plan should be approved without delay. For the reasons given, and having taken all other matters raised into account, I conclude that, subject to the conditions I intend to impose, the proposed change of use at issue would not conflict with the intentions of the development plan and that there are no material considerations which indicate it should be refused. On that basis, the appeal should succeed.

Keith Manning
Inspector
Annex: Schedule of Conditions

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: Penk.01, Penk.02 and Penk.03

3) The use hereby permitted shall not be open to patients outside the following times: 08:30 – 20:00 Mondays to Fridays; 09:00 – 17:00 on Saturdays. It shall not be open to patients at any time on Sundays or Bank Holidays.

4) The use hereby permitted shall not be commenced until a Travel Plan has been submitted to and approved in writing by the local planning authority. The objects of the travel plan shall include the management of car use and on-site parking and the encouragement of decreases in car use for travel to and from the premises by means of a strategy to secure such decreases together with increases in the use of car sharing, public transport use, cycling and walking. The Travel Plan shall include:-
   a) A plan period;
   b) Relevant surveys, reviews, targets, measures to be adopted, mechanisms to implement such measures, timescales, phasing and monitoring mechanisms; and
   c) Details of how the Travel Plan shall be kept under annual review during the plan period to promote continuing achievement of its objects. These details shall include an annual monitoring report to be submitted to the Council on each anniversary of the first approval of the Travel Plan. The monitoring report shall set out:- i) details of progress in implementing the plan; ii) details of any enhancement or additional measures or other amendments to be implemented in the light of the monitoring report; and iii) details of how failure to implement measures in the Travel Plan are to be remedied.

Any enhancement, additions or remedies as referred to in ii) and iii) above shall have first been approved in writing by the local planning authority before being implemented and shall thereafter form part of the approved Travel Plan.

The measures contained within the approved Travel Plan shall be implemented within two months of the first occupation of the premises for the use hereby permitted unless a variation in respect of any particular measure or measures has first been approved in writing by the local planning authority. In the event of such variation the measure or measures in question shall be implemented in accordance with the relevant alternative timescale so approved.

* * *
<table>
<thead>
<tr>
<th>Item</th>
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<th>App number</th>
<th>App Location/Description</th>
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</table>
| 1    | 2    | 2014/24841 | **Land at Junction of Thewlis Street & Old Liverpool Road, Warrington, WA5 1AJ** Full Planning (Major) - Proposed construction of retail food store, restaurant with drive through facility with associated works and new access point.  

Approved as per report and subject to the amended and additional conditions in the update report (additional recommended materials condition not required as already recommended at condition 4) and subject to an amended condition 3 reading “The use hereby permitted shall not be open to customers except between the hours of:

- **Approved Lidl food retail store** 8.00am to 9.00pm Mondays to Saturdays and 10.00am to 5.00pm on Sundays
- **KFC restaurant** 7am to 11.00pm Mondays to Saturdays and 7am to 10.30pm on Sundays”                                                                                                                                                                                                                                                                                                                                                     | Approve        |
| 2    | 41   | 2015/25283 | **DIGGLE GREEN FARM, WILTON LANE, CULCHETH AND GLAZEBURY, WARRINGTON, WA3 4BD**  

Full Planning - Proposed importation of organic waste for open windrow composting involving an increase in throughput to a maximum of 75,000 tonnes per annum, an increase in the waste catchment area, reduction in working hours, and reduction in operating hours to those permitted under planning permission 2011/17821 and                                                                                                                                                                                                                                                      | Approve        |
replacement of existing portacabin/welfare buildings.

Refused contrary to the officer recommendation (including amended & additional conditions in the update report) for the following reasons:

The proposed development comprises inappropriate development in green belt and the totality of the harm to the green belt is not clearly outweighed by the benefits associated with the proposal. There are no very special circumstances in this case. The proposal therefore conflicts with Policy CS5 of the Local Plan Core Strategy and Chapter 9 of the NPPF.

The proposed development would constitute an intensification of a waste management use and an increase in the waste catchment area resulting in a significant increase in the amount of waste being imported to the site by motorised vehicles and from outside the Warrington Borough. The proposal therefore conflicts with policies MP8 and CS1 of the Local Plan Core Strategy and the National Planning Policy for Waste.

Appeal decisions – Noted
Item – 2014/24841 – Land at Thewlis Street/Old Liverpool Road, Warrington

Briefing note sent to Councillors

On behalf of Lidl Resolve Public Affairs submitted a briefing note to Councillors on 23rd June 2015. In summary it states:

- The proposal would offer improved retail choice in the locality
- The proposal would have environmental and economic regeneration benefits
- More car spaces (124 in total) are proposed relative to the original submission
- The proposal has a lot of public support (284 letters of support)
- The landscaping scheme has been approved relative to the original submission
- The applicant has engaged with the local community including residents, business leaders and Sankey Bridges Residents Association

Sequential Approach to Site Selection

In response to comments made by the Council’s retail consultant, and in order to provide additional support to comments made that land at Westbrook DC owned by Asda is not available, the applicant wrote to Asda on 22nd June 2015 asking them to confirm this in writing. A response has not been received from Asda. Officers consider that the applicant has done all that they can to demonstrate that this site is not available and hence the sequential approach to site selection has been satisfied in accordance with local and national planning policy requirements.

Amended Condition 2

This condition should now refer to the amended proposed site plan SCP/13335/D07 Rev B), amended soft landscaping plan 100 01 Rev B, additional Planting Plan ref: 100 02 Rev B and hard landscaping plan G92 Rev C.

Amended Condition 3

The applicant has requested an amendment to the opening hours for the food retail unit (Lidl) as follows:

- Lidl: 8am to 9pm on Monday to Saturdays and 10am to 5pm on Sundays

Officers consider this to be reasonable and accordingly it is proposed that the condition is amended to reflect the requested change. Environmental Protection and Highways colleagues have been consulted and no objection has been received in respect of the requested change.
The condition should now read:

The use hereby permitted shall not be open to customers except between the hours of:

Approved Lidl food retail store: 8am and 9pm on Mondays to Saturdays and 10am and 5pm on Sundays

Approved KFC restaurant: 7am-11:30pm on Monday to Sunday

Amended conditions 9, 10 & 13

Since the report was written an amended proposed site plan (SCP/13335/D07 Rev B) has been received following discussions with the Highway Engineer which amends the internal layout to improve pedestrian routes and parking layout. Members are asked to approve planning permission subject to amended conditions 9, 10 and 13 so that they refer to the amended plan and subject to a further amendment to condition 9 so that it also refers to motorcycle parking.

Amended Condition 7

A delivery management plan has been submitted to the LPA and the Highways Department are satisfied with it. Therefore condition 7 should be amended to read as follows:

The approved delivery management plan submitted by SCP and dated 15.6.15 shall be fully implemented at all times. Reason: In order that service vehicles can move within the site at ease and to accord with Policy QE6 of the Warrington Local Plan Core Strategy

Amended Condition 12

This condition should refer to drawing SCP/13335/ATRD07 rev A and not SCP/13335/ATRD06 Rev A

Additional condition requested by the Highway Engineer

No buildings hereby approved shall be constructed until a scheme to include a traffic regulation order on Old Liverpool Road has been submitted to and approved by the Local Planning Authority. The Traffic Regulation Order shall be fully implemented prior to first use/occupation of the buildings hereby approved. Reason: In the interests of highway safety and to accord with Policy QE7 of the Local Plan Core Strategy
Additional condition – materials

None of the building(s) hereby approved shall be constructed until written and photographic details (including manufacturer’s details) of the proposed external brick to be used on the external elevations of the buildings hereby approved has been submitted to the local planning authority for approval. Materials samples shall be made available to view on site and shall NOT be deposited with the Local Planning Authority. The development shall be constructed in accordance with the approved details/samples. Reason: In order to comply with Policy QE7 of the Warrington Core Strategy and the Warrington SPD: Design and Construction

Additional neighbour comments

An additional 4 objection letters have been received – all comments made are covered and addressed in the committee report

An additional 3 supportive letters have been received – all comments made are covered and addressed in the committee report
Item – 2015/25283  – Diggle Green Farm, Wilton Lane, Culcheth and Glazebury

Recommended additional conditions

It is recommended that condition no 14 is replaced by:

1) The cumulative total of waste input for the facility shall not exceed a maximum of 74,999 tonnes per annum, for a period up to 2 years and 6 months from the date of this permission. Thereafter, the maximum waste input shall not exceed 35,000 tonnes per annum.

Reason: A trial run is required in order to assess the impact of the development on the locality as there is the potential for significant odour impacts. The condition is required in order to comply with policy QE6 of the Core Strategy and the Environmental Protection SPD.

Additional Condition:

2) No delivery, or removal, of compost material by tractors associated with the development hereby approved shall be undertaken outside the hours:

Monday to Saturday 0700 to 1700

Reason: In order to restrict the movement of tractors associated with the composting process so as to protect the amenity of local residents, in accordance with policy QE6 of the Core Strategy.

It is proposed to alter proposed condition 13 to read as follows:

3) Prior to the commencement of the composting operations, an Odour Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Odour Management Plan shall reflect the Odour Management Plan agreed with the Environment Agency, but shall also include a mechanism for notifying the Environmental Protection Office, on a quarterly basis, a summary of records of all complaints recorded in the ‘site diary’ and corrective actions. In the event that more than 3 complaints are received by the applicant in any 7 day period, the Environmental Protection Office shall be notified. The development shall thereafter be carried out in accordance with the approved management plan.

Reason: In order to monitor any complaints (and corrective actions) being received by the site so that the impact on residential amenity can be monitored over the planning permission period in compliance with policy QE6 of the Core Strategy.

It is recommended that the wording of condition no7 is amended to omit one of the waste types which have been erroneously included.
A complete list of revised proposed conditions is included in appendix B.

**Justification for recommended additional conditions**

Since the officer report was written, further clarification has been sought from Environmental Protection (Appendix A – received 23rd June) on the potential for odour impacts. Whilst the Environment Agency raises no objections to the proposal, the requirements of the Environmental Permit (administered by the Environment Agency) are that emissions shall be free from odour at levels likely to cause pollution outside of the site. The Environment Agency and Permit Requirements do not consider impacts on amenity only ‘pollution impacts’ which would typically be considered as a significant impact on amenity rather than a lower level adverse impact on amenity.

As the application would increase the amount of waste being received at the site, the increase in tonnage as proposed would likely result in more handling and turning over an extended period of time due to more batches of compost being processed on the concrete pad. Even if the applicant takes all appropriate measures to comply with the Environmental Permit, then if adverse impacts on residential amenity are still occurring (but are not considered to be pollution incidents under the Permitting regime), then there is no further recourse available to the Council to take action.

The officer report acknowledges that the proposal to significantly increase the throughput of organic waste would result in the site being managed in a different way, and to that end the impacts on the environment and residential amenity are untested. Whilst the officer report discounts the option of a temporary permission due to “insufficient grounds”; following detailed comments from Environmental Protection which details the clear distinction between the role of the Local Planning Authority and the role of the Environment Agency in assessing potential odour impacts and the subsequent effect on residential amenity, and historic odour complaints at the site, it is considered necessary to recommend that planning permission be granted for a period of 2 years (at a maximum throughput of 74,999 tonnes, thereafter 35,000 tonnes maximum throughput) in order that the Local Planning Authority can assess the effect of the development proposed. Having regard to the requirements for the applicant to submit information to satisfy a number of pre-commencement conditions, it is considered acceptable to recommend that the trial run period comprise a total of two years and six months.

The recommended “trial run” is considered to comply with the National Planning Practice Guidance and is considered to meet the six tests in respect of planning conditions. It is acknowledged that the applicant does not consider that a temporary planning permission would make medium to long-term business planning possible. However, there is no evidence that the applicant has any long-term contracts with waste providers which would affect the business in the long-term. In any event, the applicant already has planning permission to process up to 35,000 tonnes of organic
waste and that would still apply as a fall-back position. It is the case that the Local Planning Authority can impose conditions which meet the necessary tests. Crucially, given the uncertainties and potential for significant impacts on residential amenity, arising as a result of odour from the composting operation which are not considered to be adequately controlled by the odour management plan or the Environment Agency, this approach is considered necessary in order to comply with the requirements of policy QE6 of the Core Strategy and the Environmental Protection SPD. A two year and six months trial run would enable the Council’s Environmental Protection Department to monitor activities on the site in respect of odour impacts from a residential amenity point of view.

The Environment Agency requires the applicant to submit returns each quarter in order to monitor compliance with Environmental Permits. In order to monitor the amount of waste being brought on the site relative to odour it is recommended that data is also submitted to the Local Planning Authority/Environmental Protection each quarter. This will assist in terms of assessing the trial run period. Similarly, details of any significant complaints received by the applicant should also be reported to the Council – and this is also part of the proposed condition 12 listed in Appendix B.

Based on the proposed temporary permission for 2 years and six months, the applicant would not be willing to enter into a legal agreement to relinquish planning permission 2011/17821.

The additional condition above (condition 17 in Appendix B) would allow the movement of tractors associated with the delivery of compost during a longer daytime period in order to give the applicant greater flexibility and allow them to try and plan movements avoiding daytime and school peak times. Planning permission 2011/17821 currently does not place any restrictions on the number or time of tractor movements.

Additional Representation

An additional objection has been received from a local resident.

The objection, summarised, states that “During the past two years or so the operator has been served with several planning contravention notices and the Authority’s Enforcement team were seriously considering enforcement action prior to the submission of the present application.

In an effort to firm up the conditions attached to the original planning consent (which were somewhat ambiguous) the applicant was encouraged to submit a new application for a moderate increase in throughput – in the event he applied to double the yearly tonnage.

Clearly such an increase will only exacerbate the three issues referred to above.
In the course of examining the application the case officer asked for observations from several bodies including the Authority’s Enforcement Team who have had to deal with the resident’s complaints and who have carried out detailed examinations of the operations, their advice included several suggested conditions to be attached to any consent including the following: -

“This planning application authorises the import, processing and treatment of green organic waste to form compost in the manner detailed in the application. No food wastes, animal by-products or effluent (including slurry or manure) whatsoever (whether treated or otherwise) shall be allowed to be brought onto the site for composting by virtue of this planning permission.

The total weight of green waste received onto the land shall not exceed 40,000 metric tonnes per calendar year. All waste shall pass over the weighbridge.

The compost produced by the recycling, processing and/or treatment of green waste imported onto the land shall only be spread on land within the applicant’s ownership or formal tenure. None of the compost produced shall be sold or given to any third party.”

It would appear that none of the above has been incorporated in the case officer’s report. The enforcement case officer viewed the submission of this application as an opportunity to allow the business to grow by a modest amount whilst reducing its adverse impact on surrounding neighbours by attaching robust, enforceable conditions to any consent. This opportunity will be lost if the application is approved in its present form.

It is my opinion that the current limit of 35,000 metric tonnes is more than adequate to meet the operator’s own needs as composted material from Diggle Green is also taken to other farms throughout the area…”

Officer response – The comments received from the enforcement officer were based on the enforcement history of the site and were made prior to the application undergoing any detailed consultation exercise. These comments were taken into account along with all the other responses received from consultees and interested parties, and the officer report comprises a recommendation based on the policies in the Core Strategy and other representations received.
TO: Development Management  FROM: Public Protection Services Manager 
   Environment & Public Protection 
CASE OFFICER: Mr Matthew Woodward  OFFICER: Mrs Joann Mullally  x2582 
CL SITE NO CL0001  DATE: 22 June 2015 
PLANNING REF: 2015/25283  MY REF: EP/178259 

SUBJECT: Full Planning - Proposed importation of organic waste for open windrow composting involving an increase in throughput to a maximum of 75,000 tonnes per annum, an increase in the waste catchment area, reduction in working hours, and reduction in operating hours to those permitted under planning permission 2011/17821 

Diggle Green Farm, 8 Wilton Lane, Warrington, Cheshire, WA3 4HT 

I wish to make the following comments for clarification.

**Pollution vs Impact on Amenity**

The Environment Agency Permit states that ‘emissions from the site shall be free from odour at levels likely to cause pollution outside the site, as perceived by an authorised officer of the Environment Agency, unless the operator has used appropriate measures, including, but not limited to, those specified in any approved
odour management plan, to prevent or where that is not practicable to minimise the odour’.

The Environmental Permit is specific that emissions shall be ‘free from odour at levels likely to cause pollution outside of the site’.

The Environment Agency and Permit Requirements are not considering impacts on amenity but consider ‘Pollution impacts’. Adverse impacts on amenity, as considered under Policy QE6, could exist around the site at levels that are significantly below what would constitute a ‘pollution impact’ under the Environmental Permit.

If all appropriate measures have been undertaken to comply with this permit requirement by the operator, then even if adverse impacts on amenity are still occurring (but are not considered to be pollution incidents under the permit system) despite being compliant with permit conditions, then there is no enforceable route for the Local Authority to take any action for adverse impacts on amenity.

**Materials Throughput**

The Environment Agency has stated ‘the site operates at a maximum capacity for much of the year and an increase in throughput would not increase waste at any one time.’ Whilst it is indicated, by the applicant, that the maximum operational capacity will not change, it is also alleged that the risk of odour generation will not change significantly, as these are taken into account through the Odour Management Plan.

When the approximate input and output tonnage are reviewed per quarter for 2014 and the proposed tonnage is compared, from the data provided by Wiser Environment (applicant’s agent), the tonnage increase per quarter can be seen to be a substantial increase throughout the year.
### Input Tonnage

<table>
<thead>
<tr>
<th></th>
<th>Q1 Jan – Mar</th>
<th>Q2 Apr – Jun</th>
<th>Q3 Jul – Sep</th>
<th>Q4 Oct – Dec</th>
<th>Total (Tonnes)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2014 Input.</td>
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<td>10,724</td>
<td>12,981</td>
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<td>34,825</td>
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<td>Proposed Input.</td>
<td>15,000</td>
<td>22,500</td>
<td>22,500</td>
<td>15,000</td>
<td>75,000</td>
</tr>
<tr>
<td>Proposed Increased Input to site.</td>
<td>+7,705</td>
<td>+11,776</td>
<td>+9,519</td>
<td>+11,175</td>
<td>+40,175</td>
</tr>
</tbody>
</table>

### Output Tonnage

<table>
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<tr>
<th></th>
<th>Q1 Jan – Mar</th>
<th>Q2 Apr – Jun</th>
<th>Q3 Jul – Sep</th>
<th>Q4 Oct – Dec</th>
<th>Total (Tonnes)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2014 Output.</td>
<td>3,210</td>
<td>4,719</td>
<td>5,711</td>
<td>1,683</td>
<td>15,323</td>
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<tr>
<td>Proposed Output.</td>
<td>6,600</td>
<td>9,900</td>
<td>9,900</td>
<td>6,600</td>
<td>33,000</td>
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<tr>
<td>Proposed Increased Output from present.</td>
<td>+3,390</td>
<td>+5,181</td>
<td>+4,189</td>
<td>+4,917</td>
<td>+17,677</td>
</tr>
</tbody>
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Whilst the site operation capacity (the maximum amount of material on site at any one time) is suggested as not changing, the proposed change in throughput is significant.

The EA quote that the site is running at full capacity for much of the year and is presently reaching a maximum input tonnage of 12,981 per quarter. The applicant/agent have suggested the site can support a tonnage of 22,500 over a quarter. This represents an increased input capacity of 9,519 tonnes (73% increase in current permitted input amount) in that busiest quarter.

On the basis of the applicants statement that the maximum operational capacity will not change and the EA statement that the site is already running at full capacity, then the figure of 12,981 tonnes in the July to September quarter extended through the rest of the year would only reach 51,924 tonnes which was a factor in our original recommendation for a 55,000 tonne limit. Equally in quarter 4 – October to December, the capacity of the site is predicted to increase from 3,825 tonnes currently to 15,000 tonnes as proposed – which is an increase of 392% over the existing use.
During each proposed quarter, the quantity of material brought onto site will be substantially greater than at present and therefore overall there will be more handling & turning operations over an extended period of time due to more batches of compost being processed through this period of time. All handling and processing operations are a time when an increased risk of odour emissions from site will exist. Certain weather conditions may affect odour generation.

**Conclusions**

It is my opinion that the risk of odour generation is likely to be greater as a result of this proposal that could adversely impact on residential amenity.

Whilst the operator has an odour management plan that has worked satisfactorily for a 35,000 tonne capacity and the Environment Agency have issued a permit for up to 74,999 tonnes, it remains unclear whether the operator can manage the proposed throughput on site without causing any additional or increased adverse impacts on residential amenity. There is a clear potential for adverse impacts on amenity to local residents arising from odour generation due to the increased volume. It is not possible to quantify the scale of this impact until the site operates at a higher throughput.

In order for the applicant to fully demonstrate that their odour management plan can adequately control impact on residential amenity for 74,999 tonnes of material, they must be given an opportunity to operate at this higher throughput. Therefore, we have requested that consideration been given to imposing a temporary consent to allow an assessment of these impacts on amenity to occur over a trial period where the site is consented to operate above their currently permitted planning input tonnage.

Mrs Joann Mullally

Environmental Protection
Appendix B – Revised proposed conditions

1. The development hereby approved shall be commenced before the expiration of three years from the date of this permission.

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

2. The development shall be carried out in accordance with the following documents:

   (a) The planning application forms, design and access statement and additional information received by Warrington Borough Council.
   (b) Submitted drawing No's K186.1~20~003 Office/Site welfare building location plan, K186.1~20~004 Site Location Plan, K186.1~20~005 Catchment area plan, 130912JC Site Survey.

Reason: for the avoidance of doubt and to enable Warrington Borough Council to adequately control the development and to minimise its impact on the amenities of the local area and to conform with Policy QE7 of the Warrington Core Strategy.

3. No delivery, or removal, of waste or compost material by Heavy Goods Vehicles (vehicles with a 3500kg design gross weight) shall be undertaken outside the hours:
   Monday to Friday 0900 to 1700
   Saturday 0700 to 1600.

Deliveries of waste shall not take place on Sundays or Bank Holidays except to provide the facility to receive waste from the Civic Amenity sites within the boroughs of Warrington and Wigan. The Local Planning Authority shall be made aware of such requests within 48 hours of deposit and provided with details of sources, movements and volumes.

Reason: In order to restrict the movement of HGV’s associated with the composting process so as to protect the amenity of local residents, in accordance with policy QE6 of the Core Strategy.

4. No development shall take place until a Lorry Routeing Plan, detailing the routeing of HGVs (excluding tractors) to and from the site, has been submitted to and approved in writing by the Local Planning Authority. The plan shall identify the arrangements for:

   i) monitoring of the approved arrangements;
ii) ensuring that all drivers of vehicles under the control of the applicant are made aware of the approved arrangements, and;
iii) the disciplinary steps that will be exercised in the event of default.

The approved plan shall be implemented for the duration of the development hereby permitted.

Reason: In the interests of highway safety and residential amenity to ensure that the disturbance to local residents from HGV's is minimised, in accordance with policies MP1 and QE6 of the Core Strategy.

5. The total number of Heavy Good Vehicles (excluding tractors) associated with the delivery or removal of waste shall not exceed the following limit: 40 movements (20 in and 20 out) per day (Monday to Saturday). (A heavy goods vehicle is a vehicle over 3500kg design gross weight).

Reason: In order to ensure the number of vehicles entering and leaving the site is strictly limited in the interest of highway safety and residential amenity, and in accordance with policies MP1 and QE6 of the Core Strategy.

6. The total number of tractor and trailer movements associated with the development hereby permitted shall not exceed 200 movements (100 in and 100 out) per week.

Reason: In the interest of highway safety and residential amenity, and in accordance with policies MP1 and QE6 of the Core Strategy.

7. The site shall only accept organic the following waste codes for the composting operation as defined in the European Waste Catalogue:

19.05.03
19.12.12
20.02.01
20.03.02
02.03.04
and 02.01.06

Reason: The application has been assessed on the basis of specific waste types being processed on the site which reflects the applicant's current and proposed composting operation. The condition is required in order to protect residential amenity in accordance with policy QE6 of the Core Strategy.
8. Heavy Goods Vehicles and/or tractors delivering waste to or removing waste/compost from the site shall be fully covered by sheeting or otherwise fully contained as may be appropriate to the material.

Reason: In order to ensure that odours associated with the site are contained and do not affect the amenities of the locality and in the interests of highway safety. The condition satisfies policies QE6 and MP1 of the Core Strategy.

9. A record shall be kept of Heavy Goods Vehicles delivering, or removing waste, and tractors and trailers distributing compost product, and shall include such detail as is required for the Local Planning Authority to monitor the vehicle numbers, and the times that they enter / leave the site. The record shall be made available for inspection by the Local Planning Authority upon reasonable request.

Reasons: In order that compliance with planning conditions can be monitored in the interests of highway safety and residential amenity and in accordance with policies QE6 and MP1 of the Core Strategy.

10. The windrows, waste piles and compost piles on the concrete pad be constructed to a height no greater than the landscaping bunds which enclose the operational area.

Reason: In order to reduce the impact on the openness of the Green Belt in accordance with policies QE7 of the Core Strategy and the NPPF.

11. All waste materials to be composted at the site shall be sourced from within a 50km radius of the site and in accordance with submitted plan no K186. 1-20-005. Records will be kept sufficient to demonstrate compliance with the catchment area requirement. The record shall be made available for inspection by the Local Planning Authority upon reasonable request.

Reason: In the interests of clarity and in order to ensure the development represents a sustainable form of waste management in accordance with MP8 of the Core Strategy.

12. Prior to the commencement of the composting operations, an Odour Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Odour Management Plan shall reflect the Odour Management Plan agreed with the Environment Agency, but shall also include a mechanism for notifying the Environmental Protection Office, on a quarterly basis, a summary of records of all complaints recorded in the ‘site diary’ including investigations and corrective actions. In the event that 3 or more complaints are received by the applicant in any 7 day period, the Environmental
Protection Office shall be notified, within 24 hours. The development shall thereafter be carried out in accordance with the approved management plan.

Reason: In order to ensure that an Odour Management Plan is applied to the site to reduce potential odour impacts and to detail any mitigation and remedial measures in the event that excess odour is emitted from the site in accordance with policy QE6 of the Core Strategy.

13. The cumulative total of waste input for the facility shall not exceed a maximum of 74,999 tonnes per annum, for a period up to 2 years and 6 months from the date of this permission. Thereafter, the maximum waste input shall not exceed 35,000 tonnes per annum.

Reason: A trial run is required in order to assess the impact of the development on the locality as there is the potential for significant odour impacts. The condition is required in order to comply with policy QE6 of the Core Strategy and the Environmental Protection SPD.

14. Prior to the removal of the existing portacabins, details of materials to be used, floor plans and elevations relating to the proposed office and welfare building identified on K186.1~20~003 Office/Site welfare building location plan shall be submitted to the Local Planning Authority. The development shall be carried out in full accordance with the approved details.

Reason: In order to ensure that the office building has an acceptable appearance and protects the visual amenities of the locality in accordance with policies QE7 and CC2 of the Core Strategy.

15. Prior to the commencement of development, a scheme shall be submitted to the Local Planning Authority identifying the route, specification and timescale for implementation of a green way link footpath. The development shall be carried out in full accordance with the approved details.

Reason: In order to off-set the loss of the proposed green way link and in order to accord with policy QE3 of the Core Strategy.

16. There shall be no direct retail sales of compost from the site.

Reason: The application has been assessed on the basis of the proposed benefits arising from the composting of organic waste to produce a quality compost for use on the applicant’s farmland. The sale of compost from the site may undermine the sustainable credentials of the scheme. The condition is
required in order to ensure compliance with policies CC2 and CS1 of the Core Strategy.

17. No delivery, or removal from the site, of compost material by tractors associated with the development hereby approved shall be undertaken outside the hours: Monday to Saturday 0700 to 1700

Reason: In order to restrict the movement of tractors associated with the composting process so as to protect the amenity of local residents, in accordance with policy QE6 of the Core Strategy

**Informatives**

1. Condition no7 includes the following waste types:

   Permitted Waste Types – Interpretation of codes as of June 2015
   19.05.03 Off-specification compost
   19.12.12 Other wastes (including mixtures of materials) from mechanical treatment of wastes
   20.02.01 Garden and park wastes (including cemetery waste) - biodegradable waste
   20.03.02 Waste from markets
   02.03.04 Wastes from fruit, vegetables, cereals, edible oils, cocoa, coffee and tobacco preparation and processing; tobacco processing; conserve production materials unsuitable for consumption or processing
   02.01.06 Animal faeces, urine and manure (including spoiled straw), effluent, collected separately and treated off-site

2. The Local Planning Authority operates a pre-planning application advice service. All applicants are encouraged to engage with the Local Planning Authority at pre-planning application stage. As part of the determination of this planning application the Local Planning Authority has worked pro-actively and positively with the applicant ensuring that upon receipt all representations and consultation responses are available to view on the Council's web site. The Local Planning Authority has considered the application and where necessary considered either the imposition of planning conditions and/or sought reasonable amendments to the application in order to deliver a sustainable form of development in accordance with the National Planning Policy Framework.