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# ST HELENS

## BOROUGH COUNCIL

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St. Helens Council

**TOWN AND COUNTRY PLANNING ACT 1990**

**Statement of case on behalf of St Helens Borough Council Local Planning Authority**

Local Authority Reference: APP/2024/0022/REF, and P/2023/0619/FUL  
PINs Reference: APP/H4315/W/24/3350503

## **1.0 Introduction**

- 1.1 This statement of case has been prepared by St. Helens Borough Council (“the Council”) in respect of its decision to refuse planning permission for a full application for a residential scheme of 115 dwellings, with access from Mill Lane, Newton-le-Willows.
- 1.2 The application which is the subject of this appeal was refused under delegated powers on 15th March 2024 (Planning reference P/2023/0619/FUL). Six reasons for refusal were given. The Appellants (Wain Homes) lodged an appeal against the decision on 21st August 2024.
- 1.3 Since the decision to refuse the application was issued the appellant has submitted further information to attempt to address the reasons for refusal, this has included updated layout plans which has reduced the number of dwellings from 99 to 92 dwellings. This statement is written on the basis of the amended plans referenced in the schedule of conditions for 92 dwellings.
- 1.4 The Council addressed the statutory Grounds of Appeal upon which the Appellants rely, the factual and policy back ground in the following statement.

## **2.0 Appeal Site and Surrounding Area**

- 2.1 The appeal site comprises a broadly triangular shaped piece of grassland, measuring approximately 5 hectares in area, and is located on the southeast edge of Newton-le-Willows. It was formerly Green Belt but was removed as part of the adoption of the St Helens Borough Local Plan. The northern part of the site which includes the access road to the development is designated as safeguarded land in the local plan for possible future housing development, the southern part of the site is now undesignated, known as ‘white land’ in planning terms.
- 2.2 The western boundary of the application site is marked by tree planting and Newton Brook, with a section in the western area of the site being designated as Flood Zone 2 and 3 around Newton Brook. A railway line runs along the east boundary of the site. To the north of the site is an area of land (reference 5HS – Appendix 6) that is designated as “safeguarded” in the Development Plan in order to meet longer term development needs beyond the current 2037 plan period and with an indicative capacity of 191 dwellings.
- 2.3 The area surrounding the application site is predominantly residential to the north (beyond the safeguarded 5HS site) and open land to the south. Newton-le-Willows cemetery is to the west of the site, beyond Newton Brook, with the allocated employment site 8EA (Parkside West) located east of the site on the opposite side of A49 Mill Lane.

## **3.0 Appeal Proposal**

- 3.1 The proposal was originally for full planning permission for the construction of 99 dwellings including access, associated works and landscaping. Access to the housing proposed would be from A49 Mill Lane, through the safeguarded land to the north of the site, and this would be a single access road with an additional emergency access point down the eastern boundary. The layout shows where future links to the safeguarded land could be provided, should the site come forward for development in the future. It should be noted that post decision the appellants have submitted a revised scheme for consideration that reduces the number of dwellings to 92 as part of a package of amended plans to resolve some of the reason for refusal listed within the decision notice.
- 3.2 The proposal includes landscaping, including tree planting along the main street frontages. Stand-off areas are incorporated in the layout to separate the proposed dwellings from Newton Brook and the railway line, with an area of open space provided for the development in the

west area of the site alongside Newton Brook. The proposal would include 30% of the dwellings as affordable housing.

- 3.3 Along with the detailed layout of the proposal, and notwithstanding the clear policy approach to Safeguarded Land in the Development Plan, the applicant has included with their submission a masterplan of the application site and safeguarded land to the north to evidence how a comprehensive development of the land could be delivered.

#### **4.0 Reasons for Refusal**

- 4.1 The application was refused under delegated powers on 15<sup>th</sup> March 2024 with 6 reasons provided that are as follows;

1. The provision of an access road and emergency access road through safeguarded housing site 5HS is a form of development that conflicts with the requirements of Policy LPA05 of the St Helens Local Plan. This is because it is not a form of development necessary for the operation of the existing permitted use of the land, nor is it considered to be a temporary use that would retain the open nature of the land. The proposal therefore does not accord with the requirements of Policy LPA05.
2. The proposed development of 99 dwellings would, by virtue of its design and layout, result in a visually isolated form of development that would be harmful to the general character and appearance of the area. The application fails to create a high quality and well-connected development, resulting in a poorly planned residential development, that would cause harm to the visual amenity and landscape character of the area, and constitutes poor planning. The proposal fails to add to the quality of the area and does not exhibit good design or character, resulting in a car dominated street scene, a lack of room for landscaping within the site and dwellings that will be side on to areas of public open space. The proposal does not therefore comply with the requirements of St Helens Local Plan Policies LPD01 and LPD02 and the National Planning Policy Framework (2023).
3. The applicant has failed to adequately evidence an appropriate and usable provision of public open space on the site within the development layout. The proposal also fails to appropriately address the Local Wildlife Site regarding public open space and the future management and function of the Wildlife site. The proposal does not therefore comply with the requirements of St Helens Local Plan Policies LPC05, LPC06, and LPD03 and the National Planning Policy Framework (2023).
4. The proposal fails to provide an adequate landscape scheme and sufficient mitigation planting for the loss of trees on the site which is contrary to Policy LPC10 of the St Helens Local Plan which requires new development to provide sufficient replacement tree planting, and the National Planning Policy Framework (2023),
5. The applicant has failed to submit an acceptable drainage strategy that can be implemented. Insufficient levels of information have been submitted, and therefore it cannot be concluded that the development would not increase flood risk on the site and elsewhere. Therefore, the development fails to comply with the requirements of St Helens Local Plan Policy LPC12 and fails to meet the planning and flood risk aims of the National Planning Policy Framework (2023).
6. The proposed development is required to make financial contributions towards education provision and the St Helens Local Cycling and Walking Infrastructure Plan. The applicant has failed to make any formal commitment to provide the required financial contributions towards education provision and the St Helens Local Cycling and Walking Infrastructure Plan and this fails to comply with Policy LPA07 of the St Helens Local Plan and the National Planning Policy Framework (2023).

4.2 The decision was based on the following plans/details;

#### Plans

- Site Layout 2030WHD/MLNIw-PL01 Rev G
- Mill Lane Location Plan Rev D
- Storey Heights 2030WHD/MLNIw-SH01 Rev D
- Refuse Strategy 2030WHD/MLNIw-RS01 Rev D
- Boundary Treatment 2030WHD/MLNIw-BT01 Rev D
- EV Charge Plan 2030WHD/MLNIw-EV01 Rev D
- M3360-PA-01-V6 Landscape Masterplan
- 6930 03B SHEET 2 OF 2 TPP
- 6930 02B SHEET 1 OF 2 TPP
- SCP/210034/D10 Rev A – Proposed Site Access

#### House Types

- Aspen ASP-150-H-P1
- Acacia ACA-H-P1
- Alder ALD-H-P1
- Candlewood CAN.2B643.P.H.0.1
- Foxglove FXG-H-P1
- Hawthorn HAW-H-P1
- Hazel HAZ-H-P1
- Holly HOL-H-P1
- Hornbeam HOR-H-P1
- Laurel LAU-H-P1
- Marberry MAR-H-P1
- Mulberry MUL.4B1514SA.P.H.01
- Oakmere - 2.346.P.BU.L10.300 Rev A
- Spruce Floor Plans SPR.4B1588.P.F.01
- Spruce Elevations SPR.4B1588.P.H.01
- Whitebeam WBM-H-P1
- Willow WIL-H-P1

4.3 Amended versions of some of these plans and housetypes have been submitted by the appellant since the decision was issued. The approved plans condition in the suggested list of conditions in this statement will include the latest updates of these plans at the time of completing this statement.

### **5.0 Relevant Planning History**

5.1 P/2022/0575/FUL - Residential development for 99 dwellings including access, associated works and landscaping – Refused 8<sup>th</sup> December 2022 for the following reasons:

1. *The provision of an access road and emergency access road through safeguarded site 5HS is a form of development that conflicts with the requirements of Policy LPA05 of the St Helens Local Plan. This is because it is not a form of development necessary for the operation of the existing permitted use of the land, nor is it considered to be a temporary use that would retain the open nature of the land. The proposal therefore does not accord with the requirements of Policy LPA05.*
2. *The proposed development of 99 dwellings would, by virtue of its design and layout, result in a visually isolated form of development that would be harmful to the general character and appearance of the area. The application fails to create a high quality and well-connected development, resulting in a poorly planned residential development, that would cause harm to*

*the visual amenity and landscape character of the area, and constitutes poor planning. The proposal fails to add to the quality of the area and does not exhibit good design or character, resulting in a car dominated street scene, a lack of room for landscaping within the site and dwellings backing or side on to areas of public open space. The proposal does not therefore comply with the requirements of St Helens Local Plan Policies LPD01, LPD02 and the National Planning Policy Framework (2021).*

- 3. The application fails to demonstrate a safe vehicular access into and out of the proposed development site. The proposal has the potential to have an unacceptable impact on highway safety and therefore fails to comply with the requirements of St Helens Local Plan Policy LPA06 and the National Planning Policy Framework (2021).*
- 4. The proposal fails to demonstrate that the development would not increase flood risk or that the Sustainable Drainage hierarchy has been followed and therefore fails to comply with the requirements of St Helens Local Plan Policy LPC12 and fails to meet the planning and flood risk aims of the National Planning Policy Framework (2021).*
- 5. The proposal fails to provide an adequate landscape scheme and sufficient mitigation planting for the loss of trees on the site which is contrary to the National Planning Policy Framework (2021) and Policy LPC10 of the St Helens Local Plan, which requires new development to provide sufficient replacement tree planting.*
- 6. No ecological surveys of the existing site have been provided and so the impact of the development on biodiversity and ecology and protected species cannot be assessed, adequately mitigated and nor can it be determined if there is a measurable net gain of biodiversity which is contrary to the requirements of Policy LPC06 of the St Helens Local Plan and the National Planning Policy Framework (2021).*
- 7. The site is located adjacent to a train line and close to air quality management areas. A noise survey and Air Quality Assessment have not been submitted to allow the Local Planning Authority to assess the impact of the development on future residents and air quality impacts on the surrounding area. It has not been possible to identify adequate mitigation as required by Policy LPD01 of the St Helens Local Plan which requires development to minimise and mitigate the impact of noise and air quality.*
- 8. The proposed development is required to make contributions towards the delivery of affordable housing on the site, to be secured as part of the development and a financial contribution towards education provision. The applicant has failed to provide or make a commitment to provide the required amount of affordable housing provision or financial contribution towards education provision and is therefore in conflict with Policies LPC02 and LPA07 of the St Helens Local Plan and the National Planning Policy Framework (2021).*

## **6.0 Policy Considerations**

- 6.1 Paragraph 9 of the National Planning Policy Framework (NPPF) states that planning decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account to reflect the character, needs and opportunities of each area. Paragraph 11 states that planning decisions should apply a presumption in favour of sustainable development. This means approving development proposals that accord with an up-to-date development plan without delay; or where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or 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.

- 6.2 Paragraph 12 of the NPPF clarifies that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan, permission should not normally be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

#### *The Development Plan*

- 6.3 The adopted development plan for St Helens is the St Helens Borough Local Plan to 2037 and the Joint Merseyside and Halton Waste Local Plan (adopted 2013). The Council will produce the St. Helens Local Plan up to 2037, with specific reference to the following policies that are relevant to the determination of this appeal:

#### St Helens Borough Local Plan up to 2037 (“Development Plan”)

- LPA01: Spatial Strategy
- LPA02: Development Principles
- LPA04: Meeting St Helens Borough’s Housing Needs
- LPA05: Safeguarded Land
- LPA06: Transport and Travel
- LPA07: Infrastructure Delivery and Funding
- LPC01: Housing Mix
- LPC02: Affordable Housing
- LPC05: Open Space
- LPC06: Biodiversity and Geological Conservation
- LPC09: Landscape Protection and Enhancement
- LPC10: Trees and Woodland
- LPC12: Flood Risk and Water Management
- LPD01: Ensuring Quality Development
- LPD02: Design and Layout of New Housing
- LPD03: Open Space and Residential Development

#### Other material considerations

- 6.4 The Local Planning Authority will refer to government guidance contained within:

#### National Planning Policy Framework 2023 (“NPPF”)

- Section 4 – Decision Making
- Section 5 – Delivering a Healthy Supply of Homes
- Section 8 – Promoting Healthy and Safe Communities
- Section 9 – Promoting Sustainable Transport
- Section 12 – Achieving Well Designed Places
- Section 15 – Conserving and Enhancing the Natural Environment

#### National Planning Practice Guidance

#### Supplementary Planning Documents

The LPA has updated several Supplementary Planning Documents (SPDs) since the planning decision was issued. This includes replacing the previous SPD known as Ensuring a Choice

of Travel with Transport and Travel (April 2024), New Residential Development with Design (April 2024) and introducing the Developer Contributions SPD and Open Space Provision and Enhancement SPD.

- Affordable Housing (January 2010)
- Design & Crime Design Guidance (October 2009)
- Design (April 2024)
- Developer Contributions (April 2004)
- Open Space Provision and Enhancement (April 2024)
- Transport and Travel (April 2024)

#### *Other relevant documents*

- 6.5 Where relevant, the Council will refer to the Secretary of State and Inspectors appeal decisions.
- 6.6 The Council consider that appeal reference APP/F2360/W/19/3234070 – Land to the South of Chain House Lane, Whitestake, Preston (Appendix 8) is of relevance to the application that is subject to this appeal. Paragraphs 36 - 49 in the appeal decision deals with matters relating to the impact on safeguarded land and the isolated development which the Council consider provides similarities to the development that is the subject to this appeal.

## **7.0 The Council's Case in relation to the Planning Appeal**

### **Background**

- 7.1 Since the LPA determined the planning application the LPA has been working cooperatively with the Appellant to address reasons for refusal where additional information has been submitted and reviewed to enable those matters to be resolved. The LPA has set out within this Statement of Case where there is agreement or the status of the reason for refusals as a result of the review of the additional information supplied. Matters of agreement will also be set out in the Statement of Common Ground.

### **Reason for Refusal 1 – Development within Safeguarded Land**

- 7.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that 'if regard is to be had to the Development Plan for the purpose of any determination to be made under the planning acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.'
- 7.3 The first test, and the statutory starting point, is whether the application is 'in accordance with the plan'. This is reinforced by the NPPF which refers, at paragraph 11, to the need to approve development proposals that accord with an up to-date Development Plan without delay. Paragraph 15 of the NPPF states that 'The planning system should be genuinely plan-led'. The purpose of the planning system is to contribute to the achievement of sustainable development, through 3 over-arching objectives – economic, social, and environmental. The NPPF makes it plain that planning policies and decisions should play an active role in guiding development towards sustainable solutions, but should take local circumstances into account, to reflect the character, needs and opportunities of each area.
- 7.4 As outlined above, the statutory Development Plan in this case comprises the St Helens Local Plan to 2037 and the Joint Merseyside and Halton Waste Local Plan (adopted 2013). In addition, the NPPF is a key material consideration in determining this application.
- 7.5 Development Plan Policy LPA01 states that new development will be directed to sustainable locations that are appropriate to its scale and nature and that will enable movements between homes, jobs and key services and facilities to be made by sustainable non-car modes of

transport. The policy also goes on to state that the re-use of suitable previously developed land in Key Settlements will remain a key priority.

- 7.6 Development Plan Policy LPA05 relates to safeguarded sites and sets out the reasons for safeguarding land and what development would be acceptable on safeguarded land and under what circumstances. Part 2 of the policy states that planning permission for the development of safeguarded sites will only be granted following a future Local Plan update (full or partial) that proposes such development based on the evidence showing a need for additional land or issues with the supply of land identified by the Development Plan. Otherwise, proposals for housing and employment development of safeguarded sites in this Plan period will be refused. Part 3 of the policy further states that other forms of development on safeguarded land will only be permitted where the proposal is:
- a) necessary for the operation of existing permitted use(s) on the land; or
  - b) for a temporary use that would retain the open nature of the land and would not prejudice the potential future development of the land’.
- Part 4 of the policy states that development on any other site that would prevent or limit development of the safeguarded land for its potential future uses will not be permitted.
- 7.7 The appeal development proposes the formation of an access road through safeguarded land (site reference 5HS), which would provide an access route to the residential section of the development. As the access road is located within the safeguarded land it is important to consider whether the proposal conflicts with the requirements of Development Plan Policy LPA05.
- 7.8 Part 2 of Development Plan Policy LPA05 is clear that planning permission for the development of safeguarded sites will only be granted if a need for additional housing or employment is evidenced through a Development Plan review. There has not been a Development Plan review and as such there is no requirement for the LPA to release any safeguarded land for development. The St Helens Local Plan was adopted in July 2022, therefore as the plan is within 5 years since adoption there is no requirement to review the plan until July 2027. The Council is also able to demonstrate a 5-year housing land supply of 6.38 years at the time of this appeal, this is reduced from 7.38 years at the time the planning application was determined.
- 7.9 The appeal site comprising the safeguarded land and undesignated section is greenfield, and the Council is able to demonstrate a 5-year housing land supply. Policy LPA01 states; *“The re-use of suitable previously developed land in Key Settlements will remain a key priority. A substantial proportion of new housing throughout the Plan period will be on such sites.”* Since the determination of the planning application the NPPF has been amended with paragraph 76 relevant. Whilst footnote 79 in the NPPF is clear that the provision of paragraph 76 shall only apply for applications made on or after the date of the updated NPPF (which this application precedes) the Inspector may wish to consider it material to the determination of this appeal. The Council’s Local Plan was adopted in 2021 with a 5-year supply of deliverable sites at the time of examination and the requirements of paragraph 76 of the NPPF (December 2023) would have been met if the application was submitted after the update. Paragraph 76 of the NPPF states the following;
- ‘76. Local planning authorities are not required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years’ worth of housing for decision making purposes if the following criteria are met:*
- a) their adopted plan is less than five years old; and*
  - b) that adopted plan identified at least a five-year supply of specific, deliverable sites at the time that its examination concluded.’*
- 7.10 It is considered, there is no evidence before the LPA that clearly indicates or guarantees that safeguarded land reference 5HS will be brought forward for development in the future.
- 7.11 The development (access road and emergency link) is not necessary for the operation of an existing permitted use on the land, which is used for agricultural purposes, therefore the



application fails to comply with Development Plan Policy LPA05 part 3a. Considering the requirements of part 3b the proposal would introduce a form of urban development that would not retain the open nature of the safeguarded land. The access road would need ancillary structures such as footpaths, street lighting, drainage infrastructure etc. In addition, the access can never be temporary because it would need to be retained in perpetuity, as it would be the only main access in and out of the development site. This work would inevitably fail to retain the open nature of the land which is presently flat agricultural land. There is also a levels difference of several metres from Mill Lane to the level of the safeguarded land where the access would enter the safeguarded land. Therefore, the access road would be a raised structure in this area until it can decline down to land level. This would further evidence a failure of the proposal to retain the open nature of the safeguarded land. This failure results in visual harm which will be discussed further in a later section of this statement and in the LPA's proofs of evidence. Therefore, it is considered that the development would fail to comply with Development Plan Policy LPA05 part 3b. As such the starting point is that the Appeal scheme conflicts with the adopted development plan. It follows that there is a statutory presumption against the grant of planning permission which material considerations (including the NPPF) must overcome. It is an important point that there is considerable public interest in making decisions in accordance with an adopted Local Plan. The importance of the Plan-led system is a core planning principle of the NPPF.

- 7.12 The appellants statement of case considers that whilst constructing the access now as part of this proposal would be permanent in the safeguarded land it is considered that it would not prejudice the delivery of the safeguarded site. However, as set out above there is no guarantee that the safeguarded land will come forward or the period of a plan review means it may not come forward for a number of years. Furthermore, the construction of the access road through the safeguarded land would limit the safeguarded land for its future use (housing) in the assessment of the LPA. Whilst the applicant has submitted an illustrative masterplan showing how vehicular and pedestrian access and areas of open space could be provided to the adjoining safeguarded land, this however represents piecemeal development of the smaller parcels of land. Paragraph 8 of the NPPF sets out the social aspect of sustainable development including fostering well-designed, beautiful and safe places. There is a risk of missing the opportunity to achieve such effective placemaking if piecemeal developments such as that proposed come forward. The indicative masterplan despite demonstrating how the proposal may interact with the safeguarded land in access does not clearly address how the access road through the safeguarded land would not limit the delivery of housing on the safeguarded land in future and ensure that a well-designed beautiful development can be achieved on the safeguarded land.

### **Reason for Refusal 2 – Design and Layout**

- 7.13 Development Plan Policy LPD01 states that developments should maintain or enhance the character and appearance of the local environment, with a focus on the importance of local distinctiveness, as well as using good design to improve the quality of areas that may have become run down and are in need of regeneration, for example with regard to the siting, layout, massing, scale, design and materials used in any building work, the building-to-plot ratio and landscaping.
- 7.14 Development Plan Policy LPD02 requires the design and layout of new housing development to provide a safe, secure, attractive, permeable, legible, and useable environment and promote safe living environments that encourages natural surveillance.
- 7.15 The NPPF at paragraph 131 states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

- 7.16 Reason for refusal 2 is split into two parts which will both be discussed below. The first part relates to the visually isolated from of development and failing to create a well-connected development. The second part relates to the design and layout of the residential development.

#### Location of Development

- 7.17 As set out previously the appeal site is located in part beyond a site that is safeguarded land for future residential development. It is triangular with a brook (west), railway line (east) and the safeguarded land (north) forming the boundaries. As such it is physically separate from any other residential development with any access to the site requiring use of the safeguarded land to the north. As set out above there can be no guarantee that the safeguarded site would be released for residential development. The site would therefore feel physically separate from the established residential dwellings in the area given there is no guarantee that the whole site (including the safeguarded land) would be comprehensively developed through the current development plan.
- 7.18 The application site is physically separate from other residential development. Whilst the access road has been moved to the east side of the safeguarded site (moved from centrally in the original application reference P/2022/0575/FUL) it does not guarantee that this is the most appropriate way to develop the safeguarded site. There is a large drop of approximately 4m from the access onto Mill Lane into the safeguarded land and the proposal does not make it clear if the alignment is the most appropriate given the levels difference or the degree of retaining structure that maybe required to bring the access road satisfactorily into the access site. The proposed access also requires the removal of the mature vegetation along the site frontage. Whilst it is accepted that this would be lost to access the safeguarded land, with the absence of a residential development on the safeguarded site the removal of the vegetation will only serve to highlight the physical visual isolation of the site from the established residential dwellinghouses and increase views of the out of character development from the well-trafficked A49. Whilst the site is in a technically sustainable location with regards to the location to rail and bus services there is concern regarding safety of the long open access road for non-car modes of transport, which does not have natural surveillance due to traversing the safeguarded land. This could lead to an incidental reliance on vehicles to and from the site if residents do not consider the site access to be a safe and inviting walking route to public transport options.
- 7.19 Whilst the appellants have provided a masterplan showing how the safeguarded land could be developed it serves to indicate that a more comprehensive masterplan of the whole site following a Development Plan review would be more appropriate. The appeal site developed on its own would cause the visual isolation that has been identified. It would also cause piecemeal development in this location which would have implications to secure appropriate contributions for the appeal site and the safeguarded land with specific regard to health contributions that wouldn't be met with piecemeal development. NHS property services is commissioned by the Merseyside Integrated Care Board (ICB) to provide support on planning matters. The ICB has determined a threshold of 200 residential units as appropriate to seek contributions. The proposal would also not take consideration if any linkage to the public right of way network on the other side of Newton Brook can be achieved. It is acknowledged the appellants commitment to a S106 agreement to secure education improvements and a contribution to local cycle and walking improvements however a comprehensive development of the whole site would lead to better targeted infrastructure improvements and enhancements.
- 7.20 The access road between an agricultural field and a railway line will not feel safe or well-overlooked. The proposed location for the access road is not well resolved in relation to the proposed masterplan layout. It would not be appropriate for the main street through the development to be one sided along one edge of the development. It should go through the centre of the development, and have dwellings positioned on either side, to ensure good enclosure and passive surveillance. This would mean an access road across the safeguarded land, which has previously been shown to be unworkable in the refused application P/2022/0575/FUL.

- 7.21 Although there is a potential connection beneath the railway at the southern point of the development site, there are no proposed pedestrian/cycling connections to the south. Along with the impractical proposed access road, this will result in a development that is poorly integrated and disconnected from its context. It will not promote health and well-being through active travel.
- 7.22 Viewing the site across the safeguarded land from the A49 Mill Lane where the proposed site access it to be provided, provides important views of the site for road uses and pedestrians along the A49. As highlighted previously these views greatly increase due to the removal of vegetation to form the site access. This viewpoint would result in a distant residential development from this viewpoint that is not seen in the context of any other built development and would appear visually isolated. The proposal to plant trees along the site frontage within the safeguarded site is considered to show that to attempt to make the development to be visually acceptable it needs to be heavily treed along the northern boundary. Furthermore, the level of landscaping along the northern boundary could lead to a compromise in how the safeguarded land could be developed. Again, highlighting that the location of the appeal site is inappropriate when developed in isolation.
- 7.23 The LPA acknowledge that the proportion of the site that is “white land” has been removed from the Green Belt which in a large part was due to its location being beyond the safeguarded land, bounded by the brook and railway thus not serving the purposes of including land in the Green Belt. However, redesignation from Green Belt to ‘white land’ does not mean that a residential development is automatically acceptable. As set out the site is still considered visually isolated from the main areas of development. A comprehensive and phased development of the site acknowledging the only access is possible from Mill Lane therefore remains more appropriate subject to a Development Plan review that releases the safeguarded site.
- 7.24 The LPA still consider that the appeal site would result in a visually isolated form of development that would be harmful to the general character and appearance of the area. The application fails to create a high quality and well-connected development, resulting in a poorly planned residential development, that would cause harm to the visual amenity and landscape character of the area, and constitutes poor planning.

#### Internal Layout

- 7.25 A revised scheme has been submitted in support of the appeal with some minor changes to address earlier design comments. The changes to the layout do not alter the overarching issues with this scheme in terms of its visual isolation and poor connections to surrounding development. The revised layout has been reviewed by the Council Urban Design Officer. In terms of the layout of streets, dwellings and landscape within the proposed development, whilst there are still some minor outstanding issues, the design of the layout is now acceptable, on balance.
- 7.26 The overall layout (when including the masterplan) has the potential to form part a well-designed neighbourhood, subject to an acceptable phasing strategy. In the context of the suburban grain on the other side of the designated land to the north of the site, it has an appropriate scale & grain and benefits from the high-quality landscape setting along Newton Brook.
- 7.27 Updates to the street hierarchy have improved the layout and, when considered in line with Highways comments, the layout is now acceptable in this regard.
- 7.28 Following receipt of amended layout plans plot configurations and house types are now considered acceptable. Previous comments relating to activation of gable elevations and boundary treatments have been adequately addressed or justified. The exception is Plot 64’s exposed back garden forming street frontage. The applicant has provided justification stating

that the orientation of the dwelling provides closure to the parking court serving plots 58-63 and that, if the plot were to be reorientated, it would result in substandard separation distance to plot 21. On balance, as the dwelling is relatively secluded part of the development and the boundary treatments are high quality, the justification is acceptable.

- 7.29 Therefore, the internal layout of the development is now acceptable to resolve the following part of reason for refusal number 2:

*“The proposal fails to add to the quality of the area and does not exhibit good design or character, resulting in a car dominated street scene, a lack of room for landscaping within the site and dwellings that will be side on to areas of public open space.*

- 7.30 The first part of reason number 2 is maintained by the LPA. The proposal would, by virtue of its design and layout, result in a visually isolated form of development that would be harmful to the general character and appearance of the area. The application fails to create a high quality and well-connected development, resulting in a poorly planned residential development, that would cause harm to the visual amenity and landscape character of the area, and constitutes poor planning. The proposal is therefore contrary to St Helens Local Plan Policies LPD01 and LPD02 and the National Planning Policy Framework.

### **Reason for Refusal 3 – Open Space and Local Wildlife Site**

- 7.31 Development Plan Policy LPC06 states that the Council is committed to ensuring the protection and enhancement of St Helens biodiversity and geological assets and interests. In order to do this, the Council will have regard to the following hierarchy of nature conservation sites when making planning decisions:

- International and European Sites
- Sites of Special Scientific Interest
- Local Wildlife Sites
- Local Nature reserves
- Local Geological Sites
- Priority Habitat(s)
- Impact on Legal Protected Species and/or priority Species

- 7.32 Paragraph 174(d) of the NPPF states that planning decisions should provide net gains for biodiversity and NPPF paragraph 180(d) adds that opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity. As with wider ecology, no information has been submitted that allows the Council to assess the impacts of this proposal on biodiversity and that the development would not result in a net loss of biodiversity as required by the NPPF.

- 7.33 The LPA and their consultees in regard to ecology and trees and landscaping have met with the appellants to discuss this reason for refusal and information which could be submitted to resolve this. Whilst discussions have been positive the appellants have not submitted any updated information at this stage for the LPA to review which would resolve this reason for refusal. Therefore, as set out below the LPA maintain that the proposal is currently unacceptable due to its impact on the Local Wildlife Site and inadequate open space provision.

#### Local Wildlife Site

- 7.34 Merseyside Environmental Advisory Service (MEAS) provide ecology comments for the LPA. In reviewing the planning application they concluded that approximately 0.8 hectares of the LWS falls within the site boundary, with further downstream sections of the LWS located within close proximity to the western boundary. The LWS immediately adjacent to the application site boundary runs along the brook measuring 2.86 hectares in area, a plan of the LWS in this area is provided in appendix 5 of this statement. The LWS is designated for water vole and habitats

associated with the Newton Brook flood plain, including areas of neutral grassland, marginal vegetation, scrub, and sandstone bank habitats.

- 7.35 An Ecology Report has been provided in support of the application and reviewed by MEAS. The Ecology Report submitted states that an ecological input has been provided into the design of the scheme. As a result, a buffer of 36m is proposed between the built development and the LWS boundary, and a buffer of 75m is proposed between the built development and the Newton Brook channel. MEAS accepts these provisions.
- 7.36 The Ecological Report makes the following recommendations to help protect the LWS:
- Maintenance of waterlogged soils within the LWS area through the use of grass swales rather than tanked or piped water systems and headwall installation into Newton Brook.
  - Formal footpaths throughout areas of the POS, including areas of the LWS are proposed in order to reduce access into retained habitats associated with the Newton Brook. Information packs for new householders and signage for wildlife areas are also proposed.
  - Complementary habitat creation to include grassland, wetland, and swamp areas alongside the retained LWS are discussed.
  - A Construction Environmental Management Plan (CEMP) to include protective measures throughout construction for protection of retained habitat within the LWS and pollution prevention measures to ensure there are no impacts to retained areas of the LWS and Newton Brook.
- 7.37 At the time of determining the application MEAS consider that whilst the above measures are acceptable they conclude that there is currently insufficient information to fully understand the impacts of the development to the LWS. MEAS have requested further information on the drainage design and how the proposed swales would maintain and 'feed' the waterlogged areas of the LWS. In addition, MEAS also conclude that the submitted plans do not include complementary landscaping around the LWS, as recommended in the Ecological Report. In addition, there is no detail provided for any swale features or additional wetland areas.
- 7.38 The ecologist has reviewed the additional information submitted post decision to try and resolve the reason for refusal relating to the Local Wildlife Site and an objection has been maintained currently, please see appendix 2 for full details of latest MEAS comments. Working proactively with the appellant a meeting has taken place between the LPA and Appellant on 02.10.24 to look at solutions and what additional information is required to resolve the issues regarding the Local Wildlife Site in reason for refusal 3 and also the landscaping matters references in Reason for Refusal 4. The LPA is currently therefore waiting for additional information and as such at the time of preparing this statement consider that the appellants have not submitted sufficient information to address the reason for refusal.
- 7.39 Currently, the proposal does not evidence that it would not cause harm to the Local Wildlife Site. It has not been shown that the development would have a drainage strategy which retains the wetland composition of the wildlife site. Furthermore, the landscaping details submitted thus far are not well designed to deliver planting which would complement the wildlife site and integrate well with the habitat function of the wildlife site. The proposal could therefore negatively impact habitat of the wildlife site. Policy LPC08 of the St Helens Local plan states; *"the council will seek to ensure greater resilience of the natural environment.... To this end it will seek to strengthen those elements of the Liverpool City Region (LCR) Ecological Network, including wildlife sites."* Currently the proposal currently fails to evidence it would achieve this and fails to accord with policy LPC06 which states that the Council is committed to ensuring the protection and enhancement of St Helens biodiversity and geological assets and interests. This policy places a high value on Local Wildlife sites listing them in the hierarchy of nature conservation sites only below international and European sites and Sites of Special Scientific Interest. Therefore, based on the submitted information the proposed development fails to

accord with these policies and could harm the LWS which is identified as an important biodiversity asset in the borough.

- 7.40 As the LPA is working with the appellants to resolve the reason for refusal relating to the Local Wildlife Site an update will be included in the statement of common ground.

### Open Space

- 7.41 Development Plan Policy LPD03 requires residential development of 40 dwellings or more to make provision for new open space or the expansion of existing open spaces in the area. The policy also states that it is appropriate to provide certain typologies of open space as part of the design to provide accessible children's play areas and create a visually attractive development, both of which this scheme does not provide. The appellant has indicated that there will be an area of open space located to the western portion of the site. It is not clear the amount of usable open space that is proposed given that areas are to be set aside to facilitate the features required for the Local Wildlife designation. Amended plans have been received which show the majority of the area is set aside to be Wet Meadow. Whilst there are paths shown through this area the usability of this area for active play is limited. Inadequate information has been provided as to how the open space would be managed to evidence this would be appropriate in a Local Wildlife Site and would not cause harm to the purpose function of the land as a Local Wildlife site.
- 7.42 Amenity greenspace should provide opportunities for informal activities close to home that can enhance the appearance of residential areas. Such spaces can be used for walking the dog, as informal play spaces, and green spaces in and around new housing development sites. Open space provision should not include areas such as landscaping, roadside verges, or inaccessible (or potentially unsuitable for play purposes) areas such as permanent water storage facilities. The amenity greenspace should be of high-quality design, easily accessible and be able to be enjoyed by all potential residents, regardless of visual and cognitive ability, mobility or age. The location of the proposed open space is considered acceptable and would enhance the existing LWS and has potential to be an attractive multifunctional green space.
- 7.43 From the plans submitted and details in the accompanying documents it is difficult to ascertain the quantum of useable open space being proposed by the development. For a site of 92 dwellings, based on Policy LPD03, the proposal should be providing as a minimum 0.39ha of amenity greenspace open space. This is based on the estimated number of residents who would occupy the development and existing provision in the area, the proposals should also be including a LEAP, which should contain (as a minimum) 5 pieces of play equipment, rather than a multi-play unit. As it stands the proposals do not provide any children's play areas, however the LPA acknowledges this could be secured by condition.
- 7.44 There are small areas of open space in the south and west sections of the site, however the LPA does not consider these to be appropriate, usable and functional areas of open space. The southern area is dominated by a SUDs pond which makes a lot of the space unusable for large parts of the year. Whilst the east section is a small narrow area between the access road for the development and the boundary with the railway line. Whilst this may offer some amenity from off road walking, it does not provide any usable play or recreation space beyond this, and there would be hazards with play in this area from the nearby access road discouraging use of this area.
- 7.45 The location of the proposed open space is considered acceptable and would enhance the existing LWS and has the potential to be an attractive multifunctional green space. However, as it stands, the applicant has not evidenced that the open space will be usable and serve the function of amenity greenspace for future occupants of the development. As such it is not considered to be suitable functioning open space for new residents and therefore unacceptable. It is thus considered that the proposals do not incorporate a sufficient quantum of open space for the purposes of demonstrating compliance with Policy LPD03.

- 7.46 Therefore, whilst open space provision appears to be proposed, it is considered that due to a lack of information, the appellant has not evidenced that adequate public open space provision would be provided on site for use by the occupants of the proposed development. Given the position of the site, there is not readily accessible existing open space in the area of the site. There are areas of designated open space to the west of the site beyond the brook however the proposal does not show any linkages into this space. The application fails to comply with Development Plan Policies LPC05, LPC06 and LPD03 in respect of open space provision and would result in a poor-quality development lacking usable open space for future residents which is detrimental to the health and wellbeing of future residents.
- 7.47 The applicant has not submitted an assessment or put forward an argument that there is existing open space provision in the area which can satisfactorily meet the open space demand from this development or proposed a contribution to enhance or improve open space in the area which is accessible from this development. Therefore, based on the information provided and the assessment of the LPA it is concluded the proposed development would be lacking in on site open space and would not deliver adequate accessible open space for future residents.
- 7.48 Although adopted after the appeal site, it should be noted that the Open Space Provision and Enhancement Supplementary Planning Document (SPD) (April 2024) sets out a framework for calculating the total amount of open space required, based on the quantity standards set out in Table 8.1 of the Local Plan.

#### **Reason for Refusal 4 – Landscaping**

- 7.49 Development Plan Policy LPC06 states that the Council is committed to ensuring the protection and enhancement of St Helen's biodiversity and geological assets and interests.
- 7.50 Development Plan Policy LPC09 states that proposals for new development must, as appropriate having regard to their scale and nature, seek to conserve, maintain, enhance and / or restore any landscape features that are important to the character of the local area.
- 7.51 Development Plan Policy LPC10 states that new development, as appropriate having regard to its scale and nature, will be required to include the planting of new trees, woodlands, hedgerows and / or financial contributions towards off-site provision. Arrangements should be made for any tree(s) or hedgerow(s) that are planted to be replaced in the event of failure or damage within a prescribed period.
- 7.52 The LPA's Countryside Development and Woodland (CD&W) Officer raised an objection to the proposal when considering the planning application. These relate to concerns regarding sufficient landscaping and the limitations in the supporting technical documentation to evidence the development would deliver appropriate amounts and types of landscaping. Additional information has been provided post decision and is being reviewed as part of this appeal however at the time of writing this Statement of Case the CD&W Officer still raised an objection to the development with the latest comments attached as Appendix 3.
- 7.53 Whilst an updated landscape masterplan has been submitted and more tree planting has been shown the information supplied does not address the specific issues of the appropriate landscape treatment of the area of open space and wetland. There seems to be a 'scatter gun' approach to tree planting within the open space area along the brook. More existing trees seem to be being shown as being removed than the earlier master plan (according to the arboriculture report the applicant submitted which shows the distribution of trees within the area) though more individual tree planting is being shown within the open space area. The approach though does not seem to be focused on mitigatory habitat or habitat enhancement. Habitats seem to be being removed or modified e.g. wetland, scrub woodland with some limited new pond / ditch habitat and SUDs area created (which are likely to be in flood areas). The majority of the open space has a widespread scattering of individual trees albeit most are wetland species).

- 7.54 There are also concerns that the layout and appearance does not address the fact that the potential development of the safeguarded land (5HS) to the north will not come forward for many years (if at all). As it stands currently, the proposed treatment to the frontage of the development site to the north (the most visible boundary) is very poor.
- 7.55 The LPA are being asked to accept a housing layout that creates a new settlement in an isolated location, which would be connected by an extended road, that passes through safeguarded land that will not be developed for many years (if at all). The new road through the safeguarded land will be a key visual receptor point for the new area of development and key views will be gained from this location. The new road appears to have very limited landscape mitigation (except an area along the railway boundary) and as set out above, the northern boundary of the development site (facing the safeguarded land) will have a very poor interface from a landscape perspective. The landscape impacts from the new road are therefore likely to be severe with the new development having a very poor visual appearance.
- 7.56 Following a review of the AIA, the Countryside Development and Woodlands Officer states that they cannot accept the removal of parts of Group 29G, and this was the case with the previous application. The removal of Group 29G is required as the housing development comes closer to Newton Brook in this location. This is in an area where the Countryside Development and Woodlands Officer would want to see housing set further back (away from Newton Brook) and so the LPA cannot support the removal of trees in this location, as there is no justification.
- 7.57 The LPA believes there needs to be a more habitat focused approach to the landscaping of the brook corridor open space. Some scattered individual trees are beneficial, especially in helping to blend more open areas into adjacent blocks of scrub or screening urban areas from within the open space area. Wet meadow has been shown but then it has too many trees within it.
- 7.58 No new detailed arboriculture information has been submitted and the proposals seem to show more trees removed in the brook area than illustrated as being removed in the original arboriculturally reports. There have been no updated plans as identified in the previous comments made. Updated tree constraints, tree works and removal plans and tree protection plans are still required.
- 7.59 The LPA has not been provided with adequate information to evidence in the proposed development adequate replacement planting can be provided on site to achieve a visually acceptable development from a landscape perspective and mitigate the loss of existing trees to facilitate the development. There is also a lack of detail and justification for the loss of some existing trees on site to facilitate the development. The development fails to maintain and enhance the existing landscape, it also fails to mitigate the harm to the landscape and visual character of the area from the development. On that basis, the development therefore fails to meet the requirements of Development Plan Policies LPC09 & LPC10 and the NPPF 2023.
- 7.60 As per Reason for Refusal 3 the LPA have had a meeting with the appellants and their consultants to resolve the reasons for refusal with additional information to be supplied. The LPA is currently therefore waiting for additional information and as such at the time of preparing this statement consider that the appellants have not submitted sufficient information to address the reason for refusal.
- 7.61 As the LPA is working with the appellants to resolve the reason for refusal relating to landscaping an update will be included in the statement of common ground.

#### **Reason for Refusal 5 – Drainage**

- 7.62 Development Plan Policy LPC12: states that 'the impact of development proposals on flood risk and water management assets will be considered in accordance with case law, legislation,



and the National Planning Policy Framework.’ The policy goes on to state that ‘Measures to manage or mitigate flood risk associated with or caused by new development must (as appropriate having regard to its scale and nature) a) be designed to contribute to the biodiversity of the Borough unless it has been demonstrated that this would not be technically feasible; b) protect heritage assets (such as buried archaeology); c) be fully described in the development proposal; and d) be funded by the developer, including long-term maintenance.’

- 7.63 Paragraph 167 of the NPPF states that when determining any planning applications Local Planning Authorities should ensure that flood risk is not increased elsewhere.
- 7.64 Following determination of the application amended drainage information has been provided which has been reviewed by the Council’s LLFA Officer. The LLFA removed their objection to the proposed development after the appellant provided adequate information for that stage of the application process. During the process there were concerns regarding the water flows from future developers, the flood extents/zones from the river effecting the storage ponds and houses and having storage features adjacent to the railway. All the items have currently either been addressed or can be addressed as a condition. As such the LPA consider that sufficient information has been provided to enable Reason for Refusal 5 to be removed subject to the drainage conditions suggested.
- 7.65 Notwithstanding the above there remains outstanding issues regarding the drainage required to be provided to ensure that the development does not adversely impact the Local Wildlife Site. As such it may require an alteration to the drainage scheme that the LLFA have reviewed. It is considered that if any amendments are required then this can be clarified in the statement of common ground.

### **Reason for Refusal 6 – Financial Contributions**

- 7.66 Development Plan Policy LPA07 states that, ‘subject to compliance with relevant legislation and national policy, development proposals will be expected to include or contribute to the provision, improvement or replacement of infrastructure that is required to meet needs arising from the development proposal. This may include direct provision of on-site or off-site infrastructure and / or financial contributions that will be secured by: a) Section 106 planning obligations (or other legally binding agreements); and / or b) A tariff based system such as the Community Infrastructure Levy.’
- 7.67 The proposed development is required to make financial contributions towards education provision and the St Helens Local Cycling and Walking Infrastructure Plan. The appellant has set out in their statement of case that this reason for refusal can be addressed through a Section 106 agreement.
- 7.68 At the time of responding to this statement of case the LPA have not yet received a version of the S106 however it is our understanding from a discussion with the appellants that this will be progressed during the determination of this appeal.

### **Education Contribution**

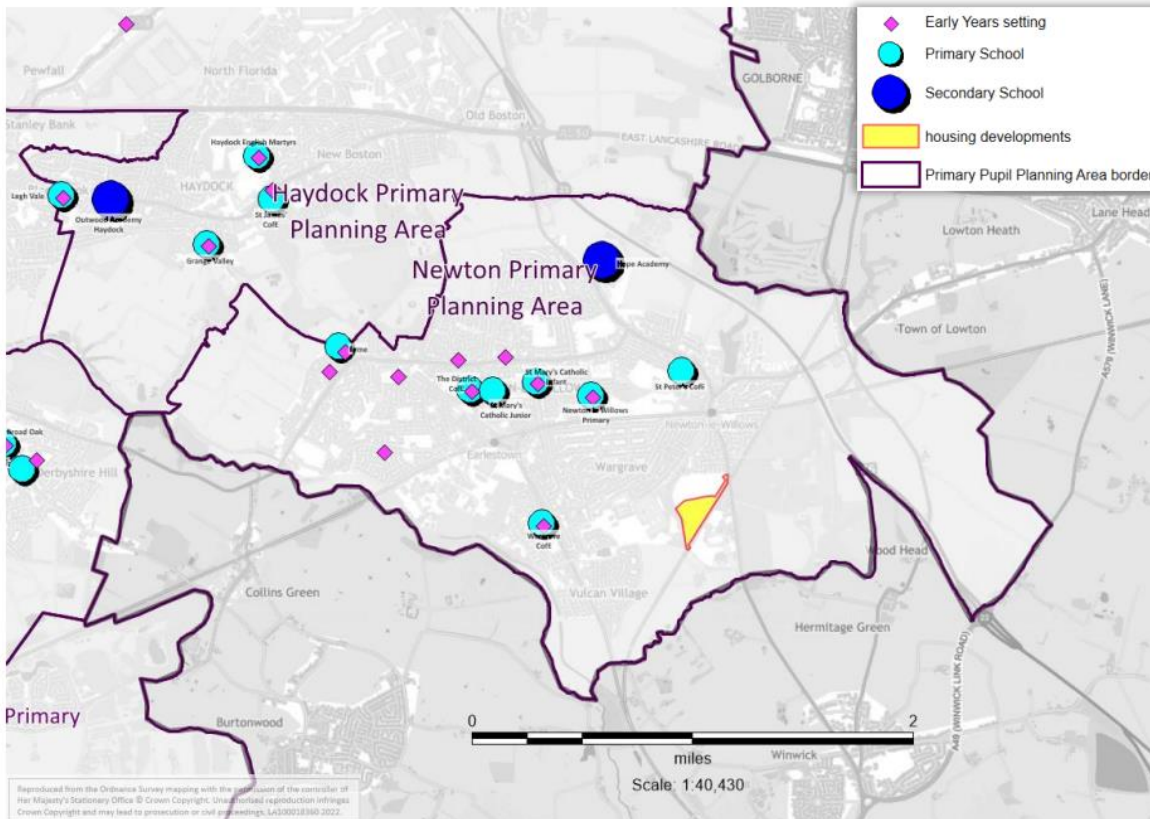
- 7.69 The appeal scheme has been amended to reduce the number of dwellinghouses and amend the housing mix across the site. As such an amended consultation response from St Helens Education has been received (Appendix 7). An updated education contribution has been amended to accurately reflect the impact of the amended scheme and is reference in this section. The methodology for calculating pupil yield and Section 106 contributions in St Helens shows that a development of this size (number of units) would be expected to yield a maximum of 59.7 places, from Early Years to Post-16 including SEN places, costing £1,033,870;
- 7 x Early Years places - £83,236
  - 34 x Primary places - £480,138
  - 10 x Secondary places - £121,216

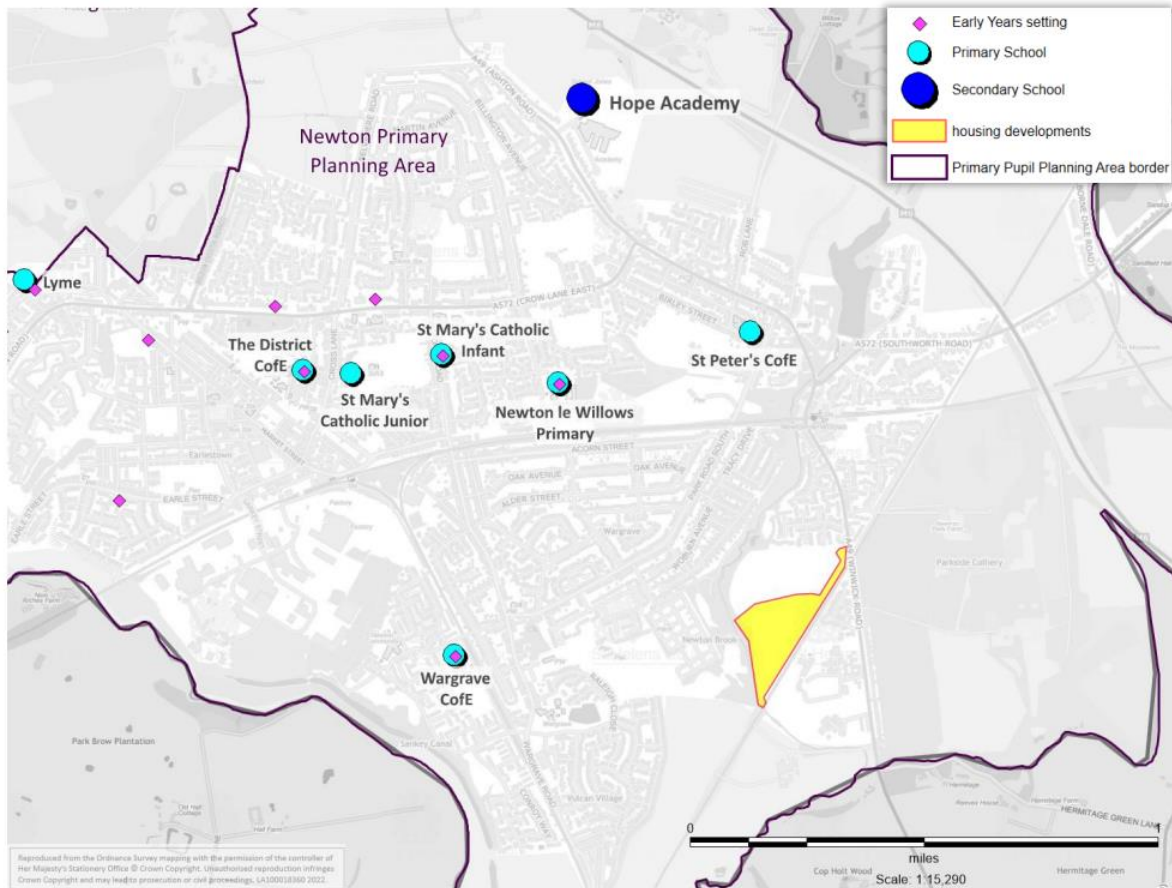
- 7 x Post-16 places – 189,079
- 1.7 x SEN places - £160,201

7.70 Further estimated calculations are provided below, which consider current and forecasted surplus places in the planning areas and schools nearest to the development.

7.71 The development is located in the east of the Borough, and in the east of Newton Primary Pupil Planning Area; The nearest primary schools are St Peter's CofE; Newton-le-Willows Primary; Wargrave CofE; St Mary's Catholic Infants & Juniors; The District CofE.

7.72 The nearest secondary school is Hope Academy (in Secondary East Planning Area). Further afield but in the same secondary planning area is Outwood Academy Haydock. The maps below show these schools and their geographical relationship to the application site:





- 7.73 Healthy surplus school places in the Borough are considered to be between 2% and 7%, i.e., 7% is the minimum surplus capacity in an area to allow for fluctuations in demand, parental choice and in-year transfers, and not counted as available when calculating developer contributions. The primary schools nearest the development, St Peter's CofE and Newton-le-Willows Primary, have no surplus capacity above 7%. The same applies to St Mary's Catholic Infants & Junior and Lyme Primary; however, The District CofE and Wargrave CofE do have surplus capacity above 7%. It must be noted that these are schools with the same religious character – plus, most of the surplus is in later curriculum years, i.e., Year's 4, 5 and 6, and much less surplus is in earlier curriculum years, so this will work its way through in the next few academic years and surplus will be reduced. Parental choice and future reduction of surplus aside, this excess surplus of 2.8% above threshold in the area means that the pupil yield for primary places would not be sought; this is a scenario that assumes the current situation will be the same at the time the development begins.
- 7.74 While many early years settings fall within the private, voluntary, and independent (PVI) sector, local authorities have a duty to ensure early years childcare provision. Expanded early years entitlements for children aged nine months to three-years-old become available from 2024. The take-up of funded childcare entitlements is high, increasing demand for early years provision. Developer contributions will have a role to play in helping to fund additional early years places for children aged 0-4 where these are required due to housing growth, whether these are attached to schools or delivered as separate settings.
- 7.75 The current status of surplus in the Secondary East Planning Area (which includes the two schools nearest the development - Hope Academy and the further afield Outwood Academy Haydock) shows a 7.9% surplus (St Augustine's high surplus is concentrated in the higher curriculum years. PAN in St Augustine has been reduced from 150 to 125, and Year's-7 and 8 are currently full). There is no surplus at Hope Academy above threshold.
- 7.76 As the surplus situation currently stands in the secondary schools nearest to the development, we would seek the full contributions for secondary places. The same ratios are applied to the Post-16 yield.

- 7.77 In summary, primary contributions would not be sought at present because of excess surplus in two of the seven schools in the primary planning area. However, these two schools are not nearest to the development, are the same religious character, and the excess surplus is concentrated in the latter curriculum years. There is no surplus in the other five schools. Because of excess surplus working its way through, future primary pupil yield calculations could show a requirement for places created from a development of this size.
- 7.78 There is a current and forecasted shortfall in secondary places across the Borough as a whole and there is no surplus (above 7%) to absorb any new pupil yield until beyond 2030; this includes the secondary schools nearest to the development. Contributions would be sought for secondary places.
- 7.80 A contribution of £553,733 is required to make the development acceptable from an education perspective and mitigate the impacts which would arise on education services. The contribution is broken down as follows:
- 7 x Early Years places - £83,236
  - 0 x Primary places - £0
  - 10 x Secondary places - £121,216
  - 7 x Post-16 places – 189,079
  - 1.7 x SEN places - £160,201

#### Sustainable Travel Contribution

- 7.81 The Framework is clear in stating that significant forms of development should be within a location that is or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This will help to reduce congestion and emissions, improving air quality and public health. Furthermore, new development should ensure that opportunities to promote sustainable travel choice and alternative modes of travel are incorporated into the proposal.
- 7.82 The Council's Local Plan is clear that development should be in a location that is accessible by walking, cycling and public transport, which should reduce the need to travel by car. New development that generates a significant numbers of trips should be sustainably accessible by public transport, walking and cycling, and where additional transport infrastructure and/or public transport is required to make the site accessible then developers will be required to provide such infrastructure and/or services.
- 7.83 There are very few amenities within 800m of the development site, with most being found beyond the CIHT recommended desirable walk distances for a walkable neighbourhood. This would be particularly true of dwellings at the southern end of the site, where residents would have to walk over 400m before they even reached the A49.
- 7.84 In the context of commute-based trips, the site is located within walk distance of some A49 bus stops (noting that some residents would have to walk over 400m before they even reach the A49) and also Newton Le Willows rail station; for trips of other purposes, the site is considered isolated and not accessible via modes other than car.
- 7.85 In accordance with the Minimum Accessibility Standard Assessment (MASA) of the St Helens Transport & Travel SPD, the Bus and Rail assessment notes that some of the walk routes are on footways <2m in width and not all dropped kerbs are of sufficient standard. Tactile crossing provision is missing in some locations and the surfacing of the footway is of variant standard. Furthermore, not all of the dwellings are within a 400m safe and convenient walking distance of a bus stop. Many of the occupants of dwellings at the southern end of site would have to walk well over 400m to even reach the A49.
- 7.86 In terms of walking accessibility, the site does not meet all the criteria of the MASA of the St Helens Transport & Travel SPD for consistent provision of 2m footways and to standard crossing points external to the site. The distance to the nearest district / local centre is 0.95mile

and the maximum threshold of the St Helens MASA is 1mile, so is very close to the upper threshold.

- 7.87 In terms of cycling accessibility, the junctions of the A49 including the site access as proposed, are considered to be “suitable only for confident existing cyclists, and may be avoided by some experienced cyclists”, as per the criteria of the Junction Assessment Tool in LTN1/20. Although the applicant considers “cycling is also considered to be a viable alternative to private car use”, this is not the case when the suggested route is scored against the Cycling Level of Service Tool within LTN1/20, with many principles returning ‘red’ or at best ‘amber’ values.
- 7.88 Since the original P/2022/0575/FUL application, the St Helens LCWIP has become an adopted plan. The St Helens and LCR LCWIPs contribute to the identification of a cohesive cycle network across the borough, including enhancements to existing infrastructure and the provision of new routes. St Helens has ensured that the site allocations, particularly those identified as Strategic, were included as O/Ds within the LCWIP process.
- 7.89 The adopted LCWIP is given weight in the planning process which means that mechanisms are in place for the collection of contributions towards infrastructure provision. The DfT LCWIP guidance notes that LCWIPs “enable authorities to **seek appropriate contributions to the provision of walking and cycling infrastructure** when drawing up the Regulation 123 list for the Community Infrastructure Levy; through planning agreements in the form of Section 106 obligations; and when Section 278 highway agreements are made”. Any new development should pay due cognisance to the LCWIP, and consideration should be given to how new development can contribute to identified off-site infrastructure, as well as provide exemplary facilities onsite to further encourage cycle usage.
- 7.90 Furthermore, the above points are supported by the Active Travel England (ATE) planning application assessment toolkit which forms part of the ATE Development Management procedures.
- 7.91 The following key point is noted from the toolkit:
- The development should provide off-site LTN1/20 compliant routes to relevant destinations such as schools, local centres, employment centres, railway stations and the existing cycle network.
    - o A ‘fail’ score would be recorded if “the development does not propose to deliver or benefit from existing LTN1/20 compliant off-site cycle routes to key destinations proportionate to its size and impact”.
- 7.92 The Newton Le Willows to Parkside development LCWIP scheme/route is identified as a future protected route scheme (defined as fully protected from motor traffic and other road users). At this stage an appropriate contribution toward future active travel delivery would be required from this site to address the considered accessibility weaknesses. This should also be considered in the context of any improvements needed to meet the walkable neighbourhood’s requirement.
- 7.93 As noted in the Accessibility Concerns section of the Council highway service Technical Note (appended to this document at Appendix A), the walk route from the site using the A49 northward toward High Street and Newton-le-Willows lacks full up to date dropped kerbs and tactile/blister crossing provisions, including Wayfarers Drive, Newton Park Drive, Pennington Drive, Burkhardt Drive and the southern access to the NLW Station car park. Improvements north of the NLW Station are due to be delivered as part of the Parkside Phase 1 and Parkside Link Road approvals. These improvements address accessibility weaknesses at the Southworth Road location.
- 7.94 Enhancement measures related to kerb realignment, footway resurfacing and corner radii narrowing are considered relevant to walking trips on this route and would form part of the LCWIP scheme. These examples, and further walkable neighbourhood related suggestions are included in the Council highway service Technical Note appended to this document.

- 7.95 In conclusion, for the proposed development to be considered to be within a walkable neighbourhood it will need to deliver interventions and improvement (or contribution toward) to the surrounding walking and cycling network. This would assist achieving more sustainable patterns of movement and reduce the likely reliance of people on car travel.
- 7.96 Following calculations previously used, a 5% contribution toward the active travel route was considered proportionate to the proposed development. This has been derived from review of the Propensity to Cycle targets (increases against the baseline) for this area of St Helens and the multi-modal trip generation targets of the development site, reflected in the Framework Travel Plan.
- 7.97 Noting the overall cost of the LCWIP scheme as understood at this time, for which civils costs are expected at around ~£15m (based on known Active Travel scheme costs for other routes in St Helens), a contribution of 5% of £15million would be £750k. This value is also considered comparable against the intervention suggestions included within the Council highway service Technical Note (appended to this document at Appendix A).
- 7.98 The Council highway service technical note, attached at Appendix A, contains full detailed comments in relation to all aspects mentioned in this document.
- 7.99 Also noted is that the figure quotes above are based on a development of 99 dwellinghouses. The amended proposal now seeks 92 dwellinghouses and therefore the level of contribution proposed may need to be adjusted.
- 7.100 With reference to the response to reason for refusal 2 the LPA does raise concern that the lack of a masterplan for the site and inclusion of a development including the safeguarded land results in a development which results in poor placemaking and does not ensure that the full infrastructure requirements of the appeal site and the safeguarded land would be met.
- 7.101 Subject to agreement of financial contributions requested with a S106 agreement it is considered that the Reason for Refusal 6 could be resolved. Without appropriate financial contributions to mitigate the impact of the development it is considered that the development would fail to contribute to the need arising from the development contrary to the requirements of Development Plan Policy LPA07.

## **8.0 Conclusion and Planning Balance**

### 5-Year Housing Land Supply

- 8.1 Whilst the Council's five year supply of housing was not referred to in any of the reasons for refusal, part of the Appellants case is that the Council's 5-year supply of housing is marginal, and that they intend to review the Council's 5-year housing land supply position. No detail on this has yet been submitted by the appellant.
- 8.2 On adoption of the St Helens Borough Local Plan up to 2037, St Helens Borough Council could demonstrate a five-year housing land supply of 5.1 years. The appellants again in paragraph 5.5 of their statement, suggest that delivery of this site would add to the Borough's housing land supply and reduce the prospects of the supply falling below 5 years. Although under the latest NPPF (December 2023), the Council no-longer has to identify and update its five-year housing land supply position (paragraph 226) as we have an up to date Local Plan which could demonstrate a five year housing land supply on adoption, it is acknowledged that as the proposal was submitted prior to the publication of the latest NPPF, footnote 79 is relevant. Therefore, as of 31 March 2023, (the time of determining the planning application), the Council could demonstrate a five-year housing land supply of 7.38 years. Since then, the housing land supply position has been updated and as of 31 March 2024 the Council can clearly and robustly demonstrate a five-year housing supply of 6.38 years. The appellants have suggested therefore that the provision of dwellings to assist with the five-year housing land

supply should be given significant weight. However, given that the Council can demonstrate a housing land supply of 6.38, it is considered that the weight attached should be limited.

### Affordable Housing

- 8.3 The appellants state in paragraph 4.11 that the affordable housing contribution they would be providing as part of their proposed scheme (30 units) should be given significant weight in the decision-making process. However, whilst it is beneficial to make provision for affordable housing, when it is considered in the planning balance, it cannot be given 'significant weight'. The development is offering a policy compliant level of affordable housing in line with Development Plan Policy LPC02, and this is what the Council would expect to see with this application. In addition, the tenure type proposed is not in line with the needs identified in the SHMA. For those reasons, the affordable housing provision is not considered to be a significant benefit in planning terms, it simply meets the expectations of Development Plan Policy LPC02 and would attract moderate weight in favour of the development in the planning balance.
- 8.4 In addition, the Local Plan sets out how 1,987 affordable housing units should be delivered within the Borough between 2016 and 2033, this averages out to 117 units per year, it was considered reasonable at the Local Plan Examination in Public (EiP) to extend this annual need up until the end of the Plan period (i.e., 2037). Since the Local Plan was adopted in July 2022, the Council has approved 1,062 affordable housing units. Of these 477 dwellings are currently under construction and 46 have been completed. These figures do not account for previous approvals, which are also currently under construction and almost complete. Therefore, as the Council has already approved 61% of its overall Plan total in the first two years of adoption, it is considered that the delivery of 30 affordable units would only have a negligible impact on meeting affordable housing need in the Borough and would not outweigh the reasons for refusal. Furthermore, should any weight be attributed to this aspect then it should be limited only.

### Planning Balance

- 8.5 The Local Planning Authority consider that the proposed development that is subject to this appeal would be contrary to Development Plan Policy LPA05 in relation to the development of safeguarded land 5HS, and as a result fails on the principle of development.
- 8.6 There are a number of material planning considerations which must be weighed in the assessment.
- 8.7 The matters in favour of the application in the planning balance are:
1. The provision for 92 dwellings in the borough. Given the Council's 5-year housing land supply position as detailed in the above assessment this matter is afforded Moderate weight
  2. The provision for 30% affordable homes. Given this is the minimum policy compliant provision and the matters discussed in regard to delivery of affordable housing in the borough, this is afforded Moderate weight
  3. Economic benefits through the delivery of jobs and investment in the construction phase. There would also be some additional residents, which would result in an increase in expenditure and investment in the local economy. As the construction benefits would be for a time limited period and the impacts on the local economy from 92 dwellings would not be significant this is afforded Moderate weight.
  4. Social benefits through the delivery of a new modern residential development is afforded Moderate weight
- 8.8 As per the planning balance in the delegated report the above are given moderate weight in favour of the development in the planning balance. The Council has a healthy supply of housing land at 6.38 years and is not reliant on this site to meet its housing delivery objectives.



In addition, whilst the provision for affordable housing is a positive, the Applicant would only deliver a policy compliant level of affordable housing, which is what the LPA would expect as part of the application in order to meet the policy requirements. It is also noted that the application would bring some economic and social benefit, but these are not considered to be significant, and the jobs created in the construction phase would only be for a limited period during the construction of the development and not specifically unique to this proposed development. Therefore, when considered holistically, these are given moderate weight in favour of the development in the planning balance.

- 8.9 The matters not in favour of the application in the planning balance are:
1. The application fails to comply with Development Plan Policy LPA05 in relation to the development of safeguarded land 5HS, and as a result fails on the principle of development. Significant weight
  2. The visually isolated of the scheme fails to comply with Development Plan Policies LDP01 LPD02, and LPD03 and the NPPF at Section 12. Significant weight
  3. At the time of preparation of this Statement of Case insufficient information has been submitted, has been submitted to understand the impacts of the development to the Local Wildlife Site. Moderate Weight
  4. At the time of preparation of this Statement of Case insufficient information has been submitted in relation to landscaping and replacement planting. Therefore, the development fails to meet the requirements of Development Plan Policy LPC10. Moderate weight
  5. At the time of preparation of this Statement of Case insufficient information has been submitted in relation providing appropriate financial contributions to mitigate the impact of the proposed development. Therefore, the development fails to meet the requirements of Development Plan Policy LPA07. Moderate weight
- 8.10 It is noted that the LLFA are satisfied with an amended drainage strategy which can be secured by condition and therefore Reason for Refusal 5 is addressed, otherwise the matters not in favour of the development remain the same.
- 8.11 The above matters and the reasons why the proposal fails to comply with national and local plan policies is set out in this Statement of Case. Each of the above does not weigh in favour of the development in the planning balance. When considered cumulatively these are given significant weight in the planning balance.
- 8.12 Whilst it is accepted that the internal layout and reduction of dwellinghouses to achieve this is a positive step for the development and that reasons for refusal relating to the Local Wildlife Site, Landscaping, Drainage and Contributions could be resolved as part of this appeal it is considered that the issues relating to the development of the safeguarded land and the visual harm arising from the development are significant issues. Therefore, in this case, it is considered that the harm would significantly and demonstrably outweigh the benefits, and the LPA respectfully request that this appeal is dismissed.



## 9.0 CONDITIONS

9.1 Although the LPA considers the appeal should be dismissed if the Inspector is minded to allow the appeal we request the following conditions are included in the decision.

9.2 Please note the below conditions do not contain conditions relating to the habitat creation around the Local Wildlife Site and Planting in this area as these matters are currently subject to discussion between the appellant and LPA and further information is to be submitted by the appellant for review. The conditions may be updated following receipt and review of this information by the LPA.

1. The works hereby permitted must be begun within 3 years of the date of this decision notice.

Reason: Section 91 (as amended) of the Town and Country Planning Act 1990

2. The development shall be carried out in accordance with the following application drawings:

### Plans

Site Layout 2030WHD/MLNIw-PL01 Rev K  
Mill Lane Location Plan Rev D  
Storey Heights 2030WHD/MLNIw-SH01 Rev F  
Refuse Strategy 2030WHD/MLNIw-RS01 Rev F  
Boundary Treatment 2030WHD/MLNIw-BT01 Rev F  
EV Charge Plan 2030WHD/MLNIw-EV01 Rev F  
M3360-PA-01-V9 Landscape Masterplan  
Planting Plan 1 of 3 M3360-PA-02-V1  
Planting Plan 2 of 3 M3360-PA-02-V1  
Planting Plan 3 of 3 M3360-PA-02-V1  
6930 03B SHEET 2 OF 2 TPP  
6930 02B SHEET 1 OF 2 TPP  
SCP/210034/D10 Rev A – Proposed Site Access

### House Types

Aspen ASP-150-H-P1  
Acacia ACA-H-P1  
Candlewood CAN.2B643.P.H.0.1  
Foxglove FXG-H-P1  
Holly HOL-H-P1  
Oakmere - 2.346.P.BU.L10.300 Rev A  
Spruce Floor Plans SPR.4B1588.P.F.01  
Spruce Elevations SPR.4B1588.P.H.01  
Willow WIL-H-P1  
Plum – ALM-150-H-P1  
Plum – PLU-150-P1  
Coral COR-150-H-P1  
Spindle SPI-150-P1  
Almond ALM-150-H-P1

Reason: For the avoidance of doubt.

### General Conditions

3. Prior to their use on site, details of the proposed facing materials, including any

specification and coloured details of boundary treatments across the development, shall be agreed in writing with the Local Planning Authority. The development shall be constructed in accordance with the agreed materials.

Reason: To ensure that the appearance of the development is acceptable in the interests of the visual amenity of the area having regard to Policy LPD02 of the St Helens Borough Local Plan

4. No above ground works shall take place until details of all materials to be used for hard surfaced areas within the site including roads, driveways and car parking areas have been submitted to and approved in writing by the Local Planning Authority. Prior to first occupation of each dwelling the hard surfacing areas relevant to that plot shall be installed in accordance with the approved details.

Reason: To ensure that the appearance of the development is acceptable in the interests of the visual amenity of the area having regard to Policy LPD02 of the St Helens Borough Local Plan

5. Prior to commencement of development, a scheme for the provision of affordable housing on the site, in line with the definition contained in Annex 2 of the National Planning Policy Framework, shall be submitted to and agreed in writing by the Council as Local Planning Authority. The affordable housing shall subsequently be provided in accordance with the approved scheme. The scheme shall include the following:
  - a) The number, type, tenure and location on the site of the affordable housing provision to be made;
  - b) The timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
  - c) The arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing;
  - d) The arrangements to ensure that such provision is affordable for both initial and subsequent occupiers of the affordable housing; and
  - e) The occupancy criteria to be used for determining the identity of prospective and successive occupiers of the affordable housing, and the means by which such occupancy shall be enforced.

Reason: To ensure an appropriate mix of affordable homes is provided having regard to Policy LPC02 of the St Helens Borough Local Plan.

6. Prior to any above grounds works, a local employment scheme for the construction shall be submitted to and agreed in writing with the Local Planning Authority. The submitted local employment scheme shall demonstrate how the development will use all reasonable endeavours to recruit at least 20% of labour from within the Borough of St Helens focusing on the most deprived super output areas. The scheme shall include the following:
  - a. Details of how the initial staff/employment opportunities at the development will be advertised and how liaison with the Council and other local bodies such as Ways to Work and the DWP Job Centre and Community Centre will take place in relation to maximising the access of the local workforce to information about employment opportunities;
  - b. Details of how sustainable training opportunities will be provided for those recruited to

- fulfil staff/employment requirements including the provision of apprenticeships or an agreed alternative;
- c. A procedure setting out criteria for employment, and for matching of candidates to the vacancies;
  - d. Measures to be taken to offer and provide college and/or work placement opportunities at the Development to students within the locality;
  - e. Details of the promotion of the local employment scheme and liaison with contractors engaged in the construction of the development to ensure that they also apply the local employment scheme so far as practicable having due regard to the need and availability for specialist skills and trades and the programme for constructing the development;
  - f. A commitment that the construction phase of the development will be undertaken in accordance with the Unite Construction Charter;
  - g. A procedure for monitoring the local employment scheme and reporting the results of such monitoring to the Council including details of the origins qualifications numbers and other details of candidates; and
  - h. A timetable for the implementation of the local employment scheme. The development shall be implemented in accordance with the approved scheme

Reason: To encourage local employment in the development to promote local economic benefits in accordance with St Helens Local Plan policy LPA03

#### Noise

7. Prior to the commencement of the development an overheating assessment is required. The assessment must demonstrate that the overheating risk can be suitably mitigated to avoid the need for opening windows during the night.

Reason: To provide an acceptable level of noise both within the proposed dwellings and the residential area generally having regard to Policy LPD01 of the St Helens Borough Local Plan.

8. None of the approved residential units shall be occupied unless they have first been constructed to ensure that they are adequately protected against external noise sources in accordance with the following:
  - a. The construction accords with BS8233 'Sound Insulation and Noise Reduction for Buildings'.
  - b. Internal ambient noise levels in habitable rooms except bedrooms does not exceed 35dB LAeq,16 hour, between the hours 07:00 - 23:00, and within bedrooms does not exceed both 30 dB LAeq, 8 hour and LAmax 45 dB more than 10 times between the hours 23:00 - 07:00.
  - c. Protection should also be provided to private open space/ garden areas such that noise exposure does not exceed 55dBLAeq 16 hour.
  - d. Exposure to vibration is no higher than of the values equivalent to "low probability of adverse comment" in accordance with BS6472 'Evaluation of Human Exposure to Vibration in Buildings'.

Reason: To provide an acceptable level of noise both within the proposed dwellings and the residential area generally having regard to Policy LPD01 of the St Helens Borough Local Plan.

### Air Quality

9. No development shall commence until a detailed air quality assessment has been submitted to and approved in writing by the local planning authority using the EPUK and IAQM Guidance on land-use planning and development control: Planning for air quality (2017 v1.2). Any recommended mitigation measures shall be implemented in full prior to first occupation of the development.

Reason: To mitigate air quality impacts in accordance with St Helens Local Plan policy LPA06.

10. No development shall commence until a program of measures to minimise the spread of air-borne dust from the site during the construction period has been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved scheme using the EPUK & IAQM Assessment of dust from demolition and construction (2023 guidance).

Reason: To mitigate air quality impacts in accordance with St Helens Local Plan policy LPA06.

### Contaminated Land

11. Prior to the commencement of development;

- a) A Phase 1 site investigation and risk assessment shall be carried out to investigate the potential contamination issues associated with the site and the proposed development. The Phase 1 site investigation shall include a desk study, site walkover, human health and environmental risk assessment and an initial conceptual site model. A written report on the Phase 1 investigation shall be submitted to and approved in writing by the local planning authority.
- b) Unless otherwise agreed in writing with the local planning authority a Phase 2 site investigation and risk assessment methodology, to assess the nature and extent of any contamination on the site, whether or not it originates on the site, shall be submitted to and approved in writing by the Local Planning Authority.
- c) Unless otherwise agreed in writing with the Local Planning Authority a phase 2 site investigation and risk assessment shall be completed in accordance with the approved methodology. A written report, including a remedial options appraisal, shall be submitted to and approved in writing by the Local Planning Authority.
- d) Unless otherwise agreed in writing with the Local Planning Authority a detailed remediation strategy, which removes unacceptable risks to all identified receptors from contamination, shall be submitted to and approved in writing by the Local Planning Authority. The remediation strategy must include proposals for verification of remedial works. Where necessary, the strategy shall include proposals for phasing of remedial works and verification. The strategy shall be implemented as approved unless otherwise agreed in writing by the Local Planning Authority.

All such reports shall be completed by a competent person in accordance with government and Environment Agency guidance, namely “Land Contamination: Risk Management” (<https://www.gov.uk/guidance/land-contamination-how-to-manage-the-risks>).

Reason: To protect the environment and prevent harm to human health having regard to Policy LPD01 of the St Helens Borough Local Plan.

12. Unless otherwise agreed in writing with the Local Planning Authority a remediation verification report prepared in accordance with the agreed remediation strategy shall be submitted to and approved in writing by the Local Planning Authority. The remediation verification report shall be completed by a competent person in accordance with government and Environment Agency guidance, namely “Land Contamination: Risk Management” (<https://www.gov.uk/guidance/land-contamination-how-to-manage-the-risks>).

Reason: To protect the environment and prevent harm to human health having regard to Policy LPD01 of the St Helens Borough Local Plan.

#### Highways / PRoW

13. No development shall take place until a scheme for the design of the site access has been submitted to and approved in writing by the Council as the Local Planning Authority. The access shall be designed in accordance with the principles set out in the approved drawings. The approved scheme shall subsequently be constructed and completed prior to first occupation of the site. The access shall be kept available for use at all times. For the avoidance of doubt, the design works shall include:

- An assessment of the A49 carriageway in relation to the skid resistance – noting the conflict area created by the new junction and the proximity to the rail bridge etc.
- Relocation of the proposed pedestrian crossing island to the southern side of the junction
- As the land falls away into the site, consideration should be given to retaining and embankment features as may be needed.
- Gradient of the approach to Mill Lane should not exceed 1:40 for the first 15m into the site, measured from the nearside edge.
- Confirmation of no utility services within connecting link between Mill Lane and emergency link.

Reason: To ensure that adequate provision is made on the site for the traffic generated by the development, including allowance for safe circulation, manoeuvring, loading and unloading of vehicles as well as parking, and that hard-surfaced areas have a satisfactory appearance, in accordance with policies LPA06 and LPD01 of the St Helens Borough Local Plan.

14. No temporary or permanent fencing or excavation shall cause any obstruction or disturbance of the nearby Public Right of Way and no water from the development shall drain on to the nearby Public Right of Way unless otherwise agreed in writing by the Local Planning Authority.

Reason: To avoid unacceptable harm to the Public Right of Way, which is an amenity of the local area in accordance with Policies LPA06 and LPD01 of the St Helens Local Plan

up to 2037

15. The gradient of the vehicular access shall not exceed 1 in 40 for the first 15 meters into the site measured from the nearside edge of the carriageway.

Reason: In the interests of road safety to enable vehicles to enter and leave the site in a safe manner without causing a hazard to other road users, therefore minimising traffic conflict; in accordance with Policies LPD01, LPA02: and LPA06: of the St. Helens Local Plan.

16. Prior to occupation of any dwelling, a residential travel plan shall be submitted to and approved in writing by the Council as Local Planning Authority. The plan shall include immediate, continuing, and long-term measures to promote and encourage alternative modes of transport to single-occupancy car. For the avoidance of doubt, the travel plan shall include, but not be limited to:

- Production and distribution of an information pack for residents detailing travel options and information for all modes of travel;
- Information on existing transport policies, services and facilities, travel behaviour and attitudes; oAccess for all modes of transport;
- Resource allocation including Travel Plan Coordinator and budget;
- A marketing and communications strategy;
- Appropriate measures and actions to reduce car dependence and encourage sustainable travel;
- An action plan including a timetable for implementation of each of the above;
- Mechanisms for monitoring, reviewing and implementing the travel plan.

The approved residential travel plan shall be implemented in accordance with the timetable contained therein and shall continue to be implemented as long as any part of the development is occupied.

An annual report shall be submitted to the Council no later than 1 month following the anniversary of first occupation of the development for a period of 5 years. The annual report shall include a review of the residential travel plan measures, monitoring data and an updated action plan.

Reason: To ensure the development accords with sustainable transport policies having regard to Policy LPA06 of the St Helens Borough Local Plan.

17. Prior to occupation of each dwelling hereby approved it shall be provided with a smart Electric Vehicle Charging point, within an accessible distance of the in-curtilage parking space for that dwelling. All charging points in the scheme shall be compliant with The Electric Vehicles (Smart Charge Points) Regulations 2021 or subsequent legislation and shall be retained thereafter.

Reason: To ensure that appropriate levels of electric vehicle charging points are provided in accordance with Policy LPA06 of the St Helens Borough Local Plan

18. The areas indicated on the submitted plans to be set aside for parking and servicing shall be surfaced, drained, and permanently marked out or demarcated in accordance with the details and specifications shown in drawing number 2030WHD/MLNIw-PL01 Rev K prior

to first use and shall be made available for use prior to the occupation of the property they would serve. The parking and servicing areas shall be retained as such thereafter and shall not be used in a manner that prevents the parking of vehicles.

Reason: To ensure that adequate provision is made on the site for the traffic generated by the development, including allowance for safe circulation, manoeuvring, loading, and unloading of vehicles as well as parking, and that hard-surfaced areas have a satisfactory appearance, in accordance with policies LPA06 and LPD01 of the St Helens Borough Local Plan.

19. No works shall take place on the site at all until a method statement comprehensively detailing the phasing and logistics of construction has been submitted to and approved in writing by the Council as Local Planning Authority. The method statement shall include, but not be limited to:

#### Highways

- Construction traffic routes, including provision for access to the site;
- Entrance / exit from the site for visitors / contractors / deliveries;
- Siting of temporary containers;
- Parking for contractors;
- Identification of working space and extent of areas to be temporarily enclosed and secured during each phase of construction;
- Temporary road / areas of hard standing;
- Schedule for large vehicles delivering / exporting materials to and from site;
- Details of street sweeping / street cleansing / wheel wash;
- Hours of working;
- Noise mitigation and management measures
- Phasing of works;
- Details of turning facilities for use by construction vehicles.
- Dust and air quality management and mitigation measures

#### Noise

- specify the provisions to be made for the control of noise
- be based on the results of a Noise Assessment
- assure that, for fixed plant, the rating level of noise emitted from the site, measured at the closest boundary of the nearest residential dwellings, shall not exceed the existing background level.
- assure that, for other operations on site, the rating level of noise shall not exceed the existing background level at the positions described above.
- BS5228: 2009+A1:2014 'Code of practice for Noise and Vibration Control Construction and Open Sites' shall be implemented on site.

Measurement, assessment and works shall be made according to British Standard 4142:2014 and BS 5228. The development shall be carried out in accordance with the approved plan, unless otherwise agreed in writing with the Council as Local Planning Authority.

Reason: To ensure that the development does not detrimentally affect the amenity of future residents, cause unacceptable air quality impacts or harm highway safety in accordance with policies LPA06, LPD01 and LPD09 of the St. Helens Local Plan.

#### Ecology / Landscaping

20. Notwithstanding any details shown on the approved plans and the requirements of condition 2 (Approved Plans) of this permission, before the dwelling hereby approved is first occupied a soft landscaping scheme for the development shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the type, species, siting, planting distances and the programme of planting of trees, hedges and shrubs. The duly approved soft landscaping scheme shall be carried out during the first planting season after the dwelling is first occupied and the areas which are landscaped shall be retained as landscaped areas thereafter. Any trees, hedges or shrubs removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced by trees, hedges or shrubs of similar size and species to those originally required to be planted.

#### Reason

In order to ensure acceptable landscaping is delivered as part of the development in accordance with St Helens Local Plan policies LPC06, LPC09, LPC10 and LPD01.

21. The development hereby permitted shall not be occupied until details of Biodiversity Mitigation and Enhancement Measures to include number, type and location of bat boxes, bird nest boxes and hedgehog highways on an appropriately scaled plan as well as timing of installation, has been provided for approval and implemented in accordance with those details. Evidence of implementation (i.e. photographs) will need to be provided to the Local Planning Authority to enable discharge of the condition.

Reason: In order to ensure the protection and enhancement of features and species of ecological interest having regard to Policy LPC06 of the St Helens Local Plan up to 2037.

22. No tree felling, scrub clearance, hedgerow removal, vegetation management, or ground clearance works is to take place during the period 1 March to 31 August inclusive. If it is necessary to undertake works during the bird breeding season then all trees, scrub, hedgerows, and vegetation are to be checked first by an appropriately experienced ecologist to ensure no breeding birds are present. If present, details of how they will be protected are required to be submitted for approval.

Reason: To ensure the protection of bird habitats, which are protected species under the Wildlife and Countryside Act 1981, having regard to Policy LPC06 of the St Helens Local Plan up to 2037.

23. No above ground works shall take place until a scheme for tree and hedgerow protection measures (both above and below ground) to be implemented during the construction period has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include:

- a) Details of a construction exclusion zone (including protective fencing of a height and design which accords with the requirements BS 5837:2012) to be formed around the root protection areas of those trees and hedgerows within and/or overhanging the site which are to be retained.



- b) Details of any excavation to take place within the root protection areas of those trees and hedgerows within and/or overhanging the site which are to be retained.
- c) Details of the foundations of any building, hardstandings and/or boundary treatments to be constructed within the root protection areas of those trees and hedgerows within and/or overhanging the site which are to be retained.

The development shall thereafter be carried out in strict accordance with the protection measures contained in the duly approved scheme throughout the construction period.

Reason: To protect species and biodiversity in accordance with St Helens Local Plan policies LPC06, LPC09 and LPC10.

24. Prior to commencement of development of any phase an Invasive Species Method Statement shall be submitted and agreed in writing to the Local Planning Authority. The Method Statement shall include the following as a minimum:

- A plan showing the extent of the plant;
- The methods that will be used to prevent the plants spreading further, including demarcation;
- The methods of control that will be used, including details of post-control monitoring; and
- How the plants will be disposed of after treatment/removal. The development shall be constructed in accordance with the approved details

Reason: To ensure that invasive species are managed accordingly in line with Policy LPC06 of the St Helens Borough Local Plan and to ensure that the development site is landscaped to an acceptable standard having regard to Policies LPD01 and LPD02 of the St Helens Borough Local Plan

25. The habitat in site is suitable for badgers, amphibians, and hedgehog. Prior to commencement of development the following reasonable avoidance measures should be put in place to ensure that there are no adverse effects on them:

- A pre-commencement check for Badgers.
- Dense vegetation must only be cleared following an inspection by an ecologist. This is of relevance during the bird nesting season and to ensure checks are carried out for nesting and hibernating hedgehog (for example);
- No trenches must be left open overnight. Trenches or holes must be fitted with a means of escape (such as ramped edge or a sloping plank of timber). This will ensure that any inquisitive animals do not become trapped. Holes or trenches must be checked for wildlife prior to backfilling;
- Any pipes must be stored with caps on (to prevent animal entry);
- No fires must be lit at the site; and
- Any chemicals or harmful materials must be stored so that they cannot be accessed by inquisitive animals

Reason: In order to ensure the protection and enhancement of features and species of ecological interest having regard to Policy LPC06 of the St Helens Local Plan up to 2037.

26. Prior to above ground works a lighting strategy for the development shall be submitted to the Local Planning Authority for approval. The strategy shall include but is not limited to the following:

- A strategy for the entire application site;
- Detailed lighting designs;
- Luminaire technical details;
- Luminaire locations;
- Illuminance levels;
- Lighting standard achieved;
- Control methods;
- Proposed times of operation of lighting;
- Details of timescales/triggers for installation; and o
- Details of how the lighting is designed and positioned so that it protects ecology and does not result in excessive light spill onto important habitats The lighting shall be installed and retained in accordance with the approved scheme and maintained and retained thereafter.

Reason: To ensure that the development does not result in a detrimental impact of the species and habitats in accordance with policy LPC06 of the St. Helens Local Plan and the National Planning Policy Framework.

#### Drainage Conditions

27. No development shall take place until a scheme for the disposal of surface water from the development has been submitted to and approved in writing by the Local Planning Authority. The detailed drainage design shall set out a full specification of all related surface water connections, pond details with health and safety features, methods for directing surface and foul water away from the railway and hydraulic flood modelling. The approved drainage scheme shall be implemented in full prior to first occupation of the development and retained thereafter for the lifetime of the development.

Reason: To ensure that the site is satisfactorily drained having regard to Policy LPC12 of the St Helens Borough Local Plan.

28. Prior to first occupation of the development, details of a management and maintenance plan for the drainage system, including any arrangements for adoption by an appropriate public body or statutory shall be submitted to and approved in writing by the Local Planning Authority. The agreed details shall be implemented in full for the lifetime of the development.

Reason: To ensure that the site is satisfactorily drained having regard to Policy LPC12 of the St Helens Borough Local Plan.

29. A method statement and risk assessment must be submitted to the council and Network Rail for review and agreement prior to works commencing on site.

Reason: To ensure that the construction and subsequent maintenance of the proposal can be carried out without adversely affecting the safety, operational needs or integrity of the railway.

#### Network Rail Conditions

30. Prior to the first occupation of the development the applicant shall submit details of a trespass proof fencing scheme to the Local Planning Authority. The approved scheme shall be implemented in full and maintained at all times thereafter

Reason: To protect the adjacent railway from unauthorised access in the interests of safety in accordance with St Helens Local Plan policies LPD01 and LPA06 and the NPPF.

31. Details of scaffolding works within 10m of the railway boundary shall be submitted to and approved in writing by the Local Planning Authority prior to installation of any scaffolding in this area.

Reason: In the interests of protecting the railway and its boundary from over-sailing scaffolding. in the interests of safety in accordance with St Helens Local Plan policies LPD01 and LPA06 and the NPPF.

32. Prior to any vibro-impact works on site, a risk assessment and method statement shall be submitted to and approved in writing by the Local Planning Authority. The approved risk assessment and method statement shall be implemented in full.

Reason: to prevent any piling works and vibration from de-stabilising or impacting the railway in the interests of safety and to prevent transport disruption in accordance with St Helens Local Plan policies LPD01 and LPA06 and the NPPF.

33. Prior to the commencement of the development full details of ground levels, earthworks and excavations to be carried out within 20 metres of the railway boundary shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To protect the adjacent railway and its boundary to avoid transport disruption in accordance with St Helens Local Plan policy LPA06 and the NPPF.

34. Details of appropriate vehicle safety protection measures along the boundary with the railway shall be submitted to and approved in writing by the Local Planning Authority.

Reason: to prevent the design and layout of the road and parking spaces from impacting the adjacent operational railway with accidental vehicle incursion in the interests of safety and to prevent transport disruption in accordance with St Helens Local Plan policies LPD01 and LPA06 and the NPPF.

### Other Matters

35. No development shall take place until a Written Scheme of Investigation (WSI) for archaeological works has been submitted to and approved in writing by the local planning authority. The approved programme of archaeological works should be undertaken in accordance with the approved WSI including the approved phasing programme. The WSI must include the following steps:

- a) A phased programme and methodology of site investigation and recording;
- b) A programme for post-investigation reporting to include production of a final report of the significance of the below-ground archaeological interest;
- c) Provision for appropriate publication and dissemination of the archaeology and history of the site;

- d) Provision for archive deposition of the report, finds and records of the site investigation;
- e) A timetable for the implementation of the different stages of the WSI and
- f) Nomination of a competent person or persons / organisation to undertake the works set out within the approved WSI.

Reason: To ensure that appropriate archaeological investigation of the site is carried out, and that if any features of value are discovered, that appropriate measures are implemented to deal with the situation arising, in accordance with policy LPC11 of the St. Helens Local Plan and the National Planning Policy Framework.

36. Prior to any above ground development a Renewable and Low Carbon Energy Statement which details how the proposal will minimise carbon emissions equivalent to CSH level 4, i.e. 19% carbon reduction against Part L 2013 shall be submitted to and approved by the LPA. The development thereafter shall be carried out in accordance with the approved details.

Reason: To mitigate carbon emissions and promote sustainable design and construction in accordance with St Helens Local Plan policy LPC13

37. Prior to the commencement of development a scheme of the proposed ground and floor levels for all the proposed dwellings and structures. The submitted details shall include a number of sections across the site, which shall indicate existing and proposed ground levels, together with the finished floor levels of any proposed dwellings/buildings through which the sections run and shall extend beyond the site boundaries to include any surrounding adjacent properties.

Reason: To ensure that the appearance of the development is acceptable and adequate amenity is afforded to future occupiers, having regard to Policies LPD01 and LPD02 of the St Helens Borough Local Plan

38. Prior to above ground works a phasing plan linked to the delivery of the residential units, for the laying and management of the areas of public open space within the development layout, shall be submitted to the Local Planning Authority for approval. The public open space shall be delivered no later than occupation of the 50<sup>th</sup> residential unit hereby approved. The public open space shall be provided and managed in accordance with the approved details and shall remain as public open space for the lifetime of the development.

Reason: To ensure that the play facilities are provided and adequately managed and maintained in accordance with policies LPD03 and LPC05 of the St. Helens Local Plan.

39. Prior to above ground works details of a Local Equipment Area for Play (LEAP) in the area of public open space as detailed on Site Layout - Drawing Number 2030WHD/MLNIw-PL01 Rev K shall be submitted to the Local Planning Authority for approval. The details shall include the scale, appearance, location, type and materials of the play equipment along with any surfacing materials and boundary treatments and management details for the LEAP and a phasing plan for the delivery of the play equipment linked to the delivery of the residential units which shall be upon practical completion of 50 units at the latest. The play area shall be provided in accordance with the approved details and retained as a public play facility thereafter.

Reason: To ensure that the play facilities are provided and adequately managed and maintained in accordance with policies LPD03 and LPC05 of the St. Helens Local Plan.



Appendix 1 - Site Photos 02.10.24



View across safeguarded land from Mill Lane



Location of site access and view towards Wayfarers Drive.





View from Public Right of Way across Newton Brook



View from Public Right of Way across Newton Brook

## Appendix 2 – MEAS Comments

### Land West Of Mill Lane Newton Le Willows St Helens

1. Thank you for consulting Merseyside Environmental Advisory Service in respect of this planning application. These comment are provided in relation to information submitted as part of the appeal for the above site.
2. Having reviewed the application and supporting documentation, our advice is set out below in two parts.
  - Part One deals with issues of regulatory compliance, action required prior to the granting of planning consent and matters to be dealt with through planning conditions. Advice is only included here where action is required or where a positive statement of compliance is necessary for statutory purposes.
  - Should the Council decide to adopt an alternative approach to MEAS Part 1 advice, I request that you let us know. MEAS may be able to provide further advice on options to manage risks in the determination of the application.
  - Part Two sets out guidance to facilitate the implementation of Part One advice and informative notes.

In this case Part One comprises paragraphs **3 to 13**, while there is no Part Two.

#### Part One

3. Previous comments were provided by MEAS on this application in February 2024 (LP 15/02/2024) whereby further information was requested in respect of impacts to Newton Brook LWS, this included clarification and updates to drainage and landscape design in order to protect, maintain and enhancement the Newton Brook Local Wildlife Site (LWS).
4. The appellant has submitted the following updated plans as part of the appeal:
  - Landscape Masterplan, Land West of Mill Lane, Newton-le-Willows, Barnes Walker, May 2022, Drawing Ref: M3360-PA-01-V9, Rev July 2024.
  - Planting Plan 1 of 3 , Land West of Mill Lane, Newton-le-Willows, Barnes Walker, Drawing Ref: M3360-PA-02-V1, July 2024.
  - Planting Plan 2 of 3 , Land West of Mill Lane, Newton-le-Willows, Barnes Walker, Drawing Ref: M3360-PA-02-V1, July 2024.
  - Planting Plan 3 of 3 , Land West of Mill Lane, Newton-le-Willows, Barnes Walker, Drawing Ref: M3360-PA-02-V1, July 2024.
  - Preliminary Drainage Layout, Red Bank, Newton le Willows, Ironside Farrar, Drawing No. 30488/100 Rev F, July 2024.
5. No updated ecological survey information has been submitted as part of the appeal, therefore previous comments in respect of amphibians and terrestrial mammals, bats, breeding birds, invasive species and biodiversity enhancements remain relevant.

#### Newton Brook LWS

##### *Landscaping*

6. Previous comments provided by MEAS stated that;

*“Submitted site plans and the Landscape Masterplan for the site do not include complementary landscaping that will be implemented adjacent to the LWS as recommended within the ESA. Habitats proposed in these areas on the submitted masterplan include*



*meadow grassland creation and tree planting (native and ornamental) adjacent to the LWS. There is no detail provided for any swale features or additional wetland areas to be created adjacent to the LWS. The landscaping of the POS must complement and enhance the LWS and its designation features, we would expect the POS and LWS to be enhanced to provide additional wetland habitats for which the LWS is designated.*

*An updated Landscape Masterplan should be provided **prior to determination** to include all habitats and measures proposed within the ESA report to ensure that proposed habitat creation compliments the protection, maintenance and enhancement of the LWS."*

7. The appellant has submitted updated Landscape Masterplan and detailed planting plans which now show an increase in the retention of habitats within the site associated with Newton Brook LWS. This includes the retention of swamp / seasonally inundated habitats, and the enhancement of existing areas of grassland within and adjacent to the LWS sections of the site. The updated landscaping plans and Preliminary Drainage Strategy also now show that a vegetated attenuation basin will be installed towards the south-west extent of the site adjacent to the LWS, this area is to be planted with native marginal planting. These proposals are welcomed.
8. Proposed landscaping has been updated to include additional wetland planting within the retained swamp / seasonally inundated areas of the site and the overseeding of a wet meadow grassland mix within areas of POS within and adjacent to the LWS. Proposed native tree planting has also been split up to now include proposed 'wetland trees' within areas of POS within and adjacent to the LWS.
9. Whilst the proposed landscaping plans for the site now include retention of habitats associated with the LWS and the inclusion of more suitable planting within and adjacent to the areas of the LWS. There is no detail provided for the proposed swale features included within the Preliminary Drainage Strategy or for any additional wetland areas to be created in line with the previously submitted Ecological Survey and Assessment report (ERAP (Consultant Ecologists) Ltd reference 2023/0619/FUL, December 2023), as stated in previous MEAS comments.
10. The submitted landscaping plans and Preliminary Drainage Strategy also do not include suitable information for how retained and enhanced areas of wetland habitat within the site will be 'fed' in order for these areas to retain their function as waterlogged swamp/wetland habitats. Further detail and updated plans are still required to be submitted to include all habitats and measures proposed within the ESA report to ensure that proposed habitat creation compliments the protection, maintenance and enhancement of the LWS. Requirements for further information on drainage design are discussed below.

#### *Drainage*

11. Previous comments requested that "*Further detail should be provided **prior to determination** on the drainage design and how the proposed swales would maintain and 'feed' the waterlogged areas of the LWS. Current drainage plans included within the Flood Risk and Drainage Assessment show straight linear swales directed to Newton Brook from the development site, these appear to bypass the current wetland areas. Clarification is therefore required. Currently proposed straight linear swales would not be acceptable and drainage within the site should be designed for biodiversity and the maintenance and enhancement of the LWS*".
12. The Preliminary Drainage Layout document submitted as part of the appeal still includes two linear swales proposed to be installed to the northern and southern extent of the western boundary of the site leading into Newton Brook. However, no detail is provided on how these swales or any other drainage features within the site would 'feed' the retained and enhanced waterlogged swamp / wetland habitats of the LWS within the site. Drainage proposals at the site continue to show that the retained habitats associated with the LWS will be bypassed by

proposed swale features. This could result in the wetland drying out and the LWS feature being lost. Further information / clarification is therefore still required to be provided to ensure proposed landscaping and drainage at the site is designed for biodiversity and the maintenance and enhancement of the LWS.

13. Based upon a review of the additional information submitted as part of the appeal and information previously reviewed as part of the refused application. The proposal continues to fail to appropriately address the Local Wildlife Site regarding public open space and the future management and function of the Wildlife site. The proposal does not therefore comply with the requirements of St Helens Local Plan Policies LPC05, LPC06, and LPD03 and the National Planning Policy Framework (2023).

I would be pleased to discuss these issues further and to provide additional information in respect of any of the matters raised.

Appendix 3 – St Helens Council Countryside Development and Woodland Officer Comments:

|   |                |
|---|----------------|
| From: Michael Roberts – Countryside Development and Woodlands Officer |                |
|   | Date: 23/08/24 |

**Policy**

Relevant St.Helens Borough Local Plan Up to 2037 policies include:-

LPC06 Biodiversity and Geological Conservation

LPC09: Landscape Protection and Enhancement

LPC10: Trees and Woodlands

Other policy considerations include policies included in the current NPPF, including:-

114 (C)The design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including **National Design Guide and National Model Design Code**

136. Trees make an important contribution to the character and quality of urban environments and can also help mitigate and adapt to climate change. Planning policies and decisions should ensure that **new streets are tree-lined, that opportunities are taken to incorporate trees elsewhere in developments** (such as parks and community orchards), that appropriate measures are in place to secure the long-term maintenance of newly-planted trees, and that existing trees are retained wherever possible. Applicants and local planning authorities should work with highway officers and tree officers to ensure that the right tree is planted in the right places and solutions are found that are compatible with highway standards and needs of different users.

186. When determining planning applications, local planning authorities should apply the following principles:

(d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.

(The 2019 National Design Guide further emphasises the importance of nature as one of ten national design characteristics).

**In relation to the latest information submitted as part of the Appeal process I have highlighted below in red updated comments on the issues I last raised.**

An updated site layout has been received. The majority of the previous issues raised remain valid, though the removal of some units has meant that the development edge has been pulled back to

nearer the edge of the Local Wildlife Site. There is insufficient detail though to assess if this will have no adverse impact on the Local Wildlife Site. None of the other documentation has been updated, with the exception of the Landscape Masterplan (but there are still no detailed, fully specified landscape plans or landscape management plans. The Ecology report has not been updated and so with the exception of some reduction on the Local Wildlife Site the following comments remain relevant:-

The landscape masterplan has now been updated and detailed planting plans provided. I will provide further comment on these. Ecology and arboriculture reports have also not been updated.

MEAS are best placed to comment on the Ecology Report and their consultation comments should be given consideration. I have previously commented on this application and all my previous comments remain valid. In relation to the issues I have previously raised this report does not address any of the issues. Whilst the removal of units has reduce the impacts the direct impacts on the Local Wildlife site it is not possible to assess fully what the impacts are, level changes etc may affect construction and may still affect the Local Wildlife site e.g. construction of adjacent roads and car parking. The ecological report says that the development will “retention and protection of as much land as possible, within the Local Wildlife Site. However, there is no justification for any development within the Local Wildlife Site and there is nothing in the layout to indicate there has been any attempt to avoid impacts to the Local Wildlife Site. There is reference to the report to the issue of Himalayan Balsam but it provides little information on how this issue will be addressed and no management plan for the eradication of Himalayan balsam has been included with this submission. Previous comments have been disregarded with this resubmission and so I will maintain my objection to this application. In addition, the Ecological Report has given no regard to the need to avoid any loss of biodiversity on site and there has been no information provided that provides a measurable assessment of biodiversity on site (no use of the current DEFRA Biodiversity Metric) and no evidence of any avoidance of loss of biodiversity on site.

As no updated ecological information has been submitted these comments remain valid.

My objections are that there is still insufficient information provided in relation to biodiversity/ ecology and only schematic information in relation to landscaping. I am also objecting as I believe the design fails to provide sufficient landscaping and tree planting, with poor layout of urban areas with inadequate space for tree planting. It also fails to maximise the potential of open space to alleviate flooding and **still** encroaches too close to the brook (which is a Local Wildlife Site) in places. The design also needs to reflect more the wetland habitat that already exists along the brook, it needs to enhance this, enlarge the wetland areas and at the same time also provide well connected open space that can be used for play, as well as access. The site is extremely isolated and there is the opportunity, if well designed, to address flooding issues, to connect via a bridge to open space and a path network that connects to a much wider access network including cycleways. I am also concerned that the site design does not address that fact that the other development area to the north cannot come forward for another 25 years and this leaves a development that is not design with poor frontage, only accessed by a long narrow road with no landscape buffering.

Whilst an updated landscape masterplan has been submitted and more tree planting has been shown the information supplied does not address the specific issues I have raised above. There seems to be a ‘scatter gun’ approach to tree planting within the open space area along the brook. More existing trees seem to be being shown as being removed than the earlier master plan (according to the arboriculture report they submitted which shows the distribution of trees within the area) though more individual tree planting is being shown within the open space area. The approach though does not seem to be focused on mitigatory habitat or habitat enhancement. Habitats seem to be being removed or modified e.g. wetland, scrub woodland with some limited new pond / ditch habitat and SUDs area created (which are likely to be in flood areas). The majority of the open space seems to have a widespread scattering of individual trees albeit most are wetland species). There are no real open areas for the public to use e.g. open wet meadow / meadow. The landscape plan seems to be a

reaction to me saying there was not enough mitigatory tree planting, which was in the context of eth built areas as I clearly said, "It also fails to maximise the potential of open space to alleviate flooding and **still** encroaches too close to the brook (which is a Local Wildlife Site) in places. The design also needs to reflect more the wetland habitat that already exists along the brook, it needs to enhance this, enlarge the wetland areas and at the same time also provide well connected open space that can be used for play, as well as access".

There needs to be a more habitat focused approach to the landscaping of the brook corridor open space. They are better creating blocks and belts of wetland, scrub, grassland and woodland. Some scattered individual trees are beneficial, specially in helping to blend more open areas into adjacent blocks of scrub or screening urban areas from within the open space area. Wet meadow has been shown but then it has too many trees within it. Also is it sustainable as wet meadow? We need to see cross sections to see how they are maintaining it as wet meadow. If on sloped, raised ground, then it would just have to be a meadow environment as it would be too dry to support wet meadow. If though it is wet meadow (and can be sustained as such), then we would need more detail as to how paths are being constructed as they would need raising and building up to prevent flooding.

In terms of the urban areas more tree planting is illustrated and is generally acceptable with well specified highway planting. A tree pit detail would be required, ideally in the form of a cross section and tree pit design details.

*Whilst a number of units have now been removed which reduce direct impacts on the Local Wildlife Site, it is not possible to fully ascertain the impacts from the information submitted. There is still car parking near the edge of the Local Wildlife Site and a turning area, on the end of a cul-de-sac is unnecessarily intrusive into the way it extends into the open space (it would be better to remove a couple of units and place the turning area on the east side of eth cul-de-sac not the west side). The access paths at present are pushed too close to the brook and will be prone to flooding as well as impact on the Local Wildlife site along Newton Brook. I would also question whether the SUDs areas proposed will be effective. They will provide wetland habitat but may provide little additional capacity to store flood water as they lie within the flood zone. Cross sections would be required to fully understand the impact of the layout and its relationship with the brook corridor and flood plain / riparian areas.*

*The above comments remain valid. The landscape scheme does show some screen planting of the turning area which is an improvement. No cross sections have been provided.*

The southern section has a road running along its northern boundary. This and other key routes within the development, have no landscaping incorporated into them (with the exception of the link route with trees alongside the road and railway boundary). They should be using grass verges that can accommodate street tree planting in line with the National Design Guide and National Model Design Code. Plots fronting this road (35-40) don't even have any front gardens and so this will leave a very, stark boundary, as the area to the north cannot be developed for the next 25 years. Some schematic trees are shown off site to the north, but otherwise very poor, limited landscaping is being provided on a key, highly visible boundary. The road connecting back to Mill Lane has now been moved to the railway boundary and at least shows some avenue planting along the railway line boundary. The new proposed Landscape Masterplan does now also show trees on the opposite side of the entrance road, which is a positive addition but it is unclear as to how sustainable this is and how it will clearly integrate with the development of the northern field area. We would though want both sides planted and not just a narrow buffer strip

Landscaping has been provided for the access road and some highways now have tree planting incorporated into verges. There is tree planting along eth north side of the development boundary and west side of the access road. Whilst this is welcome these trees have no longevity as the blue line, schematic layouts show that roads will be constructed through the areas where these trees are

proposed to be planted. This offers no longevity to these landscape features and so cannot be supported. Any future layouts will need to ensure they retain these proposed landscape features.

*Despite removing some plots there are still a number of plots are also still side on to the open space created along the brook. I would want to see separation to the open space, with a road alongside and the housing on the opposite side, facing onto the open space.*

*This issue has not been addressed with the layout remaining almost as previously illustrated. There is some improved landscaping but does not address the specific issues raised*

*Arboricultural Information has been submitted to BS5837(2012). However, some of the documents are missing in terms of the tree constraints plan and tree removals plan and these are required. Otherwise, the report has been professionally prepared and the majority of the information acceptable, though I cannot accept the removal of parts of Group 29G (though the exact extent of this can only be clarified with a tree removals plan being provided). This removal (surmised from previously submitted plans for P/2022/0575) is required as the housing development comes closer to the brook in this location. This is in an area I would want housing set further back and so cannot support the removal of trees here. If there are safety issues, we would fully support such works as well as works for the positive management of trees along that brook. I would also support tree works if it was to accommodate a crossing of the brook as this would have wider benefits to the community and could be mitigated through landscaping (we would have similar issues with the northern area as there seems to be tree loss indicated for that area on documents submitted). There are oak trees lost by Mill Lane. These are trees we would normally want to be retained. However, as the Council has approved the future development of the area to the north of the site and the only practical access is through the area where these trees stand it is not possible for me to object to their removal.*

*No new arboriculture information has been submitted and the proposals seem to show more trees removed in the brook area than illustrated as being remove din the original arboriculturally reports. There have been no updated plans as identified in the previous comments made. Updated tree constraints, tree works and removal plans and tree protection plans are still required.*

*My comments on the visual impact assessment are mostly as before, namely the Landscape and Visual Impact Assessment makes conclusions that are generally accurate. However, I believe the development does not offer the landscape mitigation it needs to and so believe that the potential impacts are likely to be more severe. The methodology also does not lend itself well to the particular nature of this development. Its assessment is (as is normally the case) based on existing visual receptors in accordance with the methodology. We are though being asked to accept a housing layout that creates a new settlement in a relatively isolated position, connected by an extended road, that passes through an area that cannot be developed for the next 25 years. This new road will in fact be a key visual receptor point for the new area of development and key views will be gained from this location. I have already said that the road will have limited landscape mitigation (accept an area along the railway boundary) and the northern boundary of the southern area of development has extremely poor layout and almost no landscaping along it. The landscape impacts from this new road are therefore likely to be severe with the new development having an extremely poor visual appearance.*

*There has been no significant change to the proposals. We do now have tree planting plans and specifications but previous comments address concerns with this information (though it acknowledges there have been some improvements to the urban planting proposals. The screening of the site is also indicated as being temporary as outline layouts show planting to northern perimeters as having to be removed to accommodate likely layouts.*



As before, In terms of the landscape proposals, we only have a schematic Landscape Masterplan submitted. This is though, a full application and I would expect fully specified landscape plans to be submitted as well as the provision of a landscape masterplan that specifies the landscape management that will be delivered as part of the proposals. This should indicate that the public open space areas will be retained and managed for the lifetime of the development, how it will be funded and in particular how the landscape will be managed to enhance biodiversity. It is likely to need to be integrated with SUD's management plans. Landscape Master Plan has been improved to show retained and new wetlands but the proposals still do not fully recognise the wetland nature, riparian habitat and impact of flooding on the open space illustrated. The image below is a 2018 aerial of the site and it can be seen that the brook corridor contains pools along the flood plain of the brook.

*Whilst we have specified planting plans I have already raised concerns that they do not fully address the wetland nature of the open space areas or provide sufficient detail to ensure that paths constructed are suitable for the location. They also do not give clarity as to whether they are addressing drainage requirements.*



(On the plan on the previous page, the green boundary is the Newton Brook Local Wildlife Site and the purple / pink line is a public right of way).

The landscape plans need to show these areas and also indicate exactly how they will be enhanced. They will also be areas that cannot be directly accessed by the public and so the Landscape Masterplan is misleading in terms of showing areas as usable open space. They will have significant benefits for biodiversity, as well as visual enhancement but it is important that there are open space areas that are provided above the flood plain so all year paths can be provided as well as all year, publicly usable areas.

*Again, I have already commented on my concerns that the landscape plans do not address these concerns. There has been no further clarity around impacts to the Local Wildlife Site, no updating of ecological information and limited consideration in the design to impacts on existing habitats and landscape proposals that are confused and fail to fully deal with practical habitat management and mitigation of impacts in existing habitats.*

I think there is a significant opportunity to provide more wetland areas, that can help to alleviate flooding along Newton Brook. These could have significant biodiversity benefits. The proposals

*seem to rely too much on engineering solutions within the built environment and more natural solutions to flooding should be incorporated into the design of this scheme. For this reason, I believe the amount of housing needs to be significantly reduced and much wider open space provision being given along the brook corridor. The incorporation of a crossing that can link to nearby rights of way and multiuser routes should also be incorporated into the proposals (though this needs to be integrated into SUD's schemes as it needs to avoid causing obstruction of the flood plain).*

*Whilst landscape plans show wet meadow there is no clarity as to whether this is practically achievable in all the areas it is illustrated. The landscaping needs to be more habitat protection and creation focused.*

*I have already stated there needs to be improvement of the street scene within the proposed development with street tree planting incorporated into verges and boulevard areas. The link road must also have a landscape corridor designed into it (there is now at least an avenue shown on one side but no indication of anything on the west side). Tree planting is shown within rear gardens. This is supported but there is extremely poor design of many house frontages, with little front garden area illustrated. This means there is limited scope to plant trees in front gardens. Those illustrated are likely to have to be extremely small species, with limited landscape benefit and many will get removed by new residents as these trees will have little room to grow.*

*I believe they have improved the planting proposals for the urban areas of eth site but just requires some additional tree pit information. The planting shown on the northern boundary and western side of eth access road has no likely longevity and so has little value unless the outline layouts show that these features can be retained.*

*There is also no Ecological and Landscape Management plan included within the submission and this is required so we clearly understand exactly how these areas will be managed. This is particularly important as the site is integrated with the Local Wildlife Site along the brook corridor and any site of this nature also needs to show how it contributes and manages biodiversity. I have mentioned the need for a crossing of Newton Brook to integrate the site with the adjacent parkland and open space. In particular it provides the opportunity to link people to a multi-user route that connects Mill Lane / Winwick Rd with the Vulcan Estate. This in turn links to multi-user routes that run along the Sankey Canal, which connects with Greenways in Warrington and even the Trans Pennine Trail. I realise that building a bridge / crossing will be challenging as it needs to avoid creating obstruction of the flood plain but if the location and design is integrated into SUD's scheme improvements it could provide an important link to avoid this development being isolated with poor access connectivity with the wider open space network. I realise this is something identified with the saved land area to the north, but the exact location should be looked at holistically along with a wider range of landscape, drainage and access improvements. I strongly believe that if we do not integrate access across the brook into the design there will still be such a strong desire to cross the brook to get to these other open space areas it could encourage 'trespass line' links across the brook, particularly when water levels are lower, and this would bring with it a whole range of public safety issues.*

*The Landscape Management Plan is not a Landscape and Ecological Landscape Management Plan. It is highly generic and refers to features that do not tie in with the landscape and planting plans refer to meadow areas not wet meadows (which have different species mixes and different management requirements). The plan needs to have management specifications for the urban sections, but the open space areas need more of an ecological management approach and more*



*emphasis on habitat management. As such the management plan and its associated schedules are not acceptable.*

*There is also no multi user provision linking to the open space areas on the other side of the brook.*

*Paragraph 186(d) of the current NPPF states that"... opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure **measurable net gains for biodiversity** or enhance public access to nature where this is appropriate". Again, as with wider ecology, no information has been submitted that allows the Council to assess the impacts of this proposal on biodiversity. As such we would require a developer to assess the site using the DEFRA Biodiversity Net Gain Metric as they need to demonstrate that they can secure measurable net gains and this is the common methodology for doing this. In this location, on a site of this nature there would be no reason to accept off site mitigation. The Biodiversity Net Gain Metric would therefore need to show how the proposed site design is providing measurable net gains. This could be done by widening the open space corridor along the brook, maximizing, through design and management enhancements along the brook and clearly demonstrated how this will be maintained and managed into the long-term future.*

*None of the above issues in relation to biodiversity have been addressed.*

*Finally, there is no information in relation to invasive weeds. The site has extensive areas of Himalayan balsam along the length of the brook and may have areas of Japanese knotweed. There should be a Management Plan for the control of invasive species, submitted with this application. In relation to Himalayan balsam, I think it will be almost impossible to eradicate as every time there is a flood seed will be spread throughout the flood plain areas. However, the plan should show how control will be attempted and the species managed so that it does not over dominate or compromise new habitats being created and managed or over dominate existing ones. With Japanese knotweed, if present they should look at eradication.*

*No information in relation to invasive weeds has been provided.*

*As with the previous submission, as there is insufficient consideration to previous comments made, I am objecting to this application as I believe there are significant issues with the application as proposed and key pieces of information are absent and so it is not possible to fully assess the impacts of this proposal.*

*Whilst there has been more specified landscape information provided and improvements to the planting in the urban areas the comments previously raised have substantially not been addressed.*

**Michael Roberts**

**Countryside Development and Woodlands Officer**

Appendix 4 – St Helens Council Highways Service Comments:

|                       |  |                        |               |
|-----------------------|--|------------------------|---------------|
| <b>Our reference:</b> | 415187-2878                            | <b>Your reference:</b> | 771461        |
| <b>Prepared by:</b>   | Beverley Price / Richard Skitt         | <b>Date:</b>           | 09.10.24      |
| <b>Approved by:</b>   | Paul Walton                            | <b>Checked by:</b>     | Richard Skitt |
| <b>Subject:</b>       | Highways Response to appeal submission |                        |               |

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**Application Number:** P/2023/0619/FUL

**For:** Full Planning Application

**Proposal:** Resubmission of full planning application P/2022/0575/FUL for the residential development for 99 dwellings including access, associated works and landscaping **Location:** Land West of Mill Lane Newton Le Willows St Helens

**Agent:** Mr Stephen Harris Emery Planning 1-4 South Park Business Ct, Hobson St Macclesfield SK11 8BS

### **Introduction**

This note has been prepared in response to the planning appeal that has been lodged in relation to planning application P/2023/0619/FUL.

There were 6 reasons for refusal although only reason no. 6 specifically relates to highway matters. It is considered that all other principles have been dealt with, assuming that any design changes do not have any highway impacts and no alterations have been made to prior agreed principles, particularly those of the A49 access.

Reason for refusal no. 6 states that:

*The proposed development is required to make financial contributions towards education provision and the St Helens Local Cycling and Walking Infrastructure Plan (LCWIP). The applicant has failed to make any formal commitment to provide the required financial contributions towards education provision and the St Helens Local Cycling and Walking Infrastructure Plan and this fails to comply with Policy LPA07 of the St Helens Local Plan and the National Planning Policy Framework (2023).*

With SCP Technical Note 210034 – 04 MARCH 2024, the below is stated at paragraph 55, and consideration of this is given within this response:

“In order to allow us to review the contribution request with our client and determine whether it is CIL compliant, **confirmation is required on what the scheme involves, the amount being requested and how the requested contribution has been determined.** It is understood that this information is to be provided by SHBC highways department, however, this information has not been received at the time of writing this report”.

The Framework is clear in stating that significant forms of development should be within a location that is or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This will help to reduce congestion and emissions, improving air quality and public health. Furthermore, new development should ensure that opportunities to promote sustainable travel choice and alternative modes of travel are incorporated into the proposal.

The Council’s Local Plan is clear that development should be in a location that is accessible by walking, cycling and public transport, which should reduce the need to travel by car. New development that generates a significant numbers of trips should be sustainably accessible by public transport, walking and cycling, and where additional transport infrastructure and/or public transport is required to make the site accessible then developers will be required to provide such infrastructure and/or services.

## Accessibility Concerns

As previously identified, there are very few amenities within 800m of the development site, with most being found beyond the CIHT recommended desirable walk distances for a walkable neighbourhood. This would be particularly true of dwellings at the southern end of the site, where residents would have to walk over 400m before they even reached the A49.

CIHT 2015 document Planning for Walking gives the following advice on Walkable Neighbourhoods. *“Walking neighbourhoods are typically characterised as having a range of facilities within 10 minutes’ walking distance (around 800 metres). However, the propensity to walk or cycle is not only influenced by distance but also the quality of the experience; people may be willing to walk or cycle further where their surroundings are more attractive, safe and stimulating. Developers should consider the safety of the routes (adequacy of surveillance, sight lines and appropriate lighting) as well as landscaping factors (indigenous planting, habitat creation) in their design. The power of a destination determines how far people will walk to get to it. For bus stops in residential areas, 400 metres has traditionally been regarded as a cut-off point and in town centres, 200 metres (DOENI, 2000). People will walk up to 800 metres to get to a railway station, which reflects the greater perceived quality or importance of rail services”.*

In the context of commute-based trips, the site is located within walk distance of some A49 bus stops (noting that some residents would have to walk over 400m before they even reach the A49) and also Newton Le Willows rail station; for trips of other purposes, the site is considered isolated and not accessible via modes other than car.

Bus Public Transport frequency on the A49 is noted to for the 22 and 360 services. These are hourly services only for Ashton and Wigan, with only one of the services stopping at High St in central Newton-le-Willows. Other services are school / college services for Hope Academy and Priestley College and are timed to match school / college hours only. As such, in accordance with the St Helens Transport and Travel SPD, the Bus Public Transport Accessibility for the site is Low, which hasn’t been recognised in the Transport Assessment as the TRACC analysis for Public Transport accessibility combines Rail and Bus services. Rail frequency is considered High, however.

In accordance with the Minimum Accessibility Standard Assessment (MASA) of the St Helens Transport & Travel SPD, the Bus and Rail assessment notes that some of the walk routes are on footways <2m in width and not all dropped kerbs are of sufficient standard. Tactile crossing provision is missing in some locations and the surfacing of the footway is of variant standard. Furthermore, not all of the dwellings are within a 400m safe and convenient walking distance of a bus stop. Many of the occupants of dwellings at the southern end of site would have to walk well over 400m to even reach the A49.

In terms of walking accessibility, the site does not meet all the criteria of the MASA of the St Helens Transport & Travel SPD for consistent provision of 2m footways and to standard crossing points external to the site. The distance to the nearest district / local centre is 0.95mile and the maximum threshold of the St Helens MASA is 1mile, so is very close to the upper threshold.

In terms of cycling accessibility, the junctions of the A49 including the site access as proposed, are considered to be “suitable only for confident existing cyclists, and may be avoided by some experienced cyclists”, as per the criteria of the Junction Assessment Tool in LTN1/20. Although the applicant considers “cycling is also considered to be a viable alternative to private car use”, this is not the case when the suggested route is scored against the Cycling Level of Service Tool within LTN1/20, with many principles returning ‘red’ or at best ‘amber’ values.

In terms of facilities available from the development site, these are listed at Table 5.1 of the Transport Assessment, and it is noticeable that only the bus stop, rail station and the Red Bank Farm shop are within suitable walk distances. All other facilities range from 1.1km to 2km distant. Which means that almost all facilities are well outside of recommended walk distances. Propensity to walk further is a function of the quality of the route (crossings, surfacing, lighting, wayfinding and safety (particularly that in relation to motorised vehicles)).

Finally, the walk and cycle isochrone assessments presented in the Transport Assessment at Figures 5.1 and 5.2 show the site location to be adjacent to the A49, however that would only be the case for the safeguarded 5HS site. The site in question as part of this application is located in the southern portion of the land below site 5HS. This has the effect of slightly skewing what is within the walk thresholds, and further enforces the view that some attempt to resolve this is required.

Ways of enhancing the active travel routes are noted to be difficult to achieve, with connections to Vulcan Park Way to improve westward movements, being constrained by the Newton Brook/third-party land and there being similar constraints for a connection to the active travel link running parallel to the rail line.

Since the original P/2022/0575/FUL application, the St Helens LCWIP has become an adopted plan. Appendix A shows the detailed desire line mapping and the route from the development location to the centre of Newton Le Willows (Earlestown to Parkside development) is considered a primary desire line along with the route to High Street being a local desire line.

### **St Helens LCWIP**

The St Helens and LCR LCWIPs contribute to the identification of a cohesive cycle network across the borough, including enhancements to existing infrastructure and the provision of new routes. St Helens has ensured that the site allocations, particularly those identified as Strategic, were included as O/Ds within the LCWIP process.

The adopted LCWIP is given weight in the planning process which means that mechanisms are in place for the collection of contributions towards infrastructure provision. The following lines are extracted from the St Helens LCWIP.

*LCWIP proposals are defined from review of need based around population density, socio-demographics (e.g. deprivation), **planned housing development** and scale of employment development.*

*The LCWIP seeks to create a stronger economy by supporting sustainable growth and tackling deprivation through improved access to local services, employment and **future housing** and employment development sites.*

*The LCWIP prioritises schemes which have a clearer link to **funding opportunities (e.g. through future development)**, links to the SRN or supporting the future NCN network)*

*The LCWIP also seeks to **integrate the proposed schemes into the development planning process**, including delivery of routes and safeguarding where appropriate. **The LCWIP will be considered in responses to major planning applications from its adoption.***

Further to the above, the DfT LCWIP guidance notes that LCWIPs “enable authorities to **seek appropriate contributions to the provision of walking and cycling infrastructure** when drawing up the Regulation 123 list for the Community Infrastructure Levy; through planning agreements in the form of Section 106 obligations; and when Section 278 highway agreements are made”.

As noted in the CIHT Planning for Walking guidance 2015, “Local authority funds for street works are expected to be in short supply for the foreseeable future. But **Section 106 agreements with developers related to planning obligations and the Community Infrastructure Levy can be used to pay for new and improved infrastructure for walking.** For this to be possible, local authorities need to include a **strategy and a walking network in their local plan** that is spatially explicit so that both Section 106 Planning Agreements and Community Infrastructure Levy charges can be related to its delivery”.

As confirmed by the above points, any new development should pay due cognisance to the LCWIP, and consideration should be given to how new development can contribute to identified off-site infrastructure, as well as provide exemplary facilities onsite to further encourage cycle usage.

The DfT’s LCWIP guidance suggests that an LCWIP is adopted as an SPD, providing a policy framework for infrastructure investment across the borough.

Furthermore, the above points are supported by the Active Travel England (ATE) planning application assessment toolkit which forms part of the ATE Development Management procedures.

The following key point is noted from the toolkit:

- The development should provide off-site LTN1/20 compliant routes to relevant destinations such as schools, local centres, employment centres, railway stations and the existing cycle network.
  - o A ‘fail’ score would be recorded if “the development does not propose to deliver or benefit from existing LTN1/20 compliant off-site cycle routes to key destinations proportionate to its size and impact”.

The Newton Le Willows to Parkside development LCWIP scheme/route is identified as a future protected route scheme (defined as fully protected from motor traffic and other road users). At this stage an appropriate contribution toward future active travel delivery would be required from this site to address the considered accessibility weaknesses. This should also be considered in the context of any improvements needed to meet the walkable neighbourhood’s requirement.

As noted in the prior Accessibility Concerns section of this Technical Note, the walk route from the site using the A49 northward toward High Street and Newton-le-Willows lacks full up to date dropped kerbs and tactile/blister crossing provisions, including Wayfarers Drive, Newton Park Drive, Pennington Drive, Burkhardt Drive and the southern access to the NLW Station car park.

Improvements north of the NLW Station are due to be delivered as part of the Parkside Phase 1 and Parkside Link Road approvals. These improvements address accessibility weaknesses at the Southworth Road location.

Enhancement measures related to kerb realignment, footway resurfacing and corner radii narrowing are considered relevant to walking trips on this route and would form part of the LCWIP scheme. A more detailed summary list of applicable measures is included below:

1. to provide tactile surfacing and dropped kerbs, where required, to improve pedestrian crossing of all side roads between the site entrance and Newton-le-Willows Railway station
  - On the W side of Mill Lane
    - o Private drive opposite Whitefield Ave
    - o Wayfarers Drive,
    - o Pennington Drive,
    - o Mill Meadow, DK
    - o Archway Walk
  - On the E side of Mill Lane
    - o Burkhardt Drive
    - o Park View
    - o Newton Park Dr
    - o Whitefield Ave N
    - o Whitefield Ave S
  - To north of station
    - o Millbridge Gardens
    - o Esso garage entrance/exit
2. to enable consideration of the above junctions and provide improvements where required to amend kerblines and tighten radii to reduce pedestrian crossing widths.
3. to enable the feasibility improvements to the crossing near Newton-le-Willows station to be considered as part of the LCWIP scheme (provision of future TOUCAN facilities)
4. towards signage improvements – where there are a number of (4) signs on the footway which currently may obstruct pedestrian routes and which could be replaced with cantilevered signs at the back of footway which would have less impact.
5. to provide bus stop upgrades/enhancements in accordance with LTN 1/24 Bus User Priority, and latest MerseyTravel specifications, in particular the provision of raised kerbs, to four bus stops to the north of the access and two to the south.
6. to safeguard land within the POS to the south of the site for potential future connection to the Vulcan Park Way and Sankey canal via the network of footpaths to the west.
7. to provide enhancements to the existing 30 mph gateway to the south of the site, through the addition of backing boards and also provide VMS signs near to the site access to encourage drivers to slow down as they travel over the bridge.
8. contribution to AQMA equipment upgrade on High Street.
9. general contribution towards LCWIP route delivery.

On the basis of the above Mott MacDonald conclude that for the proposed development to be considered to be within a walkable neighbourhood it will need to deliver interventions and improvement (or contribution toward) to the surrounding walking and cycling network. This would assist achieving more sustainable patterns of movement and reduce the likely reliance of people on car travel.

### **Contribution**

Following calculations previously used, a 5% contribution toward the active travel route was considered proportionate to the proposed development. This has been derived from review of the

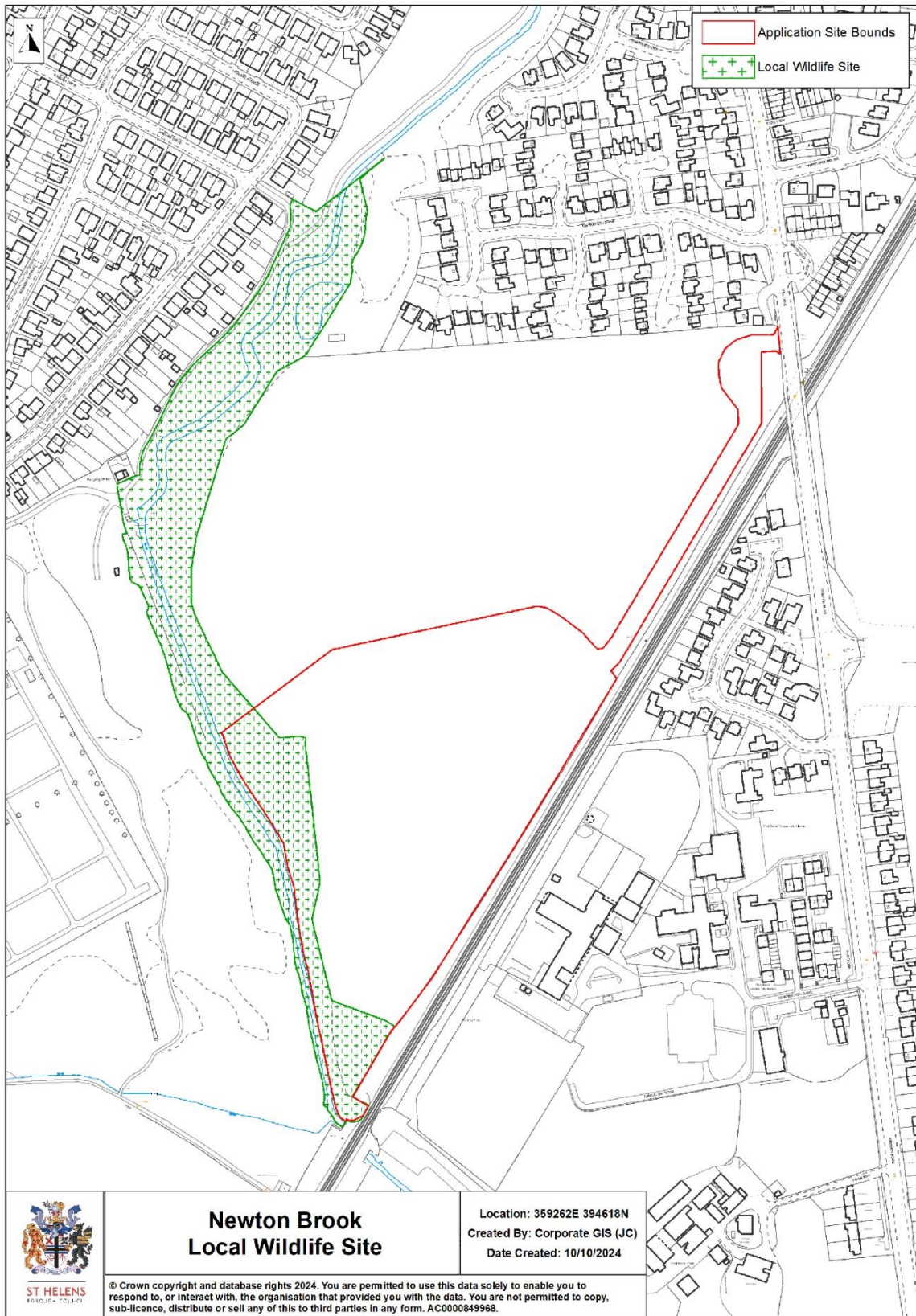
Propensity to Cycle targets (increases against the baseline) for this area of St Helens and the multi-modal trip generation targets of the development site, reflected in the Framework Travel Plan. Noting the overall cost of the LCWIP scheme as understood at this time, for which civils costs are expected at around ~£15m (based on known Active Travel scheme costs for other routes in St Helens), a contribution of 5% of £15million would be £750k. It is recognised this value is subject to discussion and review, and needs to be aligned to the specifics of the A49 walk route / cycle route weaknesses identified, as well as being appropriate to the LCWIP route.

### **Conclusion**

The effect of paragraph 115 of the NPPF is to require a developer to produce a transport assessment which is sufficiently satisfactory for a conclusion about the severity of the impact to be reached. If that is done, and the impact is less than severe, then it is recognised that there is no highway basis in the Framework for refusing permission in any “tilted balance” case. However, if the transport assessment is deficient in any manner for a judgment to be reached, then paragraph 115 cannot be applied. In this instance, the accessibility of the site requires measures/contribution to ensure the sufficiency of the assessment and the development proposals in transport terms.



Appendix 5 – Local Wildlife Site



Appendix 6 – Local Plan Site Profile Safeguarded Housing 5HS


|                           |   |                     |                  |
|---------------------------|---|---------------------|------------------|
| <b>LPSD Ref:</b>          | <b>5HS - Land West of Winwick Road and East of Wayfarers Drive, Newton-le-Willows</b> | <b>Ward:</b>        | <b>Newton</b>    |
| <b>Notional Capacity:</b> | <b>191 units</b>  | <b>Designation:</b> | <b>Safeguard</b> |



**Requirements:**

- Safe highway access should be provided from the A49 (Mill Lane), (with any necessary off-site improvements).
- Appropriate noise attenuation measures, including buffers, should be incorporated to protect new residents from unacceptable noise levels from the adjoining railway line.
- Provision of effective flood management measures to reduce the risk of flooding.
- Appropriate buffers should be provided from the proposed site and adjoining LWS.
- Measures to secure suitable access to and through the site by walking, cycling, public transport and other sustainable modes, which should also link to areas of employment, education, health, and other services in the surrounding area.



|  |  |
|--|--|
| <br><b>St.Helens Council</b><br><b>TOWN AND COUNTRY PLANNING ACT 1990</b><br><b>CONSULTATION ON APPLICATION</b> |  |
| TO: Education  | CASE OFFICER: Mr Stephen Gill  |
|  | TEL:   |
|  | EMAIL: <a href="mailto:stephengill@sthelens.gov.uk">stephengill@sthelens.gov.uk</a>  |
|  | WEBSITE: <a href="http://www.sthelens.gov.uk">www.sthelens.gov.uk</a>  |
| Application Number:  | <b>P/2023/0619/FUL</b>   |
| Proposal:  | <b>Resubmission of full planning application P/2022/0575/FUL for the residential development for 99 dwellings including access, associated works and landscaping</b> |
| For:   | <b>Full Planning Application</b>   |
| Location:  | <b>Land West Of Mill Lane<br/>Newton Le Willows<br/>St Helens</b>  |

Land West of Mill Lane, Newton-le-Willows (P/2023/0619/FUL) School Places Commentary: based on 92 units<sup>1</sup>.

The methodology for calculating pupil yield and Section 106 contributions in St Helens shows that a development of this size (number of units) would be expected to yield a maximum of 58 places, from Early Years to Post-16 and including SEN, 59.7 places, costing £1,033,870:

- 7 x Early Years places - £83,236
- 34 x Primary places - £480,138
- 10 x Secondary places - £121,216
- 7 x Post-16 places – 189,079
- 1.7 x SEN places - £160,201

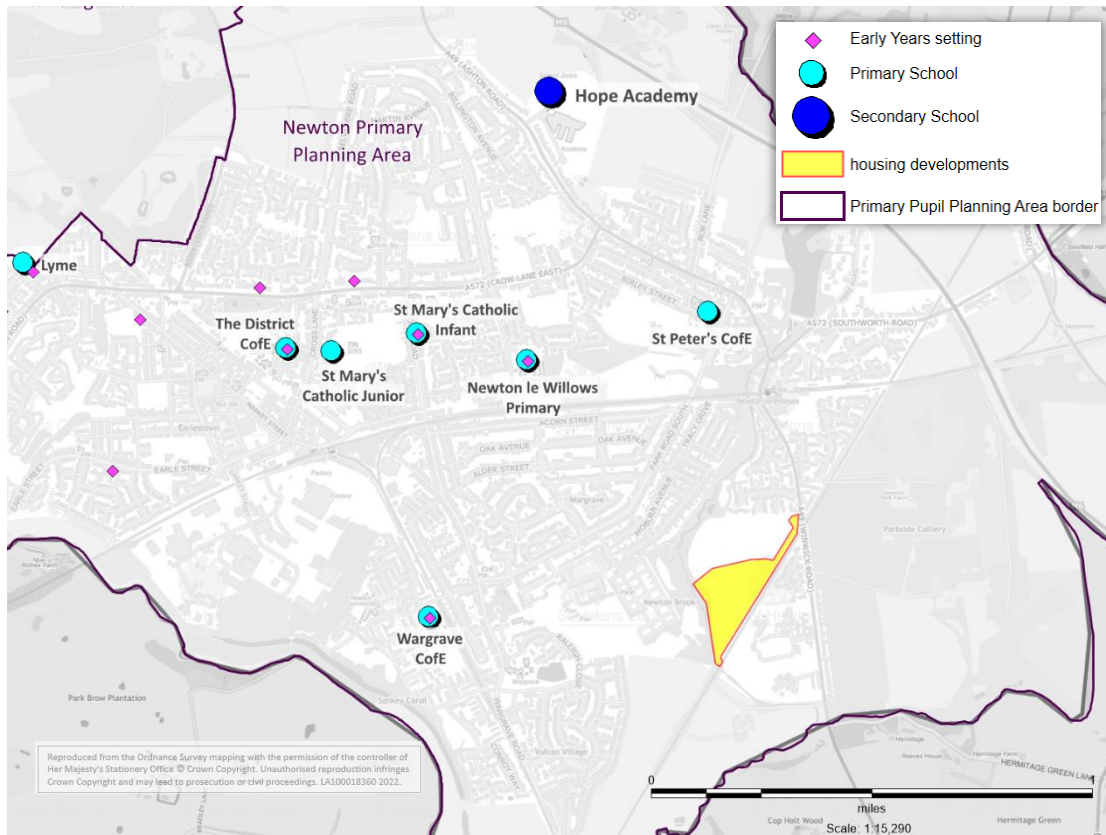
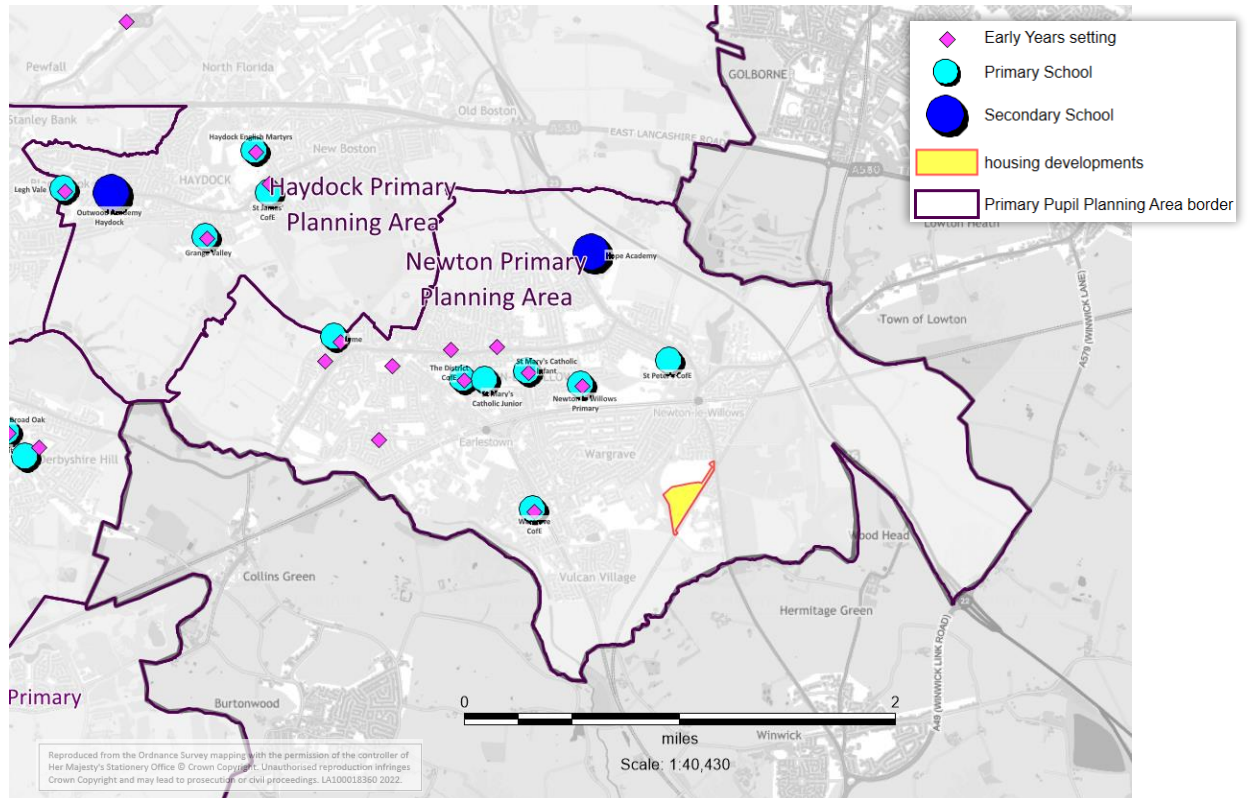
Further estimated calculations are provided below, which consider current and forecasted surplus places in the planning areas and schools nearest to the development.

The development is located in the east of the Borough, and in the east of Newton Primary Pupil Planning Area; The nearest primary schools are St Peter’s CofE; Newton-le-Willows Primary; Wargrave CofE; St Mary’s Catholic Infants & Juniors; The District CofE.

The nearest secondary school is Hope Academy (in Secondary East Planning Area). Further afield but in the same secondary planning area is Outwood Academy Haydock.

<sup>1</sup> the calculation is based on 12 x two-bed units (affordable), 15 x three-bed units (affordable), 29 x three-bed units and 36 four-bed units.

See maps below....

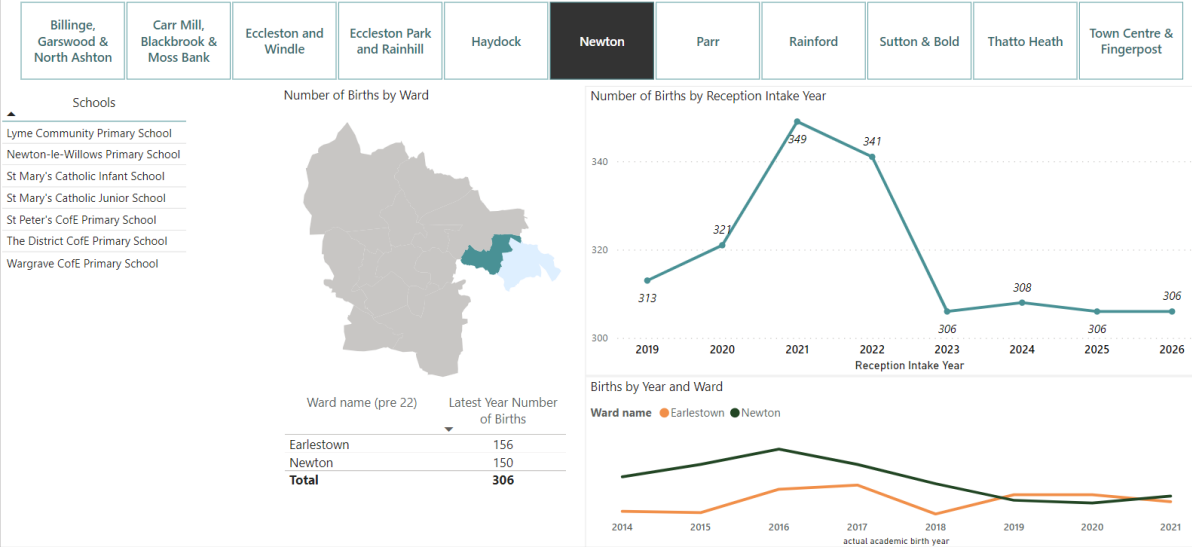


Births in the Pupil Planning Areas saw a peak from 2016 (2021 primary intake) to 2017 (2022 intake) then decreased in 2018 (2023 intake) to level out up to the 2021 academic year (2026 intake). There is expected to be very little fluctuation of intake numbers up to 2026/27...



# School Place Planning Births by Primary Pupil Planning Areas

Primary Pupil Planning Area: Newton

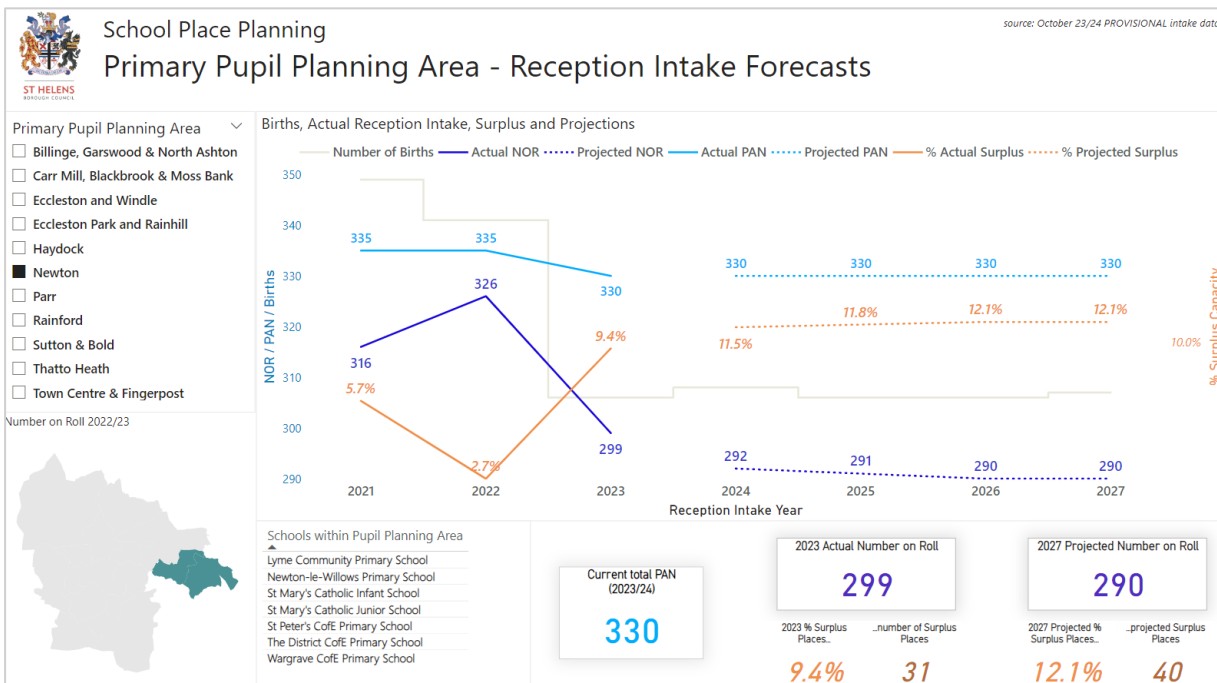


Healthy surplus school places in the Borough are considered to be between 2% and 7%, i.e., 7% is the minimum surplus capacity in an area to allow for fluctuations in demand, parental choice and in-year transfers, and not counted as available when calculating developer contributions. The primary schools nearest the development, St Peter's CofE and Newton-le-Willows Primary, have no surplus capacity above 7%. The same applies to St Mary's Catholic Infants & Junior and Lyme Primary; however, The District CofE and Wargrave CofE do have surplus capacity above 7%. It must be noted that these are schools with the same religious character – plus, most of the surplus is in later curriculum years, i.e., Year's 4, 5 and 6, and much less surplus is in earlier curriculum years, so this will work its way through in the next few academic years and surplus will be reduced. Parental choice and future reduction of surplus aside, this excess surplus of 2.8% above threshold in the area means that the pupil yield for primary places would not be sought; this is a scenario that assumes the current situation will be the same at the time the development begins.

| Primary Pupil Place Planning Area Name |  |  |                            |                                |              |                    |           |               |                    |                   |                               |
|--|--|--|----------------------------|--------------------------------|--------------|--------------------|-----------|---------------|--------------------|-------------------|-------------------------------|
|  | Billinge, Garswood & North Ashton PPPA | Carr Mill, Blackbrook & Moss Bank PPPA | Eccleston & Windle PPPA    | Eccleston Park & Rainhill PPPA | Haydock PPPA | <b>Newton PPPA</b> | Parr PPPA | Rainford PPPA | Sutton & Bold PPPA | Thatto Heath PPPA | Town Centre & Fingerpost PPPA |
| School Name                            | Primary PAN Total                      | Primary NOR Tot                        | Primary PAN NOR Difference | % Primary Surplus              |              |                    |           |               |                    |                   |                               |
| The District CofE Primary School       | 420                                    | 319                                    | 101                        | 24.0%                          |              |                    |           |               |                    |                   |                               |
| Wargrave CofE Primary School           | 420                                    | 362                                    | 58                         | 13.8%                          |              |                    |           |               |                    |                   |                               |
| Lyme Community Primary School          | 210                                    | 196                                    | 14                         | 6.7%                           |              |                    |           |               |                    |                   |                               |
| Newton-le-Willows Primary School       | 630                                    | 596                                    | 34                         | 5.4%                           |              |                    |           |               |                    |                   |                               |
| St Mary's Catholic Infant School       | 240                                    | 230                                    | 10                         | 4.2%                           |              |                    |           |               |                    |                   |                               |
| St Peter's CofE Primary School         | 240                                    | 232                                    | 8                          | 3.3%                           |              |                    |           |               |                    |                   |                               |
| St Mary's Catholic Junior School       | 180                                    | 176                                    | 4                          | 2.2%                           |              |                    |           |               |                    |                   |                               |
| <b>Total</b>                           | <b>2340</b>                            | <b>2111</b>                            | <b>229</b>                 | <b>9.8%</b>                    |              |                    |           |               |                    |                   |                               |

Academic Year: 2023, 2022, 2021, 2020, 2019, 2018, 2017, 2016, 2015, 2014

Our forecasts indicate a very stable primary intake for the planning area from the present up to 2027, after several years of increased intakes since 2019. PANs (published admission numbers) may be reduced slightly before 2027.. ...



While many early years settings fall within the private, voluntary, and independent (PVI) sector, local authorities have a duty to ensure early years childcare provision. Expanded early years entitlements for children aged nine months to three-years-old become available from 2024. The take-up of funded childcare entitlements is high, increasing demand for early years provision. Developer contributions will have a role to play in helping to fund additional early years places for children aged 0-4 where these are required due to housing growth, whether these are attached to schools or delivered as separate settings. Considering this, contributions for all early years places will be sought, until the new expanded entitlements are embedded from 2025. Thereafter, Childcare Sufficiency Assessments will be used to determine any excess surplus of early years places.

Depending on timescales, units per year completed, and other factors (e.g., migration patterns; school preference; changes in school places available) the picture is liable to change in the area, which will be monitored annually in the SCAP submission to the DfE. Calculations for primary pupil yield may show a need for some contributions if undertaken again in a few years' time, as excess surplus in later curriculum year's work their way through those two schools.

Year 7 (Secondary school intake year) places have seen a shortfall in recent times, with 8 out of 9 secondaries in the Borough having no places left after the secondary national offer day on 1<sup>st</sup> March 2022. The 2023 intake required bulge years to accommodate more places because of a peak population year. Surplus at the last census in all Secondaries in the Borough shows 3.4% across all year groups, and we are aware that surplus is currently very minimal in Year's 7 and 8.

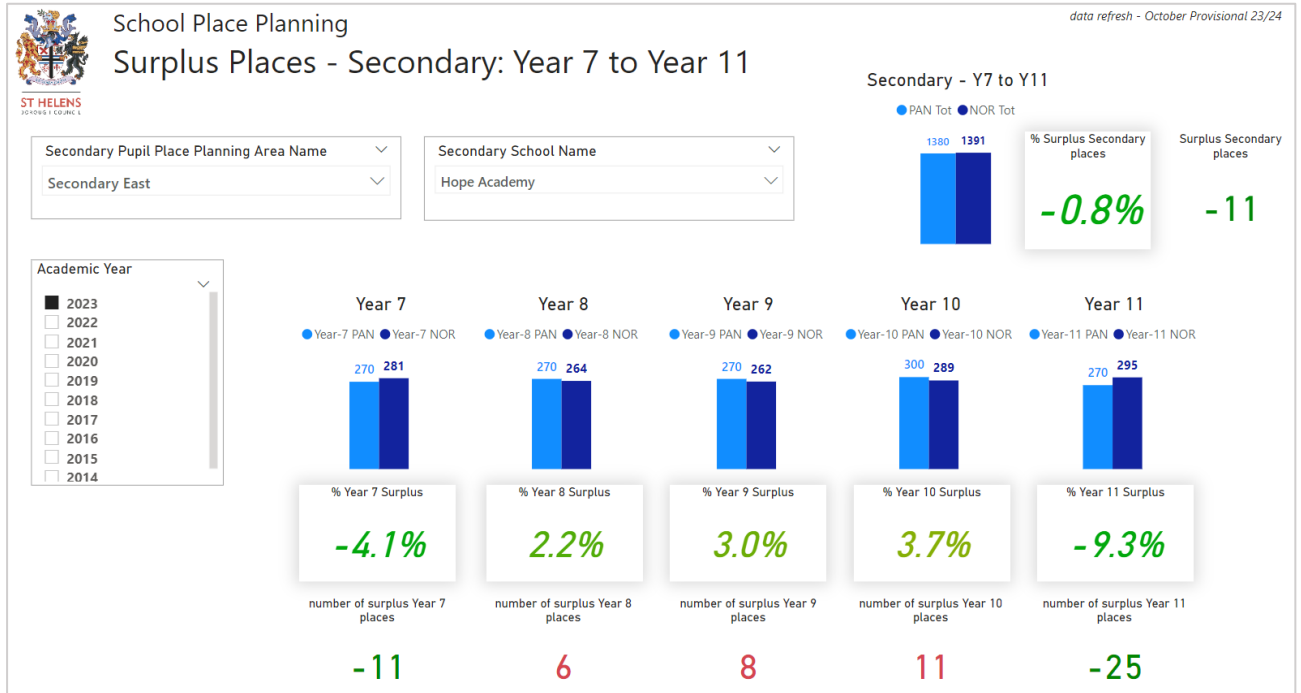
The current status of surplus in the Secondary East Planning Area (which includes the two schools nearest the development - Hope Academy and the further afield Outwood Academy Haydock) shows a 7.9% surplus (St Augustine's high surplus is concentrated in the higher curriculum years. PAN in St Augustine has been reduced from 150 to 125, and Year's-7 and 8 are currently full). There is no surplus at Hope Academy above threshold.

Primary Pupil Place Planning Area Name

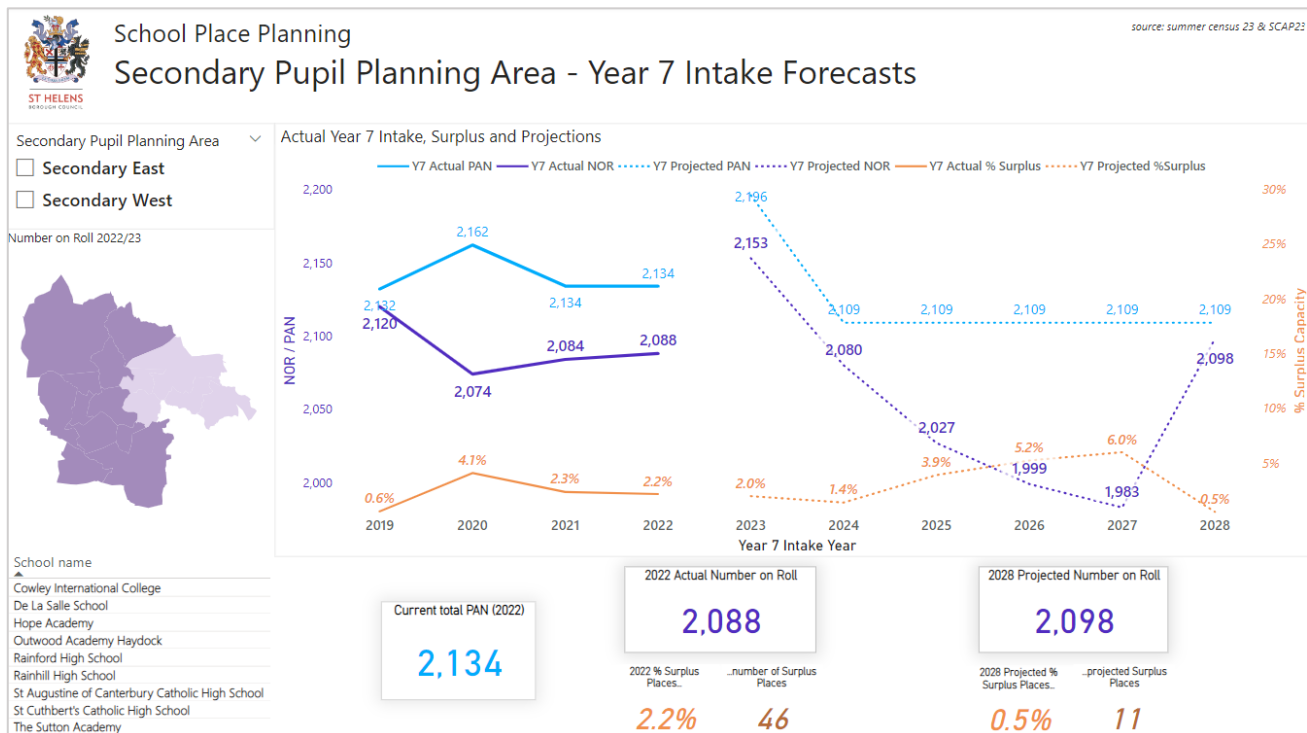
Secondary East      Secondary West

| School Name                                     | Second PAN Tot | Second NOR Tot | Sec PAN NOR Diff | % SEC Surplus | Academic Year                            |
|---|----------------|----------------|------------------|---------------|--|
| St Augustine of Canterbury Catholic High School | 750            | 552            | 198              | 26.4%         | <input checked="" type="checkbox"/> 2022 |
| Outwood Academy Haydock                         | 900            | 828            | 72               | 8.0%          | <input type="checkbox"/> 2021            |
| Hope Academy                                    | 1380           | 1352           | 28               | 2.0%          | <input type="checkbox"/> 2020            |
| St Cuthbert's Catholic High School              | 916            | 903            | 13               | 1.4%          | <input type="checkbox"/> 2019            |
| <b>Total</b>                                    | <b>3946</b>    | <b>3635</b>    | <b>311</b>       | <b>7.9%</b>   | <input type="checkbox"/> 2018            |
|   |                |                |                  |               | <input type="checkbox"/> 2017            |
|   |                |                |                  |               | <input type="checkbox"/> 2016            |
|   |                |                |                  |               | <input type="checkbox"/> 2015            |

The chart below shows Hope Academy by curriculum year group. As can be seen, surplus overall and in each year group is much lower than the 7% threshold.



The chart below shows Year 7 intake forecasts for all secondary schools in the borough up to 2028, and surplus (orange line) consistently remaining below 7%...



As the surplus situation currently stands in the secondary schools nearest to the development, we would seek the full contributions for secondary places. The same ratios are applied to the Post-16 yield.

In summary, primary contributions would not be sought at present because of excess surplus in two of the seven schools in the primary planning area. However, these two schools are not nearest to the development, are the same religious character, and the excess surplus is concentrated in the latter curriculum years. There is no surplus in the other five schools. Because of excess surplus working its way through, future primary pupil yield calculations could show a requirement for places created from a development of this size.

There is a current and forecasted shortfall in secondary places across the Borough as a whole and there is no surplus (above 7%) to absorb any new pupil yield until beyond 2030; this includes the secondary schools nearest to the development. Contributions would be sought for secondary places.

The pupil yield and contribution calculations based on the current situation would yield 25.7 places, costing £553,733:

- 7 x Early Years places - £83,236
- 0 x Primary places - £0
- 10 x Secondary places - £121,216
- 7 x Post-16 places – 189,079
- 1.7 x SEN places - £160,201

Comments here are made regarding the current climate in this area – and using our latest data & projections from DfE statutory returns - SCAP-23 (School Capacity), Spring & Summer 2022/23 School Census, October provisional pupil data 2023/24. Primary forecasts look ahead up to 5 academic years and Secondary forecasts look ahead up to 7 years. Depending when/if the developer proceeds with the project and the

dates associated with the pace and completion of the development, the situation could be subject to change and therefore, calculations and contributions readjusted to suit.



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## Appeal Decision

Inquiry Held on 16 - 19 March 2021  
Site visit made on 25 March 2021

**by Andrew Dawe BSc(Hons) MSc MPhil MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 24<sup>th</sup> June 2021

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**Appeal Ref: APP/F2360/W/19/3234070**

**Land to the South of Chain House Lane, Whitestake, Preston**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Wainhomes (North West) Ltd against the decision of South Ribble Borough Council.
  - The application Ref 07/2018/9316/OUT, dated 4 December 2018, was refused by notice dated 27 June 2019.
  - The development proposed is Outline Planning Permission for up to 100 dwellings with access and associated works.
  - This decision supersedes that issued on 13 December 2019. That decision on the appeal was quashed by order of the High Court.
- 

### Decision

1. The appeal is dismissed.

### Application for costs

2. At the Inquiry an application for costs was made by Wainhomes (North West) Ltd against South Ribble Borough Council. This application is the subject of a separate Decision.

### Procedural Matters

3. For clarity, when considering the previous decision relating to the fifth bullet point of the above header, I shall refer to it as the quashed decision, and to the High Court order as the HC Judgement.
4. The site address in the above header is taken from the original planning application form. This provides sufficient information to describe the location albeit that reference to it being land to the rear of Oakdene in the Council's decision and on the Appeal form provides increased clarity.
5. The appeal relates to an outline planning application with all matters reserved for future consideration other than access. The matters of appearance, landscaping, layout and scale would therefore be for future consideration were the appeal allowed. However, the Appellant has submitted an illustrative masterplan, to show how the site could be developed. That plan is the amended version submitted for and considered at the previous Inquiry (Ref. 1638WHD/CHL/IM01 Revision B) which was accepted in that case by my colleague, along with an amended access plan (Ref. SCP 18355/FO2 Revision

B), relating to a minor alteration to the access to avoid a tree on the neighbour's boundary. I have no basis to consider differently to my colleague that the amended plans do not substantively alter the proposals, and would not prejudice the interests of interested parties. I have therefore also accepted those plans and determined the appeal on that basis.

6. Again, as referred to by my colleague in the quashed decision, the Council has withdrawn its third reason for refusal relating to air quality following the submission of an Air Quality Assessment. There remain no differences between the Council and Appellant on this matter which I have therefore not dealt with as a main issue, albeit acknowledging that it remains a point of concern for a number of local residents.
7. Among other appeal decisions submitted and referred to in relation to this appeal, one relates to Land at Cardwell Farm, Garston Road, Barton, Preston, Ref APP/N2345/W/20/3258889 (the Cardwell Farm decision). That appeal was allowed and the decision has been challenged by Preston City Council. However, that does not change the evidence before me as the decision remains in place unless it is quashed by order of the High Court. Notwithstanding that and other decisions referred to, whilst taking them into account, I have considered this appeal on its own merits based on all of the evidence before me.

## Main Issues

8. The main issues are:
  - i) the South Ribble Borough Council housing requirement and whether the Council can demonstrate a five year supply of deliverable housing sites; and
  - ii) whether the proposed development would prejudice the Council's ability to manage the comprehensive development of the wider area of safeguarded land within which the appeal site is located, with particular regard to policy G3 of the South Ribble Local Plan 2015 (the Local Plan).

## Reasons

9. Section 70(2) of the Town and Country Planning Act 1990 requires regard to be had to, amongst other things, the provisions of the development plan, so far as material to the application, and to any other material considerations. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise. The National Planning Policy Framework (the Framework) is such a material consideration.
10. The development plan for the area comprises the Central Lancashire Core Strategy (Core Strategy), adopted in July 2012, and the Local Plan adopted in July 2015. The appeal site forms part of a larger area of safeguarded land referred to in policy G3 of the Local Plan as S3: South of Coote Lane, Chain House Lane, Farington and as identified on the adopted Policies Map. Policy G3 is the only policy cited in the two remaining reasons for refusal relating to the Council's decision. Policy 4 of the Core Strategy is also directly relevant in

relation to the housing requirement and calculation of the five year housingland supply.

*Housing requirement*

11. Policy 4 of the Core Strategy sets out the housing requirement for the three Central Lancashire authorities; Preston, South Ribble and Chorley, which form one Housing Market Area (HMA). A figure of 417 dwellings per annum (pa) is specified for South Ribble at part (a) of the Policy, and parts (b) to (d) relate to the review of housing delivery performance, and ensuring that a five year supply and sufficient housing land is identified by site allocations.
12. Paragraph 73 of the Framework requires local planning authorities to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where those policies are more than five years old. The strategic policies within the Core Strategy are clearly more than five years old in which case footnote 37 to paragraph 73 gives the proviso 'unless these strategic policies have been reviewed and found not to require updating'. The footnote also states that where local housing need is used as the basis for assessing whether a five year supply of specific deliverable sites exists, it should be calculated using the standard method set out in national planning guidance.
13. The three Central Lancashire authorities entered into a Joint Memorandum of Understanding and Statement of Co-operation relating to the provision of Housing Land in September 2017 (MOU1). MOU1 was informed by a Central Lancashire Strategic Housing Market Assessment dated September 2017 (SHMA). It was agreed in MOU1 that the housing requirements set out in policy 4 of the Core Strategy should continue to apply until the adoption of a replacement local plan. This matter related to ground 1 of the HC Judgement. In this respect, Mr Justice Dove concluded that the Inspector's reasons for finding that MOU1 and the SHMA process leading up to it did not properly constitute a footnote 37 review are not legally adequate, and that her conclusions are affected by illegality in the form of an error of fact. It is now common ground between the Council and Appellant that policy 4 of the Core Strategy was subject to review in 2017 when it was found not to require updating. I have no substantive basis to consider differently.
14. However, importantly, the previous decision was not quashed in relation to ground 1. This was due to the points raised under ground 3 representing a fallback and that the HC Judgement found that the conclusion the Inspector reached that there had been a significant change pursuant to the Planning Practice Guidance (PPG)<sup>1</sup> arising from the introduction of the standard method (the SM) in the 2018 Framework, was a planning judgement reasonably open to her based upon a correct interpretation of the PPG, albeit that other conclusions might reasonably be reached by other Inspectors. In coming to that finding, Mr Justice Dove said that "*the language of the PPG and its proper interpretation did not constrain the Inspector and preclude her from reaching the conclusion that she did, namely that the significant difference between the housing requirement in Core Strategy policy 4(a) and that generated by the standard method was capable of amounting to a significant change rendering Core Strategy policy 4(a) out of date*".

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<sup>1</sup> Paragraph 062, Reference ID: 61-062-20190315

15. I acknowledge the concern raised by the Appellant that the Framework, and paragraph 73 in particular, could not have been written with the expectation of the use of the SM rendering reviewed policies out of date. However, I do not consider that the introduction of the SM in itself represents a significant change in circumstances. Rather, the question is whether the outcome of applying the SM represents a significant change, if it is appropriate to apply the SM in the first place.
16. In paragraph 34 of the quashed decision, it refers to any effects of redistribution of housing and how the use of the SM will affect the other two Central Lancashire authorities, as being a matter for their own decision making and for the emerging Central Lancashire Local Plan (CLLP) in carrying out a full review of housing policies. I agree that to be the case.
17. Furthermore, in paragraph 36 of the quashed decision, it states that it is clear to the Inspector that the direction of travel by all three authorities is towards the SM and a re-distribution of the housing requirement based on a range of factors including population, workforce and jobs distribution and constraints (including Green Belt). This is apparent from a combination of the work relating to a second Memorandum of Understanding (MOU2), entered into by the three HMA authorities in April 2020, albeit no longer in place given the withdrawal of one of the signatories; the March 2020 Central Lancashire Housing Study which was taken into account in MOU2, even if consideration was not given to whether or not the housing requirement figure in Core Strategy policy 4 was up to date or there were grounds for concluding that there had been a significant change; the Issues and Options Consultation document, November 2019, relating to the production of the new CLLP; and the Council's Annual Housing Requirement report dated 8 March 2021.
18. The use of the SM in producing the emerging CLLP would be consistent with paragraph 60 of the National Planning Policy Framework (the Framework) which states, amongst other things that to determine the minimum number of homes needed, strategic policies should be informed by a local housing need assessment, conducted using the SM in national planning guidance – unless exceptional circumstances justify an alternative approach which also reflects current and future demographic trends and market signals. I therefore also consider that the direction of travel is towards use of the SM. As such, in this respect, it is reasonable to consider the implications of the Framework's introduction of the SM for the housing requirement in the context of this appeal.
19. I acknowledge, and agree with my colleagues in their respective appeal decisions relating to housing schemes at Land at Cardwell Farm referred to above and Pear Tree Lane, Euxton, Chorley<sup>2</sup>, that any re-distribution of housing requirement amongst the Central Lancashire Authorities should not be conducted through decision making outside of the development plan making process. However, that does not mean that the application of LHN derived from using the SM, without any subsequent re-distribution, cannot be considered in decision-making. This is apparent in those circumstances whereby the SM would be required to be used under the terms of paragraph 73 and footnote 37 of the Framework to calculate the housing requirement if adopted strategic

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<sup>2</sup> Appeal decision Ref: APP/D2320/W/20/3247136 dated 11 August 2020

policies are more than five years old and require updating, whether that follows a review or if no review has been undertaken.

20. In the case of Central Lancashire, notwithstanding the work conducted to inform the review of the Core Strategy and the MOU2 figures, the emerging CLLP remains at a relatively early stage in the process towards adoption. There are therefore no new housing requirement figures that are adopted or close to adoption through a new development plan with no associated agreement as to any re-distribution of housing need. I therefore have no substantive basis to consider it inappropriate to take into consideration that change in the Council's housing requirement figure resulting from the application of the SM alone without any further re-distribution.
21. Paragraph 062 of the PPG states, amongst other things, that where a review was undertaken prior to publication of the Framework (27 July 2018) but within the last 5 years, then that plan will continue to constitute the up-to-date plan policies unless there have been significant changes in circumstances as outlined later in paragraph 062. In this case MOU1 pre-dated the 2018 Framework and was clearly within the last 5 years.
22. The PPG states that local housing need will be considered to have changed significantly where a plan has been adopted prior to the standard method being implemented, on the basis of a number that is significantly below that generated using the SM. However, it does not state that to be the only scenario. The final sentence of paragraph 062 also states that this is to ensure that all housing need is planned for as quickly as reasonably possible.
23. Reliance on LHN calculated using the SM, rather than on a review similar to that culminating in MOU1, having regard to the HC Judgement, is therefore consistent with the PPG and paragraph 33 of the Framework, where a re-distribution of housing requirement is not being considered. As such, that reliance would be a reasonable approach, regardless of MOU1 having comprised a review and whether or not the Council's Annual Housing Requirement report dated 8 March 2021 can be considered to be a policy review for the purposes of paragraph 73 and footnote 37 of the Framework.
24. Fundamentally, with the application of the SM in this case, the housing requirement figure would be significantly lower, 191 dwellings for South Ribbles opposed to 417 dwellings in policy 4(a) of the Core Strategy. Paragraph 33 of the Framework, regardless of it not directly referencing the calculation of housing land supply in respect of paragraph 73 of the Framework, makes it clear that, amongst other things, relevant strategic policies will need updating at least once every five years if their applicable local housing need figure has changed significantly; and they are likely to require earlier review if local housing need is expected to change significantly in the near future. It does not define what significant is nor stipulate that this relates solely to where the figure increases.
25. Although little weight should be afforded to the emerging CLLP due to the relatively early stage it is at towards adoption, the associated Issues and Options Consultation document nevertheless states that *'it is likely that the number of homes we must deliver for this plan period of 2021-2036 will be different to our existing policy'*. That was in the context of having applied the SM and calculated the minimum number of homes required per year at the time of producing that document as being 1,033 houses across Central

Lancashire and 213 for South Ribble; albeit that it also states that the three Councils are still looking into the number of homes needed and how these will be spread across the three authorities.

26. Notwithstanding the work carried out surrounding MOU2, I also have no substantive basis, given that relatively early stage towards adoption of the emerging CLLP, to indicate whether or not any re-distributed figures would still amount to a significant difference to that in the Core Strategy for South Ribble. It might be the case that the actual LHN for South Ribble in the emerging CLLP is greater than the 191 dwellings. However, that is a matter for that plan-making process, as is consideration of any other factors such as those surrounding the Preston, South Ribble and Lancashire City Deal, and does not diminish the situation whereby the LHN figure based on the SM represents a significant change in circumstances at the current time.
27. I acknowledge that such a significant reduction needs to be considered in the context of the Government's objective, set out in the Framework, of significantly boosting the supply of homes. It should also be considered in the context of the clear need for affordable housing in the Borough. Furthermore, I have taken account of the other factors set out by my colleague in relation to the Cardwell Farm decision, those relating to the continued application of Core Strategy housing requirements at the time of MOU1 remaining relevant today. He highlighted that MOU1 noted that continuing to apply the Core Strategy housing requirement would, amongst other things, reflect the spatial pattern of development set out in Core Strategy policy 1. However, that is not in the context of applying the SM and does not diminish the circumstances whereby the introduction of the SM into the Framework since MOU1, designed to achieve the Government's objective of significantly boosting the supply of homes, gives rise to a significant change, albeit a lower figure. Furthermore, it would not in any case preclude sustainable housing development, including affordable housing, above the minimum LHN figure.
28. In the Cardwell Farm decision, where my colleague did not find policy 4(a) to be out of date, he refers to the Council pointing to the introduction of the standard method for assessing LHN as being a significant change in circumstances since MOU1. He also refers to the quashed decision relating to this appeal and the associated HC Judgement. However, the full evidence presented to my colleague, relating to a different scheme in a different local planning authority area, is not before me to enable a clear picture of the background to his decision. That decision focuses consideration on the application of the SM in the context of MOU2, which he highlights sought to redistribute the LHN figures across those Central Lancashire Authorities. There is no attempt to do that in this case whereby the Council seeks to apply the SM without any redistribution, resulting in what I consider to be a significant difference in the housing requirement for South Ribble between that in policy 4(a) and that generated by the SM.
29. As referred to above, the Council has submitted what it claims, for the purposes of paragraph 73 and footnote 37 of the Framework, to be a review of the figure to be used as the basis for calculating the Council's housing land supply when determining planning applications and appeals for housing schemes. This is in the form of a Record of Executive Member Decision taken under the Scheme of Delegation dated 8 March 2021 entitled Annual Housing Requirement. The Appellant disputes whether it can be described as a review.

Even if I were to consider that document not to be a review, it would not alter my finding in relation to the introduction of the SM resulting in a significant change in the Council's housing requirement figure that renders policy 4(a) out of date. I have therefore not considered the question of whether it constitutes a footnote 37 review in any further detail.

30. For the above reasons, I conclude that for the purposes of this appeal, it is appropriate to calculate the housing requirement against LHN using the SM due to the significant difference between the LHN figure and that of policy 4(a) amounting to a significant change in circumstances which renders policy 4(a) out of date.

#### *Housing supply*

31. Based on the LHN figure of 191 dwellings per annum, it is common ground between the parties that the Council would be able to demonstrate between 10.1 and 12.7 years' worth of supply of deliverable housing sites. That difference arises due to the dispute between the Council and Appellant over the windfall allowance and the deliverability of two sites within the five year period. It represents the range from that of the Appellant's position to that of the Council's. Even if I were to accept the lower figure this would still represent a supply well in excess of the minimum five years' worth required by the Framework. Therefore, whilst having considered the evidence relating to those disputed elements, the weight afforded to either end of the above supply range would not be significantly different. As such, I have not dealt with this particular matter in any further detail.

#### *Safeguarded land*

32. Policy G3 of the Local Plan, in setting out areas of safeguarded land, states that such land is not designated for any specific purpose within the Plan period. It goes on to state that existing uses will for the most part remain undisturbed during the Plan period or until the Plan is reviewed. The supporting text to that policy explains, amongst other things, that the presumption against built development on these safeguarded land sites will assist in directing development towards those areas allocated for development and also ensuring the permanence of the Green Belt.
33. Further to the High Court Judgement, it is agreed by the Council and Appellant that policy G3 is out of date in the scenario whereby the housing requirement is derived from the application of the SM, and I have no substantive basis to consider differently. This is due to the consequences upon, and the stark difference in, the housing distribution within the Central Lancashire Authorities, as referred to in the HC Judgement and was the only reason that the previous decision was quashed. It calls into question the existing quantity and distribution of safeguarded land, albeit that these would be matters for detailed consideration and analysis in the plan-making process rather than for this decision.
34. Nevertheless, even though policy G3 is out of date that does not mean it should be disapplied, but rather is a factor in the weight afforded it in the planning balance. Furthermore, it is a policy that remains consistent with the Framework which in paragraph 139 sets out that when defining Green Belt boundaries, plans should, amongst other things, where necessary, identify areas of safeguarded land between the urban area and the Green Belt, in order



to meet longer-term development needs stretching well beyond the plan period; and make clear that safeguarded land is not allocated for development at the present time. Paragraph 139(d) goes on to state that planning permission for the permanent development of safeguarded land should only be granted following an update to a plan which proposes the development.

35. Although the proposed development would occupy only a relatively small part of area S3, it would still be a major form of development. The supporting text to policy G3 clarifies that some appropriate minor residential development adjacent to other properties would be considered. I, like my colleague in the quashed decision, do not consider the proposed scheme for up to 100 dwellings to represent minor residential development. As such, it would not be of a sufficiently small scale to be construed as ensuring that existing uses on the safeguarded land would for the most part remain undisturbed.
36. Notwithstanding any other material considerations relating to policy G3 being out of date, the proposed development would be contrary to that first element of policy G3 referred to above. Furthermore, as I have found that the Council has a minimum of 10.1 years' worth of supply of deliverable housing sites, this would not put pressure on this safeguarded land to be developed now to meet an unmet need.
37. Policy G3 of the Local Plan goes on to state further that planning permission will not be granted for development which would prejudice potential longer term, comprehensive development of the land.
38. The submitted illustrative masterplan shows how vehicular and pedestrian access could be provided to adjoining land owned by Homes England. Furthermore, a joint illustrative masterplan prepared by the Appellant and Homes England, relating to the wider area of land comprising the site and that adjoining land, shows how access could be provided comprehensively to and between both sites. Unencumbered and unfettered access from the appeal site to the Homes England land could also be secured by a condition.
39. I acknowledge that this joint masterplan has not been submitted in connection with a planning application for that wider area of land comprising the two sites and that, as such, no formal consultation has been undertaken. Nevertheless, it does give an indication as to how the proposed development could be implemented without prejudicing development of that adjacent land. Furthermore, I acknowledge that the majority of the remaining part of S3, the land south of Coote Lane, is physically separated from the site by Church Lane and the railway line and thereby unlikely to be prejudiced in terms of access and so could be developed independently.
40. This corresponds with the examining Inspector in her Report dated 9 June 2015 on the examination into the site allocations and development management policies development plan document, where she referred to the site and land to the east, also in S3, as being physically separate parcels of land and that it would no doubt be possible for them to be developed in isolation. She does however go on to say that one of the benefits of promoting a comprehensive development of the larger allocated and safeguarded sites is that they would provide the opportunity to plan to meet the need for essential infrastructure improvements. She goes on to say that piecemeal development of smaller parcels of land within the overall site allocation is unlikely to provide the same opportunity.

41. Furthermore, section 12 of the Framework relates to achieving well-designed places and my colleague, in the quashed decision, referred to the implications of piecemeal development of the S3 area as a whole. It was highlighted that there was no evidence to suggest that 100 dwellings alone would warrant contributions to, for example, local education provision and a nearby railway crossing at the present time or that such contributions would meet the tests in paragraph 56 of the Framework. I agree with this position and that the development of S3 as a whole may require local infrastructure improvements to properly support it in the interests of effective placemaking and efficient infrastructure delivery.
42. There would be a risk of missing the opportunity to achieve such effective placemaking and efficient infrastructure delivery if piecemeal developments such as that proposed come forward without the umbrella of an overall masterplan approach for S3. Such a masterplan approach would be consistent with the Government's objectives in section 12 of the Framework to achieve well-designed places, including engagement with local communities and setting out a clear design vision and expectations, a finding by my colleague in the quashed decision which I have no substantive basis to disagree with. The submitted joint masterplan by the Appellant and Homes England, despite demonstrating how those particular two parts of S3 may interact in access terms in particular, does not clearly address any likely need for wider infrastructure provision.
43. I acknowledge that the proposals include provision for financial contributions towards local bus service improvements; to improve, enhance and maintain cycle parking at Lostock Hall train station; and towards improvements to off-site playing pitch and play space; together with provision for on-site public open space. However, that would all be tailored to the requirements of the proposed development and not to how infrastructure might be more appropriately provided for the overall development of the S3 area.
44. With regard to comprehensive development of the S3 area, my colleague in the previous decision also highlighted concerns raised about the extent of the distance from the existing urban area and that the proposed development would be on a pocket of safeguarded land in isolation.
45. In this respect I note that the site would be approximately 1.6 kilometres from Lostock Hall which is the nearest destination for a good range of shops and services to serve the day to day needs of prospective residents as well as the rail station. There is footway access alongside the intervening fairly direct roads. However, the distance involved, whilst within walking and cycling distance for some people, would be unlikely to encourage significant numbers to do so on a regular basis. Furthermore, as also highlighted by the previous Inspector, comments received from interested parties raised issues regarding the narrow roads and inadequate footways, the slope of the railway bridges and feeling unsafe when cycling. I agree that such concerns add some weight to the point about the likely degree of walking and cycling to Lostock Hall, albeit limited in the absence of substantive evidence to demonstrate that the proposed development would pose a risk to highway and pedestrian safety.
46. In terms of good place-making, for the above reasons, were the S3 land to be developed, an overall masterplan approach would give the opportunity to ensure the part nearest to the urban area, the land south of Coote Lane, could

be developed first or at least allow careful consideration to be given to appropriate phasing of development.

47. I acknowledge that the development of the allocated Pickerings Farm site on the opposite side of Chain House Lane from the site would result in a significantly altered pattern of development in the locality whereby it is currently characterised by a largely ribbon form of development alongside Chain House Lane. However, that land opposite remains undeveloped and the proposed development alone, in the absence of that allocated development or other development on nearby safeguarded land, including within S3, would stand out as an uncharacteristic and disconnected form of development in that existing local context.
48. For the above reasons, the proposed development would be contrary to policy G3 of the Local Plan both in terms of that policy's requirement that existing uses will for the most part remain undisturbed during the Plan period or until the Plan is reviewed, and in prejudicing potential longer term comprehensive development of the wider area of safeguarded land within which the appeal sites are located. In respect of this issue, the proposed development would also be contrary to paragraph 139 and section 12 of the Framework.
49. I will consider this issue further in the planning balance, including in relation to policy G3 being out of date having regard to the deployment of the SM in calculating LHN and the consequences for the distribution of housing.

*Planning balance*

50. With regard to paragraph 11(d) of the Framework, the policies which are most important for determining the application are Core Strategy policy 4 and policy G3 of the Local Plan. I have found that Policy G3 and the element of policy 4 comprising paragraph 4(a) are out-of-date for the reasons given in my consideration of the main issues. The tilted balance set out in paragraph 11(d) of the Framework therefore applies.
51. I have also set out that the reasons for policy G3 being out of date calls into question the existing quantity and distribution of safeguarded land. However, I have found that the proposed development would be contrary to policy G3 and it remains the case that such extent and distribution of safeguarded land would be matters for detailed consideration and analysis in the plan-making process rather than for this decision. Furthermore, and importantly, I have found that the Council can demonstrate at least 10.1 years' worth of supply of deliverable housing sites against its requirement to provide a minimum of 5 years' supply.
52. There is therefore currently no substantive basis to consider that the site should be disregarded as safeguarded land and there is no housing need requirement to justify its development now. As such, whilst full weight cannot be afforded to policy G3 for the reasons relating to it being out of date, it should still be afforded significant weight.
53. Having regard to the Government's objective of significantly boosting the supply of homes, the proposed development comprising up to 100 dwellings, and with the potential to progress without unnecessary delay, would be a benefit in this respect. This would include the social benefit of providing 30% of those homes as needed affordable housing. However, given that the Council can demonstrate a supply of deliverable housing sites well in excess of the

minimum 5 year requirement, this significantly reduces the weight attached to such benefits.

54. As identified by my colleague in the quashed decision, the proposed development would have potential local economic benefits arising from construction jobs and support to construction related businesses; additional spending by prospective residents; the payment of the New Homes Bonus and additional Council Tax revenue. Provision of on-site public open space would also have the potential to benefit existing local residents as well as prospective occupiers. However, private amenity space, in the absence of any substantive evidence that it would be anything significantly more than that required to provide an acceptable living environment for prospective residents, would be unlikely to have wider benefit. Furthermore, I do not consider it likely that any new landscaping would necessarily be anything other than a neutral factor given that it would be in association with the proposed development which would represent a distinct change to the current open countryside character of the site.
55. Proposed financial contributions towards bus transport improvements, cycle parking at Lostock Hall train station, and improvements to off-site playing pitch and play space would have the potential to benefit existing local residents. However, such provision would fundamentally mitigate the effects of the proposed additional housing, thereby attracting little weight.
56. I note that the Cardwell Farm appeal was allowed following the application of the tilted balance. However, in that case, where there was also some limited harm to the character and appearance of the area, it was on the basis of there not being a 5 year HLS, unlike in this case, and it did not involve the issue of safeguarded land. The circumstances are therefore different, and I have in any case determined this appeal on its own merits.
57. For the above reasons, in light of my finding that significant weight should continue to be afforded to policy G3 despite being out of date, the proposed development's conflict with the site being within safeguarded land and the unacceptable harm that would be caused in terms of prejudicing potential longer term comprehensive development of the wider area of safeguarded land within which the appeal site is located, would significantly and demonstrably outweigh the benefits identified, when assessed against the policies in the Framework taken as a whole.

## Conclusion

58. For the above reasons, I conclude that the appeal should be dismissed.

*Andrew Dawe*

INSPECTOR

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Giles Cannock QC

Instructed by Tasneem Safdar of  
South Ribble Borough Council

He called:

Greg Boyd BSc (Hons) MRTPI

Senior Planner, Strategic Planning  
Team, Icen Projects Limited

Nick Ireland BA (Hons) MTPI MRTPI

Director, Strategic Planning Team,  
Icen Projects Limited

### FOR THE APPELLANT:

Vincent Fraser QC

Instructed by Stephen Harris of  
Emery Planning

He called:

Ben Pycroft BA (Hons) Dip TP MRTPI

Director, Emery Planning

Stephen Harris BSc (Hons) MRTPI

Director, Emery Planning

### INTERESTED PERSONS:

Councillor Karen Walton

South Ribble Borough Council Ward  
Councillor for Farington West

Jean Berry

Local resident and on behalf of Say No to  
Chainhouse Lane Development

Councillor Elaine Robb

Parish Councillor for Farington and  
local resident

Michael Collison

Local resident

Alan Pemberton

Local resident

## INQUIRY DOCUMENTS:

1. Appellant's opening statement.
2. Opening submissions of the LPA.
3. Copy of notes of verbal presentations by interested parties, made on 16/03/21 unless indicated otherwise, as follows:
  - 3.1. Councillor Karen Walton
  - 3.2. Jean Berry
  - 3.3. Councillor Elaine Robb

- 3.4. Michael Collison (together with copies of photographs) on 17/03/21
- 3.5. Alan Pemberton on 17/03/21
4. Email from Jean Berry dated 17/03/21 concerning the Inquiry site visit.
5. Extract from South Ribble Borough Council Constitution dated February 2021, submitted by the Council.
6. Copy of email from the Council dated 18/03/21 concerning the timeline leading to the Record of Executive Member Decision Taken Under the Scheme of Delegation, dated 8 March 2021, titled Annual Housing Requirement.
7. Email from Appellant dated 18/03/21 concerning arrangements for unaccompanied site visit.
8. Email from Council dated 19/03/21 providing update concerning the land at Belle Field Close, Penwortham, site at Leyland Road, land off Claytongate Drive (Site CC), confirming that the County Council exchanged contracts for the sale of this land for residential development on 18/03/21 and that the developers are now under a contractual obligation to submit a planning application.
9. Copies of Central Lancashire Design Guide and Open Space and Playing Pitch Supplementary Planning Documents.
10. Email from Appellant dated 19/03/21 appending copies of plans referred to in suggested conditions 6 and 22, together with a reworded condition to replace suggested conditions 22 and 23, and also appending an email from the highway authority dated 13/11/19 concerning a recorded accident on 7/10/16 around 1 mile west of the site.
11. Copy of email from Preston City Council dated 18/03/21 expressing its intention to challenge the Appeal decision for Land at Cardwell Farm Ref. APP/N2345/W/20/3258889.
12. Email from Appellant dated 19/03/21 relating to Pickerings Farm, clarifying that evidence presented was that the masterplan includes the S2 land, not the current application, and that the application deals with EE only.
13. Costs application on behalf of Wainhomes (North West) Ltd.
14. Closing submissions of the LPA.
15. Appellant's Closing Statement.