



TOWN AND COUNTRY PLANNING ACT 1990

APPEAL BY: McCarthy and Stone Retirement Lifestyles Ltd

SITE: 35 Oakfield M33 6NB

LPA REFERENCE: 109745/FUL/22

PINS REFERENCE: APP/Q4245/W/23/3325034

**PROOF OF EVIDENCE OF MR CORMAC MCGOWAN ON BEHALF OF THE LOCAL
PLANNING AUTHORITY REGARDING PLANNING MATTERS**

October 2023

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1. Qualifications and Scope of Evidence

- 1.1 My name is Cormac McGowan and I am a Major Planning Projects Officer within the Planning and Development Service of Trafford Council. I have been employed by Trafford Council since October 2003 as a Planning Officer; Senior Planning Officer and have been in my present role since August 2018. I hold a BSc (Hons) in Town and Regional Planning from the University of Dundee and I am a Chartered Member of the Royal Town Planning Institute. I have been involved in various aspects relating to planning and development including the assessment of numerous major planning applications and the handling of appeals.
- 1.2 My evidence deals with general planning matters. This includes the relevant decision-taking and planning policy framework that should be applied. This proof also addresses the Council's case in relation to two of the seven reasons for refusal (RFR) with regards to lack of appropriate quantity and quality of external amenity space (RFR.4) and adverse impact on residential amenity of occupants at 41 Ashlands (RFR.5).
- 1.3 This evidence (along with my colleagues evidence) serves to bring together the principle areas of dispute and arguments and I shall draw overall conclusions, including carrying out the overall planning balance.
- 1.4 I can confirm that the evidence I have prepared with respect to this Inquiry is true and that the opinions expressed are my own professional views.

Accompanying Council Evidence

- 1.5 The evidence of Murray Lloyd will address matters in relation to viability and affordable housing provision (RFR.6) (CD-G25).
- 1.6 The evidence of Elisabeth Lewis will address matters in relation to heritage (RFR.1) (CD-G19).

- 1.7 The evidence of Sarah Lowes will address matters in relation to design and streetscene (RFR.2 & 3) (CD-G22).
- 1.8 The evidence of Caroline Wright will address matters in relation to the Councils Housing Land Supply (HLS) position (CD-G16).
- 1.9 With regards RFR.7 in relation to the status of bats. On the basis of the new updated bat survey (CD-A62) findings and the acceptance of the report findings by Greater Manchester Ecology Unit (GMEU), the Council are now satisfied that this reason for refusal does not require defending at appeal. Further detail on this matter is detailed in the Councils Statement of Case (CD-B9) and is a matter of agreement between both the appellant and the Council within the signed Statement of Common Ground (CD-B10).

2. Preliminary Matters

- 2.1 This appeal is made against the refusal of planning permission by the Local Planning Authority (LPA) Trafford Council under reference: 109745/FUL/22 which proposes:

Demolition of existing buildings and erection of a part 3 storey part 4 storey building comprising 25no. retirement flats, closure of both existing vehicular accesses and formation of new vehicular access onto Oakfield with associated landscaping and carparking.

- 2.2 The application was received on the 29th November 2022 and made valid on the 6th February 2023. During the course of the application the development description was amended to better reflect the development proposals. Neighbours were reconsulted of the change in description, revised site notices posted and also re-advertised in the local press. The 13 week expiry date was the 8th May 2023, the application was refused on the 5th May 2023 under delegated powers to officers (Trafford Scheme of Delegation) (CD-A65).
- 2.3 A copy of the decision notice is contained within the core document list (Ref: CD-A64).

3. Decision Taking Framework

- 3.1 Section 38(6) of the Planning and Compulsory Purchase Act (PCPA) 2004 requires applications to be determined in accordance with the development plan unless material considerations indicate otherwise. That remains the starting point for decision making. The National Planning Policy Framework (NPPF) is the Governments expression of planning policy and how this should be applied.
- 3.2 The NPPF sets out a presumption in favour of sustainable development. Paragraph 11 (c) says for decision taking development proposals that accord with an up-to-date development plan should be approved without delay. Paragraph 11 (d) states that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, planning permission should be granted unless:
- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 3.3 For applications which involve the provision of housing, Footnote 8 confirms that 'out-of-date' includes situations where the Local Planning Authority cannot demonstrate a five year supply of deliverable housing sites. It is common ground the Council does not have a five year supply. The Council sets out that it has 3.85 years of housing land supply as detailed within the POE of my colleague Mrs Wright (CD-G16) which is agreed between both parties within the signed Statement of Common Ground (CD-B10).
- 3.4 Footnote 7 of Paragraph 11(d)(i) is clear that the application of policies in the Framework that protect areas or assets of particular importance includes those

which relate to designated heritage assets. It is not triggered by an identified impact on non-designated heritage assets. Consequently, there are no protected areas or assets affected by the proposals and therefore 11(d)(i) is not applicable in this case.

- 3.5 Paragraph 11(d)(ii) requires that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. This exercise is set out within the Conclusion section of this report. Paragraph 11(d)(ii) of the NPPF, the tilted balance, is therefore engaged.

4. Planning Policy Overview

National Planning Policy and Guidance

- 4.1 The National Planning Policy Framework (NPPF) (CD-C1) sets out the Government's planning policies for England. The most recent updated version of the NPPF was published on the 5th September 2023. The NPPF is supplemented by the National Planning Practice Guidance (NPPG) (CD-C2) which is updated regularly.
- 4.2 The National Design Guide was published by Government in October 2019 and sets out how well designed buildings and places rely on a number of key components and the manner in which they are put together.
- 4.3 Relevant sections of the NPPF, NPPG and the National Design Guide will be referenced where appropriate within this POE.

The Statutory Development Plan

- 4.4 The Trafford Core Strategy (CD-D2) is the primary development plan document used to guide development over the plan period to 2026. It sets out the overall planning policy strategy for the area, describing the spatial direction, strategic objectives and core policies that have been adopted. A list of all relevant Core Strategy policies against which the application was assessed are included within the officer's report to committee, core document list (CD-A63).
- 4.5 The Revised Unitary Development Plan (UDP) (CD-D1) has mostly been superseded by the Core Strategy. It was adopted in 2006. Saved policies of the UDP not replaced by the adoption of the Core Strategy will remain in place until replaced by policies within the emerging Local Plan.
- 4.6 The Composite Policies Map (CD-D4) shows sites that have been allocated for specific uses. It is a geographical representation of all policies and proposals within the Core Strategy including saved policies within the Revised UDP plan.

- 4.7 A review of all Core Strategy Policies was undertaken in April (2019) with regards their consistency with the NPPF and the weight to be afforded. A copy of this review of policies is included within the core document list (CD-D3).
- 4.8 With regards the evidence I present within this POE in relation RFR 4 and RFR 5 the most relevant Core Strategy Policy is Policy L7 (Design) (CD-D2).
- 4.9 Policy L7 of the Core Strategy states that, in relation to matters of design, development must: be appropriate in its context; make best use of opportunities to improve the character and quality of an area; enhance the street scene or character of the area by appropriately addressing scale, density, height, massing, layout, elevation treatment, materials, hard and soft landscaping works, boundary treatment. Policy L7.3 requires new development to be compatible with the surrounding area and not to prejudice the amenity of the future occupiers of the development and/or occupants of adjacent properties by reason of overbearing, overshadowing, overlooking, visual intrusion or noise and/or disturbance.
- 4.10 Policy L7 is considered to be compliant with the NPPF and therefore up-to-date as it comprises the local expression of the NPPF's emphasis on good design and, together with associated SPDs, the Borough's emerging design code. It can therefore be given full weight in the decision making process.
- 4.11 Also of relevance is the overarching Core Strategy housing policies, namely L1 Land for New Homes and L2 Meeting Housing Needs.
- 4.12 With regards the status of these two policies, Policy L1 of the Core Strategy controls the number and distribution of new homes across the Borough. Given the lack of five year housing land supply, and the age of this policy (including the need to use the more recent 'standard method' of calculating housing need), it is now out of date and should be given limited weight. Policy L2 of the Core Strategy relates to meeting housing needs and remains up to date in respect of the requirement for the amount of affordable housing and in terms

of site specific requirements for development (L2.2). Full weight can be given to this part of the policy. Other parts of this policy, for example in relation to dwelling mix, are not up to date and should be given limited weight.

- 4.13 Policy R1 in relation to the historic environment does not reflect case law or the tests of 'substantial' and 'less than substantial harm' to the significance of designated heritage assets in the NPPF, it is still given full weight in relation to non-designated heritage assets.

Emerging Development Plan

Places for Everyone

- 4.14 Places for Everyone (PfE) is a joint Development Plan Document being produced by nine Greater Manchester districts (Bolton, Bury, Manchester, Oldham, Rochdale, Salford, Tameside, Trafford and Wigan). The PfE Regulation 19 consultation concluded in Autumn 2021 and the Plan was submitted to the Secretary of State for Levelling Up, Housing and Communities on 14 February 2022. Independent Inspectors have been appointed to undertake the Examination in Public of the PfE Submission Plan and the timetabled hearings have now been completed. Greater Manchester Combined Authority (GMCA) have presented the main modifications schedule to the Inspectors who have advised that at this stage of the examination that all the proposed main modifications proposed are necessary to make the Plan sound and/or legally compliant. The consultation on the Main Modifications opened on the 11th October 2023 and closes on the 6th December 2023. It is anticipated that the plan will be adopted in 2024.

- 4.15 A list of relevant PfE policies with regards to the appeal are provided within the core document list (CD-E1). Given the advanced stage of the PfE process it is now attributed substantial weight in the planning balance.

Trafford Local Plan

4.16 The draft new Trafford Local Plan (CD-E2) was consulted on under Regulation 18 of the Town and Country Planning (Local Planning) (England) Regulations 2012 from 4 February 2021 to 18 March 2021. A second Draft Local Plan Consultation is scheduled for Spring 2024. It is anticipated that the publication version of the Trafford Local Plan will be published for consultation in Autumn 2024. However, this is dependent on the progress of the PfE plan because the publication version of the Trafford Local Plan will not be consulted on until the PfE Examination has made significant progress. This draft Trafford Local Plan document is considered to be of limited weight. The retained UDP policies and the Core Strategy will eventually be replaced by the emerging Trafford Local Plan.

5. Main Issues

i. Quantity and Quality of External Amenity Space for Future Residents (RFR 4)

- 5.1 Policy L7 of the Core Strategy states that in relation to amenity that development must not prejudice the amenity of future occupiers of the development in any way.
- 5.2 The NPPF advises that planning decisions should aim to achieve healthy, inclusive and safe places (Paragraph 92) and that planning decisions should ensure that developments promote health and well-being, with a high standard of amenity for existing and future users (Paragraph 130(f)). The National Design Guide (NDG) (CD-C3) identifies that well-designed homes and buildings, provide good quality internal and external environments for their users, promoting health and well-being and relate positively to the private, shared and public spaces around them, contributing to social interaction and inclusion (Paragraph 123). The NDG also advises at paragraph 129 that well designed buildings are carefully integrated with their surrounding external space. All private and shared external spaces including parking are high quality, convenient and function well.
- 5.3 The Councils Draft Design Code (CD-D11) (Apartments - Plan and Layout - Amenity Space - Code APL10) details that all apartments must be provided with either balconies, terraces or private gardens, in addition to well-designed communal gardens. The glossary section of the Draft Design Code provides the following definition of amenity *'The desirable or useful features of a building or place which supports its ongoing use and enjoyment by building occupants, residents, visitors, workers etc. It is usually understood to mean visual and aural amenity. Factors relevant to amenity include the general characteristics of the locality (including the presence of any feature of historical architectural, cultural or similar interest), daylight, sunlight, outlook, privacy, air quality,*

effects of wind, odour, noise and vibration. Amenity should be preserved, so potential impacts need to be assessed and managed.'

- 5.4 The Councils Planning Guidance 1: New Residential Development (PG1) (CD-D7) seeks to ensure that new dwellings provide some private outdoor space and notes that this does not include front or side garden areas open to view from roads, nor space needed to comply with parking standards. In relation to flats, approximately 18sqm of screened communal space per flat is generally considered sufficient for the functional requirements, with balconies contributing to this provision. This would equate to approximately 450 sqm of private external space being required as a minimum as part of the appeal proposals.
- 5.5 Whilst it is acknowledged that the figures set out in PG1 are only intended as guidance, it is clear that the amount of outdoor amenity space to be provided for future residents is insufficient and that some of the elements relied upon as external amenity space are not of sufficient quality for such a purpose.
- 5.6 The submitted Design & Access Statement (CD-A7) advises that each of the apartments benefits from either private balconies or garden terraces and the communal lounge opens out onto a communal terrace and garden. The balconies generally range between approximately 3.5m² - 5m² with the largest approximately between 9m² – 10m², the balconies have a combined total area of approximately 137m². Balcony areas are provided to 24 of the 25 apartments (apartment 8 has no walk-out balcony but does have a 'Juliet' style balcony).
- 5.7 The ground floor patios as detailed within the DAS are offered little privacy, these are located along the north and south elevations with only low level ornamental planting and small sections of grassed areas beside the communal path that extends around the building. The balcony areas and the patio areas have less useable space than indicated due to outward opening doors and are

not considered fit for purpose they also do not allow residents sufficient space to place garden furniture outside to enjoy these outdoor spaces.

- 5.8 The submitted landscaping plans refer to a communal garden around the north and west side of the building. It is not generally accepted that the grassed areas that are located outside residents private apartment windows would be considered as communal garden space. It is suggested that these areas are merely soft landscaped areas that form a verge to the pathway extending around the building.
- 5.9 Much of this area is made of ornamental planting reducing the amount of lawned area and is also on the north side of the building with restricted sunlight. Residents who do not occupy the ground floor apartments on the north side of the building are likely to feel more uncomfortable using this side of the building for sitting out given the limited space and the close proximity to the ground floor apartment windows and doors. A distance of approximately 8m is retained from the side of the building to the side boundary which illustrates the limited space available. It is my view that this area would not give the impression of or function as communal space (such as sitting out) other than providing a path access around the building. Advice within the National Design Guide (NDG) (Paragraph 158) (CD-C3) details that well-designed places clearly define the boundaries for private, shared and public spaces making it more likely that occupants will use them.
- 5.10 To the rear of the site, the landscaping plan (CD-A35) submitted with the application indicates ornamental planting along the rear elevation of the building, along the side of the boundary with 41 Ashlands as well as the edge of the new footpath. This further reduces the area of functional grassed/lawned area where residents could set out garden furniture, similar to the north side of the building. In addition the limited space retained between the gable elevation of the building and the boundary with 41 Ashlands does not create a particularly pleasant area for resident to enjoy given the oppressive blank sterile elevation of the building and the limited area to the rear of the site. This area to the rear of the site also provides no natural surveillance. The NDG (Paragraph 131)

(CD-C3) states that well designed amenity spaces feel safe and secure for users. They are social spaces providing opportunities for comfort, relaxation and stimulation for residents, are well overlooked and all of the residents who share them can access them easily.

5.11 A formal communal garden is provided to the south side of the building and measures approximately 194m², a communal patio area (hard surfaced) is also located on this side and measures approximately 32m² and is shown on the landscaping plan as having a timber gazebo type structure. These areas are more defined as communal external space, albeit this area of external space is insufficient in size to fully accommodate the scale of development. This area however is located immediately adjacent to the car parking area for the development, separated by a hedge and three small trees as indicated on the landscaping plan, residents using the external area will be exposed to the noise and activity from the vehicle movements within the car park. In addition the school playground and car park of Forest Park Preparatory School are also located beyond the southern boundary of the site adjacent to the main external area of communal space within the site. These are areas which will also be subject to noise and associated activity from children using the playground and associated noise from cars.

5.12 It is my view that the excessive footprint and design layout of the building has restricted and dictated the amount and location of external space around the building that would provide sufficient good quality space for residents to enjoy. The areas within the site that have been shown to be used for communal use, particularly to the north and west side of the site are extremely restricted in terms of functioning as amenity space and are dominated by the extent and scale of the building. The area of external space to the south side is located adjacent to areas which are subject to noisy activity, impacting on residents enjoyment of the limited area of external space.

5.13 Given the above, it is considered that the proposed development would fail to adequately provide a good standard of private amenity space for future residents, to the detriment of their health and wellbeing.

ii. Impact on Residential Amenity (RFR 5)

- 5.14 Policy L7 of the Core Strategy requires new development to be compatible with the surrounding area and not to prejudice the amenity of the future occupiers of the development and/or occupants of adjacent properties by reason of overbearing, overshadowing, overlooking, visual intrusion, noise and/or disturbance.
- 5.15 The Council's adopted Planning Guidance PG1 (CD-D7) provides guidance on separation distances between proposed development and residential properties.
- 5.16 The fifth reason for refusal relates specifically to the impact of the development proposals with regards the occupants of 41 Ashlands located beyond the rear boundary of the site (south-west side).
- 5.17 In addition to 41 Ashlands, the nearest residential properties to the appeal site include the Michael Court Retirement Apartments to the north side of the site and 40 Oakfield and properties on Hunters Mews, Oakfield to the north-east and east side of the site respectively, on the opposite side of Oakfield. I consider that the proposed development would not have an adverse impact in relation to these properties for the reasons detailed within the officers delegated report paragraphs 90 – 93 (CD-A63).
- 5.18 41 Ashlands to the rear of the appeal site is a detached two storey dwelling with a hipped roof and which has a single storey conservatory extension nearest to the shared boundary with the appeal site with front and rear garden areas. The property has a blank gable elevation which faces towards the site, on the rear elevation is a ground and first floor curved bay serving a dining room at ground floor and bedroom at first floor. An approximately 2m high close board timber fence extends along the shared boundary between both sites. It is understood there is one tree on the neighbours side (deciduous species, understood to be a Whitebeam) and approximately 4 medium sized

trees along the application side of the boundary (all evergreen species Yew and Hollies), the trees offer partial screening between sites. To illustrate the view from the residents garden (41 Ashlands) I refer to (Appendix 4) which is a copy of the residents representation made during the course of the application and which includes photographs taken from the residents garden looking towards the appeal site. The photographs demonstrate that the trees along the boundary do not provide complete screening between both sites.

5.19 The appeal site and 41 Ashlands are both located within a blanket TPO No.70 Oakfield/Ashlands (CD-F13). The TPO was created in 1970 and protects only trees that existed at that time. The Councils Arboriculturist has confirmed (Appendix 3) that the Yew and the Hollies within the appeal site are described within the appellants Tree Survey (CD-A60) as being semi-mature which means that they are too young to be protected by the TPO. The trees along the shared boundary with 41 Ashlands are shown on the Tree Protection Plan (CD-A37) as being retained (Tree Nos:13, 14, 15 & 16) a tree protection condition is proposed to ensure retained trees are protected during construction works. There is no control over the tree within the neighbours garden which could be removed at any time. PG1 (Paragraph 11.3) (CD-D7) advises that reliance on natural screening is not a suitable means of mitigation as trees can become damaged and/or diseased and replacements can take considerable periods of time to establish.

5.20 The proposed new building will retain approximately 6.5m at the nearest point to the shared boundary and will extend parallel with the shared boundary, which on the neighbours side is their rear garden area. The appellants Design & Access Statement (DAS) Chapter 4 (CD-A7) advises that the scheme had been redesigned at design stage to move the new building away from the residents boundary. In addition it is stated that as part of the initial design proposals the building has been reduced in mass as it steps back into the site with a diminishing mass to the rear of the site.

- 5.21 Notwithstanding these changes to the design of the building, I consider that the resulting building would have a detrimental impact on the amenity of the occupiers at 41 Ashlands with regards the overbearing and intrusive nature of the new building due to its greater height and close proximity to the residents garden boundary. The new building nearest to the shared boundary with 41 Ashlands will contain three floors of accommodation, albeit the second floor contained within the roof.
- 5.22 The rear elevation of the building facing towards 41 Ashlands features an asymmetrical double gable, both gables differ in height. The gable immediately facing towards the rear garden area of 41 Ashlands measures approximately 10.6m from ground to ridge height and the second gable measures approximately 11.3m. As a comparison 41 Ashlands measures approximately 8.1m from ground to ridge height.
- 5.23 The new building has a stepped formation to its rear elevation which results in one of the gables being marginally nearer to the shared boundary than the other (i.e the gable facing the rear garden area of 41 Ashlands retains approximately 6.5m, the second gable which faces towards the side elevation of 41 Ashlands retains approximately 7m).
- 5.24 As the new building extends away from the shared boundary with 41 Ashlands it steps up in height at three distinct points forming a further two double gables within the core of the building. The roof structure of the front side of the building extends perpendicular to the double gables, the ground to ridge height of the building at the front side of the property is approximately 15m (the highest part of the building).
- 5.25 The new building will extend in close proximity adjacent to the neighbours side garden boundary, I consider that this would be extremely overbearing and intrusive to the occupants at 41 Ashlands. Indeed during the determination of the planning application the occupants of 41 Ashlands made representations, including photographs, and had referred to the overbearing impact of the building as one of their objections to the proposals. Whilst the building may

have been moved marginally further away from the neighbours boundary as initially proposed, it is still in very close proximity and at a greater height and mass in relation to 41 Ashlands. The siting of the new building close to the residents boundary means that the higher sections that step up would exacerbate the sense of its overbearing and intrusive nature. In addition the new building effectively extends along the entire section of the shared boundary between both sites (a gap of approximately 2.2m is retained from the south side of the building to its southern boundary which extends in line with the rear boundary of 41 Ashlands) and offers no relief in terms of its bulk and scale particularly when viewed from the residents garden.

- 5.26 The building also has a number of projecting balconies on its side elevations, whilst a privacy screen could be conditioned to the side of these, occupiers can easily lean forward and view around such screens. There is also a third floor balcony integral to the building serving apartment 22 (Proposed Floor Plans) (CD-A26) which faces towards the garden area of 41 Ashlands, whilst this would retain sufficient distance to the shared boundary having regard to the privacy distance advice in PG1 (CD-D7) it adds to the sense of being overlooked particularly from such an elevated position.
- 5.27 The occupants of 41 Ashlands have also raised concerns regarding overlooking from walkout balconies to their front and rear garden areas. The apartments within the building that are nearest to the neighbours boundary and which have walk-out balconies are first floor apartment 9 and second floor apartment 17 on the north elevation and second floor apartment 16 on the south facing elevation. As indicated the provision of a balcony screen to a sufficient height (circa. 1.8m) would restrict direct views across to the neighbouring garden areas of 41 Ashlands. If the required privacy distance was retained from the balcony edge to the shared boundary then the fact that someone could lean out to look across to the garden would be less of a concern as sufficient distance is retained.
- 5.28 However, the appeal proposal details that the balcony to apartment 16 will retain approximately 6.5m to the shared garden boundary of 41 Ashlands.

Advice within PG1 (CD-D7) states that a distance of at least 13.5m be retained to private rear garden boundaries from windows of flats of 3 storeys or more (Paragraph 11.4). Whilst reference is made to windows the same parameters are applied to balcony areas. The distance retained is therefore just marginally less than half the recommended distance to be retained. The balcony area is at second floor level and therefore the occupants would be looking down towards the neighbouring garden area. A 'Juliet' type balcony is provided to apartment 8 which is also located on the south side of the building at first floor level. The proposed floor plans detail that the balcony doors open into the building with a safety guard rail across the opening. The occupant of this apartment could therefore also lean out and would be able to look across to the residents garden with no privacy screen provided in this situation.

- 5.29 The neighbour at 41 Ashlands had also made reference to overlooking to their front garden area from the balconies serving apartments 9 and 17. Whilst good design would look to ensure no undue overlooking to any private garden area from a development, it is acknowledged that less weight would be attributed to overlooking to a front garden area which in most conventional residential layouts (including 41 Ashlands) tends to be located adjacent to public highway and therefore providing a less private area. The advice within PG1 Paragraph 11.4 (CD-D7) also refers to rear garden areas only.
- 5.30 It is my view that the appeal proposals would result in an adverse impact upon residential amenity of the adjacent occupants at 41 Ashlands in relation to undue overlooking and the intrusive and overbearing nature of the proposed building in close proximity to the neighbours boundary.

6.0 Overall Planning Balance

- 6.1 In weighing up the relevant factors arising from the appeal proposal and concluding upon the Council's case, I am required to have regard to Section 38(6) of the Planning and Compulsory Purchase Act 2004 which confirms the priority of the development plan. Other material considerations which I shall take into account include the NPPF, NPPG and the substantial weight now apportioned to the emerging PfE Development Plan which the appeal proposals would conflict with a number of policies in matters including those relating to design, heritage, affordability of new housing, developer contributions and trees and green infrastructure.
- 6.2 I accept that the Council cannot demonstrate a five year housing land supply. NPPF paragraph 11d(ii) applies and the tilted balance is engaged. Paragraph 11d(i) is not relevant in this case since there is no clear reason for refusing the development proposed when having regard to the application of NPPF policies which seek to protect areas or assets of particular importance. An assessment of the appeal proposal under paragraph 11d(ii) is therefore required, the benefits of the appeal proposal therefore need to be weighed against the adverse impacts.
- 6.3 The evidence provided by the Council demonstrates that the adverse impacts of the development identified during the determination of the planning application (and which form the reasons for refusal) significantly and demonstrably outweigh the benefits advanced by the appellant.
- 6.4 I begin with the level of heritage harm identified which is to be factored into the overall planning balance.

Heritage

- 6.5 RFR 1 relates specifically to the heritage harm arising from the total loss of a Non-Designated Heritage Asset (NDHA). In respect to the heritage impacts, I rely on the expert evidence as detailed within the Proof of Evidence prepared by Elisabeth Lewis (Heritage & Urban Design Manager) (CD-G19).
- 6.6 35 Oakfield is a Non Designated Heritage Asset and its complete loss as a result of the appeal proposals gives rise to heritage harm.
- 6.7 The supporting text under the Justification section Policy R1 (CD-D2) states at Paragraph 21.12 that Heritage assets in the Borough contribute to the unique character and quality of the historic built environment. These sites and buildings are an irreplaceable record of the Borough, which can contribute to our learning and understanding of the past including its social and economic history, and are also a resource for the future. It is therefore essential that we seek to preserve, protect and where appropriate, enhance these special buildings and sites, in line with national and regional planning policy guidance.
- 6.8 In relation to the NPPF, paragraph 189 advises that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. In the determination of planning applications, Local Planning Authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation (paragraph 197 (a)).
- 6.9 Significance is defined in the NPPF (Annex 2: Glossary) (CD-C1) as 'The value of a heritage asset to this and future generations because of its heritage interest. That interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting.'
- 6.10 As detailed with the POE of Mrs Lewis, the existing building 35 Oakfield, including its spacious setting and historic boundary walls, has the relevant heritage significance to be considered a non-designated heritage asset. It meets a number of the draft Greater Manchester Heritage List criteria as

detailed in the evidence of Mrs Lewis and in the opinion of Mrs Lewis has a medium heritage significance. I agree with Mrs Lewis's assessment of significance.

6.11 It is also noted that during the determination of the planning application the consultation response from Greater Manchester Archaeological Advisory Service (GMASS) (Appendix 1) considered the building to be a NDHA.

6.12 I note from Mrs Lewis POE that the appellants Statement of Heritage Significance (CD-A56) relies on assessing the significance of the building against statutory listing criteria, which is a higher bar than local listing. The conclusion of the author being that *'the significance of this building (even if it is regarded as a non-designated heritage asset) is marginal at best'*. Reference is also made to the extremely poor physical and degraded condition of two of the elevations of the building and previous unsympathetic alterations and additions. The Statement of Heritage Significance concludes that preventing redevelopment would do nothing to secure investment in the site. No structural surveys of the building were included as part of the planning application submission. No alternative approaches to redevelopment of the site that would involve the retention of the building were included as part of the planning submission that demonstrated that such an approach was not a viable option.

6.13 Mrs Lewis's POE concludes that because the appeal proposals for the redevelopment of the site result in the total loss of a NDHA of medium heritage significance, the heritage harm would be major. I agree with the conclusion of Mrs Lewis. The complete demolition of the NDHA would result in the complete loss of heritage significance and unacceptable harm to the character and appearance to the surrounding area. Furthermore the development fails to minimise the conflict between the assets conservation and the proposal contrary to paragraph 195 of the NPPF.

6.14 Paragraph 203 of the NPPF requires the decision maker to consider the effect of an application on the significance of a NDHA and in the weighing up of an

application affecting such an asset, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

6.15 I have considered the commentary of the appellants heritage consultant particularly in relation to the suggested poor structural condition of the building and conversion and redevelopment involving the retention of the building as not being viable. Notwithstanding, the current building is occupied for residential use and I have seen no evidence to the contrary suggesting that the building is uninhabitable or that its current residential use is an unviable use for the site currently or going forward as an existing use. Indeed, the appellants updated valuation survey (CD-B4) page 12 stated '*that the property generally appeared to be in reasonable condition however it would benefit from some modernisation. The exception to this being Flat D which is in an uninhabitable condition which requires immediate capital expenditure on it.*' These observations appear to contradict the conclusion of the appellants Heritage Consultant.

6.16 I have also had consideration for the proposed replacement building (given the identified level of heritage significance attributed to 35 Oakfield) which as demonstrated within Mrs Lowes POE in relation to design quality the development would not be appropriate in its context, failing to address considerations relating to scale, density, height, layout, elevation treatment, materials and landscaping.

6.17 To conclude, and relying on the evidence of Mrs Lewis, I consider that the building, including its spacious setting and historic boundary walls, has sufficient architectural and historic interest to justify it being considered a NDHA of medium significance. The proposal to demolish the building and redevelop the site would result in total loss of this significance and I consider this to be a major harm this weighs against the proposal in the planning balance. That harm has been articulated as being major, that harm cannot be undone in the future should the building be demolished.

Affordable Housing

- 6.18 As part of the planning application submission the appellant submitted a viability assessment concluding that the development proposals would not be able to contribute towards any affordable housing. The appellants appeal submission from the outset maintained this position, until later in the process an off-site financial contribution of £208,000 was presented by the appellant. This figure has arisen from a new Existing Use Value for the land and buildings at 35 Oakfield, further detail on this matter is contained within Mr Lloyds proof of evidence (CD-G25).
- 6.19 Core Strategy Policy L2, L8 and Revised SPD1 (CD-D5) state that in respect of all qualifying development proposals, appropriate provision should be made to meeting the identified need for affordable housing. In order to take into account current issues relating to viability the Borough is split into 3 broad market locations with the appeal site falling into the “moderate” market location whereby in good market conditions there is a requirement for 25% requirement.
- 6.20 However Policy L2.12 advises that in those part of the Borough where the nature of the development is such that, in viability terms it will perform differently to generic developments within a specified market location the affordable housing contribution will not normally exceed 40%. Policy L2.14 states that the expected method of delivery will be on site with a tenure mix of 50% affordable rent and 50% intermediate (shared ownership).
- 6.21 The Council are of the opinion that the appeal site is considered to be a site that in non-generic in viability terms and that affordable housing provision of 40% would be required at this site (10 units). This reflects the case advanced by the appellants that the proposed development has a different risk profile, different costs associated and a different approach to values (substantially higher than a normal apartment). The appellants viability assessment (CD-A9) paragraph 3.5 ‘Overall Policy Consideration’ states that the viability studies that informed the plan did not consider specialist retirement

accommodation for the elderly, which will perform differently to generic developments. The appellants viability assessment has been undertaken at 25% of 25 units (six units).

6.22 Following the financial contribution offer the appellant subsequently submitted an Affordable Housing Statement (CD-B5). The appellant concludes that the financial contribution follows a viability appraisal carried out using robust inputs. Notwithstanding this, Mr Lloyd has evidenced within his POE (CD-G25) that the development proposals can provide 40% affordable housing provision and also addresses the updated approach to the viability by the appellant.

6.23 The appellants case for an off-site financial contribution is supported by a number of factors referred to within the Affordable Housing Statement. They state that the high level of service charge that private purchasers expect for the standard of management as part of the accommodation package, would be difficult to be set at a level that would also be affordable to the residents of the affordable housing. In addition reference is made to possible friction between occupants of the private accommodation who would pay a significant annual service charge for premium services and those occupants of the low cost/heavily subsidised affordable accommodation who would have use of the same services. Reference is also made to the physical constraints of the site which would make it difficult to separate blocks of accommodation in relation to the private occupants and those within affordable accommodation.

6.24 The appellant has also made reference to correspondence with local registered providers with no responses received. A copy of an e-mail sent by the appellant in September 2023 to the registered providers is included in the appendices setting out the development proposals and requesting any expressions of interest. The appellant has included a number of appeal decisions in relation to off-site financial contributions.

6.25 The financial contribution is welcomed, however the contribution is not policy compliant with regards 40%. Mr Lloyd provides further detail on these matters

within his POE (CD-G25). The starting point for the Council is the policy requirement (L2.14) that the expected method of delivery will be on site. Paragraph 63 of the NPPF reinforces this requirement for onsite provision first, unless a financial contribution is robustly justified.

- 6.26 Policy JP-H2 of the Places for Everyone joint Development Plan (CD-E1) Composite Version identifies that substantial improvements will be sought in the ability of people to access housing at a price they can afford, including through, significantly increasing the supply of new housing in accordance with Policy JP-H 'Scale, Distribution and Phasing of New Housing Development'; maximising the delivery of additional homes, including through local plans setting targets for the provision of affordable housing for sale and rent as part of market-led developments based on evidence relating to need and viability; and support provision of affordable housing as part of new developments.
- 6.27 It is acknowledged that the high level of service charge associated with this type of accommodation could deter registered providers from acquiring units. It is also acknowledged that the physical constraints of the site and the nature of the proposed development make it impractical to sub-divide the site into different blocks of accommodation for the different end users. The appellant has detailed how no responses have been received from registered providers, however that is not conclusive that no registered providers would not be interested in managing units within the development. If planning approval was secured at this site for the proposed use to be brought forward, this could appeal to registered providers as opposed to the current position with no approval in place. It is noted that the list of registered providers does not include the three main registered providers within Trafford, namely L&Q (Formerly Trafford Housing Trust), Southway and Your Housing Group. The list included in Appendix A of the affordable housing statement (CD-B5) also includes a number of registered providers who specialise in older peoples accommodation only (such as Housing 21 and Anchor) and some of them do not have stock in Trafford.

6.28 Therefore it is proposed that the unilateral undertaking includes a clause that would allow the appellant to make a case for off-site provision as opposed to the policy position of on-site provision and provide a more detailed robust justification in line with the NPPF and SPD1 paragraph 3.31 (CD-D5) with correspondence from registered providers, including the main registered providers within Trafford.

6.29 The NPPF is clear that qualifying residential proposals should deliver a maximum reasonable level of affordable housing. The shortfall in a policy compliant level of affordable housing in this case is of very considerable importance in the planning balance since it reduces the scope for a more mixed, inclusive and balanced community to be achieved.

Adverse Impacts

6.30 The adverse impacts of granting approval for the proposed development are identified as follows:

- Non-Designated Heritage Asset - Irreversible harm to the significance of a non-designated heritage asset caused by its total loss. The POE of Mrs Lewis has identified the appeal site as exhibiting a medium level of heritage significance. Total loss of this significance as a result of the proposed works I consider as a major heritage harm. **(Substantial weight is attached to this harm);**
- Affordable Housing – As detailed with the POE of Mr Lloyd the appellant has not provided a robust Financial Viability Appraisal which demonstrates that the scheme cannot support a policy compliant level of affordable housing; **(Substantial weight is attached to this harm);**
- Residential Amenity – An adverse impact on residential amenity with regards the overbearing and intrusive nature of the building and undue overlooking. **(Substantial weight is attached to this harm);**
- Design – Mrs Lowes has concluded within her POE that on design quality, the development would not be appropriate in its context, it has not made best

use of opportunities to improve the character and quality of the area, and it has not appropriately addressed design considerations relating to scale, density, height, layout, elevation treatment, materials and landscaping. It is considered to be a poor design response to the character and context of the site resulting in a loss of spacious character and appearing cramped. I agree with the conclusions of Mrs Lowes **(Substantial weight is attached to this harm)**;

- Streetscene - I agree with the conclusions of Mrs Lowes that the appeal scheme would fail to protect and enhance green infrastructure within the site and would result in the loss of numerous mature trees and established planting including in the formation of the new vehicular access as well as inappropriate boundary treatment harmful to the character of the street scene. **(Substantial weight is attached to this harm)**;
- External Amenity Provision - A poor and inadequate level of external amenity space for future residents with consequential impacts on health and wellbeing **(Substantial weight is attached to this harm)**; and
- Limited space for replacement tree planting and soft landscaping – I agree with the conclusions of Mrs Lowes that the appeal scheme does not include sufficient mitigation to compensate for the loss of trees, to the detriment of the visual amenity of the site and wider street scene **(Substantial weight is attached to this harm)**.

Benefits

6.31 The main benefits that would be delivered by the proposed development and advanced by the Appellant.

- Housing Land Supply - The provision of 25no residential dwellings (net increase of 13 units based on Fisher German Valuation Report Chapter 2 which details 12 existing flats) (CD-B4) on a partly brownfield site within the urban area (significant part of the site is greenfield), contributing towards the Council's housing supply. It is a matter of common ground between both parties that the Council is unable to demonstrate a five year housing land

supply (FYHLS) and the current position of 3.85 years (SOCG) (CD-B10). As set out in Mrs Wrights POE the Councils FYHLS position is expected to improve significantly with the adoption of PfE in 2024. Nonetheless, the current position is below five years and whilst the net increase in residential units is not significant in terms of numbers its contribution to the supply is attached weight in the balance (**Substantial weight is afforded this benefit**);

- Provision of accommodation aimed at older persons - The Trafford Housing Needs Assessment (HNA) 2019 Older Persons (Appendix 2) provides the latest available evidence to shape the future housing related strategies and policies in Trafford. This study complements the Greater Manchester (GM) Strategic Housing Market Assessment (SHMA) by providing detailed local information and supports the development of the new local plan for Trafford. The HNA predicts that over the period 2019 to 2037 the number of older person households in Trafford will increase by around 15,900, and increase of approximately 38%. The HNA also demonstrates that within Trafford most households over 60 currently live in owner occupied accommodation 77.1 % aged 60-84 years and 72.4% aged over 85 HNA 2019 (Table 7.3 Page 136) (CD-D10) and that 61.2% of older households currently live in a house with 3 or more bedrooms HNA 2019 (Figure 6.2 Page 97) (CD-D10). This indicates an ageing population with a significant amount who also own family sized housing.

Analysis within the HNA 2019 Older Persons (Appendix 2) suggests that across the borough over the period from 2019 - 2037 there is a need for 1,402 more units of specialist older person (C3) dwellings such as extra care and retirement housing (which is part of the overall housing need); and an increase of around 541 units of residential care (C2) dwellings. Annex 2 of the NPPF defines older people as *“people over or approaching retirement age, including the active, newly-retired through to the very frail elderly; and whose housing can encompass accessible, adaptable general needs housing through to the full range of retirement and specialist housing for those with care and support needs.”*

During the determination of the planning application the Councils Adult Social Care section advised (Appendix 5) that their preference would be for Extra Care accommodation which they advise there is an under provision within the Borough rather than general sheltered accommodation for the elderly (this is normally a flat or bungalow in a block or on a small estate for older residents). It is acknowledged that the McCarthy & Stone model of age-exclusive housing with communal facilities is a form of accommodation for older residents which differs from the standard type of sheltered accommodation referred to by the Councils Adult social Care. As the appeal proposal comes under C3 use class this also contributes towards the current housing land supply position and carries significant weight in the consideration of the proposal. **(Substantial weight is afforded to this benefit);**

- The release of local housing from people moving to the proposed development – In the appellants Affordable Housing statement (CD-B5) paragraph 2.15 reference is made to the release of under occupied larger housing stock when people move into retirement properties. This can only be given limited weight given that whilst there may be reasonable restrictions on age of occupants moving into new retirement properties there is no existing geographical restriction on those purchasing the proposed units or where the ‘released’ larger properties are located (i.e if outside Trafford Borough no direct benefit to Traffords existing housing stock) **(Limited weight is afforded to this benefit);**
- Wider social benefits - Older people living together on a complex and the social interactions this brings **(Moderate weight is afforded to this benefit);**and
- Economic benefits – Some economic benefits associated with job creation and increased expenditure **(Limited weight is afforded to this benefit).**
- Affordable Housing – A financial contribution of £208,000.00 has been made by the appellant towards off-site affordable housing. The change in the appellants position from no provision is welcome, however the provision is not on site which is the starting position of the development plan policy and

Framework requirement and is not a fully policy compliant level.**(Limited weight is afforded to this benefit).**

Policy

- 6.32 I consider that the appeal proposal is inconsistent with regards Policy L7 on numerous grounds. In relation to design quality (L7.1) the development would not be appropriate in its context, it has not made best use of opportunities to improve the character and quality of an area and it has not appropriately addressed design considerations relating to scale, density, height, layout, elevation treatment, materials and landscaping. It is considered to be a poor design response to the character and context of the site resulting in a loss of spacious character and appearing cramped.
- 6.33 The appeal scheme would fail to protect and enhance green infrastructure within the site, and would result in the loss of numerous mature trees and established planting, which is so key to the character of this area and the appeal site. The proposal does not include sufficient mitigation to compensate for this loss, to the detriment of the visual amenity of the site and wider street scene. This provides clear conflict with policy L7 and R3 of the Core Strategy.
- 6.34 It is my view that the appeal development would fail to adequately provide a good standard of private amenity space for future residents and would give rise to overlooking, overbearing impact and visual intrusion which would prejudice the amenity of the future occupiers of the development and of the adjacent occupants at 41 Ashlands contrary to Policy L7.3.
- 6.35 Policy L2.12 seeks to secure appropriate levels of affordable housing and in this regard is considered consistent with the NPPF. The development proposals fail to provide a policy compliant level of affordable housing and on site provision (L2.14) contrary to L2 and Policy L8.

6.36 Policy R1 is still given full weight in relation to non-designated heritage assets. The appeal proposals will result in irreversible harm to the significance of a non-designated heritage asset caused by its total loss, contrary to Policy R1.

6.37 Overall it is accepted that the provision of new housing and that which is specifically targeted at the older population range is of substantial weight and there are other benefits that are attached a lesser degree of weight as detailed above. Even so, the identified harm significantly and demonstrably outweighs the identified benefits, this harm conflicting with sustainable development principles which underpin the NPPF and development plan.

7.0 Conclusion:

7.1 The harms that arise from the scheme generate a conflict with various development plan policies, and conflict with the development plan when taken as a whole. Other than in respect of housing, development plan policies are generally up to date, and where they are not the NPPF provides a robust framework for decision making alongside them.

7.2 The exercise under the tilted balance has been carried out, and the totality of the harms arising from the proposal significantly and demonstrably outweigh the benefits of the scheme, when tested against NPPF Paragraph 11(d)(ii), the tilted balance. This is even when giving due weight to the contribution the scheme would make to the Borough's housing land supply and the provision of homes for older people and giving appropriate weight to the other benefits.

7.3 The appeal proposals are contrary to the development plan (including the emerging Places for Everyone Plan) and the NPPF and the adverse impacts would significantly and demonstrably outweigh the benefits, so planning permission should not be granted.

7.4 Accordingly, the Inspector is respectfully requested to dismiss the appeal.

