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Statement of Case

Persimmon Homes and Harcourt Developments
Lee Hall, Westhoughton

November 2015





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1 INTRODUCTION

1.1 At the planning committee of 22nd October 2015 Bolton Council resolved to refuse the following application by Persimmon Homes, Harcourt Developments, Peel Investments (Intermediate) Ltd. and Peel Investments (Northern) Ltd. (Ref: 94696/15) on land north of Platt Lane, east of Park Road and south of Chequerbent Roundabout, Westhoughton, Bolton:

“Erection of 300 dwellings including public open spaces, landscaping and play areas, together with creation of new internal access road which connects into the existing road network at Chequerbent Roundabout in the north and Platt Lane in the south.”

1.2 The decision notice for the refusal of this application was received from the Council on 13th November 2015. The reasons for refusal are listed in paragraph 4.2 of this statement.

1.3 The purpose of this statement is to outline the case that will be submitted at the forthcoming Public Inquiry into the appeal.

1.4 More detailed information on the proposal, the site and surroundings and relevant planning policies is provided in the Statement of Common Ground.



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2 THE APPEAL PROPOSALS

- 2.1 The appellants will refer to the plans and documents which comprise the application, as amended, which are listed in full in the forthcoming Statement of Common Ground.

3 **PLANNING POLICY, GUIDANCE AND EVIDENCE BASE**

3.1 The following national, regional and sub-regional local planning policies, guidance and legislation may be called upon in support of the appellants' case:

National Planning Policy and Guidance

3.2 The appellants will refer to the Framework in general with particular regard to the following guidance:

National Planning Policy Framework (NPPF)

- Dimensions to sustainable development – paragraphs 7, 8, 9
- Presumption in favour of sustainable development where development plan is out of date – paragraph 14 (iv)
- Core planning principles – paragraph 17 (iii)
- Support for economic growth – paragraph 19
- Consideration of whether residual transport impacts are severe – paragraph 32 (iii)
- Meeting objectively assessed needs for market and affordable housing – paragraph 47 (i)
- Aim to significantly boost the supply of housing and maintenance of 5 year supply – paragraph 47 (ii)
- Relevant policies for supply of housing are not up to date if no 5 year supply – paragraph 49
- Planning for a mix of housing to meet varying community needs – paragraph 50 (i)
- Safeguarded land not being allocated for development at the present time and could only come forward following a local plan review – paragraph 85 (iv)

- Due weight should be given to relevant policies in existing plans according to their degree of consistency with NPPF – paragraph 215

Planning Practice Guidance

- 3.3 The appellants will make reference to the Guidance in general, including to the following specific sections:
- Housing and economic development needs assessment (ID 2a)
 - Housing and economic land availability assessment (ID 3)

Ministerial Statements

- 3.4 The following legislation will be called upon by the appellant during the course of the appeal;
- Ministerial Statement on Planning for Growth (March 2011)
 - Laying the Foundations: A Housing Strategy for England (November 2011)
 - Housing and Growth Ministerial Statement (September 2012)
 - Fixing the Foundations (July 2015)

Regional Planning Policy

- 3.5 The Former North West of England Regional Spatial Strategy (RSS) to 2021 will be referred to, alongside supporting documents as appropriate.

Greater Manchester Spatial Framework

- 3.6 The appellant will refer to the Strategic Options Consultation (November 2015) together with the associated background papers.

Local Planning Policy

- 3.7 The following local policies, guidance and evidence base may be called upon during this appeal.

Bolton Core Strategy (2011)

- Plan strategy, approach to housing provision and individual policies as listed in Statement of Common Ground
- Core Strategy Examination documents and Inspector's Report

Bolton Site Allocations DPD (2014)

- Housing land allocations and resultant supply
- Individual policies as listed in Statement of Common Ground with particular reference to Policy CG6AP – Other Protected Open Land
- Allocations Plan Examination documents and Inspector's Report

Other Local Guidance and Evidence

- Bolton Annual Monitoring Report (2013/2014) and previous versions
- SHLAA 2012 Update and previous versions
- Bolton SHMA (2008)
- Greater Manchester SHMA (2008) and Update (2010)
- Supplementary Planning Documents as listed in the SoCG

Planning History

- 3.8 We will refer to a historic planning application and an appeal which have been made on the subject site:



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- Outline permission refused in 1999 for business use (B1, B2 and B8) of the land (Ref: 54859/99).
- The above proposal was dismissed on appeal in November 1999 (PINS Ref: APP/N4204/A/99/1033664)



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4 THE APPELLANTS' CASE

The Refusal

4.1 Bolton Metropolitan Borough Council issued a Decision Notice on 13th November 2015 following a resolution to refuse consent at Committee on 22nd October 2015.

4.2 The refusal was based on the following grounds:

- 1. 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 focussing 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.*
- 2. The proposed enhanced vehicular access point onto Chequerbent roundabout would by virtue of an increase in traffic volume at this location and the proposed layout and design of the proposed development 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.*
- 3. 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.*
- 4. The application would represent piecemeal development of the site which forms 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 does 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.*

4.3 This statement has regard to each of these reasons within the following framework, which discusses; the principle of development, the five year supply of housing in Bolton, spatial

distribution, highways and transportation matters and economic, social and environmental sustainability.

Principle

- 4.4 Under Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990, the application should be determined in accordance with the development plan unless material considerations indicate otherwise.
- 4.5 In this case, the development plan for Westhoughton comprises the Bolton Core Strategy (2011). The plan pre-dated NPPF and is based on PPS3 and the RSS. The development plan also comprises the Site Allocations DPD (2014). The designation of the site is 'Other Protected Open Land' in Policy CG6AP of the Allocations DPD, where development is generally restricted.
- 4.6 The appeal is submitted on the basis that the development plan is; (i) out-of-date by virtue of the LPA not being able to demonstrate a five year supply of housing with an appropriate buffer; and (ii) inconsistent with the NPPF.
- 4.7 The appellant acknowledges that the proposal does not accord with Policy OA3 of the Core Strategy and Policy CG6AP of the Allocations DPD. However, we will demonstrate that, in accordance with paragraph 215 of NPPF, no weight can be given to relevant policies effecting the supply of housing (which Protected Open Land and its objectives must be) due to their inconsistency with paragraph 47 of NPPF. This is due to their failure to; boost significantly the supply of housing; meet full objectively assessed needs (FOAN) as set out in the latest DCLG household projections.
- 4.8 It is the appellant's case that the proposal fall to be considered against paragraph 14 of NPPF. We will note that the site does not benefit from a policy designation listed in footnote 9 of NPPF. Therefore a presumption in favour applies and planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably

outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

- 4.9 Whilst there may be conflict with the Core Strategy, no weight can be attached to those policies, in line with paragraph 215 of NPPF. The appeal site is situated on greenfield land on the edge of the urban area of Westhoughton, according to the Allocations Plan (2014). It must be noted that there is no requirement for a sequential test in NPPF, as discussed in paragraph 14 and 17 of a recovered appeal by the Secretary of State for a residential development of 350 dwellings on land at Burgess Farm, Salford (PINS Ref: APP/U4230/A/11/2157433).
- 4.10 It is the appellant's case that the appeal site is situated in an accessible location, adjacent to a sustainable settlement with a number of shops, services and facilities. The development of such sites is inevitable if the FOAN of Bolton are to be met. Indeed, the justification for Policy CG6AP – Other Protected Open Land acknowledges that this land could be appropriate for future development needs. It is the appellant's case that in order to meet the FOAN this site is required now, not at the end of the Plan period.

Five Year Housing Land Position

- 4.11 It will be the appellant's case that, based on the following analysis of the five year housing land position in Bolton the development plan is; (i) out of date and (ii) inconsistent with NPPF.

Requirement

- 4.12 The appellant will refer to paragraph 47 of the Framework which expects the Local Plan to meet the FOAN for market and affordable housing in the housing market area. We shall make reference to Policy SC1 of the adopted Core Strategy which identifies an annual requirement of 694 dwellings per annum between 2008 and 2026.

- 4.13 The Core Strategy was adopted in March 2011, it therefore predates the adoption of NPPF. The document was formulated and adopted in the context of; Planning Policy Statement 3: Housing, which is a materially different national policy context; and the RSS which was in force at the time of the adoption.
- 4.14 The Planning and Compulsory Purchase Act (2004) required development plans to have consistency with RSS. The Core Strategy housing requirement was based on the RSS derived housing requirement. There was no fresh consideration of the FOAN for housing in the production of the Core Strategy, nor did the RSS housing requirement represent the FOAN of the region.
- 4.15 We will demonstrate that RSS cannot be used as a proxy for the FOAN, as endorsed by the Court of Appeal's judgment in Solihull Metropolitan Borough Council v (1) Gallagher Homes Limited (2) Lioncourt Homes Limited [2014] EWCA Civ 1610.
- 4.16 The Bolton Allocations Development Plan Document (DPD) did also not consider the FOAN afresh as it was to be consistent with the Core Strategy (see Gladman Development Ltd v Wokingham BC [2014] EWHC 2320 (Admin)). Accordingly, the Core Strategy housing requirement, and the policies for the supply of housing which are derived from it, is out-of-date because it fails to adopt the two stage test of NPPF.
- 4.17 We will demonstrate that this figure is largely derived from a now revoked RSS, which is not the FOAN of the Metropolitan Borough, nor is this compliant with Planning Practice Guidance as the Authority has failed to undertake any recent assessment of its FOAN. We will rely on relevant decisions of the High Court and the Court of Appeal to support this contention.
- 4.18 We will provide our own full assessment of the FOAN using the various steps set out in PPG. This will be conducted on the basis of the appropriate housing market area and be undertaken using a recognised demographic modelling tool (POPGROUP).
- 4.19 In providing evidence on FOAN we will refer to:



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- The latest CLG 2012-based household projections which show a need for circa 950 dpa in Bolton between 2012 and 2028.
- The Greater Manchester Spatial Framework Strategic Options consultation document which shows a preferred scenario of 10,350 dpa across Greater Manchester as a whole between 2014 and 2035 and 1,015 dpa in Bolton.

Supply

- 4.20 It will be the appellant's case that the LPA does not have a robust 5 year supply of deliverable housing sites, when assessed against NPPF or Practice Guidance requirements. Paragraph 49 of NPPF is therefore engaged, relevant policies for the supply of housing are out-of-date and paragraph 14 of NPPF is triggered, meaning; a presumption in favour of sustainable development must be applied; and permission granted unless the adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in NPPF taken as a whole.
- 4.21 It will be the appellants' case that the Council failed to demonstrate a deliverable five year supply of housing land in relation to the Core Strategy requirement within the latest 2014 Annual Monitoring Report, having regard to the calculation of the 5 year requirement and assumptions made over the deliverability of specific sites.
- 4.22 The Council has referred to an updated five year housing land position (2014/15) in the Committee Report for the subject application where it claims a supply of 5.1 years. The appellant has not been able to obtain a copy of the evidence base to support this claim; however we reserve the right to analyse this during the course of this appeal process.
- 4.23 Under any scenario, we do not believe that the Council can demonstrate a deliverable five year supply of housing land, either based on the Core Strategy requirement or current FOAN further to the 2012 household projections.
- 4.24 We will consider this in the context of the Government's aim expressed in paragraph 47 of the NPPF to ***"boost significantly the supply of housing"***, alongside its statement in paragraph

19 that ***“significant weight should be placed on the need to support economic growth through the planning system”***.

- 4.25 We will demonstrate that due to persistent under-delivery of housing the LPA should allow a 20% buffer additional to the five year supply of housing, in accordance with paragraph 47 (ii) of NPPF. This is essential to ensure choice and competition in the market for land.

Analysis of Council’s Five Year Housing Land Supply

- 4.26 To support the above assertions and outcomes, the appellants will robustly assess the Council’s claimed five year housing land supply.
- 4.27 Using the criteria in footnote 11 of paragraph 47 of NPPF, we will consider whether the sources of supply offer a suitable location for development now, are achievable with a realistic prospect of delivery within five years and in particular that development of the sites are viable.
- 4.28 We will use the most up to date evidence available in producing our Proof of Evidence. The Council has advised that the Annual Monitoring Report covering 2014/15 is now imminent and we reserve the right to analyse this during the course of this appeal process.

Spatial Distribution

- 4.29 It is part of the Council’s reasons for refusal that ***“the benefits of providing more houses on this previously undeveloped site outside of the existing urban area would not outweigh the harm that would be caused to the Council’s objective of focussing new housing within the existing urban area, contrary to Strategic Objective 15”*** of the Core Strategy.
- 4.30 Strategic Objective 15 is described in paragraph 3.37 of the Core Strategy, ***“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”***.

- 4.31 It should be noted that that Policy SC1 of the Core Strategy is also relevant to spatial distribution. Bullet point 2 of the policy confirms that ***“at least 80% of housing development will be on previously developed land in accordance with the Regional Spatial Strategy; the Transforming Estates programme will provide up to 20% of housing development on Greenfield land.”***
- 4.32 It is the starting point of the appellants that the Council cannot demonstrate a five year supply of housing, in accordance with paragraph 47 of NPPF. In accordance with paragraph 49 of NPPF, relevant policies for the supply of housing must be considered out of date. It is the appellants’ case that Strategic Objective 15 and Policy SC1 are directly linked to the supply of housing having regard to the Barwood Judgement¹ and are therefore out-of-date.
- 4.33 Notwithstanding this, the appellants will argue that the Council has failed to secure sufficient delivery of market and affordable housing due to its identified 5 year supply not being deliverable. There is no evidence that preventing the proposed development in Westhoughton will make any difference to the future regeneration of sites within the urban area, which have failed to come forward due to site-specific issues or market constraints. In any case the appeal proposal is not of a scale to materially affect the plan strategy. The only demonstrable effect of the appeal site coming forward will be to contribute to addressing the urgent shortfall in market and affordable housing.
- 4.34 The appellants will argue that the site is a suitable location to meet the FOAN of the Borough. Westhoughton is referred to as a ‘main urban area’ within the Core Strategy (parag. 2.14) and must be regarded as beneath only Bolton in the settlement hierarchy. The proposed development will constitute a proportionate urban extension in a sustainable location within close proximity to shops and services.

¹ South Northamptonshire Council v Secretary of State for Communities and Local Government and Barwood Land and Estates Ltd [2014] EWHC 573 (Admin)

Affordable Housing

- 4.35 The proposal offers substantial affordable housing provision in an area with a defined need. We will demonstrate that the 105 affordable homes, comprising 79 for affordable rent and 26 shared ownership properties, make a significant contribution towards reducing an annual shortfall of 380 dwellings per annum in the 2008 Strategic Housing Market Assessment.
- 4.36 When allied to the shortfall in overall housing completions in the Borough and the lack of a deliverable five year supply of housing we will argue that this contribution represents a significant material consideration when held in the planning balance.

Highways and Transportation

Impact on the Local Highway Network

- 4.37 Bolton Council objected to the proposals based on highway impact grounds and matters relating to highway safety on the local highway network.
- 4.38 With regard to highway impact we will demonstrate within the Proofs of Evidence that the impact of the appeal proposals on the local highway network will not be severe and overall the improvements to the Chequerbent roundabout as part of the appeal proposals will not result in a severe residual transport impact.
- 4.39 It is part of the Council's reason for refusal that the proposed layout and access of the proposals will be ***"Detrimental to highway safety contrary to Core Strategy policy P5 and S1."***
- 4.40 An independent 'Stage 1 Road Safety Audit and Designers Response' in line with guidance contained within the Design for Manual for Bridges (DMRB) HD19/03 'Road Safety Audit' was undertaken on the highway proposals at the Chequerbent roundabout. These documents were submitted as part of the Transport Assessment and this raised no highway safety concerns that could not be addressed during the detailed design process.



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- 4.41 Within the Committee Report the highways officers at Bolton Council have stated that ***“Scrutiny of this document raised concerns about weaving lengths and compliance with design standards”***. An Independent Stage 1 Road Safety Audit was undertaken in accordance with the standards contained within HD19/03 and submitted as part of the Transport Assessment. This Audit demonstrated that the proposals at the Chequerbent roundabout are in accordance with the relevant design standards and will not result in a detrimental impact on highways safety.

Internal Road Network

- 4.42 It is the appellants case that the provision of a residential spine road will not be to the detriment of road safety. We will refer to the proposals through the Proofs of Evidence making reference to the capacity and design of the spine road together with the levels of traffic that are forecast to use this route.

Impact on Future Link Road

- 4.43 The appellant will demonstrate that the development of the scheme will not prejudice the comprehensive development of ‘Other Protected Open Land’ to the south.
- 4.44 At present no route for a Future Link Road in this area of Westhoughton has been published and no land has been protected to enable its construction. We will demonstrate that the proposals do not prejudice the provision of a Future Link Road within the vicinity of the application site and that an alignment can be provided which enables access to the Chequerbent roundabout or Manchester Road if a scheme is be bought forward.

Sustainability and the Planning Balance

Sustainability

- 4.45 It is the appellants’ case that, as the appeal constitutes sustainable development in terms of the economic, social and environmental considerations set out in paragraph 7, a presumption in favour must be applied.



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- 4.46 We will refer to the economic sustainability of the proposals through the Proofs of Evidence. This will refer to the significant role new house building plays in the local economy including the attraction and retention of a skilled workforce, generating additional income for residents and businesses and revenues for local government through the New Homes Bonus. In accordance with paragraphs 18 and 19 of NPPF, significant weight should be applied to these economic benefits. A statement on the economic benefits of the development is to be provided by Regeneris, a specialist economic development consultancy to support and quantify this claim.
- 4.47 In terms of social sustainability, the evidence will set out how the development will help to support a strong, vibrant and healthy community through the provision of much-needed housing, include 105 affordable units. We will refer to the most recent housing market evidence which identified a shortfall of 380 dwellings per annum. We will argue that the provision of open market housing, in accordance with paragraph 47 of NPPF and affordable housing, in accordance with paragraphs 50 and 55 of NPPF, help to meet this defined local need. The proposed development will be accessible to local services and will not have a negative impact on highways. All of the above benefits are consistent with the concept of social sustainability.
- 4.48 The evidence will also refer to environmental sustainability, citing that the proposal is situated within close proximity to shops, services and public transport. We will identify that the environmental quality of the proposed dwellings will be ensured through high quality, energy efficient homes and the incorporation of renewable and/or low energy technologies. We will argue that the environment will be enhanced through the development of this site, replacing agricultural land of limited biodiversity with 8.37ha of high quality landscape, habitats and publically available open space which will mitigate its loss. We will note that there have been no objections to the environmental impact of the proposals from the Council or statutory consultees. The proposals will have no adverse impact on; heritage assets, as discussed in chapter 12 of NPPF; valued landscapes as discussed in paragraph 109 of NPPF; or the requirement of good design as discussed in chapter 7 of the Framework.



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Furthermore, there will no adverse impacts on flooding, drainage and biodiversity. We will conclude that there are no overall adverse environmental impacts as a result of the proposals that significantly and demonstrably outweigh the benefits of development.

Conclusion on Planning Balance

- 4.49 We will therefore argue that the appeal should be allowed in accordance with paragraph 14 of the NPPF because the Development Plan is out of date, and there are no adverse impacts which would significantly and demonstrably outweigh the benefits when assessed against the policies in NPPF as a whole.
- 4.50 Having regard to economic, social and environmental considerations the presumption in favour of sustainable development is triggered and the appeal should be approved without delay.