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## Appeal Decision

Inquiry Held on 2-5 July 2019

Site visits made on 1 and 5 July 2019

**by John Felgate BA(Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 21 August 2019**

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**Appeal Ref: APP/N4205/W/18/3210299**

**Land off Victoria Road, Bond Close and Mayfair, Horwich, Lancs**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Peel Investments (North) Limited against the decision of Bolton Metropolitan Borough Council.
  - The application Ref 02434/17, dated 1 December 2017, was refused by notice dated 29 June 2018.
  - The development proposed is residential development of up to 300 dwellings with access and associated works.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The appeal proposal seeks outline permission with all details reserved except for access. Three vehicular access points are proposed, from Victoria Road, Bond Close, and Mayfair. In so far as the submitted plans show details of any other matters, it is agreed that these should be treated as illustrative.
3. The illustrative material accompanying the planning application included an Illustrative Layout (No. 508B-06D) and a Parameters Plan (No. 508B-07). Prior to the inquiry, in May 2019, the appellants introduced alternative versions of these plans, numbered 508D-03C and 508D-40E, and a further round of consultation with statutory consultees and other interested parties was carried out on this basis. A further revision of the Illustrative Layout, numbered 508D-03D, was subsequently introduced in June 2019. No procedural objections to any of these alternative plans have been raised by any party, and I have taken all of them into account.
4. The Council's Refusal Reason No2 (RR2) related to traffic impact. This objection was withdrawn by the Council prior to the inquiry, subject to agreement on funding for off-site highway improvements. Since then, the appellants have entered into a Section 106 agreement with the Council which includes a financial contribution to the required works, and RR2 was therefore not pursued by the Council at the inquiry. An objection on traffic grounds was however maintained by the Stocks Residents' Association (SRA), which appeared at the inquiry as a Rule 6 party.
5. In addition to these highway works, the S.106 agreement makes provision for affordable housing, on-site open space, and further contributions to off-site

open space, education, and Traffic Regulation Orders (TROs). Matters relating to the agreement, and the obligations within it, are discussed in more detail elsewhere in my decision.

6. Prior to the opening of the inquiry, in a letter dated 16 June 2019, SRA formally requested that the Secretary of State (the SoS) should recover the appeal for his own determination. That request was declined on behalf of the SoS, in a letter from the Planning Inspectorate dated 3 July 2019. For the avoidance of doubt, I have had no part in the decision on whether the appeal should be recovered.
7. After the close of the inquiry, two further letters were received from a local resident. As these were received too late to be considered at the inquiry, they were returned to the sender. I have dealt with the appeal solely on the evidence that was put before the inquiry.

## **Planning Background**

### Relevant Development Plan Policies

8. For the purposes of the appeal, the development plan for the area comprises the Bolton Core Strategy (BCS), adopted in March 2011, and the Bolton Allocations Plan (BAP), adopted in December 2014. On the adopted Policies Map, the appeal site lies outside the urban area of Horwich, and within an area designated as Other Protected Open Land (OPOL).
9. In the BAP, Policy CG6AP sets out four categories of permissible development within OPOL. These include limited infilling, development appropriate within a green belt, and development that maintains the character and appearance of the countryside. The accompanying text states that some OPOL land could be appropriate for development in the future, but not during the present plan period up to 2026, and not without a review of the Core Strategy. It is common ground that the appeal proposal does not fall within any of the relevant categories, and is therefore contrary to Policy CG6AP.
10. In the BCS, Policy OA1 sets out the Council's policy aims for the Horwich and Blackrod area. Under Part 4 of the policy, new housing is to be concentrated in Horwich town centre, and at the Locomotive Works site, and at other sites within the urban area. Part 6 of the same policy requires Protected Open Land (POL) to remain undeveloped. It is common ground that this provision also applies to the subsequently-designated OPOL sites, and that the appeal proposal is contrary to this element of Policy OA1.
11. Also in Policy OA1, Parts 9 and 11 require that the character of the physical environment and landscape settings of Horwich and Blackrod are conserved, and that public views of the landscape are protected. Part 9 also makes reference to protecting the area's Conservation Areas (CAs), but its effect is not limited to these, and the policy therefore applies equally to the whole of the Horwich and Blackrod area.
12. In addition, the Borough-wide BCS Policy CG3 requires, at Parts 2 and 7, that the quality of the landscape is conserved and enhanced, and that the character and distinctiveness of the surrounding countryside is maintained and respected. Part 4 of the same policy requires that the significance of heritage assets is conserved and enhanced.

### Housing supply and delivery

13. It is common ground between the appellants and the Council that the Borough does not have a 5-year land supply for housing development. At the time of the inquiry, the most up-to-date published information was based on the position as at 1 April 2018. This showed a deliverable supply of 3.7 years, for the period 2018-23. At the inquiry, it was accepted that some adjustment to this figure was justified, to reflect current uncertainties over two particular sites. On this basis, it was agreed that the supply is now between 2.99 years and 3.36 years.

### **Main Issues**

14. From the submissions before me, the main issues in the appeal are as follows:
- the proposed development's effects on the character and appearance of the area, with particular regard to Horwich's landscape setting;
  - the effects on the setting of the Wallsuches Conservation Area;
  - the effects on the local highway network and traffic congestion;
  - whether the development would be premature in relation to any emerging plans or policies;
  - and whether the development would be capable of contributing to the Borough's housing supply within a reasonable timescale.

### **Reasons for decision**

#### The effects on the character and appearance of the area

15. The town of Horwich lies on the lower slopes of the Southern Pennine Hills. To the north and north-east of the town, the land rises steeply up to the escarpment of the West Pennine Moors, with Rivington Pike, Crooked Edge Hill, and Adam Hill all prominent. Above these are the Rivington and Smithills Moors, reaching a height of 450m at Winter Hill. To the south and west of the town, the land drops into the flat-bottomed valley of Middle Brook, and then rises abruptly again to the outlying hills around Blackrod, Aspull and Standish Crest. Together, these dominant landscape features on all sides form a dramatic visual setting for the town.
16. The appeal site lies on moderately sloping ground on Horwich's north-eastern edge, where the land rises from about 145m at the site entrance, to about 190m at the site's north-eastern boundary. From here, the land continues to rise, initially to the ridge at Ridgemont Park, at about 225m. To the north of this, the slope is punctuated by a minor valley at Wallsuches, but to the east it climbs steeply, around the small settlement of Bottom-o'-th-Moor, towards Horwich Moor, at around 300m; and thence northwards to the top of Winter Hill. The site thus forms part of a continuous swathe of steeply rising, open land, linking the fringes of the town to the sweeping landscape of the Pennine uplands.
17. That part of the appeal site which comprises the Horwich Golf Course, is largely a man-made landscape, with engineered contours, 'designed' planting belts and managed grassland. As a result, although the course is attractively laid out, this part of the site is clearly distinguishable from the landscape beyond. But the same cannot be said for the remainder of the site, referred to at the

inquiry as the North and South Fields<sup>1</sup>. These two areas of agricultural grassland, totalling 3.2 ha, are far more typical of the pattern of small fields and pasture lands, divided by low hedges and gritstone walls, which characterise the lower Pennine slopes around Horwich's rural fringe. As such, the North and South Fields therefore appear as an integral part of the surrounding landscape.

18. Existing development abuts the site on three sides, and from many vantage points the site is seen mainly in this context. But again, this is not so for the whole of the site. In particular, the South Field and the northern section of the upper fairway are prominent in views from footpaths HOR83/92/93 (part of Fleet Street), and from HOR84/88, and from the upper parts of the realigned HOR94. These footpaths form part of the extensive local network, connecting the town to the open countryside and to the moorlands beyond, and I saw on my visits that this network is well-used. One of the attractive features of all of these paths is the rapid transition, from urban fringe to deeply rural in character, so that in all cases, a sense of relative remoteness and tranquillity is reached within a short distance. This impression is further heightened by the long views to the south and west, and by the occasional glimpsed views of the higher ground to the north, and the resulting sense of connectedness to this wider landscape. The South Field and upper fairway, due to their openness, contribute significantly to these qualities, and thus to the experience enjoyed by footpath users.
19. Drawing these considerations together, it seems to me that with regard to the issues of landscape and visual impact, there is no single conclusion that can be applied to the whole of the appeal site. To the southwest of a line roughly connecting the existing houses at Mayfair and Buckingham Avenue, the appeal site is relatively well contained by the adjoining development, and by the topography, and the woodlands within the site and along Nellie's Clough. This includes most of the Golf Course and the southern part of the North Field. Although the North Field as a whole has some visual continuity with the open countryside, this southern part also relates closely to the Golf Course and the urban area. On balance therefore, I consider that development could be accommodated to the south-west of a notional Mayfair-Buckingham Avenue dividing line without undue harm to the area's character or appearance.
20. However, in the case of the remainder of the appeal site, my conclusion is quite different. This area comprises approximately the southern half of the South Field and the northern half of the upper fairway. Housing in these areas would extend beyond the adjoining development on either side, and in the case of the South Field, it would not be contained within any established boundary. Such development would intrude into the foreground and middle ground of the views obtained from the three main surrounding public footpaths. It would detract from the sense of remoteness and tranquillity experienced on those paths. It would also erode the distinctive rural character of this part of Horwich's countryside fringe.
21. Although layout is a reserved matter, all of the various illustrative plans have included substantial amounts of development in this north-eastern part of the site, and there is nothing to suggest that 300 dwellings could be

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<sup>1</sup> As identified on Ms Randall's Figure 4. For the avoidance of doubt, the 'North Field' lies to the north-west of the Golf Course's upper fairway, and the 'South Field' is the most north-easterly part of the land lying to the south-east of the same fairway; the South Field is therefore in fact the most north-easterly segment of the appeal site.

- accommodated on the site without encroaching into this area. I accept that a new landscaped buffer zone could be created, with dense planting, and some dwellings could be restricted to single-storey. However, none of these measures would change the fact that development in this part of the site would result in a particularly sensitive tract of countryside being encroached upon and partly urbanised. To my mind, development as now proposed, extending beyond Mayfair and Buckingham Avenue, would be unsympathetic and harmful to the character and appearance of this part of the countryside, and to the setting of the town.
22. In coming to my conclusion on this issue, I acknowledge that the appeal site has a relatively limited visual envelope, and therefore the development's landscape and visual impacts would be confined to quite a localised area. Furthermore, the views that would be adversely affected are in some cases seen only from short sections of the relevant footpaths, rather than their whole length. But nevertheless, on any walk involving one or more of the paths that I have identified, the development would be seen from a variety of different angles and viewpoints, and this would increase its visual presence. Consequently, for the reasons that I have explained, I consider that the degree of harm caused within the local area, to the landscape and to visual amenity, would be substantial.
23. It is acknowledged by the Council that, if the present shortfall in the 5-year land supply is to be made good, it is probable that development will have to be permitted on some of the sites currently designated as POL or OPOL. As the appellants point out, such sites all tend to be located on the edges of the Borough's urban areas, where similar issues of landscape and visual impact may be involved. There is no evidence that any other POL or OPOL sites are preferable to the appeal site in landscape terms. But be that as it may, I must consider the proposal that is front of me, and for the reasons already stated, I consider that the scheme currently proposed for the appeal site would cause substantial harm to the area's character and appearance.
24. The appeal site is not subject to any special landscape designation, and the Council agrees with the appellants that it is not a 'valued landscape' within the terms of NPPF paragraph 170. But as SRA points out (and as was accepted by the appellants' landscape witness) an assessment of the site in isolation risks ignoring the value that it has as part of the wider landscape. As described above, the appeal site lies on the fringes of the Southern Pennines. From my own observations, and from the photographic and other evidence presented at the inquiry, it is apparent that this area as a whole has a distinctive landscape character, with a high scenic quality and a perception of tranquillity and remoteness, and that it supports recreational uses such as leisure walking. To my mind, these characteristics elevate this wider landscape to a status well above 'ordinary countryside'. Consequently, I agree with the SRA's view that the site, or at least the north-eastern part of it, is a component of a valued landscape.
25. But even if no part of the site was considered to be 'valued landscape' in paragraph 170 terms, that would not mean that it should not qualify for any protection at all, as suggested by the appellants. The same paragraph makes it clear that the countryside's intrinsic character and beauty should be recognised. For the reasons given above, I consider that permitting housing development on the South Field and the northern part of the upper fairway

would fail to recognise these qualities. And in any event, the countryside and landscape are also protected by development plan policies including BCS Policies OA1 and CG3. I note the suggestion that Part 11 of OA1 does not apply to OPOL land, but the policy's clear aim is to protect the town's setting and views of the landscape; to my mind this aim is relevant to development both within and outside the urban area.

26. I conclude on this first issue that, due to the inclusion of land within the South Field and the northern half of the upper fairway, the proposed development would cause substantial harm to the character and appearance of the area and its landscape, and specifically to the setting of the town of Horwich, and to views from local public footpaths. In all these respects, the development would conflict with Parts 9 and 11 of BCS Policy OA1, and with Parts 2 and 7 of Policy CG3.

*Effects on the setting of the Wallsuches Conservation Area*

27. The Council's RR3 made reference to the effects of the development on the landscape setting of the Wallsuches CA. Although the Council subsequently clarified that this was intended as part of its landscape objection only, an objection on heritage grounds was maintained at the inquiry by SRA.
28. The Wallsuches CA lies approximately 100 metres to the north-east of the appeal site, with footpath HOR 92/93 and Fleet Street forming part of its southern boundary. The swathe of open land that includes the appeal site's South Field and upper fairway forms an attractive visual setting to this southern edge of the CA. Housing development on the South Field and upper fairway would detract from this setting, for the same reasons that it would harm the local landscape, as discussed above.
29. However, the part of the CA that would be affected would be confined to a narrow strip along its southern boundary, in the vicinity of Knowles Farm and Whittles Barn. This part of the CA primarily comprises a collection of former farmsteads and farm workers' cottages, including a number of modern residential conversions.
30. From the evidence before me, it is clear that the CA's special architectural and historic interest is derived from the pioneering Wallsuches Bleachworks established by John and Thomas Ridgeway in the 18<sup>th</sup> century, with its complex of industrial buildings, and from the 'Club Houses' industrial village, and Ridgemont House with its former parkland. These groups of buildings and spaces, although physically dispersed, are related to each other by their shared history, and by the functional relationships which once existed between them. There is no evidence that Knowles Farm, Whittles Barn, or any other farm buildings along Fleet Street had any similar functional or ownership connection to the Bleachworks or to the Ridgeway family.
31. In the absence of such a connection, whilst this part of the CA around Fleet Street may possibly have some limited historic interest of its own, it is not representative of the CA as a whole. As such, it seems to me that this area makes no more than a marginal contribution to the CA's significance.
32. In addition, there is a notable lack of either intervisibility or physical connectivity between the appeal site and any part of the CA that contributes to its significance. Although Ridgemont Park extends right up to Fleet Street and



footpath HOR 92/93, the boundary wall and woodland prevent any inward or outward views, or any access, from this direction. Whatever may have been meant by the CA Appraisal Report's diagrammatic depiction of a view westwards from this area, there is no view now over the appeal site from Ridgmont House or any part of its parkland.

33. I have had full regard for the duty under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, to pay special attention to the desirability of preserving or enhancing the CA's character or appearance. I also acknowledge the NPPF's advice that the conservation of heritage assets should be given great weight, and that harm to their significance requires clear and convincing justification. However, in this case, I conclude that despite the harm to one part of its setting, the significance of the Wallsuches CA would be preserved.
34. In this respect, I find no conflict with any of the BCS or BAP policies that have been drawn to my attention, including the relevant provisions of Part 9 of BCS Policy OA1, and Part 4 of Policy CG3.

Effects on the local highway network and traffic congestion

35. Like most towns in England, Horwich suffers at times from traffic congestion, and I saw on my visits that this is at its worst in the morning peak period, when lengthy queues build up along Chorley New Road, especially on the section approaching the Beehive roundabout. The proposed development would add to the level of traffic on the network, including on Chorley New Road. In the absence of any mitigation measures, the additional queuing and congestion at the Beehive junction would be unacceptable.
36. However, an improvement scheme for the Beehive roundabout is already planned, in conjunction with the forthcoming Rivington Chase development, at the former Locomotive Works site. The improvements would involve widening of the carriageways on the roundabout itself, and on the exit lanes along De Havilland Way. These works are calculated to provide sufficient additional capacity for the appeal proposal as well as for Rivington Chase. Although there is some uncertainty as to how quickly Rivington Chase will reach the 230-dwelling trigger point, the S.106 agreement for the present appeal scheme includes a contingency provision for a contribution of £274,000 to cover the possible funding gap, if necessary. It is agreed that this sum is sufficient to enable the relevant works to be completed by the time when they would be needed. The Highway Authority is evidently satisfied with this arrangement, and I see no reason to disagree.
37. As well as mitigating the impact of the development itself, the Beehive junction improvement scheme is also forecast to reduce queuing compared to the 2025 baseline situation, which is effectively what is expected to occur without the development. The eventual result therefore, of the development plus the road improvement, is calculated to provide a potential net highway benefit.
38. I appreciate SRA's concerns regarding some other local roads and junctions. Peak-hour queuing is not confined to Chorley New Road, but also occurs on Victoria Road, Stocks Park Drive, Church Street and Chorley Old Road, amongst others. These streets were not designed for high volumes of traffic, and their junctions do not necessarily meet modern standards, in terms of their geometry and visibility. On-street parking, especially around schools, day

- nurseries and the like, can add to these problems. The network offers many different options for rat-running, and in some cases drivers may be willing to lengthen their journey distance quite considerably, in order to avoid a few minutes of queuing. Travel patterns are therefore not always predictable.
39. These points are well made by SRA, and undoubtedly have some validity. But none is unique to Horwich, and indeed most could apply equally to almost any similar small town. I have no reason to doubt that they are taken into account, in so far as is practically possible, in the modelling and auditing exercises undertaken in this case, not only by the appellants but also by the consultants acting on behalf of the Highway Authority. The results of this work do not indicate any likely problems. There is no technical evidence to suggest that the proposed development would have a significant impact anywhere on the network other than at the Beehive roundabout. And when the improvements to that junction are put in place, there is no apparent reason to think that traffic conditions there would cause drivers to divert to other routes. Overall, I find no reason to think that the impact of the development on the junctions along Victoria Road, Stocks Park Drive, Church Street or Chorley Old Road have been underestimated.
40. I note also the concerns expressed about safety. But these are not borne out by the local accident records. It is true that these records are limited to accidents which cause injury, but even so, this is a recognised way of measuring highway safety. The possibility of future accidents can never be ruled out, possibly including some which might be serious. But that does not invalidate the appellants' approach. I therefore find no particular cause for concern in terms of the development's likely impact on highway safety.
41. The traffic counts on which the appellants' modelling is based are mainly from 2016, and it is possible that flows have increased since then. It is also possible that in adopting a design year of 2025, the appellants' forecasts may underestimate future traffic growth up to the time that the development could be completed. The exclusion of the potential traffic generation from the new school at Chorley New Road and the proposed medical centre on Victoria Road (although accepted by the Highway Authority) may be seen as questionable, notwithstanding that the permission for the latter has currently lapsed. But to my mind all of these factors are fairly marginal. It is difficult to envisage a scenario in which any of these issues, either individually or cumulatively, would be likely to lead to a significantly different set of results.
42. Bond Close and Mayfair are residential culs-de-sac, serving only a handful of existing properties. Although the proposed accesses from these streets would be secondary to the main access from Chorley New Road, they would carry some new traffic. But both of these roads have sufficient width and capacity to accommodate the traffic levels that are likely to be generated. Although both of these roads are currently subject to on-street parking, there is no reason why this could not be controlled if necessary. I agree that the creation of potential rat-runs through the appeal site, attracting external through-traffic, would be undesirable. But the internal layout of the development would be a reserved matter, and the road pattern could be designed to restrict speeds and deter through movements. In addition, the S.106 provision for TROs allows for the introduction of a 20mph speed limit within the site. I therefore do not find any clear evidence of significant harm arising from the inclusion of the proposed secondary accesses from Bond Close or Mayfair.



43. I conclude that the proposed development would not cause any unacceptable harm to the local highway network, or to traffic congestion or highway safety. In this respect, the scheme would not conflict with any relevant policies, including BCS Policies P5 or S1, which require transport and safety considerations to be taken into account.

*Prematurity in relation to emerging plans*

*The Greater Manchester Spatial Framework*

44. The revised draft version of the emerging Greater Manchester Spatial Framework (the GMSF), published in January 2019, contemplates incorporating the appeal site into the Greater Manchester Green Belt. This draft proposal is put forward as part of a wider sub-regional strategy that would involve a large number of both additions to and deletions from the Green Belt. If the current proposal is carried through to adoption, there would be a strong presumption against residential development. The NPPF advises that decisions on changes to the extent of green belts should be made through the plan-making process, and there is some logic in seeking to ensure that such decisions are taken in a holistic, plan-wide context.
45. However, the GMSF is still at a relatively early stage. The consultation period on the January 2019 document closed in March 2019, and the responses are currently being considered. The draft proposal relating to the appeal site is objected to by the present appellants, and the Council has confirmed that there are other significant unresolved objections. Given the scale of the proposed Green Belt changes, and the controversial nature of such matters, it seems likely that Green Belt issues may be raised in some of these other objections too. In this context I note that the previous draft version of the GMSF, in October 2016, drew over 27,000 responses in total. Clearly, there is a possibility that the content of the draft plan may yet change. As such, the current proposal to add the site to the Green Belt carries limited weight.
46. The next revised draft version of the GMSF is planned for public consultation later in 2019, and submission is said to be targeted for early 2020. But there is no certainty that this timetable can be achieved, and indeed for a plan of this scale, covering 10 local authority districts, it would not be surprising to see some slippage. Added to this, there is the potential complication of the intended change in legal status, from a joint Development Plan Document to a Spatial Development Strategy, if permitted by future regulations. After submission, the examination and modification stages will still remain to be completed. None of the parties in the present appeal has attempted to estimate the date when the resulting plan might be adopted, but it is difficult to envisage this being achieved in anything less than two years, and indeed a rather longer timescale looks more probable.
47. Having regard to NPPF's advice on prematurity, in paragraphs 49 and 50, the present appeal proposal for 300 dwellings is not of such a scale that it would be likely to predetermine other decisions at the sub-regional level. Nor is the GMSF at the advanced stage that is referred to in these paragraphs. Nothing in the NPPF supports a finding of prematurity in these circumstances. The NPPF does not exclude the possibility that prematurity might sometimes justify refusal outside of these circumstances, but clearly such cases are likely to be the exception. In the present case, none of the circumstances set out above

suggests any reason to take a different approach to prematurity from that advocated in the NPPF.

*The Horwich Neighbourhood Plan*

48. A Horwich Neighbourhood Plan (HNP) is currently in preparation. A Steering Group was appointed by the Horwich Town Council in September 2017. A series of public meetings and consultation events was held during 2018, and over 360 written responses were received. In March 2019, a consultation document was issued, which set out a proposed vision for the town, and identified a number of key issues and objectives. These include protecting green spaces, providing accessible and sustainable facilities for sport and recreation, and ensuring that development is supported by improvements in local infrastructure. The issues and objectives were expressed in general terms, rather than in relation to specific sites.
49. The responses to this latest consultation are said to support the possible designation of the appeal site as an important open space. If this intention is carried through to the draft plan, the present appeal proposal would be in conflict with it. In addition, the HNP Steering Group has commissioned a local Housing Needs Assessment (the HNA) for Horwich, which suggests that the town's own needs may amount to only 54 dwellings per annum. The community has not yet decided where it would like to see these, or any other new dwellings, located. Granting planning permission for the appeal proposal would therefore deny the local community the opportunity to decide the site's future through the plan-making process.
50. The NPPF supports the role of neighbourhood planning in empowering communities to shape and direct development in their areas. But nevertheless, the HNP is still in the earliest stages. Although some initial consultation has taken place, no draft plan as such has yet been published. The stated desire to protect the appeal site has therefore not yet been translated into a specific proposal or draft policy. Neither has the suggested local housing requirement figure from the HNA been fed into the consultation process as yet. These stages are important to the process, because it is only when specific proposals are published that interested parties can comment on them. It is also necessary to bear in mind that the right to comment is not limited to local residents, but will also include those with interests in the land, and also other authorities and stakeholders with responsibilities relating to planning in the area. Objections will have to be taken into account as well as expressions of support.
51. As the draft plan progresses through its statutory stages, it is likely that it will start to attract increasing weight in decision-making. But at present, all that exists of the HNP is the intention to prepare a plan. As in the case of the draft GMSF, both the timescale and the outcome of that future process are unknown. In the circumstances, the emergent HNP carries very little weight.
52. Returning to paragraphs 49 and 50 of the NPPF, I accept that at the neighbourhood planning level, a decision on the appeal proposal could potentially predetermine some other decisions on housing and open space provision, thus undermining the plan-making process. But the NPPF does not envisage that this alone will normally justify a refusal on prematurity grounds, because both of the circumstances, in paragraph 49 (a) and (b), should

normally apply. In this case, the HNP has clearly not reached anything like an advanced stage.

53. Having regard to the judgement in the Truro case<sup>2</sup>, there is some force in the argument that the appeal proposal is one that would ideally be determined through the development plan process. But that reasoning is countered by the lack of a 5-year housing supply in the District. In the circumstances, none of the arguments regarding prematurity is compelling.

*Conclusion on prematurity issues*

54. For the reasons set out above, the present appeal falls outside the range of situations where a refusal on the grounds of prematurity can be justified, in relation to either the GMSF or the HNP. I find no basis for refusing permission for the proposed scheme on this basis.

*Timing of development*

55. The lease granted to the Trustees of Horwich Golf Club and Horwich Golf Club Land Limited in 2012 allowed for the Club to continue playing until 31 January 2023. The deed of variation agreed in March 2019 allows this date to be brought forward, if planning permission for residential development is granted, but still gives the Club security of tenure up to 31 October 2020. A developer or house-builder would therefore be unable to gain possession before that date.
56. However there is nothing to prevent the site being marketed on the basis of a conditional contract, with completion deferred until vacant possession is available in November 2020. Conditional contracts are not uncommon, and there is nothing to support the contention that developers would be likely to be reluctant to enter this type of arrangement, or that the landowners themselves would find it disadvantageous. The developer would then be able to commence work on the detailed design, reserved matters, and discharge of conditions, as soon as contracts were exchanged. Access onto the land, for surveys, soil tests and other investigations, is provided for within the lease. The remaining term, up to the end of October 2020, is long enough to allow a good deal of this preparatory work to be undertaken, but not so long as to delay significantly the start of actual construction works; indeed, even if the lease did not exist, it is unlikely that that stage could be reached much before the date in question. It follows that the lease to the Golf Club should not be seen as an obstacle to the implementation of any planning permission, or as a necessary cause of delay to the delivery of housing on the site.
57. I agree that the development programme suggested by the appellants may be rather over-optimistic. But even if an extra year were added into that programme, to ensure its robustness, that would still allow the first completions to be achieved by the spring of 2022, less than three years from now. Based on the appellants' estimated build rate of around 50 units per annum, that would mean that the development could be fully completed by around 2028. It would therefore be capable of contributing to the Borough's housing supply, both within the current 5-year supply period, and in the period beyond that.

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<sup>2</sup> Truro City Council v Cornwall County Council [2013]EWHC 2525 (Admin)

58. Any legal or procedural issues relating to the validity of the deed of variation are not matters for this appeal. At the time of the inquiry, there was no evidence of any formal legal challenge to it. I cannot speculate as to whether such a challenge might be made, or what would be its prospects of success. There is therefore no purpose to be served by considering the possible effects on the timing of any development. On the evidence before me, I can give little weight to the submissions made on these matters.
59. Similarly, there is no evidence of any actual or likely future legal dispute as to the ownership of any part of the appeal site, or as to any agricultural tenancy on part of it. Although the agricultural land is unregistered, evidence of title has been produced, in the form of historic conveyances. Moreover, the owners named in those conveyances are parties to the S.106 agreement, and in that context their ownership has been accepted by the Council. I see no reason to disagree. As regards the agricultural use, evidence has been produced that the existing tenancy or licence has been brought to an end by the serving of notice, and that the agricultural occupier has accepted a new tenancy on the remaining land outside the appeal site. None of this evidence suggests that the delivery of housing would be likely to be affected by any such matters.
60. In the light of the above, I find nothing of substance in the suggestion that the timing of development at the appeal site would be likely to be unduly affected by legal or practical constraints. Indeed, there is no evidence that the programme for such a development would be significantly different from most other sites of a similar size. I therefore conclude that, if permission were granted, the appeal site would be capable of contributing to meeting housing needs in the Borough within a reasonable timescale.

## **Other Matters**

### *The agreement*

61. The provisions of the S.106 agreement relating to highway matters have been referred to above. The contribution of £274,000 to off-site works at the Beehive junction is necessary because without these works, the proposed development would have an unacceptable impact on traffic congestion. The bringing forward of the Beehive improvement scheme would free up sufficient capacity to accommodate the 300 dwellings now proposed, thus making the development acceptable in highway terms. The additional, smaller contribution in respect of TROs would fund the legal and administrative costs of implementing alterations to road markings in Victoria Road, around the proposed site access, and imposing a lower speed limit on the new roads within the site. These are needed to ensure safe access and deter rat-running, as well as to provide a safe environment for future residents. Together, the highway contributions would ensure compliance with the transport and accessibility requirements of BCS Policy P5.
62. With regard to affordable housing, the agreement provides that 34% of the proposed dwellings are to be affordable, as defined in the NPPF. Of these, 75% would be affordable rented and the remainder intermediate tenure. These provisions accord with the relevant requirements of BCS Policy SC1 (after allowing for the fact that a small part of the appeal site is previously developed land), and those of the Affordable Housing SPD, adopted in 2013.

63. The agreement's provisions relating to open space require the provision of on-site open space in accordance with a scheme to be approved by the Council, including the setting up of a management company and details of the future management arrangements. In addition, a financial contribution of £1,252 per dwelling would be paid towards enhancements to the existing public open space at Old Station Park. Together, these provisions are needed, to ensure proper provision of open space to meet the needs of future residents, and to offset the loss of the existing recreational land at the Golf Course. The provisions would accord with the relevant elements of BCS Policy IPC1, relating to infrastructure provision and planning obligations.
64. The agreement also provides for a contribution of just over £925,000, towards the provision of additional secondary school places at two local schools, to meet the additional demand generated by the development. Again, this contribution would accord with Policy IPC1, and also the related SPD on Infrastructure and Planning Contributions, adopted in 2016.
65. On the evidence presented, I am satisfied that all of these planning obligations are necessary to make the appeal scheme acceptable in planning terms, and are directly related to the development, and fairly and reasonably related to it in scale and in kind.

#### *Benefits of providing housing*

66. As set out earlier in this decision, the Borough's housing land supply is agreed to be between 2.99 years and 3.36 years. On this basis, the current shortfall in the land supply is at least 1,644 units, and possibly as much as 2,000 units.
67. Since the BCS' base date in 2008, housing delivery has fallen well short of the plan's target of 694 dwellings per annum (dpa). Up to 2018, there was a cumulative deficit of 2,014 dwellings, and although the final net figures for 2018-19 have not yet been confirmed, it appears that this deficit will have grown to over 2,100 units. For the purposes of calculating the 5-year forward requirement, this past under-delivery is now subsumed into the Local Housing Need figure of 796 dpa.
68. In the Housing Delivery Test (HDT) figures published by MHCLG in February 2019, completions in the three years 2015-18 were only 60% of the HDT requirement figure of 2,422 units. This level of under-delivery is below the NPPF's threshold of 85%, where a 20% buffer is triggered, and also well below the 95% where an Action Plan is required. The higher buffer is taken into account in the Council's 2018-based 5-year supply calculations.
69. The unmet need for housing generally is also reflected in the affordable sector. Against the BCS' implied requirement of 243 dpa, the average rate achieved up to 2018 was less than half of this figure. In 2016, the Strategic Housing Market Assessment (SHMA) identified an accumulated backlog of need for affordable housing of over 3,200 units.
70. The next opportunity to address the shortfalls in the supply of market and affordable housing through the plan-making process will be either through the emerging GMSF, or through neighbourhood plans. As discussed elsewhere, the GMSF and HNP have some way to go, and there is no evidence that any other neighbourhood plans are likely to remedy the situation in the short term. At the time of the present inquiry, the Council had yet to publish an Action Plan.



71. In the light of these considerations, the provision of 300 dwellings, including 102 affordable, would be an important benefit of the scheme, attracting very significant weight.

Other benefits of the development

72. The development would involve benefits for the local economy. The appellants estimate a construction spend of £40.2m, supporting 55 full-time equivalent construction jobs, with a total gross added value of £24.6m p.a. over the 6-year construction period. It is also estimated that the development's future residents would bring a £3.5m p.a. uplift in local retail spending, and £1.9m p.a. in leisure, supporting 60 additional jobs. These figures are not contested. To my mind, these economic benefits carry moderate weight.
73. As already identified, the Beehive junction improvement would have some benefits for other road users, over and above mitigating the effects of the development itself. The potential contribution to those works would therefore be a public benefit. However, the contribution from the appeal scheme is contingent on the improvement scheme not having been already funded by Rivington Chase. And in any event, given that this potential alternative source of funding is available, it is likely that the improvements would be carried out at some time anyway, irrespective of the development now proposed. The lack of certainty, and the fact that the highway works are not solely dependent on the appeal scheme, reduces the weight attaching to this benefit. In the circumstances, I consider this weight to be modest.
74. The contribution to improvements to the Old Station Park would be likely to bring public benefits. However, no details have been provided as to what those improvements would consist of. Due weight must attach to the public nature of the benefit, but in view of the lack of further detail, I consider that in this case that weight is quite limited.
75. It is argued that the development would provide the opportunity for enhancements to the site's ecology and biodiversity, particularly in the area of Nellie's Clough and the retained woodlands within the Golf Course. In this context, the submitted ecology report recommends various measures, including bird and bat boxes and a 'bug hotel'. I accept that a degree of enhancement could be secured by condition, but there is nothing to suggest that this would justify more than very limited weight.
76. Although the agreement also provides for on-site open space, there appears to be no guarantee that this would be made available for use by the general public. As such, this provision does not count as a public benefit. Likewise, the proposed contributions to education and TROs would be purely mitigatory in nature, and are therefore not benefits as such.

Suitability of the location

77. The site is reasonably close to most local facilities and transport services. In terms of its accessibility by sustainable modes of transport, there is no question that it represents a suitable location for housing. Nevertheless, this carries only neutral weight in the overall balance.

### Loss of the Golf Course

78. The loss of the existing golf course is not objected to by either the Council or Sport England, although this position is not shared by SRA. I also note the evidence from the Trustees, that the Club has not operated profitably in recent years, and I saw on my visits that other facilities for playing golf are available in the area.
79. But nevertheless, the NPPF encourages planning authorities to plan positively for sports and other community facilities, and to guard against the unnecessary loss of valued facilities and services; it also sets out stringent preconditions for any development on recreational land (paragraphs 92 and 97). In the present case, the course is clearly still being maintained, and is still being used by Club members. To my mind, some negative weight must accrue to the loss of a sporting facility which remains in current use, albeit that that weight is limited.

### **Planning Balance and Conclusions**

80. The appeal proposal would involve development on land designated as OPOL. As such, the scheme would conflict with Policy CG6AP of the adopted BAP, and Parts 4 and 6 of Policy OA1 of the adopted BCS. In addition, because of its intrusion onto the sensitive landscape of the South Field and the further reaches of the upper fairway, the development would cause substantial visual harm to the character and quality of the landscape, and to Horwich's landscape setting. In these respects, it would conflict with Parts 2 and 7 of BCS Policy CG3, and with Parts 9 and 11 of Policy OA1.
81. The proposed development therefore fails to accord with the development plan, taken as a whole. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that the appeal be determined in accordance with the development plan, unless material considerations indicate otherwise.
82. One of the relevant material considerations is the NPPF, including paragraph 11(d), which requires consideration as to whether the most important policies are out of date, and also paragraph 213 which requires weight to be given according to the degree of consistency with national policies. In the light of the shortfall in the 5-year housing supply, and the urgent need to remedy this by granting new planning permissions on suitable sites, it seems to me that the approach of giving blanket protection to OPOL as a matter of principle must now be considered out-of-date. The conflict with Policy CG6AP and Parts 4 and 6 of Policy OA1 therefore carries limited weight.
83. However, the other policies identified above relate to the protection of the character, quality and distinctiveness of the landscape and the physical environment. To my mind, these policies are directed at the same aims as NPPF paragraph 170, which requires policies and decisions to contribute to and enhance the natural and local environment, including by recognising the countryside's intrinsic character and beauty. Although these policies apply across very broad areas, they do not give blanket protection, but rather they require the exercise of judgement as to the effects of a particular development's effects on its surroundings. In the light of the need to identify more land for housing, these landscape and character protection policies may need to be applied with a greater degree of flexibility than in other circumstances, but that does not make them out of date, nor does it make them inconsistent with the NPPF. I therefore find no reason to give anything

less than full weight to the conflict that I have identified with Parts 2 and 7 of BCS Policy CG3, and with Parts 9 and 11 of Policy OA1.

84. Weighing against the landscape harm and related policy conflicts, there are the significant benefits of providing 300 units of market and affordable housing, the moderate economic benefits, and the relatively minor benefits of the off-site highway works and open space contributions, and possible biodiversity enhancements. All together, these benefits would be significant. But, for the reasons already explained, the harm to the landscape, and to the setting of the town, would in my view be serious and substantial. Moreover, this would amount to environmental harm that would go to the heart of one of the NPPF's principal objectives for sustainable development, that of protecting and enhancing the natural environment. Taking in all the relevant circumstances, I conclude that this adverse environmental impact would significantly and demonstrably outweigh the sum of the identified benefits.
85. In addition, for the reasons given elsewhere, the loss of the existing golf course as a recreational facility adds a small amount of further weight against the development. This reinforces the planning balance set out above, but does not change the overall conclusion.
86. The proposed development therefore does not benefit from the presumption in favour of sustainable development under NPPF paragraph 11(d) in this case. It follows that the conflict with the development plan is not outweighed by other material considerations.
87. I have taken account of all the other matters raised, but none changes these conclusions. The appeal is therefore dismissed.

*J Felgate*

INSPECTOR

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Mr Ian Ponter, of Counsel	Instructed by the Borough Solicitor
He called:	
Mr Carl Taylor	TPM Landscape
BA(Hons) DipLA CMLI	
Mr Richard Purser	DPP Planning
BA(Hons) MRTPI	

### FOR THE APPELLANT:

Mr Giles Cannock, QC	Instructed by Shoosmiths LLP
He called:	
Ms Katy Lightbody	Turleys
MA(Hons) MRTPI	
Ms Pauline Randall	Randall Thorp, Chartered Landscape Architects
BSc MA FLI	
Mr Mike Hibbert	The Traffic, Transport and Highway Consultancy
MSc MCIT MIHT MILT DipEng	
Mr John Coxon	Emery Planning
BSc(Hons) MRTPI	

### FOR THE STOCKS RESIDENTS ASSOCIATION:

Mr Jonathon Easton, of Counsel	Instructed by Matthew Bennett (solicitor)
He called:	
Mr Malcolm Harrison	Chairman
FRICS	

### OTHER INTERESTED PERSONS:

Mr Bernard Taylor	Local resident
Mr Leonard Keighley	Local resident and Horwich Golf Club member/shareholder

## **DOCUMENTS TABLED DURING THE INQUIRY**

### DOCUMENTS TABLED BY THE COUNCIL

- C/1 Council's list of appearances
- C/2 Mr Ponter's opening submissions
- C/3 CIL Regulations compliance statement
- C/4 Addendum to Mr Purser's proof – note re Table 7.1 and clearance rate
- C/5 Mr Ponter's closing submissions

### DOCUMENTS TABLED BY THE APPELLANTS

- AP/1 Mr Cannock's opening submissions
- AP/2 Possible rat-running routes
- AP/3 Planning permission 96141/16 for leisure centre and primary care centre, Victoria Road
- AP/4 Email from Helen Williams, re expiry of permission 96141/16
- AP/5.1 Arcady junction assessment – Beehive roundabout
- AP/5.2 Email from Mr Hibbert confirming date of Stocks park drive junction counts
  
- AP/6 Letter from Shoosmiths, dated 5 July 2019, re pre-commencement conditions (superseded by AP/9)
- AP/7 Summary of title position (folder)
- AP/8 Letter from Horwich Golf Club, dated 4 July 2019
- AP/9 Letter from Shoosmiths, dated 8 July 2019, re pre-commencement conditions
- AP/10 Mr Cannock's closing submissions

### DOCUMENTS TABLED BY STOCKS RESIDENTS ASSOCIATION

- R/1 Mr Easton's opening submissions
- R/2 Mr Easton's closing submissions
- R/3 Arlington Securities v SoS for the Environment and Crawley BC
- R/4 Cawrey v SoS and Hinckley & Bosworth BC
- R/5 Truro City Council v Cornwall County Council
- R/6 Veolia ES (UK) v SoS and others

### GENERAL DOCUMENTS

- GEN/1 Draft S.106 agreement, tabled on 2 July 2019
- GEN/2 Email from Anita Mayren, dated 1 July 2019, withdrawing objection
- GEN/3 Mr B Taylor's speaking notes
- GEN/4 Letter from SRA, dated 16 June 2019, requesting the Secretary of State to recover the appeal
- GEN/5 Email from Shoosmiths, dated 19 June 2019, opposing recovery
- GEN/6 Letter from the Planning Inspectorate, dated 3 July 2019, refusing recovery
- GEN/7 Note of Council's and appellant's responses to Inspector's comments on draft conditions (jointly tabled on 3 July 2019)
- GEN/8 Note of all three parties' further responses relating to draft conditions (jointly tabled on 4 July 2019)
- GEN/9 Completed S.106 agreement, jointly tabled and executed on 5 July 2019