



Appeal by Accrue (Forum) 1 LLP

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# **FORMER B&Q SITE, GREAT STONE ROAD, STRETFORD, M32 0YP**

LPA Ref: 100400/OUT/20

Appeal Ref: APP/Q4245/W/20/3258552

Five Year Housing Land Supply Proof of Evidence by  
Matthew Hard BA (Hons), MRTPI

Main Proof

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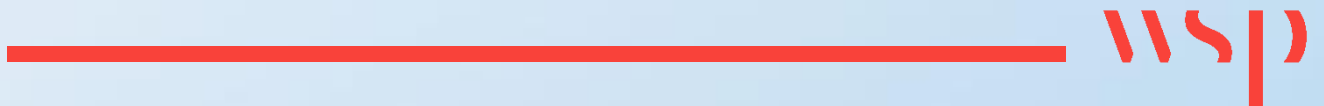
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# 1

## **PREFACE**



# 1 PREFACE

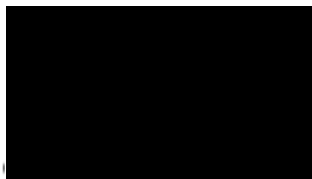
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- 1.1.1. My name is Matthew David Hard and I am an Associate Director at WSP. I am a Chartered Member of the Royal Town Planning Institute and began my professional planning career in October 2003. I hold a BA (Hons) degree in Geography from the University of Wales, Swansea and a Master's degree in Urban Planning from Oxford Brookes University. I have previously worked for DLP Planning in Bedford, DLP Planning in Cardiff and CDN Planning in Swansea.
- 1.1.2. I have been advising the appellants on this site since 2016 and have remained involved ever since. For the avoidance of doubt, from 2016 to 2019 I was employed by Indigo Planning. WSP acquired Indigo Planning in 2019 and WSP remain the instructed planning consultant. I am fully familiar with the site and the local context.
- 1.1.3. My experience of brownfield residential development is considerable, having acted as planning consultant for numerous clients across the country on urban redevelopment schemes through the development management process. I have a detailed understanding of the land use planning matters relevant to this appeal.
- 1.1.4. I am aware that my professional duty is to the Inquiry irrespective of by whom I am instructed and confirm that the evidence I have prepared has been done with due diligence and is truthful, representing my honestly held professional view.

## **Expert Witness Declaration**

- 1.1.5. After exercising due diligence in my inquiries as to relevant facts, I believe that the facts I have stated in this Statement are true and I confirm that I have had proper regard to the principles set out in the RTPI Practice Advice Note 4 and the relevant principles as to the preparation and presentation of expert evidence at an Inquiry.

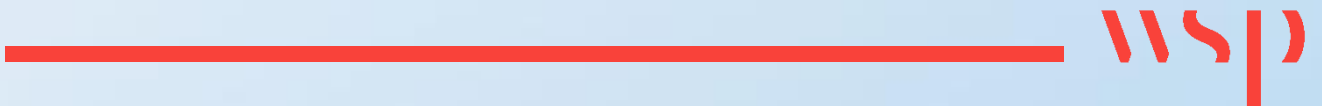
Signed



Dated 14 December 2021

# 2

## **INTRODUCTION**



## 2 INTRODUCTION

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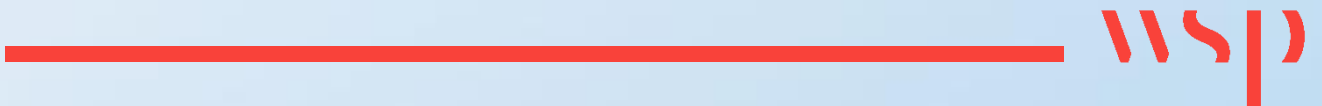
### SCOPE OF EVIDENCE

- 2.1.1. My evidence relates to an appeal by Accrue (Forum) 1 LLP (the Appellant) against the non-determination by Trafford Borough Council (the local planning authority – the LPA) of planning application 100400/OUT/20:
- 2.1.2. *“The demolition of existing retail unit and associated structures; erection of buildings for a mix of use including: 333 apartments (use class C3) and communal spaces ancillary to the residential use; flexible space for use classes A1, A3, D1 and/or D2; undercroft car parking; new public realm; and associated engineering works and infrastructure.”*
- 2.1.3. The description of development will change to 332 apartments to reflect an error in the plans that form part of the appeal.
- 2.1.4. The seven putative reasons for refusal (RFR) are set out in the SOCG.
- 2.1.5. Since the signing of the Statement of Common Ground (SOCG), the LPA have withdrawn two putative reasons for refusal (numbers 2 and 7).
- 2.1.6. My Proof of Evidence relates to the following matters of dispute:
- Housing land supply (section 3 of this Proof of Evidence) – whilst this is not a RFR and does not form one of the Inspector’s Main Considerations, I consider that this an issue of significant dispute between the appellant and the LPA; the LPA’s persistent shortfall of land supply for housing provides important context to the appeal; and
  - The impact upon nearby properties and associated amenity from alleged overbearing (section 4 of this Proof of Evidence); overbearing forms part of original RFR 6.
- 2.1.7. My colleague Mr Hann deals with other planning matters in his Proof of Evidence.



# 3

## **ABSENCE OF A FIVE-YEAR LAND SUPPLY**



## 3 ABSENCE OF A FIVE-YEAR LAND SUPPLY

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### INTRODUCTION

- 3.1.1. The absence of a five-year supply is not one of the Main Considerations set out by the Inspector in the Case Management Conference. However, I consider it an important point of dispute between the parties; the continued persistent under-supply of housing in Trafford is – despite the LPA’s claims to the contrary – an enduring characteristic that informs the overall planning balance.
- 3.1.2. I set out below why the land supply in Trafford is not just less than five years, but less than three years.
- 3.1.3. I do note that since the parties signed the SOCG the LPA has most recently changed its position on housing land supply (CD ref: F102). It has traditionally undertaken an annual review of its 5YLS position, however in response to this appeal has now undertaken an interim update (CD ref: F91). This update still confirms that there is not a 5YLS, and thus under the terms of the Framework’s paragraph 11d, the presumption remains engaged.

### DEVELOPMENT PLAN POLICIES

- 3.1.4. Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that determination must be made in accordance with the development plan unless material considerations indicate otherwise. Section 39 of the Act requires decision makers to exercise their functions with the objective of contributing to the achievement of sustainable development.
- 3.1.5. The adopted Development Plan for the purposes of the determination of the appeal proposal comprises:
- Saved policies of the Unitary Development Plan (UDP) (2006); and
  - Trafford Local Plan Core Strategy (LPCS) (2012).
- 3.1.6. The Trafford LPCS is part of the Council’s Local Development Framework (LDF). It provides the overall spatial strategy for the LDF and covers the period 2012 to 2026. It was adopted in January 2012. The plan period for the Core Strategy is 2012 to 2026.
- 3.1.7. The LPCS contains a number of strategic policies focusing on delivering sustainable economic and housing growth. The one most relevant to this proof is Policy L2: Meeting Housing Needs, which outlines the Council’s requirement to ensure that sufficient land is made available to maintain a rolling five-year supply of deliverable land for housing, but also to ensure that there is an adequate mix of housing types and sizes to meet the needs of the community.
- 3.1.8. The Trafford LPCS was adopted in 2012 and therefore the policies contained within it are now more than nine years old. Whilst the plan policies cover the period to 2026, the LPCS was prepared in the context of the now abolished Regional Spatial Strategy for the North West and the (then) draft NPPF (July 2011). The LPCS adoption statement is dated 25 January 2012, but the Inspector’s report was dated 28 November 2011. Since then, the NPPF has been published (27 March 2012) and subsequently and significantly refreshed (2019 and 2021).
- 3.1.9. LPCS Policy L2 sought to provide for 12,210 dwellings at an annual requirement of 578. This was based on NW RSS (2008) which required 10,800 dwellings at 578 dpa.

- 3.1.10. The plan's housing requirement is out of date and the Local Housing Need figure of 1,377 dph is to be used.

## **OTHER MATERIAL CONSIDERATIONS**

- 3.1.11. Places for Everyone is the latest iteration of the emerging development plan for Greater Manchester; in August 2021 it was published for consultation under Regulation 19. It has been subject to significant objections which are unresolved objections to the plan and therefore I consider that only limited weight can be attributed to PfE.
- 3.1.12. I do however have regard to the fact that PfE and all previous iterations of the draft plan have aimed to prioritise brownfield development over greenfield development and over development in the green belt. I also have regard to the fact that the Civic Quarter forms part of the housing supply within the PfE evidence base, with 1,620 homes predicted in the CQ in the PfE period 2021 to 2037.

## **NATIONAL PLANNING POLICY FRAMEWORK**

- 3.1.13. The National Planning Policy Framework (the Framework) is unequivocal in its drive to significantly boost the supply of homes. Paragraph 60 states:
- 3.1.14. *“To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.”*
- 3.1.15. Pursuant to NPPF paragraph 74, where strategic policies are more than five years old (as is the case here), local housing need should be calculated using the Standard Method. The Government's latest published Local Housing Need (LHN) figure for TMBC is 1,377 net homes per annum. This figure far exceeds the requirement for 578 net homes per annum currently set out in the LPCS; an increase of 57% to the adopted plan requirement.
- 3.1.16. The Council accepts that in meeting this requirement, it cannot demonstrate a 5YLS.
- 3.1.17. On this basis, the relevant policies for the supply of housing should be given limited weight in the decision-making process as they are out of date (as defined in footnote 8 of the Framework) and it is inevitable that the presumption in favour of sustainable development is engaged on this basis.
- 3.1.18. It is also common ground (CD ref: F103) that the LPA has failed the Housing Delivery Test (HDT); indeed the HDT has never been passed by the LPA since it was introduced. In 2020, the HDT result was 61% (presumption in favour of sustainable development is engaged), in 2019 the HDT result was 58% (20% buffer applied), and in 2018 the HDT result was 47% (20% buffer applied).
- 3.1.19. The approach to calculating 5YLS is set out in NPPF paragraph 74:
- 3.1.20. *“Local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old.”*
- 3.1.21. It then confirms:
- 3.1.22. *“The supply of specific deliverable sites should in addition include a buffer (moved forward from later in the plan period) of:*

*“c) 20% where there has been significant under delivery of housing over the previous three years, to improve the prospect of achieving the planned supply”.*

- 3.1.23. Footnote 41 confirms that the 20% buffer applies where the Delivery Test shows supply has fallen below 85%.
- 3.1.24. NPPF Paragraph 76 then continues to confirm:
- 3.1.25. *“To maintain the supply of housing, local planning authorities should monitor progress in building out sites which have permission. Where the Housing Delivery Test indicates that delivery has fallen below 95% of the local planning authority’s housing requirement over the previous three years, the authority should prepare an action plan in line with national planning guidance, to assess the causes of under delivery and identify actions to increase delivery in future years”.*
- 3.1.26. With regards the methodology of assessing the 5YLS, PPG sets out the approach:
- 3.1.27. *“A 5 year land supply is a supply of specific deliverable sites sufficient to provide 5 years’ worth of housing (and appropriate buffer) against a housing requirement set out in adopted strategic policies, or against a local housing need figure, using the standard method, as appropriate in accordance with paragraph 73 of the National Planning Policy Framework”.* (Paragraph: 002 Reference ID: 68-002-20190722).
- 3.1.28. The definition of Deliverable is set out at Annex 2 of the NPPF and states:
- 3.1.29. *“To be considered deliverable, sites for housing should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within 5 years. In particular:*
- “a) sites which do not involve major development and have planning permission, and all sites with detailed planning permission should be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered within 5 years (for example because they are no longer viable, there is no longer a demand for the type of units or sites have long term phasing plans).*
- “b) where a site has outline planning permission for major development, has been allocated in a development plan, has a grant of permission in principle, or is identified on a brownfield register, it should only be considered deliverable where there is clear evidence that housing completions will begin on site within 5 years”.*
- 3.1.30. When assessing the most recently purported LPA supply, it is clear that the above methodology has not been followed. The purported supply is not deliverable and therefore the proper 5YLS is set much lower than the LPA suggests and closer to the agreed position as set out in the SoCG.

## **HISTORY OF SUPPLY IN TRAFFORD**

- 3.1.31. I dispute that the absence of a five-year housing land supply in Trafford is a snapshot in time, as claimed by the LPA in its SoC paragraph 5.4. As noted in **Appendix A** to this Proof, information available on the LPA’s website shows that that a five-year supply has not been demonstrated since 2014.
- 3.1.32. For the last seven years the council has failed to demonstrate the minimum requirement of a 5 year supply of land for housing. This is a record of persistent under supply, and indeed why a 20% buffer is applied, the authority must produce an Action Plan and why the presumption in favour of

sustainable development is engaged. In such situations NPPF/PPG are clear in the need to boost housing delivery as needs are not being met.

- 3.1.33. The housing land supply is inadequate, it has been inadequate for seven years and the presumption in favour of sustainable development is inevitably engaged.

## 5YLS ANALYSIS

- 3.1.34. The following sections set out my assessment of 5YLS. I base this section on the addenda on housing land supply provided by the Council in November 2021 (firstly, an excel table of supply and secondly a word document setting out the additions to the supply with justification). I interpret the LPA's data as being a supply of sites looking forward from a base date of November 2021 (ie to November 2026). I therefore believe that any completions on these sites should be removed from the supply, but have not got full details of the completions to date.
- 3.1.35. I have assessed the sites on the basis of the NPPF and PPG to only include sites that meet the deliverable definition. I set out those sites that I consider deliverable in **Appendix B**. This is based on the table of sites provided to me by the LPA on 23 November, with my input and commentary in new columns 7-12.
- 3.1.36. In undertaking this analysis, I have excluded minor development, ie the 193 sites with capacity of fewer than 10 dwellings, for the reason of expediency – it is not possible to review these sites within the time permitted in this appeal. I accept these as deliverable, with a total capacity of 423 in the next five years.
- 3.1.37. I have re-ordered the remaining sites provided by the LPA to reflect the following statuses:
- a) Sites under construction
  - b) Sites with full planning permission (or prior approval)
  - c) Sites with a full planning permission pending completion of a S106
  - d) Sites with outline planning permission
  - e) Sites with an outline planning permission pending completion of a S106
  - f) Sites with a planning application pending determination
  - g) Sites not yet subject to a planning application

- 3.1.38. I consider that only sites in category a) and b) can definitively be described as deliverable, in accordance with the definition in NPPF and advice in PPG; both the Framework and PPG give clear policy and guidance on what constitutes a deliverable site capable of being included in a five-year supply. I also set out below those sites in category c) and d) that I agree are deliverable within the next five years.

## SITES UNDER CONSTRUCTION

- 3.1.39. I calculate that there are a maximum of 1,374 homes deliverable in the next five years on sites under construction. Any completions to date on these sites should be removed from the supply, (though I note that the LPA have included the full capacity of the sites in their future supply).
- 3.1.40. I draw attention to three specific sites. Firstly, the former Itron site is being built out by Miller Homes as 'Novus'. This is located at the junction of Talbot Road and Chester Road in Stretford. Some of these homes appear already occupied. Secondly, at Heath Farm Lane in Partington, the LPA in its Housing Addendum noted that circa 50 homes had been built in the first 12 months of construction, I therefore remove 50 homes from the capacity of 250. Thirdly, the former L&M Site is under

construction; in the 2020 SHLAA the LPA noted that only 72 dwellings remained to be delivered, so I calculate a minimum of 75 (of the overall 147) must have been completed.

3.1.41. I have requested details of other completions from the LPA, but have not yet received these.

### **SITES WITH FULL PLANNING PERMISSION**

3.1.42. I calculate that there are 2,152 homes on sites with full planning permission and I accept these as deliverable within the next five years.

3.1.43. The one area of disagreement with the LPA on these sites is 'Sale West', which has the benefit of hybrid planning permission and I include only those 79 with detailed permission within the supply. I have seen no evidence to demonstrate that the remaining units with outline permission will be deliverable within five years.

3.1.44. I also calculate that there are 293 homes with the benefit of prior approval for change of use from office to residential. I am not aware that any of these have been completed and therefore I agree with these being deliverable within the next five years.

### **SITES WITH FULL PLANNING PERMISSION PENDING S106**

3.1.45. Even if homes in category c) (full applications pending S106) are included, this only adds 202 homes. I consider that Sale Town Square can reasonably be included in the supply.

### **SITES WITH OUTLINE PLANNING PERMISSION**

3.1.46. Categories d) and e) fall outwith the deliverable definition, with the exception of Trafford Waters. I agree with the LPA, that because there is funding in place reliant on completion of the first phase of 350 homes, these 350 are deliverable.

### **SITES NOT DELIVERABLE**

3.1.47. I consider that categories d), e), f) and g) are not deliverable as there is no certainty that they can be delivered in 5 years or at all, without any evidence to demonstrate that they are actually deliverable.

### **LAND SUPPLY CALCULATION**

3.1.48. I therefore assess the 5YLS as follows:

- LHN target: 1,377 dpa;
- LHN target plus 20% buffer: 1,652.4 dpa;
- Five year target November 2021 – November 2026: 8,262;
- Deliverable homes within five years: 4,794, of which:
  - A maximum of 423 homes on sites fewer than 10 dwellings;
  - A maximum of 1,374 homes on sites under construction;
  - 2,152 homes on sites with full planning permission;
  - 293 homes on sites with prior approval for change of use;
  - 202 homes on a site pending S106; and
  - 350 homes on a site with outline planning permission;
- Deliverable homes divided by annual supply: 2.90 years.

## RESPONSE TO LPA STATEMENT OF CASE

- 3.1.49. The LPA in the SoC stated a land supply of 3.13 years. They have now claimed a land supply of 4.41 years (which I dispute and address in this proof). It is noteworthy however that if this was accepted at face value, there remains a significant shortfall of homes, equating to 977 homes against the minimum requirement. This, against the context of a persistent seven years of under delivery, re-emphasises the need to deliver more housing, especially on sustainable brownfield sites.
- 3.1.50. Before looking at the detail, I find it puzzling that the situation on many of these sites has not changed since the previous statements of supply produced by the Council, including the most recent March 2021 and September 2021 statements, yet the sites have now been categorised differently and deemed deliverable. As the crucial test is whether the sites are deliverable, where situations have not changed in the intervening period, I can see no justification for suggesting such sites are now 'deliverable', other than an attempt to inflate the deliverable supply to get closer to a 5YLS.
- 3.1.51. Fundamentally, I find that many sites now included in the LPA supply are not deliverable even where circumstance has apparently changed since March 2021.
- 3.1.52. Secondly, at a principle level I have significant concerns that the council has rolled the time period for assessment forward in order to capture more recent consents, but at the same time not dropped out completions from the numbers. In effect they are relying on five years and nine months of supply, rather than five years, i.e. the nine months since 31 March to November 2021, and the five years hence. Having considered the sites and their respective contribution to the five-year supply, I conclude that no new completions have been excluded and this exaggerates the supply position.
- 3.1.53. The purpose of a 5YLS, which local authorities are required to update annually (paragraph 74 of the Framework), is to provide a position statement as to the supply at that time. Plainly sites subject to applications, pre-application or general developer interest are uncertain and not deliverable, and if they transpire to progress through the planning process and achieve a consent will be picked up through subsequent years' annual reviews as guidance sets out. Bringing sites prematurely forward into the supply when they do not meet the deliverable definition will merely add inaccuracy, uncertainty, but more fundamentally see an over inflated supply which is not robust and carries risk of non-delivery. The consequence of this being an unreliable and over-inflated 5YLS being used as a tool to resist other deliverable housing schemes coming forward. This is completely contrary to the approach NPPF and PPG set out of monitoring 5YLS as a tool to engage the Paragraph 11 presumption in favour and boost housing delivery.
- 3.1.54. If, as I set out above, the land supply is 2.9 years, the shortfall equates to 3,468 homes. This makes the need to deliver housing evermore acute.
- 3.1.55. The LPA's claim in paragraph 5.4 of its SoC that less weight should be attached to its housing shortfall because of circumstance. It then proceeds to set out why. This is a case that has previously been made and not supported at appeal as I set out below.
- 3.1.56. Indeed, the LPA presented the very same case at appeal APP/Q4245/W/19/3243720 for Land at Warburton Lane, Partington, decided 25 January 2021. The LPA then sought the same special dispensation from the 5YLS and HDT tests on the same grounds asserted in Section 5 of their SoC to this appeal. Ostensibly their case is that the 5YLS is a snapshot in time and the reason housing isn't delivered is not their fault as they grant sufficient consents but developers have unrealistic

expectations and do not bring sites forward. The experienced Inspector in that case, Christina Downes, considered evidence which was cross examined, and gave no weight to the LPA's protestations. At paragraph 143 of that decision the Inspector clearly states:

- 3.1.57. *"The Council can only demonstrate a deliverable supply of land to meet about 2.4 years of the Borough's housing requirement. This is a very serious shortfall and does not comply with the Government's objective of boosting the supply of homes to meet peoples' housing needs. Furthermore, the Housing Delivery Test indicates delivery is well below the Framework requirement over the last 3 years. Whatever the reason for these failures, they are a matter of considerable concern."*
- 3.1.58. This decision confirmed that the housing shortfall was a 'matter of considerable concern', and I calculate that the supply remains less than three years at present.
- 3.1.59. The LPA is now re-running the same case; seeking to set aside national policy long enshrined in the NPPF and Planning Practice Guidance (PPG), and reinvent the presumption in favour of sustainable development. This case cannot be sustained.
- 3.1.60. The 5YLS and HDT are enshrined and a central plank of NPPF and PPG as two measures to make sure sufficient deliverable land is available to meet local needs, adding buffers where appropriate, and to test the actual delivery and allow corrective measures. Their very purpose is to boost housing delivery and meet local needs. Not having a 5YLS sees buffers added to make sure additional land is identified to boost development. Likewise, the HDT is staged to place greater emphasis on action where the performance is worst. The relationship to the paragraph 11 presumption is very deliberate and clear, that where there is not a 5YLS that the plan polices for the supply of housing are out of date and the presumption in favour is engaged. This is to encourage up to date plans or where there are policies that are not delivering sufficient houses, the weight to be afforded to such policies is reduced to allow applications to be approved for sustainable development.
- 3.1.61. Against this context, to again suggest that Trafford is an exception which should be allowed to have a significantly low land supply and a very poor HDT and not apply national guidance deliberately designed to address such situations and boost supply, is entirely contrary to policy.
- 3.1.62. Applying national policy as intended (NPPF paragraph 11), and giving the correct full weight to the presumption, will allow approval of sites such as the appeal site which can come forward and support the strategic locations in delivering homes and meeting need now.
- 3.1.63. The LPA's SoC alleges the development industry has unrealistic expectations in Trafford which has a consequential effect on land supply (CD ref: F68). It also alleges that developers seek outline consent to flip sites. I have no regard for complaints that developers seek outline permission with the intent to speculate land value, given the appellant has committed to detailed design and will seek reserved matters approval for the only reserved matter of landscaping swiftly. Allegations at paragraph 5.32 about the motives of the Appellant are without foundation and refuted. The appellant has expended significant time, energy and costs over a prolonged period of years in promoting the site for development, and has designed the development in full (save the landscaping). The scheme once landscaping has been agreed can be subject to condition discharge and started on site.
- 3.1.64. The allegation that granting the appeal scheme "would undermine rather than support delivery because it would entrench the wrong historic narrative that inappropriate development can come



forward to maximise land value whilst failing to deliver the infrastructure and affordable housing necessary to meet the needs of the new population” (SoC paragraph 5.3) is refuted. I fundamentally disagree, and at the outset consider the council is using this appeal as some test case to re-write national policy on land supply. This is not helpful in distracting from what is a relatively simple case of the Appellant seeking consent for housing on a sustainable brownfield site that can meet local needs, assist in regeneration and fundamentally deliver homes in an underperforming authority.

- 3.1.65. Furthermore the development as set out in the submitted Unliteral Undertaking is committing to providing affordable housing and other infrastructure contributions where they are required and meet the CIL Regs.
- 3.1.66. Therefore, the main policies for the determination of the appeal are out-of-date and the need for new homes and lack of 5YLS should be given substantial weight.

## CONCLUSION

- 3.1.67. It is common ground that the LPA cannot demonstrate a five-year supply. Therefore the housing policies are out-of-date and the presumption in favour of sustainable development is engaged.
- 3.1.68. The absence of a five-year supply is endemic in Trafford and has persisted for the last seven years. It is a severe problem that needs to be addressed now.
- 3.1.69. The council accepts the need to deliver more homes and has an Action Plan in place.
- 3.1.70. The parties disagree on the magnitude of shortfall. The latest LPA supply takes the ‘kitchen sink’ approach and seeks to include as many sites as possible. I take a NPPF/PPG compliant approach to 5YLS calculation and only allow for those sites which are deliverable.
- 3.1.71. My analysis shows that the LPA has over-calculated its supply by including homes that do not meet the definition of deliverable.
- 3.1.72. Based on the correct assessment of deliverable supply, I consider that the council has a supply of 4,794 homes deliverable within the next five years, representing a 2.9 years supply when assessed against the LHN requirement with 20% buffer.
- 3.1.73. A shortfall of 3,468 dwellings (circa two years’ supply) is clear evidence that there is a severe problem that needs to be addressed. The magnitude of shortfall, allied to the persistent under delivery over the last seven years, means substantial weight should be given to new homes that can help meet this shortfall, especially ones delivered on brownfield land in a defines strategic location where the council seeks to support development.
- 3.1.74. The consequence of a poor 5YLS and HDT test is not simply a mathematical exercise, rather it is the reflection of the reality of there not being a sufficient supply of new homes to meet the housing needs of the residents of Trafford. These are real people who have real needs. It is not sustainable to continue to project a poor supply position forward whilst brownfield sites such as the B&Q site can meet those needs now.

# 4

## **SCALE OF DEVELOPMENT AND OVERBEARINGNESS**



## 4 SCALE OF DEVELOPMENT AND OVERBEARINGNESS

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### INTRODUCTION

- 4.1.1. This section of my Proof of Evidence will apply planning judgement to the Inspector's Main Consideration 7, namely the effect of the propose development on the living conditions of the occupants of residential properties on Great Stone Road and Trent Bridge Walk, with regards to sunlight and daylight.
- 4.1.2. I note the evidence of my colleague Mr Radcliffe demonstrates that the proposal has a negligible effect on the amenity of existing local residents by way of daylight or sunlight effects. I also note Mr Taylor's townscape evidence concludes that the proposals are a high-quality design response which proposes development that is appropriate to its setting, cultural character and identity and of a height, mass, density and appearance that will both integrate into the existing townscape character and bring beneficial aspects to the urban block and street scene. These are matters with which the Places Matter panel agreed.
- 4.1.3. This leaves the alleged matter of overbearing, which is the subject of my evidence here.

### PUTATIVE REASON FOR REFUSAL

- 4.1.4. The putative reason for refusal refers to the development having "an overbearing impact on these properties (ie on Great Stone Road and Trent Bridge Walk) and other residential properties in the wider 'Gorses' area." The LPA allege non-compliance with Policies SL3, L3 and L7 and the Framework.
- 4.1.5. I interpret the 'Gorses' area as the area enclosed by Great Stone Road, Talbot Road and the Metrolink, ie Gorse Crescent, Gorse Avenue, Gorse Drive, Gorse Lane.
- 4.1.6. Trent Bridge Walk is on the opposite side of the Metrolink to the appeal site and the cricket ground.
- 4.1.7. I reflect on the policies listed in the putative reason for refusal below.

### DEVELOPMENT PLAN POLICIES AND THE FRAMEWORK

#### Policy L7

- 4.1.8. Policy L7.3 gives specific reference to overbearing, in the context of protecting amenity: *"development must not prejudice the amenity of...occupants of adjacent properties by reason of...overbearing."*

#### Policy SL3

- 4.1.9. In terms of SL3, the only possibly relevant wording is in SL3.1 that refers to the "high quality residential neighbourhood centred around an improved stadium..." with no reference to design expectations or indication of how residential amenity may be considered.

#### Policy L3

- 4.1.10. In terms of L3, this policy concerns defined Regeneration Areas. L3 expects development to meet the Place Objectives for Old Trafford, which include the following:
- OTO1- improving the quality, mix and type of residential offer

- OTO2- maximising the re-use or redevelopment of unused, under used or derelict land (my emphasis)
- OTO5 – improving the appearance and quality of the environment

4.1.11. I am of the view that the proposed development meets the place objectives, notably the three above.

SPD4

4.1.12. This document relates to house extensions in Trafford but provides useful guidance on overbearing and how the council assesses it regarding development impact on amenity of neighbours. The LPA itself refers to SPD4 in its SoC. Paragraph 2.17.1 states:

4.1.13. *“..positioning an extension too close to a neighbouring boundary can result in an uncomfortable sense of enclosure for the neighbouring property. A large expanse of brickwork can be overbearing to the amenities of a neighbouring property. Windows and gardens of neighbouring properties will be protected from undue overbearing. The maintenance of adequate separation distances may help to avoid overbearing relationships between properties”.*

4.1.14. Paragraph 2.17.2 states:

4.1.15. *“The factors that may be taken into account when assessing a potential loss of light or overbearing impact include:*

- *The size, position and design of the extension*
- *Orientation of the property*
- *Presence of other habitable room windows/sources of light in neighbouring rooms*
- *Relative position of neighbouring houses and existing relationship*
- *Size of the garden*
- *Character of the surrounding area”*

4.1.16. For extensions between a wall and habitable window a 15m separation is required. “For each additional storey above any two storey side extension, an additional 3m may be required in separation distance”.

4.1.17. This shows that the key aspect to overbearing is the separation distance, and for taller development additional separation is required.

## FRAMEWORK

4.1.18. I do note paragraph 130 f) of the Framework, which (*inter alia*) encourages planning decisions to create places with a high standard of amenity for existing users; amenity comprises many more issues than solely whether or not there is an overbearing relationship, but I do consider this paragraph in my evidence.

4.1.19. Taking these policies into account, I consider that the matter is whether or not existing residents' amenity will be prejudiced to a harmful degree by the proposed development by reason of overbearing. Whilst policy L7.3 only refers to adjacent properties, I also consider more distant properties in the 'Gorses' area as referred to in the Putative Reason for Refusal.

## ANALYSIS

- 4.1.20. The appeal scheme involves the redevelopment of a brownfield site within a Strategic Location (an area identified for major mixed use development), within a proposed Area Action Plan and within a Regeneration Area.
- 4.1.21. The appeal site is informed by its adjacency to a large cricket stadium, and its location within a 'block' (ie the land bound by Great Stone Road, Talbot Road, Brian Statham Way and the Metrolink) where buildings are of a completely different mass and character to the residential development located beyond the Metrolink and beyond Great Stone Road. Therefore, to achieve a scale of development appropriate to the LCCC Quarter, to make best use of brownfield land, trigger regeneration, boost the supply of homes and provide good housing mix, the scale of development sought in scale terms is appropriate. Its careful design ensures it does not adversely affect nearby occupiers.
- 4.1.22. However I do appreciate that as it lies at the interface between the LCCC Quarter and residential areas and therefore it should not adversely prejudice residential amenity. Therefore, I have also considered how the development may appear from adjacent residential areas including the closest properties.
- 4.1.23. Firstly, the nearest properties are separated from the site by Great Stone Road and the Metrolink, which provide physical separation. The distance between the existing properties on Trent Bridge Walk and the proposed development is in excess of 41.1m. A spacing distances plan is included at **Appendix C**. Trees parallel to the tramline also provide important screening that makes Trent Bridge Walk feel separated from the LCCC Quarter, even though the cricket ground is noticeable. Given the height differential under SPD4 a separation of 36m would be required for the tallest part of the development. The actual distance exceeds this.
- 4.1.24. The nearest properties on Great Stone Road are set over 34m from the proposal. Given the height differential under SPD4 a separation of 21m would be required. The actual distance exceeds this.
- 4.1.25. Therefore, the proposal will not appear overbearing to the nearest neighbours. In my opinion, being able to notice the development does not result in prejudice to amenity, especially considering the existing backdrop to the site is of a large cricket stadium. I judge that no residential amenity will be demonstrably worsened such that prejudice is caused.

## LPA STATEMENT OF CASE

- 4.1.26. The LPA argue that no development on the appeal site should be taller than six-storeys. I disagree.
- 4.1.27. I do not accept the LPA's position that development must only step down in height from the existing tallest built form towards smaller built form. Such a prescribed approach to design would result in no new buildings being taller than their neighbours and such an approach does not have regard to variations in topography, sensitivity of receptors, townscapes, heritage or other factors that can influence design. Moreover, there are examples of the LPA granting planning permission for other developments that do not abide by this approach, for example 64 - 66 Talbot Road Stretford Manchester M16 0PP (101044/FUL/20), Land Bound by Bridgewater Way, Chester Road, Virgil Street and Princess Street Old Trafford (Ref: 90991/FUL/17), Trafford Plaza (Ref: 90711/FUL/17) and Square Shopping Centre Development Site, Town Square Sale, (Ref: 94986/FUL/18). My colleague Doug Hann provides more information on these in his evidence .

- 4.1.28. The cricket stands and the office buildings at Lancastrian House, which I understand have influenced the six-storey maximum, are not of sufficient architectural merit, aesthetic appeal or landmark status that their height cannot be exceeded locally. I note that the LPA has withdrawn putative reason for refusal 2, now accepting that the proposal will not have any impact on the cricket ground (apart from alleged impacts on the fine-turf training facility that is located outside the perimeter of the main stadium). I believe this further justifies that the height of the proposal does not represent overdevelopment and that the insistence of a six-storey limit should not be adhered to.
- 4.1.29. Paragraph 4.198 of the LPA SoC sets out that the overbearing impact will result in noticeable reductions in daylight and sunlight that some existing residents will receive. As Mr Ratcliffe demonstrates in section 2.2 of his evidence, all existing properties pass BRE guidance.
- 4.1.30. Paragraph 4.201 claims that the building is not comparable to any development within the vicinity; I refute this because the cricket ground is clearly somewhat similar in height and of a much greater scale than the proposal. The LPA continues that the vicinity is generally dominated by two storey residential dwellings. This is not the case, and ignores the fact that the site lies within the LCCC Quarter (as set out in the development plan), which is characterised by larger development blocks, taller heights and very few two-storey residential homes. It is recognised as the stadium quarter regeneration area suitable for a major mixed use development where SL3 seeks a new residential neighbourhood. This does not suggest that policy seeks to replicate the low rise two storey housing on the opposite side of Great Stone Road and the Metrolink,
- 4.1.31. Paragraph 4.202 discusses separation distances, with regard to SPD4. Paragraph 4.203 agrees that the proposed development will achieve suitable separation distances when the distances required by SPD4 are extrapolated to reflect the additional storeys proposed. The purpose of setting separation distances in policy is to provide a tool to balance proximity and height of development, with the taller the development the further it should be set away from facing development so as to avoid overbearing. The fact the proposal exceeds the separation standards based on its storey heights provides clear evidence that it will not appear unduly overbearing.
- 4.1.32. In 4.204 the LPA allege the development will form a significant block of development which would be readily visible from the windows, gardens and streets of the surrounding area. Firstly, I do not equate visibility to harm, especially when visibility depends on factors like orientation and intervening form.
- 4.1.33. The proposal site is rectangular in shape with its longest elevation facing Great Stone Road (the rear elevation faces the stadium and thus is screened). As I have set out, when viewed from Great Stone Road it will firstly be viewed against the backdrop of the much larger stadium which is far longer than the appeal scheme. Secondly, the interplay of the height, design and articulation of the frontage to Great Stone Road, will visually break up the building's appearance such that it introduces a more domestic scale and reads as such in the street scene. It will not appear as a large block.
- 4.1.34. When viewed from Trent Bridge Walk, this is the shortest elevation of the proposal, and will be viewed in the context of the adjacent larger and longer stadium façade. Further, views will be screened by intervening vegetation. Given the separation distance of 41m exceeds the requirement that SPD4 would indicate, there will be no undue overbearing.

- 4.1.35. Having considered the orientation of the building, intervening factors and the increased distance from the 'Gorses' area, I completely refute there would be any sense of overbearing such that it would prejudice amenity.
- 4.1.36. In 4.205, the LPA refer to the width of the development at the Great Stone Road elevation, rather than height making it overbearing. The scale and mass of proposal with buildings at 16m, 33m and 33m in width is said to be domineering and overbearing, affecting occupiers of Trent Bridge Walk. However, I disagree. The proposal exceeds the separation standards set out in GPD4 and therefore for its height and position is set more than a sufficient distance from those properties. The buildings are not overly long in context of a large stadium and through careful design their visual massing is broken down further. This ensures there is no undue overbearing.
- 4.1.37. For something to be 'overbearing' it must be too large and too close to the receptor so as to overbear them in a harmful way to their amenity. The appeal scheme does none of these as on the Great Stone Road frontage the development is lower at four storeys and is broken up and staggered, to provide articulation and depth, and given the separation distance cannot be deemed to be overbearing. Further, I consider that the well-designed active frontage with views through into green courtyards is a significant improvement upon the existing view of a vacant retail warehouse, a surface car park and the rudimentary back of a cricket stand.
- 4.1.38. Properties on Trent Bridge Walk are influenced by the presence of the cricket stadium on the opposite side of the Metrolink, and the fairly dense tree lines parallel to the tracks. Even at the western end of Trent Bridge Walk, where the cricket stands are more distant and therefore less of an influence on amenity, there is a tramline, vegetation and 43m (minimum) intervening distance between the front gardens of Trent Bridge Walk and the façade of the proposal. This distance exceeds that indicated under SPD4. I also note that properties on Trent Bridge Walk have rear gardens that face away from the appeal site which residents will undoubtedly use rather than their front gardens which are open to a walkway and offer no privacy.
- 4.1.39. Even in winter with no leaves on the trees, development will be softened by this intervention.
- 4.1.40. Paragraph 4.207 of the LPA SoC concludes that the proposed development would be dominant and intrusive, would appear overbearing to surrounding residents and would affect existing views and appear completely at odds with the area.
- 4.1.41. I have demonstrated that it complies with policy, has a high quality design and thus would not adversely affect amenity by way of overbearing or intrusion. The fact residents would be able to see the proposal is not harmful, and indeed there is no right to a view. However, views of a high quality development (in place of a vacant store) will only enhance the outlook of residents and amenity of the area.

### **THIRD PARTY COMMENTS**

- 4.1.42. As set out in the officer's report to committee, this major application attracted four letters of objection.
- 4.1.43. Two objections came from residents of Bedford Road, located at least 270m to the south of the Metrolink line and therefore at least 300m south of the appeal site.
- 4.1.44. One objection came from Headingley Drive, which is located to the south of Trent Bridge Walk, around 60m from the closest part of the appeal site.

- 4.1.45. One objection came from Gorse Crescent.
- 4.1.46. These properties are marked on a plan in **Appendix D**. Only one objection came from any household in the residential areas referred to in the putative reason for refusal. Their objection (**Appendix E**) was solely on the grounds of traffic and parking pressure. None of these objections were related to the scale of the development or any allegation that the proposed development would be overbearing such that it would have an impact on amenity.
- 4.1.47. I acknowledge that the absence of public objections does not necessarily mean an issue is acceptable, but I find it notable that no-one in the areas cited by the LPA as being harmfully impacted actually objected, let alone to scale and overbearing effects on amenity. This was after applicant community engagement and local authority consultation. This attests that local residents who know the area better than officers did not perceive there would be any adverse impact by way of overbearing, dominance, loss of light, sunlight, or amenity.
- 4.1.48. In my experience, major planning applications in urban areas typically attract more than four public objections, and impact on residential amenity is a regular cause for objection to developments. The lack of objection is something I place great weight on.

## CONCLUSION

- 4.1.49. The appeal represents a regenerative proposal within an area identified for such major mixed use regeneration. The proposed development is appropriately positioned such that nearby residential amenity is preserved, by virtue of acceptable separation distances, careful design, intervening vegetation, roads and tramlines.
- 4.1.50. Some existing views may change, but in my judgement, the change will be a long way short of equating to prejudice to amenity, or resulting in any lower level of amenity than currently enjoyed. Rather, positive improvements will be made to repair the street scene, screen the unsightly stadium 'back side' and deliver a high quality development that improves the character of the area.
- 4.1.51. Therefore, in terms of overbearing, there is no conflict with development plan policy and no conflict with the Framework.





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