



Appeal Decision

Inquiry held on 29, 30 and 31 May 2013

Site visit made on 7 June 2013

by Julia Gregory BSc (Hons) BTP MRTPI MCI

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

Decision date: 31 July 2013

Appeal Ref: APP/M0655/A/13/2192076

Land off Mill Lane, Warrington WA2 0SU (Part of Peel Hall Farm) and land off Windermere Avenue/Grasmere Avenue, Warrington, Cheshire

- 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 of a decision on an application for outline planning permission.
 - The appeal is made by Satnam Millennium Ltd against Warrington Borough Council.
 - The application Ref 2012/20610, is dated 7 September 2012.
 - The development proposed is residential development of up to 150 homes with access from Mill Lane and associated works, together with improvements and refurbishment of sports pitches, flood lights, and improved car parking and access at Grasmere Avenue/Windermere Avenue.
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Preliminary matters

1. The application is in outline with all matters apart from the access via Mill Lane reserved for future determination. Prior to the Inquiry, the appellant increased the offer of affordable housing to 50% or up to 75 dwellings. The Council has no in principle planning objections to the improvement of the playing fields at Windermere Avenue/Grasmere Close.
2. Had the application been determined by the Council then planning permission would have been refused. The Council resolved the putative reasons for refusal at its Development Management Committee on 7 March 2013. The reasons given refer to the Regional Spatial Strategy for the North West 2008 (RSS). The RSS has been revoked and so no longer forms part of the development plan.
3. At the Inquiry the appellant submitted an unsigned Unilateral Planning Obligation. A signed version of the Unilateral Planning Obligation dated 3 June 2013 was accepted after the close of the Inquiry enclosed with covering letter also dated 3 June 2013. The Unilateral Planning Obligation relates to open space ownership and maintenance and to education and highways contributions.

Decision

4. The appeal is dismissed and planning permission for residential development of up to 150 homes with access from Mill Lane and associated works, together with improvements and refurbishment of sports pitches, flood lights, and improved car parking and access at Grasmere Avenue/Windermere Avenue, at land off Mill Lane, Warrington WA2 0SU (Part of Peel Hall Farm) and land off Windermere Avenue/Grasmere Avenue, Warrington, Cheshire is refused.

Main Issues

5. The main issues are:

- whether the scheme would comprise sustainable development that would accord with national planning policy;
- whether the release of the land for housing would prejudice the Council's approach to the release of housing land;
- the adequacy of road and footway access and the effect on highway safety; and
- whether there are material considerations such as the provision of affordable housing and improvements to sports facilities that would be of sufficient weight to outweigh any harm and any conflict identified with local or national planning policy.

Reasons

Sustainability

6. The site of the proposed housing comprises some 6.4 ha of agricultural land that lies immediately to the south of the M62 motorway between junctions 9 and 10. Access to the site would be from the end of Mill Lane which is an adopted highway that serves existing predominantly residential properties. The land does not lie within the Green Belt, the boundary of which follows the line of the M62.
7. The National Planning Policy Framework (the Framework) explains that the purpose of the planning system is to contribute to the achievement of sustainable development. This is defined as meeting the needs of the present without compromising the ability of future generations to meet their own needs. There are three dimensions to sustainable development. These are environmental, social and economic.

Environmental

8. The development would comprise some 150 homes on undeveloped land. Although concerns have been expressed locally about ecological matters, there has been a Phase 1 habitat survey the site. Local ponds have been surveyed for Great Crested Newts but none were found. The surveys have revealed that the unused agricultural land has little ecological importance. The Secretary of State has issued a screening direction that the development is not Environmental Impact Assessment development.
9. The Framework recognises the intrinsic character and beauty of the countryside. I acknowledge the value placed on the open countryside setting surrounding local dwellings by local residents. There are some hedgerows to boundaries including trees and the land is undulating. However, it has no particularly important features that would lend it special landscape significance. Furthermore, the context of this land is that it is on the urban fringe adjacent to the M62 motorway where there are air quality and noise issues.
10. Whilst there would be some loss of views for some local residents, there is no reason to conclude that this could not be a high quality development that would include attractive built and landscaped areas. Noise from the M62 could

be addressed by appropriate attenuation measures. Minimum separation distances from the motorway could overcome difficulties with air quality.

11. Boundaries to public areas could be well planted. Sustainable design, construction methods and materials could be used, and the density of housing proposed would make good use of the land without harming neighbouring residents living conditions. Community allotments and orchards would be provided.
12. Conditions could require substantial landscaping including adjacent to the motorway, the protection of existing trees and hedgerows and the restriction of works during the March-August bird breeding season. There would be an attenuation pond included in the drainage proposals and drainage issues are potentially capable of resolution.
13. This land is greenfield, whereas the Framework promotes the use of brownfield land and it would result in the loss of some of the best and most versatile agricultural land. It would not be within the inner area of Warrington that would aid regeneration and would better serve the sustainability principles of the Framework. There is no real distinction between this site and other land at Peel Hall that might be similarly developed contrary to planning policy.

Social

14. The development would provide a supply of housing that would include a substantial amount of affordable housing that would contribute to meeting local needs.
15. The location of the site is at the extremities of the wider area of Warrington. Manual for Streets defined a walkable neighbourhood as being typically characterised by having a range of facilities within 10 minutes or up to about 800m walking distance of residential areas which residents without mobility impairments may access comfortably on foot.
16. There is a Public House in Mill lane but otherwise there is no reasonable access to facilities, shops or schools. The bus stop in Enfield Park Road is at the outer edge of the 800m recommended walking distance specified in Manual for Streets. It is much more than the 400m maximum walking distance to bus stops recommended nationally by the Institute of Highways and Transportation *Guidelines for Planning for Public Transport in Developments*.
17. There are several bus routes that use that stop but there are only three buses an hour to Warrington town centre during the day and less in the evenings. It would be well away from Warrington town centre which is more than a 20minute cycle distance away. The rail station at Padgate is some 2469m away, and so is not within easy walking distance.
18. The appellant has investigated moving the bus stop for the Bus service No 23 and the bus operator has indicated a willingness to run an extended service. However, it would only be funded for a short period of 3 years, 18 months after the first occupation of the development, and its continuance would depend on the profitability of the route. The frequency combined with location of the bus service is inadequate to encourage the use of public transport.
19. Whilst a Residential Travel Plan would be secured and payments of vouchers to first occupiers to provide bus travel tickets and assist with cycle provision, this

- would also be a short term measure. This would not make up for the inadequacies of the development to provide for the long term needs of its residents.
20. Footpath and cycle links could be provided to Radley Lane which leads onto residential areas to the south, but this route would be unattractive in the winter and after dark as it is a country lane with no footway or street lighting.
 21. In addition, the footways in Mill Lane are substandard in width and in some sections are missing entirely which again is an impediment to walking, especially for those with young children or for those with disabilities. Most journeys would be too far to realistically consider walking. Those who could not afford market housing and would occupy the 75 affordable homes, half the development, may well be more reliant on public transport, which would be limited.
 22. Against the standard in *Providing for Journeys on Foot* (Institute of Highways and Transportation) only Peel Hall Park and the Plough PH are within desirable walking distances. Most local amenities, which are dispersed and so do not encourage joint trips, would be above the preferred maximum distances. The nearest convenience store is 1060m from the centre of the site. The nearest primary school, although within the preferred maximum, is some 1275m from the centre of the site. Based against an assessment using a good practice example in the Joint Lancashire Structure Plan 2005, it would score just 9 against a total potential of 35.
 23. Whilst the site would include some provision for local play, and Peel Hall Park is some 750m away, the improvements envisaged at Grasmere Avenue, although they would help to make up for local deficiencies, would be remote from the site. The development would not optimise the potential of the site to create and maintain an appropriate mix of uses. In the absence of provision for local facilities, shops and businesses it would not ensure an integrated approach to the location of housing, economic uses and community facilities envisaged by the Framework and would not serve to promote a healthy community.
 24. Whilst this might be addressed as part of a much larger scheme, and the Draft Strategic Housing Land Availability Assessment 2012 (SHLAA) looks at a larger scheme, that would need to be linked to a comprehensive plan rather than piecemeal development. The substantial size of that site would warrant consideration as part of preparation of a local plan which would consider strategic choices. Although I note that two smaller areas of land are identified in the SHLAA as being sustainable, the SHLAA is not part of the development plan and those sites are not allocations in any development plan.
 25. Although the scheme would contribute to primary school facilities, those would be over a mile away. The provision of 150 houses now with off site provision would dilute the contribution that might one day be provided as part of a much larger scheme. In addition the appeal proposal would not provide funding for secondary school provision as there is spare capacity in one High school in the area.

Economic

26. Whilst the development would create construction jobs, this would be a short term benefit. The development would however bring people into the area which would be a continuing economic benefit that would support growth.

However, that would not outweigh that the development would not fulfil the social dimension of sustainable development and that there is some negative impact against the environmental role of sustainable development. It would not support the creation of a strong vibrant and healthy community with accessible local services that would reflect the communities needs and support its health, social and cultural well being.

27. The pattern of development would still not be linked to facilities that promote the use of sustainable transport modes. The development would not promote sustainable means of transport as promoted in the Framework. It would not balance land uses so as people can be encouraged to minimise journey lengths for employment, shopping, leisure, education and other activities which is one of the core planning principles of the Framework.
28. I conclude that the development would not comprise sustainable development and would not therefore accord with the Framework.

Housing

29. The New Town Outline Plan, the Padgate District Area Local Plan 1975 and the Outer Warrington Local Plan are not current plans and so although they include references to proposals for residential development at Peel Hall, they are historic. There were also a number of refused planning applications for housing on the site in the 1990s.
30. Although the Draft Warrington Local Plan showed Peel Hall as an area of search, that plan was never adopted and work stopped on it in 1999 and it is therefore of little consequence.
31. Following the revocation of the RSS, the development plan for the area now comprises the saved policies of the Warrington Unitary Development Plan 2006 (UDP).
32. Saved UDP policy HOU1 seeks to provide sufficient land for housing at an annual average of 380 dwellings net of clearances between April 2002 and March 2016. It specifies, amongst other matters, that permission will not be granted for housing on greenfield sites and the proportion of new housing on previously developed land will at least meet the 80% sub regional target set by the then RPG13. There is no housing allocation for the site on the proposals map.
33. The policy is not wholly in accordance with the Framework because it seeks to put a cap on housing development whereas the Framework seeks to significantly boost housing land supply nationally. Also it prioritises brownfield land development. Nonetheless the Framework encourages the effective use of brownfield land and allows for Council's to consider the case for setting a locally appropriate target for its use.
34. The Framework sets a presumption in favour of sustainable development. Where the development plan is absent, silent or relevant policies are out of date, planning permission should be granted unless adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole or where specific policies in the Framework indicate development should be restricted.

35. Where there is not a five year supply of deliverable housing sites, relevant policies for the supply of housing should not be considered up to date. The UDP is aged. The RSS has been revoked, but it nevertheless represents the last independently examined set of housing figures and the Council uses this to calculate housing land supply. It is the same as that specified in the UDP. Although some more recent studies indicate that higher amounts of housing should be provided, there is still a robust supply of housing land locally, based on the RSS. Indeed there has been over supply.
36. The Council calculates in its SHLAA that it has a residual balance of almost 14 years of additional supply against the UDP/RSS requirement. Even if the residual over supply were to be discounted, the 5 year supply would be some 7.27 years. It is common ground that there is a 5 year plus 5% buffer housing land supply. As far as the ten year supply is concerned there would be a positive residual balance of 13 years supply.
37. In these circumstances, whilst there is a national imperative to boost the supply of housing, there is no difficulty doing that in Warrington.
38. Although the sequential approach to the development of brownfield land no longer exists, the Framework encourages the effective use of brownfield land. The use of such land contributes to sustainability objectives and also to the economic regeneration of inner Warrington. I acknowledge that there is scant evidence that the release of the land would undermine the development of brownfield sites, but the development of this greenfield site is not required to make up the Council's land supply.
39. The Council has published the Warrington Local Plan Core Strategy (CS). CS policy CS1 sets the overall spatial strategy for delivering sustainable development. It is a priority to accommodate growth in inner Warrington through the use of previously developed land. CS policy CS2 refers to the quantity and distribution of development, prioritising the use of previously developed land with at least 80% of homes being built upon it. Around 60% of new residential development is expected to be delivered in the defined inner Warrington area.
40. The plan proposes an annual increase of 500 dwellings over the period to 2027 which is based on the Mid-Mersey Strategic Housing Market Assessment, October 2011. Even against that unexamined figure, the Council would have an adequate 5 year housing land supply because there would be 5.5 years plus a residential balance from previous over supply of 4.4 years supply. Over the ten year period there would be a shortfall but that would be more than made up for by the high level of earlier building and the potential for windfalls to make up that amount, which have been significant in the Borough.
41. CS policy CS9 safeguards land referred to as *strategic locations*. These function to preclude the need to review green belt boundaries and to identify safeguarded land. Four strategic locations are identified including Peel Hall. This comprises a much larger area of land of some 65ha that could accommodate some 1550 homes, of which the appeal site is a part. The other three sites, Appleton Cross, Grappenhall Heys and Pewterspear Green are much smaller sites. These sites would only be released if an ongoing deliverable and developable ten year supply of housing could no longer be sustained, or where housing need is not being met.

42. The CS is currently being examined. However, that examination has been taking place over a protracted period of time. There has been an exploratory meeting, the Inspector has asked some detailed questions and he has expressed concern about soundness. There are weighty objections to it submitted by, amongst others, house builders and from the appellant. The Inspector has some serious questions about the plan, including its plan period of 2006 to 2027, which results in some 5075 housing units being carried forward, and how the housing land supply should be calculated.
43. There are also questions about CS policy CS9, how the policy would operate and whether there are reasons why it should be deleted. The appellant is promoting an additional policy in respect of the wider Peel Hall land. It would be unsafe to conclude that the submitted CS will not be modified in some way pertinent to this scheme in the light of the Examination. It is uncertain either whether the Inspector will go on to find the CS to be sound. Because there are significant unresolved objections to relevant policies, I accord it limited weight.
44. Nevertheless, it is material that if the CS is found to be sound in its current form, there is little to indicate that this would lead to the development being acceptable under policy CS9. That is because there would have to be a trigger of the 10 year supply of housing land supply not being met. In Warrington there is evidence to suggest that there is a robust housing land supply.
45. Additionally, it is intended by the policy that if any one of the strategic locations is required, it would trigger a requirement for a further local plan to be prepared and the Council would require a comprehensive approach. That further local plan adoption would be required before any planning permission was granted to ensure that the development was comprehensively planned to ensure that sustainability was achieved.
46. It is not clear which of the strategic locations would come forward first. The release of part of the Peel Hall could have implications for pre-empting that process and would be outside any phasing policy.
47. It is common ground that there is an annualised demand for approximately 477 affordable dwellings identified in the SHMA. Expected supply based on 20% to 30% of the annual housing requirement would not fulfil this demand based on the level of completions 2006 to 2012 of 845 dwellings per annum. The provision of 30% or 45 homes would accord with emerging SN2. Subsequent to the appeal the appellant has offered 50% or 75 dwellings. This has substantial weight.
48. Nevertheless, I have already concluded that there is no compelling need for a substantial amount of additional housing land supply on an unallocated site in order to comply with the Framework. The development would prejudice the Council's current approach to the release of housing land.

Access and highway safety

49. The Framework requires that decisions should take account of whether safe and suitable access to the site can be achieved for all people. The application is in outline and it is possible for the housing to be laid out and car parking provision made so that it would not harm highway safety. The only matter not reserved is the vehicular access that would be provided from the end of Mill Lane. Because there would no longer be a dead end, this would remove the

ease of turning at the end of Mill Lane. Nevertheless, it is entirely possible that such a turning facility could be provided close by in the new access road.

50. The appellant argues that inadequacies in the existing road network should not be considered against the Council's *Design Guide Residential and Industrial Estate Roads 2008*, adopted as a Supplementary Planning Document, as it specifically relates to new development. However, I see no reason why that should not be taken into consideration, since all vehicular movements would have to access via Mill Lane and its adequacy to serve the development is a material consideration. Nevertheless, these are guidelines rather than rigid requirements that need to be applied with a degree of flexibility, so long as the result of that would produce a safe and accessible environment.
51. Mill Lane has street lighting and for the most part has a width of between 5.5m and 6.2m, more than the 5.5m width in the Council standards. It has for a short stretch of some 4m, a width of some 5.4m. This would still allow a car and a heavy goods vehicle to pass, albeit that there are unlikely to be many heavy goods vehicles accessing the residential estate.
52. In that particular stretch some dwellings do not have off street parking. However, most properties in Mill Lane have driveways and there is a large public house customer car park clear of the highway. Because it is only a short stretch of road that would be less than desirable width, it would not cause harm to access.
53. The narrowing in the width of the carriageway may also serve to slow vehicle speeds to much less than the 30 mph speed restriction applicable in Mill Lane. Speeds are unlikely to be high in any event on this residential road where there is some on street parking.
54. I saw on my accompanied site visit that it is possible for parked vehicles to cause difficulties for access along Mill Lane. Nevertheless inconsiderate parking could readily be replicated on many residential streets nationwide if householders chose to do so. It is a common daily occurrence for drivers to have to wait to overtake a parked car when there is an opposing vehicle approaching.
55. It is also intended to introduce a speed table at the junction of Radley Lane and Mill Lane in the interests of slowing traffic at a location where there has been one minor injury accident in recent years comprising a collision between two vehicles at the junction. There would also be an emergency access to Radley Lane that could be to required standards.
56. It is estimated that the development would generate some 89 vehicle movements (two way) per hour in the am peak and 97 vehicle movements (two way) per hour during the pm peak hour. The two way flow of vehicles including the existing traffic would be some 129 vehicle movements per hour in the am peak hour and 174 vehicle movements per hour in the pm peak hour.
57. Whilst this would be a substantial increase in existing traffic, this is equivalent to two or three vehicles per hour at peak times and there would be much less traffic at other times. This would not be so significant that Mill Lane or its junction with Delph Lane would cease to cope with the traffic. That junction has appropriate visibility splays. Whilst I acknowledge that development of a larger expanded site might enable an alternative access arrangement, that is not before me.

58. The scheme would increase pedestrian movements by an estimated 36 movements an hour at peak times. The development includes footway links to Mill Lane. There are not footways for the entirety of the length of Mill Lane on both sides of the road, and in some parts the footways are below the Manual for Streets standard recommended width of 2m, some parts are as little as 1.2m wide. There is also some overgrowth restricting the width of footpaths, but that could be removed.
59. Nevertheless there is at least 1.8m width on one side of Mill Lane for the majority of its length, which is the absolute minimum width identified in *Guidelines for Providing for Journeys on Foot*. That document acknowledges that existing narrow footways do provide some level of pedestrian amenity. Whilst there are instances of parking on the pavement, that is a matter for the Police. Because vehicle speeds would be slow, and also because pedestrian visibility would be good, this inadequacy of the footways to meet desirable standards would not be a fundamental objection to the scheme.
60. There would also be connections to Radley Lane via Peel Cottage Lane. There would then be an improved pedestrian access to Ballater Drive and Lockerbie Close. Those connections would be to lightly trafficked country lanes, with mostly no footways or street lighting where there are drainage deficiencies.
61. These routes would have limitations in as far as their usefulness at night and in winter for pedestrians and cyclists, but I do not consider that they would be unsafe to use with care. However, I do acknowledge that the inadequacies in all the footways do not overall promote pedestrian activity, which is a sustainability and health issue rather than a matter for highway safety.
62. The new junction with Mill Lane will result in the end of Mill lane that gives access to a private road being an offshoot from the new road. That the Council refuses to adopt that section would not harm the acceptability of the proposal.
63. I conclude that the road and footway access would be adequate and the development would not be harmful to highway safety.

Other matters to be weighed in the balance

64. The quality of sports pitches in Warrington is poor. The Unilateral Planning Obligation would make an open space contribution of one million pounds, much of which would be used for the provision, maintenance and improvement of sports open space detailed in the Council's Open Space Strategy.
65. This could be used on the existing Council owned playing pitches at Windermere Avenue and Grasmere Avenue. There would be a substantial qualitative rather than a quantitative improvement to the sports provision which would be a public benefit. Although Winwick Athletic FC have expressed an interest in using that improved facility, it would be very much up to the Council as to how any improved facilities should operate. This provision is a material consideration to which I attach substantial weight.
66. The Unilateral Planning Obligation would also provide for the transfer of land and maintenance of proposed open space on the Mill Lane site. I consider that these contributions adequately reflect what is proposed in the application and what is necessary on the Mill Lane site.

67. There would be provision of a sum of money to provide a speed table at the junction of Mill Lane and Radley Lane and footpath links to Ballater Drive and Lockerbie Close that is based on the costs of the works. A bus contribution of £90,000 would be paid to cover 3 years extended service for the bus service provider. The Highways contribution overall would amount to some £343,141 which would be a reflection of the requirements for the site.
68. An education contribution of £367,710 for primary school provision would be paid which would make provision for children living on the Mill Lane site. I consider that all of the provisions of the Obligation are necessary, directly related to the development and fairly and reasonably related in scale and kind to the development. They therefore comply with the provisions of S122 of the Community Infrastructure Levy Regulations 2010 and can therefore be accorded weight in the determination of the appeal.
69. I have already concluded that the provision of affordable housing would be a substantial benefit. This needs to be added to the public benefit of improving the playing fields at Windermere Avenue and Grasmere Avenue. The development would also deliver a significant amount of open market housing. However, these matters do not outweigh my conclusions in respect of sustainability and the Council's approach to the release of housing land.

Conclusions

70. For the reasons given above I conclude that the appeal should be dismissed.

Julia Gregory

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

David Manley QC	Instructed by Andrew Harrison, Solicitor to the Council
He called	
Gary Rowland	Atkins
Graham Bolton	The Graham Bolton Planning Partnership

FOR THE APPELLANT:

Christopher Lockhart Mummery QC	Instructed by Satnam Ltd
He called	
Colin Griffiths	Appellant
David Tighe	Transport Planning Associates

INTERESTED PERSONS:

Helen Jones	MP Warrington North
Cllr John Kerr brown	Local Councillor
Margaret Steen	Local resident
Ste Dodd	Local resident
Richard Ward	Parish Council

DOCUMENTS SUBMITTED AT THE INQUIRY

- 1 Notification documents
- 2 Appellants appearance list
- 3 Outline opening submissions on behalf of the appellant
- 4 Extract of APP/4230/A/12/2170252 Land at Melton Road, Barrow on Soar, Leicestershire
- 5 TPA Designer's response to TMS Stage 1 Road Safety Audit
- 6 Email correspondence from Dave Tighe to Colin Griffiths 29 May 2013
- 7 Public Transport Isochrone Map SK22/A
- 8 Site Access Strategy Figure 3.1 Revision A
- 9 Email correspondence from David Tighe to Colin Griffiths 28 May 2013 enclosing letter and email from Network Warrington
- 10 Email from Garry Legg to Graham Bolton dated 15 May 2013 regarding the soundness of Transport policies within the emerging LPCS
- 11 Progress with CS examination
- 12 CS Examination Draft Programme and attendees for Examination Hearings
- 13 Extract from decision APP/F4410/A/12/2169858 Land East of Hatfield Lane, Armthorpe
- 14 Statement of Richard Ward on behalf of Winwick Parish Council and 4 appendices containing CS Examination documents
- 15 Letter from Richard Ward of Winwick Parish Council dated 30 May

- 2013
- 16 Draft Unilateral Planning Obligation
 - 17 Further Draft Unilateral Planning Obligation
 - 18 Final Draft Unilateral Planning Obligation
 - 19 Draft conditions v3
 - 20 Draft conditions v4
 - 21 Closing submissions on behalf of the appellant
 - 22 Signed Unilateral Planning Obligation dated 3 June with covering letter

Richborough Estates