



Ministry of Housing,  
Communities &  
Local Government

Colin Griffiths  
Satnam Planning Services Ltd  
17 Imperial Square  
Cheltenham  
GL50 1QZ

Our ref: APP/M0655/W/17/3178530

Your ref:

20 December 2018

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78  
APPEAL MADE BY SATNAM MILLENIUM LTD  
LAND AT PEEL HALL, WARRINGTON WA2 9LH  
APPLICATION REF: 2016/28492**

1. I am directed by the Secretary of State to say that consideration has been given to the report of Richard Schofield BA (Hons) MA MRTPI, who held a public local inquiry starting on 23 April 2018, and which was closed in writing on 13 August 2018 (IR1.11), into your client's appeal against the decision of Warrington Borough Council ("the Council") to refuse your client's application for outline planning permission for a new residential neighbourhood including C2 and C3 uses; local employment (B1 use); local centre including food store up to 2000m<sup>2</sup>, A1-A5 (inclusive) and D1 use class units of up to 600m<sup>2</sup> total (with no single unit of more than 200m<sup>2</sup>) and family restaurant/pub of up to 800m<sup>2</sup> (A3/A4 use); site for primary school; open space including sports pitches with ancillary facilities; means of access and supporting infrastructure, in accordance with application ref: 2016/28492, dated 11 July 2016.
2. On 25 July 2017, this appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990.

**Inspector's recommendation and summary of the decision**

3. The Inspector recommended that the appeal should be dismissed.
4. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions and agrees with his recommendation. He has decided to dismiss the appeal. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

**Environmental Statement**

5. In reaching this position, the Secretary of State has taken into account the Environmental Statement which was submitted under the Town and Country Planning (Environmental

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Impact Assessment) Regulations 2011. Having taken account of the Inspector's comments at IR1.6-1.7, the Secretary of State is satisfied that the Environmental Statement complies with the above Regulations and that sufficient information has been provided for him to assess the environmental impact of the proposal.

### **Procedural matters**

6. Prior to determination of the application the description in paragraph 1 of this letter was expanded upon as follows (IR1.5): Outline application for a mixed use neighbourhood comprising residential institution (residential care home – Use Class C2) up to 1200 dwelling houses and apartments (Use Class C3); local centre including food store up to 2000 square metres (Use class A1); financial and professional services; restaurants and cafes; drinking establishments; hot food takeaways (Use Classes A2-A5 inclusive); units within Use Class D1 (non-residential institution) of up to 600 square metres total with no single unit of more than 200 square metres; and family restaurant/pub of up to 800 square metres (Use Classes A3/A4); employment uses (research; assembly and light manufacturing – Use Class B1); primary school; open space including sports pitches with ancillary facilities; means of access (including the demolition of 344; 346; 348; 458 and 460 Poplars Avenue) and supporting infrastructure.
7. The Secretary of State agrees with the Inspector at IR1.6 and does not consider that the expanded description raises any matters that would require him to refer back to the parties for further representations prior to reaching his decision on this appeal, and he is satisfied that no interests have thereby been prejudiced.
8. The revised National Planning Policy Framework (“the Framework”) was published on 24 July 2018, before the Inquiry closed. The views of the parties were sought and taken into account by the Inspector. The revised Framework and the associated planning guidance (‘the Guidance’) have been taken into account as material considerations in this decision.

### **Matters arising since the close of the inquiry**

9. On 26 October 2018, Government published “Technical consultation on updates to national planning policy and guidance”, dealing with the calculation of Local Housing Need and other matters, including the People Over Wind and Sweetman v Coillte Teoranta issue. While a number of the issues dealt with in that document are relevant to this case, given these remain the subject of consultation and may not be the final position, the Secretary of State has made his decision here based on existing policy.
10. The Secretary of State received correspondence from you and the Council on 9 November 2018 in relation to the emerging Warrington Local Plan. These were circulated on 12 November 2018 and no further comments were received. The Secretary of State is satisfied that the issues raised do not affect his decision, and no other new issues were raised in this correspondence to warrant further investigation or necessitate additional referrals back to parties. Copies of these letters may be obtained on written request to the address at the foot of the first page of this letter.

### **Policy and statutory considerations**

11. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.

12. In this case the development plan consists of the Local Plan Core Strategy for Warrington (CS) (July 2014). The Secretary of State considers that the development plan policies of most relevance to this case are those set out at IR5.3-5.12. The Secretary of State has taken account of the fact that the High Court challenge to the adoption of that Plan means that the Strategy does not contain a housing requirement for the plan period (IR5.2).

## **Main issues**

### *The effect of the proposed development on the safety and efficiency of the local and strategic highway network*

13. For the reasons given at IR13.8-13.41, the Secretary of State agrees with the Inspector that, overall, the appeal proposal has failed to demonstrate that it would not create an adverse impact upon the safety and efficiency of the local and strategic highway network, so that it would conflict with CS policy MP7 (IR13.42). He also agrees with the Inspector that, while the word 'severe' does not appear in policy MP7, that does not render it inconsistent with the Framework. Overall, the Secretary of State agrees with the Inspector that the requirements of neither the development plan nor the Framework have been met in this regard, so that a precautionary approach is appropriate (IR13.43-13.44).

### *The effect of the proposed development on the character of the area*

14. For the reasons given at IR13.45-13.52 the Secretary of State agrees with the Inspector that the appeal proposal would have an adverse impact upon the character of the area which, as the appeal site was built out, would gradually change to become a busier and, for pedestrians at least, noisier area through which to travel - thereby conflicting with CS policy QE7 (IR13.53-13.54).

### *The effect of the proposal on local air quality*

15. For the reasons given at IR13.55-13.66, the Secretary of State agrees with the Inspector that the evidence provided lacks clarity in a number of areas while the appeal site is in a very sensitive location regarding air quality management. Overall, therefore, the Secretary of State agrees with the Inspector's conclusion at IR13.67 that the appeal proposal has failed to demonstrate that it would not give rise to an adverse impact upon local air quality - thereby conflicting with CS policy QE6.

### *Whether the proposal can be regarded as deliverable*

16. The Secretary of State agrees with the Inspector at IR13.68 that there are two issues, namely, that the appellant a) does not have control of the entirety of the appeal site and b) does not appear to have support from a bus operator to run the proposed service through the site.

17. For the reasons given at IR13.69-13.72, the Secretary of State agrees with the Inspector at IR13.72 that, without any evidence that the Mill Lane playing field site is available for the development proposed, it is very difficult to see how the scheme can be regarded as deliverable as there is no reason to consider that the site would necessarily be sold to the appellant or that it would come forward as part of, or linked to, this scheme.

18. Turning to the appellant's bus service proposals (IR13.74-13.80), the Secretary of State agrees with the Inspector that it would be reasonable to expect some form of recent written commitment from a local bus service provider that an enhanced bus service would

be deliverable and confirming that the s.106 obligations are fit for the purposes expected, whereas the evidence points in the opposite direction (IR13.79).

19. Overall, therefore (IR13.69–13.82), the Secretary of State is not persuaded that the appeal scheme is deliverable as proposed and considers that there is conflict with CS policies MP1 and MP4.

#### *Other considerations*

20. The Secretary of State has considered the points raised and the Inspector's reasoning at IR13.83-13.95 and has no reason to disagree with any of his findings or conclusions.

#### **Planning conditions**

21. The Secretary of State has carefully considered the Inspector's analysis at IR12.1-12.41, the recommended conditions set out at Appendix C to the IR and the reasons for them, and to national policy in paragraph 55 of the Framework and the relevant Guidance. However, he does not consider that the imposition of these conditions would overcome his reasons for dismissing this appeal and refusing planning permission.

#### **Planning obligations**

22. Having had regard to the Inspector's analysis at IR12.42-12.52, the planning obligation dated 3 August 2018, paragraph 56 of the Framework, the Guidance and the Community Infrastructure Levy Regulations 2010 as amended, the Secretary of State agrees with the Inspector's conclusion at IR12.53 that, in so far as it goes, the obligation complies with Regulation 122 of the CIL Regulations and the tests at paragraph 56 of the Framework. However, given the position set out in paragraph 17 above, the Secretary of State is concerned that the appellant does not have control of the entirety of the appeal site. Therefore, given that there are parties with interests in the site who are not signatories to the obligation, the Secretary of State is not satisfied that appellant, or any successors, would have sufficient control to ensure that the scheme could be implemented as proposed; and so he does not consider that the obligation overcomes his reasons for dismissing the appeal and refusing planning permission.

#### **Planning balance and overall conclusion**

23. For the reasons given above, the Secretary of State considers that the appeal scheme is not in accordance with CS Policies MP1, MP4, MP7, QE6 and QE7, and is not in accordance with the development plan overall. He has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in accordance with the development plan.
24. As the CS has no housing requirement policies, the Council is unable to demonstrate a five year supply of deliverable housing land. Hence, paragraph 11(d) of the Framework indicates that planning permission should be granted unless: (i) the application of the policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or (ii) any adverse impacts of doing so significantly and demonstrably outweigh the benefits, when assessed against policies in the Framework taken as a whole. The Secretary of State is not satisfied that there would be no adverse impacts on the efficiency and safety of the local and strategic network or on local air quality, and he gives significant weight to these factors. Of even greater weight, however, is the fact that he considers that the scheme is not deliverable as proposed. He also affords moderate weight to the adverse impact upon the character

of the area. The Secretary of State recognises that, if the scheme were to be considered deliverable, the fact that it could provide up to 1200 dwellings, 30% of which would be affordable, would attract significant weight. However, he considers that the merits of the scheme need to be left for further consideration once the issue of control over all parts of the site has been resolved and it becomes capable of implementation.

25. The Secretary of State therefore concludes that the appeal should be dismissed and planning permission refused.

### **Formal decision**

26. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby dismisses your client's appeal and refuses planning permission for outline application for a mixed use neighbourhood comprising residential institution (residential care home – Use Class C2) up to 1200 dwelling houses and apartments (Use Class C3); local centre including food store up to 2000 square metres (Use class A1); financial and professional services; restaurants and cafes; drinking establishments; hot food takeaways (Use Classes A2-A5 inclusive); units within Use Class D1 (non-residential institution) of up to 600 square metres total with no single unit of more than 200 square metres; and family restaurant/pub of up to 800 square metres (Use Classes A3/A4); employment uses (research; assembly and light manufacturing – Use Class B1); primary school; open space including sports pitches with ancillary facilities; means of access (including the demolition of 344; 346; 348; 458 and 460 Poplars Avenue) and supporting infrastructure in accordance with application ref: 2016/28492, dated 11 July 2016 as amended in para 6 of this letter.

### **Right to challenge the decision**

27. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.

28. A copy of this letter has been sent to Warrington Borough Council and notification has been sent to others who asked to be informed of the decision.

Yours faithfully

*Jean Nowak*

Authorised by the Secretary of State to sign in that behalf