



Appeal Decision

Hearing Held on 5 September 2018

Site visit made on 5 September 2018

by Elizabeth Pleasant DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 September 2018

Appeal Ref: APP/M0655/W/18/3200416

Land at Tanyard Farm, Rushgreen Road, Lymm WA13 9PR

- 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 Bellway Homes Limited (Manchester Division) against the decision of Warrington Borough Council.
 - The application Ref 2017/31816, dated 15 December 2017, was refused by a notice dated 19 March 2018.
 - The development proposed is the demolition of all existing structures and remediation of the site, the erection of a residential development comprising 64 dwellings with an ecological enhancement area, landscaping, open space, access from Rushgreen Road, car parking and associated infrastructure.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of all existing structures and remediation of the site, the erection of a residential development comprising 64 dwellings with an ecological enhancement area, landscaping, open space, access from Rushgreen Road, car parking and associated infrastructure at Land at Tanyard Farm, Rushgreen Road, Lymm WA13 9PR in accordance with the terms of the application, Ref 2017/31816, dated 15 December 2017, subject to the conditions set out in the attached Schedule.

Procedural Matters

2. A revised version of the National Planning Policy Framework (the Framework) has been published since the appeal was lodged. The main parties were given the opportunity to comment on any relevant implications for the appeal and have not therefore been prejudiced. I have had regard to the responses and the Framework in reaching my decision.
3. A completed deed of planning obligation made pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended) has been submitted and includes obligations to come into effect if planning permission is granted. I will address this matter later on in my decision.

Main Issues

4. The main issues in this case are:

- Whether the proposal would be inappropriate development in the Green Belt;
- The effect of the proposal on the openness of the Green Belt; and
- If it is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Inappropriate development

5. The proposal is for residential development comprising 64 two-storey dwellings following the demolition of all existing buildings and structures on the site. In addition, an area of public open space would be provided including ecological enhancements and a local equipped play area (LEAP).
6. Almost the entire site lies within the Green Belt, with just the site access and a small rectangle of land to the south of Rush Gardens falling within Oughtrington's settlement boundary. Oughtrington and Lymm are inset villages within the Green Belt and the appeal site is part of a wedge of Green Belt land which extends between Oughtrington and Lymm.
7. Historically the site has been used for horticulture, and its former plant nursery use remains evident from the polytunnels and the glasshouses that are still in situ on the site. However, it is clear from aerial photographic evidence¹ that during the past decade there has been a significant change in the appearance of the site and nature of its use. Some of the former nursery buildings and land are now lawfully used for a mixture of open storage, storage & distribution, office and printing use and a couple of the buildings are occupied by a gym, fitness centre, and a dog training/behaviour centre. In addition, there are a significant number of temporary storage containers on the site and large areas of hardstanding. Part of the site is being used for airport car parking without planning permission, and there is a current enforcement notice relating to that unauthorised use.
8. Paragraph 143 of the Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Policy CS5 of the adopted Warrington Local Plan Core Strategy, 2014 (WLP) aims to maintain the extent of the Green Belt in recognition of its purposes and states that development proposals within the Green Belt will be approved where they accord with relevant national policy.
9. In paragraph 145 of the Framework it is stated that the construction of new buildings in the Green Belt should be regarded as inappropriate subject to a number of exceptions. Exceptions to this include, limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:

¹ Document 3, Submitted at the Hearing.

- not have a greater impact on the openness of the Green Belt than the existing development; or
 - not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.
10. The appeal site does not comprise entirely previously developed land (PDL). The extent to which parts of the site could be considered to be PDL was consequently discussed at length at the Hearing. To this end, the main parties produced a Plan² ('the Plan') to show the areas of the site where there is an agreement over its status as PDL, areas considered to be greenfield and areas under dispute.
11. The most significant areas where no agreement could be reached on the status of the land relate to building Nos. 3 and 9 on 'the Plan' and comprise polytunnels and glasshouses. Unless these buildings have lawfully changed their use, their previous agricultural use would preclude them from PDL. Taking into account the site's documented planning history, it is clear that these two buildings were among a number of buildings on the site which were granted a Certificate of Lawful Development in 2012.³ However, from the evidence I have before me, the Certificate granted related solely to operational development and the use of those buildings was not specified at that time. Subsequent planning applications made for the change the use of a number of the other buildings specified in the Certificate, including polytunnels Nos. 6 and 12 reinforces that view. In those cases, planning permission was subsequently granted for their use for the storage of cars⁴ and the storage and distribution of stone/marble tiles.⁵
12. From my inspection of site it is clear that these buildings are no longer in use for agriculture. The polytunnel (No 3) is in a dilapidated state and only the area where some of the roof covering remains in place is being used for general storage. A lot of the glass in the glasshouses has been broken, and evidence provided by local residents at the Hearing confirmed that the glasshouses have been used for the storage of a range of goods, unrelated to agriculture, for many years. However, in the absence of any compelling evidence to that would lead me to conclude that the use of these two buildings for storage is lawful, they would retain an agricultural use and do not therefore comprise PDL.
13. The remaining areas where there is some dispute over whether the land is PDL relate to area Nos. 5 and 7 on 'the Plan'. Area 7 was granted a Certificate of Lawful Use as a storage yard in 2015. The determining Committee Report⁶ states that the site has the appearance of a storage/workshop area and refers to a static caravan, containers and a covered area on the land. At the time of my visit the static caravan remained in place as did a number of containers. There were also two covered areas which had the form of permanent open sided buildings with mono-pitch roofs. There is no dispute that the

² Document 7 submitted at the hearing – Plan of Site Showing Areas agreed as Previously Development Land, Areas of Greenfield and Areas where there is no agreement.

³ CD120

⁴ CD119b

⁵ CD118b

⁶ CD122b

workshop/covered areas are lawful and I consider them to constitute permanent structures. The yard area clearly falls within the curtilage of that developed land. From the evidence before me I am therefore satisfied that Area 7 comprises PDL.

14. On the other hand, Area 5 comprises open storage characterised by containers, skips and building materials. There is no relevant planning history for this area of land and no permanent structure on it. I do not therefore consider Area 5 to be PDL.
15. The proposed housing development would not extend across the whole of the appeal site, and would be confined to its northern half where it would adjoin the settlement boundary. The south western portion of the site would be laid out as public open space, including a LEAP, landscaping and ecological enhancements. The remaining part of the site to the south east would remain in private ownership but would be reinstated to grassland and be maintained as such.
16. Given the adhoc manner in which the site has developed over the past few years, PDL has become established in pockets. Taking into account 'the Plan' and my conclusions on the areas in dispute, it is clear that some of the proposed housing development would take place on land which is not PDL. On the other hand, there are also areas of PDL within the southern part of the site that would be reinstated to grassland and public open space. Furthermore, there is an agreed greenfield area (No 15 on 'the Plan'), which until very recently benefitted from a planning permission⁷ for its redevelopment for business, storage and leisure use. It is common ground between the main parties that this recently lapsed consent is a material consideration in the determination of this appeal, and I see no reason to disagree.
17. I do not have a precise figure on the amount of PDL confirmed within the site in terms of percentage area. However, on balance, and taking into account the footprint of the proposed housing development as agreed in the Statement of Common Ground (paragraph 8.1 SOCG), I am satisfied that when considering the site as a whole, the proposed developed area would not comprise a materially larger area than the combined areas of PDL as set out in 'the Plan' and confirmed or otherwise in the paragraphs above. In addition, the proposed development would be confined to the northern half of the site where the PLD is most prevalent.
18. I therefore conclude that the proposed development would re-use previously developed land. In addition, there is no dispute that the proposed development would contribute to meeting an identified affordable housing need within the area. Consequently, my conclusion on the next issue, its effect on Green Belt openness, will determine whether or not the development is inappropriate.

Openness

19. Safeguarding the countryside from encroachment and keeping land permanently open is a fundamental aim of Green Belt policy, and the essential characteristics of Green Belt are their openness and permanence. The concept of openness relates to the lack of development or built form. However, taking

⁷ CD121b

- into account recent case law⁸, the Appellant and the Council agree that the impact of the appeal proposal on the openness of the Green Belt should be assessed taking into account both its spatial and visual impact.
20. The appeal site extends to 4.35 hectares of land adjacent to the settlement boundary of Oughtrington, Lymm. With the exception of the area surrounding the pond and its south eastern corner, the site is characterised by sprawling development in the form of low profile buildings, areas of hardstanding/car parking, and open storage including storage containers and caravans. The site has a generally degraded and unsightly appearance which is derived from its unplanned and to an extent, unlawful development, which would seem to me to be as a result of uncertainty over the future use of the site.
 21. I appreciate that the use for airport car parking which extends over a large proportion of the site's south eastern section is unauthorised. In addition, there are areas of PDL within the site which are used for vehicle parking and open storage, including a significant number of storage containers. The extent to which these areas therefore remain open and free from development and obstacles fluctuates, and is dependent on the intensity of use at a particular time. That said, coverage of the site with development of various guises' is extensive.
 22. Appendix 3 of the SOCG illustrates the extent to which the permanent buildings on the site provide a footprint of built development. In addition, it calculates the footprint (sqm) of those buildings and compares it to the footprint of the proposed housing development. Whilst I am not convinced that within Area 1, the portacabin and containers 2-9 are permanent, even removing these from the calculation, the footprint of the existing buildings on the site as a whole would be greater than that of the proposed housing development.
 23. However, it is not just the extent of the footprint of the proposed development that would have an effect on the openness of the site. The location of the proposed housing, its scale and form, are also contributing factors. The new housing would be constructed on the northern half of the site and in a location where the majority of the site's existing built form is concentrated. However, it would also extend over parts of the site (Areas 4 and 15 on 'the Plan') which are currently free from any built development. In addition, the existing built form is single storey and has a much lower profile than the proposed two-storey housing. Consequently, taking into account the proposed development of those open areas and the mass and form of the houses, the appeal proposal would undoubtedly have a greater spatial impact on the openness of the Green Belt than the existing development.
 24. That said, for the reasons that follow and having had regard to the contribution that the existing site makes to the visual aspect of openness, as well as the purposes of including land within the Green Belt, I am not persuaded that the proposed development would result in substantial harm to the openness of the Green Belt.
 25. The Council has recently undertaken a Green Belt Assessment (GBA) of land within the Borough as part of its evidence base to the Local Plan Core Strategy Review and their Preferred Development Option. Tanyard Farm formed part of a wider parcel of Green Belt land which was assessed. The GBA concluded that

⁸ *Goodman v SSCLG [2017] EWHC 947 (Admin) & Turner vs SSCLG and East Dorset Council [2016] EWHC Civ 466*

as a whole the parcel, which included the appeal site made a weak contribution to the purposes of the Green Belt.⁹

26. The appeal site is situated on the settlement fringe and by reason of existing PDL there is already some encroachment and loss of openness. In addition, notwithstanding the unauthorised sprawl of airport car parking on the site, its general degraded appearance, scrub vegetation and cypress trees do not give the site a particularly rural feel. The Landscape Visual Impact Assessment¹⁰ (LVIA) concludes that the site is largely contained by the local landscape framework of mature trees and hedgerows and that the surrounding residential development restricts views into the site beyond those dwellings which immediately adjoin the site boundary. Intervening vegetation and landscape features also mean that there is limited visibility towards and across the site from neighbouring public vantage points, including the neighbouring Bridgewater Canal, Lymm's Public Footpath Nos. 34, 31 and 46 and the Trans Pennine Trail which runs through the valley to the north of Rushgreen Road. In addition, by reason of the distance and screening of intervening built form and vegetation, the site is not visually conspicuous from longer distance views, for example from St. Peters Church. Both visually and spatially the site is more connected with the settlement than the open countryside that surrounds it.
27. The new housing would be sited adjacent to existing residential development on Rush Gardens and the local supermarket. Whilst the magnitude of visual change would be greatest for existing occupiers of Rush Gardens, the proposed housing would be similar in scale to neighbouring residential development and would not therefore be uncharacteristic in this location. Furthermore, the existing landscape features are such that with the proposed depth of off-set to the site boundaries, the additional mass of the housing development would not be visually conspicuous within its wider countryside setting.
28. There is no doubt the housing would be a more consolidated form of development than currently exists on the site. However, it would be more visually cohesive. The new houses in this location would be easily absorbed into the surrounding development without resulting in harm to the wider landscape character area. I recognise that the proposed housing development would, in part, extend onto parcels of the site which are not PDL. However, the new development would be laid out and contained within a managed landscape framework and its overall visual impact would not be significant when taking into account the existing dispersed PDL and the incoherent form of development that currently characterises this site.
29. I appreciate that local residents cherish the locally distinct identity of Oughtrington and Lymm, and I have considered carefully whether or not the proposed development would result in a merging of these settlements. The site is a discreet parcel of land located on the periphery of the settlement which forms part of a significantly larger wedge of Green Belt that separates Lymm from Oughtrington. The Bridgewater Canal runs through this green wedge. The proposed development would be a more concentrated and suburban form of development than currently exists on the site and its overall mass and bulk would extend further south. However, the new housing would be visually contained by existing landscape features. In addition, the appeal proposal would provide an opportunity to rationalise development over the whole of the

⁹ CD93 and CD94

¹⁰ Landscape Visual Impact Assessment: Tanyard Farm, Prepared by Tyler Grange, 14 December 2017

site and secure a corridor of open space between the proposed housing development and the Canal. The proposed open space, which includes PDL, would be accessible to the public and visually and ecologically enhanced. Moreover, this swathe of open space would remain permanently open, and a gap between Oughtrington and Lymm would be maintained.

30. The 2018 Framework clearly signals the great weight that the government places on the need to provide affordable homes and the re-use of PDL. It states that a development that re-uses PDL in the Green Belt and makes a contribution to affordable housing should not be considered to be inappropriate development unless the harm to the openness of the Green Belt would be substantial. To my mind that is a high bar.
31. In this case, the proposed development would re-use PDL and would provide for 38% of the housing as affordable homes (24 in total). It would therefore make a significant contribution to the number and type of affordable homes in Lymm and in an area where there is an undisputed acute need.
32. I have found that the proposed housing development would, by reason of its mass and siting, have a greater impact on the openness of the Green Belt than the existing development on the site. I appreciate that little effort has been made over the past few years to invest in, or improve the appearance of the site. However, for the reasons set out in the paragraphs above, the contribution that the site currently makes to the openness, purposes and visual qualities of the Green Belt is not invaluable, and there is no dispute that the existing PDL is underutilised. Furthermore, the site has a predominantly unsightly and despoiled appearance, has some contamination and there is no public access to it.
33. Bringing matters together, I have had regard to existing encroachment on the site, including the number and scale of the permanent buildings that are dispersed within it. The proposed development would rationalise the amount and the location of built form on the site and the overall landscape quality of the site would undoubtedly be enhanced. In addition, the proposed development would secure a swathe of open land. This open land would include valuable public open space and some areas of PDL would be reinstated as grassland. Moreover, I have taken into account the ability of the new housing to be absorbed into existing neighbouring development and contained within an established local landscape framework without causing significant harm the open character and visual qualities of the surrounding countryside and Green Belt as a whole.
34. For all the reasons set out above, the loss of openness to the Green Belt which would ensue from the new housing would not be substantial. I therefore conclude that the proposed development would not be inappropriate development in the Green Belt. There would be no conflict with Policy CS5 of the WLP or with paragraph 145 of the Framework, the aims of which are set out above.

Planning Obligations

35. The completed signed and dated deed of planning obligation under Section 106 of the Town and Country Planning Act, 1990 (as amended), include a number of obligations. Consideration of planning obligations is to be undertaken having regard to paragraph 56 of the Framework and the statutory requirements

contained in Regulation 122 and 123 of the Community Infrastructure Levy (CIL) Regulations, 2010.

36. The planning obligation provides financial contributions towards improvements or enhancements to the existing pitches/facilities at Lymm High School, Ridgeway Grundy Park or Mary Green Field, and education facilities to enhance classroom space at Lymm High School. It also provides a financial contribution towards improvements to health facilities at Brookfield or Lakeside Surgery, Lymm, and towards the Council's cost of pursuing the need for a traffic regulation order in respect of Rushgreen Road. It also secures the provision of open space within the development, including arrangements for the ongoing management and maintenance of that space. In addition, its set out detailed obligations regarding the provision of 38% of the dwellings proposed as affordable housing as part of the development.
37. A CIL Regulation 2010 Compliance Assessment has been provided by the Council. The justification for the infrastructure contributions secured demonstrates that they would be directly related to the development proposed, are fairly and reasonably related in scale and kind, and are necessary to make the development acceptable. The assessment also confirms that the contributions are compliant with the provision concerning the pooling of infrastructure monies. I conclude that the obligations, which also have policy support, would comply with the requirements of Regulation 122 and 123 of the CIL Regulations and with the tests in the Framework.

Other Matters

38. The existing site accommodates some employment and leisure uses which are clearly highly valued by the local community. In addition, I heard at the Hearing that there are a high number of self-employed and owner-occupied businesses in the village and limited opportunities within Lymm for small businesses to operate.
39. Policy SN6 of the WLP states that the Council will seek to assist the continued viability and growth of the local economy and support the sustainability of local communities by ensuring development proposals, amongst other criteria, do not lead to the loss of viable, accessible sites and buildings used for industrial/commercial purposes or other employment generating uses in the local communities including the countryside and its settlements. The existing buildings on the site which are used for employment and leisure purposes are poor quality and the Council's Economic Development Needs Study, 2016 recognises that the site is not viable for redevelopment for B1/B2/B8 uses due to remediation and construction costs as well as additional limitations given the sites location adjacent to residential uses. The failure to implement the 2014 consent for the redevelopment of part of the site for business would appear to support this view. In addition, the WLP has identified a suitable supply of employment land to meet its needs for the current plan period. The Council agree that the proposed development would not lead to the loss of a viable, accessible site which should be safeguarded for employment generating reasons. Therefore, whilst the loss of the existing facilities uses is regrettable, this concern is not sufficient to withhold permission for an alternative sustainable development.
40. I appreciate that the Parish Council and local residents have a desire to retain and enhance this site for employment or other community uses, including for

example a health centre. However, from the evidence I have before me, the appeal proposal would not conflict with the development plan and in particular with Policy SN6 of the WLP.

41. I understand that residents of Lymm are currently preparing a Neighbourhood Plan. However it is still in its infancy and cannot therefore be afforded any weight in the determination of this appeal. Residents are clearly concerned about future development in the village and I understand their desire to be able to influence how and where new development takes place. However, Planning Practice Guidance¹¹ states that a refusal of planning permission on grounds of prematurity will seldom be justified where, in the case of a Neighbourhood Plan, the local planning authority publicity period has not been completed. The Parish Council recognise the demonstrable need for additional housing, including affordable housing within Lymm Parish. In addition, it is accepted by the Council that to meet those housing needs there will need to be a release of existing Green Belt land. I have found that the proposed development would not constitute inappropriate development in the Green Belt, and it would be situated in a sustainable location. It would also deliver net gains in biodiversity and contribute to open space within the Parish which is currently at a premium. The proposed development therefore provides a clear opportunity to deliver sustainable development and make a significant contribution to meeting a demonstrable housing need. I am not aware of any PDL within neighbouring areas of the Green Belt, and therefore the circumstances that have led to the acceptability of this appeal are unlikely to be repeated on neighbouring Green Belt land.
42. I have had regard to the appeal decision¹² relating to the development of an adjoining site. The Inspector clearly took into consideration the importance of views across the Green Belt between Oughtrington and Lymm. Those views, which included the appeal site, will have almost certainly changed in their appearance since 2007. However, the Inspector's concern in that appeal case related primarily to the design, scale and form of the proposed building and concluded that the proposed buildings would not be in keeping with the two-storey, domestic scale of the neighbouring houses. It was therefore for a different form of development than that proposed in this case and it was on a different site. The decision is not therefore directly comparable to this appeal case and the weight that I attribute to it can only be limited.
43. I have taken into consideration the case law brought to my attention by submissions at the Hearing (Document 3 submitted at the Hearing). However, those cases relate to development which was considered to be inappropriate in the Green Belt. In this case, I have found that the proposed development would not be inappropriate in the Green Belt and the case for very special circumstances does not apply.
44. In addition I have had regard to third party concerns regarding the concentration and location of affordable housing within the site. I do not have any substantive evidence that would lead me to conclude that the siting of those units would result in harm to living conditions of neighbouring residents or future occupiers. In addition, the Council has not raised any objections to this aspect of the scheme. I therefore give this consideration limited weight.

¹¹ Planning Practice Guidance: 014 Reference ID : 21b-014020140306

¹² APP/M0655/A/07/2048648, dated December 2007.

Conditions

45. The Council has suggested a number of conditions which I have considered against advice in the Framework and Planning Practice Guidance. As a result I have amended some for clarity and omitted others to prevent duplication.
46. A condition is necessary to specify the approved plans as this provides certainty. It is not necessary to specify all the documents specified in the agreed schedule of plans and documents agreed at the Hearing, as many of those documents provide supporting information only.
47. Details of the existing and proposed site levels and floor levels are required prior to commencement of development to protect the living conditions of neighbouring residents and in the interests of visual amenity.
48. A scheme for the design and construction of the proposed access, management of shared private drives, surface details of pedestrian accesses and the retention of visibility splays are required in the interests of highway safety and pedestrian permeability.
49. The potential for contamination has been identified and therefore conditions are required to secure any necessary remediation in this regard.
50. In the interests of visual amenity and biodiversity, conditions are necessary to require details of a Landscape and Environment Management Plan, hedgerow retention/replacement and secure tree retention and arboricultural works.
51. In order to protect the living conditions of existing residents, and also in the interests of highway safety, protection of the environment, visual amenity and sustainability, it is necessary to secure the implementation of the approved CEMP and require details of any proposed piling.
52. In the interests of wildlife protection additional details relating to badgers, amphibians and breeding and nesting birds within the development are necessary.
53. To ensure acceptable living conditions are provided for future residents, conditions requiring acoustic attenuation and suitable ventilation of habitable rooms are necessary to mitigate road traffic noise.
54. In order to avoid pollution and to prevent increased risk from flooding, conditions are necessary to secure the implementation of the approved drainage schemes and silt removal from the culvert is required.
55. In order to protect the ecological value of the Bridgewater Canal, details of proposed construction methods to prevent accidental spillages and dust and debris are required.
56. Details of the proposed materials of external construction of the buildings are required to safeguard the character and appearance of the area.
57. Conditions to secure suitable boundary treatment to individual plots are required in the interests of visual amenity and to protect the living conditions of future occupiers from road traffic noise.

58. Details of the LEAP are necessary to secure appropriate play experiences for future users as required by Warrington Borough Council's adopted Planning Obligations, Supplementary Planning Document, 2017.
59. In the interests of visual amenity and biodiversity, conditions are necessary to require details of the grassland to be restored and to ensure that the restored grassland, open space and ecological enhancements are delivered.

Conclusion

60. For the reasons given above and taking into account all other matters raised, I conclude that the appeal should be allowed.

Elizabeth Pleasant

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan, Ref 15-145 LO01 Rev A; Existing Site Plan (Topographic Survey with Red Line), Ref 15-145 ESP01; Proposed Planning Layout – Colour, Ref 15-145 PL07 Rev O; Proposed Layout-Black and White, Ref 15-145 BW01 Rev O; House Types Booklet, February 2018; Boundary Treatments, Ref 15-145 BT01 Rev I; Existing Hardstanding, Ref 15-145 HS02; Hard Surfacing Plan, Ref 15-145 HS01 Rev G; Street Scene, Ref 15-145 SS01; Materials Plan, ref 15-145 MP01 Rev D; Waste Management Plan, Ref 15-145 WM01 Rev E; Ecology Area Landscape Masterplan, Ref D6638.001G; Bird and Bat Box Scheme, Ref D6638.009B; Detailed Planting Plan Plot Planting – Overall Plan, Ref D6638.010C; Detailed Planting Plan Plot Planting-Area 1, Ref D6638.011B; Detailed Planting Plan Plot Planting-Area 2, Ref D6638.012B; Detailed Planting Plan Plot Planting-Area 3, Ref D6638.013C; Detailed Planting Plan Plot Planting-Area – Area 4 D6638.14C; Detailed Planting Plan – Open Space, Ref D6638.016B; North Eastern Boundary Concept, Ref D6638.015B; Construction Management Plan (CMP) (inc compound & phasing plans) Ref V1; Flood Risk Assessment with Foul Drainage Proposals, 6193/R1; Drainage Strategy, Ref 01-05 B; Preliminary Drainage Layout, Ref 01-01; Invasive Species Management Plan, Ref 6429.004 Rev 3; Swept Path Analysis, Ref 1885-SP05 Rev B/SP06 and SP07; and CCTV Survey Report Parts 1 & 2.
- 3) Prior to the commencement of development (excluding site clearance and demolition), existing and proposed site levels and proposed floor levels for all buildings hereby approved shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in complete accordance with the approved details.
- 4) Prior to commencement of development a detailed scheme for the proposed access as shown on drawing 1855-F02 rev A including full construction details in line with WBC's current design standard for new

highways, accommodating the swept paths of a 12m rigid vehicle and incorporating full visibility splays of 2.4m by 43m, shall be submitted and agreed in writing by the Local Planning Authority.

- 5) Prior to the commencement of development (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site shall be submitted to and approved, in writing by the Local Planning Authority:
- a. A site investigation scheme, based on the Phase I and Phase II Geo-Environmental Site Assessment, Report Ref: 11-870-R1 Rev A, prepared by e3p to provide information for a detailed assessment of the risk to all receptors that may be affected, including those offsite.
 - b. The site investigation results and the detailed risk assessment (in subsection a) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
 - c. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in subsection b are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.
- Any changes to these components require the express consent of the local planning authority. The scheme shall be implemented as approved.
- 6) No development (apart from site clearance/demolition) shall take place until a Landscape and Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. The contents of the plan shall include the final detail on:
- a) A description and details of habitat and landscape features to be managed within the both the footprint of the new development and the open space and ecological enhancement area which shall include:
 - Native tree and shrub planting within the ecological mitigation area
 - Tree and shrub planting that benefits wildlife within the housing site
 - Details of native hedge planting associated with boundaries adjacent to agricultural land
 - Details of physical works to the existing pond, including plans and profiles
 - Native aquatic and marginal planting associated with the pond
 - Details of enhancement measures for amphibians
 - Details of landscape and buffering adjacent to the Bridgewater Canal.
 - Details of bird and bat enhancements associated with the housing
 - b) Aims and objectives of management
 - c) Appropriate management options for achieving aims and objectives.
 - d) Prescriptions for management actions.
 - e) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
 - f) Details of the body or organisation responsible for implementation of the plan.
 - g) Ongoing monitoring and remedial measures.

h) Where the results from monitoring show that conservation aims and objectives of the LEMP are not being met how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.

The works shall be carried out strictly in accordance with the approved details.

- 7) No development, site clearance, earth moving shall take place or material or machinery brought on site until a method statement to protect the Bridgewater Canal from accidental spillages, dust and debris has been submitted to and approved in writing by the Local Planning Authority. All approved measures shall be fully implemented and maintained for the duration of the construction period in accordance with the approved details.
- 8) Prior to commencement of any earthworks a resurvey of the site within and up to 30m from the development for badger setts shall be carried out and a reasonable avoidance method statement to prevent damage to setts and harm to badgers during construction and site clearance shall be submitted to and agreed in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 9) Prior to commencement of any earthworks a reasonable avoidance method statement to prevent harm to amphibians during site clearance shall be submitted to and agreed in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 10) Prior to commencement of any earthworks a method statement detailing eradication and/or control and/or avoidance measures for Himalayan balsam, Japanese knotweed and giant hogweed shall be submitted to and agreed in writing to the Local Planning Authority. The agreed method statement shall be adhered to and implemented in full.
- 11) None of the buildings hereby approved shall be constructed until written and photographic details of the external roofing and facing materials (including manufacturer's details and/or samples) have been submitted and approved in writing by the local planning authority. The development shall be constructed in accordance with the approved details/samples and retained thereafter.
- 12) Notwithstanding the submitted details, boundary treatments that would result in visual obstruction above 600mm including shrubs/hedgerows shall not be installed or allowed to grow above 600mm high to the front/side boundaries where they abut the access road of units 3 & 17.
- 13) All identified measures within the approved CMP (dated 01-02-18) shall be implemented in strict accordance with the requirements therein and shall be reviewed every six months from the start of works on the site or when requested by the Local Planning Authority. Any changes to the identified CEMP mitigation measures from either the regular review process or following receipt of a complaint shall be forwarded to the Local Planning Authority within 24hrs of a change being agreed or implemented.

- 14) A scheme for the management of all private shared access drives/areas shall be submitted to and agreed in writing with the Local Planning Authority prior to the occupation of any dwelling. For the avoidance of doubt the scheme shall include lighting, refuse collection and drainage as well as hard and soft landscaping maintenance. The scheme shall be implemented in full accordance with the approved details.
- 15) The approved scheme for the access and boundary treatment shall be implemented prior to first occupation of each dwelling to which that access and boundary treatment relates.
- 16) Prior to the occupation of any dwelling, details of a hard surface to provide pedestrian access between the private shared access drives/areas to the front of plots 11 & 18 shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to the first occupation of plots 8-11 and 18-23 and retained thereafter.
- 17) Prior to the first residential occupation of any individual plot along the northern boundary of the site, the applicant shall implement a solid barrier fence or wall along the northern edge of plots 8-11 and plots 18-20. The barrier fence shall have a height of at least 1.8m and shall consist of either a wooden fence or brick wall construction and should be of close boarded construction, be free from holes, sealed at the base and have a minimum mass of 5kg/m².
- 18) Prior to the first occupation of any dwelling the surface and foul drainage schemes shall be fully implemented in accordance with the details on approved plans 01-05 B Drainage Strategy and 01-01 H Preliminary Drainage Layout and Section 7 of the approved FRA (6193/R1) December 2017, and shall be retained thereafter.
- 19) Prior to the first occupation of any dwelling the LEAP and play experiences, including equipment suitable for disabled children, shall be provided in accordance with details that shall previously have been submitted to and approved in writing by the Local Planning Authority. The approved LEAP and play experiences shall permanently retained thereafter.
- 20) Prior to the first occupation of any dwelling details of the precise works to be undertaken to restore the south eastern area of the site (1.14ha) to grassland and details of its retention as such thereafter shall be submitted to and approved in writing by the Local Planning Authority. The proposed grassland shall be implemented and retained in accordance with the approved details.
- 21) Prior to the first occupation of any dwelling the open space and ecological enhancement area shall be fully implemented in accordance with the Detailed Planting Plan - Open Space (reference: D6638.016B) and the Ecological Area Landscape Plan (reference: D6638.001G), and shall be retained as such thereafter.
- 22) All glazing for habitable rooms within the shall development achieve a minimum acoustic performance of 30dB RW + Ct,r.
- 23) Trickle vents with an acoustic performance exceeding at least 17dB in the open position shall be installed in the living room windows on plots 1 & 2.

- 24) Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater or significant adverse impact to residential amenity. The development shall be carried out in accordance with the approved details.
- 25) No drainage connection shall be made to any watercourse until the culvert which contained silt in the submitted CCTV survey report, carried out on 15 & 24 August 2017, has been cleaned in full accordance with details that have been submitted to and approved in writing by the Local Planning Authority.
- 26) No works to trees or shrubs shall occur or demolition commence between the 1st March and 31st August in any year unless a detailed bird nest survey by a suitably experienced ecologist has been carried out immediately prior to clearance and written confirmation provided that no active bird nests are present which has been submitted to and agreed in writing by the Local Planning Authority.
- 27) Prior to any hedgerows being removed a Hedgerow Regulations Assessment of any that are to be removed on the site shall be submitted to and approved in writing by the Local Planning Authority. Development shall be implemented in accordance with the approved details.
- 28) All works on the site shall be carried out in complete accordance with the contents of the Arboricultural Method Statement as shown on the following plans: CP P.328.13.06 Rev B Arboricultural Method Statement - (Sheet 1 of 2); CP P.328.13.06 Rev B Arboricultural Method Statement - (Sheet 2 of 2).

APPEARANCES

FOR THE APPELLANT:

David Manley QC	Kings Chambers, Manchester
Jon Suckley	GVA HOW Planning
Jonathon Berry	Tyler Grange
Phil Wooliscroft	Croft Transport Planning & Design
Andrew Pexton	GVA HOW Planning
Francis Hesxeth	TEP

FOR THE LOCAL PLANNING AUTHORITY:

Thea Osmund-Smith	No 5 Chambers
Andrew Thompson	Warrington Borough Council

INTERESTED PARTIES:

Anna Fradgley	Parish and Ward Councillor
Prof Robert Barr, CGEOG FRGS FRSA OBE	Borough and Parish Councillor
Andrew Carter	Parish Councillor
Paul Mullin	Local Resident
Anne Hastie	Local Resident
Thomas Drury	Local Resident

DOCUMENTS submitted at the Hearing:

1. Summary Presentation to Planning Inspectorate by Cllr Andy Carter.
2. Written Representations by Cllr Prof Robert Barr OBE.
3. Presentation to Inspector by Cllr Mrs Anne Fradgley.
4. Copy of Appeal Decision: APP/M0655/A/07/2048648.
5. Decision Notice: Application Ref: 2012/20832 including application documents (updated Appendix 8 of LPA Statement of Case).
6. Summary Table of Site History.
7. 'The Plan' – illustrating areas of the site agreed as PDL, areas of greenfield and areas where there is no agreement.
8. LPA CIL Assessment.

Documents received after the Hearing by agreement:

9. Signed and dated Section 106 Agreement.
10. Agreed Schedule of plans and documents upon which the LPA made their decision.
11. Register and Title Plan.