



Appeal Decision

Inquiry held on 8, 9 and 10 September 2015 and 18 and 19 February 2016
Site visits made on 9 and 10 September 2015

by Karen L Ridge LLB (Hons) MTPL

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 06 April 2016

Appeal Ref: APP/V4250/A/14/2227183

Land at Wigan Enterprise Park, Seaman Way, Ince, Wigan WN2 2LE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period on an application for outline planning permission.
 - The appeal is made by St Modwen Properties (SARL) Properties Limited against Wigan Council.
 - The application Ref. A/13/78163/OUTLINE was dated 21 May 2013.
 - The development proposed is the redevelopment of existing Wigan Enterprise Park, comprising demolition of all existing buildings and erection of up to 325 family dwellings, open space, landscaping, external and ancillary works associated with the development.
-

Decision

1. The appeal is allowed and outline planning permission is granted for the redevelopment of Wigan Enterprise Park, comprising demolition of all existing buildings and erection of up to 325 family dwellings, open space, landscaping, external and ancillary works associated with the development on Land at Wigan Enterprise Park, Seaman Way, Ince, Wigan WN2 2LE, in accordance with the terms of the application Ref. A/13/78163/OUTLINE dated 21 May 2013 and subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The application was made in outline with all matters, except access, reserved for subsequent approval. Some indicative plans¹ were submitted with the planning application which led to this appeal. These plans were for illustrative purposes only and I have treated them as such.
3. An application for costs was made and is the subject of a separate decision.
4. The appeal is against a failure to determine the planning application within the prescribed time. The Council's Planning Committee considered the application on 20 January 2015. The Council resolved that, had it been able to, it would have refused to grant planning permission for the development because the proposal would result in the unacceptable loss of employment land located within a Primary Employment Area. A second reason for refusal relating to the loss of land used as a playing field was later withdrawn.

¹ With the exception of the location plan, existing site plan, phasing plan and access plan.

5. In relation to this second putative reason for refusal I note that Sport England confirmed that it did not wish to pursue its original statutory objection to the loss of an area of land within the appeal site. However, it maintained an objection on a non-statutory basis given that it has a policy of opposing the loss of land as playing fields. There is evidence from a third party that the playing field has not been used since 2007 and the main parties are agreed that it does not perform any role which would justify its retention. In any event the proposal is intended to provide open space and recreation space in excess of UDP standards. As such I conclude that it would not conflict with UDP policy C1C or CS policy CP2(7), both of which are concerned to conserve open space, sport and recreation facilities in active use.
6. I have received a Statement of Common Ground relating to general matters and a Statement of Common Ground relating to highways matters.
7. A unilateral undertaking made pursuant to section 106 of the Town and Country Planning Act 1990 (as amended) has been submitted. The undertaking secures the payment of financial contributions towards primary school education facilities and secondary education facilities. It further secures an agreement to undertake a viability assessment in relation to the provision of affordable housing on the site. Such a viability assessment would have to be submitted prior to reserved matters being considered. I shall return to the agreement later.

Main Issue

8. Having regard to all of the above, I consider that the main issue is whether or not residential development on the site is appropriate having regard to local and national policies relating to the supply of employment land and other material considerations.

Reasons

9. The appeal site is about 10.8 hectares and provides some 14,500 square metres of general industrial floorspace. It comprises a significant proportion of the larger Wigan Enterprise Park (WEP) which is owned by the appellant. The whole WEP is designated as a Primary Employment Area.

Development plan policies

10. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that applications must be determined in accordance with the development plan unless material considerations indicate otherwise. In this case the relevant development plan includes saved policies from the Unitary Development Plan (UDP), adopted in 2006, and the Council's Core Strategy (CS) adopted in 2013.
11. On sites in Primary Employment Areas saved policy EM1A of the UDP only permits uses other than employment uses in certain limited circumstances which do not apply here. The proposal is therefore contrary to this policy. However paragraph 22 of The National Planning Policy Framework (the Framework) stipulates that planning policies should '*avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose*'. As such the Council accepts that policy EM1A can only be attributed limited weight given its lack of consistency with this later national policy.

12. CS policy CP5 is an up-to-date policy formulated against the backdrop of the Framework. The aim of the policy is to help create sustainable economic growth, boost economic performance and provide a wider range of job opportunities. This is to be done by a variety of mechanisms, including the provision of approximately 200 hectares (gross) of employment land between 2011 and 2026. I note in passing that the requirement figure is not expressed as maxima or minima but is stated to be 'approximately 200 hectares'. More pertinently criterion 3 of policy CP5 seeks to '*safeguard existing employment sites and buildings that are capable of continuing to meet the needs of employment uses and for which there is likely to be sufficient demand*'.
13. I have set out in full the wording of the relevant parts of paragraph 22 and policy CP5 since the tests implicit in these policies lie at the heart of this case. There are of course other policy considerations at play, including national and local policies relating to the provision of housing. In addition the spatial strategy for the Wigan Borough is set out in policy SP1. This policy directs new development primarily to the east-west core in order to stimulate regeneration to transform the area. The appeal site is located within this east-west core. In my view the tests should also be applied in light of the current employment land supply position and having regard to the relative contribution which the appeal site makes to that supply in qualitative and quantitative terms.

The employment land supply position

14. The July 2015 draft Employment Land Review (ELR) will inform the Council's future Allocations Plan. It is in draft form and has been subject to consultation so it is part of the emerging evidence base. It currently concludes that there exists a shortfall of some 33 hectares of employment land as against the 200 hectare requirement to 2026. I note that some of the representations have challenged the supply figure which may be subject to change. Some 4 hectares of the appeal site are included in the supply figure comprising cleared land on which an industrial building previously stood. The remainder of the site is in employment use and the loss of either element would exacerbate any identified shortfall in employment land.
15. Part of the evidence base informing the ELR was an independent report commissioned by the Council from Parkinson surveyors and property consultants (the Parkinson Report) dated November 2014. The commission was to assess the current allocation of 35 primary employment sites and 27 employment clusters. A scoring matrix, provided by the Council², was applied to each of the sites. The WEP scored 68.8% which placed it within the lower third of Primary Employment Areas which included many of the older employment sites within the inner urban areas. On behalf of the Council, Mr Thompson reflects that such sites typically have a poorer quality internal environment, have suffered from a lack of investment and are not easily accessible from the strategic road network. All three observations could be said to apply, to varying degrees, to the appeal site.
16. The Parkinson Report recommendations are set out in tabular form and the Council's draft view is recorded as '*de-allocate (most going to resi?)*.' The authors' recommendation for the WEP is recorded as '*west of site de-allocate for potential residential development and promote eastern development as a cluster*'. When it came to the ELR however the Council had changed its

² See page 8 Parkinson report.

position in relation to the WEP and recommended it for retention in its entirety. I am informed that this was on the basis of more up-to-date information including the extent of the shortfall, signs of increased demand and progress on the link road.

17. The Council accepts that the CS requirement for provision of approximately 200 hectares of employment land would represent significant growth and be well in excess of recent employment land take-up rates. The CS assumes a take-up rate of between 13 and 14 hectares per annum. Whilst historically there is evidence of higher rates, the average take-up rate for the 10 years to 2014 was 5.6 hectares per annum. The CS was adopted in September 2013 and covered the period 2011 to 2026. Take-up rates for the first four years of the plan period total 4.35 hectares³ which means that take-up rates for the remainder of the plan period would have to be in the order of 16.3 hectares per annum to match the 200 hectare requirement. If the 13-14 hectare assumption is applied to the remainder of the plan period then the requirement would come down to around 160 hectares.
18. I have noted the arguments about inclusion of 7 hectares of employment land from the town centre which the Council say must now be discounted from the supply given that such land is not suitable or available. In addition I note that the 200 hectare figure was expressed as an approximate figure and that the Core Strategy Inspector made his comments about this figure in the context of a re-adjustment downwards from a higher supply figure.
19. Having regard to all of the evidence, including the recent rates and possible adjustments, it is clear that take-up rates in the first four years of the plan period have been low. The projected need for 200 hectares now appears to be somewhat optimistic. Therefore whilst I accept that there may be a numerical shortfall in terms of future employment land requirements, I am not persuaded that this is of the magnitude suggested by the Council. In any event, at this moment in time it is somewhat theoretical given that the 200 hectare supply is to be provided over the life of the plan and is not required imminently to meet a total demand which exists at this point in time.
20. Irrespective of any shortfall in employment land or otherwise, the loss of the site from employment land use and potential supply must be considered having regard to its prospects and capability of being used for such a purpose and the likely demand for the site. The Council contend that the appeal site is an important part of the supply given that it provides lower cost accommodation for manufacturing uses. It relies on the observations of the District Valuer to the effect that the appeal site is at the lower end of the market but that such sites have always existed and provide a category of premises for tenants who do not wish to occupy or cannot afford modern units.
21. In qualitative terms policy CP5, criterion 1 seeks a range of employment sites of the right quality in terms of location, accommodation provision and supporting infrastructure. The appeal site was ranked 31st out of 35 sites considered in the ELR, which gives some indication of its merits relative to other existing sites. I bear in mind that it was the Council which provided the criteria for assessment.

³ 1.54ha in 2011, 0 in 2012 and 2013, 2.81ha in 2014. [ELR table 11]

Location, accommodation and infrastructure

22. The WEP estate is located off Seaman Way which in turn accesses Manchester Road, a main thoroughfare, near to the site's entrance. It is not on a main frontage and is somewhat removed from the motorway network being 4.5 miles from the M6 motorway and 6 miles from the M61 motorway. The Council contends that the attractiveness of the site, in terms of its location and prominence, will be enhanced by future planned highway projects.

Transport Improvements

23. The Council's Transport Strategy is focussed upon improved links from east to west across the borough so as to capitalise on good connections into the wider motorway network. A new road would link the M6 and M58 motorways. For planning purposes the road has been divided into a series of eight 'link roads' which are in varying stages of development. One of the sections has already been constructed and work is due to start on another section, the A49 link.
24. The appeal site is located roughly equidistant along the link roads. Connections from the site to the west will be enhanced by the Phoenix Way to Seaman Way Link, the Ince Link and the A49 Link. The M58/M6 link will make a final connection to the motorway. This M58/M6 section is fully funded and construction is anticipated to be completed by March 2017, although some parcels of land need to be acquired. The Ince Link is not fully funded but now has planning permission. Planning permission has been granted for the Phoenix Way to Seaman Way Link and funding is in place. The appeal site's connectivity to the west will be dependent on all three component parts being built out.
25. Travelling east from the site, the Amberswood Link Road will form part of a series of three link roads towards the south of the borough which aim to improve connectivity. A section of this will connect from Liverpool Road onto Seaman Way and then westerly towards an extended Phoenix Way. These sections are not as well advanced and are still in the design stage as a precursor to a planning application with funding yet to be finalised. In cross-examination it was put to Mr Owen, the Council's Highways witness, that it could take 10 years for the whole scheme to come to fruition and he accepted that the whole project '*could take some time*'.
26. The Amberswood Link Road would no doubt improve and enhance the appeal of the site as an employment site. It would improve the prominence of the site and its connectivity, as well as helping to mitigate existing congestion along the A577 road which is the principal road away from the site. However, completion of all of the requisite elements will take some time. In addition, these comments could be said to apply to any number of sites located along or in close proximity to the planned improvements. The improvements will not change the proximity of the site to the motorway and will still involve travel of a few miles before reaching the motorway network. Importantly the transport improvements will also support significant employment development at the South Hindley Strategic Site.

Accommodation

27. Accommodation on the site comprises a series of older style industrial units dating from the 1930s to the 1960s. A number of industrial buildings are located on the western side of the site and appear to be at or nearing the end

of their useful lives. I note that many of the buildings are relatively long and thin which reflects their manufacturing uses but may limit their usefulness to modern employment users. Whilst some of the buildings have been updated, many of them are in varying states of disrepair.

28. A significant proportion of the site comprises a concrete area indicating the footprint of a former building and there is rubble and disused equipment, as well as some elements of what appears to be long-standing outside storage. One of the largest units (unit 30) was demolished, after remaining vacant for some time, in order to avoid ongoing charges. This has created a very large area of open storage land in the centre of the site. The cleared land comprises about one half of the land mass of the appeal site. On my site visit, save for a small amount of hardstanding used for the storage of materials, it did not appear to be serving any useful purpose.
29. Whilst the estate roads and entrance as a whole are well maintained, the stock of buildings is dated and of poor quality. Its secondary location reduces its attractiveness to the market. The planned road improvements may improve the frontage and accessibility of the site but this is a benefit which could be said to apply to other sites within the east-west core. In any event it is only one of a number of factors which prospective tenants would use to assess the site. To my mind the condition of the accommodation and its configuration would remain a significant factor in terms of the prospects of letting floorspace. The contrast in fortunes between the modern units on Enterprise Court Phase 1 and the older stock on the appeal site is evidence of this.
30. Whilst the Council points to a general increasing demand for industrial premises there is no substantive evidence before me to suggest that there is an increasing interest in the appeal site. As Jones Lang LaSalle⁴ remarked the existing buildings are in a poor condition and are approaching the end of their economic life. They went on to say that there is a market for cheap poor quality industrial accommodation and open storage but the preference for this is closer to the motorway network.
31. It is evident that, in its location and current state, the site is likely to appeal to a relatively small sector of the market. In qualitative terms I conclude that the appeal site makes a limited contribution to the supply of employment land. Whilst the transport improvements might improve the prospects of the site over the longer term, these will take some time to come on stream. During the intervening period, without significant investment, I consider it likely that the condition of the accommodation will deteriorate further.

Occupancy levels

32. The appeal site currently has a small number of occupiers all on short term lease arrangements. It has voids of around 26% of the available accommodation. However a major occupier, Joy Global, has given notice of their intention to vacate the site and a second major occupier Hare Group appears likely to relocate in order to consolidate its operation. On these events the vacancy rate will increase to around 82%. At the time of the District Valuer's Report in June 2014 the rent roll was £310,000; it is now £185,000 and set to decrease further with the notified departures.

⁴ Letter dated 6 May 2015

33. Some 50 people were employed on the appeal site as at September 2015 and this figure will reduce to 37⁵ when Joy Global leaves the site. This figure is indicative of an underused employment site and reflects a direction of travel in terms of the site's fortunes. The picture emerging is of poor stock in decline, with diminishing rental returns and marginal viability. The appeal site comprises elderly units in generally poor condition spread around the site. The large areas of cleared open space only serve to reduce the built density considerably.
34. The remaining part of WEP comprises the B1(a) office accommodation in Enterprise House and the modern light industrial units in Enterprise Court Phase 1 of some 51,330 square feet. It also encompasses the land on which the unbuilt Enterprise Court Phase 2 is located.
35. Enterprise House comprises some 36,000 square feet of office buildings in somewhat dated condition in a tertiary office location. Joy Mining are due to vacate their part of this building which would leave it some 86% vacant in August 2016. I accept that the configuration of some of the office accommodation is such that it would not appeal to all sectors of the market. The experts agreed that demand for second-hand office accommodation outside the town centre is poor. The holding costs would be £60,000 per annum. On this basis I accept the appellants' evidence that the future of Enterprise House is far from guaranteed, especially given the requirement for investment of £175,000 for a new heating system.
36. The position with Enterprise Court Phase 1 is currently a happier one. It is now fully let apart from one unit but at rental values somewhat less than hoped for and the appellants point out that it took some five years to let. The Council's expert accepts that redevelopment of Phase 2 would produce a loss and is not viable at this time.

Marketing

37. The Council criticise marketing of the site and have observed that it appears that units have only been offered on short-term or flexible leases. As at October 2012 the landowners were quite willing to enter into more substantial and longer-term arrangements as evidenced by an offer to Joy Global to build and lease back or sell a new test facility. The planning application was then submitted in May 2013.
38. The appellants acknowledge that up to the point when New View Windows left in May 2013, the void levels on the appeal site were very low. At this point there were two commercial agents involved with marketing the site and Mr Livesey, for the appellants, confirms that signage and marketing boards were replaced and new marketing brochures produced and a website launched. New lettings appear to have come from companies from within the site rather than new arrivals. On balance I am satisfied that genuine marketing attempts were made from 2013 onwards. However, I accept that knowledge that the site was subject to redevelopment proposals would add some uncertainty and could be off-putting to prospective tenants, as well as likely to influence the terms on which offers were made and/or accepted.
39. The Council contend that the appeal site should have been marketed on a flexible basis with units being offered for rent or for sale. However, having

⁵ Mr Livesey's evidence in chief.

regard to the estate and its interconnectedness the appellants did not wish to sell off component parts of the site. I conclude that this is reasonable given that it would dilute their land-holding, resulting in the loss of control of a site which I agree does not lend itself to sub-division. In passing I would add that I accept that the appeal site and the remainder of the WEP are physically separate and are capable of sub-division given the internal access road configuration.

40. In addition, it is clear that not insubstantial sums have been recently invested in the site in terms of upgrading infrastructure, such as a water main and replacement of concrete yard. Following the vacation of Bakkover Foods from unit 90-100 in August 2013 a sum in excess of £30,000 plus vat was spent on refurbishment works to render the property lettable. This expenditure post-dates the date of the planning application which led to this appeal. The investment was not recouped in full given that a subsequent tenancy was short-lived and brought in rental income of some £25,000 plus vat.
41. Mr Thompson makes reference to a strong local demand for small-medium scale and competitively priced units. He points to a steady stream of enquiries in relation to the nearby Cinnamon Brow Park which has proved popular and is fully let. However Cinnamon Brow Park is a modern industrial building similar to that at Enterprise Court Phase 1 and it had the benefit of grant funding of its infrastructure. Demand for such units does not necessarily translate to demand for the older, larger industrial units on the appeal site. In terms of the demand for larger scale premises Nice Pak have relocated to a larger site away from the motorway network. However this was with the support of grant funding with the incentive of an existing large skilled workforce. Mr Massie acknowledges that this comprises 'an isolated transaction'.
42. Mr Young also points out that he has seen a significant increase in the quantity and quality of commercial property enquiries. His opinion is that the supply of new units across Wigan is limited and the supply of older engineering space is also limited.
43. However, I bear in mind the ranking of the appeal site, 31st out of 35 sites based on the Council's own criteria. This reinforces my own view of the site as older, difficult to let industrial accommodation in a secondary location and without a prominent frontage. I note that the Council advocates that the site makes a contribution to the range of site required by policy CP5 but retention of an underperforming, underused employment site which is only likely to attract tenants at low rental levels does not to my mind equate to a material contribution to the range of sites envisaged in policy terms.

The viability of different options

44. Both parties have produced expert evidence as to the value, health and viability and the attractiveness to the market of both the appeal site and the wider Wigan Enterprise Park site. The analyses initially focussed on the viability of the appeal site. At my request further work was done on assessing the viability of the wider WEP as a whole. My concern was that the policy designation seeks to protect the WEP as a whole and retain it in employment use and that the appeal site's prospects and viability may be different if it was included as part of the wider WEP. I am satisfied that the further evidence in relation to this matter has completed the picture and has assisted me in coming to a conclusion.

45. I shall first consider the appeal site in isolation before going on to consider it as a component part of the WEP. On behalf of the Council Mr Massie accepts that the repair and refurbishment of the existing accommodation on the appeal site on a wholesale basis is unviable and that it will remain unviable '*even with the benefit of the road and market improvement*'.⁶ He further concludes that the existing accommodation has a value and that, at the point in the future when the existing use value falls below the overall industrial value, the buildings will be developed⁷.
46. Mr Massie also agreed with the District Valuer that a large design and build scheme on the site on a speculative basis is unlikely. Negotiations in relation to a specific scheme for Joy Global were not fruitful and, given the secondary location of the site, appear unlikely.
47. GVA, on behalf of the appellants, set out a number of development scenarios and concluded that each would result in a loss to varying degrees. Mr Massie considers that the most viable proposition would be to let out the existing accommodation as it stands and redevelop part of the site with smaller units on the cleared land. His conclusions are that such a proposal at the present time would be 'challenging' and would only be financially viable if no abnormal costs were incurred and rental levels in the order of £7.00 per square foot and investment yields of around 7% were achieved.
48. Enterprise Court Phase I has achieved rental levels of some £3 to £4 per square foot. Anything less than £7.00 per square foot would start to adversely affect viability. This assumed rental income exceeds the rental levels achieved on Cinnamon Brow and Armstrong Point, both of which had some element of grant funding. Having regard to the evidence, I tend to agree with the appellants that the assumption on rental income is somewhat optimistic. Given that the Enterprise Court Phase II development is considered unviable I do not consider that a small development on the cleared land would fare any better. As such I do not accept criticisms of the marketing in terms of the cleared hard standing only being marketed for storage only, rather than new build
49. Having regard to the above it would appear that, in the medium term, the best that can be hoped for in terms of use of the cleared land is a use as outside storage. This would hardly represent the most efficient or productive use of some 4.05 hectares of primary employment land and would result in few, if any, jobs.
50. In June 2014 the District Valuer observed that if the estate remains in employment use it will become more expensive to maintain, buildings will deteriorate and rental levels will become more difficult to achieve. Since that time the rent roll has decreased further and rentals have continued to be difficult to achieve. Without intervention in the form of significant costs of repair/refurbishment or some element of redevelopment, I conclude that it is highly likely that the decline of the site as an employment site will continue. It is already significantly underused.
51. Mr Massie accepts that it is unlikely that grant funding could be accessed to facilitate development. Instead he relies upon the future transport improvements improving the prospects for the site. The planning of these

⁶ Proof of evidence paragraph 6.156.

⁷ Main report, paragraph 6.158

improvements is advanced, with a firm commitment from the Council. However there are still pieces of the jigsaw missing in terms of a final decision on funding for one element, land acquisition is needed and planning permission is required as well as some further pieces of infrastructure. Even with all of the pieces of the jigsaw in place it will be some time before the various component projects are completed and connectivity is improved.

52. The Council's commitment to these improvements is clear, what is less clear is the likely completion date for all improvements. The increased connectivity of the appeal site will rely on a number of the links being completed. This could all be several years away. In the meantime it is probable that the accommodation of the site will deteriorate further. I conclude that it is likely that the site will have diminishing assets in terms of their value and diminishing returns on those assets.
53. In terms of the remainder of the WEP, the only really productive asset at the moment appears to be Enterprise Court Phase I which attracts respectable rent levels and is almost fully occupied. Enterprise Court Phase 2 remains a development proposition which is currently unviable. Enterprise House will shortly be 86% vacant with an uncertain future.
54. When the remainder of the WEP is combined with the appeal site the WEP would generally comprise a large proportion of older, difficult to let accommodation, cleared land or undeveloped land. Having regard to all of the evidence I am satisfied that, the inclusion of the additional property and land at WEP would not alter the future prospects or viability of the appeal site to any material degree.

Methodologies

55. On behalf of the appellants, Mr Pexton has sought to illustrate that the appeal site or WEP would not represent a viable proposition to a potential purchaser who purchased with a view to repair and refurbishment of the employment site as a development scheme. Such an appraisal takes a relatively narrow approach and does not directly answer the questions posed by the policy tests.
56. In terms of the larger WEP Mr Massie's proposition is that a positive net present value, representing a market value based on the current use, would indicate that WEP is financially viable as an employment allocation. He puts forward two calculations of net present value based on either repair or refurbishment of the existing older buildings over time, as and when they become vacant. The net present values for WEP come out at between £4.9m and £5.1m and the net present value for the appeal site comes out at £2.7m to £2.8m. The appeal site values are similar to the latest valuations from Jones Lang LaSalle and GVA⁸.
57. Jones Lang LaSalle further advised that if the current appeal fails then they believe the site would still be of interest to potential purchasers on an existing use basis. They go on to confirm that such a purchaser would be unlikely to redevelop the site but would try to re-let the buildings in their existing condition on short leases and as open storage and generate a rental income until market conditions improve or until planning permission for higher value uses could be secured. This indicates to me a speculative-type of investment whereby a purchaser is prepared to sit on the asset in the hope of things

⁸ JLL letter 6 May 2015

changing in the longer term. It does not indicate that a purchase would be made on the basis of a good return in terms of rental incomes or a willingness to invest monies on repair and refurbishment in the hope of revitalising the site.

58. That the site has a value is not in doubt but to my mind an employment site could have a positive value but not be in productive employment use. It follows that a net present value does not necessarily indicate that an employment site should continue in that use. Instead I prefer the approach of looking at all of the evidence in the round and then applying the policy tests.
59. Irrespective of the different methodologies used by the various experts, it is clear that the appeal site is significantly underutilised in terms of a 10 hectare employment site. This is primarily because of a large area of cleared land; the dated stock of diminishing value; the consensus that refurbishment is difficult if not unviable and the prospects of small-scale development on the site in the near future are slim.

Conclusions on Employment Land Issues

60. The appeal scheme would result in the loss of some 10 hectares of land with a Primary Employment Area designation. Some 4 hectares is counted towards future supply and the other 6 hectares would comprise existing employment land. This loss towards future supply would represent some 2% of the Council's commitment to provide 200 hectares over the plan period. However, this is a commitment for provision to be made on an ongoing basis up to 2026 via the site allocations plan. The 200 hectare target is an approximate one and is starting to look optimistic given recent take-up rates.
61. The scheme would also result in the loss of 6 hectares of existing employment land/accommodation but this is of low quality and difficult to let. The appeal site currently makes a limited contribution in terms of the provision of employment land. This is evidenced by the low numbers of employees on a 10 hectare site which comprises some 4 hectares of underutilised, cleared land. The physical condition and the configuration of the units reduce the attractiveness of the site to a range of potential occupiers. I accept that low rentals may attract some companies but this is far from indicating a vibrant and efficient employment site. The site's ranking in terms of Primary Employment Areas gives a clear indication as to its quality and contribution to the employment offering in the borough. I do not accept that it is a valuable resource. I conclude that it is a poorly performing employment site which is underutilised to a significant degree and with poor prospects.
62. I therefore conclude that the site makes a limited contribution to the supply of employment land at this moment in time. Moreover it is clear to me that the appeal site and the remaining part of the WEP are capable of physical separation.

Application of the policy tests

63. The Council advocate a straightforward approach to the application of criterion 3 of policy CP5. It says that the appeal site is an integral part of WEP which is the Primary Employment Area and currently voids across the whole estate stand at around 24%. As such it contends that the appeal site and WEP is in active employment use, it is continuing to meet the needs of employment users

and it cannot be said that there is 'no reasonable prospect' of either the appeal site or WEP being used for employment purposes.

64. The above position on voids is effectively a snapshot at the present moment in time. It does not represent the trajectory of the fortunes of the appeal site or the WEP and it does not address the question of the prospects of either, in the medium or longer term.
65. My view is that the question posed by policy CP5 is 'is this site capable of continuing to meet the needs of employments uses?' and 'for which there is likely to be sufficient demand'. Whilst the site could be said to be currently meeting the immediate needs of all occupiers on it, the imminent vacancies of Joy Global and HIQ Fabrications would indicate that the site is not capable of meeting those needs in the future. In addition all of the evidence combined points to the likelihood of an insufficient demand in the near future for the type of accommodation offered on the appeal site.
66. Having regard to all of the evidence I conclude that the prospects for the appeal site in terms of a continuing employment use in the medium term are not good. Whilst the link road would no doubt increase the prominence and connectivity of the site, this is some time in the future. Given the rate of decline of the site I conclude that any revitalisation afforded by the improved connections would be realised too late for the appeal site. I conclude that the site will not be capable of meeting the needs of employment users in the reasonably foreseeable future. As such the test in criterion (3) of policy CP5 has been met.
67. The question posed by paragraph 22 of the Framework is, 'in the context of the long term protection of sites allocated for employment uses, is there a reasonable prospect of the appeal site being used for employment purposes?'. Use of the word prospect indicates that something other than an assessment of the current position of a site is required. Whilst the appeal site is currently in employment use, for all the reasons given I have concluded that its prospects of remaining so to any material degree are unlikely. Again I am satisfied that the test implicit in paragraph 22 is met.
68. The appeal site is a significant proportion of the WEP as a whole. Given my findings in relation to the remainder of the WEP I am entirely satisfied that the prospects of the appeal site would not be materially different if it were to be included as part of the WEP.

Other material considerations

Housing land supply position

69. The adopted CS requires the provision of 6,300 dwellings in the five years between 2013 and 2018, with at least 80% of new housing in the east-west core. The annual housing requirement is for at least 1,000 net additional homes per year from 2011 to 2026. There have been shortfalls against this target in the three years 2011/12, 2012/13 and 2012/13 totalling 1,662 homes.
70. At the time of determination the Council's position was that it did not have a 5-year housing land supply (HLS) and consequently relevant policies for the supply of housing should not be considered up to date. The Council's current

position is that it has a 3.7 year supply of housing land and it accepts that material weight should be attributed to the shortfall.

71. On the appellants' latest figures the potential difference between the parties in terms of HLS is not, in my view, significant in the context of this appeal. The worst case scenario is a shortfall somewhere in the range of 2.9 to 3.5 years⁹. Assuming a shortfall somewhere between the lower limit of the appellant's figure and the Council's higher figure, I would attach substantial weight to a shortfall within this range. In these circumstances I do not consider it productive to examine the various arguments and figures which lie behind the different figures. I conclude that it is sufficient to note the shortfall and its approximate extent; apply substantial weight to it in the planning balance and examine the policy consequences of the lack of a 5-year HLS. I shall proceed on this basis.
72. The appeal scheme would result in the provision of 75 two bedroom houses, 150 three bedroom houses and 100 four bedroom houses or larger. I would categorise this as a significant contribution to the housing land supply. The site is well located in terms of accessibility considerations. It is in the urban area close to a range of local shops, services and facilities. It is some 400 metres from the closest bus stops and around 500 metres from a railway station and about 1.5 miles to the east of Wigan Town Centre, with Hindley about 1 mile further to the east. The parties are agreed that the site is in a highly sustainable location¹⁰. Whilst demolition and site clearance would have to take place there are no insurmountable constraints preventing the delivery of housing on the site within a reasonable time-frame.
73. Policy CP6 of the CS seeks the provision of 25% affordable housing on all sites consisting of 10 dwellings or more where this is viable. The unilateral undertaking contains a commitment on the part of the appellants to commission a viability assessment at reserved matters stage and to submit a programme for the provision of affordable housing in accordance with the conclusions of the viability assessment. The provision of affordable housing on the site is by no means a foregone conclusion. It may be that the viability evidence points to a nil provision. I bear in mind that the scheme may result in some affordable housing provision but I attribute only very limited weight to this as a prospect only at this stage.
74. In any event it is worth noting that the parties have agreed that there is something of an imbalance in the local housing market such that there is a greater need for larger family housing to promote regeneration in this important east-west core.
75. The parties have also put viability evidence in relation to the housing proposal before the Inquiry. However I do not consider it necessary to look into this matter given that the viability of the appeal scheme does not go to the heart of main issues and is not a determinative factor. In addition the appellants have pursued the proposal to appeal which indicates that they have confidence in the scheme and if the appeal succeeds and planning permission is granted but not implemented then the land would retain its employment status in any event.

⁹ Mr Williams proof of evidence and evidence in chief.

¹⁰ Statement of Common Ground.

Other Matters

The presumption in favour of sustainable development

76. The Framework confirms that there are three dimensions to sustainable development: economic, social and environmental.
77. Sustainable development includes a range of factors and the development of the site would bring with it certain benefits which would contribute to a social and economic role. In terms of the economic role, it would provide construction work in the form of a number of full time jobs. It would also result in the provision of a significant number of new homes on previously developed land. This provision is notable in the context of a significant housing shortfall and it attracts substantial weight.
78. In terms of the environmental role, the houses would be located in an accessible location close to services and facilities which would reduce the need to travel on a daily basis. Having regard to all of the above information, and to the particular location and characteristics of the appeal site, I consider that the site is well served in terms of the range of services and facilities within Ince and its accessibility to services.

The unilateral undertaking

79. The agreement contains a promise to make two financial contributions in relation to primary school education and secondary school education, as well as a promise to submit a viability assessment in relation to affordable housing. The education contributions are to address needs directly arising from the development. All of these requirements are supported by local policy provisions and I am satisfied that they are necessary to make the development acceptable. They are directly related to the development and reasonably related in scale and kind. As such the obligations pass the tests set out in the Framework and satisfy the requirements of regulation 122 of The Community Infrastructure Levy Regulations 2010 (as amended). I shall therefore take them into account in my final determination.
80. In addition it is necessary for me to consider the operation of regulation 123 of The Community Infrastructure Levy Regulations 2010 (as amended) in terms of pooled contributions. This applies only to the education contributions. The Council produced evidence to the Inquiry regarding the nature and number of contributions to local primary and secondary schools and I am satisfied that the contributions in this agreement would not take the number of pooled contributions in relation to the same provision over the limit of five obligations. As such I am satisfied that the contributions may be taken into account in my determination.

Access arrangements

81. The proposal is in outline form with access matters for consideration. The existing access off Seaman Road¹¹ would be utilised with some re-alignment of Seaman Way to accommodate the anticipated link road scheme. The traffic generation was agreed between the parties and it was agreed that the traffic could be safely accommodated on the road network. I have no reason to

¹¹ Subject to some revisions and in accordance with drawing number H/8806/PW2SW/OD/002.

contest this agreement and therefore conclude that the proposal access arrangements would satisfactorily serve the intended development.

Overall conclusions

82. I have concluded that release of the appeal site from an employment use would not be contrary to policy CP5. The proposal would be contrary to saved UDP policy EM1A but the weight to be attached to this policy is reduced by virtue of its inconsistency with the Framework. In addition I have concluded that the proposal would be in conformity with Framework objectives which seek to ensure that sites without reasonable prospects for employment uses are not afforded long-term protection.
83. Even if the Council's analysis of the assessment of the proposal against policy CP5 and paragraph 22 of the Framework is correct, then the contribution which the site currently makes to employment land supply is limited by virtue of the quality of its accommodation and its low site density given the large cleared area not in active employment use. The Council has identified a supply of 167 hectares against a requirement for 200 hectares but the low take-up rates in the early stages of the plan period indicate that the shortfall may not be as high as suggested.
84. The Council contend that substantial weight should be afforded to the loss of 37 jobs from the site but the fact that businesses would be displaced from the site does not necessarily mean that those jobs would be lost to the borough. In addition a development of up to 325 houses would bring construction employment to the site.
85. In these circumstances I conclude that whilst the proposal is contrary to policy EM1A, the weight to be attached to this is reduced and any harm caused by the loss of the appeal site from the employment land supply would be limited. By contrast development of the site for up to 325 family homes would make a significant contribution to the supply of housing land. This is all the more important given the serious shortfall in the 5 year housing land supply, to which I have attached substantial weight. I am more than satisfied that any harm caused by the loss of employment land and the potential loss of 37 jobs does not outweigh the significant contribution to housing which the appeal proposal would make. The appeal should therefore be allowed.

Conditions

86. The Council and appellants agreed a set of conditions which were discussed at the Inquiry. I also put forward some additional conditions for consideration by the main parties. I have considered all of the conditions in light of the advice within the National Planning Policy Guidance and I make the following comments. The numbers in brackets relate to the conditions in the schedule.
87. In the interests of good planning it is necessary to impose conditions setting out time limits for development and to require submission of reserved matters and to relate development to the submitted plans (1, 2, 3, 4 and 5). I have required a phasing plan/strategy in relation to the development of the whole site to include public open space and children's play area so that the Council is aware at the outset as to the location of public open space and play areas within the whole scheme as so as to ensure delivery of the same.

88. Given the variation in the levels on the site it is necessary to enable the Council to exert control over site levels and finished floor levels (6). To protect living conditions of future residents it is reasonable and necessary to require details of boundary treatments and to impose a condition limiting the hours of construction and demolition (7 and 9). The necessity for a construction management plan was discussed in detail at the Inquiry (8). In the interests of environmental protection I shall impose conditions relating to ground investigation methods and coal mining works, surface water disposal and the protection of any Great Crested Newts (10, 12, 15 and 16). It is also necessary to require development to be carried out in accordance with the submitted flood risk assessment details (13).
89. To protect future occupiers I have also inserted a condition in relation to a noise assessment and any necessary mitigation measures (11). To promote sustainable travel methods a travel plan is required (14). In the interests of highway safety it is necessary to have control over the internal access roads within each phase and to ensure car parking with each dwelling (17, 18 and 19).

Karen L Ridge

INSPECTOR

Richborough Estates

DOCUMENTS SUBMITTED DURING THE COURSE OF THE INQUIRY

- 1 Draft unilateral undertaking submitted by the appellants.
- 2 Copy letter St. Modwen to Joy Global dated 19 October 2012, submitted by the appellants.
- 3 Inspector's Report to Wigan Council on the Examination into the Wigan Core Strategy dated 15 August 2013, submitted by the Council.
- 4 Record of Individual Executive Decision made by a Portfolio Holder for Regeneration dated 7 September 2015, submitted by the Council.
- 5 Proof of Evidence of Phil Wooliscroft on Highways and Transport matters submitted on behalf of the appellants.
- 6 Office copy entries of land including the appeal site, submitted on behalf of the appellants.
- 7 List of sites proposed for inspection by the Inspector, submitted by the Council and appellants.
- 8 Council report into the funding arrangements for the Phoenix Way to Seaman Way Link Road, submitted by the Council.
- 9 Housing supply position statement dated 10 September 2015, submitted by the Council.
- 10 Wigan Employment Land Study by Parkinson Chartered Surveyors and Property Consultants dated November 2014, submitted by the appellants.
- 11 Appellant's costs application.
- 12 Closing submissions on behalf of Wigan Council.
- 13 Closing notes on behalf of the appellants.
- 14 Executed Unilateral Undertaking from St Modwen Properties and HSBC Bank PLC to Wigan Council dated 19 November 2015.

PLANS SUBMITTED DURING THE COURSE OF THE INQUIRY

- A Plan showing the location of the appeal site and other sites, submitted by the Council.
- B Drawing no. 6462/SK16 dated August 2012- Phase 3 Wigan Enterprise Park, submitted by the appellants.
- C Assorted extracts from the Council GIS system depicting Council land interests for the Ince Link, Phoenix Way/Seaman Way Link and Amberswood Link, submitted by the Council.

SCHEDULE OF CONDITIONS ATTACHED TO PLANNING PERMISSION

- 1) The development hereby permitted shall be carried out in three phases and it shall not be carried out except in accordance with the following plans:
 - Location Plan 6462 PL01
 - Existing Site Plan 6462 PL02
 - Access drawing H/8806/PW2SW/00/002
 - Proposed Phasing Site Plan 6462 PL05
- 2) Details of the appearance, landscaping, layout and scale (hereinafter called 'the reserved matters') shall be submitted to and approved in writing by the Local Planning Authority before any development commences and the development shall be carried out as approved.
- 3) Application for approval of the reserved matters shall be made to the Local Planning Authority not later than four years from the date of this permission.
- 4) The development on each phase shall begin not later than whichever is the later of the following dates:
 - the expiration of four years from the date of this permission; OR
 - the expiration of two years from the date of approval of the last of each of the reserved matters to be approved in relation to that particular phase.
- 5) The Reserved Matters layout submission shall include a plan/strategy for the development of the whole site, including the provision of public open space, landscaping, children's play area and the infrastructure associated with the development (including internal access roads) within each phase of the construction of the approved dwellings. The development shall thereafter only be carried out in accordance with the approved phasing plan/strategy unless any variation to the approved plan/strategy is first approved in writing by the Local Planning Authority.
- 6) The Reserved Matters submission in relation to layout on each phase shall include details of existing and proposed site levels throughout the phase and finished floor levels of all dwellings on that phase which shall be defined relative to a datum or datum points the location of which has been previously agreed by the Local Planning Authority. The development shall thereafter only be carried out in accordance with the approved levels.
- 7) The Reserved Matters submission in relation to appearance on each phase shall include details of all boundary treatment to be carried out on all the perimeter boundaries on that phase and details of any boundary enclosures to be erected or grown within that phase. The approved details of perimeter boundary treatment shall thereafter be carried out and completed within each phase of development prior to any dwelling within that phase being first occupied and the boundary treatment relating to individual plots shall be carried out and completed on each respective plot prior to its first occupation.

- 8) Prior to the commencement of any demolition, construction or remediation on a particular phase a scheme in the form of a Construction Environmental Management Plan (CEMP) in relation to that phase shall be submitted to, and approved in writing by, the Local Planning Authority. Such a plan shall include details of the following:-
- details of temporary boundary treatments/hoardings to be erected on all boundaries and retained throughout the construction period of each particular phase of development
 - details of site access proposals
 - a Traffic Management Plan
 - construction vehicle parking and workers parking
 - operatives access
 - off-street parking provision for the delivery of plant and materials
 - wheel washing facilities
 - signage arrangements
 - hours of construction and deliveries
 - publicity arrangements and a permanent contact / Traffic Manager once development works commences to deal with all queries and authorised by the developer / contractors to act on their behalf
 - details of the measures to be employed to control and monitor noise, vibration and dust
 - construction routes within the site
 - compound locations

Development shall thereafter only be carried out in accordance with the approved CEMP, unless any variation to it is otherwise first agreed in writing by the Local Planning Authority.

- 9) No demolition, ground works or construction works shall take place outside the following hours: 0800 to 1800 hours on Mondays to Fridays and 0900 to 1400 hours on Saturdays. There shall be no such work on Sundays or Public or Bank Holidays.
- 10) Prior to the commencement of development on each phase approved, an investigation and assessment of the nature and extent of any contamination of the land within that phase shall be submitted to and approved in writing by the Local Planning Authority. Each assessment on each phase shall identify any remedial measures required to deal with any hazards identified and such measures shall be implemented before the occupation of any of the dwellings on that particular phase.
- 11) Within each phase, prior to the commencement of development on that phase, an assessment of the nature and extent of noise affecting the proposed development on that phase, including a scheme of mitigation measures, if necessary, shall be submitted to, and approved in writing by the Local Planning Authority. Any approved mitigation measures shall be completed before the first occupation of dwellings on that particular phase.
- 12) Within each phase no development shall be commenced until a surface water drainage scheme for the land on that phase, which shall be based upon sustainable drainage principles and an assessment of the hydrological and hydrogeological conditions of the site and include

timescales for the scheme's implementation and completion and details of how the scheme shall be maintained and managed after completion, has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall thereafter be implemented in full and completed within each phase of development prior to any dwelling within that phase being first occupied. The completed approved surface water drainage scheme shall thereafter be retained at all times in the future and managed in accordance with the approved details.

- 13) Each phase of the development hereby permitted shall be carried out in accordance with the details set out in the Flood Risk Assessment dated March 2013.
- 14) Prior to the first occupation of any dwelling within a particular phase, a Travel Plan in relation to that phase shall be submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall provide a framework for the phase and consider measures for encouraging sustainable modes of transport based on the number of residential units created within that phase. Development shall be carried out in accordance with the approved details.
- 15) Prior to the commencement of development on each particular phase hereby permitted, the site investigation works to address coal mining legacy issues within the site as set out in the Coal Mining Desk Study Assessment dated 24 January 2013 shall be undertaken and fully completed. In the event that intrusive site investigation works confirm the need for remedial measures to treat shallow mine workings in any particular phase then details of such remediation works shall be submitted to, and approved in writing by, the Local Planning Authority and must be fully implemented in accordance with the approved details prior to the commencement of development on that particular phase.
- 16) Prior to the commencement of development on each particular phase hereby permitted, a site survey for the presence of Great Crested Newts (GCN) shall be undertaken. In the event that GCN are found by the survey in any particular phase then a comprehensive method statement giving details of the measures and mitigation to address any impacts on GCN on that phase shall be submitted to, and approved in writing by, the Local Planning Authority. The approved method statement must be implemented in full on that particular phase and development on that phase undertaken in full accordance with its provisions.
- 17) Prior to any development being commenced within each phase, details of the design, construction, specification, lighting and drainage of all internal access roads within that phase shall be submitted to and first approved in writing by the Local Planning Authority. Development on that particular phase shall be carried out in accordance with the approved details in accordance with a timescale approved by the Local Planning Authority.
- 18) The internal access roads within each phase shall be completed to a minimum of base course level prior to the construction of each phase of development and shall be fully completed in accordance with the approved details contained within condition 17 in accordance with the agreed phasing plan/strategy required by condition 5.

- 19) No dwelling shall be first occupied unless and until its associated car parking has been constructed, drained, surfaced and is available for use in accordance with details which shall be first submitted to and approved in writing by the Local Planning Authority. The car parking spaces associated with each dwelling shall thereafter be retained for the purposes of car parking at all times in the future.

END OF CONDITIONS

Richborough Estates