

Cassidy+
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Architecture + Building Surveying + Town Planning

**Warrington Borough Local Plan
2021 – 2038
Examination**

Hearing Statement – Matter 13

ON BEHALF OF PATRICK PROPERTIES

04th August 2022

CASSIDY + ASHTON



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1.0 INTRODUCTION

1.1 This Statement is submitted on behalf of Patrick Properties, in advance of the hearing session on 5th October 2022, covering Matter 13 – Other Policies.

1.2 The relevant Submission Plan policies are as follows:

ENV2 – Flood Risk and Water Management

ENV3 – Safeguarding of Minerals Resources

ENV4 – Primary Extraction of Minerals

ENV5 – Energy Minerals

ENV6 – Restoration and Aftercare of Mineral and Waste Sites

ENV7 – Renewable and Low Carbon Energy Development

ENV8 – Environmental and Amenity Protection

1.3 With reference to document ID02 – Matters, Issues and Questions identified by the Inspectors; the key issue is as follows:

Issue: Whether the Local Plan is justified, effective and consistent with national policy in relation to waste management, flood risk and water management, minerals, energy and environmental and amenity protection.

The accompanying questions of relevance are set out below.

Flood risk and water management (ENV2)

Q5. What is the situation in terms of flood risk across the Borough and how has this informed the Spatial Strategy and the identification of Main Development Areas and site allocations?

Q6. Is Policy ENV2 justified, effective and consistent with national policy?

Minerals (ENV3 to ENV6)

Q7. Is the approach to the safeguarding of mineral resources in Policy ENV3 justified, effective and consistent with national policy?

Q8. To what extent are any of the Main Development Areas or site allocations affected by Mineral Safeguarding Areas and where they are how will this issue be addressed?

Renewable and low carbon energy development (ENV7)

Q13. What is the basis for the requirements for allocations and other major development proposals to meet 10% of energy needs from renewable and/or other low carbon energy

sources or to reduce carbon emissions by at least 10% when measured against Building Regulation (Part L)? How would it be implemented in practice?

Q14. *How has the effect on viability been taken into account and is the approach justified and consistent with national policy?*

Q15. *Is the approach to renewable and low carbon infrastructure justified and consistent with national policy?*

Environmental and amenity protection (ENV8)

Q18. *Is the approach towards air quality impacts on the Manchester Mosses SAC and potential mitigation justified and effective? How does the approach in Policy ENV8 link with the findings of the HRA?*

- 1.4 The Council has submitted the Local Plan to the Government for Examination, during which, amongst other matters, the Inspectors must be satisfied that the Local Plan is positively prepared, justified, effective and consistent with national policy – these being the tests of soundness. The purpose of these representations is to highlight the fact that we do not consider the Plan, as submitted, to meet the tests of soundness and what changes need to be made to rectify this position.
- 1.5 This hearing statement is specific to Matter 13, Policies ENV1 to ENV8 – separate hearing statements will be submitted in respect to other matters.
- 1.6 Patrick Properties are the promoters of land known as South Station Place, south of Birchwood railway station. The site is suitable for employment and infrastructure led development and detailed representations have been submitted to the Local Plan [UPSVLP 0436]. This statement does not directly promote the site but in the circumstances of the Local Plan being found unsound, the site is available together with the adjacent land being promoted by St Modwen [UPSVLP 1420].

2.0 SOUNDNESS

2.1 Soundness is explained in paragraph 35 of the National Planning Policy Framework (NPPF) (Jul. 2021). The Inspector has to be satisfied that the Plan is positively prepared, justified, effective and consistent with national policy.

2.2 Test 1 - Positively prepared

This means that the Plan should be prepared based on a strategy which, as a minimum, seeks to meet the area's objectively assessed needs, and is informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical to do so and is consistent with achieving sustainable development.

2.3 Test 2 - Justified

The Plan should be an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence.

It is presented that the information on which flood risk and minerals (peat) have been considered and assessed is outdated and does not account for historic land use and change. In our view, this does therefore not constitute proportionate evidence.

As such, due to the constrained evidence base, the Local Plan preparation has not been able to accurately consider submitted sites for allocation.

2.4 Test 3 - Effective

The Plan should be deliverable over the plan period and based on effective joint working on cross boundary strategic matters that have been dealt with rather than deferred, as evidenced by a statement of common ground.

In assessing whether the Local Plan is effective the Inspector will assess whether it is deliverable within the timescale set by the Local Plan. It is presented that inaccurate / outdated information may present deliverability issues.

2.5 Test 4 - Consistent with national policy

The Plan should enable the delivery of sustainable development in accordance with the policies in the NPPF and other statements of national planning policy, where relevant.

Outdated information presents a risk for the Borough's sustainable growth. Our view is that the plan is not consistent with the NPPF and will not facilitate the sustainable development of the Borough as a whole.

3.0 FLOOD RISK AND WATER MANAGEMENT

Q5. What is the situation in terms of flood risk across the Borough and how has this informed the Spatial Strategy and the identification of Main Development Areas and site allocations?

3.1 Policy ENV2 sets out the approach towards flood risk across the Borough, the crux of which is to focus development towards areas at the lowest risk of flooding. Pt. 5 of ENV2 states that:

The Council will only support development proposals where the risk of flooding has been fully assessed, understood and justified, with the implementation of appropriate mitigation measures where necessary.

3.2 Accordingly, the evidence base established in line with the Local Plan’s preparation has assessed submitted sites and their suitability for allocation, with flood risk forming a principal consideration.

3.3 Unfortunately, the South Station Place site was previously subject to out-of-date survey information with respect to flood risk, which was an identified constraint when considering the site as a potential allocation, early on in the plan making process. As evidenced within previous representations, with respect to flood risk, until recently, large parts of the site had formerly been identified as being within Flood Zones 2 and 3. However, as part of a modelling update, the Environment Agency removed large sections of this within the southern and western areas of the development site and reclassified it as Flood Zone 1, as shown on Fig. 1. This work is ongoing.

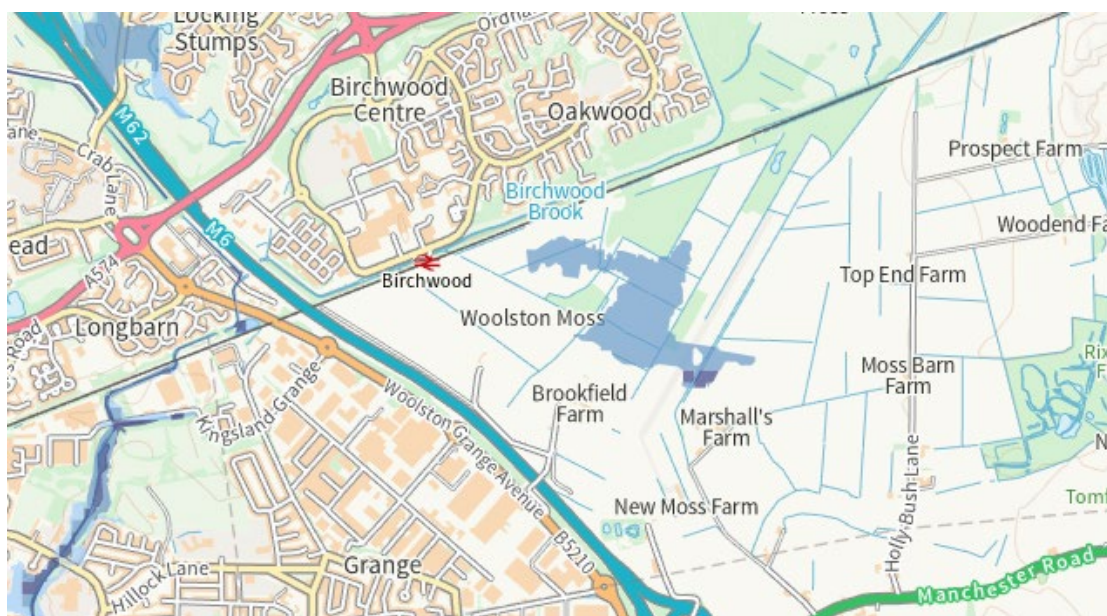


Fig.1 Flood Risk Map (Source: Environment Agency)

3.4 We note that, as evidenced within the Development Options and Site Assessment Technical Report 2021, the Council acknowledge this update by the Environment Agency and that this site is no longer within Flood Zone 3. However, by this stage, proposals within the local plan were well advanced and the major constraint would no doubt have had an impact upon site selection.

3.5 It is therefore presented that the evidence on which the Warrington Borough Council Strategic Flood Risk Assessment has been considered is out-of-date and therefore prejudices the integrity of the local plan and its decision making in the early stages of plan preparation with regard to site selection, especially given that flood risk would be a fundamental consideration.

Q6. Is Policy ENV2 justified, effective and consistent with national policy?

3.6 Broadly, the principle of Policy ENV2 is consistent with national policy in regard to flood risk. The position of which is set out in Paragraph 159 of the NPPF:

Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.

3.7 Notwithstanding this, the basis of considering sites suitability for allocation in the Local Plan in the context of Policy ENV2 is not consistent with national policy. This is on the basis that the consideration was initially based on outdated information, which does not constitute proportionate evidence (as set out above and referenced within Chapter 2). The Local Plan therefore fails the test of being *justified* and should be found unsound.

4.0 MINERALS

Q7. Is the approach to the safeguarding of mineral resources in Policy ENV3 justified, effective and consistent with national policy?

Q8. To what extent are any of the Main Development Areas or site allocations affected by Mineral Safeguarding Areas and where they are how will this issue be addressed?

4.1 Policies ENV3 – ENV6 refer to the safeguarding minerals across the Borough.

4.2 Mineral Safeguarding Areas are defined in the WBC Local Plan as follows:

An area designated by minerals planning authorities which covers known deposits of minerals which are desired to be kept safeguarded from unnecessary sterilisation by non-mineral development.

4.3 In principle, the approach towards safeguarding minerals is supported. This is consistent with national policy (NPPF Para 210) which declares:

Planning policies should ... safeguard mineral resources by defining Mineral Safeguarding Areas and adopt appropriate policies so that known locations of specific minerals resources of local and national importance are not sterilised by non-mineral development where this should be avoided (whilst not creating a presumption that the resources defined will be worked)

4.4 Notwithstanding this, in our view, the approach to defining the *Mineral Safeguarding Areas* under Policy ENV3 is not justified, being outdated, narrow and constrained in its consideration of site-specific factors (i.e. condition / value).

4.5 As such, in our view, the Peat Resources map included at Figure 16 of the Local Plan is not an accurate representation of peat deposit across the Borough, notably at the South Station Place site where recent survey work has been undertaken.

4.6 Similar to the approach taken to flood risk, it is considered that the South Station Place site has been subject to outdated survey information with narrow scope in respect to peat, which was an identified constraint when considering the site as a potential allocation.

4.7 The recent Ground Investigation works completed by E3P confirmed that the proposed development area at SSP is on the *periphery* of wider peat deposits. These recent surveys have identified the limited presence of peat on site, on the basis that considerable amounts were removed during the Second World War for use as fuel. Further to this, there is evidence that the peat has *dried out*, therefore being of a lower value. While the extent to which this occurred is difficult to map, there are clear lines of evidence within the subject site to suggest largescale removal has happened historically.

4.8 Pt. 3 of Policy ENV3 defines that planning permission will be granted for non-mineral development within a Mineral Safeguarding Area, as defined on the Policies Map, where it is demonstrated that there is no value or potential value (among other reasons). On the basis of the above (as evidenced within the ESP survey information) this value has since been found

to be *low* and as such the extent of the Mineral Safeguarding Area in respect to peat should be re-evaluated and revised on the Proposals Map.

- 4.9 Furthermore, the policy should acknowledge the opportunity that development may provide to incorporate peat restoration and protection of adjacent land in order to facilitate qualitative gain which will be of greater benefit rather than simply identifying land based upon historical records.
- 4.10 In order to be found sound, the Local Plan must therefore consider the wider factors and characteristics associated with mineral levels (notably peat), acknowledging up-to-date survey data and analysis, as opposed to simply relying upon broad ranging historical mapping that is clearly out of date.
- 4.11 The addendum letter prepared by E3P in **Appendix CA1** provides further detail on this matter.

5.0 RENEWABLE AND LOW CARBON ENERGY DEVELOPMENT

Q13. *What is the basis for the requirements for allocations and other major development proposals to meet 10% of energy needs from renewable and/or other low carbon energy sources or to reduce carbon emissions by at least 10% when measured against Building Regulation (Part L)? How would it be implemented in practice?*

Q14. *How has the effect on viability been taken into account and is the approach justified and consistent with national policy?*

Q15. *Is the approach to renewable and low carbon infrastructure justified and consistent with national policy?*

- 5.1 One of the core principles of the National Planning Policy Framework is to support the transition to a *low carbon future* in a changing climate and encourage the use of renewable and low carbon energy resources (Paragraph 152).
- 5.2 In accordance with the NPPF, Policy ENV7 sets a requirement to minimise carbon emissions. Part 4 of ENV7 states the requirements for major development (excluding strategic allocations) to meet at least 10% of their energy needs from renewable and/or other low carbon energy source(s). The option is also put forward for major development to reduce their carbon emission rates by at least 10% above the requirements of Part L of the Building Regulations at the time that an application is submitted. Acknowledging the wider characteristics of many commercial/employment schemes having low electricity demands, better suited to improve energy efficiency measures in the building fabric.
- 5.3 Although there is no specific reference to viability, this acknowledged flexibility from the Local Authority in line with the *nature of the development* does provide a *choice* to developers.
- 5.4 For strategic allocations in the Local Plan, ENV7 states that development should seek to reduce carbon emissions and maximise opportunities of decentralised energy systems that would use or generate renewable or other forms of low carbon energy. In these locations all development will be required to establish, or connect to an existing, decentralised energy network unless this is shown not to be feasible or viable. It is presented that this approach allows for viability implications, providing developers with wider opportunities for carbon reduction. This policy should acknowledge the role that enhancements to public transport can also play in carbon reduction.

6.0 ENVIRONMENTAL AND AMENITY PROTECTION

Q18. Is the approach towards air quality impacts on the Manchester Mosses SAC and potential mitigation justified and effective? How does the approach in Policy ENV8 link with the findings of the HRA?

6.1 Policy ENV8 with respect to protecting air quality impact on the Manchester Mosses SAC states that:

Any proposals that would result in increased traffic flows on the M62 past the Manchester Mosses SAC of more than 100 vehicles per day or 20 Heavy Goods Vehicles (HGVs) per day must devise a scheme-specific range of measures to reduce reliance on cars, reduce trip generation and promote ultra-low emission vehicles.

6.2 The Local Plan Habitats Regulations Assessment concludes that Policy ENV8 is positive, providing criteria for the protection of air quality, land quality, water quality, noise pollution and general amenity protection. As such, it is considered that the policy is not expected to pose a likely significant effect to European sites within and around the boundaries of Warrington Borough either alone or in combination with other plans and projects.

6.3 Notwithstanding this, it is clear that throughout the plan there should be more robust measures to encourage the use of sustainable transport modes and ensure that the appropriate infrastructure is implemented in order for the population to do so.

6.4 This is particularly important in line with the Climate Emergency declared by Warrington. However, in our view, the specific infrastructure projects / proposals set out in the Local Plan as it stands do not provide the framework to ensure this delivery and a move to sustainable transport across the Borough. Promoting this move to sustainable transport modes is vital in protecting air quality and the integrity of the Manchester Mosses, in addition to wider environmental assets.

6.5 Proposals should therefore prioritise sustainable modes of transport such as enhancements to public transport through improved access and park and ride facilities.

6.6 On this basis, our view is that Air Quality will not be suitably addressed without a more significant focus on public transport improvements through the Local Plan. As such, the Local Plan is not consistent with National Policy and the presumption in favour of sustainable development.

7.0 CONCLUSIONS

- 7.1 As submitted in the Proposed Submission Version Local Plan (2021), there is a focus for directing development away from areas at risk of flooding. Support is expressed for this approach, being consistent with national planning policy, however it is presented that the evidence base initially considered was out-of-date. As such, sites should be reassessed on the basis of the Environment Agency’s modelling update.
- 7.2 The Proposed Submission Version Local Plan (2021), in line with national planning policy, defines mineral safeguarding areas. Notwithstanding this, it is presented (as evidenced within Appendix CA1) that reliance upon historical records should also be supported by up-to-date survey information. Instead, wider site-specific characteristics should be considered around the value and condition of such minerals. Where this value is understood to have been degraded, wider opportunities for, specifically in this case, peatland restoration should be considered.
- 7.3 Ultimately, in addressing the Climate Emergency, it is essential that such considerations are informed by accurate and up-to-date information and place sustainable development at the heart of Warrington’s growth.

APPENDIX CA1 – E3P GEO-TECHNICAL ADDENDUM LETTER



E3P



www.e3p.co.uk

Manchester | London | Edinburgh

Ref: 14-761-L2 Rev 1
Date: 15th July 2022

Patrick Properties



Dear Sir/ Madam,

BIRCHWOOD STATION SOUTH, WARRINGTON GEOTECHNICAL ADDENDUM – PEAT SOILS

1.1. BACKGROUND

It is understood that Patrick Properties are currently in the preliminary stages of appraising a parcel of land known as Birchwood Station South, Warrington, for a mixed-use development.

E3P has previously completed a desk study on the site known as Birchwood Station South. The findings of the initial desk study are presented within the E3P report entitled Phase I Geoenvironmental Site Assessment (report ref: 14-671-R1). After the completion of the Desk Study, E3P undertook a preliminary phase of Ground Investigation work to obtain information pertaining to soil stratigraphy and mechanics; the findings of this work are detailed within the letter report (ref: 14-761-L1).

E3P has prepared this addendum letter to further consider the engineering and environmental implications associated with the identified peat deposits on-site and outline sustainable solutions that will facilitate safe development.

1.2 OVERVIEW OF GROUND CONDITIONS

Peat was encountered in the central and northern areas of the site, with the most profound areas located in the centre. Peat was not identified to the south or northwest of the site.

Peat deposits in the west-central sector are generally limited to a thickness of <1.0m ~0.50m below ground level, and this is considered to be a relatively shallow deposit.

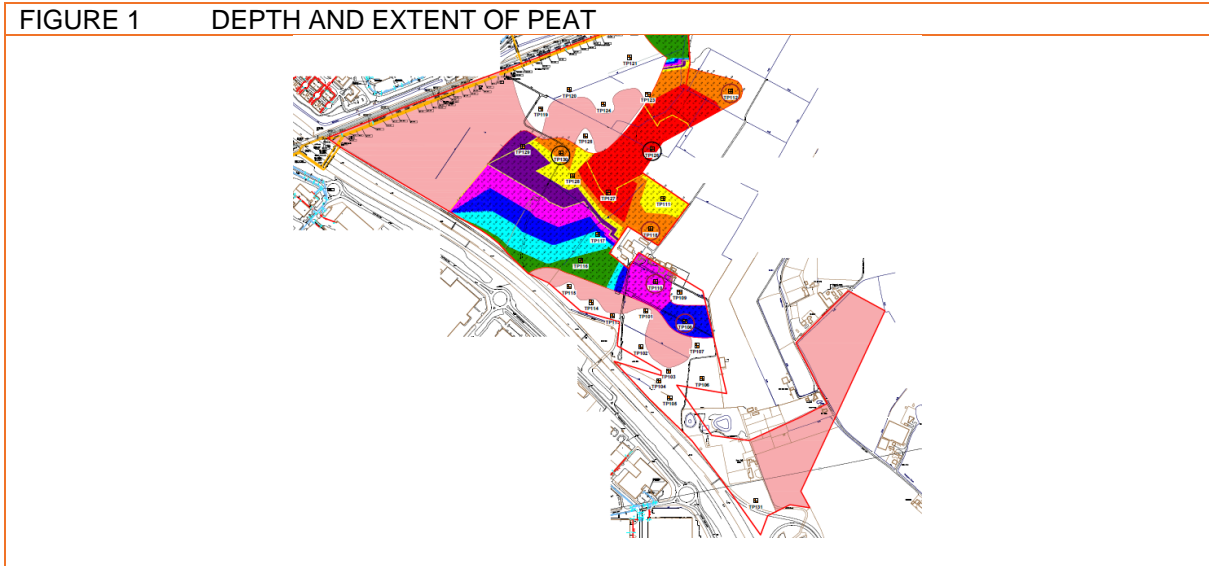
The thickness of peat is thicker in the north and east sectors. Again, these deposits are at the near-surface.



Generally, the peat is at a shallow depth, with the overall thickness of this horizon relatively thin and less than would be anticipated based on the geology of the area. Evidently, the development site is located on the periphery of the peat deposits in the wider area and, therefore of lesser consequence.

A conjectured Depth and Thickness of Peat Plan is presented in Figure 1. It must be noted that it is highly probable that further ground investigation would further inform and refine the areas of peat in areas not yet investigated.

FIGURE 1 DEPTH AND EXTENT OF PEAT



1.3 CONSIDERATION OF PEAT

The peat deposits have all been logged in accordance with BS5930, and the engineers logs indicate that the peat is relatively dry across the development area. This is a critical consideration when considering the quality of the peat and the environmental impact associated with future works. Peat is identified as a natural resource and has the potential to act as a carbon sump. Critical to this process is the requirement for the peat to remain saturated.

In this instance, the peat soils are largely in a 'drained' state due to the historical land use, drainage networks and largescale extraction of the peat in the immediate area. The 'dry' state of the peat has resulted in the degradation as a carbon capture resource, and therefore the environmental impact associated with any future excavation is largely negated.

1.4 PROPOSED DEVELOPMENT SOLUTIONS

The proposed development will be designed to largely avoid the majority of the peat deposits, therefore, the design can be considered to have used all available avenues to mitigate construction over the highly compressible soils.

Peat soils in the southwest are relatively thin and of low value. Therefore, where extraction is required, this can be completed with ease and with little negative environmental impact.

Where peat soils extend to a greater depth, there are numerous approved engineering solutions that can be utilised to facilitate the construction of new structures and infrastructure as outlined overleaf.



- ✳ Use of Controlled Modulus Concrete Columns (CMC); this is an innovative ground engineering solution that stabilises the sub-stratum while retaining peat in-situ to ensure safe and sustainable development;
- ✳ Installation of band drains and subsequent surcharge of the compressible peat soils, this engineering solution is used to mitigate future settlement and will ensure safe and sustainable development while retaining peat in-situ.

The development engineering solutions are widely utilised across the UK and will be designed in a manner so as to ensure no adverse impact on peat and moss lands in the wider area.

Where peat soils are excavated, they can be used in a sustainable manner to improve biodiversity within the wider area, ensuring a net benefit to the ecosystem.

1.5 CONCLUSION

The Ground Investigation works completed by E3P confirmed that the proposed development area is on the periphery of the wider peat deposits, furthermore, this area has been subject to historical peat extraction in the mid-20th century. While the extent to which this occurred is difficult to map, there are clear lines of evidence within the subject site to suggest largescale removal has happened historically. This along with drainage that has resulted in the drying of the soils

Given that the peat has been subject to extensive historical disturbance (drained state) it is considered that these deposits provide a reduced value in terms of a 'carbon sink' as the majority of the CO2 has been released.

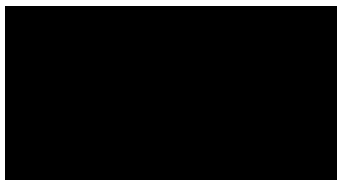
The development has been designed to maximise the retention of peat soils.

Where peat soils extend to a greater depth in the north and east, sustainable engineering solutions can be utilised to retain the peat and thus ensure the safe development of structures and infrastructure.

The proposed development scheme will provide for peatland restoration on land to be retained for biodiversity/open space on the eastern edge of the site. This restoration will ensure water retention and rehydration, promoting carbon capture and enhanced wildlife. The net outcome will result in notable enhancement of the peatland and native flora and fauna.

I trust this information is satisfactory to your requirements, and should I be able to be of any further assistance, please do not hesitate to contact me.

Yours sincerely,



Martin Dyer
Director



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