The Planning Inspectorate

Appeal Decision

Inquiry opened on 14 July 2015
Site visit made on 22 July 2015

by David Prentis BA BPl MRTPI

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

Decision date: 26 August 2015

Appeal Ref: APP/V4250/W/15/3003142
Land to the south of Rectory Lane, Standish, Wigan

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Persimmon Homes and Morris Homes against the decision of Wigan Metropolitan Borough Council.
- The application Ref A/14/79189, dated 27 March 2014, was refused by notice dated 22 July 2014.
- The development proposed is development of up to 250 dwellings with associated green infrastructure (all matters reserved).

Decision

1. The appeal is allowed and outline planning permission is granted for development of up to 250 dwellings with associated green infrastructure (all matters reserved) at Land to the south of Rectory Lane, Standish, Wigan in accordance with the terms of the application, Ref A/14/79189, dated 27 March 2014, subject to the conditions set out in the attached schedule.

Preliminary matters

2. The Inquiry sat for 6 days on 14 - 17, 21 and 22 July 2015. There was an accompanied site visit on 22 July 2015 and I also carried out unaccompanied visits to the site and surrounding area before and during the Inquiry.

3. The application was submitted in outline with all matters reserved for subsequent consideration. An illustrative masterplan was submitted with the Design and Access Statement. The appellant has outline planning permission for 250 dwellings in the first phase of its proposed development to the south of Rectory Lane. The masterplan shows how the appeal site could be developed as a second phase with a comprehensive approach to urban design and green infrastructure across both phases. Access to the appeal site would be gained via the first phase.

4. The appeal was heard together with an appeal by Jones Homes Fylde Limited (JH) relating to an outline application for residential development with associated infrastructure for up to 110 dwellings at land adjacent to Lurdin Lane and to the west of Chorley Road, Standish, Wigan. The Inquiry heard evidence in relation to both appeals, including evidence on the effect of the two appeal schemes in combination. All of that evidence has been taken into account in both appeal decisions. At the close of the Inquiry the Council stated

that its position in relation to both appeals was identical. The JH appeal is the subject of a separate decision document.

5. The Council's second reason for refusal related to the cumulative impact of the appeal scheme, together with other developments already approved in Standish, on the local highway network. Following the submission of further information by the appellant the Council confirmed at the beginning of the Inquiry that it would not be pursuing this reason for refusal. The agreement on highways matters is recorded in a Statement of Common Ground between the Council, the appellant and JH[1].

6. The appellant submitted an Environmental Statement (ES) with the application. In reaching my decision I have had regard to the relevant environmental information including the ES and the representations received in relation to the environmental impacts of the proposed development.

7. A unilateral undertaking (UU) under s106 of the Town and Country Planning Act 1990 was submitted at the Inquiry. The UU makes provision for financial contributions to primary and secondary education, community facilities, public transport enhancements and travel plan monitoring. It also contains provisions relating to the delivery of 25% of the units as affordable housing, the phasing of the development in relation to highways works and a leisure facility within the first phase of the Rectory Lane development, the future management and maintenance of open space within the site and the submission and implementation of an Ecology Mitigation Strategy. I comment further on the UU below.

8. After the close of the Inquiry the appellant and P&M submitted a joint statement drawing attention to a recent appeal decision within the borough[2]. Whilst I have noted that decision, in my view it does not add materially to the evidence that was before the Inquiry. In particular, it should be borne in mind that the Inspector's comments on housing land supply related to a different base date.

Main issues

9. The main issues are:

   - the effect of the proposal on the spatial strategy for the borough, and
   - whether the proposal would represent a sustainable form of development for the purposes of the development plan and the National Planning Policy Framework.

10. Before turning to the main issues I shall describe the site and policy context and deal with the issue of housing land supply (HLS).

Reasons

Site and policy context

11. The appeal site extends to around 9.6ha of open grassland, with groups of trees and some ponds, located on the edge of Standish. It is part of the former Standish Golf Course which is now disused. The first phase of the appellant's

[1] JH/PM/LPA1
[2] Bee Fold Lane, Atherton - APP/V4250/A/14/2226998

proposed development would be located on former golf course land immediately to the north west of the appeal site. To the south west there are residential properties. To the east and south there is predominantly open land interspersed with areas of woodland, some of which is covered by Tree Preservation Orders (TPO). The site is crossed by a public footpath which runs from Grove Lane, to the west, towards Chorley Road to the east.

12. The development plan includes the saved policies of the Wigan Replacement Unitary Development Plan 2006 (WRUDP) and the Wigan Local Plan Core Strategy (CS), adopted in September 2013, which covers the period to 2026. The first reason for refusal refers to WRUDP Policy GB2, which seeks to protect safeguarded land which may be required to serve development needs in the longer term. Safeguarded land was identified in WRUDP with the intention that it would provide a reserve for future development such that it would not be necessary to alter the boundaries of the Green Belt at the end of the plan period. At the Inquiry the Council accepted that Policy GB2 is effectively superseded by the policies of the CS. Accordingly, the Council placed no reliance on Policy GB2. The Council and the appellant agreed that the appeal scheme is in accordance with the other policies of the WRUDP insofar as they are relevant to the appeal scheme[3].

13. The spatial vision of the CS is about connecting people to opportunities. Elements of the vision include improving the supply of good quality housing across the borough to ensure a balanced housing market offer and choice, improving access to affordable housing and ensuring that new development provides a catalyst to uplift communities in the east-west core (EWC) traditionally suffering from social, economic and environmental deprivation.

14. Objective H 1 seeks to meet the borough's need for new housing in terms of quantity, size, type, tenure and affordability. Policy SD 1 sets out a presumption in favour of sustainable development in terms which are very similar to those of the National Planning Policy Framework (the Framework). It states that where relevant policies are out of date at the time of making a planning decision, permission for sustainable development should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits[4]. Policy CP 6 seeks to ensure that there is sufficient housing in the borough by making provision for an average of at least 1,000 net additional dwellings per year between 2011 and 2026, focussing at least 80% of new housing in the EWC and maintaining a 5 year supply of deliverable housing land.

15. The spatial strategy is set out at CS Policy SP 1 which states that development will be directed primarily towards the EWC[5] in order to achieve transformational regeneration and create attractive places for people to live and businesses to locate and thrive. The policy also identifies two broad locations for new housing development outside the EWC, at Golborne and Lowton to the south and at Standish to the north. The purpose of allowing for a limited amount of new housing in these locations outside the EWC is to expand the range and choice of sites available for new housing whilst bringing flexibility in the supply of housing land to meet the borough's needs.

[3] Joint Statement of Common Ground – JH/PM/LPA2
[4] Or where specific policies in the Framework indicate that development should be restricted
[5] The EWC includes Wigan and other towns which are listed in the policy and is shown in the CS Key Diagram

16. CS Policy SP 4 sets out the policy for the broad locations. Specific sites are to be allocated in a subsequent plan. However, the policy states that planning permission may be granted for applications which reflect the overall scale and form of development envisaged in each broad location in advance of such a plan in order to contribute to the supply of housing in the short term. Such proposals would need to take account of the capacity of infrastructure, the ability to integrate the development with the community and the ability to deliver the development having regard to site constraints. Standish is allocated as a broad location for housing with approximately 1,000 dwellings on safeguarded land up to 2026[6].

Housing land supply

17. The appellant and JH adopted a joint case on HLS matters. The Council has recently published the Wigan Strategic Housing Land Availability Assessment 2015 Update (SHLAA). Although this document is a consultation draft, and therefore subject to change, it is the most recent document from the Council regarding HLS. It has a base date of 1 April 2015. The Council and the appellant agreed that this is the appropriate base date for assessing HLS for the purposes of the appeal. The deliverability of various HLS sites identified in the SHLAA was discussed at a round table session. As a result of discussions during the course of the Inquiry the Council and the appellant made adjustments to their evidence on HLS matters. Their respective positions at the close of the Inquiry are summarised in two agreed documents[7].

18. The parties agreed that the Council could not demonstrate a 5 year HLS as required by the Framework. There was agreement in relation to the amount of the requirement, the extent of the shortfall from previous years and the need for a 20% buffer. There was not agreement over how the shortfall should be factored in to the 5 year HLS calculation.

Approach to the shortfall from previous years

19. The parties agreed that the total net shortfall against the CS requirement since 1 April 2011 is in excess of 2000 dwellings. This is a significant shortfall which reflects the fact that delivery has been less than half of the CS requirement in the first 4 years. The appellant argued that this shortfall should be added to the requirement for the next 5 years. This method, which is sometimes called the Sedgefield approach, is consistent with Planning Practice Guidance (PPG) which states that local planning authorities should aim to deal with any undersupply in the first 5 years of the plan where possible. The Council argued that the shortfall should be added to the requirement for the whole of the remaining plan period up to 2026. This method, which would have the effect of reducing the requirement in the next 5 years, is sometimes called the Liverpool approach.

20. At the Inquiry the Council suggested that use of the Liverpool approach was justified because much of the supply in Wigan borough will come from sites in the EWC. These will have longer lead-in times due to the need to resolve issues such as remediation and infrastructure provision. I have no reason to doubt that the Council is making considerable efforts to bring forward sites in the

[6] The Council's reason for refusal also refers to CS Policy CP 8. However, at the Inquiry it was agreed by all parties that this policy is not relevant to either appeal as the sites are within the broad location at Standish.
[7] Housing yield comparison (JH/PM/LPA3) and Revised 5YS calculations (JH/PM/LPA4)

EWC. I also note that the housing trajectory in the CS anticipated that delivery would be well below the average rate of 1,000 dwellings per year in the first 4 years of the plan period. That said, CS Policy CP 6 states that a 5 year HLS will be maintained. There is no suggestion in the CS that HLS would be calculated other than in the usual way. Moreover, the trajectory shown in the CS[8] shows delivery well above 1,000 dwellings per year in the 5 year period commencing April 2015, falling back to delivery closer to the average rate in the final 6 years of the plan period. This trajectory is consistent with the use of the Sedgefield approach.

21. A further point to take into account is that the Inspector who carried out the examination of the CS (the CS Inspector) supported the identification of broad locations outside the EWC for the specific purpose of addressing a potential shortfall in the early years of the plan[9]. There is no suggestion in the CS Inspector's report that any lack of early delivery should be addressed by adopting a particular approach to calculating the HLS – no doubt because he concluded that the CS, as modified, would result in an appropriate HLS being maintained. It is also relevant that the SHLAA itself stops short of advocating the Liverpool approach – it merely sets out what the HLS position would be in the event that either the Sedgefield or the Liverpool approach were to be adopted.

22. Finally, the Council suggested that adopting the Sedgefield approach would result in an 'incurable' HLS position. That is not a line of argument which finds any support in PPG or the Framework. To my mind it is tantamount to saying that the CS trajectory is no longer realistic. The Council did not seek to argue that the CS as a whole is out-of-date. To conclude on this point, I consider that the Sedgefield approach is consistent with PPG and also with the Framework which seeks to boost the supply of housing land. In my view it has not been shown that there are circumstances which justify adopting an alternative approach.

23. Adopting the Sedgefield approach, taking account of the agreed 20% buffer, the Council considers that it can demonstrate 3.99 years supply whereas the appellant considers that there is only 3.09 years supply[10].

The supply of deliverable housing sites

24. The Framework states that sites with planning permission should be regarded as deliverable unless there is clear evidence that they will not be delivered in 5 years[11]. Whilst the appellants raised various points against a number of sites, in several cases this did not amount to the clear evidence required to discount the sites in question. However, there were some large sites where I consider that the evidence from the appellant on lead-in times and delivery rates is to be preferred. In general, I consider that the indicative lead-in times set out in Table 1 of the SHLAA should be adopted unless there is good evidence that shorter times are likely to be achieved. Moreover, there needs to be evidence to justify a delivery rate which assumes more than one developer will be

[8] Table 9.3
[9] Paragraph 99 of CD 5
[10] On the Liverpool approach the Council's figure would be 4.75 years and the appellant's figure would be 3.67 years
[11] Footnote 11

involved in a site. There are also two sites which I consider should not be included for site-specific reasons identified by the appellant[12].

25. On some sites in Standish the appellant argued that delivery rates will be higher than those assumed in the SHLAA. For reasons discussed below, I agree with that view. This would have the effect of increasing the deliverable supply from the sites in question.

26. The supply identified in the SHLAA includes a number of sites which do not have planning permission. The appellant drew attention to the *Wainhomes* case[13]. That case dealt with sites which had been identified in a draft plan but did not have planning permission. In the present case, the sites in question have not reached the stage of being allocated, even in draft. Consequently, it seems to me that the principles set out in *Wainhomes* apply here with at least as much force, if not more. The judgement drew attention for the need for site-specific evidence to support the inclusion of such sites in the deliverable HLS.

27. Nevertheless, the Council has considered the sites and concluded that there is, in each case, a realistic prospect of delivery. Whilst that provides a starting point it is necessary to review the available evidence on each site. For example, there are some sites where the Council was able to show that proposals are being worked up with development partners. In my view it is generally appropriate to include such sites. On the other hand, there are sites which the evidence indicates should not be included. Examples include a site which was not selected as a broad location following consideration at the CS examination, a site which includes a well-used sports pitch and sites with existing business occupiers.

28. The *Wainhomes* judgement notes that it is unlikely that the evidence available to an Inspector will enable him to arrive at a precise figure for the deliverable HLS. That is the case here, particularly bearing in mind that the SHLAA itself is in draft and the results of consultation on it have yet to be taken into account by the Council. Nevertheless, I have made a broad assessment on the basis of the evidence before the Inquiry, including the matters discussed during the round table session. Adopting the Sedgefield approach, with the agreed 20% buffer, my overall assessment is that the supply is unlikely to be greater than around 3.7 years.

The consequences of the HLS position

29. Regardless of the methodology adopted, or the conclusions on individual disputed sites, the Council accepted that it cannot demonstrate a 5 year HLS. It follows that, in accordance with the Framework[14], relevant policies for the supply of housing should not be considered up-to-date. The appellant argued that CS Policies SP 1 and SP 4 are relevant policies for the supply of housing. My attention was drawn to *South Northamptonshire*[15]. In that case the judgement indicated that decision makers should adopt a broad approach which examines the degree to which a particular policy generally affects housing numbers, distribution and location in a significant manner.

[12] Alma Street (Tyldesley) which is a class C2 scheme and Whitworth Way (Wigan) where there is evidence of unresolved access difficulties
[13] Wainhomes (South West) Holdings Limited v Secretary of State for Communities and Local Government [2013] EWHC 597 at CD 17
[14] Paragraph 49
[15] South Northamptonshire Council v Secretary of State for Communities and Local Government [2014] EWHC 573 (Admin) at CD 18

30. Policies SP 1 and SP 4 are intrinsically linked in that the latter sets out how the former is to be delivered. Policy SP 1 seeks to direct development, including housing, primarily to the EWC. It also identifies broad locations for new housing development at Standish and elsewhere. In my view it is intended to affect the distribution and location of housing in a significant way and clearly has that effect. SP 4 similarly affects the distribution and location of housing in that it refers to various broad locations for housing. Moreover, it specifically refers to housing numbers at each broad location. It is clearly intended to affect those numbers in a significant way.

31. The Council argued that SP 1 is a permissive policy rather than a policy which is restrictive in its effect. It was also argued that SP 1 and SP 4 are central to the spatial strategy of the CS. However, neither of these points alters my view that these are policies which affect housing distribution and location in a significant way. I consider that they are to be regarded as relevant policies for the supply of housing for the purposes of the Framework. Consequently they are not to be regarded as up-to-date as a result of the HLS position[16]. However, it does not follow that the policies cease to be material considerations and I return to them later in my decision.

Effect on the spatial strategy

32. The appeal site is safeguarded land which is within the Standish broad location. Moreover, for reasons discussed below, the appeal scheme accords with the criteria of SP 4 relating to the capacity of infrastructure, the ability to integrate the development with the community and the ability to deliver the development, having regard to site constraints. To this extent there was no dispute that the proposal accords with Policy SP 4. However, the Council argued that the scale of development proposed is in excess of that envisaged at the Standish broad location. This argument was put forward in relation to the appeal scheme considered in isolation and also in relation to the combined effect of the appeal scheme and the JH scheme.

33. Policy SP 4 provides *for 'approximately 1,000 dwellings on safeguarded land up to 2026'* at Standish. The Council has already granted a number of outline planning permissions for residential development at the Standish broad location, totalling 1,044 dwellings. The addition of 250 dwellings at the appeal site would take this figure to 1,294 which is about 29% above the figure of 1,000 referred to in the policy. The CS Inspector did not think it appropriate to set a specific maximum limit at the broad locations in order to retain a degree of flexibility[17]. Nor did he think it appropriate for development at the broad locations to be significantly in excess of the numbers then being contemplated. This is reflected in the wording of the CS which states that *'a limited amount of new housing is to be developed at Golborne and Lowton and Standish'*[18].

34. Even allowing for the use of the word 'approximately' in SP 4, read in its proper context, it seems to me that a proposal to increase housing numbers at the Standish broad location to 1,294 dwellings cannot be regarded as consistent with the policy figure of approximately 1,000. In my view the resulting scale of development, taking account of permissions already granted, would not reflect

[16] Whilst I note the two appeal decisions referred to by the appellant (CD 19 and CD 20) I have reached my own view in relation to Policies SP 1 and SP 4 having regard to the facts of this case and *Wainhomes*
[17] Paragraph 102 of CD 5
[18] Paragraph 8.5

the overall scale envisaged at the Standish broad location. The appeal scheme does not therefore accord with SP 4 in this respect. It follows that the same conclusion is reached when the appeal scheme is considered in combination with the JH appeal scheme.

35. Having reached that conclusion, it is necessary to go on to consider the consequences which flow from it. The two potential consequences identified at the Inquiry were that the spatial distribution of housing envisaged in the CS might not be achieved and that housing delivery at Standish, in excess of that envisaged in the CS, would undermine the delivery of sites within the EWC.

Effect on the spatial distribution

36. The Council drew attention to the comments of the CS Inspector who concluded that development significantly in excess of 1,000 dwellings in either of the broad locations outside the EWC

'could have serious implications for the strategy of focussing development on the east-west core and would not in any case realistically lead to an additional increase in the potential annual rate of housing delivery'[19]

37. Whilst this conclusion is an important consideration, it is necessary to have regard to current circumstances. The first point to note is that the Inspector's comments were made on the basis that the scale of development he envisaged outside the EWC would be sufficient to ensure that an adequate HLS would be maintained in the borough as a whole. That has not turned out to be the case.

38. In any event, the CS Inspector's findings on this matter assumed that around 7% of the potential housing supply would come from the Standish broad location whereas around 82% would come from the EWC. CS Policy CP 6 states that at least 80% of new housing should be focussed in the EWC. At the Inquiry the appellants, together with JH, provided evidence that even if the two appeal schemes are considered in combination the proportion of total supply coming from the EWC would not fall below 80%. This evidence was not challenged by the Council. Indeed, the Council's reason for refusal did not allege any conflict with Policy CP 6, nor was such conflict advanced as part of the Council's case at the Inquiry.

39. I conclude that the scale of development proposed at the Standish broad location, taking account of permissions already granted, the appeal scheme and the JH appeal, would not be sufficient to cause material harm to the focus on the EWC set out in the CS. It follows that the same conclusion is reached if the appeal scheme is considered in isolation.

Effect on delivery at the Standish broad location

40. The Council argued that allowing either or both of the appeal schemes would be harmful to the delivery of housing in the EWC. This was on the basis that the CS envisages delivery at the broad locations outside the EWC in the early years of the plan. The CS trajectory assumes delivery of 150 dwellings per year at Standish. At this rate it would take more than 5 years for the permissions already granted to be built out. It was suggested that allowing more housing would not increase delivery in the short term but, rather, cause delivery to be spread further into the plan period. It was also suggested that this would

[19] Paragraph 102 of CD 5

create a bank of permissions for relatively unconstrained greenfield sites which would then be cherry picked by developers in preference to more constrained sites in the EWC.

41. As noted above, the Council has granted permissions for 1,044 dwellings at Standish. Outline planning permissions have been granted on 6 sites with a range of house builders involved. There have as yet been no completions from these sites. However, that is not surprising in that the permissions are relatively recent. Reserved matters applications are now coming forward and there is no reason to think that delivery will not take place following normal lead-in times.

42. The appellant agreed with JH that 199 of the 250 dwellings at this appeal site could be delivered within 5 years together with all 110 dwellings at the JH appeal site. The Council did not dispute the combined delivery that could be achieved on both appeal sites within 5 years although it was argued that this would only be achieved at the expense of slower delivery on the sites that already have planning permission.

43. The cumulative effect of the appeal scheme, together with the JH appeal scheme, would be to add to an already significant number of permitted dwellings within a relatively confined geographical area. The parties agreed that there is no direct precedent for this situation in the borough so there must inevitably be a degree of uncertainty in the projected delivery rates. That said, the appellant's housing witness produced evidence of delivery rates from other locations in the north west of England. These included strategic sites with multiple outlets and the market town of Sandbach in Cheshire where various house builders are developing on separate sites around the town. I accept that none of these locations are fully comparable with the situation at Standish. Even so, it was agreed that Standish has a relatively strong housing market. I consider that the appellant produced sufficient evidence, on a broadly comparable basis, to give support to its suggested build rates.

44. The appellant produced a trajectory for Standish which indicates that the involvement of a number of house builders would enable total delivery of up to 284 dwellings per year. This would be considerably higher than the 150 dwellings per year in the CS trajectory. As noted above, I consider that there is a degree of uncertainty given the lack of a direct precedent. However, even if delivery rates turn out not to be as high as the appellant's trajectory indicates, I consider that either or both of the appeal schemes would still be likely to make a material contribution to delivery within the first 5 years. To my mind the available evidence does not indicate that the effect of allowing both schemes would be to bring about a harmful oversupply at Standish.

Effect on delivery in the EWC

45. The appellant's housing witness produced evidence in relation to the Wigan housing market area (HMA), taking account of factors such as migration, journey to work data, affordability and house prices. This study concluded that Wigan is to be regarded as a single HMA. However, Standish is seen as performing a distinctive role providing high quality housing. The study found that the slow pace of the delivery in the EWC is not caused by development in the broad locations but by the specific constraints associated with these sites. The housing witness for JH came to similar conclusions, characterising Standish as a sub-HMA which does not compete directly with sites in the EWC. This

evidence was not challenged by the Council. In my view the evidence on the HMA supports the appellant's view that additional delivery at Standish is unlikely to impact on delivery within the EWC.

46. My attention was drawn to appeal decisions at Humberston (Lincolnshire) and Sandbach[20]. At Humberston the Secretary of State agreed with the Inspector that there was no convincing evidence to support the Council's assertion that there must be a connection between the non-delivery of a large number of brownfield sites and the continued coming forward of greenfield sites. This was a case where the Inspector records that '*The Council contends that the situation speaks for itself*'. At Sandbach, the Secretary of State agreed with the Inspector that there was no clear-cut basis for concluding that the development of the appeal site would prevent development on brownfield sites and that the proposed development would not cause harm to regeneration proposals in the area.

47. These decisions will of course reflect planning circumstances which were specific to the sites in question. Nevertheless, I consider that there are clear parallels between these decisions and the current appeals and I take them into account accordingly. In particular, this is a case where the Council has accepted that it has not produced specific evidence in support of its assertion that additional delivery at Standish would prejudice delivery within the EWC[21].

48. The appellant also argued that those promoting schemes in the EWC would have been well aware of the various proposed developments at Standish, including the two appeal schemes. Had they perceived a threat to the delivery of sites in the EWC no doubt they would have objected on that basis[22].

49. Having regard to all of the above factors, I conclude that it has not been shown that the appeal scheme, either alone or in combination with the JH appeal scheme, would be likely to have a material effect on the regeneration of the EWC.

Conclusion on first main issue

50. My overall conclusion on the first main issue is that the appeal scheme, either alone or in combination with the JH appeal scheme, would not result in material harm to the spatial strategy of the CS. I have not identified any conflict with CS Policies SP 1 or CP 6. The appeal scheme would not accord with Policy SP 4 to the extent that the scale of development, taking account of permissions already granted, would not reflect the overall scale envisaged at the Standish broad location. In other respects it would accord with Policy SP 4.

Whether the proposal would represent sustainable development

51. The Council did not dispute that the appeal scheme would represent a sustainable form of development. Nevertheless, a number of concerns were raised by local residents which were relevant to this issue. These concerns were expressed by the community representatives who appeared at the Inquiry and in the written representations. A common theme was the cumulative impact of the various residential developments planned at Standish and the

[20] APP/B2002/A/13/2196572 at CD 12 and APP/R0660/A/10/2140255 at CD 13
[21] Inspector's note – Mr Kearsley, in answer to questions from Mr Easton, accepted that there was no evidence for such an effect other than what had been asserted by the Council
[22] Such representations had been made during the CS examination in relation to other sites in the EWC but not in relation to sites at Standish

resulting effects on highways, transport and community infrastructure. Other concerns raised included loss of recreational space and impacts on trees, ecology, noise, air quality, drainage and flood risk.

52. The evidence on behalf of JH included comments on delivery issues at the appeal site. As noted above, there was subsequently agreement between the appellant and JH on this matter. The appellant's evidence also included points of difference between the two appeal schemes, for example in relation to accessibility and impacts on protected trees. As I have not identified any harm arising from the cumulative impacts of the two appeals it is not necessary for me to comment further on their relative merits. I have however had regard to the various points raised as part of my overall assessment of both appeals.

53. The Council prepared the Standish Infrastructure Assessment (SIA) which sought to identify the requirements for transport and other infrastructure arising from the 1,000 dwellings proposed in the CS. The SIA does not form part of the development plan but it has informed decisions of the Council in relation to the various housing sites coming forward in Standish and I have taken it into account accordingly.

54. In this section of my decision I start with the three criteria set out in CS Policy SP 4 and then comment on the three dimensions of sustainable development set out in the Framework.

Infrastructure capacity

55. As noted above, the Council withdrew its second reason for refusal relating to effects on the highway network. This was done on the basis of additional information submitted by the appellant. The SIA included traffic modelling of the Standish area. Potential cumulative impacts of the 1,000 houses proposed in the CS on a number of key junctions were identified. These junctions included the signal controlled crossroads in the centre of Standish which is of particular concern to local residents. The SIA identified mitigation measures, including the creation of through routes within new housing areas designed to improve traffic distribution and relieve existing junctions. Junction improvements were also identified. These measures have now been secured through the permissions already given for development at Standish.

56. Additional work undertaken by the appellant built on the traffic modelling already carried out to take account of the permissions now in place together with the appeal scheme. Having considered this further work the Council withdrew its second reason for refusal relating to cumulative impacts on Rectory Lane and on the wider highway network.

57. Further work was then done to look at the combined effect of the appeal scheme and the JH appeal scheme. The results of this work are recorded in a statement of common ground between the Council, the appellant and JH[23]. The parties agree that, with the SIA improvements in place, the cumulative traffic impacts of both schemes would not be severe and the development traffic could be accommodated without any further highway mitigation measures. I have taken account of this further technical work carried out by the parties and have no reason to disagree with the conclusions reached.

[23] JH/PM/LPA1

58. In relation to community infrastructure, the SIA identified a need for additional primary school places. Since the SIA was prepared some of the classrooms at Shevington High School, which serves Standish, have been closed due to excess capacity. The UU includes contributions to the provision of additional primary school places at St Wilfrid's Church of England Primary School in Standish and to the re-provision of secondary school places at Shevington High School. The UU also includes a contribution to the extension of the St Wilfrid's Parish Hall, Standish to provide additional community space. I consider that these contributions would provide appropriate mitigation for the impact of the appeal scheme on community infrastructure[24].

Integration of the development with the local community

59. The appeal site has good access to the centre of Standish via Rectory Lane and Grove Lane. Local services are within walking and cycling distance and there is a primary school nearby. The site is well placed for public transport access to Standish and Wigan. The illustrative masterplan shows how the appeal site could be developed, together with the first phase, to provide a comprehensive layout of roads and pedestrian routes. These matters could be controlled at reserved matters stage. Overall, I consider that development at the appeal site would be well-integrated with the local community.

Deliverability, site constraints and green infrastructure

60. The Council did not dispute that around 200 of the 250 dwellings proposed would be deliverable within 5 years. I have commented above that there is a degree of uncertainty in the appellant's projected delivery rates, given the lack of a directly comparable precedent. However, I have also concluded that, even if delivery rates turn out not to be as high as the appellant's trajectory indicates, the appeal scheme would still be likely to make a material contribution to delivery within the first 5 years. No site-specific or technical objections have been identified by the Council.

61. The application is in outline so layout and landscaping would be reserved matters. The illustrative masterplan shows how the proposed houses could be accommodated without impacting significantly on the areas of woodland within and around the site. Subject to appropriate consideration at reserved matters stage there is no reason to think that trees subject to a TPO would be harmed. The masterplan indicates that existing areas of woodland would be enhanced with additional planting and that the provision of green infrastructure would be integral to the urban design approach.

The three dimensions of sustainable development

62. The Framework identifies that there are three dimensions to sustainable development – economic, social and environmental. The appeal scheme would bring economic benefits in terms of jobs and investment during the construction process and increased spending in the local economy once the new houses were occupied.

63. In terms of social benefits, the site would make an important contribution to addressing the significant shortfall in HLS which currently exists within the borough. It would assist in meeting housing needs and help to provide choice within the Standish broad location. In this way it would contribute to the

[24] Compliance with the Community Infrastructure Levy Regulations is discussed below

purposes for which the broad location was identified. Moreover, the appeal scheme would deliver 25% of the dwellings as affordable units. Given the need for affordable housing in the borough, particularly in Standish, this is an important benefit of the proposals.

64. The loss of the existing recreation facility provided by the golf course has already been accepted in the context of the phase one planning permission, subject to the incorporation within that scheme of an alternative leisure facility. Consequently neither Sport England nor the Council objected to the appeal scheme on these grounds.

65. The environmental effects of the appeal scheme have been assessed in the ES. The ES included consideration of ecology, air quality, noise, flood risk and drainage. It concluded that, subject to appropriate mitigation measures, there would not be any residual significant adverse effects. The mitigation measures identified include a Construction Environmental Management Plan which could be secured by a condition.

66. The ES identified the presence of great crested newt (GCN), a European protected species, within the site. The UU includes provision for an Ecology Mitigation Strategy to be submitted for approval and subsequently implemented for the lifetime of the development. Areas for off-site habitat enhancement, on land to the east of the site within the control of the appellant, are shown on a plan attached to the UU. Subject to this mitigation, the ES concludes that there would not be any significant adverse impacts on GCN. Whilst it is likely that a European Protected Species (EPS) licence application would be needed in respect of GCN, the ES states that with mitigation in place the favourable conservation status of the species would be maintained.

67. The Council has not disputed the conclusions of the ES and I see no reason to take a different view. I note that it would be necessary for the developer to seek an EPS licence in relation to GCN, in which case Natural England (NE) would no doubt have regard to the relevant licensing tests[25]. However, having regard to the mitigation which would be secured via the UU, the evidence before me does not indicate that this is a case where NE would be unlikely to grant such a license. The ES also considers potential impacts on other wildlife species, including bats, badgers and reptiles, and on nearby designated sites[26]. I consider that potential impacts on these sites and species could be adequately mitigated through the proposed Construction Environmental Management Plan.

Conclusion on second main issue

68. On the second main issue I conclude that the appeal scheme would represent a sustainable form of development for the purposes of the development plan and for the purposes of the Framework. It would accord with the criteria contained within CS Policy SP 4 relating to infrastructure, integration and deliverability.

Other matters

69. The UU makes provision for financial contributions to primary and secondary education, community facilities, public transport enhancements and travel plan monitoring. It also contains provisions relating to the delivery of 25% of the

[25] Regulation 53, Conservation of Habitats and Species Regulations 2010
[26] There are no statutory designated sites in the immediate vicinity of the appeal site

units as affordable housing, the phasing of the development in relation to highways works and a leisure facility within the first phase of the Rectory Lane development, the future management and maintenance of open space within the site and the submission and implementation of an Ecology Mitigation Strategy.

70. The Council provided a statement of compliance with the Community Infrastructure Levy Regulations 2010 (the CIL Regulations). Further information was provided at a round table session, including in relation to the limitations on pooled contributions contained in regulation 123 of the CIL Regulations.

71. I consider that the contributions for education and community facilities are necessary to mitigate the impacts of the development. The amounts of the education contributions have been calculated by reference to standard formulae, modified in respect of secondary education to reflect the particular circumstances of Shevington High School. The community facility contribution relates to a specific identified project.

72. The public transport contributions would secure improvements to the frequency of an existing bus service together with the diversion of the service to pass through the appeal site and the provision of a bus stop. Together with the travel plan monitoring contribution these obligations would provide a package of transport measures which would be necessary in the interests of promoting sustainable transport choices.

73. The obligations relating to the phasing of the development in relation to highways works and a leisure facility do not add to the substance of obligations already agreed in relation to the first phase of the Rectory Lane development. Their function is to ensure that the works and facilities are carried out at an appropriate stage in the overall development.

74. The obligations relating to the Ecology Mitigation Strategy are necessary to secure mitigation for impacts on GCN, in accordance with the ES. The obligations in relation to affordable housing and open space are necessary and consistent with the relevant policies of the CS. Overall, I consider that the UU is in accordance with the CIL Regulations and the Framework.

75. A neighbourhood plan is to be prepared for Standish. The area has been designated and at the time of the Inquiry initial consultation on issues and options was in progress. The neighbourhood planning process is therefore at too early a stage to be a material factor in this appeal.

Conclusions

76. On the first main issue I have concluded that the appeal scheme would not result in material harm to the spatial strategy of the CS. This conclusion is the same whether the appeal scheme is considered alone or in combination with the JH appeal scheme. Consequently it is not necessary for me to comment on the relative merits of the two appeal schemes. On the second main issue I have concluded that the proposal would be a sustainable form of development for the purposes of the development plan and for the purposes of the Framework.

77. In relation to the development plan, I have not identified any conflict with CS Policies SP 1 or CP 6. The appeal scheme would be located within the Standish

broad location and would accord with the criteria contained within CS Policy SP 4 relating to infrastructure, integration and deliverability. It would not accord with Policy SP 4 to the extent that the scale of development, taking account of other permissions already granted, would not reflect the overall scale envisaged at the Standish broad location.

78. However, the scheme is to be assessed against the development plan as a whole[27]. In that context it is important to bear in mind Objective H 1 of the CS, which is to meet the borough's need for housing, Policy CP 6 which seeks to maintain a 5 year HLS and Policy SD 1 which sets out a presumption in favour of sustainable development. This is a case where a significant shortfall in HLS has been identified. The appeal scheme would make a material contribution to addressing that shortfall. Moreover, the proposal is for a sustainable form of development. Finally, no conflict with any other policies of the CS has been identified.

79. My overall assessment is that the appeal scheme is in accordance with the development plan as a whole. I have not identified any significant adverse impacts of the proposal, such as might indicate that the appeal should be determined other than in accordance with the development plan. In particular, I have not identified material harm to the Council's regeneration objectives for the EWC. The appeal should therefore be allowed.

80. As a consequence of the HLS position those policies of the CS which are relevant policies for the supply of housing are not to be regarded as up-to-date. However, as I have concluded that the appeal should be allowed in accordance with the development plan, it is not necessary for me to comment further on the matters set out paragraph 14 of the Framework.

Conditions

81. The Council has suggested conditions which I have considered in the light of Planning Practice Guidance (PPG). In some cases I have adjusted detailed wording to reflect that guidance. Conditions 1 – 3 are standard conditions for outline permissions although the appellant agreed that the time limit for submitting reserved matters should be reduced to 12 months to reflect the importance of boosting the delivery of housing.

82. Condition 4 requires submission of a Construction Environmental Management Plan which is needed in the interests of protecting the living conditions of nearby residents during construction and to secure mitigation measures identified in the ES. Conditions 5 and 6 require assessments of contamination and coal mining legacy issues to be submitted for approval, together with mitigation measures if required, and are needed to manage risks of pollution.

83. Condition 7 requires an Arboricultural Implications Assessment (AIA) to be submitted alongside the reserved matters. This is needed in the interests of protecting the character and appearance of the area and the ecology of the site. However, given that the AIA will have been approved, it is not necessary to have a separate condition requiring the developer to give notice of the commencement of the development. In any event, the developer would be obliged to inform the Council of the commencement of development in accordance with the UU.

[27] Regina v Rochdale Metropolitan Borough Council [2000] EWHC 650 (Admin) at CD 4

84. Conditions 8 and 9 require details of surface and foul water drainage to be submitted in the interests of managing risks of flooding and pollution. Condition 10 requires finished floor levels to be approved in the interests of protecting the character and appearance of the area and the living conditions of nearby residents.

85. Condition 11 requires submission of a Travel Plan in the interests of promoting sustainable transport. Condition 12 requires submission of a Local Labour Agreement in order to secure local economic benefits in accordance with the CS.

86. Some conditions require details to be approved before development commences. This is necessary for conditions 4, 5, 6, 7 and 12 because they relate to matters arising during construction. It is necessary for conditions 8, 9 and 10 because they relate to matters affecting the design and/or layout of the scheme.

David Prentis

Inspector

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Ruth Stockley	of Counsel, instructed by the Assistant Director, Legal for Wigan Metropolitan Borough Council
She called	
Robert Owen PGDip	Transport Strategy Manger for Wigan Metropolitan Borough Council
David Kearsley MTp MRTPI	Principal Planner, Planning Policy and Projects Team, Wigan Metropolitan Borough Council

FOR PERSIMMON HOMES AND MORRIS HOMES:

Roger Lancaster	of Counsel, instructed by Mosaic Town Planning
He called	
Paul Corbett MEng CEng MICE MIHT	Director, CBO Transport Ltd
Michael Watts DipURP (Dist) MRTPI	Director, Nathaniel Lichfield and Partners
Paul Williams MTp MRTPI	Director, Mosaic Town Planning

FOR JONES HOMES (FYLDE) LIMITED:

Jonathan Easton	of Counsel, instructed by HOW Planning LLP
He called	
William Booker BSc(Hons)	Director, SCP Transportation Planners and Infrastructure Designers
Gary Halman BSc FRICS MRTPI	Managing Partner, HOW Planning LLP

INTERESTED PERSONS:

Gill Foster	Chairperson, Standish Voice Neighbourhood Forum
Cllr George Fairhurst	Member of Wigan Metropolitan Borough Council

DOCUMENTS SUBMITTED AT THE INQUIRY

Documents submitted by the Council

LPA1	Persimmon Homes representation on SHLAA
LPA2	Note on housing land supply
LPA3	Rectory Lane Tree Preservation Order
LPA4	Statement of compliance with CIL Regulations – Jones Homes
LPA5	Statement of compliance with CIL Regulations – Persimmon Homes and Morris Homes
LPA6	Closing submissions

	Documents submitted by Persimmon Homes and Morris Homes
PM1	Folder of additional core documents
PM2	Opening submissions
PM3	Plan showing line of HS2
PM4	Unilateral undertaking dated 21 July 2015
PM5	Schedule of conditions incorporating appellant's suggestions
PM6	Closing submissions
	Documents submitted by Jones Homes (Fylde) Limited
JH1	Appearances
JH2	Document list
JH3	Opening submissions
JH4	Appeal decision T/APP/V4250/A/88/108505/P2
JH5	Draft unilateral undertaking
JH6	Schedule of conditions incorporating appellant's suggestions
JH7	Schedule of conditions incorporating appellant's suggestions (revised)
JH8	Closing submissions
JH9	Unilateral undertaking dated 22 July 2015
	Documents agreed between the Council, Jones Homes (Fylde) Limited and Persimmon Homes and Morris Homes
JH/PM/LPA1	Statement of Common Ground - Highways
JH/PM/LPA2	Statement of Common Ground – Planning
JH/PM/LPA3	Table - Housing yield comparison for large sites
JH/PM/LPA4	Table – Comparison of revised HLS calculations
	Document agreed between Jones Homes (Fylde) Limited and Persimmon Homes and Morris Homes
JH/PM1	Supplementary Statement of Common Ground
	Document submitted by Standish Voice
SV1	Letter enclosing committee agenda and minutes

Schedule of conditions

1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

2) Application for approval of the reserved matters shall be made to the local planning authority not later than 12 months from the date of this permission.

3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.

4) No development, including any demolition or remediation, shall take place until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include details of the measures to be employed to control and monitor noise and vibration, odour, dust and emissions to air from the site during the remediation and construction processes. It shall also include construction hours of working. The CEMP shall be implemented as approved and adhered to throughout the construction of the development.

5) No development, including any demolition or remediation, shall take place until an investigation and assessment of the nature and extent of any contamination of the site has been submitted to and approved in writing by the local planning authority. The assessment shall identify any remedial measures required to deal with any hazards identified and such measures shall be implemented as approved before the occupation of any of the buildings hereby permitted.

6) Prior to the commencement of the development hereby permitted an investigation and assessment to address coal mining legacy issues shall be submitted to and approved in writing by the local planning authority. The assessment shall be generally in accordance with the Environmental Statement Volume 1 – Main Report March 2014 (Section 9). In the event that intrusive site investigation works confirm the need for remedial measures to treat shallow mine workings, details of such remediation work shall be submitted to and approved in writing by the local planning authority. The remediation work shall be implemented in accordance with the approved details prior to the commencement of the development.

7) Any application for the approval of reserved matters in respect of layout and/or landscaping shall be accompanied by an up-to-date tree survey and an Arboricultural Implications Assessment (AIA). The AIA shall include details of proposals for tree protection during development operations, mitigation for any tree removal, an assessment of any overshadowing implications of the existing trees for new development and an assessment of any arboricultural implications for the installation of service lines. The measures contained in the approved AIA shall be adhered to throughout the construction of the development.

8) No development shall take place until a scheme for the disposal of surface water from the site has been submitted to and approved in writing by the local planning authority. The scheme shall be based on sustainable drainage principles and shall include an assessment of the hydrological and hydro geological context of the development together with arrangements for subsequent management and maintenance. The scheme shall be implemented as approved and permanently retained thereafter.

9) No development shall take place until a scheme for the disposal of foul water from the site has been submitted to and approved in writing by the local planning authority. The scheme shall include arrangements for subsequent management and maintenance. The scheme shall be implemented as approved before the occupation of any dwelling and shall be permanently retained thereafter.

10) Any application for the approval of reserved matters in respect of layout shall be accompanied by details of finished floor levels for all dwellings. The levels shall be defined relative to a datum point which has previously been approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

11) No dwelling shall be first occupied until a Travel Plan has been submitted to and approved in writing by the local planning authority. The Travel Plan shall include measures to promote sustainable modes of transport based on the number of residential units within the site and shall include a timetable for implementation and arrangements for monitoring and review. The approved travel plan shall be implemented and maintained in accordance with the approved timetable and arrangements for monitoring and review.

12) No development shall take place until a Local Labour Agreement (LLA) has been submitted to and approved in writing by the local planning authority. The LLA shall include measures to secure an agreed percentage of local labour to be employed throughout the construction phase of the development hereby approved. Development shall be carried out in accordance with the approved LLA.