

THE BOROUGH COUNCIL OF BOLTON

TOWN AND COUNTRY PLANNING ACT 1990

APPEAL BY PERSIMMON HOMES, HARCOURT DEVELOPMENTS, PEEL INVESTMENTS (INTERMEDIATE) LTD AND PEEL INVESTMENTS (NORTH) AGAINST THE REFUSAL BY THE BOROUGH COUNCIL OF BOLTON TO GRANT FULL PLANNING PERMISSION FOR THE ERECTION OF 300 DWELLINGS AT LAND AT NORTH OF PLATT LANE, EAST OF PARK ROAD AND SOUTH OF CHEQUERBENT ROUNDABOUT, WESTHOUGHTON, BOLTON

STATEMENT OF CASE PURSUANT TO RULE 6

1.0 THE APPEAL APPLICATION

- 1.1 The appellant proposes the erection of 300 dwellings in a number of development parcels including culs de sac and avenues along main thoroughfares together with the provision of areas of public open space, car parking and associated landscaping (LPA Reference: 94696/15). The application was registered by the Council on 29th July 2015.
- 1.2 The application was recommended for refusal by the Planning Case Officer and was subsequently refused planning permission by Bolton Council's Planning Committee on 22nd October 2015 for the following four reasons:

The proposed residential development of the site would represent inappropriate development of 'Other Protected Open Land' in that it would not fall within any of the categories listed within Bolton's Allocations Plan Policy CG6AP. The benefits associated with developing the site for housing would not outweigh the harm that would be caused to the Council's strategic objective of focusing new housing in the existing urban area, contrary to Strategic Objective 15 and Policy OA3.6 of Bolton's Core Strategy and Bolton's Allocations Plan Policy CG6AP.

The proposed enhanced vehicular access point onto Chequerbent roundabout would, by virtue of an increased traffic volume at this location and the proposed layout and design of the proposal, have a detrimental impact on the operational capacity of the highway network exacerbating existing congestion and likely to be detrimental to highway safety contrary to Core Strategy policy P5 and S1.

The proposed residential spine road through the development is likely to result in increased traffic using the proposed new residential road through the site to the detriment of road safety contrary to Core Strategy policy P5 and S1.

The application would represent piecemeal development of site which form part of a larger area of safeguarded land that has potential to be considered for housing in the longer term through Local Plan review. The applicant has submitted insufficient information to ensure that the proposed development would not preclude the development of land to the south contrary to Core Strategy policy P5, S1, SC1 and CG6AP by insufficient land being given over to a future link road.

2.0 THE APPEAL SITE

- 2.1 The site is approximately 15.275 hectares in area and is predominantly comprised of pastoral agricultural land with regular field patterns with two ponds present within the site. The site is located on the eastern edge of the settlement of Westhoughton.
- 2.2 The northern part of the site is non-agricultural open land. A public right of way runs through the middle of the site in a north south axis and then a north west to south east axis to Park Road. The public right of way links Park Road with Platt Lane.
- 2.3 Properties on A58 Park Road bound the site to the north west, the southern boundary of the site is defined partially by Platt Lane and field boundaries to agricultural fields. To the east the site boundary is located between 50-90 metres from the existing tree belt with the northern part of the site reaching up to the properties fronting the Chequerbent roundabout.
- 2.4 The A58 links junction 5 of the M61 motorway with the A6.
- 2.5 The site is allocated within Bolton's Allocations Plan as 'Other Protected Open Land' (countryside that is not within the Green Belt but is protected from inappropriate development). The site is also identified within the Allocations Plan as being within the Agricultural Coal Measures Landscape Character Area.
- 2.6 The appeal site forms part of a Mineral Safeguarding Area for sandstone, surface coal, brick and clay.
- 2.7 There are further fields to the south of Platt Lane which are within land allocated as Other Protected Open Land whilst land to the east lies within adopted Green Belt.

3.0 PLANNING HISTORY

- 3.1 The Council will refer to the planning history of the site.
- 3.2 A planning application (Ref: 11942/79) for the development of the land for residential purposes was withdrawn in June 1984.
- 3.3 An outline planning application for the erection mixed use development was withdrawn in June 1999 (Ref: 53975/88).
- 3.4 Outline planning permission was refused in 1999 (LPA Ref: 54859/99) for business use (B1, B2 and B8) of the land. The proposal was dismissed on appeal in November 1999 (PINS ref: APP/N4205/A/99/1033664).

4.0 PLANNING POLICY

- 4.1 The Council will refer to Bolton's Core Strategy (adopted on 2nd March 2011). The Core Strategy is the key document in the Local Plan and describes the vision for what Bolton should look like in the future up to 2026, and the planning policies that will be used to make it a reality.
- 4.2 The Council will also refer to Bolton's Allocations Plan (adopted on 3rd December 2014), which sets out how the vision set out in the Core Strategy is to be implemented on a Proposals Map for the Borough, and also contains some policies to be used in conjunction with the Map.
- 4.3 Of pertinence to the appeal, and in particular in relation for the first reason for refusal, are Strategic Objective 15 and Policy OA3.6 of the Core Strategy, and Allocations Plan Policy CG6AP.
- 4.4 Strategic Objective 15 of the Core Strategy is, "To focus new housing in the existing urban area, especially in Bolton town centre, council-owned housing areas and in mixed-use developments on existing older industrial sites".

- 4.5 Policy OA3.6 of the Core Strategy seeks to ensure Protected Open Land around Westhoughton remains undeveloped.
- 4.6 Allocations Plan Policy CG6AP refers specifically to development proposals within the defined areas of Protected Open Land shown on the Proposals Map.
- 4.7 The Council will also confirm that Core Strategy Policies H1.2, A1.4, CG1, CG2, CG3, CG4, SC1, OA1 and IPC1 were considered during the determination of the appeal application. Policy SC1 concerns housing developments and Policy OA3 specifically refers to developments in Westhoughton. Policies H1.2, A1.4 and IPC1 are relevant to the appeal proposal as they relate to planning contributions required for housing development that comprise 15 or more dwellings. Policy CG1 concerns biodiversity and flood risk, Policy CG2 relates to sustainable design and construction, Policy CG3 refers to the built environment and Policy CG4 concerns compatible uses.
- 4.8 The Council will also refer to Policies P5 and S1 of the Core Strategy, as they are the Core Strategy policies referred to in the second, third and fourth reasons for refusal.
- 4.9 Core Strategy policy P5 seeks to ensure that developments take the following into account: accessibility by different types of transport, the design of development to enable accessibility by public transport, parking, the transport needs of people with disabilities and the requirement for a Transport Assessment and Travel Plan with major trip generating developments.
- 4.10 The Council will make reference to the following sections within the National Planning Policy Framework (NPPF): 4. Promoting sustainable transport, 6. Delivering a wide choice of high quality homes, 7. Requiring good design, 8 Promoting healthy communities, 10. Meeting the challenge of climate change, flooding and coastal change, 11. Conserving and enhancing the natural environment, and 13 Facilitating the sustainable use of minerals.
- 4.11 The Council's Supplementary Planning Documents "Accessibility, Transport and Safety", "Affordable Housing" and "General Design Principles" are applicable to the appeal, as are Planning Control Policy Notes "No. 1 Health and Well Being", "No. 8

The Provision for Children’s Play within New Residents Development”, “No. 22 Provision of Public Art”, and “No. 30 Education”.

5.0 THE COUNCIL’S CASE

5.1 Section 38 of the Planning and Compulsory Purchase Act 2004 and section 70 of the Town and Country Planning Act 1990 requires applications to be determined in accordance with the development plan, unless material considerations indicate otherwise.

5.2 Applications which are not in accordance with development plan policies should be refused unless material considerations justify granting permission. Similarly, proposals which accord with development plan policies should be approved unless there are material considerations which justify a refusal of permission.

5.3 The appeal proposal was refused planning permission for four reasons. Each reason for refusal will be considered in turn:

Inappropriate development of protected open land (Reason for refusal 1)

5.4 The Council will contend that the appeal proposal is contrary to Policy OA3.6 and Strategy Objective 15 of Bolton’s Core Strategy and Allocations Plan Policy CG6AP.

5.5 Core Strategy Policy OA3.6 states that the Council will ensure Protected Open Land around Westhoughton remains undeveloped. The Council will confirm that the appeal proposal will develop a site within allocated Protected Open Land contrary to that policy.

5.6 Strategy Objective 15 of the Core Strategy is, “To focus new housing in the existing urban area, especially in Bolton town centre, council-owned housing areas and in mixed-use developments on existing older industrial sites”. The Council will contend that the appeal proposal will not focus new housing in the existing urban area.

5.7 Paragraph 3.11 of the Core Strategy sets out a spatial vision for Bolton and explains the high quality visual environments of the outer areas of the borough will be protected and enhanced. There will continue to be smaller scale developments within

the urban area for a range of uses where the character of the area and the existing infrastructure allows it. In rural areas of the borough there will be constraints on most forms of development, either because they are in the Green Belt or will continue to be areas of Protected Open Land. This covers a wide range of locations across the borough including the freestanding town of Westhoughton, where the appeal site is sited. The Council will explain that the appeal proposal will be contrary to this spatial vision for the outer areas of the borough where constraint on development applies.

- 5.8 Allocations Plan Policy CG6AP states that the Council will permit development proposals within the defined areas of Protected Open Land shown on the Proposals Map provided that they fall within one or more of the following categories:
1. The development represents limited infilling within an established housing or industrial area, is in scale with it and would not adversely affect its character or surroundings; or
 2. It forms part of, and is required for, the maintenance of an existing source of employment; or
 3. The development requires a location outside the urban area, but is inappropriate within the Green Belt, and providing it maintains the character and appearance of the countryside; or
 4. The development would be appropriate within the Green Belt.
- 5.9 The reasoned justification for Policy CG6AP states that the Core Strategy's overall approach is to concentrate development in the existing urban area and to constrain most forms of development on Protected Open Land. It explains that the urban area is defined as that which is not Protected Open Land or Green Belt.
- 5.10 The Allocations Plan continues at paragraph 5.12 that it is a general principle of national policy that the character and appearance of Protected Open Land should be protected from inappropriate development. This also supports the Council's efforts to achieve urban regeneration. It is explained that some of this land could be appropriate for development in the future, but not during the plan period up to 2026 and not without a further review of the Core Strategy.
- 5.11 The Council will maintain that the proposed erection of 300 dwellings on the appeal site will not fall within any of the categories within Allocations Plan Policy CG6AP.

- 5.12 The Council will make reference to both the Planning Inspectorate's Report on the Examination into Bolton Metropolitan Borough Council's Core Strategy (dated 17 December 2010) and to its Report on the Examination into Bolton's Allocations Plan (dated 5 September 2014). Particular reference will be made to paragraphs 94 to 97 (inclusive) of the Report on the Examination into Bolton's Allocations Plan, which specifically concern Policy CG6AP.
- 5.13 It is acknowledged that a material consideration in this appeal is whether or not the Council can demonstrate a five-year supply of deliverable housing sites. Paragraph 47 of the National Planning Policy Framework (NPPF) states relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
- 5.14 The Council will demonstrate that there is a five-year supply of deliverable housing sites in the borough.
- 5.15 The Council's Bolton Housing Land requirements and Supply Briefing Note 2014/2015 sets out the housing land position in Bolton at 1st April 2015, as well as providing information on new planning permissions, dwelling completions and allocated development land in the borough. The report calculates the five-year dwelling requirement for 2015-2019/20 (based on the Core Strategy net annual dwelling requirement of 694 dwellings between 2008 and 2026), which takes into account both the Allocations Plan Inspector's comments and national policy regarding the meeting of backlog (where completions have been below Core Strategy requirements) within the five-year period (Sedgefield method) rather than over the remaining life of the plan, the need for a 5% buffer and also the more realistic clearance allowance of 40 dwellings per annum. Taken together these figures inevitably increase the underlying five-year requirement above that in previous reports to 5,288 dwellings (2015-2019/20). The projected supply for 2015-2019/20 is 5,417 dwellings, which equates to a 5.1 year supply.
- 5.16 The Council will also provide evidence to demonstrate that the use of an additional buffer of 5%, in calculating the Council's net annual dwelling requirement, is correct.
- 5.17 The Council will therefore maintain that the Council's policies for the supply of housing remain up-to-date and should be given full weight.

- 5.18 The Council will acknowledge that there are benefits associated with providing additional housing, but will contend that these do not outweigh the harm that would be caused to the Council's objective of focusing new housing within the existing urban area. The Council will therefore assert that the appeal proposal is thus contrary to Strategic Objective 15 and Policy OA1.6 of the Core Strategy and Allocations Plan Policy CG6AP.

Impact on the local highway network (Reason for refusal 2)

- 5.19 Policy S1 of the Core Strategy seeks to ensure that the Council and its partners will promote road safety in the design of new development.
- 5.20 The reasoned justification for this policy (paragraph 4.32) states that the policy aims to make our roads safer thus providing a safer Bolton. The Core Strategy follows the approach of the Greater Manchester Local Transport Plan in directing investment towards locations with the worst safety record.
- 5.21 The appellant argues within their appeal application that the impact of the appeal proposals on the local highway network will not be severe and that the improvements to the Chequerbent roundabout as part of the appeal proposal will ensure the appeal proposal would not have a severe residual transport impact.
- 5.22 The Council will assert that the ARCADY analysis of the Chequerbent Roundabout is flawed in that it does not account for queuing traffic on the circulating carriageway. The Council will provide evidence of traffic queuing from the Park Road exit arm in the peaks on the circulating carriageway past the location of the proposed site access.
- 5.23 The Council will make the case that the free-flow assumption made by the appellant's highway consultant will give an inaccurate picture of the operation of the junction and the level of congestion on the local network. To truly replicate the existing operation a micro-simulation model is essential.
- 5.24 The Council will also assert that the appellant's stage one road safety audit is flawed in that it does not acknowledge the issue of queuing traffic on the circulating carriageway at the proposed site access that would restrict site-lines and create a

serious road safety issue. The Council will undertake and submit a Stage One Road Safety Audit that will take account of the actual conditions experienced at Chequerbent Roundabout and demonstrate a severe safety issue.

5.25 The Council will make reference to DMRB guidance for roundabouts with 5 arms and that the 5th priority controlled arm as proposed by the appellant for Chequerbent Roundabout is not in accordance with the guidance set out in DMRB. The Council will note the current accident record that ranks Chequerbent Roundabout as the 5th worst junction in Bolton based on the GMAXI Accident Database (31/10/10 to 31/10/15).

5.26 The Council will therefore conclude that the addition of a 5th arm at Chequerbent Roundabout with the severe safety issue will be contrary to Policy S1.

Internal road network (Reason for refusal 3)

5.27 The appellant argues within their appeal application that the internal spine road for the development has been designed to ensure its capacity and design will meet the levels of traffic that are forecast to use the route.

5.28 The Council will agree with the appellant's findings that the Park Road/Platt Lane Junction is currently operating significantly over capacity. The Council will assert however, that the appellant's proposal to redirect existing traffic away from this junction and through the proposed residential site to demonstrate a beneficial impact at this junction will be detrimental to both residential amenity and safety. The Council will conclude that the proposal is contrary to Policy S1.

Impact on the future link road (Reason for refusal 4)

- 5.29 The appellant argues that the proposal will not prejudice the comprehensive development of 'Other Protected Open Land' to the south and that any future link road could be accommodated within the vicinity of the appeal site.
- 5.30 The Council will demonstrate a long standing aspiration to deliver highway infrastructure improvements in this area to tackle congestion and highway safety issues in Westhoughton. The Council will assert that the appellant has not demonstrated that the proposed development will not preclude the ability to deliver such highway infrastructure in the future. The Council will make reference to DMRB design standards.

Other matters

- 5.31 The appellant seeks to argue that the sustainability of the appeal scheme, in terms of economic, social and environmental considerations as set out in paragraph 7 of the NPPF, implies a presumption in favour of the scheme must be applied.
- 5.32 The Council will state that notwithstanding the appellants assertion about the sustainability of the scheme, the proposal would conflict with adopted Core Strategy and Allocations Plan policies in relation to the approach to housing distribution in Bolton and also highway safety. Therefore the appeal should be dismissed.
- 5.33 The Council considers that alternatively if the higher test in paragraph 14 of NPPF is said to apply, any impacts of granting planning permission for the appeal proposal would significantly and demonstrably outweigh the benefits as outlined by the appellant within their statement of case.
- 5.34 If the Planning Inspector is minded to allow the appeal then the following Section 106 Agreement contributions would be required:
- Affordable housing: 105 affordable units on site, with 79 (75%) being for social/affordable rent at 60% discount off open market value and 26 (25%) being for intermediate housing at 30% discount off open market value.

- Education: £371,333.98 to be used at one of the Westhoughton primary schools to assist with pupil place provision (the named school will be confirmed at the exchange of proofs).
- Public open space: on site provision and management to be provided by the appellant.
- Health: £67,200 to a local GP, to be confirmed at the exchange of proofs.
- Public art: to be provided on site.

5.35 The Council will justify that the above requirements comply with Core Strategy policy IPC1 and also meet the requirements of the Community Infrastructure Levy (CIL) Regulations 2010.

5.36 If the Inspector is minded to allow the appeal appropriate conditions will be required. A full list of proposed conditions will be submitted at the exchange of proofs.

LIST OF DOCUMENTS WHICH MAY BE REFERRED TO OR USED IN EVIDENCE

- Bolton's Core Strategy
- Bolton's Allocation Plan
- Greater Manchester Joint Minerals Plan
- Supplementary Planning Documents "Accessibility, Transport and Safety", "Affordable Housing" and "General Design Principles"
- PCPN1 "Health and Well Being", PCPN8 "The Provision for Children's Play Within New Residential Developments", PCPN22 "Provision of Public Art", and PCPN30 "Education"
- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Bolton's Authority Monitoring Report 2013/2014
- Bolton Housing Land Requirements and Supply Briefing Note 2014/2015 (November 2015)
- Report on the Examination into Bolton Metropolitan Borough Council's Core Strategy (17 December 2010)
- Report on the Examination into Bolton's Allocations Plan (5 September 2014)
- Design Manual for Roads and Bridges (DMRB)
- Manual for Streets