



Appeal by Accrue (Forum) 1 LLP

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

LPA Ref: 100400/OUT/20

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

Planning Proof of Evidence by Doug Hann BA (Hons), MTPL, MSC, MRTPI

Main Proof

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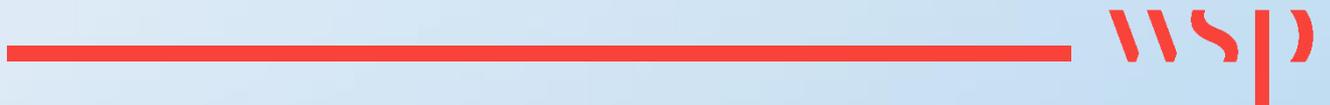
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1

PREFACE



1 PREFACE

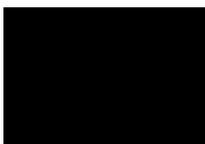
1.1 QUALIFICATIONS AND EXPERIENCE

- 1.1.1. My name is Doug Hann, and I am a Director and Head of Planning Consultancy at WSP. I hold a Bachelor of Arts Degree in Geography from Jesus College, Oxford University; a Masters in Town Planning from the University of Manchester; and a Masters in Business Management from Manchester Metropolitan University. I am a member of the Royal Town Planning Institute (RTPI). I have over 27 years of experience in planning practice, in both private consultancy and local government having previously worked in policy, regeneration and Development Management at Salford City Council.
- 1.1.2. Both WSP generally and I specifically have considerable experience in providing development planning advice to a varied group of clients with development interests in an equally diverse range of land uses. I have considerable experience in advising on a range of residential and mixed-use development proposals.
- 1.1.3. My personal experience relevant to this appeal extends to providing advice on residential and employment schemes both at Development Plan Inquiries (and EiPs) and at Planning Inquiries in respect of applications/appeals made under Section 77 and 78 of the Town and Country Planning Act (as amended) 1990.
- 1.1.4. My experience of residential planning matters is considerable, and I have been involved in significant residential schemes across the country at all stages of the planning process. I have a detailed understanding of national, strategic and development plan policy in respect of land use planning matters raised by this appeal.
- 1.1.5. I was initially instructed by Accrue (Forum) 1 LLP in 2016 to consider planning matters pertinent to the site and have been involved continuously since. I am therefore fully familiar with the site for the purposes of giving evidence at this Inquiry.
- 1.1.6. 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.

1.2 EXPERT WITNESS DECLARATION

- 1.2.1. 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.

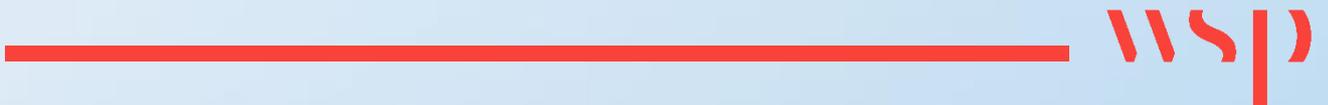
Signed



Dated 14 December 2021

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INTRODUCTION



2 INTRODUCTION

- 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. Parties have been notified of this and no complaints have been raised.

BACKGROUND

SITE AND SURROUNDINGS

- 2.1.4. The application site is located immediately adjacent to Old Trafford Cricket Ground. In terms of wider context, it is within 3km of the edge of Manchester city centre, within 1.7km of Salford Quays and is one stop on the Metrolink from Stretford town centre.
- 2.1.5. The site measures approximately 1ha in size, is broadly rectangular and comprises the former B&Q store, a large area of car parking and associated structures.
- 2.1.6. The application site is defined to the south east by the Metrolink line and to the south west by Great Stone Road. Old Trafford Cricket Ground, which is home to Lancashire County Cricket Club (LCCC) adjoins the site to the north-east and north-west. Further north along Great Stone Road are large office blocks.
- 2.1.7. The site is largely flat however Great Stone Road rises in height on the approach to the bridge over the Metrolink, meaning that much of the southern/eastern part of the site is substantially lower than road level. The existing site does not relate well to the street scene.
- 2.1.8. The site’s vehicular access is in the north-west corner of the site and will be retained.
- 2.1.9. The site benefits from access to excellent transport links. Several bus services operate close by, with five different stops within 400m of the site. These enable direct access to Sale, Stretford, and Manchester city centre. Old Trafford tram stop is located to the east of the site with direct connections to Stretford, Altrincham and both Manchester Piccadilly and Manchester Victoria, whilst Manchester Airport can be reached via one change at Trafford Bar.
- 2.1.10. A large variety of services and facilities are within walking distance of the site, including a high school, a college, primary schools, convenience stores and supermarket, and local parks, healthcare and medical facilities.
- 2.1.11. Stretford town centre can be quickly reached by bike, bus or tram.
- 2.1.12. The site is well connected with local employment sites, including Trafford College, Trafford Council, Manchester United Football Club, Lancashire County Cricket Club, Oakland House, Alexander House, Centrica, The Lancastrian Office Centre and the UA92 site (formerly the Kellogg’s office, now converted to University Academy 92).

CHRONOLOGY AND BACKGROUND TO THE APPLICATION

- 2.1.13. Details of the application are set out in at Section 4 of the Planning SOCG, and therefore I only refer to specific matters pertinent to my evidence.
- 2.1.14. Accrue (Forum 1) LLP acquired the site in June 2016, and first discussed the site with the LPA in summer 2017 which was for a proposal comprising more than 600 apartments. Whilst the Council confirmed that redeveloping the site for a residential use was acceptable in principle, officers raised significant concerns about height and the scale of the. Officers stated a preference for lower-rise residential on the site.
- 2.1.15. The Council issued the draft Refreshed Stretford Masterplan (CD-H5) in September 2017. The appellant contributed to the consultation whilst revisiting the proposals for the scheme to take into account the principles and objectives of the Masterplan.
- 2.1.16. On 26 January 2018 the appellant met with three ward members to discuss the scheme and a public consultation was subsequently launched. There was overall support for redevelopment of the site, with some support for the design, scale and quantum of development.
- 2.1.17. It held pre-application meetings with the Council on 21 March and 17 April (reference: PREAPP/00849/18). A copy of the pre-application response is provided at CD-D1. the Council accepted the principle of developing new residential uses on site and supported the principle of supporting commercial uses on site subject to the sequential test being satisfied. Officers indicated that in their informal view six storeys would be the maximum height. Technical work was subsequently undertaken which demonstrated acceptability of a the submitted scheme.
- 2.1.18. Following further technical work to assess overshadowing, daylight and sunlight and townscape and visual impact, an outline application (94974/OUT/18) was submitted in July 2018 for a mixed-use scheme of 5 to 13 storeys. The description of development was:
- 2.1.19. "Outline application sought for the demolition of existing retail unit and associated structures; erection of a building ranging in height from 5 to 13 storeys for a mix of uses including: 433 apartments (use class C3) and communal spaces ancillary to the residential use; flexible spaces for use classes A1, A3, B1, D1, and/or D2; undercroft car parking; new public realm; and associated engineering works and infrastructure. Consent is sought for access, appearance, layout and scale with all other matters reserved."
- 2.1.20. The outline application was refused on 29 March 2019. There were nine reasons for refusal relating to design, planning obligations, amenity, wind, heritage, impact on Lancashire Cricket Club and parking. A copy of the committee report and decision notice are provided at CD-D2:D4.
- 2.1.21. The applicant took the decision not to appeal against the refusal of the previous application in favour of working with the LPA to bring forward a revised scheme which sought to address the previous reasons for refusal. The appellant engaged extensively at pre-application stage with the LPA to discuss options for the scheme prior to submission of the appealed scheme, however no agreement was reached on what was a suitable scale of development on the site.
- 2.1.22. Since March 2019, further work was undertaken develop a revised scheme which addressed the nine reasons for refusal, reducing the scale and massing, and enhancing design.
- 2.1.23. A revised scheme was presented to RIBA NW's Places Matter design review panel (20 November 2019) to obtain feedback on the revised design (CD-K1). The feedback from panel members was

positive, concluding that the scale, height and massing is appropriate for this site, and a rigid limit of six storey was not necessary. The panel provided constructive comments on how to further improve the scheme which have been incorporated where possible into the re-submission. The panel's written comments (a to x) are included within their written feedback letter dated 3 December 2019 (CD-K2).

- 2.1.24. An outline application for the appeal scheme was submitted to TMBC on 19 March 2020 for:
“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”
- 2.1.25. On 3 April 2020 the LPA informed the applicant that it would not validate the application until further information was provided. In particular, the Council indicated that the application would not be progressed unless and until a “Viability Appraisal which complies with the requirements of Appendix 1 SPD 1” was submitted.
- 2.1.26. That information (save for a Financial Viability Assessment) was provided on 14 April 2020, with the application fee being paid on 16 April 2020. However, the applicant disagreed that a Financial Viability Assessment was required to constitute a valid planning application. Following exchanges of communication, including the appellant providing the LPA with Leading Counsel's Opinion, the LPA acquiesced to the validation of the application without submission of a Financial Viability Assessment, backdating the validation to the date the application fee was paid (i.e. 16 April 2020).
- 2.1.27. This resulted in a 13-week target-date for determination of the application of 16 July 2020.
- 2.1.28. Given that correspondence with the LPA indicated (without prejudice) that they would not support this planning application and the clear delay to the determination of the application that has arisen from the LPA's failure to validate it expediently, the appellant decided to appeal against non-determination.
- 2.1.29. The appellant delayed appealing some way beyond the 13-week date to allow consultees and interested parties to comment on the application; it was understood from the LPA that the last of the consultation periods expired on 31 July 2020. The appellant continued to address and respond to comments received from the LPA in the period between 31 July and 15 October, on which date the application was presented to TMBC Planning Committee. Since the appeal was submitted the appellant continued to liaise with the LPA to assist with queries raised.
- 2.1.30. The officer's report to committee was published on 6 October 2020 (CD-D5), which contained seven putative reasons for refusal, as recommended to Members of Planning Committee.
- 2.1.31. An additional information report to committee was published on 15 October 2020 (CD-D6) which included a letter of representation received from LCCC objecting to the proposed development.

THE PROPOSAL

- 2.1.32. The proposed development comprises:
- 332 apartments (a mix of 2 no. studio bed, 108 no. 1 bed, 189 no. 2 bed and 33 no. 3 bed apartments);
 - 153 sqm of flexible commercial space A1, A2, D1 or D2 uses;
 - 133sqm of flexible resident amenity space at ground floor for use by residents;

- Car parking facilities below ground floor providing 98 car parking spaces;
- Cycle parking facilities providing secure cycle storage for 400 bicycles;
- Bin storage facilities at lower ground floor;
- Roof terraces, balconies and 37 private gardens at ground floor; and
- Landscaped courtyards and new public realm.

2.1.33. The development is oriented around two internal courtyards, both of which are accessible to the front of the site, and which are interlinked. The front of the site is re-modelled to help transition with the change of levels of Great Stone Road as the highway rises over the adjacent tramline. This arrangement hides the undercroft car parking and creates active frontages along Great Stone Road.

REASONS FOR REFUSAL

2.1.34. The seven putative reasons for refusal (PRFR) are set out in the SOCG.

2.1.35. Since the signing of the Statement of Common Ground (SOCG), the LPA have withdrawn two putative reasons for refusal (numbers 2 and 7) and revised the wording of others, resulting in the following PRFR:

1. The proposed development would prejudice the use of the fine turf and non-turf training facility at Lancashire Cricket Club. The proposed development therefore conflicts with Strategic Objective OTO11, Policies SL3 and R6 of the adopted Core Strategy.
3. The proposed development would represent poor design as its form, layout, height, scale, massing, density and monolithic appearance are inappropriate in its context and would result in a building which would be significantly out of character with its surroundings. This would have a highly detrimental impact on the street scene and the character and quality of the area. This would be contrary to Policies SL3 and L7 of the adopted Trafford Core Strategy and the National Planning Policy Framework
4. The proposed development would not provide a development plan policy compliant level of planning obligations in relation to affordable housing and education improvements to suitably and appropriately mitigate the impacts of the development. The applicant has failed to demonstrate that there is a robust viability case to demonstrate that the scheme could not offer a policy compliant level of obligations. The proposed development is therefore contrary to Policies SL3, L2 and L8 of the adopted Core Strategy and the Council's adopted Revised Supplementary Planning Document 1 (SPD1) - Planning Obligations and the National Planning Policy Framework.
5. The proposed development by virtue of its height, massing, scale and layout would result in a poor level of amenity and unacceptable living standards for future occupiers of the development, by virtue of inadequate daylight and outlook in both apartments and amenity areas. The proposed development is therefore contrary to Policies SL3 and L7 of the adopted Core Strategy and the National Planning Policy Framework.
6. The proposed development by virtue of its height, massing, scale and layout would result in harm to the amenity of existing residential properties on Great Stone Road, and Trent Bridge Walk and other residential properties in the wider 'Gorses' area by virtue of noticeable reductions in the amount of daylight and sunlight that they receive, and would also have an overbearing impact on these properties. The proposed development is therefore contrary to Policies SL3, L3 and L7 and the National Planning Policy Framework

8. Noise arising from concerts at Lancashire Cricket Club would have a harmful impact on the amenity of future occupants of the development and would likely lead to noise complaints, the consequence of which could be the curtailment of activities at Lancashire Cricket Club, contrary to the agent of change principle. An appropriate scheme of acoustic mitigation has not been properly investigated and would require significant and material changes to the design of the building. As such the development is contrary to Policies SL3, L5 and L7 of the adopted Core Strategy and the National Planning Policy Framework.

SCOPE OF EVIDENCE

- 2.1.36. My Proof of Evidence relates to the following Main Considerations as set out in the Inspector's Case Management Conference note, providing a planning judgement on each issue.
 - Main Consideration 1: Whether the proposed development would preserve or enhance the character or appearance of Longford Park Conservation Area.
 - Main Consideration 2: The effect of the proposed development on the character and appearance of the area
 - Main Consideration 3: the effect of the proposed development on Lancashire Cricket Club, a non-designated heritage asset and an internationally significant visitor attraction, cultural and tourism venue
 - Main Consideration 4: the effect of the proposed development on the fine turf and non-turf training facility at Lancashire County Cricket Club
 - Main Consideration 5: the effect of the proposed development on the safety of vehicular and pedestrian users of the access to Lancashire County Cricket Club and Great Stone Road, and the Club's ability to use its existing access
 - Main Consideration 6: Whether future occupants of the proposed development would have satisfactory living conditions, with regards to sunlight, daylight, outlook, noise and vibration.
 - Main Consideration 7: The effect of the proposed development on the living conditions of the occupants of residential properties on Great Stone Road and Trent Bridge Walk, with regard to sunlight and daylight.
 - Main Consideration 8: Whether or not the proposed development would make adequate provision in terms of affordable housing, a TRO review, a design certifier, and contributions for sports facilities and education, having regard to viability.
 - Main Consideration 9: The economic effect of the proposed development on LCCC
- 2.1.37. My Proof of Evidence should be read alongside the other Proofs prepared on behalf of the Appellant, including that of my colleague Mr Hard, whose Proof of Evidence relates to the planning matters of housing land supply (on which he will give evidence) and overbearing (on which he will contribute to the round table session).
- 2.1.38. I firstly assess the relevant development plan policies to establish the weight that should be attached to them in light of the Framework.
- 2.1.39. I also assess the weight that should be attached to material considerations in the form of the Framework, planning practice guidance, emerging development plan policies, supplementary planning documents / guidance and other locally produced plans.
- 2.1.40. I consider the Main Considerations relating to the matters of dispute and analyse them in respect of policy and material considerations.

- 2.1.41. I set out the benefits and harm arising from the appeal proposal, and the weight I attach to them.
- 2.1.42. I provide a conclusion based on the planning balance between harm and benefits and a conclusion on the scheme's accordance with the development plan.

3

PLANNING POLICY



3 PLANNING POLICY

THE DEVELOPMENT PLAN

- 3.1.1. 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.
- 3.1.2. At the time of writing, 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).

UNITARY DEVELOPMENT PLAN (2006)

- 3.1.3. The UDP is gradually being replaced by the Trafford Local Plan. The LPCS details those policies within the UDP which have since been superseded.
- 3.1.4. The UDP Proposals Map did not allocate the site for any specific use or development there are no remaining extant policies relevant to the proposed development.

TRAFFORD LOCAL PLAN CORE STRATEGY (2012)

- 3.1.5. 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.
- 3.1.6. The LPCS contains a number of strategic policies focusing on delivering sustainable economic and housing growth.
- 3.1.7. The site is located within the identified 'Inner Area' on the adopted policies map (2013) and falls within the wider area known as the Lancashire County Cricket Club (LCCC) Quarter Strategic Location under Policy SL3, but is not designated for any specific use or development within the Core Strategy.
- 3.1.8. Policy SL3: Lancashire County Cricket Club Quarter outlines that a major mixed-use development will be delivered in this strategic location to provide a high quality experience for visitors balanced with a new, high quality residential neighbourhood centred around an improved stadium at Lancashire County Cricket Club. The council consider that this location can deliver, amongst others, 400 residents units comprising predominately accommodation suitable for families, improvements to education, community and commercial facilities, and improvements to the local highway network and better linkages with public transport infrastructure. The council's review identified that the policy is generally consistent with the Framework but parts relating to housing land supply and heritage are partly out of date.
- 3.1.9. Policy L1: Land for New Homes seeks to protect and promote cohesive, mixed and thriving communities, offering the right kind of homes in the right locations. The scale of housing provision and its distribution is designed to meet the needs of the existing community and to support the economic growth of the City Region.

- 3.1.10. Policy L2: Meeting Housing Needs 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. Appropriate provision should be made to provide affordable housing on developments of 15 or more dwellings in "cold" locations. It relies on the now outdated housing requirement.
- 3.1.11. Policy L3: Regeneration and Reducing Inequalities identifies the importance of improving the Council's Regeneration Areas including the Old Trafford Priority Regeneration Area. Development will be supported which improves the quality of design, construction and range of the Borough's housing stock on offer to residents, improves the access to and between Regeneration Areas; improving facilities for the communities; and providing opportunities to reduce crime and to enhance community safety.
- 3.1.12. Policy L4: Sustainable Transport and Accessibility recognises the importance of improving accessibility to building sustainable communities and creating a competitive and efficient labour market within the sub-region. Accessibility to housing, employment, health, education, shopping, culture, sports and leisure and other essential facilities is influenced by two factors; where development is located and the quality and choice of transport links available to serve that development.
- 3.1.13. Policy L5: Climate Change identifies the importance of the effects of climate which need to be considered at all stages of the development process in order to ensure that all development minimises impacts and mitigates effects.
- 3.1.14. Policy L7: Design identifies a number of criteria upon which proposed development must adhere to and include; design quality; functionality; protecting amenity; security and accessibility.
- 3.1.15. Policy L8: Planning Obligations states that a proposed development would, if implemented, create a need for a particular facility or generate specific adverse impacts that cannot be provided for, or mitigated against through the use of planning conditions, the Council will seek to negotiate appropriate planning obligation(s) to make the development acceptable and sustainable.
- 3.1.16. Policy R1: Historic Environment requires all new development to take account of surrounding building styles, landscapes and historic distinctiveness and developers must demonstrate how the development will complement and enhance the existing features of historic significance including their wider settings, in particular in relation to conservation areas, listed buildings and other identified heritage assets.
- 3.1.17. Policy R6: Culture and Tourism states the council will encourage and continue to support the culture and tourism offer, and related developments where appropriate, that highlight and enhance the cultural heritage of the Borough, in accordance with national guidance and policies within the Development Plan for Trafford, in the following key areas: Lancashire County Cricket Club Strategic Location.
- 3.1.18. There are also a number of Strategic objectives which are relevant, including:
- S01 - Meet housing needs – promote sufficient high quality housing in sustainable locations, of a size, density and tenure needed to meet the borough's needs and to contribute towards those of the city region.
 - S02 - Regenerate – the physical, economic, environmental and social fabric of the most disadvantaged communities within the borough to reduce inequalities and improve prosperity

- S06 - Reduce the need to travel – promote significant levels of development in the most sustainable locations in the borough and make less sustainable locations accessible by improving transport links, particularly public transport.

3.1.19. There are also a number of Place Objectives for Old Trafford which are relevant, including:

- OTO1: To improve the quality, mix and type of residential offer
- OTO11: To maximise potential of Lancashire County Cricket Club as a visitor attraction and its potential to lead major regeneration in the area.
- OTO25: To protect and enhance the character of the areas historic buildings and landmarks.

POSITION ON POLICIES

3.1.20. The appellant set out in CD F105 the weight to be attached to various policies and the degree of compliance with the Framework 2021. I provide commentary on these below.

3.1.21. My commentary on these is as follows:

3.1.22. Policy SO1 is one of the most important policies because it seeks to promote sufficient new housing to meet the borough's needs.

3.1.23. Policy SO2 is one of the most important policies because the appeal site lies within a Regeneration Area.

3.1.24. Policy SO6 is one of the most important policies because the appeal site is in a sustainable part of the borough where public transport can be prioritised.

3.1.25. I disagree with the LPA in respect of Policy SO7; I consider it is NOT one of the most important policies because securing sustainable development is at the heart of all proposals and decisions, whereas I consider the main policies are more specific to the issues of the appeal scheme and location.

3.1.26. Policy OTO1 is one of the most important policies because the appeal scheme is a residential scheme within Old Trafford.

3.1.27. Policy OTO11 is one of the most important policies because it identifies the neighbouring LCCC as a visitor attraction whose potential should be maximised and whose potential to trigger major regeneration should be maximised.

3.1.28. I disagree with the LPA in respect of Policy OTO16; I consider it is NOT one of the most important policies because it is not the role of a planning application to address existing deficiencies in open space or sports facilities, as per the CIL Regulations.

3.1.29. I disagree with the LPA in respect of Policy OTO24; I consider it is NOT one of the most important policies because this policy could apply to all proposals and is not specific to the issues of this appeal.

3.1.30. I disagree with the LPA in respect of Policy OTO25; I consider it is NOT one of the most important policies because heritage is no longer a central theme in this appeal.

3.1.31. I also disagree with the degree that OTO25 complies the Framework, because OTO25 seeks to protect and enhance the character of historic buildings and landmarks, without any consideration of the significance of assets, and the hierarchy of assets as per the Framework. I also consider that

landmarks are not necessarily historic buildings (or indeed valued assets) and there is nowhere in the Framework that would strive to protect or enhance 'landmarks' in general.

- 3.1.32. Policy SL3 is one of the most important policies because it relates to the area of Trafford in which the appeal site is located.
- 3.1.33. Policy L1 is one of the most important policies because it concerns new housing development.
- 3.1.34. Policy L2 is one of the most important policies because it concerns new housing development.
- 3.1.35. Policy L3 is one of the most important policies because it concerns Regeneration Areas such as Old Trafford.
- 3.1.36. I disagree with the LPA in respect of Policy L4; I consider it is NOT one of the most important policies because the aspects of this policy do not relate to the main considerations or reasons for refusal.
- 3.1.37. Policy L5 is one of the most important policies because its tests can be applied specifically to the proposal.
- 3.1.38. Policy L7 is one of the most important policies because a fundamental part of the appeal hinges on the appropriateness and acceptability of the design.
- 3.1.39. Policy L8 is one of the most important policies because the provision of planning obligations is one of the fundamental parts of the appeal.
- 3.1.40. I disagree with the LPA in respect of Policy W2; I consider it is NOT one of the most important policies because the case relates principally to residential development and the acceptability thereof; the town centre uses form only a small part of the development and the overall consideration of the appeal.
- 3.1.41. Policy R1 is one of the most important policies because this is the development plan test for assessing harm to heritage assets, which forms part of the overall determination of this appeal given the potential for impacts to a Conservation Area and a non-designated heritage asset.
- 3.1.42. In respect of Policy R5, I disagree with the LPA; I consider that this is NOT a most important policy because the scheme's financial contribution towards open space, sport and recreation is agreed between parties and is based on the size and scale of the proposal, not on any existing deficiencies that this policy tries to address.
- 3.1.43. In respect of Policy R6, I disagree with the LPA; I consider that this is NOT a most important policy because this policy applies primarily to proposals for new tourist or cultural facilities.
- 3.1.44. Paragraph 11d of the Framework raises the issue of the most important policies in respect of the development plan (my emphasis). I therefore consider that policies or guidance outside of the development plan cannot be described as main policies for the determination of the appeal.

SUPPLEMENTARY PLANNING DOCUMENTS

- 3.1.45. The relevant SPDs and SPGs are:
- SPD1: Planning Obligations (2014);
 - SPD4: A Guide for Designing Housing Extensions and Alterations (2012); and
 - PG1: New Residential Development (2004).

EMERGING LOCAL PLAN

Civic Quarter Area Action Plan

- 3.1.46. The Civic Quarter area was initially progressed by the Council as a Masterplan document, holding a public consultation event during August 2018. The document is now being developed as an Area Action Plan (AAP), with initial consultation taking place in February and March 2020. The Council originally anticipated that the Publication draft (Regulation 19) will be published ahead of the AAP being adopted in summer 2021, but the timetable has slipped, with the Regulation 19 consultation taking place in 2021 and the AAP being submitted for Examination in November 2021.
- 3.1.47. Once adopted, the AAP will be part of the statutory development plan for Trafford.
- 3.1.48. There are outstanding objections to the draft AAP (including from the appellant and, I understand, from LCCC). Therefore, I attribute limited weight to the AAP in the determination of this appeal.
- 3.1.49. It is however important to set out how the LPA has changed its proposals for the appeal site across different iterations of the plan (including the Refreshed Stretford Masterplan).

Refreshed Stretford Masterplan

- 3.1.50. The Stretford Refreshed Masterplan was approved by the Council in January 2018 and adapts the original Stretford Town Centre Masterplan which was approved in 2014.
- 3.1.51. The Refreshed Masterplan identified the appeal site as falling within the UA92 Campus Quarter.
- 3.1.52. The Stretford Refreshed Masterplan is a non-statutory planning guidance (it does not carry the weight of an SPD) document which provides advice to stakeholders wanting to develop in this area of the borough.

Civic Quarter Masterplan SPD (October 2018)

- 3.1.53. The appeal site is identified as being vacant for a number of years, offering a significant redevelopment opportunity. The site is shown within the Leisure Quarter, where it is proposed for consolidated parking provision, possibly as part of a mixed-use scheme, to serve an enhanced Cricket Club experience and surrounding employment, civic and commercial development opportunities. Maximum building heights are shown as four storeys along Great Stone Road, stepping up to six storeys closest to LCCC.

Draft Civic Quarter Area Action Plan (January 2020)

- 3.1.54. Regulation 18 Consultation was undertaken on the Draft Civic Quarter Area Action Plan (Regulation 18) between 5th February and 9th April 2020.
- 3.1.55. The document identified an opportunity to develop the site as an area for consolidated car parking and complementary leisure-based activities.

Publication Draft Civic Quarter Area Action Plan (January 2021)

- 3.1.56. Trafford Council published its Regulation 19 draft Civic Quarter Area Action Plan (AAP) for consultation between 20 January and 5 March 2021. The appeal site falls within the “southern neighbourhood” character area within the draft AAP. The draft APP (page 29) identifies the appeal site as offering ‘a significant redevelopment opportunity’.
- 3.1.57. Policy CQ1 Civic Quarter Regeneration, through its accompanying parameter plans, identifies the appeal site as being suitable for predominantly residential use with buildings of up to 6 storeys in

height. The Appellant has objected to this height parameter but agreed with the proposed allocation.

3.1.58. Policy CQ2 Housing stated that the AAP is expected to deliver up to 4,000 new homes.

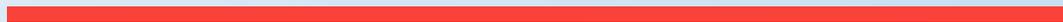
Submission Version of the Civic Quarter Area Action Plan (including Main Modifications)

- 3.1.59. The draft AAP separates the Civic Quarter into five character areas, setting out the characteristics and design vision for each. Having sat vacant for a number of years, the Former B&Q site is identified as a key challenge, falling within the “Southern Neighbourhood”.. The updated Parameters Plan (CD-I8) identifies an opportunity to develop the site as predominantly residential and / or sport/leisure.
- 3.1.60. The draft AAP recognises the need for homes to come forward within the urban area, currently proposing an allocation of 4,000 homes within the Civic Quarter area. This strategic aim of 4,000 homes has been developed to address a recognised housing need within the area.
- 3.1.61. This proposal broadly accords with the Strategic Objectives and Opportunities of the AAP, such as diversifying the existing housing offer, supporting employment opportunities through a mixed-use scheme, consolidating and reducing surface level car parking, improving pedestrian access and permeability, and encouraging active travel.
- 3.1.62. For the Cricket Club and B&Q site a limit of 6 storeys is proposed. This proposal is for a scheme of four to eight storeys, stepping down towards nearby residential development. Whilst this represents an increase over the 6 storeys suggested, separate design guidance has been sought prior to submission which has assessed the scale and massing proposed. Meanwhile, none of the supporting assessments that accompanied the Civic Quarter Masterplan or AAP have tested a range of building heights.
- 3.1.63. Draft policy CQ2 (Housing) sets out the key housing principles, which includes delivery of a mix of dwelling size, types and tenures to meet the housing needs of the borough, inclusive of family homes, lifetime homes, extra-care and student accommodation. Proposals should comply with affordable housing policies, and deliver excellent design quality whilst preserving the amenity of existing residents. The area is described as presenting opportunities for higher density housing in appropriate locations, providing defensible space and provision of family housing.
- 3.1.64. Draft Policy CQ6 (High Quality Urban Design) seeks to support proposals which achieve high-quality design. Taller buildings are encouraged in line with massing principles in the AAP, open surface parking should be reduced and public realm and green space provided.
- 3.1.65. The revised proposal accords with these proposals, receiving positive feedback through the design panel and delivering against the set objectives in the AAP. The scheme proposes a medium height building with underground parking, delivering green space and defensible spaces created via private gardens. A mix of dwellings is proposed which would be suitable for individuals or families, helping to meet the housing needs of the borough.
- 3.1.66. The revised proposal also accords with many of the detailed urban design requirements listed within the draft policy such as:
- Large internal courtyards;
 - Uncluttered roof profile;
 - Active frontages and well integrated retail space;

- Comprehensive sunlight, daylight and wind assessments;
- Private balconies, communal courtyards and private gardens; and
- Landscaping and biodiversity roofs.

4

MAIN CONSIDERATION 1



4 MAIN CONSIDERATION 1

WHETHER THE PROPOSED DEVELOPMENT WOULD PRESERVE OR ENHANCE THE CHARACTER OR APPEARANCE OF LONGFORD PARK CONSERVATION AREA.

- 4.1.1. This Consideration stems from PRFR 7. In the SoCG Addenda, the LPA confirm that it has withdrawn this PRFR on the basis that it now agrees there will not be a harmful impact on Longford Park conservation area. This consideration is therefore resolved: the development preserves the character and appearance of the Conservation Area and causes no harm to the significance of the Conservation Area.
- 4.1.2. I note this is also the conclusion reached by Mr Batho in his heritage proof of evidence.
- 4.1.3. Therefore I am satisfied that the proposal accords with Policies SL3 (which in any event does not refer to the Longford Park conservation area) and R1 of the Core Strategy and with the Framework.
- 4.1.4. As a consequence of the PFRF being withdrawn, there is no need to apply the public benefits test of Framework paragraph 202, though I do note that the LPA has been inconsistent with its application of this test, changing its judgement over time between the committee report, February 2021 correspondence, its SOC and recent withdrawal of the PRFR as set out in the quotes below (my emphasis):

Officer's report (paragraph 367)

- 4.1.5. *"A clear reason for refusal has been identified in relation to heritage matters under paragraph 11 (d)(i) and having carried out the weighted balancing exercise under Paragraph 11 (d)(ii) of the NPPF, it is considered that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits of doing so. The application is therefore recommended for refusal".*

Email from Ms Harrison (12 February 2021)

- 4.1.6. *"following a review of the putative reasons for refusal, we no longer consider that the heritage impact outlined within putative reason for refusal seven offers a clear reason for refusal under NPPF paragraph 11 d) i) as the public benefits of the scheme outweigh the identified heritage harms (but not other harms) and thus the tilted balancing exercise under NPPF paragraph 11 d) ii) will be triggered".*

LPA SoC

- 4.1.7. *"4.214... Harm to heritage assets has been identified, albeit less than substantial".*
- 4.1.8. *"4.219 In this instance it was considered that on balance the adverse impacts of the proposed development listed at paragraphs 363 of the OR [Committee report] outweighed the benefits of the proposed development listed at paragraph 362 of the OR and logically, reason for refusal 7 was established.*
- 4.1.9. *"4.220 It is acknowledged that the level of harm to the Longford Park Conservation Area and Trafford Town Hall would not stand on its own should the scheme be acceptable in all other regards."*

LEGISLATION

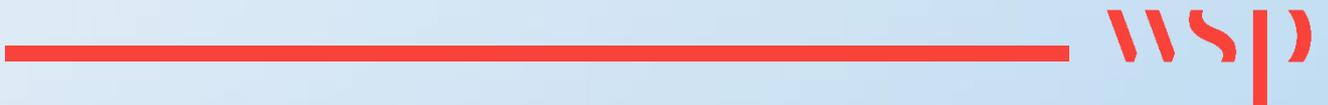
- 4.1.10. The Planning (Listed Building and Conservation Areas) Act 1990 sets out the principal statutory provisions which must be considered in the determination of any application affecting either listed buildings or Conservation Areas.
- 4.1.11. Section 72 of the Act states that with respect to any buildings or other land in a Conservation Area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

FRAMEWORK

- 4.1.12. The proposal causes no harm to the significance of any designated heritage asset; therefore the test in paragraph 202 need not be applied.
- 4.1.13. Referring then back to Framework's presumption in favour of sustainable development at paragraph 11, it states that development proposals that accord with the development plan should be approved without delay. Where there are no relevant development plan policies or the policies most important for determining the application are out-of-date, permission should be granted unless "the application of policies in this Framework that protect areas or assets of particular significance provide a clear reasons for refusing the development proposed" or "any adverse impacts of doing so would significantly and demonstrably outweigh the benefits".
- 4.1.14. In this case when we apply paragraph 11d we are in the position of the titled balance presumption being engaged as under footnote 8 the provision of housing policies of the plan are out of date as the LPA cannot demonstrate a five year supply of deliverable housing sites and the Delivery Test is substantially below the housing requirement.
- 4.1.15. Therefore we must then look at paragraph 11d(i) to consider whether there are any matters under footnote 7 i.e. policies that protect areas or assets which would provide a clear reason for refusing development. Footnote 7 includes for "designated heritage assets (and other heritage assets of archaeological interest)". Given that it has been demonstrated that there is no adverse impact on the conservation area or nearby listed buildings or their setting, there is no footnote 7 reason to refuse.
- 4.1.16. Therefore, in assessing the proposal against paragraph 11 of the Framework, it is paragraph d)(ii) that is applicable. As I set out in this Proof of Evidence, there are no adverse impacts that would significantly and demonstrably outweigh the benefits, and therefore consent should be granted. I am also satisfied with Mr Batho's conclusion that there will be no harm to the significance of the Longford Park Conservation Area and therefore the character and appearance of the Conservation Area will be preserved.

5

MAIN CONSIDERATION 2



5 MAIN CONSIDERATION 2

THE EFFECT OF THE PROPOSED DEVELOPMENT ON THE CHARACTER AND APPEARANCE OF THE AREA

- 5.1.1. This Consideration stems from PRFR 3. My colleagues Mr O'Connell and Mr Taylor provide technical evidence on the acceptability of the proposal in terms of design, architecture and townscape. My evidence considers the proposal against the policies referenced in the PRFR, and I also have regard to the LPA's Statement of Case below.

CORE STRATEGY POLICIES

- 5.1.2. The PRFR refers to policies SL3 and L7 of the Core Strategy.

Policy SL3

- 5.1.3. Policy SL3 pertains to the LCCC Quarter in which the site is located. The policy requires the delivery of a major mixed-use development in the Strategic Location. This will provide *"a high quality experience for visitors balanced with a new, high quality residential neighbourhood centred around an improved stadium at LCCC."*
- 5.1.4. The policy suggests that as part of this ambition the Location can deliver 400 residential units comprising predominantly accommodation suitable for families can be delivered in the LCCC Quarter. The proposal comprises an apartment led development, but I note that the mix of units is not an issue at this appeal, indeed the LPA in the SoCG addenda attribute substantial weight to the benefit of the proposed housing mix, with which I agree.
- 5.1.5. The remaining elements of the policy that relate to design refer to the strategic processional route (which is on the opposite side of the cricket ground, along Warwick Road and Brian Statham Way) and to the Town Hall as a heritage asset. These two points are not relevant to the appeal.
- 5.1.6. The supporting text to the policy also refers to the pursuit of high-quality development which will function at the highest environmental standards to provide a unique living experience for new and existing residents. (paragraph 8.45).
- 5.1.7. Therefore, the policy seeks a high-quality residential neighbourhood centred on the cricket ground. High quality is not defined, but L7 (as set out below) provides further guidance.

Policy L7

- 5.1.8. Policy L7 concerns design. In respect of its sub-categories, I judge that the following are fully satisfied and not a matter for this appeal: functionality, security and accessibility. The amenity sub-category is considered elsewhere in the evidence (Sections 9 and 10 below).
- 5.1.9. I conclude therefore that the first four bullet points in Policy L7 are those relevant to this Consideration. These provide that 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; and*

- *Make appropriate provision for open space, where appropriate, in accordance with Policy R5 of this Plan.”*

5.1.10. Taking each point, with regards the last criterion relating to provision of open space, from reading the PRFR and the LPA’s SoC, the open space provision is accepted and policy R5 does not appear in any PRFR.

5.1.11. With regards the remaining three criteria, I demonstrate through this evidence in this proof that they are met as follows:

- Be appropriate to context – the scheme is a high-quality residential development in the allocated Cricket Club Quarter. Policy SL3 is very clear that land within it, including the appeal site, is to deliver mixed use development to provide a high quality residential neighbourhood. This is the policy context against which the scheme is to be assessed (accepting that it must also respect wider context).
- Make best use of opportunities to improve the character and quality of an area – the proposal regenerates a prominent brownfield site that is a current detractor from the area’s character.
- 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 - the proposal repairs the street scene with a stepped development that transitions from the edge of the LCCC Quarter, carefully utilising height, massing and layout to create an appropriate scale of development to create the desired high quality neighbourhood. The material and elevations add depth and interest to provide the missing street scene.

5.1.12. I set out below how the policies are met.

FRAMEWORK

5.1.13. The Framework is also an important material consideration and provides design policy. It notes that well-designed places contribute to the social objectives of sustainable development.

5.1.14. Paragraph 124 encourages development making efficient use of land, taking into account five considerations, including the *“importance of securing well-designed, attractive and healthy places.”*

5.1.15. Chapter 12 ‘achieving well-designed places’ is also relevant: the creation of high quality, beautiful and sustainable buildings and places is what planning and development process should achieve.

5.1.16. The following aspects of paragraph 130 are relevant to this Consideration:

- Whether the development adds to the overall quality of the area over the lifetime of the development
- Whether the development is visually attractive
- Whether the development is sympathetic to local character
- Whether the development establishes or maintains a strong sense of place
- Whether the development optimises the potential of the site

5.1.17. Finally, the planning judgement should also take account of paragraph 134 and to what extent the development does or does not reflect local design policies, government guidance on design and SPDs.

WHY THE PROPOSAL CONSTITUTES HIGH QUALITY AND APPROPRIATE DESIGN

- 5.1.18. It is my case that the proposal represents a high quality development that respects its context, repairs the street scene and provides place-making benefits to the area. It thereby accords with policies SL3 and L7 and the Framework.
- 5.1.19. The proposal has evolved from a long period of analysis and design development. The application was supported by a full suite of technical and design documents to demonstrate its appropriateness. It was also subject to an independent Design Review. All of these aspects considered the design from key principles to detailed design.
- 5.1.20. In all elements of its design, the proposal is appropriate in its context, by virtue of being sited adjacent to a large built-up cricket ground, being located in the LCCC Quarter where new development is sought and being located in the Civic Quarter which seeks the area's redevelopment. These look to create a new neighbourhood, and the proposal has very much embraced this by creating a well-designed building that completes the missing corner of the LCCC Quarter with a scheme that celebrates and announces the Quarter, that raises the design bar and signals the transition into the LCCC Quarter. In my view, these place-making principles are precisely what SL3 is seeking.
- 5.1.21. Indeed, the design not only ensures no harm to the character and appearance either of this part of the area, or the more sensitive areas of residential development on the opposite side of Great Stone Road and the opposite side of the Metrolink, it also brings a significant enhancement to character. The site and its environs currently detract from the character of the area, they offer no street scene, a vacant building and a surface car park. By contrast the proposal provides an architecturally interesting development that creates the street scene, and hides the current view of the rear of the cricket stands. It makes best use of vacant land and through its design and scale is able create the neighbourhood that SL3 envisages.
- 5.1.22. Therefore, when assessed against policies SL3 and L7, the character and appearance of the area will be substantially improved by the development; it represents a significant improvement over the site in its current and former guise.
- 5.1.23. The creation of a street scene is a significant improvement over the current character and appearance of the site. This serves two main purposes, one to provide character and activity to Great Stone Road and secondly to screen the current views into the 'backside' of the cricket stadium. The development thus achieves two significant improvements. This view is fully supported by the evidence of Messrs Taylor, O'Connell and Radcliffe. The scale, density, height, massing, and layout of the proposal are all important in the scheme being able to perform the above key functions of screening the much larger stadium and its unattractive rear of the stands, and through its stepped height, architectural articulation and materials, create a new street frontage to signal the new LCCC Quarter (and indeed the Civic Quarter). Therefore, the proposal accords with Policy L7.
- 5.1.24. Taking this conclusion to the next step, I also consider this proposal as a whole to pass a test of high quality and represents an entirely suitable way to provide for a residential neighbourhood centred around the improved cricket stadium; it also includes homes for families. The proposal therefore accords with Policy SL3.
- 5.1.25. In finding the scheme high quality, I also conclude it is well-designed in accordance with the Framework; it will add to the overall quality of the area, is suitably attractive, is sympathetic to the

local character by transitioning from the character of the LCCC Quarter towards the suburban housing area, creates an identifiable place on an otherwise sterile site, and optimises the site's potential in a time of great housing need.

- 5.1.26. Development on this site has to meet the challenge of SL3 of creating a high-quality residential neighbourhood which complements the redeveloped stadium. The correct design approach in planning terms is to take its reference from the large-scale commercial Quarter, as the scheme does with its height, massing and scale, but to draw these down at its interface with the lower rise housing to the opposite side of Great Stone Road. The scheme in planning terms successfully does this to allow a density of development that makes best use of a highly sustainable brownfield site, delivering a step change in design quality, whilst respecting nearby amenity.

LPA STATEMENT OF CASE

- 5.1.27. Turning to the LPAs alleged concerns, in paragraph 4.35 of its SoC the LPA explain that it considers the development to be at complete odds with the character and urban grain of the local area.
- 5.1.28. I fundamentally disagree. The site lies within the Civic Quarter and the LCCC Quarter (albeit at its edge). The character and urban grain of the Quarter is formed by the bulk and mass of an international cricket ground and neighbouring office blocks and hotel. I consider it is the urban grain and character of that side of the road that should dictate the approach to design.
- 5.1.29. I accept it lies at the edge of this area, where it interfaces with a residential area on the opposite side of Great Stone Road, which is characterised by lower density semi-detached two-storey homes. However, the policy objectives of SL3 and the emerging CQ AAP clearly steer development of the site to respond to the larger scale of the commercial Cricket Club Quarter. The ambitions of creating a high-quality residential neighbourhood as part of a major mixed use development require a scale and density of development to deliver those ambitions. These are reflected in the proposal.
- 5.1.30. The design however has been carefully considered so as to reduce massing and height towards Great Stone Road so that it transitions to the two-storey semi-detached homes which are set back on the opposite side. This allows the proposal to make best use of the site to integrate with the scale and nature of the commercial cricket ground quarter whilst responding to the adjacent residential area.
- 5.1.31. The LPA state that the development would be a dominant mass in the street scene. The LPA, however, does not recognise that there is no positive street scene at present, with the existing site vacant and surrounded by surface car parking. The street scene is rather dominated by the rear of a cricket stand rising behind the B&Q building and the surface car park. The proposal allows a high quality street scene to be created to complete the corner of the Civic Quarter with a development of an appropriate scale and quality.
- 5.1.32. The LPA continues by noting that views through the proposal are impossible (northern courtyard) and limited (southern courtyard). I judge that this is not a relevant consideration: if the mass were broken up further to allow for more views through the site, the views would be of the rear of a cricket stand. Hiding the stand behind a well-designed building with an active street frontage is a positive change, and the creation of an active street scene is a very positive change.
- 5.1.33. In 4.36 of their SoC the LPA describes the contrast between the appeal scheme and the two-storey homes as stark, unnecessary and inappropriate. I agree with Mr O'Connell's evidence that the contrast is none of these things. The appeal scheme represents a transition in scale, but reflects its

immediate neighbour of the cricket ground, rather than the more distant dwellings on the west of Great Stone Road. I note that the LPA confirm that if SPD4 (planning guidance, which whilst primarily aimed at householder development, sets out general advice on distances between properties and how the distance should increase as the height of a development increases) was applied to this scheme, the distance between the appeal scheme and the dwellings on Great Stone Road would be more than adequate in relation to the height of the proposal. This adds to my judgement.

- 5.1.34. Also, in 4.36 the LPA consider that development heights should step down from the highest building in the area to the lowest, with development on the appeal site therefore being no higher than the cricket ground and stepping down towards two-storeys. In my view, and as support by Mr O'Connell, this is a fallacy that does not recognise that good design and architecture can cope with fluctuations and variations in height. Indeed such variations add interest in place making.
- 5.1.35. As my colleague Mr Hard notes in his evidence on overbearing, the LPA themselves have not treated other parts of the borough in this same manner. Indeed the examples below illustrate the point:
- Planning permission 101044/FUL/20, granted permission for the erection of two buildings, 6 and 13 storeys in height, to provide 149 residential dwellings at 64 - 66 Talbot Road Stretford Manchester M16 0PP. The site is adjacent to three-storey semi-detached Victorian houses to the east. The consented development is three storeys higher than the adjacent Victorian houses.
 - Planning permission 90991/FUL/17, where a 4-19 storey residential development was approved at Land Bound by Bridgewater Way, Chester Road, Virgil Street and Princess Street Old Trafford. The site is adjacent to two-storey dwellings to the north-east and south.
 - Planning permission 90711/FUL/17 approved a 12-16 storey development at Trafford Plaza which is situated opposite a three-storey wellbeing centre, 9-storey office building and terraced housing, to the south is a three-storey detached property. The consented development is nine storeys higher than the lowest development in the area.
 - Planning permission 94986/FUL/18 approved two residential buildings of 12 and 15 storeys, a cinema (Use Class D2), retail units (Use Classes A1, A2 and A3), a multi-storey car park at the Square Shopping Centre Development Site, Town Square Sale, (Ref: 94986/FUL/18). To the south of Sibson Road directly opposite the proposal is a residential area of two storey semi-detached and terraced dwellings.
- 5.1.36. The above, conclude that taller developments can in urban design terms work well adjacent to lower buildings, in some case considerably lower. The difference in height adds interest and diversity in the urban areas and helps signal a change in character. This change in character is very much the issue at large with the appeal as the site lies within the Civic Quarter/LCCC Quarter but adjacent to traditional housing.
- 5.1.37. The LPA is correct in its statement at 4.40 of its SoC that the supporting text to Policy L7 encourages the use of Building for Life, however this is not mandatory.
- 5.1.38. In 4.41 the LPA set out the design code considerations from the CQAAP. I place limited weight on the CQAAP as there are outstanding objections to it and it has not yet been examined.
- 5.1.39. In paragraph 4.63 of the SoC, the LPA note the original pre-application scheme provided for this site and state that the appellant's intent has been to maximise the quantum of development on site rather than a design-led solution. In my experience, prospective applicants will inevitably have

regard to the quantum of development, especially on brownfield sites in accessible locations in an area of change and regeneration, as well as having regard to design considerations. Designs evolve but this appeal falls to be considered on the scheme proposed now.

- 5.1.40. The Appellant tried to reach an agreement with the LPA on design between the refusal of its first application and their second application. Various meetings took place to discuss what the LPA might deem acceptable on the site, but no agreement was reached.
- 5.1.41. At a similar time, the Appellant requested sight of advice given to the LPA from a consultant on the design of the original application. Despite FOI requests, the LPA never provided this evidence. This hindered the appellant's ability to understand the LPA's position on design, height and townscape effects.
- 5.1.42. In paragraph 4.75, the LPA deem that wider buffers to boundaries should be provided to avoid the development looking cramped. Firstly, I am confident with Mr Taylor's evidence that appropriate planting and landscaping can be achieved in the subsequent reserved matters submission. Secondly, I judge that the distance between the development and the site boundaries do not detract from the character or appearance of the area; there is no development to the north-west or south-east that would require an offsetting, and nor does the development impact on the trees to the south-east. As such when viewed on the street scene there will be no development to either side as the site adjoins the Metrolink line and a club car park. I fail to see how it will thus appear cramped in the street scene.
- 5.1.43. To the rear, there is the indoor cricket school. I accept that this is built form, but I do not consider that the relationship between the proposed development and this building constitutes harm to the character or appearance of the area. This relationship will be concealed from street scene views.
- 5.1.44. In terms of amenity matters associated with layout and the LPA's allegation of being 'cramped', Mr Radcliffe's evidence deals with this (and I return to this matter under later Considerations within this Proof).
- 5.1.45. In paragraph 4.92 of their SoC the LPA discuss density. I place limited weight on PfE's policies (including those referenced by the LPA) as the plan is subject to significant unresolved objection and has not been examined yet, but do note that its draft policy JP-H4 (as referenced by the LPA) provides a minimum density of 70 dph in places within 400m of certain transport locations. The LPA suggest that the proposed density of 332 dph is nearly five times that minimum and suggest this indicates the scheme is too dense. I fundamentally disagree because there is no upper-limit to density and there are numerous residential schemes across Greater Manchester and indeed Trafford that achieve a greater density, similar to that proposed here. For example, the development at 64-66 Talbot Road was approved in 2021 with a density of more than 500 dph (LPA ref: 101044/FUL/20).
- 5.1.46. The LPA describe the site as 'suburban edge location', but this does not reflect the appeal site's location within the LCCC Quarter and within the Civic Quarter. I also find that the LPA's reference to 30-40 dwellings per hectare being the prevailing density at odds with the aforementioned minimum density of 70 dph within 400m of Metrolink stations. Finally on this matter, the LPA's continued reference to residential density is somewhat of a misnomer when the site, and the urban grain in which it sits, comprises: a vacant retail warehouse, surface car parking, office blocks and a cricket stadium. In my view, a residential density of 30-40, or 70 dph on this site would appear out of

context to the urban grain and built form to the north, north-east and east of the site, and would not represent an efficient use of land.

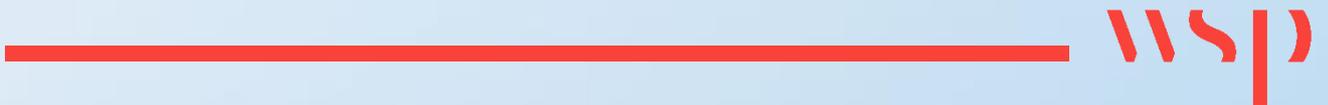
- 5.1.47. In terms of Framework paragraph 134, I find that the local design guidance (PG1, 2004) should be given limited weight as it pre-dates the Core Strategy and the Framework and is not consistent (for example, advice on density stems from PPG3 and its companion guide, and it pre-dates documents such as Manual for Streets, the Framework and Planning Practice Guidance. It is however the LPA's only adopted design guidance and therefore is a material consideration. The scheme complies with paragraph 10.3 insofar as the appeal site is a large site with varied surroundings, where there is scope for different heights, including increasing building heights to create visual interest and landmarks (a point which the LPA has ignored in its claim that building heights should transition from highest to lowest). The scheme does not strictly comply with paragraph 3.1 of PG1, which encourages densities of 30-50 dph however planning policy in the Framework and the local plan has progressed a long way since 2004 and there is now support for making best use of sustainable and accessible sites, supporting higher densities. However, I note that PG1 does not prohibit greater densities (acknowledged in paragraphs 3.1, 3.2 and 3.3) and I consider there to be multiple rationales for the density proposed as expressed in this proof. I also note the 30-50 dph density is also encouraged with specific reference to PPG3, which is long abolished.
- 5.1.48. Therefore, I judge that the proposal reflects local design guidance and policy.
- 5.1.49. In terms of the national design guide, I find no reason to alter my conclusion that the appeal proposal will have a positive effect on the character and appearance of the area.

CONCLUSION

- 5.1.50. I conclude that in respect of the effect upon the character and appearance of the area, the proposal complies with Policies L2 and L7 of the Core Strategy and with the policies of the Framework relating to design.

6

MAIN CONSIDERATION 3



6 MAIN CONSIDERATION 3

THE EFFECT OF THE PROPOSED DEVELOPMENT ON LANCASHIRE CRICKET CLUB, A NON-DESIGNATED HERITAGE ASSET AND AN INTERNATIONALLY SIGNIFICANT VISITOR ATTRACTION, CULTURAL AND TOURISM VENUE

- 6.1.1. This Consideration stems from PRFR 2. The LPA have since withdrawn that PFRF, as noted in the SOCG Addenda.
- 6.1.2. However, LCCC still support the PRFR (ref: paragraph 6.2 of LCCC SOC) and as such I deal with it below.
- 6.1.3. In summary LCCC's concerns – as set out in Mr Anderson's email of 10th December - are:
- the appeal proposal building will by reason of its height, scale and mass intrude into the views of many spectators within the ground and will be detrimental to the visitor/spectator/experience and the setting of the cricket ground; and
 - the access to the proposal will conflict with the access to LCCC and requires a Road Safety Audit.

ANALYSIS

- 6.1.4. The appellant's case here is simple, that the proposal given its height, massing and location behind the stands means that it will not intrude into views of spectators to any significant degree, who will be focused in any event on the pitch, crowd and immediate surrounds. It will be largely obscured and form part of a background. The visitor experience is far more influenced by the matches they watch and the immediate bowl of the stadium. Longer range view of taller buildings already exist to give visitors the impression they are at an urban stadium, which of course they are and will have experienced on the way to the ground. The impact on visitors will thus be negligible and will be more than outweighed in the balance by the benefits of the development (including new homes, regeneration, economic investment).
- 6.1.5. More fundamentally, if the LCCC position is to be taken, then the right of visitors to a view, and a background view that they may glimpse at between watching the cricket, is being valued more highly than the right of local residents to somewhere to live. Planning does not support the right to a view for residents let alone transient visitors to a stadium.
- 6.1.6. I also note that of the four objections made to the application, there were none from any visitors or club members citing any concern that the proposal would adversely affect their experience of cricket at the stadium. This does not surprise me as visitors to sports events typically have arrived for the purpose of watching sport and that is their main focus, not peripheral matters in the background. Indeed, the club during breaks in play encourage visitors to use the concourse and car park areas, especially at the front facing the town hall to socialise and gather, where visitors will experience the taller buildings around Warwick/Talbot Road. The proposals will not impact on the operational sports use of the ground or its visitor experience.
- 6.1.7. On transport and access I defer to Mr Davis.

LCCC SOC (CD F98)

- 6.1.8. I now address LCCC's statement of case. In paragraph 6.3 of its SoC, LCCC note the sense of enclosure of the cricket ground and the absence of other buildings of significant scale adjoining or abutting EOT. The ground lies in an urban area with other taller buildings nearby at Warwick Road which form the context of the stadium. More taller buildings are consented and planned in the area. However the sense of enclosure depends to some extent on whether the temporary stand is in situ; when it is not there are likely to be views of the B&Q and of Great Stone Road through the space left for the temporary stand, and either side. When they are *in situ* views will be greatly reduced. It is noteworthy that during the cricket season, the temporary stand will be in place for some of the time (especially when larger crowds are expected) and therefore when most visitors visit the ground their views will be limited. It is also worth noting that visitors to the cricket ground will focus their attention on the pitch and playing action rather than buildings outside of the ground.
- 6.1.9. Furthermore, with regards the sense of enclosure that LCCC suggest, I note the LPA's SoC (paragraph 4.49) refers to the stadium being a series of stands with gaps between and the allowance of views through – which contradicts LCCC's position.
- 6.1.10. The stadium is characterised by its own new developments (including hotel, conference centre and media facility), but there are also existing views from within the stadium in which external buildings in Trafford (and Manchester) are visible, for example the photograph in **Appendix A** which my colleague Mr Hard took at a Lancashire County Cricket Club match in 2019 (in this view, the appeal site is behind the photographer).
- 6.1.11. LCCC allege in the same paragraph that the appeal proposal will intrude into views and this will be detrimental to the experience and to the setting.
- 6.1.12. I fully refute this. Firstly, a spectator's primary focus will be on the cricket that they have come to watch. I do not consider that a new building outside of the ground will harm the experience of watching cricket. Secondly, one characteristic of cricket is that the playing period is intermittent and lengthy, for example a day's play at a Test match can last for more than six hours and play is interrupted for lunch and tea; play is also less intense than, for example a 90-minute football match, with play consisting of overs after which players change ends. Spectators will often leave their seats for refreshments and comfort breaks, or to stretch their legs. Even during play, it is likely that a spectator will look in all different directions to take in the scene, will talk to their companions or look at their phones/newspaper. In other words, I consider that the experience of attending a cricket match tends to include a range of experiences and actions, and is not an activity that would be harmed by the existence of a building outside the ground, indeed activity beyond the boundary and the stadium can add interest, especially in an urban setting.
- 6.1.13. Furthermore, the position of the site and the orientation of the cricket wickets means that when players are bowling to either end, the spectators' eye will be drawn towards the middle of the playing area. Given the location of the appeal site it will not lie in the background of many spectators' views.
- 6.1.14. There are numerous cricket grounds that are surrounded by other buildings that will be visible to some spectators, including Lord's ('the Home of Cricket'), The Oval (both in London) and Trent Bridge (Nottingham). Many grounds also have new residential buildings adjacent to them, or even in some cases, within their setting, for example Bristol.

- 6.1.15. EOT is in an urban location set in an area which already has tall buildings. Further, the LCCC Quarter and Civic Quarter, are designations that seek new development. People travelling to the ground will have come through the urban parts of Trafford (and possibly Manchester or Salford, to arrive at the ground and therefore they will fully understand its urban setting, having experienced the tall buildings adjacent on the former Kelloggs site (UA92) and along Talbot and Warwick Roads. In this context, I consider it highly unlikely that spectators will have their experience harmed by the presence of the appeal proposal.
- 6.1.16. In paragraph 6.4, LCCC claim that the proposal will be dominating and overbearing due to its scale and proximity. In my opinion, the appeal proposal will merely be visible (and not from all parts of the ground). Visibility does not equate to dominance, nor does it equate to overbearingness. The verified photomontages provided with the evidence – and shared already with LCCC and LPA – support my opinion. I consider that, contrary to paragraph 6.5, the cricket ground will remain the main landmark within the area. It has very tall floodlights that are visible from a long distance. It has a large modern entrance directly opposite Trafford Town Hall. From within the ground, the old pavilion, now enveloped by modern buildings, is an important feature, but the bold, bright and modern hotel, conference centre (named The Point) and media centre are all eye-catching. Given this, and my points above about visitor experience, I see absolutely no reason why EOT's role as an international sporting/tourist/cultural venue would be harmed.
- 6.1.17. In 7.3 and 7.5 of its SoC, LCCC refer to setting. In these representations, setting is not stated explicitly as being linked to heritage. I however note that in the proof of Mr Batho he concludes that there would be negligible harm to the LCCC pavilion as a non-designated heritage asset.
- 6.1.18. I note that in paragraph 7.4, LCCC acknowledge that the temporary stand is only in place for some of the season (the duration of its erection varies from year to year). This contradicts their earlier point that the stadium is an enclosed arena.
- 6.1.19. In 7.5, LCCC add to their commentary on the ground's landmark status. I do not agree, and start with the fact that there are no protected views of the stadium and local policy does not grant any special status on the stadium that warrants it being described as such.
- 6.1.20. I also dispute that visitors from the west will be greeted by the appeal proposal. Visitors arriving from the west by tram will pass through urban Trafford, past the appeal site and past the ground before arriving at the Metrolink stop. Visitors cycling, walking, driving or coming on bus from the west would likely come along Talbot Road and then either go via Great Stone Road or Talbot Road/Brian Statham Way to get to the relevant entrance to the ground. Either way, the sight of the ground will not be diminished by the presence of the appeal proposal. The only visitors who will encounter the appeal proposal before encountering the cricket ground will be those coming locally from the parts of Trafford and Manchester located to the south/east of the tramline. I consider it unlikely that such persons will have their experience diminished as a result. Rather they would pass a well-designed development which would then give way to views to reveal the cricket ground as they pass along Great Stone Road. I also note that such visitors would at present be presented with a vacant B&Q and surface car park which are hardly an attractive welcome to the stadium.
- 6.1.21. In 7.6, LCCC expand on its previous reference to setting. I am of the view that EOT as a whole is not a non-designated heritage asset (as Mr Batho concludes), rather it is the pavilion that has heritage significance. The Pavilion was built in 1895 and designed by Thomas Muirhead. Having

been substantially altered internally and externally, it is now a building that presents a façade to the playing area, with some internal historic value.

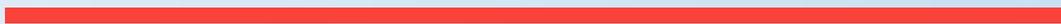
- 6.1.22. The pavilion is surrounded by modern development including a hotel, events venue, café and spectator stalls and floodlighting. CD-F12 Exhibit 8 (Heritage) considers that the wider setting of modern development and wider urban landscape contributes very little to the significance of the asset. The site makes a neutral contribution to the asset's significance.
- 6.1.23. There are glimpsed views of the pavilion across the site, and it is agreed in the SoCG (CD-F103) that the loss of glimpsed views will result in negligible harm. In respect of paragraph 203 of the Framework, I am of the view that the scale of harm to the non-designated heritage asset is negligible.
- 6.1.24. Indeed, when reading LCCC's case as a whole, I conclude that its references to setting are not by way of heritage, but rather the general setting as a venue. For example, there are no references in its Statement of Case to significance or the heritage-related policies of the Framework.

CONCLUSION

- 6.1.25. The PRFR (now withdrawn by the LPA) referred to Policies SL3 and R6 of the Core Strategy.
- 6.1.26. Policy SL3 covers the LCCC Quarter. The policy seeks to deliver an improved stadium, with ancillary sports and leisure facilities. The supporting text (paragraph 8.44) explains the priority of redeveloping the stadium to ensure international cricket returns to this venue and to help maintain the borough's reputation for sporting events.
- 6.1.27. The appeal proposal is not contrary to this. The stadium has already been subject to significant redevelopment and I find no reason why the stadium will not continue to be used to host international cricket.
- 6.1.28. Policy R6 identifies the LCCC Quarter as an area for supporting culture, tourism and related developments. Given the proposal develops a vacant B&Q store which lies adjacent to the stadium and detracts from the character of the area, the site's redevelopment will help to implement policy SL3 and create a high-quality mixed-use development in the LCCC Quarter. Policy SL3 is clear that a major mixed-use development will be delivered to provide a high quality experience for visitors balanced with a new high quality residential neighbourhood. Plainly, the residential and mixed-use development is proposed to support the cultural and tourism offer of the area. Therefore, the proposed development which accords with SL3 will likewise accord with R6 in playing its part in highlighting and enhancing the cultural heritage of the borough.

7

MAIN CONSIDERATION 4



7 MAIN CONSIDERATION 4

THE EFFECT OF THE PROPOSED DEVELOPMENT ON THE FINE TURF AND NON-TURF TRAINING FACILITY AT LANCASHIRE COUNTY CRICKET CLUB

7.1.1. This Main Consideration stems from PRFR 1:

“The proposed development would prejudice the use of the fine turf and non-turf training facility at Lancashire Cricket Club. The proposed development therefore conflicts with Strategic Objective OTO11, Policies SL3 and R6 of the adopted Core Strategy.”

7.1.2. On 17 November 2021, the LPA confirmed that the impact is only on the fine turf element of the facility, not the non-turf element.

DEVELOPMENT PLAN POLICY

Policy SL3

7.1.3. Policy SL3 concerns the LCCC Quarter. The policy seeks to deliver *inter alia* an improved stadium with ancillary sports and leisure facilities.

7.1.4. Supporting paragraph 8.44 states:

“The redevelopment of the sports stadium at Lancashire County Cricket Club is identified as a priority to ensure that international cricket is returned to this historic venue and to help maintain Trafford’s reputation as a location for national and international sporting events. Not only will this provide an enhanced physical environment but it will deliver additional employment opportunities for local people.”

Policy R6

7.1.5. This policy pertains to culture and tourism. The LCCC Quarter is identified as one of the key areas where culture and tourism offers will be supported.

OTO11

7.1.6. The 11th Place Objective for Old Trafford is to “*maximise potential of Lancashire County Cricket Club as a visitor attraction and its potential to lead major regeneration in the area.*”

Summary

7.1.7. On the basis of these policies, I consider that the main tests identified in the development plan are whether the proposed development will result in impacts that would decrease tourism and visits, and whether the proposed development will be detrimental to the hosting of sport.

CHRONOLOGY

7.1.8. I feel it is important to set out how LCCC and Sport England have engaged with the appellant’s planning applications to date. The chronology that is relevant to this PRFR is as follows.

94974/OUT/18

7.1.9. The appellant’s original application for a greater height and density of development was not refused due to impacts on this training facility, despite being a taller building. The officer’s report on that

application (Appendix B) confirmed at paragraph 324 that Sport England had commented on the application insofar as they requested financial contributions to sport facilities associated with the proposed population yield. No representations relating to impact on the training facility were reported.

- 7.1.10. Nor did LCCC object to the planning application in respect of impacts on the training facility; their objections focussed on other matters (**Appendix C**). LCCC did however pay for an advert in the local newspaper that claimed a “*significant likelihood that it will cast a shadow over the stadium, which in turn could affect play during a game and put future Test Matches at risk.*” (**Appendix D**)
- 7.1.11. The information within that planning application did not show any prospect of shadowing over the stadium; this remains the case with the appeal scheme and LCCC has now signed a SoCG with the appellant confirming that there will be no effects on the playing surface of the cricket ground.
- 100400/OUT/20**
- 7.1.12. For the application the subject of this appeal, in July 2020, Sport England submitted representations. The email from Ms Pudge includes under the heading ‘ECB Comments’ three main points, one of which is the probability that there will be impact on the training facility (including both the fine turf and the non-turf elements). The other points explained that the Council’s Civic Quarter Plan had been developed in conjunction with LCCC’s masterplan and that there would be contradiction with the club’s masterplan. The cricket club’s masterplan is not a planning policy or guidance on which any weight can be attached. I note the LPA do not resist this appeal due to conflict with the masterplan, or access conflicts.
- 7.1.13. On 17 August, Ms Pudge stated that Sport England had not been consulted on the earlier application and that the officer wrongly attributed comments to them. That may be the case, but I find it interesting that neither the LPA or LCCC consulted Sport England when both parties are now claiming serious harm from the proposal.
- 7.1.14. On 6 October Ms Pudge forwarded a chain of emails to Ms Harrison, which included correspondence from Dr Iain James to Daniel Musson, both of whom I understand to be employed at the England and Wales Cricket Board.
- 7.1.15. It was following these various representations that STRI were commissioned to provide expert analysis.
- 7.1.16. Mr Collier from STRI has provided a Proof of Evidence on the matter, which also responds to the Sport England and England and Wales Cricket Board representations, and I defer to his scientific analysis and his conclusion on the effects that the proposal will have upon the fine turf training facility.
- 7.1.17. Mr Collier finds that there will be a very minor reduction in solar radiation, which will not significantly change the potential for grass growth or change the maintenance regime.

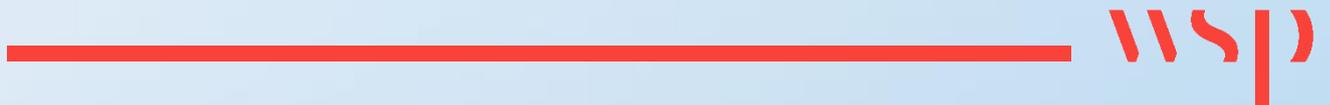
ANALYSIS

- 7.1.18. The three relevant development plan policies all support the development and growth of EOT and LCCC as a sports stadium. I accept that the training facility is an important aspect of the cricket stadium and don’t dispute that it can provide community benefit as well as use by professional cricketers.

- 7.1.19. Nonetheless, the relevant development plan policies are positively-worded, not negatively. Indeed policy SL3 refers to development “*providing a high quality experience for visitors balanced with a new high quality residential neighbourhood centred around an improved cricket stadium at LCC*”. SL3.2 supports “*a redeveloped LCCC sports stadium with ancillary sports and leisure facilities*”. Policy is positively supporting the club’s development.
- 7.1.20. R6 expresses “*the council will continue to support the culture and tourism offer.... that highlight the cultural heritage of the borough.... In the key areas (including Lancashire County Cricket Club Strategic Location)*”.
- 7.1.21. OT011 seeks to “maximise potential of the LCCC as a visitor attraction and its potential to lead to regeneration of the area.”
- 7.1.22. Plan policy is thus focussed on positive policy support for the cricket stadium and its redevelopment.
- 7.1.23. Therefore, to contradict the policies must require demonstrable harm that the development proposed will prejudice the club’s potential as a visitor attraction. To this effect, the training facility is the only part of the stadium that is alleged to be adversely affected. The impact on this must thus be considered under the above policy.
- 7.1.24. To conflict with policy, the development’s alleged impact on the training facility as a playing field, will need to be to such a degree to reduce the likelihood of stadium hosting sporting events, and so reduce the number of visitors to the ground.
- 7.1.25. SRTI’s evidence provides a sound and reliable analysis of the potential effects of the proposal on the training facility. On this basis I consider that there will be negligible harm to the training pitches and thus their use would not be prejudiced, thus the impact on playing of cricket at the stadium will be negligible. Accordingly, I consider that it is impossible to draw any link from the proposed development to a likely decrease in visits or tourism. As such, I judge the proposal does not contradict the development plan policies (SL3, R6 and OT011), and the negligible harm is likely to be outweighed by multiple benefits set out later in this proof.

8

MAIN CONSIDERATION 5



8 MAIN CONSIDERATION 5

THE EFFECT OF THE PROPOSED DEVELOPMENT ON THE SAFETY OF VEHICULAR AND PEDESTRIAN USERS OF THE ACCESS TO LANCASHIRE COUNTY CRICKET CLUB AND GREAT STONE ROAD, AND THE CLUB'S ABILITY TO USE ITS EXISTING ACCESS

- 8.1.1. This Main Consideration stems from LCCC's representations. The matter was not of concern to the council and there was no PRFR relating to access or safety.
- 8.1.2. In my planning judgement on this matter, I refer to Mr Davis's evidence (AC/2/B).
- 8.1.3. It is helpful to understand the genesis of this objection from looking at the chronology of the site. At the outset, it is noteworthy that LCCC did not introduce any expert highway opinion to their case until their SoC in 2021, having previously relied on Sport England's opinion on pedestrian safety. I set out below a chronology of LCCC's engagement with the appellant's applications in this regard.

94974/OUT/18

- 8.1.4. LCCC did not object to the original application on grounds of access or safety.

100400/OUT/20

- 8.1.5. LCCC's representation to the present application was submitted after the appeal against non-determination was lodged. LCCC expressed support for Sport England's objections, including Sport England's objection on the access arrangements and concern for pedestrian safety on match days.

LCCC STATEMENT OF CASE

- 8.1.6. LCCC's Statement of Case does not refer to any policies on this matter; it concludes there would be an adverse impact on road safety and there would be a material detrimental impact on the use of the LCCC existing access. This is expanded upon by a letter from Axis to Hill Dickinson provided in Appendix 7 to the Statement of Case. I note this letter also excludes any reference to development plan policy or material guidance of the Framework.

ACCEPTABILITY OF ACCESS

- 8.1.7. It is common ground with the LPA that Policy L4 is in part out-of-date by virtue of being inconsistent with the Framework. (as confirmed in the Joint Position Statement). Policy L4, in respect of the Main Consideration, requires that development does not significantly adverse safety (L4.8) and that it improves road safety (L4.14).
- 8.1.8. Paragraph 110b of the Framework requires safe and suitable access to a development site for all users; paragraph 111 says development should only be refused on highways grounds if there is unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe. The severe test is a high bar.
- 8.1.9. In respect to the other aspects of Policy L4 (insofar as they are relevant), the proposal is accepted as according as it prioritises development in a sustainable area accessible by a choice of modes of transport, it promotes walking and cycling, it improves accessibility, it will not adversely impact on the highway network, and it provides appropriate car and cycle parking.

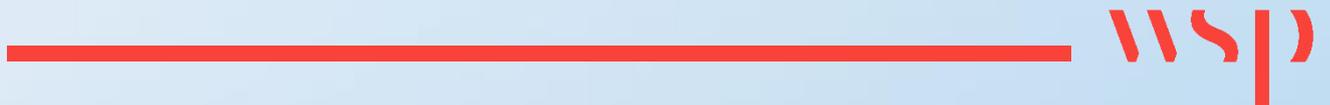
- 8.1.10. It is understood that LCCC's objection with regards to highways safety was originally based on the assumption that a new dropped kerb would be built on the highway that would hinder the access to EOT.
- 8.1.11. Mr Davis deals with this matter in his evidence. He refutes that there will be any impact on safety and confirms that the access to LCCC will remain unhindered.
- 8.1.12. Mr Davis' evidence (ref: AC/2/B) confirms that there will be no raised kerbs to hinder vehicle movement. The footway and accesses will be resurfaced and designed to the current footpath level, as such there will be no impact on the operation or safe movement of vehicles accessing EOT. A further drawing has been prepared, at Appendix GD1 of Mr Davis' evidence which clarifies the resurfacing proposed. The drawing has been shared with LCCC.
- 8.1.13. I note that Axis subsequently advised that a Road Safety Audit should be carried out and that tracking exercises should be undertaken in their letter dated 30 November 2021. However, I agree with Mr Davis's position that the access to LCCC remains unaltered and therefore no tracking is necessary or reasonable (a point which Axis accepted on 10th December). In respect of a Road Safety Audit, this is a matter addressed through any subsequent S278 and Mr Davis has provided further response to Axis on this. However, Axis have not agreed with this, and therefore this Main Consideration remains a dispute between the appellant and LCCC, essentially whether or not a Road Safety Audit should be undertaken prior to the determination of the appeal.

CONCLUSION

- 8.1.14. The highway and access details have been agreed with the Local Highway Authority. The LPA has raised no objections on access or highway or pedestrian safety. The submitted transport assessment and drawing for the application, as supported by Mr Davis' proof, confirm there will be no adverse impact. Therefore against the test of Framework paragraph 111 and policy L4 there will not be an adverse impact, let alone a severe one, and a Road Safety Audit is not needed at this stage to confirm so. There are thus no grounds to resist the appeal in this respect.

9

MAIN CONSIDERATION 6



9 MAIN CONSIDERATION 6

WHETHER FUTURE OCCUPANTS OF THE PROPOSED DEVELOPMENT WOULD HAVE SATISFACTORY LIVING CONDITIONS, WITH REGARDS TO SUNLIGHT, DAYLIGHT, OUTLOOK, NOISE AND VIBRATION

- 9.1.1. This Considerations stems from PRFR 5, which refers to daylight and outlook, and from LCCC's objections on noise grounds. I note that on 7 December 2021, the LPA advised that it wished to pursue noise as a further PRFR and on 9 December 2021 its planning committee voted to introduce an additional PRFR in respect of noise.
- 9.1.2. On 7 December 2021 Ms Coley confirmed that:
“the Council does not intend to give technical evidence on daylight and sunlight matters, or to pursue this as a separate reason for refusal. It will be referred to in the proof of evidence of Debra Harrison as a harm to be weighed in the planning balance.”
- 9.1.3. The PRFR refers to Policies SL3 and L7 plus the Framework. LCCC's SoC does not refer to a development plan policy, referencing instead the Framework and the PPG.
- 9.1.4. I also briefly address the matter of vibration in this section to confirm there are no concerns with vibration. Neither the LPA nor LCCC have claimed that vibration effects support the dismissal of the appeal. From the date of the original application submitted in 2018 through to December 2021, the LPA did not resist the application on the grounds of noise or vibration, with its internal consultee finding the proposals acceptable and recommending conditions be attached to any planning permission. It is an agreed matter within the SOCG (CD-F103, paragraph 6.1.76), that the impact of vibration from the Metrolink line is insignificant and that there are no reasons to refuse the appeal proposal on grounds of noise or vibration. TfGM has however requested a condition requiring a scheme of insulation against noise and vibration, which is accepted.
- 9.1.5. The constituent parts of this Main Consideration are also dealt with by colleagues as follows:
- Sunlight and daylight – Mr Radcliffe;
 - Outlook – Mr Taylor;
 - Noise and vibration – Mr Patterson.

DEVELOPMENT PLAN POLICY

Policy SL3

- 9.1.6. Policy SL3 relates to the LCCC Quarter. I find the only element of the policy relevant to the issue of living conditions to be SL3.1, which refers to a *“high quality residential neighbourhood.”* Paragraph 8.45 refers to providing an enhanced and unique living experience for new (and existing) residents, but gives no clarification on what this means for living conditions.
- 9.1.7. The supporting text (8.43) also cross-refers to the Old Trafford Priority Regeneration Area and the need to positively contribute to reducing inequalities. I consider that OTO1 is a relevant Place Objective in this regard, namely *“to improve the quality, mix and type of residential offer.”*

Policy L7

- 9.1.8. Policy L7 is the design policy. The relevant element for a consideration of living conditions (with regard to the PRFR) is the second bullet point to L7.3:

“Development must not 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, odour or in any other way.”

FRAMEWORK

- 9.1.9. Paragraph 119 refers to planning decisions promoting an effective use of land whilst ensuring safe and healthy living conditions. Paragraph 185 ensures that living conditions are taken into account, including in terms of:

“Noise giving rise to significant adverse impacts on health and the quality of life (the associated footnote refers to the NPSE).”

- 9.1.10. Paragraph 130 seeks to create places with a “*high standard*” of amenity for future users.
- 9.1.11. Paragraph 125c encourages LPAs to take a flexible approach to daylight and sunlight policies or guidance where they would inhibit making efficient use of a site, but notes the resulting scheme should provide an “*acceptable*” living standard.

APPROPRIATENESS WITH REGARDS DAYLIGHT, SUNLIGHT AND OUTLOOK

Daylight and sunlight

- 9.1.12. The LPA withdrew daylight and sunlight from its putative reasons for refusal on 7 December 2021. I understand from Ms Coley’s email that the harm associated with daylight and sunlight will be weighed in the LPA’s evidence on planning balance. This confirms that there are no significant daylight or sunlight concerns, and certainly no impacts that the authority considers sufficient to sustain a reason for refusal.
- 808 rooms (88%) within the development full satisfy the BRE Average Daylight Factor (ADF) criteria;
 - 78 rooms (8.5%) within the development are a negligible or minor amount below the ADF criteria;
 - 31 rooms, of which around half are bedrooms, fall more than a minor amount below the ADF criteria.
- 9.1.13. As the evidence of Mr Radcliffe confirms this level of amenity is acceptable.
- 9.1.14. The Appellant has confirmed in CD-F104 their position that moderate weight should be attached to very minor harm to the amenity of future occupiers on the basis that not all rooms are fully compliant with the BRE guidelines.
- 9.1.15. The development has been designed to offer a range of external amenity spaces, including courtyards and rooftop gardens. There are no planning policies or local guidance determining the extent of shading permissible within external amenity spaces. The LPA’s SOC (paragraphs 4.190-4.192) shows concern for the amount of shadowing within the courtyards and questions whether or not BRE guidelines will be met.

- 9.1.16. I understand that the BRE guidelines cited seek that at least half of an external amenity area should receive at least two hours of sunlight on 21 March. I am advised by AAP (whose diagram and calculations on this matter are included at **Appendix E**) that the northern courtyard meets this test (52% receives at least two hours of sunlight). I am advised that all rooftop spaces meet this test (100% receive at least two hours of sunlight). I am advised that the southern courtyard does not meet this test (11% receives at least two hours of sunlight).
- 9.1.17. When these external amenity areas are considered cumulatively, I calculate that 61% of these spaces receives at least two hours of sunlight on 21 March.
- 9.1.18. I therefore judge that future residents will have sufficient external amenity space and that these spaces will receive adequate sunlight against the BRE guidelines. I do not consider that the failure of one courtyard to meet the guidelines represents harm or detracts from the overall amenity that the residents will enjoy. Indeed, shaded areas may be a welcome option for residents in summer months.

Outlook

- 9.1.19. In the LPA SoC at paragraphs 4.173 and 4.174 they identify 14 flats across the ground and first floor that directly face towards the boundary where the indoor cricket facility is situated. A further four flats are noted as also looking onto this elevation. The proposed windows are circa 12.5m from the other building. These 14 flats equate to 4.2% of flats. They raise no issue with any other flats in the proposal. In considering the outlook from these apartments, in any urban development there will inevitably be some dwellings which have a better level of outlook than others given the nature of urban brownfield sites and adjacent land uses. Guidance seeks to balance the need to make best use of brownfield land with future residents' amenity. Dwellings at ground floors will inevitably have reduced outlook when compared to upper floors. However, in the proposal the layout and orientation has been designed to ensure that all apartments have an acceptable level of outlook. Mr Taylor's Proof of Evidence demonstrates this and I do not consider the outlook will cause any harm.

APPROPRIATENESS WITH REGARDS NOISE AND VIBRATION

- 9.1.20. Paragraph 185 of the Framework ensures that living conditions are taken into account, including in terms of:
- 9.1.21. *"Noise giving rise to significant adverse impacts on health and the quality of life."*
- 9.1.22. Paragraph 187 of the Framework includes the 'Agent of Change' principle.
- 9.1.23. There are two general sources of noise from LCCC that may affect future residents' health and quality of life: cricket matches and concerts.

Cricket matches

- 9.1.24. I am of the opinion that future residents of a development located adjacent to a cricket ground will be fully aware of the prospect of some noise from the stadium, indeed close proximity to a cricket ground is possibly an attractive benefit for prospective residents. This influences the potential effects on residential amenity for future occupiers.
- 9.1.25. Nor is noise from a stadium a constant, or a year-round prospect, unlike noise effects from busy roads, airports or factories, for example. There will be no cricket matches between approximately the end of September and the end of March.

- 9.1.26. From an inspection of the 2021 cricket fixtures, it appears that 54 days of play were scheduled at EOT, starting on 29 March and ending on 14 September (a 170-day period).
- 9.1.27. The cricket matches that are best-attended tend to either be internationals or shorter-duration T20 / Hundred matches, and these will not be daily occurrences throughout the summer. In 2021, six days of international cricket were scheduled, along with seven domestic T20 matches and four domestic 'Hundred' matches. Therefore on more than two-thirds of all playing days, the attendance is likely to be low and with less crowd entertainment.
- 9.1.28. I am aware of other cricket grounds with residential apartments built within their demise – for example Bristol – demonstrating the attractiveness of living close to a venue and the acceptability thereof.
- 9.1.29. I accept and agree with Mr Patterson's evidence, in which he sets out that suitable glazing provides sufficient mitigation to all affected properties such that amenity will not be affected from noise from the loudest cricket matches that take place in the summer months, and that there will be no impact on health from this noise source.

Concert noise

- 9.1.30. I understand that up to seven concerts can take place at EOT each year; these outdoor events form a substantial part of LCCC's and the LPA's case.
- 9.1.31. Concerts tend to be planned and scheduled several months ahead. Concerts are quite obviously a noisy event, although a residents' attitude to concert noise may depend on the type of music being performed.
- 9.1.32. I judge that the limited frequency and the forewarning of events will diminish the potential impact of concert noise on residential amenity of occupiers. This is why the original planning application 94974/OUT/18 and the subsequent planning application 100400/OUT/20 (now subject to this appeal) had proposed a Noise Management Plan to mitigate the effects of concert noise on residents. This plan was then accepted by the council's EHO.
- 9.1.33. I also understand from Mr Patterson's evidence that the proposal will reduce the concert noise levels experienced at existing residential receptors, effectively screening Great Stone Road from the direct noise. I would expect existing residents to perceive greater effects than future residents, because existing residents may feel they have the noise imposed upon them: particularly residents who have lived in the Gorses or Great Stone Road since before the stadium began hosting concerts.

Agent of Change

- 9.1.34. In terms of the agent of change principle, it is important to consider the following:
- What and how restrictions could be placed upon LCCC;
 - What restrictions would constitute unreasonable;
 - What are the prospects of effects of LCCC's operations being significantly adverse upon residents of the appeal scheme; and
 - What mitigation may be required.
- 9.1.35. I understand that if restrictions were to be placed upon LCCC, these would be via the licensing regime exercised by Trafford Council as licensing authority. I assume such restrictions could arise if a) LCCC wished to amend its license or b) the existing license was breached and action had to be

taken by the Council. I expect that such restrictions would relate to the frequency of events, the duration of events or the loudness of events.

- 9.1.36. Any noise at the appeal scheme will not breach the existing license, because the license refers to specific existing properties.
- 9.1.37. With frequency and duration of events representing a very small period within any year, I'd expect volume or loudness to be the most likely restriction, especially as I am advised that LCCC's license permits 80DB at residential facades which is louder than most other outdoor concerts. In such eventuality, I do not consider such an outcome would be unreasonable and this would not have any detriment to the economic value of concerts to LCCC.
- 9.1.38. The rescinding of LCCC's license would be an unreasonable restriction, but I consider that it is unlikely to be the appeal scheme in isolation that would cause this eventuality (indeed, I consider the eventuality to be slim, given the importance of LCCC and EOT within the borough).
- 9.1.39. As Mr Patterson sets out, the concerts can take place no more than seven times annually, and cannot run past 10:30pm in the evening. I accept that on the occasion of the concerts the impacts on some residents might be adverse, but overall, on at least 358 days of the year, there will be no impacts. Indeed, on those concert days the music is only played for limited hours. At such proportions, I find it unlikely that future residents will be significantly adverse affected.
- 9.1.40. Two forms of mitigation are possible. One, as already proposed and originally agreed with the LPA, is a Noise Management Plan that would forewarn residents (including potential tenants or purchasers) of future music events and help residents with alternative options during the concert. The second would be a greater specification of glazing to the apartments most likely to be affected, but I am sceptical as to the necessity of this for events taking place on no more than seven days per year.
- 9.1.41. Taking all this into account, I consider that it is unlikely that LCCC's operations will significantly adversely affect future residents amenity and that mitigation as previously agreed would be adequate. If further mitigation was required, then a condition can be added requiring a higher-specification glazing to affected windows if deemed necessary. As the impact of concert noise would not significantly impact residents and the proposal will not breach the existing license. It follows that under the agent of change principle there would be no adverse impact on the cricket club by way of resultant unreasonable restrictions.

10

MAIN CONSIDERATION 7



10 MAIN CONSIDERATION 7

THE EFFECT OF THE PROPOSED DEVELOPMENT ON THE LIVING CONDITIONS OF THE OCCUPANTS OF RESIDENTIAL PROPERTIES ON GREAT STONE ROAD AND TRENT BRIDGE WALK, WITH REGARD TO SUNLIGHT AND DAYLIGHT

- 10.1.1. This Main Consideration stems from Putative Reason for Refusal 6. I note the LPA's position on this matter, expressed in its email of 7 December 2021, in which they state:
- 10.1.2. "the Council does not intend to give technical evidence on daylight and sunlight matters, or to pursue this as a separate reason for refusal. It will be referred to in the proof of evidence of Debra Harrison as a harm to be weighed in the planning balance."
- 10.1.3. This confirms that there are no significant daylight or sunlight concerns, and certainly no impacts that the authority considers sufficient to sustain a reason for refusal.
- 10.1.4. The PRFR refers to Policies SL3, L3 and L7, plus the Framework.

DEVELOPMENT PLAN POLICY

Policy SL3

- 10.1.5. Policy SL3 relates to the LCCC Quarter. I find the only element of the policy relevant to the issue of living conditions to be SL3.1, which refers to a "*high quality residential neighbourhood*." Paragraph 8.45 refers to providing an enhanced and unique living experience for new (and existing) residents, but gives no clarification on what this means for living conditions.
- 10.1.6. The supporting text (8.43) also cross-refers to the Old Trafford Priority Regeneration Area and the need to positively contribute to reducing inequalities. I consider that OTO1 is a relevant Place Objective in this regard, namely "*to improve the quality, mix and type of residential offer*."

Policy L3

- 10.1.7. This relates to regeneration and reducing inequalities and is overall not relevant to this appeal. The only aspect of policy that has any relevance is the council seeking to secure an improved quality of design and construction and a range of the borough's housing stock on offer to residents, improvements to the local environment and community safety. In this respect I note the reason for refusal only refers to daylight, sunlight and overbearing which I take to relate only to the quality of design aspect of this policy.

Policy L7

- 10.1.8. Policy L7 is the design policy. The relevant element for a consideration of living conditions (with regard to the PRFR) is the second bullet point to L7.3:
- 10.1.9. "Development must not 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, odour or in any other way."

FRAMEWORK

- 10.1.10. Paragraph 119 refers to planning decisions promoting an effective use of land whilst ensuring safe and healthy living conditions.
- 10.1.11. Paragraph 130 seeks to create places with a “*high standard*” of amenity for future users.
- 10.1.12. Paragraph 125c encourages LPAs to take a flexible approach to daylight and sunlight policies or guidance where they would inhibit making efficient use of a site, but notes the resulting scheme should provide an “*acceptable*” living standard.

APPROPRIATENESS WITH REGARDS DAYLIGHT AND SUNLIGHT

- 10.1.13. Mr Radcliffe deals with this matter in his Proof of Evidence. I am satisfied with his conclusion, and provide my own commentary on harm and the planning balance below.
- 10.1.14. The proposed development will not adversely impact on the amenity by way of daylight or sunlight for existing occupiers of adjacent properties.
- 10.1.15. I concur and refer to Mr Radcliffe’s conclusion that the impacts of daylight and sunlight on adjacent properties is shown to be compliant with the BRE guide to a very substantial level and to a much greater overall level than has already been accepted on several other similar schemes in the area. Compliance with Average Daylight Factor (ADF) target figures is also significantly greater than has been accepted on other schemes in Trafford, and sunlight within the development (APSH) summer results are extremely good.
- 10.1.16. Meanwhile Mr Hard deals with overbearing (a point specified in the PRFR) in his Proof.
- 10.1.17. I am fully satisfied that the proposal accords with SL3, L3 and L7.

11

MAIN CONSIDERATION 8



11 MAIN CONSIDERATION 8

WHETHER OR NOT THE PROPOSED DEVELOPMENT WOULD MAKE ADEQUATE PROVISION IN TERMS OF AFFORDABLE HOUSING, A TRO REVIEW, A DESIGN CERTIFIER, AND CONTRIBUTIONS FOR SPORTS FACILITIES AND EDUCATION, HAVING REGARD TO VIABILITY

- 11.1.1. This Main Consideration stems from Putative Reason for Refusal 4:
- 11.1.2. “The proposed development would not provide a development plan policy compliant level of planning obligations in relation to affordable housing and education improvements to suitably and appropriately mitigate the impacts of the development. The applicant has failed to demonstrate that there is a robust viability case to demonstrate that the scheme could not offer a policy compliant level of obligations. The proposed development is therefore contrary to Policies SL3, L2 and L8 of the adopted Core Strategy and the Council's adopted Revised Supplementary Planning Document 1 (SPD1) - Planning Obligations and the National Planning Policy Framework.”
- 11.1.3. I can summarise areas of agreement between the appellant and the LPA as follows:
- There will be a financial contribution to Local Open Space of £251,593.63;
 - There will be a financial contribution to Outdoor Sports Provision of: £120,673;
 - There will be a financial contribution to highways of £30,000, to cover towards highways improvements;
 - There will be a TRO review of surrounding streets, if necessary; and
 - O'Connell East Architects will be retained as Design Certifier.
- 11.1.4. The areas of dispute between the appellant and the LPA are:
- What constitutes a policy compliant level of affordable housing;
 - The viability of the development; and
 - What constitutes a policy and CIL Regulation compliant level of financial contribution towards education.

DEVELOPMENT PLAN POLICIES

Policy SL3

- 11.1.5. Part 3.2 of this policy explains that the Council considers this Strategic Location can deliver improvements to education, community and commercial facilities, and improvements to local highway network.
- 11.1.6. SL3.4 requires the provision of community facilities “*including school provision, health facilities*” in order for development in the LCCC Quarter to be acceptable.
- 11.1.7. The same section also requires “*provision of affordable housing in accordance with Policy L2.*”
- 11.1.8. The supporting table (page 67-68 of the Core Strategy) sets out how different facilities will be phased and funded. I note that contribution towards primary education is listed, as is provision of green infrastructure, open space, improvements to sports facilities and improvements to highway networks. There are also infrastructure and facilities listed in the table that are not relevant to this

appeal, including health facilities, the strategic processional route, waste water works reinforcement, local electricity network reinforcement and local gas network reinforcement.

- 11.1.9. I therefore conclude that being listed in the table does not mean that a contribution will definitely be required from development in the strategic location. This will depend upon the nature and type of the proposed development and its impacts.
- 11.1.10. Supporting paragraph 8.49 explains that new development in this location should to contribute towards the provision of a 1-form primary school by 2021, alongside contributions from Strategic Locations 2 (Wharfside) and 4 (Trafford Centre Rectangle).

Policy L2

- 11.1.11. Policy L2 deals with meeting housing needs. The particularly relevant part of this affordable housing policy is L2.8-L2.13. The site lies within a “cold” market location, where L2.12 under normal market conditions seeks 5% contribution to affordable housing. The fourth bullet point states that “*in certain areas, where the nature of development is such that, in viability terms, it will perform differently to generic developments within a specified market location the affordable housing contribution will be determined via a site specific viability study and will not normally exceed 40%*”.
- 11.1.12. The council, under SPD1 considers that normal market conditions do not currently apply and therefore seeks an additional 5% affordable provision.
- 11.1.13. In the context of this appeal the site is thus in a cold market area where the 5% policy requirement plus the additional 5% to reflect market conditions is required, i.e. 10%.
- 11.1.14. The council is of the view that the nature of the development is such that, in viability terms, it will perform differently to generic developments within the specified market location, and therefore suggests the contribution should *not normally exceed 40%*”.
- 11.1.15. I disagree and consider the 10% level as proposed is in accord with policy.

Policy L8

- 11.1.16. Policy L8 sets out the approach and tests for seeking developer contributions. This is the policy relating to planning obligations. Policy L8.2 sets out that a planning obligation can only be applied if the three statutory tests are met (ie necessity, directly related and fair and reasonable in scale and kind).

SPD1

- 11.1.17. This is the LPA’s extant SPD for planning obligations, adopted in 2014. Paragraph 3.13 explains that in “good” market conditions in “cold” market locations, the affordable housing target will rise to 10% requirement.
- 11.1.18. Paragraph 3.14 advises that the fourth bullet of L2 “will apply in the case of most of the strategic locations.”
- 11.1.19. Education is not covered by the SPD, on the basis that it was covered by the Community Infrastructure Levy (CIL).

ANALYSIS

Affordable Housing

- 11.1.20. I accept the position set out in paragraph 4.132 of the LPA's SoC, namely that the Planning and Development Management Committee have ratified that market conditions are now "good" and under the terms of the SPD this now means that 10% affordable housing will be sought in cold market locations.
- 11.1.21. I note that paragraph 4.145 of the LPA's SoC sets out that it is the density, scale and proposed single phase delivery that the LPA consider renders the appeal scheme as performing differently to a generic development in the Old Trafford Market Location. Meanwhile, in paragraph 4.148 the LPA add that the EUV, the build costs and the "unique location next to the stadium and close to the tram" also contribute to the different performance in viability terms.
- 11.1.22. Attachment 18 to the SOC provides counsel advice on the interpretation of Policy L2.12. Paragraph 15 of that advice sets out how to apply the policy, and in particular how to determine whether the fourth bullet point to the policy is engaged. This suggests that the starting point for affordable provision is in accordance with the classification of market area. However, you need to then determine whether the development is generic or not (bullet point 4) as paragraph 11.18 of the policy refers to the Viability Study prepared for the plan, and the specific assumptions it was based upon, i.e. 40 dph, 52 dph and 140dph, and the policy mix of units (i.e. the generic development), and that any development which will perform differently should be determined by a site specific viability assessment.
- 11.1.23. With respect to this appeal, the advice suggests that typically developments in Old Trafford of more than 140dph would be those that trigger the fourth bullet of L2.12 and a site-specific viability review provided which examines whether the 10% provision remains appropriate.
- 11.1.24. The advice accepts that the policy wording is not ideal in providing a clear position, but considers the policy operable as the policy intent is clear.
- 11.1.25. In my view, the position is not so clear and I note inconsistency in how the LPA has applied this policy in respect of other developments in the local area. Indeed, the appellant has been given inconsistent explanation across several years as to why the fourth bullet is engaged in respect of their proposals (including previous advice that a new apartment scheme will perform differently in viability terms to existing two-storey Old Trafford housing stock).
- 11.1.26. For example with planning application 101044/FUL/20 at 64-66 Talbot Road, planning permission for 149 dwellings was granted in January 2021. The officer's report (**Appendix F**) at paragraph 75 confirmed that the density of the scheme was 550dph (based on the residential area), or 475 dph (including an area for new office development). The site is within the SL3 strategic location. At paragraph 28 the officer concluded that the proposed development will perform in line with generic developments in the Old Trafford Market Area and as such the offer of 10% affordable housing was policy compliant.
- 11.1.27. An FVA has been undertaken and it has shown that the appropriate level of affordable housing contribution that can be provided is certainly no more than 10%. This has tested the development and shown that it does indeed perform similarly to the generic development tested at plan making stage. Irrespective that its density is above the 140 dph scenario tested, it performs at the same

level in viability terms. Therefore it is not a non-generic development and falls in the cold market location where under the first bullet 10% provision is policy compliant.

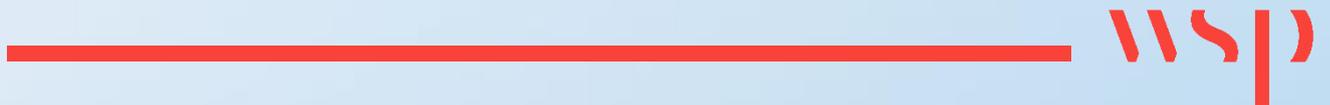
- 11.1.28. I am also of the view that determining generic cannot simply mean looking at the density it is the type of development, ie houses or apartments.
- 11.1.29. In my view, if the economic study considered that higher density developments would perform differently to developments of 140 dph, the study would have tested a higher density scenario, because it is clear from the range of sites within Old Trafford that schemes of greater density would have been both characteristic and envisaged, for example at Pomona, Wharfside and on brownfield land across the area.
- 11.1.30. I consider that whilst the appeal scheme is a higher density than 140 dph, that it is ostensibly the same apartment led development. I note this is the same interpretation the council applied in considering application 101044/FUL/20 – 64-66 Talbot Road which had a density of 550 dph but was concluded as generic development due to its nature.
- 11.1.31. In conclusion, the appeal scheme is indeed generic under policy L2. It is noteworthy that in assessing applications under this policy in the area, that where site specific FVAs have been submitted in the local part of Old Trafford, the highest affordable housing contribution that I am aware of in recent years is 15% secured at the Kellogg's site (a council owned site). Other applications, even those subject to viability, typically have been agreed at around 10%. This leads me to believe that the viability study prepared for the local plan and used to justify the 10% policy requirement in cold areas has proven accurate and apartment development coming forward has been generic, and when viability assessed shown as such through being able to deliver the 10% requirement.

EDUCATION

- 11.1.32. My planning judgement on the need for contributions to education is influenced by the Proof of Evidence of Mr Powell, who has assessed whether or not such contributions via a planning obligation would meet the three legal tests (tests which are also set out in Policy L8).
- 11.1.33. He concludes it is not and that there is no need for the contribution. It thereby follows that the L8 tests are not met and there is no CIL Regs compliant grounds to require the contribution. I do however point out that the submitted Unilateral Undertaking under S106 provides for a blue pencil clause in the event that Inspector disagrees.

12

MAIN CONSIDERATION 9



12 MAIN CONSIDERATION 9

THE ECONOMIC EFFECT OF THE PROPOSED DEVELOPMENT ON LCCC

- 12.1.1. This Consideration was added at the Case Management Conference and stems from LCCC's objections to the proposal.

LCCC'S PREVIOUS REPRESENTATIONS AND COMMENTS

- 12.1.2. In their representations (CD F94), LCCC make no reference to economic effects upon LCCC. Economic effects were added in the SoC (CD F98). This is an important point, because throughout my involvement in the planning of this site, LCCC has been inconsistent in its objections to the proposals, regularly changing the reason for its objections.

94074/OUT/18

- 12.1.3. LCCC's representations to 94974/OUT/18 (**Appendix C** to this Proof), which were submitted jointly with Bruntwood (a developer who are in a Joint Venture with Trafford Council to develop the former Kellogg's site), recommended that the LPA request additional assessment of noise, namely from construction, demolition and traffic, and suggested that noise should be assessed as part of an EIA. There was no objection to the proposal on the grounds of noise from cricket matches or from concerts being incompatible with residential use of the appeal site. Incidentally, nor was there any objection due to impact on the fine-turf training facility.
- 12.1.4. I also note that LCCC's paid-for advert, placed as a wraparound of the local newspaper to appear like a front cover, which was published ahead of the planning committee for 94974/OUT/18, did not mention noise or impact on fine-turf training facility. This advert (**Appendix D** to this Proof) also included exaggerated massing models. The alleged overshadowing of the playing area had already been disproven.

100400/OUT/20

- 12.1.5. LCCC submitted its representations on the application on 8 October 2020, i.e. after the appeal against non-determination had been made, and some 25 weeks after the application was validated. This representation was the first time LCCC had raised concerns about noise impacts.

LCCC STATEMENT OF CASE

- 12.1.6. In terms of economic impacts, in Section 8 of the SoC LCCC submits that conflicts between new residents and the operations at LCCC are likely to result in constraints being placed on its operations. Paragraph 8.2 continues, claiming that any restrictions on operations would have financial consequences for LCCC and prejudice the future as an international sporting and cultural venue, with consequential impacts for LCCC and the local economy.
- 12.1.7. I note this matter does not form part of the PRFR. I also note that LCCC does not refer to any development plan policy or other planning policy or guidance in making these claims (albeit the alleged conflicts between future residents and the operations are referred to with regard to policy and guidance).
- 12.1.8. I have set out above in Section 9 why the new residential use is compatible with the adjoining uses of EOT.

12.1.9. I interpret LCCC's fear of restrictions to be:

- Limitations on noise; and
- Impediment to the access to/from Great Stone Road.

12.1.10. Other matters raised in the LCCC SoC do not result in restrictions being placed upon LCCC.

12.1.11. The Framework provides guidance with respect to pollution impacts on and from development. Paragraph 182 of the Framework starts *"Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development"*.

12.1.12. Paragraph 187 states *"Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed"*.

Noise

12.1.13. Firstly, residential development of the appeal site is acceptable in principle in planning policy terms. However, I note paragraph 3.6 of LCCC's representations refer to its own masterplan and the club's preference that the site be developed for a leisure-led development "to enhance LCCC as an international sporting venue and heritage asset and support LCCC's ongoing ability to trade." I am also aware that LCCC have objected to the Regulation 19 version of the CQAAP, including an objection to the proposed allocation of the appeal site for housing.

12.1.14. In response to this point the LPA has agreed in the SOCG (CD F103) that the site is suitable for residential use and indeed was being promoted for such in the Regulation 19 version of the CQAAP.

12.1.15. From the noise evidence that I have seen, the height or scale of the development is largely immaterial in terms of noise impact (AC/9/B). LCCC are stipulating that no housing can be accommodated on this site due to noise impacts. This would significantly affect the ability of the LCCC Quarter – a development plan policy – from delivering the new residential neighbourhood that has been earmarked to be "centred around" the stadium since 2012. This site is the main site in the LCCC quarter that can deliver housing aside from further prior approvals for change of use from office to residential.

12.1.16. I believe that the proposal will not conflict with Place Objective OT011 to maximise the potential of the club as a visitor attraction and is potential to lead regeneration of the area. In fact the proposal is part of that regeneration. Likewise it will not conflict with SL3 as it will not inhibit the redevelopment/improvement of the sports ground with ancillary sport and leisure uses.

12.1.17. Satisfactory mitigation for noise from cricket matches is embedded within the scheme and in this respect, considering the Framework paragraph 187, the proposal will not restrict the stadium's sporting activities.

- 12.1.18. With regards concern over the seven days per annum when concerts are held at the stadium, these are very infrequent each year and not the core use or purpose of the stadium. Whilst the cricket club's noise study indicates that there might be a small exceedance of the current license noise limits for concerts at the façade of the proposed development, a balance must be struck in allowing the regeneration of the Quarter as supported by adopted policy (SL3) and the emerging CQAAP which both support residential use of the site, and the application of the event license. It is in the council's gift to grant or amend licenses and a careful balance is required in ensuring that the successful regeneration of the area is not impeded by the use of the venue for occasional concerts, which are not core to the key sporting use of the stadium. It cannot be good land use planning to allow up to seven days of concert use each year to stymie and sterilise an important brownfield development site able to deliver homes and affordable homes at a time of urgent need.
- 12.1.19. Indeed, I understand that the current license allows for impacts of 80dB at the named nearest noise sensitive dwellings. This is already 5dB over the usual 75dB limit set for concert licenses at other stadiums (as referred to by Mr Patterson). As such if the club had to reduce levels slightly, which we do not believe necessary, it would still allow it to operate in line with other such venues.
- 12.1.20. Further, occupiers coming to the site will be more than aware that it lies close to the cricket ground, and indeed that will no doubt be an attraction to them. They will be aware and can be made aware of the occasional concerts as part of the terms of occupation, indeed the LPA had until very recently agreed that a Noise Management Plan for residents would satisfactorily deal with noise in respect of amenity.
- 12.1.21. With respect to the Agent of Change principle at paragraph 187 of the Framework, it is clear that existing uses should not have unreasonable restrictions placed on them. In this case there would not be a need to place unreasonable restrictions on the Club as the exceedance of their current license is small and it in any event does not need to be reviewed. The Framework guidance with regards where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation.
- 12.1.22. In this case the impact is not a significant adverse impact, and indeed through a noise management plan at the appeal site it can be mitigated. The proposal thus aligns with paragraph 187.
- 12.1.23. As set out above, the proposal with regards the policy pertaining to the cricket club, does not impact on its ability to operate and expand as a sports stadium.
- 12.1.24. In the event that LCCCs objection is underpinned by the financial implication of concert use, this is not a land use planning consideration. The financial situation of a landowner is not material to land use when it has been demonstrated that the proposal accords with policy with regards the stadium's sports use.

Access

- 12.1.25. As set out through the proof of Mr Davis, there is no adverse impact on access to the stadium.

13

BENEFITS AND HARM



13 BENEFITS AND HARM

- 13.1.1. With a clear absence of a five-year supply of deliverable housing, the presumption in favour of sustainable development is engaged; I now set out my consideration of benefits and harm to weigh in the planning balance of paragraph 11dii.
- 13.1.2. A list of benefits and harms, and the weight that the appellant attaches to them, has already been shared in CD F104. I provide commentary below to justify this position.

BENEFITS

Substantial weight

- 13.1.3. It is common ground with the LPA that the contribution to housing land supply is of substantial weight; I consider it of substantial weight as the borough has an urgent and compelling need for housing and affordable housing. The scheme will make a significant and meaningful contribution on both counts.
- 13.1.4. It is common ground with the LPA that the unit mix is of substantial weight. The proposal will contribute to widening the type of housing in Old Trafford, as intended in the Core Strategy.
- 13.1.5. I also place substantial weight on the benefits of regenerating an underutilised brownfield site and one which lies in both the LCCC Quarter and Old Trafford regeneration area. Every layer of policy, from the Framework (paragraph 120c specifies this level of weight), through emerging PfE, to the Core Strategy and emerging local plan, seek to minimise development on greenfield land and especially Green Belt land and make best use of brownfield sites set in accessible locations. Place Objective OTO2 specifically seeks to “maximise” the re-use or redevelopment of such land. Furthermore, I note that in recommending that the redevelopment of the nearby Kellogg’s site in the CQAAP be approved (CD F66), the LPA placed substantial weight on this benefit.
- 13.1.6. I attach substantial weight to the development as a catalyst for the ambitions of the Civic Quarter AAP and as a boost to housing in a Strategic Location. The LPA confirm its intentions to use the strategic locations – and now areas subject to action plans – to help overcome its deficiencies in housing supply and delivery. I note that the LPA placed the same weight to this benefit in association with the Council’s Joint Venture application with Bruntwood at the Kellogg’s site (officer’s report is provided in CDF66).
- 13.1.7. Delivery of the 10% (33 affordable units) is in accordance with policy. Therefore, the proposal accords with L2 and L8 and substantial weight should be placed on the delivery of 33 affordable units.

Significant weight

- 13.1.8. The proposed development has always sought to discourage the use of the private car and boost walking and cycling (and indeed use of public transport). The scheme has been designed to provide more cycle storage than required by guidance, and the provision of safe secure storage equates to more than one bike per apartment. Given the benefits to health, wellbeing and general amenity from increasing cycling and discouraging driving, I place significant weight on this benefit and note it directly achieves one of the Old Trafford Place Objectives, OL19 to secure improvement to sustainable transport, especially cycling.

- 13.1.9. I also give significant weight to the benefit of creating an active frontage and a proper street scene to this side of Great Stone Road, because this improve the character of the area for the benefit the whole local community. This meets one of the Old Trafford Place Objectives, OL04, namely to improve the appearance and quality of the environment.
- 13.1.10. The site is currently a sterile brownfield site. The redevelopment will increase biodiversity value on site through the new planting and landscaping. Knowing the importance of biodiversity, I place significant weight on any improvement, not least as it achieves one of the Old Trafford Place Objectives, OL15 to maximise and enhance biodiversity.

Considerable weight

- 13.1.11. In addition to the substantial weight to boosting housing supply, I believe there is considerable benefit in these homes being delivered in a highly accessible location, i.e. close to bus routes, a tramline and where walking and cycling can be encouraged and driving discouraged. This is an additional benefit, to distinguish the appeal scheme from an alternative development of 332 homes located in a location where the private car is the most prevalent mode of transport.
- 13.1.12. Considerable weight should also be attached to economic benefits, not just social and environmental ones. I note the LPA attach moderate weight to such benefits, but they use only four categories (substantial, moderate, limited, negligible). A wider range of weights – as the Inspector described in the Warburton Lane inquiry (APP/Q4245/W/19/3243720) (CD L1) – enables better and more refined judgement.
- 13.1.13. On the matter of economic benefits, I draw attention once more to the Kellogg's scheme, to which substantial weight was attributed by the LPA to economic benefits. Nonetheless, I attach considerable weight to economic benefits that arise from the development, both the gross value added from the construction process (around £11.4m, as calculated in March 2020) and to the additional household expenditure (around £8.5m per annum, as calculated in March 2020) that will arise.
- 13.1.14. I also consider that improvements to the street scene are of considerable weight. This is different from the active frontages set out above, which enliven Great Stone Road. Instead, this benefit is simply replacing a stark barren view of the back of a cricket stand and a vacant B&Q with a new well-designed development. I also place considerable weight on the benefits of new green infrastructure in improving the character and appearance of the site – separately from any biodiversity benefit that I describe above.

Moderate weight

- 13.1.15. The proposal provides a £30,000 contribution towards improving local accessibility at the junction of Great Stone Road and Talbot Road. I place moderate weight on this, because it will serve and benefit all pedestrian and cyclist users of the junction, not just residents of the appeal scheme.
- 13.1.16. I attach moderate weight to the potential link to the Old Trafford Metrolink that the appeal scheme enables, because this link will only become useable if land outside the appellant's control is used as well. Nonetheless, safeguarding a public route through the site is a benefit of the scheme, and I note the LPA desire to improve accessibility and permeability around the stadium within its draft AAP.
- 13.1.17. The LPA have not attached any weight to employment arising from construction; I give this moderate weight as whilst in principle jobs and training opportunities would arise from any similar scale construction, the site lies in a regeneration area and in close proximity to public transport

making such job and apprenticeship opportunities more accessible, valuable and targeted at the community where they are most need. This weight is underpinned by Old Trafford Place Objective OL09 which seeks to ensure residents acquire the necessary skills to access employment.

13.1.18. Whilst not a consideration within this appeal, the planning application was accompanied by a Carbon Budget Statement, which finds that the proposal achieves 6.2% betterment against Building Regulations, which is greater than the policy requirement of 5%. I give this moderate weight as it accords with Old Trafford Place Objectives OL22 and 23 which seeks development achieving latest environmental standards and taking opportunities for low carbon energy.

Limited weight

13.1.19. I attach only limited weight to other S106 contributions that are based on a policy requirements based on the population yield of the development as they are largely mitigation, albeit they will also benefit the local community. However, I do note that the LPA in this appeal places no weight on these as a benefit, despite attributing substantial weight to developer contributions on the recent Kellogg's redevelopment scheme nearby.

HARM

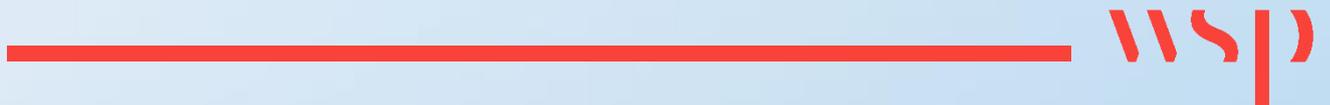
13.1.20. Through all the work done to date on the application and the appeal, I only find two areas of harm.

13.1.21. The harm to the fine-turf training pitches, which whilst negligible, is of moderate weight. This is because I recognise that the training pitches are used by all manner of cricketers, from internationals to amateurs.

13.1.22. I also attribute moderate weight to the very minor harm that some future occupiers would experience from having their daylight and sunlight levels below BRE guidance. As I have however explained, in high density urban developments there are inevitably always some dwellings which fall below BRE standards, but levels remain good and the number of rooms concerned is low.

14

PLANNING BALANCE



14 PLANNING BALANCE

DEVELOPMENT PLAN

- 14.1.1. The proposal accords with the development plan as a whole.
- 14.1.2. I accept that there is tension with certain policies contained within the development plan:
- Policy L7: there is some tension as a very small proportion of rooms within the proposed development will not meet the BRE ADF criteria, albeit I do not consider this will prejudice the amenity of future occupiers to the extent that there is conflict with the policy;
 - Policy SL3: there is some tension as the development does not propose to contribute towards school provision, albeit I do not find that any contribution towards education would be necessary under the CIL regulations and the terms of Policy L8.
- 14.1.3. I have acknowledged that there will be negligible harm to the fine-turf training facility at LCCC, but this does not contradict any of the three development plan policies cited.
- 14.1.4. Therefore, as the proposals accord with the plan under Framework 11c it should be approved without delay.
- 14.1.5. Assessment against Paragraph 11d is not required to justify development. It is however engaged in any event as the Council is not able to demonstrate a deliverable five years' worth of housing against their housing land requirement, a requirement of the Framework. My colleague Mr Hard considers its supply to be 2.9 years. The magnitude of this shortfall is significant.
- 14.1.6. Further, the persistent under delivery over the last three years means the HDT is failed and the council must provide a 20% buffer to help stimulate housing development and address the shortfall. The latest Housing Delivery Test result for Trafford was 61% (2020, published 19 January 2021). This demonstrates that not enough homes are being built and therefore needs remain unmet.
- 14.1.7. The policies of the development plan that relate to the supply of housing are therefore out of date for the purposes of paragraph 11(d) of the Framework.
- 14.1.8. There is no need for the 'heritage balance' under paragraph 202 of the Framework, because there will be no harm to the significance of any designated heritage asset.
- 14.1.9. I have therefore established that there are no matters under paragraph 11 d(i) that would indicate that consent should be refused, therefore the planning balance test falls to 11 d(ii). This is a tilted balance in favour of sustainable development.
- 14.1.10. Against this test, there are no adverse impacts that would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole. Rather the appeal proposal will result in a number of significant benefits as set out earlier, which include, *inter alia*:
- Provision of up 332 homes, to address evidence of local housing need;
 - Provision of 33 affordable homes;
 - Creation of a high-quality development to repair the street scene and improve the character of the area;
 - Provision of enhanced cycle provision;

- Economic benefits in the locality, including creation of new jobs; Gross Value Added; and increased consumer spending, thereby supporting the future vitality and viability of existing services and facilities;
- Off-site improvements for pedestrians and cyclists in the vicinity of the site;
- Enhancements in the ecological value of the site;

14.1.11. The harm arising from the appeal proposal is very limited and of no great weight.

14.1.12. The proposal comprises sustainable development that benefits from the tilted balance presumption in favour of sustainable development, pursuant to paragraph 11 of the Framework.

14.1.13. As the impacts of the scheme do not significantly and demonstrably outweigh the benefits of the proposal (11 (d)(ii)), the presumption is engaged and consent ought to be granted.

14.1.14. Notwithstanding the presumption, I conclude that the proposal accords with the development plan. Granting planning permission will ensure a suitable and appropriate brownfield site becomes deliverable for residential development that will help meet local needs. It will contribute positively to the LCCC Quarter and emerging Civic Quarter and will deliver economic, environmental and social benefits to a Priority Regeneration Area.



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