



Ministry of Housing,
Communities &
Local Government

Colin Griffiths
Satnam Planning Services Ltd

Our Ref: APP/M0655/W/17/3178530

Mike Davies
Warrington Council

Julian Johnson
Warrington Council

24 October 2019

Sent by email

Dear Sirs

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL MADE BY SATNAM MILLENIUM LTD
LAND AT PEEL HALL, WARRINGTON WA2 9LH
APPLICATION REF: 2016/28492**

1. I refer to the Order issued by the High Court on 8 October 2019, quashing the decision of the Secretary of State contained in his letter dated 20 December 2018 in which he dismissed the above appeal and refused planning permission for the above proposal. The appeal now falls to be re-determined by the Secretary of State.
2. Rule 19 of the Town and Country Planning (Inquiries Procedure) (England) Rules 2000 requires the Secretary of State to send to persons entitled to appear at the inquiry, and who appeared at it, a written statement of the matters with respect to which further representations are invited for the purposes of his further consideration of the application.
3. Having regard to the Order of the High Court and the evidence available to the Secretary of State at present, he invites representations on:
 - a) any changes to the development plan since his decision was issued, such as the adoption of Local Plan policies, or a relevant Neighbourhood Plan coming into force;
 - b) the progress of the emerging Local Plan, including any relevant emerging Neighbourhood Plans;
 - c) any issues specific to the case, such as the current housing land supply position;
 - d) any other relevant changes since the decision, such as a change to national policy or any implications of a recent court judgment;

Jean Nowak, Decision Officer
Planning Casework Unit
Ministry of Housing, Communities and Local Government
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- e) Any material change in circumstances, fact or policy, that may have arisen since his decision of 20 December 2018 was issued and which the parties consider to be material to the Secretary of State's further consideration of this appeal.
4. You are now afforded the opportunity of submitting written representations to the Secretary of State in respect of the above matters. The Secretary of State considers that a period of three weeks to submit representations is reasonable in the circumstances of this case. You are therefore asked to submit any representations you wish to make no later than **14 November 2019** by email to PCC@communities.gov.uk. Please note that any replies received will be copied to other parties for their comment.
5. Alternatively, you have until **14 November 2019** in which you may ask for the inquiry to be re-opened. In deciding whether the inquiry should be re-opened, the Secretary of State will consider all views that may be expressed to him on this matter, but the decision is ultimately one for him.

Yours faithfully

Jean Nowak

Jean Nowak

Authorised by the Secretary of state to sign in that behalf

SATNAM PLANNING SERVICES

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Our Ref: 397SBCGWARR

Ms J Nowak
Decision Officer Planning Casework Unit Ministry of Housing
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by email: PCC@communities.gov.uk

14 November 2019

Dear Ms Nowak

Town and Country Planning Act 1990 – Section 78
Appeal made by Satnam Millennium Ltd
Land at Peel Hall, Warrington WA2 9LH
Application Ref: 2016/28492

Thank you for your letter dated 24 October 2019 addressed to the principal parties in this appeal (there are no Rule 6 participants).

With reference to paragraph 5 of your letter, we formally request that the inquiry be re-opened. We consider that this is necessary and appropriate for the reasons set out below.

We envisage that further evidence will need to be introduced by the main parties, and other active participants in the first inquiry, addressing a number of matters arising that fall within headings (b) to (e) that you set out in paragraph 3 of your letter, specifically:

- (b) *“the progress of the emerging Local Plan, including any relevant emerging Neighbourhood Plans”*

Since the Secretary of State’s now quashed decision letter dated 20 December 2019, the Council published in March 2019 its Regulation 18 *“proposed submission version”* of its local plan for consultation between 15 April and 17 June 2019.

The draft plan includes the appeal site as a proposed housing allocation, policy MD4, consistent in many aspects with the appeal proposals.

Issues to be considered by way of evidence, and cross-examination as necessary, at the re-opened inquiry will include:

- the weight to be placed on the draft plan;
- the weight to be placed on the proposed housing delivery strategy set out in the plan;
- the Council's approach taken in the draft plan in relation to proposed release of land elsewhere in the borough from the green belt and whether the scale of those releases would be required if the appeal proposals are allowed/ dismissed.

(c) *“any issues specific to the case, such as the current housing land supply position”*

Issues to be considered by way of evidence, and cross-examination as necessary, at the re-opened inquiry will include:

- the current housing land supply position and the weight to be attached to it.
- the Council's requirement to prepare a housing delivery action plan and the relevance of the council's failure to prepare an action plan to the Secretary of State's decision as to whether to allow this appeal.

(d) *“any other relevant changes since the decision, such as a change to national policy or any implications of a recent court judgment;*

Issues to be considered by way of evidence, and cross-examination as necessary, at the re-opened inquiry will include:

- the continued application of the tilted balance notwithstanding the High Court's ruling in *Paul Newman New Homes Ltd v Secretary of State for Housing Communities and Local Government & Anor* 2019 EWHC 2367 (Admin) (06 September 2019).

(e) *“Any material change in circumstances, fact or policy, that may have arisen since his decision of 20 December 2018 was issued and which the parties consider to be material to the Secretary of State's further consideration of this appeal.*

Since the Secretary of State's now quashed decision letter dated 20 December 2019, the appellant has:

- been progressing discussions with Homes England regarding the planning and technical aspects of the proposals and the commercial arrangements regarding their land included within the appeal proposals; and
- has signed a memorandum of understanding with the proposed bus provider which clarifies and confirms the arrangements for bus provision in relation to the appeal scheme.

The appellant will provide evidence as to those matters by way of evidence, and cross examination as necessary, at the reopened inquiry.

Significant further transportation analysis is now available, partly as a result of further outputs now available from the Council's own transport model which has been jointly instructed by the appellant and the council. This has involved extensive collaborative work with the council (and their retained consultants) since the Secretary of State's now quashed decision of 20 December 2019. The appellant will provide evidence as to those matters by way of evidence, and cross examination as necessary, at the reopened inquiry.

Significant further air quality analysis is now available, partly as a result of further outputs now available from the Council's own transport model which has been jointly instructed by the appellant and the council, and a revised agreed methodology (agreed between the council and the appellant). This has involved extensive collaborative work with the council since the Secretary of State's now quashed decision of 20 December 2018. The appellant will provide evidence as to those matters by way of evidence, and cross examination as necessary, at the reopened inquiry.

Given the passage of time since the appeal inquiry, which closed in August 2018, it will be prudent for the appellant to prepare a supplementary environmental statement, which will take into account any changes to anticipated highways, noise and /or air quality effects as a result of the further transportation analysis referred to above, as well as any other updates needed as result of additional surveys undertaken or changed circumstances.

These matters will all need to be addressed as appropriate in updated evidence and, given the extent to which, for example, transportation matters were previously contentious, we have no doubt that parties will reasonably wish to test any updated evidence by way of cross-examination. Significant agreement in terms of highways and Air Quality assessment is anticipated as a result of the joint collaborative working since the quashed decision letter dated 20 December 2018.

This is an appeal which has generated a significant level of third-party interest, with many objectors having attended and given evidence at the first inquiry. It would be unreasonable to expect matters to be re-considered in the context of the court order and any updated evidence, with the Secretary of State retaining an open mind as to his decision in relation to the redetermination, without the issues having been properly aired at a re-opened inquiry. A re-opened inquiry will give the parties and interested third parties an opportunity to test any updated evidence by way of cross-examination and statements of common ground. It would be unreasonable to expect the interested parties to make written submissions only as to the implications of the court order and the updated evidence.

This case was quashed on the basis that planning balance struck by the Secretary of State was flawed. Therefore a new planning balance in the light of the evidence in respect of the above is required to be made.

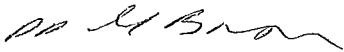
This appeal relates to a proposed development of significant scale (1,200 homes). The outcome of this appeal is important not only for the borough and its residents but for the appellant and its

longstanding aspirations to deliver housing at a scale which would materially assist in meeting the Council's local housing needs and minimise the need for unnecessary incursion into the green belt.

We have consulted with the Council and understand they will reply on or before 14 November directly to you.

For these reasons we ask that this appeal proceed by way of a re-opened inquiry.

Yours sincerely



Colin Griffiths BA (Hons) MRTPI
Managing Director
Email: colin@satnam.co.uk

cc Simon Rickets, Town Legal

Susan Brown

From: Susan Brown
Sent: 15 November 2019 11:05
To: Colin Griffiths
Subject: FW: APP/M0655/W/17/3178530 - Rule 19 Letter Peel Hall, Warrington
Attachments: APP/M0655/W/17/3178530 - Rule 19 Letter Peel Hall, Warrington; Ltr FTAO MS J NOWARK Decision Officer Planning Casework Unit Ministry of Housing RE APPEAL MADE BY SATNAM MILLENNIUM LTD LAND AT PEEL HALL WARRINGTON WA2 9LH APPLICATION REF 2016/28492

From: Jean Nowak <Jean.Nowak@communities.gov.uk>
Sent: 15 November 2019 10:55
To: Carney, Matthew <Matthew.Carney@warrington.gov.uk>; Susan Brown <Susan@satnam.co.uk>
Cc: Liz Hardy <Liz.Hardy@communities.gov.uk>; Marc Bernstein <Marc.Bernstein@communities.gov.uk>
Subject: FW: APP/M0655/W/17/3178530 - Rule 19 Letter Peel Hall, Warrington

Dear Sirs

I am writing to formally acknowledge receipt of the above responses to our Rule 19 letter and to invite both parties to submit any further comments by no later than Friday, 29 November. The Secretary of State will then proceed to decide whether to reopen the inquiry or to redetermine the case on the basis of the information already available to him.

Yours faithfully
Jean Nowak

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WARRINGTON
Borough Council

Director
Environment and Transport

New Town House
Buttermarket Street
Warrington
WA1 2NH

Our Ref: 2016/28492
Your Ref: APP/M0655/W/17/3178530

25 November 2019

Dear Ms Nowak

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL MADE BY SATNAM MILLENIUM LTD
LAND AT PEEL HALL, WARRINGTON WA2 9LH
APPLICATION REF: 2016/28492**

In response to your email of 15th November 2019 inviting both parties to submit any further comments no later than Friday, 29 November, the Council's comments are set out below.

It is noted that the letter of 14.11.19 from the appellant Satnam Millennium Ltd formally requests that the inquiry is re-opened.

With regard to Satnam's comments relating to point b) of the Casework Unit letter, the Council considers it is very clear that minimal weight should be attached to the Proposed Submission Version Local Plan (PSVLP) for the reasons set out in our letter of 14.11.19. The further matter raised in the 14th November letter from the appellant in relation to the borough's green belt release is not considered relevant to the appeal, this is a consideration for the Local Plan Examination in Public.

In relation to point c) the Council have provided an up-to-date housing land supply position in the response to the rule 19 letter. With regard to progress on the Council's housing delivery action plan the Council are currently finalising our Housing Delivery Test Action Plan and it will be published shortly.

At point d) the appellant refers to the continued application of the tilted balance. The Council considers that this issue has been fully assessed and does not consider that further evidence is required on this matter.

In relation to point e) the appellant sets out that '*significant further transport analysis is now available*' and '*significant further air quality analysis is now available*'. The Council does not agree with these statements in terms of the availability of this analysis.

As part of the current pre application discussions (ref PR/2019/04233) Satnam have agreed to use the Council's traffic model (WMMTM16) to consider the impact of their proposals on the network. The scope of the modelling was agreed with the Council and Satnam are now in receipt of the results of that modelling. However, the Council have not reviewed any results from the model or seen any indication from the appellant of how those results are to be interpreted (i.e. the analysis). This also remains the case for air quality analysis.

The Council considers that Satnam would need to use the results of the modelling (and the analysis) to create a new Transport Assessment (TA) identifying the impacts of their proposal. The Air Quality Analysis relies on the results of the modelling and the content of the TA.

The Council therefore does not accept the statement from the appellant that '*significant further transport analysis is now available*'. It is not available to the Council at this present time, but is being prepared and is unlikely to be available for a number of months. The Council are therefore unable to support Satnam's statement that '*significant agreement in terms of highways and Air Quality assessment is anticipated*' as the analysis is not yet available and therefore has not been provided to the Council.

The Council made clear in correspondence to PINS in relation to the previous inquiry postponement that the Council's view was that the appeal process is not there to facilitate the evolution of an application. The Council would again reiterate that the significant further transport analysis that Satnam are referencing should form the basis of a new application rather than new evidence as part of a re-opened public inquiry that would need to be delayed to allow time for this evidence to be prepared and finalised.

The Council would require at least 4 - 6 weeks to review the significant further transport analysis/ new TA once it is available together with the air quality analysis and a Supplementary Environmental Statement taking account of the new transport and noise and air quality analysis. This would also need to include the necessary publicity requirements and consultations.

If submission of significant additional information is accepted this could constitute a fundamental change to the originally submitted information. Given the time that has passed since the original submission and original notifications the Council considers that failure to fully consult on these details through an application process may deprive the wider public of the opportunity to make any representations. There

may now be further interested parties than those who were notified of the original application and the appeal.

The 14th November letter from the appellant refers to the significant level of third party interest and that a re-opened inquiry would give the interested third parties an opportunity to test any updated evidence and that it would be unreasonable to expect interested parties to make written submissions only. However the Council contends that the fairest and most transparent way forward for the assessment of the future analysis of the new information in relation to the main issues of transport and air quality would be through submission of a new planning application with third parties notified in the usual way.

Finally, the consideration of planning balance required in light of the High Court judgement in relation to this appeal should be on the basis of the matters before the SoS at this time, and the Council contends that these matters are satisfactorily covered in the Council's response to the Rule 19 letter dated 14.11.19.

The Council's view remains that it would not be appropriate to consider any further evidence or new evidence in respect of these main issues through the course of a re-opened public inquiry, and that the appropriate route for these matters to be assessed is through the submission of a revised planning application.

Yours sincerely,

M Hughes

Martha Hughes
Principal Planning Officer

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Our Ref:401SBCGWARR

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by email: PCC@communities.gov.uk

29 November 2019

Dear Ms Nowak

Town and Country Planning Act 1990 – Section 78
Appeal made by Satnam Millennium Ltd - Land at Peel Hall, Warrington WA2 9LH
Application Ref: 2016/28492

I refer to your email dated 15 November 2019.

In my letter to you dated 14 November 2019, I set out the basis on which we consider that the above inquiry should be reopened pursuant to rule 19 (1) (b) of the Town and Country Planning (Inquiries Procedure) (England) Regulations 2000.

I note also that section L12 of the Planning Inspectorate's Procedural Guidance in relation to Planning Appeals, last updated in August 2019, states this:

"L.12.4 Where the appeal was originally dealt with by an inquiry, it will probably be reopened. Where there have been significant changes in circumstances (e.g. new legislation or local or national policies) since the original inquiry or hearing the Inspector would normally allow further evidence to address these."

For the reasons set out in my letter, which addressed the issues that you set out in your letter dated 24 October 2019, it is difficult to conceive how the appeal could sensibly be redetermined without a reopened inquiry.

I have reviewed Warrington Borough Council's letter dated 14 November 2019 with my professional team. There is nothing in that letter which appears to contradict the factual position that I had set out and I particularly ask you to note the following:

- The Council's preference is for the issues arising in relation to the appeal to be dealt with "*through the submission of a revised planning application*". That is not a relevant consideration for you to take into account in deciding as to the appropriate procedural route for redetermination of this appeal.
- The Council appears to be under the misapprehension that the quashed decision letter and inspector's conclusions remain determinative of all matters save for those relevant to the two grounds upon which the decision letter was quashed. This is of course incorrect. The decision letter was quashed in its entirety, albeit upon two specific grounds. The decision now needs to be redetermined "de novo" (see e.g. Kingwood District Council v Secretary of State [1988] JPL 248).
- In any event, reconsideration of the overall planning balance on a lawful a basis (see ground 1) would be impossible, particularly in circumstances where a series of matters have moved on since the initial decision letter dated 20 December 2018, without the parties (including rule 6 party and other third parties) being able to bring forward new evidence, test evidence by way of cross-examination and make appropriate submissions in consequence of the up to date evidential position.

I do not comment on some of the detailed factual assertions in the council's letter, which will be a matter for evidence in due course.

I note that the Council agree that updated evidence is required as an integral part of any redetermination of the appeal.

The council has not explained in its letter how the appeal might in practice be redetermined by way of written representations, given the complexity of issues arising and wide extent of active third-party involvement to date.

I look forward to hearing from you.

Yours sincerely



Colin Griffiths BA (Hons) MRTPI
Managing Director
Email: colin@satnam.co.uk

cc Jean.Nowak@communities.gov.uk



Ministry of Housing,
Communities &
Local Government

Colin Griffiths
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Our Ref: APP/M0655/W/17/3178530

18 December 2019

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL MADE BY SATNAM MILLENIUM LTD
LAND AT PEEL HALL, WARRINGTON WA2 9LH
APPLICATION REF: 2016/28492**

1. Further to the Secretary of State's letter of 24 October 2019 on the above matter, he has given careful consideration to all the representations before him, on the basis of which he is of the view that in accordance with Rule 19(1)(c) of the Inquiry Procedure Rules he needs to reopen the inquiry to consider further the following matters.
2. The Secretary of State notes that around 18 months have now passed since the Inquiry was completed in July 2018. He considers that there may have been significant changes in circumstances since the inquiry which are material to the redetermination of the proposal. He also notes there are matters where there is disagreement between the parties, including the progress of the emerging Local Plan and the extent to which further transport analysis and further air quality analysis is available. He has also noted that there is disagreement about the need for a reconsideration of the overall planning balance. The Secretary of State considers that reopening the Inquiry would give all parties the opportunity to test any updated evidence and to explain any matters where there is disagreement, including by cross-examination if necessary.
3. The Secretary of State will also consider any other material change in circumstances, fact or policy, that may have arisen since his decision of 20 December 2018 and which the parties consider to be material to his further consideration of this appeal.

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4. The Planning Inspectorate will be writing shortly to relevant parties to make arrangements for the submission and circulation of the further evidence referred to above, and about the arrangements for reopening the inquiry.
5. The representations he has received in response are listed below and copies are available upon request:

14 November 2019	Satnam Planning Services Ltd
14 November 2019	Warrington Borough Council
25 November 2019	Warrington Borough Council
29 November 2019	Satnam Planning Services Ltd

6. I am copying this letter to Warrington Borough Council and to Paul Bennett at the Planning Inspectorate.

Yours faithfully

Jean Nowak

Jean Nowak
Authorised by the Secretary of State to sign in that behalf



The Planning Inspectorate

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Mr Colin Griffiths
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Your Ref:
Our Ref: APP/M0655/W/17/3178530

13 January 2020

Dear Mr Griffiths,

Town and Country Planning Act 1990
Appeal by Satnam Millennium Ltd
Site Address: Land at Peel Hall, Warrington, Cheshire, WA2 9TY

Following a High Court challenge to the Secretary of State's decision on this appeal the Court has ordered that the appeal be re-determined. This does not necessarily mean that the Secretary of State will reach a different overall decision.

I am the Case Officer dealing with the appeal. If you have any questions, please contact me.

As confirmed in the Secretary of State's letter of 18 December 2019 the inquiry will be reopened. This will be with a different Inspector. The Inspector/Secretary of State will consider any relevant evidence previously submitted, unless it is expressly superseded by its originator during this 'redetermination' process.

The Planning Inspectorate, on behalf of the Secretary of State, invites you to send further representations (including any statement of case and copies of any documents to which you intend to refer) relating to the following;

- Any significant changes in circumstances since the (original) inquiry which are material to the redetermination of the proposal.
- Any matters of disagreement between the parties, including the progress of the emerging Local Plan and the extent to which further transport analysis and further air quality analysis is available and any disagreement about the need for a reconsideration of the overall planning balance.
- Any other material change in circumstances, fact or policy, that may have arisen since the Secretary of State's decision of 20 December 2018 and which the parties consider to be material to his further consideration of this appeal.

Please let me have your representations within 21 days of the date of this letter. If I receive no representations or comments by that date, I will assume that you do not intend to make

any.

Please can you also discuss the potential inquiry duration with the LPA and provide an agreed estimate within this 21 day period.

I have sent a similar letter to the LPA.

Yours sincerely,

Helen Skinner

Helen Skinner

Where applicable, you can use the internet to submit documents, to see information and to check the progress of cases through GOV.UK. The address of the search page is - <https://www.gov.uk/appeal-planning-inspectorate>