



## Appeal Decision

Inquiry Held on 19-23 October, 2-6 November, 9-13 November 2020

Site visits made on 17 and 31 October 2020

**by Christina Downes BSc DipTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 25<sup>th</sup> January 2021**

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**Appeal Ref: APP/Q4245/W/19/3243720**

**Land at Warburton Lane, Trafford**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
  - The appeal is made by Redrow Homes Limited against Trafford Borough Council.
  - The application, Ref 98031/OUT/19, is dated 31 May 2019.
  - The proposals are for a residential development of up to 400 dwellings, including the creation of new points of access, provision of formal and informal open space, ancillary landscaping, car parking and highway and drainage works.
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### DECISION

1. For the reasons given below, the appeal is dismissed.

### APPLICATION FOR COSTS

2. At the inquiry an application for costs was made by Trafford Borough Council against Redrow Homes Limited. This application is the subject of a separate Decision.

### PROCEDURAL MATTERS

3. Due to time constraints, it was agreed that the costs application could be made in writing. A timetable was drawn up accordingly. Furthermore, there were a number of points relating to the Planning Obligation by Unilateral Undertaking (the UU) that required further consideration by the main parties. I therefore agreed to an extension of 21 days for the Deed to be completed and I allowed each main party to submit any final comments within that timescale. The inquiry was closed in writing on 10 December 2020.
4. The proposals are for "up to" 400 dwellings and thus give the potential for a lesser number. However, that cannot be assumed at this stage and no evidence was provided by the Appellant to support any specific reduction in quantum. In the circumstances, my consideration will be on the basis of a development of 400 houses.
5. There were 10 putative reasons for refusal. It was agreed that the provision of primary school places could be addressed in the UU and that the mitigation of adverse highway impacts could be controlled through planning conditions. Remaining objections include the adverse effect on heritage assets and archaeology; the failure to integrate with the adjoining settlement and provide for sustainable growth; the inaccessibility of the site and dependency on the

private car; the failure to provide affordable housing; and the harm to landscape character.

## **PRELIMINARY POINTS**

6. The appeal site comprises about 25 hectares of land that lies immediately to the north of the Green Belt and to the south of the Red Brook and settlement of Partington. It is crossed by Warburton Lane, with site 1 on the eastern side and site 2 on the western side. The sites are roughly equal in area and site 1 is bordered on its southern side by Moss Lane.

## **THE PARAMETERS PLAN**

7. The application was submitted in outline form with all matters reserved, save for access. Drawings were submitted to show the details of two new accesses onto Warburton Lane. The application was also accompanied by a Parameters Plan (drawing no: A16942.010). Amongst other things this shows other access points, termed "emergency/ localised access" denoted by arrows and the main vehicular routes through sites 1 and 2, which are stated to be indicative. *The Town and Country Planning (Development Management Procedure) (England) Order 2015* makes clear that access for the purpose of reserved matters means the accessibility to and within the site in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network. Warburton Parish Council (WPC), who was granted Rule 6 status, considered that the Parameters Plan did not provide the necessary detail to allow the matter of access to be determined.
8. It would not be reasonable to expect a Parameters Plan to include all internal roads and footways where layout remains a reserved matter. The Order defines this as how "buildings, routes and open spaces are provided, situated and orientated to each other and to buildings and spaces outside the development". It seems to me that there is some degree of overlap between the two and that it is a matter of judgement as to whether what is shown is sufficient to make an informed decision. There is no requirement for a detailed design or specification at this stage as that will be firmed up when layout is determined. The matter is further complicated by the desire of the Council not to prejudice the provision of the Southern Relief Road (SRR), which would provide a potential link road through site 1 in the policy GM Allocation 41 of Greater Manchester's emerging *Plan for Homes, Jobs and the Environment* (the GMSF). Purely in terms of serving the site itself, I consider that the detail shown on the Parameters Plan is sufficient.
9. There are 3 emergency/ localised access points into site 1 from Moss Lane. These do not appear to link up to the main internal circulation routes. However, it would seem from other information that the intention would be to serve small courtyards of houses close to that road frontage. This would obviously be a matter closely linked to the layout. To allay any remaining concerns, a condition could be imposed that these access points have not been approved at this stage. I do not consider that this would be prejudicial or alter the nature of the application.
10. The Council's putative reasons for refusal include the contention that the supporting information is not sufficient to assess the acceptability of the outline proposals. In particular the Parameters Plan is considered too flexible and unspecific. This is a different point to the one raised by WPC and relates

to whether sufficient supporting information has been provided to be able to decide whether 400 dwellings could be accommodated on the site along with all necessary mitigation. In particular, this relates to the Council's concerns about the effects on Green Belt boundaries, the landscape, heritage assets and archaeology as well as the SRR referred to above. I consider these matters under the relevant main issues below. However, the Council did have the power to request further details that it considered necessary to enable it to determine the application<sup>1</sup>. It declined to make such a request, which may have been because at this time there were also 2 full planning applications under consideration, but these were subsequently withdrawn.

## **REVISIONS TO THE PROPOSALS**

11. WPC was concerned about whether various amendments made to the proposals were lawful applying the *Wheatcroft*<sup>2</sup> principles. An updated Parameters Plan was provided to the Council prior to lodging the appeal. The changes included pulling back the development area from adjacent listed buildings and the public right of way crossing site 1; provision of a vista towards Warburton Toll Bridge from site 2; extension of the development area in site 1 towards Moss Lane; introduction of an additional green corridor on site 2; introduction of a pedestrian/ cycle crossing point to Red Brook on each site<sup>3</sup>; and a controlled crossing to Warburton Lane.
12. I have considered all of the proposed changes and do not consider that they materially alter the nature of this outline application. Furthermore, they are addressed in the Environmental Statement Addendum (March 2020), which has been subject to full public consultation. In such circumstances I am satisfied that the Wheatcroft principles would not be offended and that no-one would be prejudiced by taking the proposed amendments into account. Furthermore, it was the revised Parameters Plan that was the focus of consideration at the public inquiry.

## **ENVIRONMENTAL IMPACT ASSESSMENT (EIA)**

13. There is no dispute that this would be EIA development. An Environmental Statement was submitted with the planning application. As a result of the aforementioned revisions the Addendum was produced to address impacts arising from the proposed changes. In addition, a number of additional updated technical reports were produced to address issues arising from consultation responses, including revised mitigation proposals to the Flixton crossroads and a Geophysical Survey as part of the archaeological assessment. The Environmental Statement and its Addendum are in accordance with the relevant Regulations. No concerns have been expressed that the EIA is other than procedurally or legally correct, and I have no reason to determine otherwise.

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<sup>1</sup> See Part 3 of the *Town and Country Planning (Development Management Procedure) (England) Order 2015*

<sup>2</sup> *Bernard Wheatcroft Ltd. v Secretary of State for the Environment and Another* (1982) 43 P. & C.R. 233

<sup>3</sup> The pedestrian bridges are not being pursued although the Parameters Plan still indicates a potential connection point from each site.

## **INSPECTOR'S REASONS**

### **PLANNING POLICY CONTEXT AND APPROACH TO DECISION MAKING**

14. The development plan includes the saved policies in the *Revised Trafford Unitary Development Plan (UDP)*, adopted in 2006 and the *Trafford Local Plan Core Strategy (CS)*, adopted in 2012.
15. The National Planning Policy Framework (the Framework) states that where strategic housing policies are more than 5 years old and have not been reviewed, as is the case here, the local housing need should be determined through the Government's standard methodology. This has given rise to a requirement for 1,369 homes a year, which is a considerable increase over the figures in policy L1 of the CS. On this basis it is agreed that there is a supply of just 2.4 years. The Housing Delivery Test results for 2019 show that just 58% of this requirement was achieved, which is significantly below the expectation in the Framework<sup>4</sup>. The presumption in favour of sustainable development in paragraph 11d of the Framework is thus engaged. Whether subsection i) or ii) applies will depend on my conclusions with regards to the effect on heritage assets.
16. The appeal site is within open countryside to the south of the settlement of Partington and immediately to the north of the Green Belt. Under saved policy C8 it is included in a wider area that is designated as Protected Open Land. The purpose of this is to avoid the need to review Green Belt boundaries in the event that more land is needed for housing in the longer term, following a review of the UDP. This designation was carried forward in policy R4 of the CS where it is termed Other Protected Open Land. The policy itself only permits future use for limited purposes, which do not include a residential development such as is being proposed here. The supporting text explains that the land is not identified for development within the plan period but may be required to meet future housing needs following a strategic review of the Green Belt. No such review has been undertaken.
17. The Proposals Map also shows the appeal sites and land to the east and west as falling within the Priority Regeneration Area of Partington. This is clearly a drafting error as the UDP Inspector indicated that this designation was inconsistent with that of Protected Open Land and therefore the swathe of countryside between the Green Belt and Partington should be excluded. The accompanying proposed modification was accepted by the Council on adoption of the UDP but for some reason has not been removed from the map. Policy L3 in the CS relating to Priority Regeneration Areas is not relevant to the appeal sites.
18. The appeal proposals would conflict with saved policy C8 and policy R4. On the other hand, at the present time the Council is unable to provide sufficient deliverable sites to meet its housing requirement. I heard a great deal of evidence as to why this might be, and the Council emphasised that it was not because insufficient planning permissions were being granted. The evidence indicates that the Council is being pro-active in this regard. Nonetheless it remains the case that the Borough has a serious deficit and in such

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<sup>4</sup> The 2020 Housing Delivery Test results were published on 19 January 2021. They show a result for Trafford of 61%, which remains significantly below Framework expectations.

circumstances the conflict of the appeal development with the two policies mentioned above, which restrict housing supply, is a matter to which I afford limited weight.

19. The GMSF is a spatial framework covering the city region's 10 local planning authorities over the period 2020 to 2037. It is currently at Regulation 19 consultation stage with the examination anticipated mid-2021. Draft policy GM Allocation 41 is a large allocation to the north, east and south of Partington for a mixed use regeneration known as New Carrington. It includes the appeal site and land to the east and west, which is shown as an area for residential use for approximately 420 units at an average density of 25 dwellings per hectare.
20. The associated New Carrington Masterplan also shows a SRR running around Partington and through site 1 to connect to Warburton Lane. At the inquiry there was a great deal of discussion about this draft allocation and the way that the proposed development would respond to it, especially in terms of the SRR. However, the fact remains that this is part of an emerging plan that is not by any definition at an "advanced stage". Furthermore, as I understand it there are a large number of unresolved representations. I therefore afford the GMSF and its Masterplan limited weight and conclude that prematurity is not an issue in this case. Furthermore, for similar reasons, how the potential route of the SRR would engage with the appeal site is not a determinative matter in this case.
21. For completeness, I note that the Council is preparing a new Local Plan, which will eventually replace the saved UDP policies and the CS. This is intended to sit below the strategic level GMSF. It is at present at a very early stage and is not relied on by any party as a material consideration in this appeal.

**WHETHER THIS WOULD BE AN ACCEPTABLE LOCATION FOR HOUSING DEVELOPMENT, HAVING REGARDS TO THE SPATIAL STRATEGY IN THE DEVELOPMENT PLAN AND THE LOCATION OF THE SITE RELATIVE TO NEARBY SETTLEMENTS.**

22. The CS sets out a number of strategic objectives. These include meeting housing needs within the most sustainable locations; reducing the need to travel by improving accessibility in less sustainable locations; and regeneration to reduce inequalities and improve prosperity in the Borough's most disadvantaged communities.
23. Warburton is a small rural community to the south of the appeal sites, which dates back to Medieval times. To its north is a large tract of agricultural land forming Warburton Park. As was noted by WPC and other local residents who spoke at the inquiry, a development of 400 houses would be substantially larger than the existing village. Whilst the future design of the new dwellings may reflect the style of houses within this historic settlement, I do not consider that the two would be affiliated either visually, physically or functionally.
24. Partington is a settlement that expanded significantly to provide overspill council housing following the slum clearances in Manchester after the second World War. It has relatively poor transport links and connections to surrounding town centres, resulting in isolated and poorly integrated communities. There is a single main road (the A6144) in and out of

Partington, which becomes very congested at peak times. There is a relatively narrow range of housing types and tenures with a high proportion of social rented housing. Parts of the settlement have high levels of social and economic deprivation and it is designated as one of three Priority Regeneration Areas.

25. Policy L1 in the CS sets out how and when land will be released for housing to meet identified needs. A sequential approach is favoured, giving priority to the development of previously developed land. Indeed, the plan indicates that 80% of its housing provision will be on brownfield sites. Five strategic sites have been identified, which account for about 40% of the overall supply. Policy SL5 identifies Carrington as one of the strategic sites. This is to the north of Partington and the CS envisages an opportunity to reduce the isolation of both Carrington and Partington and integrate them into a sustainable mixed-use community.
26. Policy L1 envisages the release of greenfield land to accommodate supply shortfalls provided the development will be capable of creating sustainable communities and contribute to CS objectives. Whilst the appeal sites are relatively close to Partington in terms of distance, the presence of the Red Brook and its wooded corridor provide a clear physical and perceptual barrier between the settlement and the countryside to the south. Unlike the western boundary of site 2 where there is no physical delineation, the Red Brook provides a strong defensible boundary to the settlement. This sense of separation is increased by the presence of the flood plain and the new development area would stand well back from the northern site boundary on higher ground.
27. Notwithstanding the safeguarding of land to the south of Partington for potential future development needs, the UDP Inspector in his 2003 Report had serious concerns with regards to its suitability for housing. He opined that this land was poorly integrated with existing housing and community facilities in Partington. He saw the Red Brook, its wildlife corridor and its floodplain as severely inhibiting such integration. It is the case that he was considering a much more extensive tract of land and many more houses. It is also to be noted that since 2003 there has been a new local shopping centre in Partington and improvements to its school and community provision. Nevertheless, insofar as the Inspector's comments related to the locational relationship of this land with the adjoining settlement, his comments still resonate.
28. Policy L1 is out of date in terms of housing numbers. However, it does not preclude greenfield development if there are supply shortfalls. Indeed, the objective of creating sustainable communities is a strategic objective that is entirely consistent with national policy and not a principle that is rendered out-of-date in the face of the issue of housing land supply.
29. The proposals would not guarantee any new crossing points of the Red Brook. The likelihood of Partington residents using the new open spaces and riverside walks therefore seems relatively small. In the circumstances, the creation of sustainable communities through the integration of the appeal development and the existing settlement would be limited in this case. That situation may change if the site is developed as envisaged in the emerging GMSF but that is not a matter for this appeal. For all of the above reasons I do not consider



that the appeal proposals would accord with the spatial strategy in the development plan and the conflict with policy L1 is a matter to which I afford moderate weight in this case.

**WHETHER AN APPROPRIATE DESIGN COULD BE ACHIEVED WITHIN THE CONTEXT OF THE SUBMITTED PARAMETERS PLAN WITHOUT UNACCEPTABLE HARM TO THE LANDSCAPE CHARACTER OF THE AREA.**

30. A preliminary point relates to the long-term future of this land and the landscape implications. As I have already mentioned it has been designated as Other Protected Open Land in the CS and it is allocated for development in the emerging GMSF. However, these policy provisions are matters to be considered through the future plan making process. At the present time the development plan provides no certainty about when, how or even if the land to the south of Partington will be developed. Although the sites adjoin the boundary of the Green Belt, this is a spatial rather than a landscape designation and no adverse effects were identified by the Council in this respect.
31. The Council's *Landscape Strategy* (2004) has been adopted as supplementary planning guidance. This provides an assessment to support saved policy ENV17 in the UDP, which seeks to protect, promote and enhance all of the open land on the Proposals Map. This includes the area south of Partington, which is placed in the Settled Sandlands landscape type. The gently rolling topography allows extensive views of medium to large sized fields defined by hedgerows and prominent hedgerow trees. There are small isolated blocks of woodland, watercourses and ponds. Farm buildings of traditional materials are identified as a distinguishing visual feature. The site is within the subdivision of Warburton Park Farm/ Mossland Fringe. Here particular mention is made of the linear woodland along Red Brook, which is said to provide a visual boundary between the built-up and rural areas. Historic and cultural influences include the former manorial estate and its deer park and the subsequent changes in the 18<sup>th</sup> and 19<sup>th</sup> century with the enclosure of the moss and farmland to satisfy demand for food by the expanding urban areas.
32. The *Greater Manchester Landscape Character and Sensitivity Assessment* (2018) was produced on behalf of the 10 Greater Manchester Authorities as part of the evidence base to the emerging GMSF. The Mosslands and Lowland Farmland landscape character type includes several different character areas and the land to the south of Partington is classified as being within the Warburton and Carrington Mosses. The assessment itself identifies key attributes of the landscape character type overall. Whilst it includes similar characteristics to those identified above it is a higher-level assessment and it seems to me that the 2004 Borough-wide document is more useful for present purposes.
33. The appeal sites are currently open arable farmland on the southern side of the Red Brook valley. The southern boundary of site 1 adjoins Moss Lane with an intermittent hedge running along the roadside edge. Its eastern boundary has no physical delineation at present. Site 2 adjoins open countryside to the south and this boundary is delineated by a hedge and a small woodland adjacent to the south-west corner. The western boundary runs along an arbitrary line that crosses the field. I consider that these sites share many of the key characteristics pertaining to the Settled Sandlands landscape type.

### **Whether the site is within a valued landscape**

34. Paragraph 170 of the Framework indicates that valued landscapes should be protected and enhanced in a manner commensurate with their statutory status or identified quality in the development plan. In this case the landscape in question includes the village of Warburton and its former deer park. This is within an Area of Landscape Protection under saved policy ENV17. However, this designation applies to all of the landscape types that make up the open areas of the Borough. It does not indicate that the landscape around Warburton has a special quality or is anything other than of local value.
35. There is no specific definition of what a valued landscape is, but case law and past appeal decisions have indicated that to qualify it should be more than ordinary countryside with physical attributes beyond popularity. The site itself need not possess such qualities, what is important is that they should be present in the landscape of which it forms a part. WPC considers that the former medieval landscape around Warburton, including site 2, is of regional value.
36. There is no doubt that Warburton and its surrounding landscape are highly valued by the local community. There has been much research over a long period of time about this ancient village and its environs. Dr Nevell, who is acknowledged as the foremost expert in its archaeology and history, gave evidence to the inquiry. The deer park was considered to be of central importance to this landscape in medieval times and it is referred to by WPC as a "designed" landscape.
37. The 2004 Landscape Strategy mentions the historic background of the former Warburton deer park and the later change to dispersed and centralised farm holdings. The 2018 Landscape Character and Sensitivity Assessment refers to Warburton Park as an example of a post medieval field pattern. Box 5.1 of the Landscape Institute's *Guidelines for Landscape and Visual Impact Assessment* (2013) (GLVIA) provides 8 factors that are helpful when considering value. These were considered in the Landscape and Visual Impact Assessment undertaken as part of the Environmental Statement and WPC carried out its own Box 5.1 assessment.
38. I have considered carefully all of the evidence on this matter and I also rely on my own observations from an extensive site visit. In my opinion, the landscape has substantially evolved over the last 300 years and there are relatively few visual clues that link it to its earlier history. As recorded in both the 2004 and 2018 landscape documents, it is largely the product of post medieval changes that occurred during the time of the enclosures. That is not to say that there are not some vestiges of the past that can still be seen. These include the mound that is now believed to have been constructed as a rabbit warren; the scattered woodland copses and small ponds; and the curved hedgelines indicating the possible line of the former deer park boundary. However, these features would not indicate to the observer without local knowledge that what is being seen or experienced is a medieval parkland landscape.
39. Undoubtedly this is an attractive area of countryside that it is generally representative of the Settled Sandlands landscape type. Local people clearly hold it in high regard. However, I cannot agree that it is sufficiently intact or



visually apparent to be of regional importance. I do not consider that it is a valued landscape within the terms of paragraph 170 of the Framework.

### **Effect on the landscape**

40. When observed from the countryside to the south, the existing settlement edge is relatively well screened by the intervening wooded corridor of the Red Brook, especially when the trees are in leaf. The terraced housing on the southern side of Oak Road is elevated above the valley floor, and towards the eastern end of site 2 it is more visible due to breaks in the vegetation. From Moss Lane, the upper parts of houses in Brook Farm Close and the buildings associated with Broadoak School, The Fuse community centre and Partington Sports Village are also seen in places, especially through gaps in the trees. Top Park Close is a small outlier of houses, built on a site previously occupied by farm buildings. However, it is, in my opinion, a visual anomaly in that it is perceived neither as part of the settlement nor part of the countryside. Notwithstanding this, I consider that the settlement is relatively well contained behind a defensible boundary and is not unduly assertive on the adjoining landscape. In this case there is no urban fringe transition, which so often occurs close to the settlement edge.
41. I have no doubt that the appeal development would be built to a high quality and that the large areas of green infrastructure would result in an attractive place in which to live. Nevertheless, this would essentially be a relatively large suburban housing estate, which is not a feature associated with the landscape of the Settled Sandlands. One of the issues is that the Red Brook floodplain and the position of the high-pressure gas main has meant that much of the greenspace would be located on the northern side of the sites. Whilst this would be an asset in terms of amenity and wildlife, it would be a disadvantage by pushing new built development onto the higher land and further into the rural area. For these reasons it is difficult to envisage how a development of this size and in this location could be accommodated without harm to the receiving landscape. The degree of harm would largely depend on the quality of the new settlement edge and the strength of the embedded mitigation.
42. Whilst there is a Design and Access Statement and illustrative Masterplan these provide an indication of how the site could be developed. The only reliable indication of what would materialise if permission were to be granted is the Parameters Plan. This shows landscaped buffers of between 10-15m wide along Moss Lane and 10-12m wide along the southern and western boundaries of site 2. On the eastern side of site 1, the northern section would have a set-back of only about 5m. Whilst I would support an outward facing development with boundary planting that would soften but not hide the new houses, my concern is with the adequacy of the proposed set-backs.
43. I appreciate that there would be greater width in places, most notably in the south east corners of both sites. However, the purpose is mainly to provide a better relationship with the adjacent listed buildings rather than to improve the juxtaposition with the countryside. Overall, bearing in mind the landscape characteristics of the Settled Sandlands and the elevated topography, especially on the southern side of site 2, I do not consider that the proposed buffers would be sufficient.
44. Site 1 in particular has a relatively narrow development area with a long boundary with Moss Lane, which runs along the northern edge of the former

mossland. This road is narrow and rural in character with no footways or street lighting. It is fronted by occasional dwellings and farms, including Pear Tree Cottage and Birch Cottage. The illustrative Masterplan suggests small housing clusters and detached houses with front gardens within this part of the site. Whilst there may be potential for such an arrangement to provide more informality and visual interest it remains the case that there would be an insufficient buffer beyond which built development would stand. The development would result in a suburbanisation that would have a marked and harmful effect on the character of this country lane and the countryside to the south.

45. It is appreciated that layout and landscaping are reserved matters. However, that to some extent is the problem because the only definitive plan, the Parameters Plan, does not give me confidence that there could be a successful transition between the new built-up area and the countryside. It indicates a likelihood that the development would fail to successfully integrate with its rural surroundings. Overall, I agree with the Council and Appellant that this landscape has medium sensitivity and medium susceptibility to change. The landscape type is not particularly extensive, and there would be a medium magnitude of effect. Overall, the landscape effect would be of moderate adverse significance. Over time, landscaping would mature but I do not consider that the effect of built form and the harm to the countryside would be reduced to any significant degree.

### **Visual effect**

46. The appeal sites can be seen relatively extensively from many public viewpoints. During my site visit I visited most of these and walked the nearby footpaths and along the trails beside the Red Brook river corridor. The Statement of Common Ground on landscape matters was agreed by all 3 main parties and there was no dispute that from a number of viewpoints the visual effect would be of minor or negligible significance. My consideration therefore concentrates on the disputed viewpoints, which mainly relate to the magnitude of effect and the effectiveness of mitigation in the longer term.
47. WPC considered that the sensitivity of people using the public rights of way should be high rather than medium. GLVIA advises that people engaged in outdoor recreation are amongst the groups most susceptible to change. It is also important though to consider the value attached to the views. In this case I have concluded that the surrounding landscape, including Warburton Park, is of local and not regional value. This is not to diminish its attractive qualities but I consider the medium sensitivity attributed to footpath users by both the Council and the Appellant is in this case correct. People using the footpaths will be enjoying a kinetic experience, which will continually change as they move through the countryside.
48. On the whole the Appellant seems to me to have understated the magnitude of effect and been overly optimistic about the effectiveness of the embedded mitigation. I have not specifically considered the effects during construction but have concentrated on the permanent effects following completion at year 1 and the residual effects at year 15.
49. The Parameters Plan shows that the footpath crossing site 1 would run through a green corridor. Nevertheless, bearing in mind the slope of the land, it is difficult to see how the embedded mitigation or tree planting within front

gardens or along roads would provide screening that would be sufficient for the adverse effects from viewpoint 1 to be other than major adverse even in the long term. From the short footpath that crosses the corner of site 1 between Moss Lane and Warburton Lane, Top Park Close is on one side and a large swathe of open space crossed by the new spine road on the other. Walking east the new development would be seen at a distance and in the other direction the view would be mainly of the open space along the Red Brook corridor with an oblique view of the houses fronting Warburton Lane. In year 15 the landscaping in the open spaces would have matured to filter views. For this reason, I consider that the significance of effect from viewpoint 2 would be minor/ moderate<sup>5</sup> adverse.

50. From the eastern end of the public right of way to the south of site 2 the new development would be seen in an elevated position behind the boundary hedge and buffer. For all of the reasons I have given previously, the visual effect of the new development from this part of Warburton Park would not diminish significantly as a result of the proposed landscaping over time. There would be the benefit of distance and the effects would be experienced over a relatively short section of the footpath. From viewpoint 3 there would be a moderate adverse significance of effect.
51. From Moss Lane the view into site 1 would substantially change from open countryside to a suburban estate. From viewpoint 6 all parties agree that the significance of effect would be major adverse. Whilst the green buffer planting has the potential to provide some mitigation, I am not as confident as the Appellant as to its long term effectiveness. In my judgement at year 15 this would only reduce slightly to a major/ moderate significance of effect.
52. Approaching site 2 from Warburton Lane, the new development would be seen above the roadside hedgerows. Top Park Close is a fairly prominent existing feature in the view and the built area would be extended westwards. The Parameters Plan shows the new houses close to the road but built form would be seen at depth, especially through the access and its associated bellmouth. Sections of the existing hedge along the site frontage would be removed. Bearing all of this in mind I consider that the significance of effect from viewpoint 5 would be moderate adverse both in the long and short term.
53. From Broadoak Meadow Walk, which runs along the Red Brook corridor on the northern side of the river, viewpoint 10 is through a large gap in the trees. It seems to me a significant point in the walk as a bench allows the walker to stop and admire the rural view across the central part of site 1. In the foreground the Parameters Plan shows a considerable depth of open space occupying the floodplain, although there would be new housing behind it. It should be borne in mind that this would be a short part of a walk that is very well screened by trees and greenery. I therefore consider that the significance of effect would be moderate adverse in year 1 but would reduce to minor adverse in year 15 when landscaping has matured.
54. On the western side of Warburton Lane the Red Brook Wildlife Trail follows the northern side of the river close to the valley floor. Views into site 2 vary depending on the strength of the intervening tree cover. This is more patchy

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<sup>5</sup> The scale I have used puts the main value first. So in this case minor/ moderate would be higher than minor but lower than moderate.

at the eastern end of site 2 where there is an area of gently rising land outside the site boundary. The development area would be well set back at this point. Further to the west the trees provide a thicker screen. Overall, I consider that the significance of effect from this trail would be minor adverse both in the short and long term.

## **Conclusions**

55. For the reasons I have given, I do not consider that the appeal site sits within a valued landscape in terms of paragraph 170 of the Framework. To my mind it is an area of countryside that is of local value. Nevertheless, I do not consider that it has been satisfactorily demonstrated that an appropriate design could be achieved within the context of the submitted Parameters Plan without significant harm to the landscape character and visual amenity of the area. There would thus be conflict with policy R2 in the CS.

## **THE EFFECT OF THE PROPOSED DEVELOPMENT ON HERITAGE ASSETS.**

56. The parties agree that the relevant designated heritage assets are 4 Grade II listed buildings, that the effect on significance would derive from changes to their setting and that any harm would be less than substantial in nature. Paragraph 196 of the Framework would be engaged whereby harm is to be weighed against public benefits. There are also non-designated heritage assets in the vicinity but the number that would be affected is not agreed. In the case of non-designated heritage assets, paragraph 197 of the Framework makes clear that a balanced judgement should be made, having regard to the scale of any harm and the significance of the asset. With regards to archaeological assets, the dispute concerns whether the matter should be addressed pre-determination or through a planning condition. This depends on the value of the buried assets, which is not agreed.
57. The Framework defines “*significance*” as the value of the asset because of its heritage interest. This interest may be archaeological, architectural, artistic or historic. The setting is defined as the surroundings in which the asset is experienced, which may change as the asset and its surroundings evolve. In this case most of the affected built heritage assets are associated with the area’s agricultural past. The farmland of the appeal sites has different degrees of importance in terms of how the buildings are experienced and their history is understood.
58. It is the Council’s role to identify non-designated assets but for the decision-maker to determine the effect of proposals on their significance. WPC asserted that similar reasoning can be applied to paragraph 189 of the Framework and that the Council is the only arbiter of what information must be submitted to understand the significance of a heritage asset. WPC relate this particularly to the archaeological trial trenching, which the Council said was necessary pre-determination. I do not agree with WPC on this point. The Framework does not make such a specification and I am entitled, as decision maker, to make up my own mind on the matter based on the evidence.

## **The listed buildings**

### *Heathlands Farmhouse and Heathlands Barn*

59. These are separately listed. The farmhouse dates to the late 18<sup>th</sup> century but the adjacent barn has late medieval origins and may have formed the original

farmhouse. It includes significant elements from that period and the listing description notes that it is a rare example of a multifunctional cowhouse and hayloft in the north Cheshire plain. It was restructured in the 18<sup>th</sup> century in association with Heathlands Farmhouse which was built on the edge of the mossland at the time of agricultural reclamation. This is an attractive two-storey house with a symmetrical front façade. The buildings have individual significance and group value as a good example of an 18<sup>th</sup> century farmstead.

60. The Heathlands group were built facing onto Warburton Lane within a rural setting of open agricultural fields. Site 1 forms part of this overall setting although the agricultural fields to the east and south would remain unaffected. There is also agricultural land to the north but its value in providing a setting has been diminished by Top Park Close, which is a small but prominent development of modern houses.
61. The Parameters Plan includes a green space in the south eastern corner of the site, which it was confirmed at the inquiry would not contain built development. This would help provide an open aspect in the immediate foreground, but the new houses would be apparent behind. Overall, I consider that there would be a moderate degree of harm to the significance of these assets both individually and as a group.

*Barn to south-east of Birch Farmhouse and curtilage listed farmhouse and barns*

62. The listed barn is dated as 18<sup>th</sup> century although it incorporates cruck frames that have earlier origins similar to Heathlands Barn. These would have been associated with a late medieval landscape. The open bay at ground level was probably a hay barn and there is a two-storey front wing which included a hayloft. The barn is now a dwelling in separate ownership but it can still be appreciated as part of the group of buildings that include two other barns and a farmhouse. The farmhouse and one of the barns also incorporate cruck frames and probably date from the 18<sup>th</sup> century. Due to their association they are curtilage listed. As a group they provide a good example of a large farmstead that was built on the edge of the mossland during the period when this was being reclaimed for agricultural use. Their value is though compromised to some extent by the large modern agricultural buildings sited in close proximity to the north and east.
63. The barn and the farmstead face towards Moss Lane within a setting of open agricultural land, which undoubtedly contributes to its historical context. Site 1 is shown on the 1757 Warburton Estate Plan to have formed part of its landholding. It thus provides the agricultural setting to the west. The Parameters Plan includes a green space in the south eastern corner of site, which it was confirmed at the inquiry would not contain built development. This would help maintain an open aspect in the immediate foreground, but the new houses would be apparent behind. Overall, I consider that there would be a moderate degree of harm to the significance of these assets.

*Farm building at Warburton Park Farmyard and curtilage listed farmhouse and farm buildings*

64. The 17<sup>th</sup> century listed timber box framed farm building stands at the southern end of the Park Farm farmyard. There are a number of 18<sup>th</sup> and 19<sup>th</sup> century brick-built farm buildings around the edge of the large open farmyard. The farmhouse stands to one side at the end of Park Road. It is believed to



occupy the site of a former moated medieval manor. These buildings are all curtilage listed and contribute to the group value of this historic farmstead. There are several modern farm buildings to the immediate north and west, which detract from the integrity of the group.

65. The wider setting comprises an extensive tract of land that originally formed the medieval deer park associated with the manorial estate. This was subsequently abandoned, and the land was enclosed for agriculture. Site 2 is within the land associated with Park Farm and the former manorial estate, which provide an extensive setting through which the heritage assets are experienced. The development would permanently remove a relatively small section of land at the north-eastern corner. This would result in a minor effect on the significance of the listed building and the farmyard group.

### **The non-designated heritage assets**

#### *Brook House*

66. This building dates back to the late 18th/ early 19th century and may have had origins as part of an earlier farmstead. It fronts onto Warburton Lane and stands within a treed environment behind a front boundary hedge. This is an attractive well proportioned small house that was built in an isolated rural location. However, its sense of isolation has been considerably diminished by the large houses at Top Park Close, immediately to the south. Its cream coloured elevations enhance its visibility and it is therefore quite prominent in short and long distance views. However, this seem unlikely to have been an intentional consequence of its location.
67. The development of site 2 would remove the open outlook that currently pertains to the west and provides part of the countryside setting. The Parameters Plan shows development close to the Warburton Lane boundary. Furthermore, it seems likely that parts of the hedge along the eastern edge of the appeal site would be removed to provide sight lines to the new access. To the north the land on site 1 would remain undeveloped, other than the new access. In the circumstances there would be a further erosion of the rural setting of Brook House. However, bearing in mind the existing situation, the effect on significance would be minor adverse.

#### *Birch Cottage (originally part of Mosslane Cottages)*

68. This 18<sup>th</sup> century cottage was originally one of three, probably built to house farm workers from Birch Farm. It is a modest sized dwelling in a relatively isolated rural location on the northern side of Moss Lane. It stands on the southern side of its hedged garden plot and the surrounding farmland provides a wider setting. Even though the rural area to the south would remain unchanged, the cottage is orientated east-west with its main elevations facing away from the road. The development of site 1 would result in the loss of farmland to the north, west and east. Mitigation would include a 5 metre buffer around the north, east and west site boundaries. These would go some way to protect the immediate setting and the effect on significance would be minor adverse.

#### *Pear Tree Cottage*

69. This cottage was probably built in the late 18<sup>th</sup> or early 19<sup>th</sup> century as an agricultural worker's dwelling. It has a similar orientation and relationship to



Moss Lane as Birch Cottage. The surrounding agricultural land contributes to the significance of the dwelling in a similar way and similar mitigation is proposed. The effect on significance would be minor adverse.

#### *Moss Lane Farm*

70. As with the other buildings along this stretch of Moss Lane, this 17<sup>th</sup> century farmhouse is orientated at right angles to the road. However, unlike the above 2 cottages, it is on the southern side and stands well back behind gardens and a tall holly hedge along the road frontage. The evidence suggests that this farmstead originated from the early post-medieval enclosure of the mosslands. The farmland to the south, east and west provides its wider setting and this would remain unaffected by the appeal proposals. The development of site 1 would be seen in the background in northward facing views, but overall I consider that the effect on significance would be negligible.

#### *Old Warburton Lane and Bridge*

71. The present alignment of Warburton Lane and the bridge date to the 1960's. This has left a short section of the original lane adjacent to the western boundary of site 1. This remnant section is at a lower level to the existing road and can be used by pedestrians and cyclists although it is in poor condition and partly overgrown with vegetation. The date of the old stone bridge is unknown.
72. The appeal development would not impact on the bridge but the new access to site 1 would cut across the lane requiring regrading in order to meet the higher level of the existing road. The intention is to maintain it for use by pedestrians and cyclists. The bridge and lane are not recorded in the Historic Environment Record but it is agreed that they are heritage assets. I consider them to be of relatively low historic value. The changes in levels would cause some detriment of a minor nature.

#### *Warburton Toll Bridge*

73. This is a striking high-level late 19<sup>th</sup> century cantilever bridge that crosses the Manchester Ship Canal. Due to its height it can be seen from a considerable distance and in this respect it is something of a local landmark. However, the significance of the bridge relates to its value in terms of its industrial history and architecture. To my mind the appeal development would have no effect on this whatsoever, notwithstanding that it would be visible from the bridge in the far distance. Conversely, it is proposed to retain a view of the bridge from across the south eastern part of site 2, and this is to be welcomed.

#### *Warburton Park*

74. I have already concluded that there is little now to indicate the former medieval deer park or designed parkland in terms of the physical landscape due to the considerable degree of agricultural change that has taken place from the mid-17<sup>th</sup> century when it was presumed to have been disimparked. During this later period it provided the farmland associated with Park Farm and its farmstead and I have considered the part it played in that respect already. With regards to its earlier history, there is no dispute that a medieval deer park formerly existed in this vicinity, probably associated with a moated manor on a similar site to Park Farm. Site 2 is likely to have been within its

boundaries. Its significance as a non designated heritage asset relates principally to its historic interest.

75. The *Greater Manchester Historic Environment Record* maps a number of visible features, including earthworks associated with the park pale<sup>6</sup>. This can be seen most clearly along a section of the south-eastern boundary. The curving nature of Warburton Lane is also indicative of the former perimeter. More contentious is the boundary along the edge of the Red Brook, where an earthen bank can be seen. The evidence indicates that along the northern site boundary the hedgerow has been removed and the area ploughed. In addition, a high pressure gas pipeline was installed across the northern part of the site, which would have caused substantial ground disturbance. Another feature is what is now thought to be a pillow mound<sup>7</sup> within the adjoining fields. There are also several pools in the copse adjacent to the south-eastern site boundary, which are considered by the Greater Manchester Advisory Service to be remnant medieval fish ponds.
76. On the basis of what I have seen and the evidence I have heard, it seems to me that Warburton Park is a non designated asset of local value. The proposed development would result in the permanent loss of a relatively small section of the former deer park and manorial estate and would isolate part of the park pale from other features such as the fish ponds and pillow mound. On the other hand, the development would not result in the destruction of any visible physical feature. Overall, I consider that the adverse effect on significance would be of a minor nature. However, WPC and the Council believe that there is much greater archaeological potential that is as yet unknown but could increase the significance of this asset considerably. I consider this next.

### **Archaeology**

77. On sites where there is potential for archaeological interest, paragraph 189 of the Framework requires the submission of a desk based assessment and field evaluation where necessary. In this case a desk based assessment has been submitted, although it was agreed that this has shortcomings. Field evaluation can include a geophysical survey, which has been undertaken.
78. The Council and WPC consider that footnote 63 of the Framework is engaged because the archaeological resources in question have the potential to be of national importance and equivalent significance to a scheduled monument. The Appellant disagrees and considers that the evidence indicates assets with the potential for no more than local importance. Whilst it is not disputed that trial trenching is necessary, the Council and WPC say it should be carried out pre-determination to reflect the significance of the asset. Their concern is that if archaeology of national importance is discovered as a result of the trial trenching and in situ preservation is proven necessary, this could mean that the development would not be capable of being built out in accordance with the Parameters Plan without harm to irreplaceable buried assets.

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<sup>6</sup> This was the boundary of the deer park and usually comprised a fenced or hedged bank often several metres in height sometimes with an internal ditch. It often had a curved alignment so that animals did not get trapped in the corners.

<sup>7</sup> This was an artificial mound with burrows for rabbit breeding.

79. The importance of what lies below the ground cannot at this stage be known with certainty from the investigation that has been carried out so far. However, the geophysical survey provides important information in the assessment of potential even though a lack of magnetic abnormality in itself does not guarantee an absence of significant archaeology. There was no dispute about the methodology employed, the issue is with the interpretation of the results. There is insufficient evidence to substantiate the Council's assertion that geophysical investigations are particularly problematic in the North Western region. The reliability of the outcome is more likely to depend on the soil conditions and subsurface environment of the site. The appeal sites do not seem to present particular difficulties in this regard. I turn next to consider the archaeological potential of the appeal sites.

#### Site 1: Romano-British settlement

80. An assessment was undertaken by Salford University in connection with the draft policy GM Allocation 41 in the emerging GMSF. The higher land of the southern part of site 1 is considered to have high potential for early settlement. There are cottages and farmsteads adjacent to Moss Lane, which was clearly a historic route around the mosslands. The geophysical survey shows various features, including the probable line of an old lane, field boundaries, possible evidence of ridge and furrow and drainage features. There is also an area of burnt material suggesting the site of a post-medieval clamp kiln. The Council agreed at the inquiry that these were features at most of regional significance. The survey also showed various anomalies. Whilst these could be indicative of past settlement activity, the Appellant's expert interpretation<sup>8</sup> was that they were ephemeral features most likely to have arisen from naturally occurring soil variation.
81. It is acknowledged that there have been other finds within locations between the moss areas and the rivers. The Romano-British defended farmstead site at Great Woollen Hall is about 3.5 km away, between the River Glazebrook and Chat Moss. Port Salford is about 7 km away on dry ground also adjoining Chat Moss. Here, Iron Age and Roman artefacts have been found and Romano-British period ditches and enclosures. These have proved to be of great significance but it does not mean that similar finds are present on site 1. Indeed, the differential in height between the southern part of site 1 and the adjoining former mossland is relatively small. Whether or not this area flooded before the Manchester Ship Canal was constructed is unclear. However, there have been finds on the ridge of higher land at Moss Brow about 1 km to the south and this seems a more likely location for early settlement.

#### Site 2; Warburton medieval deer park

82. Salford University also assessed the area to the west of Warburton Lane, which was part of the medieval deer park. It considered that there is good potential for the survival of buried archaeological remains, including a former watermill, salters<sup>9</sup> and the moated manor site, although their extent and condition is at present unknown. It considers the greatest potential for surviving remains on the draft policy GM Allocation 41 site, which includes site 2 but extends

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<sup>8</sup> By Dr Kayt Armstrong who undertook the geophysical survey and is also an archaeologist.

<sup>9</sup> These were used to encourage deer to enter but not leave the park. They involved modifying the park pale and so were sited around the boundary.

further to the west, is likely to relate to the park pale bank and ditch. Salford University conclude that the best preserved elements of the deer park could achieve Scheduled Monument status following further detailed assessment.

83. The Historic England *Scheduling Selection Guide: Agriculture* indicates that good examples of features such as medieval mill sites, pillow mounds, fishponds and park pales may be schedulable. *The Scheduling Selection Guide: Settlement Sites to 1500* mentions moated sites in this regard. The *Scheduling Selection Guide: Gardens* indicates that deer parks are generally too extensive for scheduling. Specific features such as the park pale may be eligible, but short lengths divorced from other associated features are unlikely to qualify.
84. The appeal land has been subject to at least 300 years of agricultural use. Deep ploughing over the last 70 years is likely to have had an adverse effect on below ground remains. The geophysical survey shows two parallel lines on the eastern side of site 2. The expert interpretation<sup>7</sup> is that these are most likely to have been created by modern tractor movements at the edge of the field. However, it is agreed that they could represent a previous field boundary, a former road or a boundary to the former deer park. The Council pointed out that this could be clarified by trenching and that its significance would depend on how well preserved it was and how it related to other features in the former deer park. The Council also refers to a curved feature on the northern side of site 2. The expert interpretation<sup>7</sup> is that it is likely to derive from variations in the soil resulting from fluvial action. However, Salford University considers it could be a potential Bronze Age ditch.

### Conclusion

85. There is no dispute that there is the potential for archaeological assets to be found below ground, but the experts did not agree on what their significance was likely to be. The uncertainty of what lies below the ground would have been greatly reduced if trial trenching had been undertaken in advance of the inquiry. Indeed, the indications are that this was the intention but for some reason the Appellant decided not to proceed. However, it is necessary for me to consider what is reasonable and proportionate, based on the available evidence. In this case I find the Appellant's expert evidence<sup>10</sup> more persuasive and give it considerable weight. I have no doubt that the witnesses for the Council and WPC have considerable expertise and experience. Nevertheless, I did not find their belief that the archaeology is likely to be of national importance supported by their evidence. On the balance of probabilities and even taking a precautionary standpoint, I consider that in this case the archaeology is likely to be of local and at most regional significance.
86. The Parameters Plan indicates that the areas shown for development and access overlay some of the features and anomalies shown by the geophysical survey although others would be in the open spaces. Further investigation would be necessary, including trial trenching. However, I consider that it could be post-determination and satisfactorily controlled through a planning condition in this case.
87. I have considered the appeal decisions submitted by the Council but in each

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<sup>10</sup> By Dr Armstrong and Ms Kelly.

case there were different circumstances that led the Inspector to conclude that pre-determination evaluation was required. This will largely relate to individual site circumstances and so general comparisons are not particularly helpful.

### **Conclusions**

88. For all the reasons I have given there would be harm to the significance of both designated and non designated heritage assets on account of development within their setting. This would be less than substantial harm on the scale of moderate to minor depending on the asset. The proposals would therefore be contrary to policy R1 in the CS. I return to consider the proposals in respect of paragraphs 196 and 197 of the Framework later in my decision.
89. The significance of the archaeological assets cannot be known at the present time. However, for the reasons I have given, I consider that the probability is that these are of local or at most regional value. Footnote 63 of the Framework would not apply in this case. A planning condition could be applied to require a scheme of written investigation, analysis, recording, deposition and commemoration and this would, in my opinion, mitigate the potential harm that could arise from the appeal development in this respect.

### **THE EFFECT OF THE PROPOSED DEVELOPMENT ON CONGESTION AND HIGHWAY SAFETY.**

90. Amongst other things, policy L4 in the CS includes a provision that permission will not be granted for new development likely to have a significant adverse impact on the safe operation of the highway network unless appropriate infrastructure improvements and/ or traffic mitigation measures are secured. The Framework indicates that development should only be refused on highway grounds if the residual cumulative impacts on the road network would be severe, which is a more stringent requirement. The traffic generated by the proposed development and its likely distribution is not disputed. The A6144 provides the main route through Partington and Carrington and becomes extremely congested at peak times.
91. It is agreed that to accommodate the additional flows, improvements would be necessary to 3 junctions along the A6144 and that these could be addressed through planning conditions. In terms of when these works would be carried out, there is no dispute that the improvements to the Warburton Road/ Central Road roundabout and the Moss Lane/ Manchester Road roundabout should be carried out before occupation of 101 dwellings. Furthermore, that the latter improvement would only be necessary if it had not already been undertaken in conjunction with development at Lock Lane, Partington. The capacity provided by the junction improvement would be sufficient to accommodate the traffic generated by both developments and this is reflected in the suggested condition.
92. Flixton Crossroads is some 5km to the north of the site but is a particularly congested junction during peak periods. There have been incremental improvements to create the capacity for various developments that would impact the junction and the appeal scheme proposes a further improvement that would do likewise. The Council agrees that such works would be necessary to mitigate the impact but it considers that congestion is so bad that no new dwelling should be occupied until the capacity improvement is in

place. The Appellant pointed out that even with 100 dwellings there would be less than one vehicle through the junction per minute in the critical morning peak. It seems to me that this is likely to result in an imperceptible change. I therefore concur with the Appellant that the works would not be necessary until this trigger point had been reached.

93. In the circumstances I conclude that the proposed development would not have an adverse effect on congestion and highway safety. In this respect it would comply with policy L4 in the CS and the provisions of the Framework.

**WHETHER THE LOCATION IS SUFFICIENTLY ACCESSIBLE TO ALLOW OCCUPIERS OF THE PROPOSED DEVELOPMENT REAL CHOICES TO TRAVEL BY MODES OTHER THAN THE PRIVATE CAR.**

94. The CS specifies that improving accessibility is essential to building sustainable communities and that it is influenced by where development is located and the quality and choice of available transport links. Policy L7 includes a provision that development should be fully accessible to all sections of the community, Policy L4, amongst other things, indicates that the location of development in those areas most accessible to a choice of transport modes is a priority. It includes provisions to secure improvements to the pedestrian, cycling and bus network and elicit developer contributions towards the provision of highway schemes in accordance with the CS Strategic and Place Objectives.
95. Section 9 of the Framework promotes sustainable transport and opportunities to improve walking, cycling and public transport. It also points out that sustainable travel solutions will vary between urban and rural areas. In this case the appeal site is within the countryside for planning policy purposes. However, it is not within an isolated rural area and it is reasonable to bear this in mind when considering what opportunities are available to maximise sustainable travel solutions.

**Walking**

96. *Manual for Streets* indicates that walking offers the greatest potential to replace short car journeys, particularly those under 2 km. Whilst not an upper limit, walkable neighbourhoods are typically those where there are a range of facilities within a 10 minute (800m) walk from home. The main route in and out of Partington is along Warburton Lane. There are footways along each side of the road, although on the western side it stops at the Red Brook bridge. The proposal therefore includes a footway along the frontage of site 2, which connects to a signal controlled crossing so that pedestrians can safely cross onto the eastern footway. Whilst the existing footway does have some narrower points, on the whole I consider that it provides an acceptable walking environment for most people.
97. Those living on site 1 would have the option of walking into Partington via Chapel Lane over the footbridge that crosses the Red Brook. However the section of footpath that links to Chapel Lane crosses the western side of a field and is neither surfaced nor lit. It would therefore not be a safe option after dark, practical in inclement weather or suitable for those with pushchairs or mobility impairments. Whilst this field is also part of the draft policy GM Allocation 41, at the present time there is no proposal that it would be other than a recreational footpath. In addition, the section of Chapel Lane south of



the entrance to Partington Sports Village has no footways or street lights. Whilst some may use this route it should not be relied on as a satisfactory walking route into Partington, the school or the sports centre.

98. Broadoak secondary school, Little Oaks nursery school, The Fuse community facility and Partington Sports Village are all within 1 km of the centre of each site using the main access points and Warburton Lane. The primary schools are between 1.4 km and 1.6 km away. It seems to me that these facilities, whilst beyond the ideal 800m walking distance could reasonably be considered accessible on foot. Partington local centre has shops and facilities to meet day to day needs and includes a post office, pharmacy, supermarket and convenience stores. It is 1.5 km from the centre of site 2 and 1.7 km from the centre of site 1. Again, walking would be an option although the relatively short car journey would be an attractive alternative, especially outside peak times and bearing in mind that there is a large car park adjacent to the shops.

### **Cycling**

99. All of the above facilities would be easily reached by cycle. There are on-street cycle lanes on both sides of Warburton Lane, north of the Red Brook bridge, into the centre of Partington. The proposal also includes a new on-street section of cycleway along the frontage of site 2. It is proposed that the old lane adjacent to the frontage of site 1 would be a dedicated cycle and pedestrian route. With the Pelican crossing in place there would therefore be a link from each site to the on-street cycleways. Chapel Lane is also relatively quiet and would provide a pleasant route for cycling although the link between the site and the road would have to be negotiated and would be an impediment for the reasons given above.

### **Buses**

100. The 247 bus service runs at 30 minute intervals (60 minute intervals in the evenings and on Sundays) between the Trafford Centre and Altringham via Partington. The Cat 5A service runs between Warrington and Altringham via Lymm and Partington. The nearest existing bus stop northbound is on Warburton Lane just north of the Oak Road junction and southbound north of the junction with Moss Lane. The proposals include improvements to these two stops as well as providing new bus stops on either side of Moss Lane. The existing and new bus stops would be provided with raised kerbs to provide easy access and good waiting facilities. With the improvements there would be a bus stop within 100m of the centre of site 1 and within 400m of the centre of site 2 so they would be easily accessible on foot.
101. I was told that the future of the subsidised CAT 5A service is uncertain. The proposals would provide a financial contribution for an additional half hour service. This would be for a 5 year period by which time it should be self-supporting. This would mean that there would either be 2 buses an hour or that the Appellant would be funding the only one, depending on whether the subsidised service continues. These various improvements would benefit those living on the new development but also existing residents living along this section of the route. A bus journey to reach the Borough's main town centre of Altringham, for example, would typically take under half an hour and a visit to the picturesque village of Lymm with its local shops, food and drink establishments and various amenities would take about 10 minutes.

102. There are also additional bus services that terminate at Oak Road. A new resident wishing to travel to central Manchester for example, could do so by catching the 253/ 255 service from Oak Road or taking a bus to the Trafford Centre and then catching the tram. However, a journey in this direction would result in additional journey times during peak periods due to network congestion along the A6144.

### **The Carrington Relief Road (CRR)**

103. The CRR is a longstanding infrastructure project required as part of the delivery of the Carrington strategic site under policy SL5 of the CS. The evidence indicates that the cost of the CRR has escalated and that there is currently a large funding gap. Whilst this could potentially be addressed through the Community Infrastructure Levy, a significant shortfall would remain to be met through developer contributions. The Council has therefore devised a formula based on the vehicle trips what would be generated by the various commercial and residential developments within the allocated area.
104. Whilst the Council is satisfied that the improvements to the Flixton junction would provide satisfactory mitigation in terms of highway safety and congestion, it would prefer a contribution to the CRR. The Appellant does not object to this and the UU includes a contribution similar to the cost of the Flixton junction improvement, which would not be needed if the CRR goes ahead. However, the Council require a larger contribution based on applying the aforementioned formula. The rationale for including the appeal sites, notwithstanding that they are outside the policy SL5 allocation, relates to sustainability and integration. Nevertheless, in view of the uncertainties surrounding delivery, the Council would accept the Flixton improvements in the event that it cannot confirm that the CRR is going ahead. As I understand it the Council, by means of a suitably worded planning condition, is proposing to take the delivery risk on itself in order to avoid what it considers to be unsustainable development at the appeal sites.
105. Policy L4 in the CS includes a provision that appropriate developer contributions may be sought towards highway schemes in order to make less sustainable locations accessible by improving transport links. In terms of sustainability, I am not satisfied that there is sufficient evidence to demonstrate that the accessibility or integration of the appeal site with Partington as envisaged in the CS would be significantly improved by the CRR. The situation could be very different if the wider policy GM Allocation 41 is realised. However, that relates to a different and emerging plan with a high degree of uncertainty at the present time. In such circumstances I am doubtful that the contribution could be deemed necessary.
106. Furthermore, assuming that the formula may be legitimately applied to the appeal sites, the contribution sought by the Council is based on the 182 dwellings envisaged for the appeal site in the draft Masterplan for the policy GM 41 Allocation. It bears no relationship to the trips generated by the appeal development. It may result in a lower payment, but nonetheless this would not be related in scale and kind to the 400 dwellings being proposed.

## Conclusion

107. The appeal site has relatively good connectivity to the pedestrian, cycling and public transport network. The proposals offer various improvements to widen modal choice. I consider that new residents would have the opportunity to make a reasonable number of their daily journeys by travel modes other than the private car. A Travel Plan would provide further incentive through the introduction of measures to reduce car journeys over a 10 year period.
108. Accessibility is hampered by the sites' location at the southern end of the existing road network. With an absence of dedicated lanes, northbound buses would be caught in the same traffic queues in peak periods as happens at the present time. On the other hand, people would be likely to adjust their travel behaviour to make their journeys outside of the most congested periods. Whilst I can understand that the delivery of the CRR is a priority for the Council, this is mainly to deliver the Carrington strategic site and there is little evidence that a contribution over and above the cost of the Flixton junction improvements would be justified in terms of highway safety or improvement to the sustainability of the appeal site. Overall, I am satisfied that in this regard the proposals would not conflict with policies L4 and L7 in the CS.

## **WHETHER THE PROPOSED DEVELOPMENT WOULD MEET LOCAL HOUSING NEEDS AND WHETHER THE LACK OF AFFORDABLE HOUSING PROVISION WOULD BE ACCEPTABLE.**

### **Affordable housing need**

109. There is no dispute that the appeal site is within a "hot" market location where in normal market conditions policy L2 in the CS expects 40% affordable housing, subject to viability. This is in contrast to Partington, which is a "cold" market location where 5% is required, subject to viability. Whether the boundary between different market locations is justified should be considered through the local plan process and is not a matter for this inquiry. The Council has indicated that market conditions changed from "normal" to "good" in November 2018. In such circumstances the Supplementary Planning Document: *Planning Obligations* indicates that the affordable housing requirement will rise to 45% and 10% in the respective market locations.
110. There is a considerable need for affordable housing within the Borough as a whole. The 2019 *Housing Needs Assessment* identifies a Borough-wide annual net affordable housing need of 545 homes. It is appreciated that this recorded a net annual need of only 22 homes in Partington and Carrington but the Rural Communities, within which the site falls, recorded a higher figure of 39 homes. Partington has a relatively high proportion of social housing due to its growth as an overspill settlement. There is no dispute that more market homes and family sized houses would help improve the housing mix and contribute to a more balanced community. However, this does not mean that there is no need for affordable housing in the mix. There is no evidence to satisfy me that it should not be provided, if it is viable to do so.
111. The Appellant does not consider that the appeal proposals could viably support any affordable housing at all. The Council believes that it could viably support the full policy provision, along with all other contributions and infrastructure improvements.

## **Accountability**

112. Both the Council and the Appellant had points to make about the credibility and integrity of the expert witnesses. This seemed to me to be part of a wider agenda relating to land transactions, viability assessment and affordable housing provision more generally across the Borough. I do not consider that it is necessary for me to look at the wider picture in order to reach a reasoned conclusion on this appeal. As far as I could tell the viability and costs witnesses drew from their experience and expertise as practitioners. I am satisfied that they conducted themselves in a suitably professional manner and gave their considered and honest evidence. I find nothing to support the assertion that any of the 3 members of RICS failed to meet the requirements of their professional body.
113. The Planning Practice Guidance indicates that a viability assessment should be prepared by a suitably qualified practitioner. It does not stipulate that being a RICS member is mandatory in this respect but in any event in this case the viability assessments were prepared by such a person. The disagreements on costs and values resulted mainly from differences in professional judgement and, in such circumstances, there are no right or wrong answers. The judgements of the non RICS expert witness in this case seemed to me to be credible and based on an acceptable level of experience.

## **Benchmark Land Value (BLV)**

114. This comprises the Existing Use Value (EUV) enhanced by a premium (EUV+). In this case the existing use is agricultural and there are no policy compliant alternatives. The Appellant considers that agricultural land value is £10,000 per acre and the Council £8,000 per acre. In this respect I prefer the Council's approach, which uses farmland indices devoid of the effects of buildings and any anticipated future higher value use (hope value). On this basis the EUV would be £493,600.
115. The Planning Practice Guidance makes clear that the premium should provide a reasonable incentive for a landowner to bring forward land for development whilst allowing a sufficient contribution to fully comply with policy requirements. However, it also indicates that this should reflect a minimum return to a reasonable landowner. The price paid for the land is not relevant justification for failing to meet policy commitments. Previously BLV was guided by market comparables but these were driven by historic land values inflated by non policy compliant developments. The Planning Practice Guidance extolls an approach whereby policy commitments are central to establishing a reasonable price.
116. The Planning Practice Guidance also indicates that BLV should reflect the costs of development, including those specific to the site. In other words, a landowner should not expect to receive the same price for a site where the development costs are high to one where they are much lower. That is not to say that all site-specific costs should necessarily be deducted. It may be that a negative value would ensue, in which case there would be no incentive at all for the landowner to sell the land.
117. The Appellant originally considered that a premium of 20 times EUV was

appropriate but reduced it to 15 times EUV to reflect an appeal decision for a residential development at Poulton-le-Fylde<sup>11</sup>. The Inspector said that she considered the Council's viability assessment to be consistent with the Planning Practice Guidance. However, in this case there does not appear to have been any suggestion otherwise, and therefore no dispute on the matter. My colleague indicated that typically 15-25 times EUV is applied to greenfield sites, but where this conclusion comes from is not made clear. It is noted in passing, that the agricultural land value in this case was £8,000 per acre.

118. The Planning Practice Guidance gives no indication as to what the uplift should be and the reason for that is because it will vary according to site specific and policy circumstances. There is no evidence that I have seen that says the premium should be any particular value. The important point is that it should be sufficient to incentivise the landowner to sell the land and should also be the minimum incentive for such a sale to take place.
119. The Appellant's assessment is on the basis of an uplift of 15 whereas the Council prefers an uplift of 10<sup>12</sup>. It is relevant to note in this case that one of the two landowners has agreed in the option agreement to sell the land for whatever is left after a standard residual assessment. On the basis of the Appellant's assessment with no affordable housing the RLV is £2.8m. However, if costs or values change this would of course be a different figure. For example, on the Appellant's assessment with 45% affordable housing the residual becomes negative. In such circumstances the landowner obviously would not sell. I consider that an uplift of 10 would not be unreasonable here and this would result in a BLV of about £2.9m<sup>13</sup>. Whilst this is below the sum advocated by the Appellant of some £5.3m it reflects the development costs as well as the fact that the developable area comprises only about half of the site. It was not satisfactorily explained why, in this case, it would not offer a reasonable premium or reflect the approach advocated by the Planning Practice Guidance.
120. The Appellant's case is that the residual land value (RLV) with no affordable housing would be some £2.8m, falling to about £-1.5m if 45% affordable housing were to be provided. It seems to me that on the Appellant's evidence £2.8m, which is marginally below BLV, would be all that the scheme could afford to pay for the land.

## **The financial viability assessment (FVA)**

### *Preliminary Comments*

121. There was little agreement on most of the inputs in the FVA, but on the Appellant's case, if costs were reduced or values were increased by approximately £4.4m, there would be sufficient to fund 45% affordable housing. Even if there was a lower differential, it would be possible to provide some affordable housing. Whilst I have carefully considered all of the evidence

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<sup>11</sup> This appeal sought the removal of a planning condition for affordable housing in respect of a proposal for up to 130 dwellings on land off Hoult's Lane, Poulton-le-Fylde. The appeal was allowed (ref: APP/U2370/W/19/3241233).

<sup>12</sup> It should be noted though that this was only on the basis of net developable area.

<sup>13</sup> Net developable site area of 33.75 acres x £80,000 = £2.7m. Remainder of 27.95 acres x £8,000 = 223,600. Total BLV = £2.9m (approx.).

it therefore seems to me unnecessary to reach a conclusion on all of the disputed inputs.

122. The FVA is a snapshot in time with costs and values corrected accordingly. The relevant time period in this case is the fourth quarter of 2020 to accord with the time of the inquiry.

### *Costs*

123. The Viability Statement of Common Ground agrees a housing mix and floorspace figure for the purposes of the assessment. Overall, the evidence suggests to me that the Appellant has taken a rather conservative approach to costs. This is mainly due to the fact that there is relatively little information as to how this outline scheme would eventually be built out. The FVA appears to have placed considerable reliance on the illustrative Masterplan. However, it was made clear in answer to my specific question at the second Case Management Conference that this was illustrative. It is not to be treated as an application plan and therefore cannot be relied upon to show details of the layout. The Appellant's costs expert did his best but, in my opinion, he has been overly cautious in his assessment. Little consideration has been given to the not unreasonable assumption that the volume housebuilder who would be constructing this development would seek to reduce costs through value engineering wherever possible. I give two examples where I consider that significant cost savings could be made.

### The garages

124. The FVA has assumed that all 3 and 4 bedroom houses would have a single detached garage at a cost of about £11,300 each. On the basis of the agreed mix this would apply to about 67% of the dwellings and result in an additional cost of over £3m. However, there is no evidence that the developer would recoup that cost in the sales value. It is therefore difficult to understand why such a significant additional expense would be incurred by a prudent housebuilder when an integral garage would be significantly cheaper. The only indication of the cost of an integral garage is found in the May 2019 FVA where it is indicated to be £4,725. Whilst cost inflation means that exact comparisons cannot therefore be made, it is reasonable to conclude that there would be significant cost savings to be made.
125. In reality the situation is likely to be more nuanced and it is not unreasonable to surmise that a developer would wish to offer a range of options with some detached garages, some integral garages and some driveway or on-street parking. The Council has suggested a blended allowance of £7,000 per dwelling for the units in question, which would allow roughly one third to have detached garages. This would obviate the Council's concern about a development dominated by houses with integral garages. Such an alternative option would result in a cost saving of around £1.13m.

### The abnormal costs

126. These costs amount to about £16.4m or about £486,500 per net developable acre. This seems to me a very large sum for a greenfield site with no obvious impediments and I remain unconvinced about the complexities that the Appellant asserts present such a challenge. Indeed, the Appellant's own evidence cites 9 housing developments of 251-550 units on greenfield sites in



the North West of England, where in all but 2 the abnormal costs were under £350,000 per acre, with an overall average of about £338,000. Whilst it is acknowledged that abnormal costs are, by their very nature site specific, this information does not allay my concern that a conservative position has been adopted.

127. The Ground Investigation Report indicates that based on existing ground levels, strip/ trench foundations may be suitable across most of the site. Whilst it indicates that special foundations could be required where groundwater is very shallow, the built development would be on higher ground away from the Red Brook and its floodplain. Ground levels may need raising in places, but there is insufficient evidence to support the assertion that 50% of the houses and 25% of the garages would need to have non-standard foundations. Whilst some special foundations may be required, it is highly probable that the developer would seek to keep these to a minimum to reduce the cost. This has been estimated at approximately £1.4m.
128. Enabling works are required to get the sites ready for development. Two items that stand out are the £2.2m required for topsoil and subsoil removal. The Ground Investigation Report indicates a variation in topsoil depth, which averages 391mm across the site. It has been assumed that on the area to be developed there would be 150mm thickness of topsoil on the gardens, which are assumed to comprise 25% of the development area. The remainder would be carried away off site and either sold or taken to landfill at a cost of £25 per m<sup>3</sup> or approximately £1.2m. With regards to subsoil, it is assumed that 300mm would be cut from both sites within the development areas and that this would be removed from the site at a cost of around £1m.
129. Unless the soil can be sold for more than the cost of disposing of it, I consider it reasonable to expect the developer to use as much as possible on-site. An obvious location would be increased depth on the gardens, which would benefit plant growth. It could also be directed to the open spaces, green corridors and buffers outside the floodplain. Whilst some removal may be necessary, the assumption as to the extent seems to me excessive.
130. Although it is important to bear in mind that any planning permission runs with the land, Redrow has stated in terms that it will be developing the site. No approach was made for information about its approach to value engineering or economies of scale. In the absence of information to the contrary it is a reasonable assumption that it would behave in a similar way to any other volume housebuilder. Even if only half of the above costs were saved, there would be a potential costs saving of over £2m.

### *Values*

131. The Planning Practice Guidance indicates that for site-specific assessments, market evidence should be used and that this should be adjusted to take account of variations such as form, scale and location. The difference in overall sales values between the Appellant and the Council is about £5.8m. Within a "hot" market location values are assumed to be high and this is reflected in the amount of Community Infrastructure Levy that has to be paid. The Appellant's argument is that in this case the values are not high but the Levy payment cannot be avoided as a significant cost.

132. It seems to me that one of the main differences between the parties relates to the likely influence of Partington. I have no doubt that a prospective purchaser would be fully aware that immediately north of the Red Brook is a large estate of social housing and that this includes areas with high levels of social and economic deprivation. However, for the reasons I have already given, I consider that the Red Brook and its wooded corridor provide a substantial physical and perceptual barrier. Furthermore, this sense of separation would be enhanced by the swathe of landscaped open space on the northern side of each site.
133. From site 1 the estates of social housing are not readily apparent. The main view northwards is of playing fields, although the upper parts of the school, sports and community buildings and the two cul-de-sacs of private detached homes are evident, especially in the winter months. From the eastern end of site 2, there is a more open view of the terraced social housing on the southern side of Oak Road but from the centre and western end this is largely screened by vegetation. The proposals include a large amount of open space with several green corridors running through each site. About half of the total land area would remain undeveloped. Bearing all of this in mind, I have no doubt that the marketing of these houses would emphasise the proximity to the countryside, the green credentials of the site and the closeness to the historic village of Warburton as well as other attractive settlements such as Lymm and Altringham. Of course, prospective purchasers would be well aware of the presence of Partington but I would expect any competent marketing exercise to emphasise its positive attributes such as the relative proximity of schools, shops, sports and leisure facilities.
134. The most relevant new build comparator is agreed to be Glazebrook Meadows. This is a relatively small development of 27 houses and 9 apartments on the western side of the Manchester Ship Canal. From my visit I observed that this is in a countryside location just outside the village of Glazebrook. One of its great advantages is its proximity to the railway station with services between Liverpool and Manchester. I also noted that there did not appear to be any social housing in the vicinity, including at Glazebrook Meadows itself<sup>14</sup>. On the other hand the northern site boundary adjoins the railway line and there are few convenient shops, schools or other facilities nearby.
135. The proposed 2 bedroom dwellings are quite similar in size to the 3 bedroom houses at Glazebrook Meadows. The average 2019 sales price was £250 per ft<sup>2</sup>, which would result in a unit price of £187,500<sup>15</sup> if applied to the 2 bedroom houses at the appeal sites. I am not convinced that Glazebrook is a superior location or that there are grounds to apply a consequent discount to the price of the 2 bedroom appeal dwellings. On the other hand, there is evidence that the housing market is performing strongly in the North West and in the Greater Manchester area in particular resulting in house price increases. In the circumstances, I prefer the Council's assessment to that of the Appellant.

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<sup>14</sup> It is understood that a commuted sum was paid to provide affordable housing off-site.

<sup>15</sup> This is derived from multiplying the square footage of the proposed 2 bed dwellings (750 ft<sup>2</sup>) by £250.

136. The 3 and 4 bedroom houses in the appeal scheme are significantly larger than the houses in Glazebrook Meadows and there is very little other nearby new build comparative evidence to assist. The Appellant has referenced the second-hand market and applied an uplift to reflect that new-build homes generally command a premium price. However, the uplift to be applied will be a matter of judgement. For the reasons I have given Partington, although it is the closest market area, is of a very different nature and character. The two marketing reports<sup>16</sup> commissioned by Redrow placed too much emphasis on the negative influence of Partington, in my opinion. I note that the more recent report by Property Perspective, which concludes similar values for the new houses as the Appellant, was a desk top analysis without the benefit of a site visit. Furthermore, these reports relied on second-hand sales data mainly from 2018 and 2019 and it is unclear whether any allowance was made for house price inflation.
137. Between July 2019 and April 2020 the average sale price for houses in Partington overall was £155,630 (£178 per ft<sup>2</sup>) and £137,000 (£143 per ft<sup>2</sup>) for the southern part of the settlement closest to the site. On the Appellant's assessment the average sales price across the appeal sites would be £236 per ft<sup>2</sup>. (32% above Partington overall). The Council's equivalent figure would be about £249 per ft<sup>2</sup> (39% above Partington overall). For all the reasons I have given I prefer the Council's figure in this case. However, even if it is overly optimistic as the Appellant claims, on the available evidence I consider that the appeal development has been significantly undervalued in the FVA.

#### *The Unilateral Undertaking*

138. There is a covenant in the UU that requires a revised FVA to be submitted along with the reserved matters. This was inserted into the draft Deed at the very end of the inquiry. However, I have serious doubts about the suggested covenant in the UU for various reasons.
139. Whilst I am sure the intention is that the revised FVA would be based on the reserved matters there is no requirement that it should do so. Even on the assumption that this were to be the case, any form of dispute resolution requires both parties to have an input into the proceedings. This would not be the case here as the Council would not be permitted to question the inputs or judgements on which the revised FVA was based. It was clear from the length and detail of the evidence on viability to the inquiry that there is considerable scope for expert disagreement. I have no reason to believe that the professional costs witnesses<sup>17</sup> did not act other than in full accordance with their professional code of conduct. Yet there was so little agreement between them that they were not even able to sign a statement of common ground.
140. In addition, the dwelling mix was agreed by the viability experts. I do not therefore consider that there is any justification for a review on values. As far as I can see, the covenant would effectively transfer the decision on affordable housing provision to a third party who has no legitimacy as a decision maker in the public interest. The Council would be by-passed in this respect and bound by the terms of a covenant to which it is not a signatory and does not agree. In the circumstances, I do not consider that the

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<sup>16</sup> By Property Perspective (September 2020) and Bellhouse Surveyors (March 2020).

<sup>17</sup> Ms K Sandford BA(Hons) MRICS and Mr G Bushell FRICS MAE QDR APAEWE.

suggested planning obligation would be an acceptable means by which to address the affordable housing issue in this case.

### **Overall conclusions**

141. For all of the above reasons, I consider that the costs in the Appellant's FVA are likely to be too high and the values too low. This means that effectively the risk to the developer is reduced at the expense of the public purse. I have not assessed all of the inputs but have done sufficient to conclude that there is the reasonable probability that significant costs savings and value increases could be made. Of course this would have an implication for various contingencies and fees. However, any adjustment would not alter my headline conclusion that, on the available evidence, there would appear to be sufficient residual value to fund 45% affordable housing or at the very least a significant proportion to help address local and Borough-wide affordable housing needs.

### **OVERALL CONCLUSIONS AND PLANNING BALANCE**

142. The proposed development would be contrary to the spatial strategy in the development plan, including saved policy C8 in the UDP and policies R4 and L1 in the CS. It would also cause harm to landscape character in conflict with saved policy ENV17 in the UDP and policy R2 in the CS. There would be harm to heritage assets, contrary to policy R1 in the CS. The failure to provide affordable housing would conflict with policy L2 in the CS. Whilst it would not offend policies relating to accessibility and highway safety, overall I consider that the appeal scheme would be contrary to the development plan when taken as a whole. I now turn to consider whether there are material considerations that would determine that my decision should be made otherwise than in accordance with the development plan.
143. The Council can only demonstrate a deliverable supply of land to meet about 2.4 years of the Borough's housing requirement. This is a very serious shortfall and does not comply with the Government's objective of boosting the the supply of homes to meet peoples' housing needs. Furthermore, the Housing Delivery Test indicates delivery is well below the Framework requirement over the last 3 years. Whatever the reason for these failures, they are a matter of considerable concern.
144. Paragraph 11 of the Framework indicates that in such circumstances the presumption in favour of sustainable development is engaged. In this case however I have found there is applicable policy in the Framework that protects assets of particular importance and provides a clear reason for refusing development. The assets in question here are several Grade II listed buildings and the applicable policy is paragraph 196. Before I consider this matter I turn to the benefits of the scheme.

### **Benefits**

145. The evidence indicates that the site could yield 150 dwellings within the next 5 years and this would make a significant contribution to reducing the deficit. There would also be provision over the longer term. In addition, the provision of market homes and family housing would help improve the housing mix and balance within a part of the Borough with a relatively high proportion of social housing. These are matters to which I attribute substantial weight as a

planning benefit, especially at a time when the construction of housing will be an important driver in economic recovery after the COVID-19 pandemic.

146. The development would generate employment during the construction period over several years. Furthermore, there would be a reliance on associated goods and services that would help support local businesses and tradespeople. The new population would generate additional income that would increase spending in the local economy and support local shops and services. These are economic advantages of moderate weight.
147. The scheme would deliver a number of accessibility benefits. The new bus stops in Moss Lane, the improvements to the two bus stops in Warburton Lane and the additional CAT 5A bus service would provide additional facilities to encourage the use of public transport by existing as well as new residents. Indeed the CAT 5A contribution may provide the only service to Warrington in the future, if the current subsidy is withdrawn. These are benefits of moderate weight.
148. The site would include a large amount of open space and green infrastructure in excess of the policy requirement. As I have indicated this would be available for Partington residents if they wished to use it. It would add to the recreational facilities provided by the walking trails beside the Red Brook, although outsiders would have to reach it via the main accesses in the absence of additional pedestrian bridges. There is also scope to enhance biodiversity, although this would be expected in accordance with Framework objectives. The green corridors through the site could provide scope for links to the surrounding countryside, although much of the surrounding land is in private ownership. These are benefits of limited weight.
149. The improvements to the Manchester Road/ Moss Lane roundabout junction would provide capacity over and above what is required to accommodate the development traffic. On the other hand, it may be provided by the Lock Lane developer rather than the Appellant. In the circumstances this is attributed minimal weight as a benefit.
150. The Appellant mentions a number of other things that are considered as benefits. However, these are generally required to address development specific impacts. The Cross Lane Playing Fields improvement is a case in point. Reference has been made to various generic payments. The New Homes Bonus is intended to incentivise housing growth but as far as I am aware this would not be ring fenced by the Council for projects that might benefit the local area. Council Tax and the Community Infrastructure Levy may generate significant revenue but they are necessary to deliver local services and infrastructure to support the new development. I therefore attribute negligible weight to these factors as benefits of the scheme.

### **The heritage balance**

151. The harm to the significance of designated assets would be less than substantial in nature. In the case of Heathlands Farmhouse, Heathlands Barn, the barn to the south-east of Birch Farmhouse and the curtilage listed buildings, the harm would be at a moderate level within that spectrum. In the case of the farm building at Warburton Park Farmyard and the curtilage listed buildings it would be at a minor level within that spectrum.

152. Nevertheless, in my judgement the benefits that I have outlined above would be of sufficient importance to outweigh the harm that would arise to the significance of the designated heritage assets, both individually and in terms of group value where relevant. In reaching this conclusion I have applied the balancing exercise so as to give great weight and importance to the conservation of the heritage assets, understanding that they are an irreplaceable resource.

### **The “tilted” balance**

153. In view of my conclusions on heritage matters, the relevant approach in the Framework is to consider the balance in accordance with paragraph 11d)ii).
154. The proposal would be on greenfield land outside the settlement of Partington and in this respect it would not accord with the spatial strategy in the development plan. However, bearing in mind the housing land supply position, the policy conflict in this respect would be a matter to which I give limited weight. Nevertheless and notwithstanding its relatively good accessibility credentials, the development would not be well integrated with Partington or contribute to improving the sustainability of that settlement. This is an important strategic objective of the development plan and the conflict with it is of a matter of very significant weight.
155. The failure to provide affordable housing is a matter to which I give very substantial weight in this case. The policy context is up to date and the need is clear. The viability evidence indicates that even if 45% could not be achieved, a significant amount of affordable housing could be provided.
156. Although the landscape is of local value there would be significant harm arising both to the countryside and to visual amenity. The relevant development plan policies are consistent with the Framework and are not otherwise out-of-date. I have addressed the harm to the significance of designated heritage assets above. There would also be harm to the significance of non designated assets, although the scale of harm would be relatively small in this case.
157. There is no doubt that the appeal scheme would offer substantial benefits as I have outlined above. However, there would also be very substantial harm. My judgement is that the adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against Framework policy as a whole. In the circumstances of this case there are no material considerations to indicate that this decision should be made otherwise than in accordance with the development plan.
158. I have taken account of all other matters that have been raised, but have found nothing to alter my conclusion that the appeal should not succeed.

*Christina Downes*

INSPECTOR



## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

|   |  |
|---|--|
| Mr David Forsdick                                   | Of Queen's Counsel, instructed by the Borough Solicitor, Trafford Borough Council                    |
| <i>He called:</i>                                   |  |
| Mr J Morley BSc(Hons)<br>MSc CMILT MIHT             | Principal Engineer with Amey Consulting  |
| Mr N Redhead BA(Hons)<br>MCIFA FSA                  | Heritage Management Director (Archaeology) of the Greater Manchester Archaeological Advisory Service |
| Ms E Lewis BA(Hons)<br>DipTp(Conservation)<br>MRTPI | Heritage Development Officer at Trafford Borough Council   |
| Mr N Folland BA(Hons)<br>DipLA CMLI                 | Director of Barnes Walker Limited  |
| Mr M Lloyd  | Director of Trebbi Continuum   |
| Ms K Sandford<br>BSc(Hons) MRICS                    | Divisional Director of AA Projects Ltd   |
| Ms R Coley BA(Hons) MA<br>MRTPI                     | Head of Planning and Development at Trafford Borough Council   |
| Ms S Todd BA(Hons)<br>MCD MRTPI                     | Principal Transport Policy Officer at Trafford Borough Council                                       |
| Mrs B Brown BA(Hons)<br>DipTP MRTPI                 | Major Planning Projects Officer at Trafford Borough Council  |
| *Mrs S Lowes BA(Hons)<br>MRTPI                      | Major Planning Projects Manager  |

\*Participated in the Planning Obligation and Planning Conditions session only

### FOR THE APPELLANT:

|  |   |
|--|---|
| Mr David Manley                                    | Of Queen's Counsel, instructed by WSP   |
| <i>He called:</i>                                  |   |
| Mr D Roberts IEng FIHE<br>FCIHT                    | Director of SCP                         |
| Mr I Grimshaw<br>BA(Hons) MA(LM) MSc<br>CMLI MRTPI | Director of The Environment Partnership |
| Ms H Kelly BSc CifA                                | Director of Heritage Archaeology Ltd    |
| Dr K Armstrong MCifA                               | Director of Magnitude Surveys Ltd       |
| Mr D Nesbitt MRICS<br>APAEWE                       | Partner of Cushman and Wakefield        |
| Mr G Bushell FRICS MAE<br>QDR APAEWE               | Director of Expertqs                    |
| Mr D Hann BA(Hons)<br>MTpl MSc MRTPI               | Director of WSP                         |
| *Mrs S Wozencroft                                  | Planning Director of WSP                |
| MPlan(Hons) MRTPI                                  |   |
| **Ms C Cockrell                                    | Solicitor for Redrow Homes Limited      |

\*Participated in the Planning Obligation and Planning Conditions session only

\*\*Participated in the Planning Obligation session only

**FOR THE RULE 6 PARTY:**

|                      |  |
|----------------------|--|
| Mr Killian Garvey    | Of Counsel, instructed by Warburton Parish Council                                 |
| <i>He called:</i>    |  |
| Dr M Nevell CIfA FSA | Archaeological Advisor to Warburton Parish Council                                 |
| Mr P Beckmann CMLI   | Environmental Advisor to Warburton Parish Council and Member of the Parish Council |
| Mr Priestner         | Member of Warburton Parish Council   |

**INTERESTED PERSONS:**

|                |   |
|----------------|---|
| Mrs C Grace    | Local resident and member of Warburton Parish Council     |
| Dr T Fairbairn | Local resident  |
| Mr B Jones     | Local resident and member of Warburton Parish Council     |
| Mr R Nicholls  | Local resident and Chair of Warburton Parish Council      |
| Dr J Chillala  | Local resident and Senior Consultant at Trafford Hospital |

## DOCUMENTS SUBMITTED DURING THE INQUIRY

- 1 *CEG Land Promotions Limited v Secretary of State for housing, Communities and Local Government v Aylesbury Vale District Council* [2018] EWHC 1799 (Admin), 2018 WL 03440406, submitted by Mr Garvey
- 2 Inspector's question on prematurity: Council's response
- 3 Written representation of the Jukanti family (21 October 2020)
- 4 Email from Mr Gary Hall, Chief Executive Officer of Chorley Council and Interim CEO of South Ribble Council regarding Mr Lloyd's involvement on the Leyland Test Track viability case (22 October 2020)
- 5 Viability Supplementary Note prepared by Mr Nesbitt regarding evidence of Mr Lloyd relating to the Leyland Rest Track viability case
- 6 Additional information provided by the Council relating to the viability evidence
- 7 Plan showing the 3 main junction locations, submitted by Mr Forsdick
- 8 Outstanding points arising from Ms Sandford's cross-examination, submitted by Mr Forsdick
- 9 Information on Mouseprice, submitted by Mr Forsdick
- 10 Comparison between Council and Appellant's abnormal costs and base build costs, submitted by Mr Forsdick
- 11/A Note on drainage to the existing ponds to the south-west of the appeal site by Betts Hydro, submitted by Mr Manley
- 11/B Response from Mr Beckmann on behalf of Warburton Parish Council
- 12/A Letter from Ms S Todd, Chief Executive of Trafford Council to Peel Land and Property Group concerning Ms R Coley's evidence to the inquiry, submitted by Mr Forsdick
- 12/B Letter to Ms Todd from Mr J Whittaker, Peel L&P in response, submitted by Mr Forsdick
- 12/C Trafford City – Economic Impact
- 12/D Note by the Council regarding Documents 12/B and 12/C
- 13 Inspector's question on prematurity: Appellant's response
- 14 Court of appeal documents in relation to an application to appeal against the refusal of the High Court to grant Peel Investments (North) Limited permission to apply for judicial review (11 January 2018), submitted by Mr Forsdick
- 15 Housing Delivery Test Action Plan (August 2020), submitted by Mr Forsdick
- 16 The Council's written response to the design evidence of Mr Haralambous
- 17 New Carrington GMSF Masterplan (September 2020)
- 18 Extracts from Regulation 19 draft Greater Manchester Spatial Framework, including Policy GM-STRAT 11 and Policy GM Allocation 41
- 19 Technical Note on Old Warburton Lane by SCP (29 October 2020), submitted by Mr Manley
- 20/A Note from Keppie Massie on its experience of viability assessment, submitted by Mr Manley
- 20/B Addendum Advice Note by Keppie Massie for South Ribble

- 20/C Borough Council (September 2019), submitted by Mr Manley  
Email from Mr Ged Massie regarding a request from the Council that a representative from Keppie Massie attend the inquiry (4 November 2020), submitted by Mr Manley
- 20/D Letter from South Ribble Borough Council regarding Document 20/B, submitted by Mr Forsdick
- 21 Additional information from the Council on appeals in Trafford over recent years
- 22 Letter from Redrow in answer to Inspector's questions regarding build out periods and implementation of development (3 November 2020), submitted by Mr Manley
- 23 Additional information from the Council on various points raised by the Inspector with Mrs Brown
- 24 Warburton Parish Council's written response to the design evidence of Mr Haralambous
- 25 Carrington Relief Road: Outline Business Case – Executive Summary (December 2019), submitted by Mr Forsdick
- 26/A Extract from WYAS Archaeological Services Report: Plots E1 and E2 at Carrington – Archaeological trial trenching and excavation (September 2019), submitted by Mr Forsdick
- 26/B Emails from Mr P Owen (RPS) to Mr N Redhead regarding the geophysical survey and trial trenching at the appeal site, submitted by Mr Forsdick
- 26/C Historic England: Agriculture – Scheduling selection guide, submitted by Mr Forsdick
- 26/D Historic England: Settlement sites to 1500 – Scheduling selection guide
- 27/A Report to the Planning and Development Management Committee on developer contributions towards the Carrington Relief Road (15 October 2020), submitted by Mr Forsdick
- 27/B Addendum to the above document
- 27/C The Council's note regarding the application of contributions to the Carrington Relief Road from sites outside of the policy SL5 area, submitted by Mr Forsdick
- 27/D List of schemes making up the anticipated developments in Table 2 of the Committee Report, submitted by Mr Forsdick
- 28 Leyland Test Track: Response by Cushman & Wakefield to the Trebbi viability synopsis (July 2019), submitted by Mr Forsdick
- 29 Council's response to the Document 19 Technical Note relating to Old Warburton Lane
- 30 Outline Business Case for the Carrington Relief Road (1 May 2018), submitted by Mr Forsdick
- 31 Addendum to the above Outline Business Case, including Appendices A-G, submitted by Mr Forsdick
- 32 Carrington Relief Road – Forecast cost profile, submitted by Mr Forsdick
- 33 The Appellant's response to the written representations by the Council and Warburton Parish Council on Mr Haralambous's evidence on design matters (Documents 16 and 24)
- 34/A Letter from the Appellant regarding an updated viability appraisal and identification of the potential for affordable housing provision following the submission of reserved matters (6 November 2020)
- 34/B The Council's response to Document 34/A (7 November 2020)

- 35 Supplementary Note by Mr Bushell concerning the expenditure profile of the abnormal drainage infrastructure
- 36/A Appellant's Supplementary Planning Note on the Council's approach to viability and benefit weight on other schemes
- 36/B Planning Committee Report on Land at Heath Farm Lane, Partington (12 November 2020), submitted by Mr Manley
- 36/C Planning Committee Report on the former Kellogg's site, Talbot Road, Stretford, submitted by Mr Manley
- 37 Appellant's CIL compliance rebuttal note
- 38 Carrington Relief Road contributions calculation, submitted by Mr Manley
- 39 Technical Note on the Carrington Relief Road and public transport contributions by Mr Roberts
- 40 Appeal decision relating to land east of the former shellfish packing station, South Fambridge (APP/B1550/W/15/3130774), submitted by Mr Garvey
- 41 Junction capacity at the Flixton Crossroads in the AM peak for scenarios including the development with and without mitigation, submitted by Mr Forsdick
- 42 Appellant's further response to the Council's response to Document 19 relating to Old Warburton Lane
- 43/A Covering email regarding instruction of The Property Perspective and Bellhouse Surveyors, submitted by Mr Manley
- 43/B CV and Terms of Engagement for the author of the Report by The Property Perspective referred to in Mr Nesbitt's evidence, submitted by Mr Manley
- 43/C CV and Terms of Engagement for the author of the Report by Bellhouse Surveyors referred to in Mr Nesbitt's evidence, submitted by Mr Manley
- 44 The Council's response to the WSP note on other planning applications, particularly Heath Farm Lane (Document 36A)
- 45/A Schedule of draft conditions agreed between the Council and Appellant
- 45/B Schedule of draft conditions not agreed by the Council and Appellant
- 45/C Council's suggested amended noise condition
- 46 Written representation by Altrincham and Bowdon Civic Society (11 November 2020)
- 47 Chronology of events regarding RPS involvement in the archaeology evidence to the appeal and related emails (see Document 26B), submitted by Mr Manley
- 48/A Planning Obligation by Unilateral Undertaking dated 2 December 2020, submitted by Mr Manley
- 48/B Appellant's covering letter to the Planning Obligation
- 48/B Council's final comments on the Planning Obligation
- 49/A Costs application by the Council
- 49/B Costs reply by the Appellant
- 49/C Final costs response by the Council
- 50 Inspector's letter closing the inquiry in writing (10 December 2020)



## Costs Decision

Inquiry Held on 19-23 October, 2-6 November, 9-13 November 2020

Site visits made on 17 and 31 October 2020

**by Christina Downes BSc DipTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 25<sup>th</sup> January 2021**

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### **Costs application in relation to Appeal Ref: APP/Q4245/W/19/3243720 Land at Warburton Lane, Trafford**

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Trafford Borough Council for an award of costs against Redrow Homes Limited.
  - The inquiry was in connection with an appeal against the failure of the Council to issue a notice of their decision within the prescribed period on an application for a residential development of up to 400 dwellings, including the creation of new points of access, provision of formal and informal open space, ancillary landscaping, car parking and highway and drainage works.
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### **Decision**

1. The application for an award of costs is refused.

### **Reasons**

2. The *Planning Practice Guidance* advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process
3. Costs are being sought on the basis that the Appellant's viability case had no chance of succeeding. In this case the failure to provide affordable housing on the basis of viability was not the sole determinative issue and so I do not consider that the appeal itself was bound to fail. It was one factor in the overall planning balance and for that reason I have considered this application on the basis of a partial award. Many of the points made in the costs application and response seem to me to repeat matters of evidence. I have dealt with the planning merits in my appeal decision and do not repeat them here.
4. Benchmark Land Value (BLV) was a contested issue in the viability evidence. However, both the Applicant and the Appellant used the EUV+ approach endorsed by the Planning Practice Guidance. The + value is a matter of judgement and there is no requirement in the guidance that all costs must necessarily be taken into account when seeking to establish the minimum price that a landowner would accept. Whilst I did not agree with the BLV put forward by the Appellant in this case, that does not mean that it was unreasonable.
5. In terms of values, the Appellant's expert agreed that Glazebrook Meadows was a good comparator for the smaller dwellings. Whether Glazebrook was a superior location to the appeal site and the degree of influence of Partington on sales values at the appeal site are matters of professional judgement. Whilst I



have not agreed with the Appellant's expert witness on these points, his conclusions were not unreasonable. I note that they were supported by the expert reports commissioned independently by Redrow.

6. In terms of costs, it is clearly much easier to undertake an assessment with a full planning application. However, outline applications are commonplace for larger development proposals and affordable housing provision has to be determined at this stage. In such circumstances the information will be less clear and involve assumptions. The value of such assumptions will depend on the basis on which they are made. In this case I am satisfied that the Appellant's costs expert had a wide experience and that he acted in accordance with his professional obligations.
7. I do not consider that there is evidence that there was a deliberate attempt to inflate costs, indeed that would be contrary to the RICS Code of Conduct. I have concluded that a conservative approach was taken, and I agreed with the Council that it is likely that costs savings would be made through value engineering, amongst other things. However, there is no right or wrong answer as certainty would only be provided once the scheme has been worked up in detail. I have indicated that it would have been a good idea to ask Redrow about their approach to costs savings, but a reason was given as to why this was not considered appropriate. To my mind it was a credible explanation.
8. There were three days of viability evidence at the inquiry and virtually no agreement on any of it. It seems to me that the forensic examination by the Applicant was bound to reveal some errors and areas that were not as robust as they could have been. However, this was certainly not helped by the antagonism of the expert witnesses to each other and the resultant failure to obtain any degree of co-operation. Although the costs application is made against the Appellant, the Applicant must take its fair share of responsibility for this unfortunate state of affairs. As I have indicated in my decision, I consider that this was at least in part due to broader issues going on in the Borough that had little relevance to this appeal.
9. I do not consider it necessary to go through each point made by the Applicant and rebutted by the Appellant. Much of it, as I indicated above, is a repeat of the planning merits raised at the inquiry and which I have considered, where necessary, in my appeal decision. Standing back, and considering the evidence overall, I do not conclude that unreasonable behaviour has been demonstrated. It follows that unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been incurred.

*Christina Downes*

INSPECTOR