



# MATTER 2 STATEMENT - METACRE

The Duty to Cooperate

Statement on behalf of Metacre / Northern Trust – Respondent 2347

JULY 2022

DOCUMENT REFERENCE: 2347/02



## 1 INTRODUCTION

- 1.1 The responses to questions supplement the representations already made. We do not seek to repeat matters but to draw through our position to the questions posed.
- 1.2 It is the objective of Metacre to see the adoption of a sound development plan for Warrington and it is our firm opinion that to do so the Council must reinstate the deleted housing allocation, formerly OS1 Phipps Lane, Burtonwood, which Metacre is landowner and promoter.
- 1.3 Separate responses on behalf of Metacre are submitted to Matters 3 The Spatial Strategy, 4 Housing Need and Housing Requirement and 8 Housing Land Supply. These are supplemented by response made by the Consortium of developers, including Metacre, made by Lichfields and Roger Hannah on its behalf.

## 2 RESPONSE TO THE INSPECTORS' QUESTIONS

### Housing needs, the housing requirement and overall housing provision

*Q1. Who has the Council engaged with in terms of housing needs, the housing requirement and housing provision and what form has this taken?*

*And*

*Q3. How have the issues of housing needs, the housing requirement and overall housing provision been addressed through co-operation? What are the specific outcomes for example in terms of statements of common ground?*

- 2.1 Metacre considers the matter of who the Council has engaged with to be satisfactory, it is the nature of the form of the engagement and conclusions it has drawn that is considered unsatisfactory, focusing specifically on the matter of housing provision at Burtonwood in line with the Council's spatial strategy for the plan.
- 2.2 Our Statement of Representations (UPSLVP 2347) sets out in full our strong concerns and objection to the manner and form of engagement between the Council and St Helens Council, and to a lesser extent with National Highways (ex-Highways England).



2.3 Since submission of our representations the Council issued in March 2022 an updated Statement of Common Ground, and then in April 2022 an Updated Duty to Cooperate Statement. The latter includes a record of one additional meeting between the Council and St Helens Council on 29<sup>th</sup> November 2021, following publication of the UPSVLP, the minutes stating;

*Agreed that strategic issues have been discussed and considered in relation to Burtonwood in the Borough of Warrington, and the proposed Bold Forest Garden Suburb development in St Helens.*

2.4 As with prior minuted actions this statement does not meet the standard of evidence required to demonstrate the duty to cooperate has been satisfactorily undertaken.

2.5 Firstly it is post decision on the removal of the allocation and does not demonstrate active consideration of the cross-boundary issue to inform the UPSVLP preparation prior to September 2021. Secondly, it actually implies it was only in November that a discussion on the matter was first held when contrasted to the minute of the 12<sup>th</sup> July 2021 meeting, (see UPSVLP 2374 Statement, para.3.16), reinforcing our submission that the cross-boundary issue was not a matter of concern to St Helens Council, (ibid, paras.3.13-3.15). Thirdly there is absolutely no detail or transparency on what those issues discussed and agreed were at this meeting. This last point is underlined by the Updated Statement of Common Ground (March 2022), para.4.43, which merely reiterates the concern but no agreement to take action, i.e. investigate the transport and highway matters of concern that underpins the decision to remove the former allocation.

2.6 We submitted relevant transport evidence, prepared by Curtins, to representations UPSVLP 2347 which fully addresses the concern and demonstrates there is no evidential basis to the Council's position (see UPSVLP 2347 Statement, para.3.23 onward, and Appendix 1). To the contrary, Curtins was able to review and assess in a matter of a month or so relevant, available evidence to both the St Helens and Warrington local plans to find that the concerns expressed by the Council have no foundation in evidence.

2.7 We have no idea if the Curtins evidence, then available to the Council, was discussed in November 2021 with St Helens. We assume not, but that again this demonstrates the lack of transparency in this matter or seemingly any genuine interest in the Council to actively concern itself with its self-identified cross-boundary issue. This can be contrasted with multiple other matters where discussions are recorded with significantly more rigour and clarity.



- 2.8 The same point arises in the engagement of the Council with National Highways, (formally Highways England), in that it does not record any discussion on the matter of transport matters relating to the Bold Garden Suburb, former OS1 Phipps Lane allocation and the strategy highway network. Given it is the cross-boundary nature of potential harm to strategic highways matters (in its view) this is surprising in omission. And there remains still unexplained the contradiction in the reasons for removal of the allocation given by the Council, see UPSLVP 2347 Statement paras.3.9 – 3.12.
- 2.9 We maintain that the Council has failed in obligations to positively prepare and justify its strategy per NPPF 25 and NPPG 61-015; that the minutes of meetings provided falls substantially short of a transparent approach to allow thorough testing at examination per NPPF 27 and NPPG 61-022 and as consequence the Council has failed in its duty to cooperate per Section 33A of the Planning & Compulsory Purchase Act 2004.

### Strategic housing and employment sites

*Q12. Are there cross boundary issues that arise from strategic allocations or planning permissions in neighbouring authorities and if so, how have these been dealt with through co-operation?*

- 2.10 The Council considers that there is a cross-boundary strategic related to the strategic allocation Bold Garden Suburb in the now adopted St Helens Local Plan and potential impact on Burtonwood, and any potential housing allocation leading to deletion of allocation OS1 Phipps Lane, Burtonwood.
- 2.11 We have submitted significant analysis of this evidence through our Statement UPSVLP 2347 and appended evidence, including the Transport Technical Note prepared by Curtins (Appendix 1).
- 2.12 The crux of our analysis is that the Council has not dealt with this cross-boundary analysis in an evidence led or transparent basis. We submit it is little more than cover for an internal political issue within the Council that the Deputy Leader is a ward councillor at Burtonwood and wanted any allocation for housing at Burtonwood removed (see UPSVLP 2347 Statement paras.3.41 – 3.47 and appended information).
- 2.13 As set out in answer to Q1 & Q3 above there is no demonstrable or transparent evidence of the issue at Burtonwood having been dealt with through cooperation other than two very limited minutes of meetings in July and November 2021. Only the July meeting pre-dates the UPSVLP release, but critically, we know from our meeting with officers some



18 months earlier in February 2020 that the political pressure was already being applied to remove the allocation, (see UPSVLP 2374 Statement para.3.44). An 18-month period elapsed before any recorded action of engagement with St Helens on this matter and as set out in our Submission, without commission or discussion of any evidence on the matter in that duration.

- 2.14 We consider the only conclusion that can be drawn is that this cross-boundary matter has fallen significantly below expected standards and fails to even muster a pretence at meeting legislative and regulatory requirements as a sound basis to justify the plan.

### Other strategic matters

*Q13. Taking each of the following in turn, what cross boundary issues are there and how have they been addressed through co-operation?*

*a) Green Belt alteration (within Warrington and elsewhere)*

- 2.15 Focused on Metacre's concern to the deleted allocation at Burtonwood it is important to note that at no point up to the 2019 PSVLP and allocation OS1 Phipps Lane being promoted was any objection raised by St Helens Council that there was as a cross-boundary issue relating to Burtonwood and/or Bold Garden Suburb. And no other relevant body / statutory consultee raised such concern either to the evidence base on Green Belt assessment, release and proposed allocation at Burtonwood in response to the spatial strategy being followed by the Council. In this regard we can conclude at 2019 cooperation was satisfactory and matters were addressed.
- 2.16 Post 2019 it is a different story, but rather than it being a matter of Green Belt alteration, evidence and proposed release, it is the Council's self-identified transportation issue that has led to removal of an allocation at Burtonwood. What we wish to record here is that should the Inspectors determine that the Council has failed in its duty to cooperate in the matter of Burtonwood and propose a modification to reinstate allocation OS1 Phipps Lane, it can do so with knowledge that the evidence base to the allocation remains extant and supportive on matters of Green Belt.
- 2.17 Metacre made representations, partly to draw the contrasting approach to evidence, on the proposed Fiddlers Ferry allocation and removal of land from the Green Belt. We do not propose to expand further on submissions made and those by the Consortium. Suffice to conclude that we do not consider the evidence presented in the UPSVLP to



sufficiently address the significant cross-boundary issues identified at Fiddler’s Ferry yet the Council concluded it was sound to progress the allocation. Contrast that to the circumstance at Burtonwood where there was a wealth of supporting evidence and less evidence of concern yet this was sufficiently serious in the Council’s view to remove an allocation. As we concluded before, a clear case of double standards for, what we say, is a nakedly political motivation.

*b) Transport infrastructure and mitigation*

2.18 Central to the deletion of allocation OS1 Phipps Lane is this reasons provided by the Council in its Statement of Common Ground, September 2021;

*‘4.33 WBC is particularly concerned about the potential impact on residents in Burtonwood, and as such, has now removed the Burtonwood residential allocation from its updated Proposed Submission Version Local Plan (2021). It is expected that the development of the site would be informed by a master plan exercise. This would consider (amongst other matters) any effects of the development on transport infrastructure in Warrington (including junction 8 of the M62), in liaison with Highways England.*

2.19 As set out in our Statement UPSVLP 2347, Section 3 and Transport Technical Note, prepared by Curtins as Appendix 1, there is no evidence to substantiate the statement.

2.20 There is no evidence that discussions were had contemporaneously with relevant consultees on this cross-boundary transport issue, i.e. Highways England or St Helens Council. And there is nothing to suggest since publication of the UPSLVP in September 2021 that any other action to prepare evidence to substantiate the issue has been undertaken. Only a limited recorded minute that the issue was agreed with St Helens Council in November 2021 and no minutes at any time of discussion with Highways England / National Highways.

2.21 We understand our submission is discrete and focused on Burtonwood, but the failure in the duty to cooperate in this issue, and failure to demonstrate a transparent, evidenced based process, goes to the heart of sound plan making.

2.22 Per the evidence of the Transport Technical Note prepared by Curtins, it is demonstrated that the alleged harm does not arise and that former allocation OS1 Phipps Lane should



be reinstated as a modification. Doing so will rectify a failure in the duty to cooperate which only arises from the wrongful action of the Council.

- 2.23 Related to the evidence, or lack thereof, it is the intention of Metacre to submit an outline planning application relating to allocation OS1 Phipps Lane, which will be made before the opening of the Examination hearings. We intend to seek agreement from Inspectors to make discrete additional submission or inclusion of relevant evidence arising from the application process into the Examination Library.

## Overall

*Q14. In overall terms has the Council engaged constructively, actively and on an ongoing basis in maximising the effectiveness of the preparation of the Local Plan?*

- 2.24 No.
- 2.25 Between March 2019 and September 2021, and continuing since, the Council has for political reasons we've set out in our Submission Statement, chosen to unilaterally remove evidence and support to its original allocation OS1 Phipps Lane, Burtonwood. It has done so without commission, review or publication in a transparent manner any evidence to substantiate and explain its actions. Its only reasoning is that given in its short statements to identify a cross-boundary issue on transport related to Bold Green Suburb and any housing in Burtonwood over the duration of the plan period.
- 2.26 These actions are the opposite of an engaged, constructive or active approach to preparation of the Local Plan. It leads not only to an ineffective plan in terms of providing housing in accordance with its spatial strategy, but it fails the community in Burtonwood to provide new housing opportunities in a settlement and area that has seen scant development for a decade.