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Warrington Local Plan | Main Modifications 2023 Submission from North West Portfolio Limited

Dear Local Plan Team

Maddox Planning submitted Regulation 19 stage representations in October 2021 for North West Portfolio Limited (NWP). A copy of the full representations submitted are attached for reference. The representations were submitted in context with NWP land interests at Birchwood Boulevard, Birchwood.

The NWP site was included in the Regulation 19 draft local plan as an existing employment area (draft policy DEV4) and also as an area identified as part of the borough open space, sport and recreation provision (draft policy DC5).

Land identified as part of the open space, sport and recreation provision (draft policy DC5) is distinct from land identified as green infrastructure (draft policy DC3) and the NWP Regulation 19 draft representations set out the areas of the draft local plan where there was a need for change to ensure the maintenance of this distinction.

The distinction between open space, sport and recreation provision and green Infrastructure was confused on the draft local plan proposals map with the key block referring to *DC3 / DC5 Open Space*.

In its Regulation 19 draft representations, NWP highlighted that the confusion on the draft local plan proposals map, through the conflation in the annotation of *DC3 / DC5 Open Space*, was entirely misleading. The justification for identifying land as part of the green infrastructure – *greenway network* or as *strategic green links* – in policy DC3 is quite different to the justification for identifying land as open space, sport or recreation

provision (policy DC5). NWP was clear that the annotation *DC3 / DC5 Open Space* was actually referring to land for which it was considered that there is justification to afford protection as open space under draft policy DC5.

The proposals map as proposed to be revised at main modification stage is now correct in carrying clearly distinct and separate annotations for green infrastructure (draft policy DC3) and open space, sport or recreation provision (draft policy DC5). Any land for which it is considered that there is justification for policy DC3 or policy DC5 protection is rightly identified on the proposals map through a separate distinct annotations.

In its Regulation 19 draft representations, NWP had set out that, for the proposals map to be robust and effective, the annotations relating to draft policy DC3 and draft policy DC5 should be amended such that it is clear which areas of land are identified as open space, sport or recreation provision (draft policy DC5) and which areas of land are designated as part of the greenway network or strategic green links – green infrastructure (draft policy DC3). NWP was clear that there is no justification for open space, sport and recreation land being afforded protection on a blanket basis under draft policy DC3. There is no justification for protection under draft policy DC3, simply by virtue of land being identified as open space under draft policy DC5.

The NWP land continues to be identified on the proposals map as amended at main modifications stage as site subject to draft policy DC5 designation.

Within the schedule of proposed amendments to the policies map at main modifications stage, PMM24 states:

'Relabel the Green Infrastructure/Open Space (DC3/DC5) designation as "Open Space, Outdoor Sport and Recreation Provision (DC5)". This proposed modification is consistent with the Regulation 19 representations submitted by NWP and supported.

This proposed modification results in a consequential change to the policy text within draft policy DC5.

It is normal for a plan making body to provide the local plan Inspector(s) with a schedule of additional modifications / consequential changes, as a result of proposed main modifications that are necessary if a development plan document is to be found sound. Such changes are ordinarily for the purposes of clarity and not themselves subject to consultation.

The text within draft policy DC5 needs to be amended at its section 2(a), such that there is clear separation between the draft policy which relates to land that is subject to open space, outdoor sport and recreation provision designation (draft policy DC5) and the draft policy which relates to land that is subject to greenway network designation (draft policy DC3). The proposed change to the proposals map at main modifications stage needs to be carried through into the draft policy text.

Part 2(a) of policy DC5 states currently that:

*'2. The Council will encourage partnership working to ensure that sufficient quantity and quality of, and convenient access to open space, sport and recreation provision is secured through the following measures:
a. Protecting existing provision and ensuring that any new open space created will be afforded protection in accordance with Policy DC3 and criteria (7) below'*

The relevant development plan policy protection for open space, subject to designation under policy DC5, is provided by criteria 7 of the policy. The part 2(a) text of policy DC5 should be amended as follows:

*'2. The Council will encourage partnership working to ensure that sufficient quantity and quality of, and convenient access to open space, sport and recreation provision is secured through the following measures:
a. Protecting existing provision and ensuring that any new open space created will be afforded protection in accordance with ~~Policy DC3 and~~ criteria (7) below'*

This is an additional modification / consequential change that the Inspector should be made aware of, but there should be no requirement for this to be subject to consultation.

It is acknowledged that there is a cross-reference in the Regulation 19 draft policy DC3 text to the Regulation 19 draft policy DC5, in the context of securing new green infrastructure:

*'5. All development proposals should, as appropriate to their nature and scale:
e. secure new green infrastructure in order to cater for anticipated increases in demand arising from development particularly in areas where there are existing deficiencies assessed against standards set by the Council in accordance with Policy DC5'*

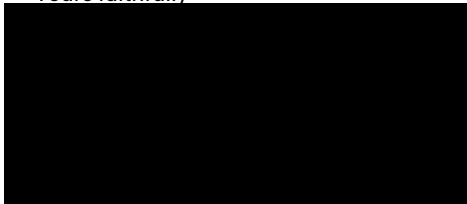
This is however concerning the securing of new green infrastructure, and is entirely separate to the protection that is afforded to open space, sport and recreation provision under draft policy DC5. As NWP set out in its previous Regulation 19 stage submissions, the justification for identifying land as green infrastructure (draft policy DC3) is quite different to the justification for identifying land as open space, sport or recreation provision (draft policy DC5). The two should not be confused by development plan policy if the development plan policy is to be found sound.

The proposed modification to the proposal map has addressed the cartographic confusion of the two designations. The policy text of Regulation 19 draft policy DC5 also needs to be amended, to remove reference to policy DC3.

NWP considers that this is a necessary additional modification / consequential change, needed if the plan is to be found sound.

Should you have any questions in this regard, please contact the Maddox Planning team.

Yours faithfully



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MADDOX PLANNING

**DRAFT WARRINGTON LOCAL PLAN 2021
UPDATED PROPOSED SUBMISSION VERSION
REGULATION 19 CONSULTATION**

**BIRCHWOOD BOULEVARD, BIRCHWOOD
NORTH WEST PORTFOLIO LIMITED**

MADDOX PLANNING

LONDON & MANCHESTER



**DRAFT WARRINGTON LOCAL PLAN
UPDATED PROPOSED SUBMISSION VERSION
REGULATION 19 CONSULTATION
REPRESENTATIONS FOR NORTH WEST PORTFOLIO LIMITED**

**BIRCHEWOOD BOULEVARD, BIRCHWOOD
21/10/2021**

Local authority

Warrington

Plan

Updated Proposed Submission Draft Warrington Local Plan

Stage of plan preparation

Regulation 19 Consultation

Summary statement

A number of draft Warrington Local Plan policies and associated proposals map annotations are identified as requiring amendment to ensure that they are positively prepared, unambiguous and pass the test of soundness.

Representations

The following adopted and emerging planning policies are particularly relevant (see policy extracts):

Draft Plan chapter	Issue/policy reference and title	Page(s) in this document
4	Policies Relating to Objective W1	
	Objective W1: To enable the sustainable growth of Warrington through the ongoing regeneration of Inner Warrington, the delivery of strategic and local infrastructure, the strengthening of existing neighbourhoods and the creation of new sustainable neighbourhoods whilst: <ul style="list-style-type: none">- delivering a minimum of 14,688 new homes (equating to 816 per year) between 2021 and 2038, and- supporting Warrington's ongoing economic success by meeting the need for 316.26 hectares of employment land between 2021 and 2038.	
	Policy DEV4 - Economic Growth and Development	7
8	Policies Relating to Objective W5	
	Objective W5: To secure high quality design which reinforces the character and local distinctiveness of Warrington's urban area, its countryside, its unique pattern of waterways and green spaces and its constituent settlements whilst protecting, enhancing and embracing the Borough's historic, cultural, built and natural assets.	
	Policy DC3 – Green Infrastructure	8
	Policy DC5 - Open Space, Sport and Recreation Provision	8-9

	Proposals map	
	Annotations relating to policy DEV4 Economic Growth and Development, policy DC3 – Green Infrastructure and policy DC5 - Open Space, Sport and Recreation Provision	10-12

1.0 Introduction

- 1.1 Maddox Planning (Maddox) has prepared these representations for North West Portfolio Limited (NWP), in respect of the Regulation 19 consultation on the updated proposed submission version of the draft Warrington Local Plan, made available for public comment over the period 4 October 2021 to 15 November 2021.
- 1.2 The representations address the spatial vision, strategic objectives and strategic priorities of the draft plan and makes specific commentary on draft policies concerning: economic growth and development; existing employment areas; green infrastructure; and open space. Commentary is also made in respect of associated proposals map annotations. The representations are submitted in context with NWP land interests at Birchwood Boulevard, Birchwood. The NWP site is included in the draft local plan as an existing employment area (draft policy DEV4) but also as an area identified as part of the borough open space, sport and recreation provision (draft policy DC5).
- 1.3 The National Planning Policy Framework (July 2021) – the Framework – sets out the Government planning policies for England and how these should be applied. Paragraph 15 states that the planning system should be genuinely plan-led. Succinct and up-to-date plans should provide: a positive vision for the future of each area; a framework for addressing housing needs and other economic, social and environmental priorities; and a platform for local people to shape their surroundings.
- 1.4 It is a statutory requirement that a body preparing a development plan publishes its draft development plan document for consultation ahead of submitting that document for independent examination; an examination to assess whether it is sound and legally compliant, alongside whether other statutory requirements are satisfied¹. In preparing a development plan document, the body preparing that document must have regard to a number of matters including national policies and advice contained in guidance issued by the Secretary of State².
- 1.5 Paragraph 16 of the Framework sets out that a plan should:
- a) be prepared with the objective of contributing to the achievement of sustainable development³;
 - b) be prepared positively, in a way that is aspirational but deliverable;
 - c) be shaped by early, proportionate and effective engagement between planmakers and communities, local organisations, businesses, infrastructure providers and operators and statutory consultees;
 - d) contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals;
 - e) be accessible through the use of digital tools to assist public involvement and policy presentation; and
 - f) serve a clear purpose, avoiding unnecessary duplication of policies that apply to a particular area (including policies in this Framework, where relevant).
- 1.6 Paragraph 11 of the Framework sets out the Government presumption in favour of sustainable development. It states that for plan making this means that:
- a) all plans should promote a sustainable pattern of development that seeks to: meet the development needs of their area; align growth and infrastructure; improve the environment; mitigate climate change (including by making effective use of land in urban areas) and adapt to its effects;
 - b) strategic policies should, as a minimum, provide for objectively assessed needs for housing and other uses, as well as any needs that cannot be met within neighbouring areas⁴, unless:
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for restricting the overall scale, type or distribution of development in the plan area⁵; or

¹ Section 20(5) of the Planning and Compulsory Purchase Act 2004

² Section 19(2) of the Planning and Compulsory Purchase Act 2004

³ This is a legal requirement of local planning authorities exercising their plan-making functions (section 39(2) of the Planning and Compulsory Purchase Act 2004)

⁴ As established through statements of common ground (National Planning Policy Framework July 2021, paragraph 27)

⁵ The policies referred to are those in the Framework (rather than those in development plans) relating to: habitats sites (and those sites listed in paragraph 181) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 68); and areas at risk of flooding or coastal change

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

1.7 Paragraph 35 of the Framework addresses the test of soundness and states that *'Plans are 'sound of they are:*

a) Positively prepared – providing a strategy which, as a minimum, seeks to meet the area's objectively assessed needs²¹; 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;

b) Justified – an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence;

c) Effective–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 the statement of common ground; and

d) Consistent with national policy – enabling the delivery of sustainable development in accordance with the policies in this Framework and other statements of national planning policy, where relevant.

1.8 These representations are concerned with where amendment to the strategic approach, policies, supporting text and proposals map annotations of the draft local plan are considered required to ensure consistency with national policy and guidance such that the plan might be found sound and legally compliant on examination.

2.0 Chapter 4: Policies Relating to Objective W1

Policy DEV4 - Economic Growth and Development

- 2.1 NWP supports sub-section 9. to policy DEV4, which provides support for other uses within employment areas provided that the development relates to ancillary services (which will support the employment area by making it more sustainable, viable and/or attractive) or the site is longer suitable or viable for employment uses. The requirements that proposals not undermine the viability of existing employment uses in close proximity to the site and that any alternative use is in accordance with or does not undermine the overall spatial strategy of the plan are considered consistent with the test of soundness.
- 2.2 NWP does not consider that sub-section 10. to policy DEV 4 passes the test of soundness. It is overly onerous to require that an applicant seeking planning permission for other (alternative) uses within employment areas explore *all opportunities* to incorporate an element of employment floorspace as part of any new development. The tests set out at sub-section 9. of the policy and there to ensure that any proposal for a non-employment use would be to the benefit of an employment area and will not undermine viability locally or the overall spatial strategy of the local plan. These are robust tests, there to ensure that any alternative development proposals within employment areas will not undermine the employment objectives of the local plan. The text of sub-section 10. states that it refers to alternative uses that are *acceptable*. If a use is deemed acceptable then there should be no further policy test to satisfy. There is no justification for a further requirement to consider *all opportunities* for an element of employment use. Such a requirement could only be justified if it were in the context of an applicant seeking to make the case for a mixed-use development where an entirely non-employment use scheme is deemed to be not in accordance with sub-section 9. of policy DEV4.
- 2.3 Sub-section 10. of policy DEV4 should be reworded so that it applies to proposals for mixed-use development:

Where a mixed use scheme is proposed within an Existing Employment area it has been demonstrated that an alternative use is acceptable, all opportunities must be explored to incorporate an element clear justification should be provided for the proportion of employment floor space and alternative uses proposed as part of the new development.

3.0 Chapter 8: Policies Relating to Objective W5

Policy DC3 – Green Infrastructure

- 3.1 NWP considers that draft policy DC3 requires greater clarity to pass the test of soundness. It is not clear from the draft policy and its supporting text the way in which the Green Infrastructure is defined and the way in which land is assessed for inclusion. The supporting text refers to *open countryside* and *environmental assets*, including sites of international, national and local importance for biodiversity, high value agricultural land, the wetland nature recovery network and Strategic Green Links. The draft policy text also refers to Strategic Green Infrastructure (sub-section 1.), Strategic Green Links (sub-section 2.) and the Greenway Network (sub-section 5.). The draft local plan proposals map identifies locations that are considered to be either Strategic Green Links or part of the Greenway Network.
- 3.2 The draft policy and supporting text are not clear on how sites are assessed for identification inclusion as part of the Green Infrastructure Network and whether this is limited to Strategic Green Links and the Greenway Network, as defined by the draft proposals map. The broad ranging terminology used in the draft policy and supporting text and on the proposals map does not provide for a policy that can be effective, having regard to the test of soundness set out at paragraph 35 of the Framework.
- 3.3 It is not clear from the draft policy and supporting text whether the protection the policy seeks to afford (at sub-sections 5. and 6.) is intended for Strategic Green Links and the Greenway Network as defined on the draft proposals map, or some wider network of green infrastructure. For the policy to pass the test of soundness, it should provide clear justification regarding the extent of land within the borough that it seeks to provide protection for. The proposals map should clearly identify the land to which the policy justifiably relates. At present the draft policy, supporting text and proposals map are at odds with the Framework requirements of being justified and effective, such that the policy does not pass the test of soundness.
- 3.4 There should also be a clear distinction between policy DC3 and policy DC5. Policy DC5 is concerned with open space, sport and recreation and ensuring that a comprehensive range of sport and recreation facilities are provided across the borough.
- 3.5 Criterion e. of sub-section 5. Is not justified in its cross-reference to policy DC5. Policy DC5 is concerned with seeking to secure appropriate levels of public open space for sport and recreation, and any tests associated with this are not directly relevant to the securing of new green infrastructure. Any requirement for the provision of new green infrastructure should have regard to the purposes of identifying land as either Strategic Green Links or part the Greenway Network. Whilst there might be some spatial cross-over of land that is identified as protected open space (policy DC5) and land that is identified as either Strategic Green Links or part the Greenway Network (policy DC3), the justification for identification of protected land is different between policy DC3 and policy DC5 as the protection afforded is pursuant to different objectives.
- 3.6 For the proposals map to be robust and effective, the annotations relating to policy DC3 and policy DC5 should be amended such that it is clear which areas of land are identified as open space (policy DC5) and which areas of land are designated as part of the Greenway Network or Strategic Green Links (policy DC3). There is no justification for open space being afforded the blanket protection afforded by policy DC3; simply by virtue of land being identified as open space under policy DC5. The requirement for a change to proposals map annotation is dealt with in more detail separately, in submissions dealing specifically with the draft plan cartography.

Policy DC5 - Open Space, Sport and Recreation Provision

- 3.7 NWP considers that draft policy DC5 requires amendment to pass the test of soundness, removing the cross-reference to policy DC3.
- 3.8 The supporting text to policy DC5 is clear that it is concerned with access to high quality open spaces and opportunities for sport and recreation. The policy is concerned with the health and well-being of borough residents, also referring to community cohesion and opportunities for active travel. The objectives address quality of life exclusively. The policy is concerned with the enjoyment of open spaces by borough

residents, and its objectives are very different to policy DC3 which has a much broader remit focussing on the environmental reasoning for identification of a Greenway Network and Strategic Green Links. It is not justified for criterion a. of policy DC5 sub-section 2. to state that new open space created will be afforded protection in accordance with policy DC3. Open space (existing or new) is not necessarily part of the Greenway Network or Strategic Green Links to which policy DC3 relates, and there is no justification for all identified open space to be protected as if it were. As criterion a. of sub-section 2. identifies, open space will be afforded protection by criteria (7) of the policy which deals specifically with seeking to avoid the unacceptable loss of existing open space, sport or recreation facilities for non-recreation purposes.

- 3.9 For the proposals map to be robust and effective, the annotations relating to policy DC3 and policy DC5 should be amended such that it is clear which areas of land are identified as open space (policy DC5) and which areas of land are designated as part of the Greenway Network or Strategic Green Links (policy DC3). There is no justification for open space being afforded the blanket protection afforded by policy DC3; simply by virtue of land being identified as open space under policy DC5. The requirement for a change to proposals map annotation is dealt with in more detail separately, in submissions dealing specifically with the draft plan cartography.

4.0 Cartography: Draft Local Plan Proposals Map

- 4.1 For the proposals map to be robust and effective, the annotations relating to policy DC3 and policy DC5 should be amended such that it is clear which areas of land are identified as open space (policy DC5) and which areas of land are designated as part of the Greenway Network or Strategic Green Links (policy DC3). There is no justification for open space being afforded the blanket protection afforded by policy DC3; simply by virtue of land being identified as open space under policy DC5.
- 4.2 The draft local plan proposal map currently identifies land as *DC3 / DC5 Open Space*. This is misleading as the justification for identifying land as part of the Greenway Network or as Strategic Green Links (policy DC3) is quite different to the justification for identifying land as open space (policy DC5). The annotation *DC3 / DC5 Open Space* is actually referring to land for which it is considered that there is justification to afford protection as open space under policy DC5. The proposals map carries separate annotations for the Greenway Network and Strategic Green Links. Any land for which it is considered that there is justification for policy DC3 protection should be identified on the proposals map only through these separate annotations.
- 4.3 The annotation *DC3 / DC5 Open Space* should be amended to *DC5 Open Space*.

Specific Commentary on Annotations for Land at Birchwood Boulevard

- 4.4 Amendment is required to proposal map annotations for land under control of NWP, which is located to the north-east of 720 and 730 Birchwood Boulevard. The land is currently annotated as both an existing employment area (*DEV4 Existing Employment Areas*) and as open space (*DC3 / DC5 Open Space*), as figures 4.1 and 4.2 below indicate. It should be amended such that the (*DC3 / DC5 Open Space*) annotation is removed.

Figure 4.1 DEV4 Existing Employment Areas

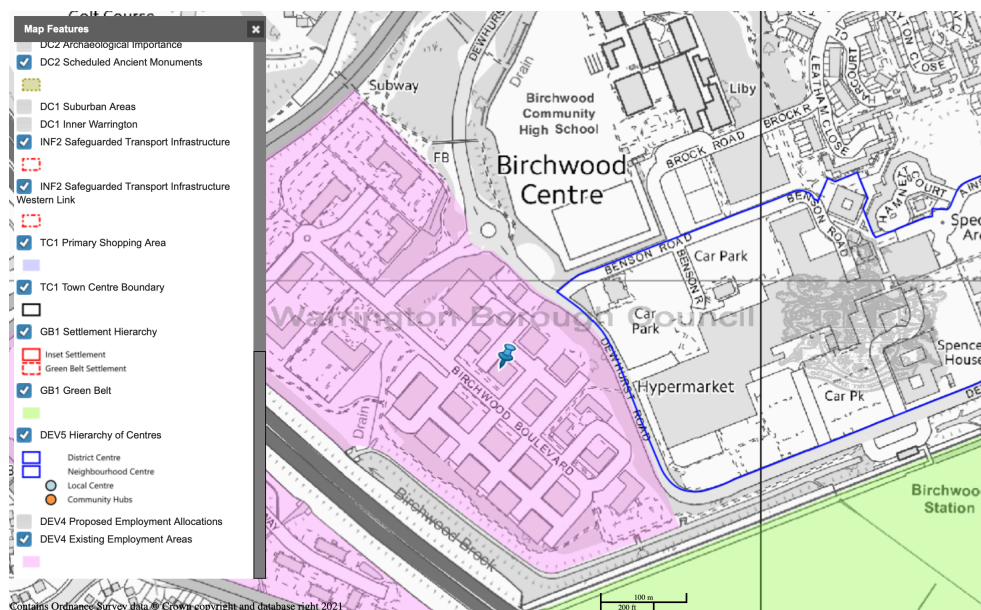
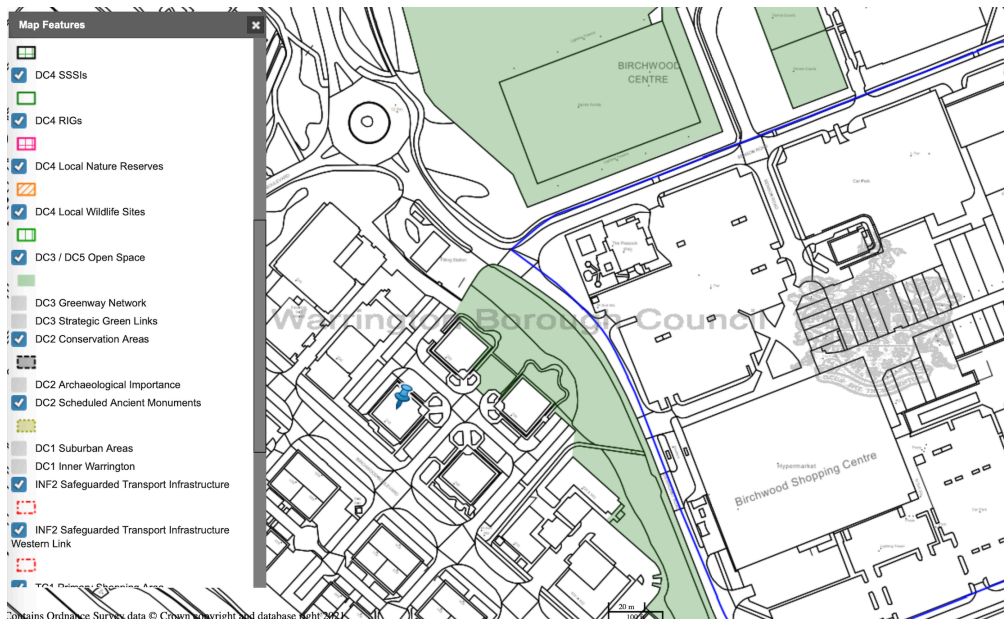
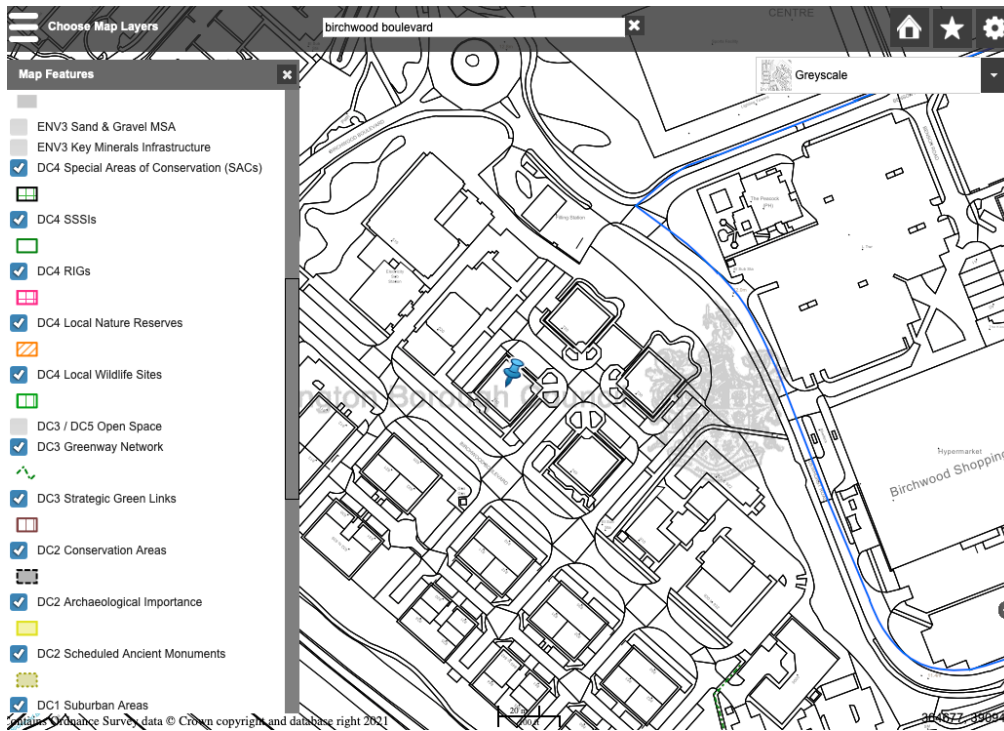


Figure 4.2 DC3 / DC5 Open Space



4.5 Further interrogation of the draft local plan proposals map confirms that land at Birchwood Boulevard is not designated as either part of the Greenway Network or Strategic Green Links (policy DC3). Figure 4.3 illustrates the absence of any specific policy DC3 annotation in this location, and it is therefore interpreted that the land is included in the *DC3 / DC5 Open Space* annotation as an area of open space (policy DC5).

Figure 4.3 DC3 Greenway Network / DC3 Strategic Green Links



4.6 The land under the control of NWP can only be included as part of the (policy DC5) open space annotation on the draft local plan proposals map by virtue of it being considered as a natural/semi-natural greenspace (criterion d. Natural/Semi-natural greenspaces of sub-section 1. Open Space Strategy to draft policy DC5). However, policy DC5 is clear that its purpose is to seek to ensure:

'...that a comprehensive range of sport and recreation facilities will be provided across Warrington to meet the needs of the existing and proposed population'.

- 4.7 The land under the control of NWP does not make any contribution to the range of sport and recreation facilities provided across Warrington. Its inclusion within the policy DC5 annotation on the draft local plan proposal map is not justified, as it does not perform the function which policy DC5 is intending to make provision for. Its identification as open space is also in conflict with its identification as an existing employment area. Whilst the land does not currently accommodate built development, it is part of the existing employment area and is appropriately identified as such on the proposals map. Future proposals for development of land in existing employment areas are appropriately determined in accordance with local employment land policies and local development management policies, having regard to material considerations including national planning policy and guidance. An open space designation of this site is not justified, and therefore not sound, as the land in question does not perform an open space function having regard to the objectives of policy DC5.