

LAND WEST OF MILL LANE
NEWTON LE WILLOWS, ST HELENS
APPEAL 3350503

CLOSING SUBMISSIONS ON BEHALF OF APPELLANT

1. The appeal proposal involves the provision of 92 houses together with an access road from the A49.
2. The Development Plan comprises the St Helens Borough Council Local Plan (“the Local Plan”)¹ which was adopted on 12th July 2022.
3. The appeal site comprises the southern part of a broadly triangular field (“the Field”) located within Newton le Willows (“NleW”), a Key Settlement within the Borough, together with the access route through the northern part of the Field². The Field abuts existing residential development to the north and north-west, a main road (A49) and railway corridor with a school, education unit and housing beyond to the east and a cemetery and open space to the west³.
4. The northern part of the Field is allocated in the Local Plan as Safeguarded Land under policy LPA05 (“the SG Land) whilst the southern part is white land (“the WL Site”). The open land to the west is allocated as part the Greenway Network under Policy LPC07 (“the Greenway Land”) and some of this land is also protected under Policy LPC05.
5. The Field and the Greenway Land to the west and north were formerly in the Green Belt. The Local Plan preparation was informed by a Green Belt Assessment. In that assessment the Field and Greenway Land were considered as Parcel 45, with the Field and the Greenway Land being assessed separately as Parcels 45A and 45B respectively⁴.

¹ CD 3.1

² SH para 3.1

³ NF para 2.3

⁴ See GBR Stage 1B Assessment – DP App 3 p 11ff

6. The Green Belt Assessment found that the Field was “*well contained to the north, east and relatively well contained to the south and west*” with a “*high level of enclosure*” and that it did “*not have a strong sense of openness or countryside character*”⁵. A developability assessment as part of this review concluded that the Field was suitable for residential development but that “*there are potential problems in terms of access and providing a secondary access, therefore potential yield needs to be reduced*”⁶.
7. The Stage 3 Assessment made the following observations: (i) residential to north, east and west of sub-parcel – (ii) the sub-parcel benefits from strong boundaries on all sides and is within a sustainable location close to a railway station – (iii) a historic landfill site lies within the southern part of the sub-parcel which would require further investigation – (iv) the NDA has been significantly reduced to remove the need for a secondary access and due to the unknown nature of any contamination within the landfill site – (v) noise attenuation measures would be required for the railway line – (vi) a number of constraints require further investigation to help achieve a development which can make efficient use of the site⁷. As the Local Plan Examiner explained⁸, this led to all of the Field being released from the Green Belt, with the northern part (the SG Land) allocated as Safeguarded Land and the southern part (the WL Site), which forms the bulk of the appeal site, being left as white land.
8. It is important to note the Inspector’s comments that the perceived constraints had led to the safeguarding of the SG Land to the north rather than allocation for development in the Local Plan. It is clear that the only reason that the appeal site (together with the remainder of the SG Land) was not brought forward for development in the Local Plan was because of the perceived constraints of the former landfill site and the potential capacity of a single point of access. It is now accepted that both of these constraints are not present and accordingly the reasons for not allocating the appeal site in the Local Plan were misconceived⁹.

⁵ GBR Stage 1B Assessment – DP App 3 p 13

⁶ GBR Stage 2B Assessment – DP App 4 p 16

⁷ GBR Stage 3 Assessment – DP App 5 p18

⁸ CD 3.6 para 258 pdf 51

⁹ This was eventually confirmed by JR in XX

9. The history of assessment of the area by the Council and the LP Examiner discloses a number of significant points –
- i) The northern and southern parts of the Field were assessed as having the same physical and perceptual qualities. There was no suggestion that there was some fundamental distinction between the two and/or that the southern part was more sensitive and should be considered separately or with the Greenway Land. Rather surprisingly JR tried to suggest otherwise but eventually agreed with this in XX.
 - ii) The reason the Field was not allocated for immediate development was because of mistaken concerns about potential constraints which it was thought would take time to address.
 - iii) The reason the Local Plan ultimately distinguished between the northern and southern parts allocating the northern part as Safeguarded Land whilst leaving the southern part as white land was because it was mistakenly considered that the southern part was affected by an historic landfill site and that access constraints would only allow half of the site to be developed. Again this was ultimately confirmed by JR in XX.
 - iv) It can be observed that it was not considered appropriate or necessary to place any restrictions upon the development of the WL Site in the Local Plan.
 - v) If the WL Site were considered to be unsuitable for development in principle it would have been possible to place it within one of the protective policies such as the Greenway Network. If it had been considered inappropriate for the WL Site to be developed in advance of development of the SG Land it would have been possible to make such a provision. No such restrictions were imposed. The WL Site was clearly considered to be suitable for development if the perceived constraints could be overcome. As they have now been shown not to apply there is no reason why the WL Site should not be developed now.

10. Although the application was refused on six grounds, most of the concerns raised by the Council have been addressed. The outstanding issues appear to arise as a result of development of the appeal site in advance of development of the remainder of the SG Land.

The effect of the proposed development with regard to safeguarded land – reason for refusal 1

11. The Green Belt Assessment recognised that access to the field for any development would be principally from the A49 (with any other access limited to emergency access)¹⁰. The frontage to the A49 is limited to 45 metres between the northern site boundary and the railway bridge and the proposed site access is located in the optimum location¹¹. This necessitates an access road across the SG Land to the WL Site. It is the provision of this access road which gives rise to the Council's first reason for refusal.

12. Policy LPA05(3) provides that development on the SG Land will only be permitted for proposals necessary for the operation of the existing permitted uses of the land or temporary uses. It is accepted that the access road does not comply with this element of the policy and accordingly it has always been accepted that this involves a conflict with Policy LPA05(3)¹². In considering what weight to give to that conflict, it is important to consider the purpose of the policy and what harm, if any, would arise from the conflict with this element of the policy as SH explained¹³.

13. The purpose of Policy LPA05 is to safeguard land to meet long term development needs¹⁴. The key question is accordingly whether the appeal proposal would harm that objective¹⁵.

14. The site access onto the A49 utilises the access which would be required in any event for development of the SG Land as the SCP Technical Note explains¹⁶ and, at

¹⁰ See DP App 4 p17 – Transport Accessibility: Vehicular Access

¹¹ SCP Technical Note paras 2.8 and 2.9 – SH App 9 p 147 and SH para 5.10

¹² SH para 5.4

¹³ SH para 5.4

¹⁴ See CD 3.1 LP para 4.21.1 (p 62 – pdf 68), and CD 2.2 OR p 1 2nd paragraph – see also LPA05(1) and SH para 5.4

¹⁵ SH para 5.4

¹⁶ SH App 9 p147 para 2.7-2.11 and SH para 5.10

the Council's request, has been designed to accommodate the traffic which could be generated by both the appeal site and the SG Land¹⁷.

15. The access road routes through the SG Land alongside the railway in what is already a transport corridor and where houses would not be expected to be built because of the noise and disturbance from the railway as was always recognised by the Council¹⁸. The Local Plan requires a buffer to be provided in this location¹⁹. The appeal layout accordingly leaves the developable area of the SG Land free from any constraints and makes good use of the area which is required to provide a buffer from the railway. The location of the access road makes efficient use of the Field to optimise its development potential and the illustrative masterplan²⁰ shows how the SG Land could be developed with the appeal proposal in place. As SH explained the masterplan demonstrates that development of the whole field can come forward in a phased manner with the appeal proposal as a standalone development²¹.
16. The evidence establishes that the approval of this proposal would not prejudice the delivery of the SG land given that the land would use the same access as the appeal proposal in any event and the route of the access road enables satisfactory options for a layout of the SG Land once it is brought forward²². This appears to have been recognised by the Council at the pre-application stage, but unfortunately the officers then changed their position²³.
17. In the circumstances, whilst there is a conflict with criterion 3b of Policy LPA05 there is no material planning harm from the approval of this appeal as it would not prejudice the delivery of the SG Land and would not conflict with the purpose of the policy.

¹⁷ See OR CD 2.2 p 17 final para and SH para 5.10

¹⁸ See Green Belt Review Stage 2B – Conclusions on Developability: Summary of Developability Assessment DP App 4 p 16

¹⁹ See CD 3.1 pdf App 7 Site Profile pdf 284/333 Requirements 2nd bullet point and SH para 6.10

²⁰ CD 1.1.44

²¹ SH para 5.8

²² SH para 5.10

²³ SH para 5.2

Effect of proposal on character and appearance of the area – reason for refusal

2

18. The planning application was accompanied by a Landscape and Visual Assessment²⁴ (“LVA”). No issue was taken with the LVA methodology or conclusions by the Council²⁵.
19. As NF explained the appeal site is located within an urban fringe landscape where residential development is the dominant land-use²⁶. This is recognised in the Council’s comprehensive landscape character assessment for St Helens²⁷ which places the appeal site within LCT 12 SSS1 Newton-le-Willows: this type is described as “Urban/Residential”²⁸. The LCA confirms that the railway line forms the settlement edge of NleW in the vicinity of the appeal site and that it provides a “Strong” robust settlement edge²⁹. As already noted a similar conclusion was reached in the Green Belt Assessment.
20. The proposal will inevitably have a significant impact on the appeal site which will change from an agricultural field to an area of residential development. However, the contained nature of the site and the nature of the surrounding land uses limit the extent to which the development would exert itself upon the wider townscape of NleW³⁰. Three oak trees and a group of hawthorn would have to be removed to provide the site access (as they would were the SG Land to be developed) but otherwise the existing trees in the area would be retained. Whilst it is accepted that there would be a low level of adverse landscape effect at the outset of the development, in the longer term the comprehensive landscape proposals associated with the development will over time generate a low level of beneficial effect as the planting becomes established³¹.
21. Public viewpoints of the proposed development are essentially limited to two footpaths in the immediate vicinity of the site, the A49 at the site entrance and the railway. Whilst it is acknowledged that the change from an agricultural field to

²⁴ CD 1.1.32

²⁵ See OR CD 2.2 pdf 14.34

²⁶ NF para 4.11.4

²⁷ CD 6.1

²⁸ NF para 2.16 and Figure 4

²⁹ NF para 2.21

³⁰ NF para 3.2

³¹ NF para 3.3

residential development would be viewed as having some adverse visual effects of varying degrees none would reach a level which might be considered significant³².

22. Before considering the issues raised by rfr 2 it is appropriate to address 2 hares which JR set running in his proof of evidence, which do not form part of the Council's rfr.
23. JR refers to the WL Site as forming part of a green lung which he suggests that the LP Inspector referred to in his report³³. This is a reference to paragraph 258 of the report³⁴. In fact the reference in this paragraph is considering the SG Land, not the appeal site, as can be seen from paragraph 257 (which is considering site 5HS) and the end of paragraph 258. The Inspector comments that the SG Land makes *some* contribution to the green lung but does not suggest that this is a constraint on development. The Inspector clearly considered the green lung to be *within* the urban area (indeed that is the idea of a green lung as JR agreed) which provides confirmation that this general location was viewed by the Inspector as being within the urban area. It is also confirmation that a characteristic of this area is that it has open areas running through it and therefore separating elements of built development, which is significant given the nature of the Council's objections raised by rfr 2.
24. Although JR raised the issue of the green lung he confirmed in XX that impact upon any green lung forms no part of the reasons for refusal by the Council and is not being advanced by the Council as a ground for dismissing the appeal. If the Council had thought it important to retain this land as open land or a green lung it could have been so provided in Local Plan, but the LP does not seek to retain a green lung.
25. JR also drew attention to Prominent Gateway Corridors and Policy LPD06 in the context of the view from the A49³⁵ (see paras 5.13 – 5.15), but – (a) conflict with LPD06 forms no part of the Council's rfr and – (b) this is not a policy identified as relevant either by JR³⁶ or by the Council³⁷. The introduction of this policy appears to have been an attempt to give weight to the objections raised in JR's proof in

³² NF para 3.4 & 3.5

³³ JR para 5.9

³⁴ CD 3.6 pdf 51

³⁵ JR 5.13 – 5.15

³⁶ See JR para 3.6 which sets out the relevant policies

³⁷ See both the OR CD 2.2 pdf 6/34 and the SOCG which both set out the relevant policies.

support of rfr 2. JR stated that the policy had informed his assessment of the proposal, but ultimately he accepted that it was not a relevant policy which meant that his assessment had been founded upon consideration of an irrelevant policy.

26. JR's summary sets out 3 reasons why the proposal is not supported³⁸, which reasonably summarise the Council's objection: -

- i) The proposed development would be visually isolated from nearby residential development
- ii) The access road is across open land,
- iii) Piecemeal development of part of the SG Land is poor planning.

27. Those 3 reasons all arise because the development of the appeal site is being brought forward in advance of development of the majority of the SG land. It is clear from the nature of these objections that if the SG land were to be developed there would be no objection to this site being developed. There is accordingly no in principle objection to development of this site. The only question is whether there is harm created by developing this site in advance of development of the remainder of the SG land. JR initially resisted these obvious propositions, which was surprising given that the Council expressly stated in opening that there is no objection in principle to development of the land in itself. When reminded of this JR accepted that this correctly reflected the Council's position.

28. It is clear from JR's proof that his concern is principally with the view from the A49, and it is in this context that he raised the irrelevant considerations about Prominent Gateway Corridors.

29. It is agreed by JR that the view of the appeal site from the A49 is effectively limited to the view from the overbridge, which will be opened up a little by the provision of the new access. JR accepted that the site is not seen elsewhere from A49. For car users it is agreed that any view would be fleeting³⁹: indeed a car occupant would have to be in a higher vehicle to get a view at all. Even for pedestrians in reality the view would be brief.

³⁸ JR paras 1.2-1.4

³⁹ JR para 5.12

30. NF analysed this VP in detail in his proof of evidence⁴⁰. The viewpoint is about 240m from the northern edge of the main body of the appeal site. The elevated position allows wide views so the appeal proposal would be seen in the context of the existing housing on Cholmley Drive to the east, the housing on Warwick Avenue to the west, and Wayfarers Drive to the north. JR accepted all of this with the possible exception of Warwick Avenue.
31. The existing edge with Wayfarers Drive is particularly poor and abrupt (predominantly concrete post and timber panel fencing with an absence of screening or buffering vegetation and houses orientated side on to the edge of the safeguarded land). By contrast the proposed houses on the northern edge of the appeal site would orientate to face outwards to the north and view of the houses would be filtered by the tree planting along the road. As a result the proposed northern edge to the appeal site would form a comparatively higher quality edge than the existing edge formed by Wayfarers Drive. Again this was all agreed by JR.
32. The access road would also be visible tracking along the eastern edge of the safeguarded land parallel to the rail corridor. The peripheral location of the road and the proposed flanking lines of trees would be contiguous with the rail corridor which would minimise its visual prominence particularly as the trees mature.
33. The appeal proposals would introduce a new block of residential development into the view which would be seen in the context of the existing development on Cholmley Drive, Warwick Avenue and Wayfarers Drive. The development would not appear isolated.
34. JR suggested that if the appeal site is developed the SG Land would remain undeveloped and form a visual break between the appeal site and the current residential development⁴¹. This does not of itself create harm. Indeed it is surprising that the point should be raised given JR drew attention to the “green lung” in this area. Retention of the undeveloped part of the SG Land (whether for a temporary period or permanently) would simply means that the green lung would remain and the green lung has not previously been considered to be harmful.

⁴⁰ NF para 4.11.12

⁴¹ JR para 5.10

35. JR also referred to the SG Land being separated from the GB farmland to the south, but there is currently no connection with the GB land to the south. Indeed the whole point of the GB assessment was that the Field (which includes the SG Land) is well contained.
36. JR only made brief reference to views from other viewpoints⁴². He acknowledged that existing housing is seen in the background from these viewpoints, but suggested that it is a “distant backdrop”. This is not an accurate description and the existing residential development has a clear influence on the area as NF explained in his detailed assessments of the impact from the other viewpoints⁴³.
37. JR does not take any issue with views from VP1. The undeveloped SG Land would not be seen from this location which is dominated by stored material and other paraphernalia in the foreground and the raised railway. Views of the appeal site are likely to be limited to upper storeys and roofs viewed more than 250m away over the school site development, and the effect of the development on the appeal site would be the same from this VP with or without development of the SG Land⁴⁴.
38. VP 3, which is at the closest point of the footpath to the appeal site, is the closest VP to the appeal site. It is also close to the boundary of the SG Land. Development of the appeal site is set back from the footpath. Housing is already visible from this location. Whilst development of the appeal site would bring housing closer to the footpath, there will be a generous buffer of open space between the footpath and the nearest houses which will be no closer than development of the SG Land would be in any event⁴⁵.
39. The other VPs are further from any built development on the appeal site. The view obtained of the appeal site and/or the SG Land will vary as one progresses between these VPs. From all VPs the development on the appeal site will be seen in the context of the other built development in the area which is already seen from these areas.

⁴² JR para 5.23

⁴³ See NR para 4.11.9 for VP 1, para 4.11.10 for VPs 2 & 3 and para 4.11.11 for VPs 4 & 5

⁴⁴ NF para 4.11.9

⁴⁵ See the Masterplan CD 1.1.44 and NF para 4.11.10 – this was eventually agreed by JR in XX

40. JR suggested⁴⁶ that the SG Land would appear as an isolated field bounded by residential development to the north and south which would give the impression of bad planning. Why this would be so viewed given the existence of the green lung identified by JR is unclear.

41. JR raised a number of points about the access road in so far as it runs through the undeveloped area of the SG Land. None of these points raise any issue of genuine concern: -

- i) The reference to the lack of overlooking and fear of crime⁴⁷ are contradicted by his other concerns raised about the clear views over the SG Land to the proposed development, particularly from the “clear and prolonged view”⁴⁸ from the “well-trafficked” A49⁴⁹ which would be increased by the provision of the site access⁵⁰. They should also be viewed in the context of the use of the footpaths in the area which similarly cross open land and which would not have passing traffic. The Dinting Vale appeal decision provides an example of such an access being found to be perfectly acceptable⁵¹.
- ii) References to use of unlit parks after dark⁵² provide no basis for comparison with use of this road which it is acknowledged would be lit⁵³.
- iii) The lighting of the access road again provides no ground for objection. The surrounding area is a generally lit environment, and views would be experienced in the context of that current lit environment.
- iv) The Green Belt Assessment concluded that sub-parcel GBP 045a is “*within a sustainable location*”⁵⁴. The sub-parcel was the whole field

⁴⁶ JR para 5.23

⁴⁷ JR para 6.3

⁴⁸ JR para 5.12

⁴⁹ JR para 5.11

⁵⁰ JR para 5.11

⁵¹ See CD 7.8 & CD 7.9

⁵² JR 6.6

⁵³ JR 6.7

⁵⁴ See DP App 5 top of page 18

(i.e. it included the whole of the appeal site) and no distinctions were drawn about only part of the field being sustainable.

- v) As already addressed above the development of the appeal site does not prejudice development of the SG Land if and when it is released for development.

42. JR raised a concern about the road running along the railway line suggesting that it would be the main road in the development and in any development of the SG Land and that as such it should occur a more central position. This was a further example of JR raising points simply to try to find an objection: -

- i) When the previous application was made the road was shown as going through the centre of the SG Land but JR objected to this arguing that it reduced options for development of the SG Land.
- ii) As NF explained if the SG Land were subsequently to be developed it would be perfectly possible to have a main road running through the centre of the SG Land. JR's claim that he could not address this without site of a plan was really a refusal to engage with the issue.

43. The appeal site is located within a settlement area characterised by residential development with an urban fringe character. It is very well contained. The proposal is consistent with the character of the urban fringe townscape in the vicinity rather than being isolated. It would simply form a new area of development within the settlement area that would be well related to existing development. This would be further consolidated by development of allocations to the east and the safeguarded land to north and south in the future⁵⁵. Urban fringe often contains reduced levels of development and density compared to the centre and spaces between areas of development are more frequent and effectively part of the character of the urban fringes of NleW and many other settlements⁵⁶.

⁵⁵ NF para 4.13

⁵⁶ NF para 4.11.5

Impact on open space and Local Wildlife Site – reason for refusal 3

Unacceptable loss of trees – reason for refusal 4

44. Both of these reasons for refusal were addressed by the production of a revised Landscape Masterplan, Planting Plans, and an associated Landscape and Ecology Management Plan which were informed by discussions with the Council. It is now agreed that these adequately address the concerns raised by the Council in rfr 3 & 4 which have been withdrawn subject to the imposition of the agreed conditions⁵⁷.

Flood risk – reason for refusal 5

45. Matters with respect to flood risk have been agreed with the Council which agrees that reason for refusal 5 has been addressed⁵⁸. The Drainage Scheme⁵⁹ and drainage strategy⁶⁰ have been agreed with the LLFA⁶¹. United Utilities raised an issue with respect to its infrastructure which it is agreed is addressed by condition 34 in the agreed conditions⁶².

Infrastructure provision – reason for refusal 6

46. This issue is addressed by an agreed section 106 obligation which is agreed to address all of the issues raised in reason for refusal 6⁶³.

Housing land supply

47. This appeal is not dependent upon the application of a tilted balance in the planning balance, but the question does arise as to whether the Council is able to demonstrate a 5 years housing land supply.

48. Although the Local Plan was adopted in July 2022, the issue of 5 years housing land supply remains relevant because the planning application in this case was made prior to the NPPF revision in December 2023⁶⁴.

49. The Council considers that it is able to identify a 6.44 (or 6.58) years supply whereas SH considers the correct figure to be 4.83 years⁶⁵. There is a considerable level of

⁵⁷ SOCG CD 4.10 para 4.8-4.10

⁵⁸ SOCG CD 4.10 para 4.15

⁵⁹ CD 1.1.37

⁶⁰ CD 1.1.42

⁶¹ SOCG CD 4.10 para 4.13

⁶² SOCG CD 4.10 para 4.14

⁶³ SOCG CD 4.10 para 4.18 and SH para 1.6

⁶⁴ NPPF para 76 and footnote 79 – SH para 4.1

⁶⁵ SOCG CD 4.10 para 4.6

agreement between the parties: the main issue is whether there is sufficient evidence that housing completions will begin on the “category b” sites (i.e. major sites with outline planning permission and other sites without a planning permission). As SH demonstrated the approach here is to require clear evidence that such sites will begin within five years and that decisions makers have regularly rejected generalised or pro forma evidence when considering whether such evidence is present⁶⁶. This is clearly explained by Mr Stephens, an experienced inspector, in the *Little Sparrows* decision letter⁶⁷ at paragraph 21

“Clear evidence requires more than just being informed by landowners, agents or developers that sites will come forward, rather, that a realistic assessment of the factors concerning the delivery has been considered. This means not only are there planning matters that need to be considered but also the technical, legal and commercial/financial aspects of delivery assessed. Securing an email or completed pro-forma from a developer or agent does not in itself constitute ‘clear evidence’. Developers are financially incentivised to reduce competition (supply) and this can be achieved by optimistically forecasting delivery of housing from their own site and consequentially remove the need for other sites to come forward.”

50. It is for the Council to produce this evidence and it has been unable to produce such evidence for the sites set out in Table 2 of the Housing Land Supply SOCG⁶⁸. A recurring theme of Ms Manson’s evidence was that the site in question was a “good” site and she was confident that it would produce housing during the five years. As SH explained the issue is not whether the site in question is a good site but rather whether there is evidence that it will be brought forward during the relevant period. Ms Manson’s confidence in the site does not amount to such evidence and the Council did not produce any evidence of the type which is required. Furthermore it was notable that a number of the sites had had previous planning permissions which had lapsed: as SH fairly pointed out the same argument that the site was a “good” site and that the Council was confident that it would be brought forward would equally have applied at the time of the earlier permissions on those sites which only

⁶⁶ See SH 4.10-4.25

⁶⁷ CD 7.6

⁶⁸ CD 4.11

serves to highlight why it is important to have good evidence of the type required by the Inspectors in the appeal decisions referred to by SH.

51. Irrespective of the position with respect to the 5 years housing land supply, the Secretary of State's statement "*Building the homes we need*" ("the WMS") is a significant material consideration which reflects the new government's concerns to see greater housebuilding which is one of its greatest priorities. The WMS states that we are in the middle of the "*most acute housing crisis*" in living memory and outlines the Government's commitment to change the planning and housing system to turbocharge growth and deliver 1.5 million homes over the next 5 years⁶⁹. The WMS criticises the current standard method for calculating local housing need as "*not up to the job*" and sets out how it is proposed to be revised together with revisions to the NPPF which will tighten up the requirements placed upon local authorities to identify housing land supply⁷⁰.

52. As SH explained the new proposed approach to the standard method would have significant implications for St Helens: it would result in local housing need increasing from 391 dwellings per annum to 825 dwellings per annum. This is an increase of 339 – almost 70%. The WMS emphasises that "*there is no time to waste*" and that it is time to get on with building the necessary houses⁷¹.

53. The implications of the WMS are an important factor when it comes to considering the weight to give to various issues in the planning balance.

Affordable housing

54. The proposal provides a policy compliant 30% affordable housing provision with a range of housing types⁷².

55. The Council suggests that the affordable housing provision should only be given moderate weight as it is a policy requirement and the Council considers that it has approved 61% of its overall plan total of affordable housing in the first two years after adoption⁷³. The Council's approach is misguided:-

⁶⁹ SH App 1 and SH paras 4.33 and 4.34

⁷⁰ SH para 4.35 and 4.36

⁷¹ SH para 4.39

⁷² SH para 7.3

⁷³ SH para 7.4

- i) The approval of part (or even a significant part) of the Local Plan provision for affordable housing does not reduce the weight to be given to providing more of the affordable housing required by the Local Plan. There is no sound reason why such provision should be delayed until later in the Plan period given that there is a need now⁷⁴.
- ii) The Local Plan figure is based upon the SHMA published in 2019. Since then there has been a significant increase in the number of households on the housing waiting list⁷⁵.
- iii) The Council's own register shows that there is a reducing supply of affordable housing⁷⁶.

Other planning matters

56. The provision of housing on a large windfall site such as the appeal site accords with Policy LPA04 on meeting St Helens' housing needs⁷⁷ and its delivery within NleW accords with the Local Plan's spatial and settlement strategies in LPA01⁷⁸. Delivery of housing on this site must also be considered in the context of the delivery of employment in the Parkside area immediately to the east: providing a strong homes/jobs relationship in this part of NleW⁷⁹.
57. Potential environmental issues are comprehensively addressed in the various reports provided in support of the application which establish that there are no environmental issues which would prevent the proposed development from proceeding⁸⁰.

Planning balance

58. The appeal site is white land where the principle of development is acceptable, as the Council concede⁸¹. Access to the site is proposed through land designated as safeguarded land in the Local Plan which would conflict with criterion 3 of Policy LPA05. However, that conflict is limited as there is no material planning harm from

⁷⁴ SH para 7.6

⁷⁵ SH para 7.7

⁷⁶ SH para 7.12

⁷⁷ SH para 7.14 & 15

⁷⁸ SH para 7.16 * 7.16

⁷⁹ SH para 7.17

⁸⁰ See SH para 7.18 – 7.23

⁸¹ Council Opening and JR XX

the approval of this appeal as it would not prejudice the delivery of the SG Land given that it would require the same access point as the proposed application and the route of the revised access road enables options for a layout if and when the SG Land is brought forward for development. The conflict with the development plan only attracts limited weight in this particular case⁸².

59. Set against the limited harm caused by the proposal, significant weight in favour of the proposal is derived from the provision of 92 new homes in this location. That weight applies irrespective of whether the Council is able to demonstrate a 5 years housing supply, particularly given the issues set out in the WMS. In addition significant weight attaches both to the provision of affordable housing and also to the location of the development. The development would also provide a range of other benefits which attract limited weight⁸³.
60. Even on a flat planning balance the range of substantial benefits which flow from this development outweigh the limited harm arising from conflict with development plan policy in this case. This remains the case even if one were to attribute more than limited weight to the development plan conflict. They also outweigh any impacts that the development of the WL Site may be found to have upon the character and appearance of the area. The absence of a 5 years housing supply merely provides a further reason why it would be appropriate to allow the appeal: the proposal does not rely upon absence of a 5 years housing supply⁸⁴.
61. In the circumstances the adverse impacts of the proposal do not significantly and demonstrably outweigh the substantial benefits which would arise from this development and we would respectfully invite you to allow the appeal.

VINCENT FRASER KC

5th December 2024

Kings Chambers,
Manchester

⁸² SH paras 5.10, 5.12, 8.3 and 8.5 and SOCG CD 4.10 para 4.19

⁸³ SH para 8.4

⁸⁴ SH para 8.5