



Appeal Decision

Inquiry Held on 15-17 May 2018

Site visit made on 17 May 2018

by Paul Singleton BSc (Hons) MA MRTPI

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

Decision date: 29 May 2018

Appeal Ref: APP/P2365/W/17/3184495

Land to the north of Meadowbrook, Burscough, Lancashire L40 7XA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by UKLP Estates (Burscough) Ltd and Bloor Homes Ltd against the decision of West Lancashire Borough Council.
 - The application Ref 2016/0516/FUL, dated 7 May 2016, was refused by notice dated 28 July 2017.
 - The development proposed is the erection of 124 dwellings, public open space, landscaping and associated infrastructure.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. At the start of his evidence Mr Lee confirmed that, although he is a Director of UKLP Estates (Burscough) Ltd, he has only minority voting rights and that he appeared at the Inquiry as expert witness giving evidence in accordance with the Royal Town Planning Institute's Code of Conduct. Mr Wooliscroft did not submit a proof but was called to give expert evidence on highway matters in response to my questions at the opening of the Inquiry.
3. A signed Statement of Common Ground and a signed Section 106 Agreement between the Council and the appellants were submitted at the Inquiry.

Main Issues

4. The main issues in the appeal are:
 - (a) Whether the proposed development complies with Policies GN2 and SP3 of the development plan and with the Yew Tree Farm Supplementary Planning Document (SPD);
 - (b) Whether the proposal would prejudice the delivery of housing land; and
 - (c) If there is a conflict with the development plan, whether there are material considerations which would justify a grant of planning permission.

Reasons

Compliance with the development plan and SPD

5. The relevant development plan is the West Lancashire Local Plan (LP). This was adopted in October 2013 following examination by a Planning Inspector who found the LP to be sound having regard to the tests at paragraph 182 of the National Planning Policy Framework (Framework). The Courts have advised that policy statements should be interpreted objectively in accordance with the language used, read in its proper context. Adopting that approach, the purpose and effect of LP Policies SP3 and GN2 are clear.
6. Under Policy SP3 some 74 hectares (ha) of former Green Belt land at Yew Tree Farm are allocated as a Strategic Development Site, the location and extent of which is identified on the Proposals Map. SP3 states that the site is to deliver housing and employment development to help meet identified needs over the LP Period to 2027 and approximately 30ha of land to be *'safeguarded from development until at least 2027'*. The land safeguarded under Policy SP3 is not allocated for development and nothing within the policy wording suggests any certainty that this land will be developed. Such a prospect is dependent upon a future assessment of development needs post 2027 to be carried out as part of a development plan review.
7. Policy GN2 (b) covers the safeguarded land at Yew Tree Farm and Halsall. These areas are not listed as 'Plan B' sites and are, therefore, subject to the second bullet of the policy which states that the land is safeguarded from development for needs beyond 2027. *"These sites will only be considered for development after 2027 if there is not a sufficient supply of other suitable sites within the settlement boundaries to meet any identified development needs at that time."* Paragraph 5.15 states that land listed under part (b) of the policy *"will be protected from development until absolutely required to meet development needs beyond this plan period."*
8. The safeguarded land at Yew Tree Farm is different from the Plan B sites. The difference is that the policy provides the possibility that some of the Plan B sites might be released to help meet development needs within the Plan period if any of the triggers set out in Policy RS6 are met. Policy GN2 does not indicate any such possibility for the land at Yew Tree Farm and Halsall which is safeguarded under part (b).
9. Policy SP3 states the clear expectation that approximately 30ha of the total 74ha site will be safeguarded from development. The indicative plan on page 55 confirms this expectation as to the balance between the area to be developed and that to be safeguarded and indicates how these requirements might be met on the site. At the time of its adoption, the LP left the precise layout of the site to be defined through a separate masterplan to be prepared in consultation with local residents.
10. When allocating a strategic site intended to deliver a range of development needs it is not unusual for a development plan to require that a masterplan or supplementary guidance be prepared and approved so as to give detailed expression to the policy requirements. It may be less common for such a process to include the definition of the precise extent and boundaries of land to be safeguarded under the policy but I do not consider that this dilutes the effect of Policies of SP3 and GN2 with regard to that safeguarding.

11. SP3 states that the precise layout of the development and safeguarded land will be defined through this means and requires that development of the site should conform to the approved masterplan. GN2 explains why the safeguarded land at Yew Tree Farm is not defined on the Proposals Map and confirms that this is safeguarded for 500 dwellings and 10 ha of employment land. It explicitly safeguards this land from development within the LP period.
12. Policy SP3 sets out the parameters for the masterplan by requiring that the strategic site deliver at least 500 dwellings and 10ha of employment land to be developed over the LP period and that the safeguarded land provide for up to 500 additional houses and up to 10ha of employment land. It also requires the provision of a new primary school, a new town park, linear park/cycle route and a decentralised energy network.
13. As noted in the Examining Inspector's report, the identification of Yew Tree Farm for development was one of the most controversial proposals in the LP and there was particular concern about the effect on the character of Burscough. It was both reasonable and appropriate that the Council should require that a masterplan be prepared to ensure that development at the site would integrate with the existing settlement and that the new housing co-exists with existing and proposed employment areas.
14. A detailed site assessment and masterplanning exercise would have been needed to confirm the precise area of land required to achieve the minimum target of 500 dwellings together with access, parking, open space and other infrastructure to serve that development. That exercise was also needed to determine where, within the site, that housing might best be located to complement the existing settlement and achieve a satisfactory relationship with employment uses. The assessment would also identify optimal locations for the other key policy requirements and for safeguarded land that could be retained in agricultural or other open use if not required to meet future development needs.
15. That assessment has subsequently been completed through the preparation and adoption of the Yew Tree Farm Masterplan Supplementary Planning Document (SPD). The two rounds of public consultation carried out exceeded the statutory requirements for the preparation of such documents and no legal challenge was made to its adoption. The SPD explains how Policy SP3 is to be applied and the 'Safeguarded Plan' on page 39 clearly indicates which land is to be safeguarded for possible future residential and employment use. The plan at page 40 serves to confirm that neither Policy SP3 nor the SPD 'allocates' the safeguarded land for development and that both anticipate a situation where this land is not required to meet future development needs.
16. In my judgement the identification of the Strategic Development Site on the Proposals Map meets the requirement of Regulation 9(1)(c) of the Local Planning Regulations¹ that the Proposals Map should illustrate geographically the application of the policies in the adopted plan. It is in the nature of strategic site allocations that detailed proposals are unlikely to have been prepared when the LP is adopted. For this reason, it is not uncommon that the Proposals Map does not specify which parts of such sites are to be developed and which are to be kept free of development (for example for strategic open space, woodland or buffer planting or other purposes).

¹ Town and Country Planning (Local Planning) (England) Regulations 2012 (SI 2012 No. 767)

17. The inclusion of safeguarded land within a strategic site might be unusual but there is no uncertainty as to the effect of Policies SP3 and GN2 in safeguarding a substantial part of the 74ha site. Their purpose was clearly understood by the Examining Inspector (paragraphs 103, 142 and 155 of his report) who found the LP to be sound. There was no legal challenge to its adoption. This purpose was also understood by the Inspector in the recent appeal decision in Aughton.² He recognised that the identification of safeguarded land is a fundamental aspect of the LP and that it is *"not necessarily the case that the safeguarded land, including any of the Plan B sites, will be allocated for development in a future review of the LP"* (para. 108).
18. Full consideration was given to options for the parcelling up of the 74ha site to enable a smaller area to be excluded from the Green Belt. That exercise demonstrated that no single boundary within the larger parcel was as strong as the built form and road network that encompasses the parcel as a whole. Those potential boundaries would not, therefore, have met the Framework's requirement that Green Belt boundaries should follow physical features that are readily recognisable and are likely to be permanent (para. 85).
19. Given that conclusion, Yew Tree Farm could not have been removed from the Green Belt without the safeguarding of a substantial part of the site. The scale of development needs in this part of the district over the Plan period (of around 500 dwellings and 10ha of employment land) would not have justified 74ha of land being removed from the Green Belt and the exceptional circumstances needed to alter the Green Belt boundary would not have been met. It is very unlikely that the Examining Inspector could have found the LP sound without the safeguarding, under Policies GN2 and SP3, of a substantial part of the Yew Tree Farm site. This safeguarding was also necessary to meet the Framework's requirement, in paragraph 83, that local authorities should consider changes to Green Belt boundaries having regard to their intended permanence in the long term so that they should be capable of enduring beyond the plan period.
20. I see little merit in the appellants' arguments that the land in question is not safeguarded under the adopted development plan as I consider that the intention and effect of Policies SP3 and GN2 is eminently clear in this respect. Given that position, I find that the safeguarding of the appeal site and other land at Yew Tree Farm is consistent with national policy in paragraphs 83 and 85 of the Framework and that the land is protected under national policy.
21. The appellants argue that Policy SP3's requirement that the Yew Tree Farm site should deliver residential development *"for at least 500 dwellings and safeguarded land for up to 500 more"* provides considerable flexibility as to the scale of development permitted within the LP period. That wording certainly provides flexibility within the masterplanning exercise but the central purpose of the masterplan is to define the *"precise layout of the site"*. Now that it is approved, the masterplan (SPD) defines which land is to be developed and which is to be safeguarded. Any ongoing flexibility in the application of the policy is constrained by the statement within SP3 that development of the site *"will be required to conform to this masterplan"*.
22. The outcome of the masterplanning exercise is that SPD Development Area One has a notional capacity of 570 dwellings (at an average of 30 dwellings per hectare (dph)) and the safeguarded land in Development Area Two has a

² APP/P2365/W/15/3132594 dated 22 March 2018

notional capacity of 450 dwellings (page 37-38). Some flexibility remains, through detailed design, to show that a higher figure might be accommodated and the outline permission granted on Development Area One is for 580 rather than 570 dwellings. However, the requirement that development must conform to the masterplan does not provide flexibility for bringing the safeguarded land forward within the LP period. Neither does it support the appellants' contention that the policy objectives would be met by developing, say, 700 dwellings within the LP period and safeguarding land for only 300 to meet possible development requirements after 2027.

23. Such an interpretation would be inconsistent with the statement within SP3 that approximately 30ha of the site is to be safeguarded and with the need, when preparing the LP, to define a Green Belt boundary that would endure beyond the LP period. The limited scope of flexibility intended can also be seen when SP3 is read together with GN2. That policy specifies that land at Yew Tree Farm is safeguarded for 500 dwellings and 10ha of employment land and does not indicate any scope for variation from these figures. The appellants' approach would require that significantly greater weight be given to Policy SP3's target of achieving a minimum 500 dwellings over the LP period than to its requirement that land for up to 500 more dwellings be safeguarded from development. I see no grounds for such an approach.
24. I do not agree that the Council has applied the policies flexibly by granting outline planning permission on Crompton Developments' site (Crompton Land) including an area of safeguarded land within its red line. The evidence is that this was included for carrying out engineering works associated with built development elsewhere within the site and that there is no intention that dwellings be erected on it within the LP period.
25. A condition preventing the erection of buildings on the land under the outline permission would have removed any scope for uncertainty. However, the Phasing Plan approved under condition 4 does not include the land in any phase of residential development and annotates it as 'Phase 6 Safeguarded Area'. Any future application to amend that condition would, in my view, fall to be considered against the requirements of the development plan and the SPD. The SPD indicates that the phasing plan may be amended from time to time with the written approval of the Council but that this is subject to "*appropriate justification... including, but not limited to, the potential for any significant environmental effects* (page 37).
26. The plan at Mr Lee's NJL4 shows the 'Phase 6' land shaded in brown and hatched in red but these notations appear to be on the base plan which seems to be an earlier version of the Safeguarded Plan in the SPD. That much is indicated by the red hatching which denotes that the land was safeguarded by means of a resolution at Cabinet when the SPD was approved. The plan at page 39 of the adopted SPD shows all safeguarded land shaded to indicate whether it is safeguarded for residential, employment or other purposes. That shading appears in a similar form on the plan at NJL4.
27. The plan at NJL4 also shows how secondary roads might extend off the primary road network to serve the Phase 6 land and safeguarded land to the south. I read that information as being to demonstrate that the connectivity required by the SPD could be achieved if and when the safeguarded land is developed rather than to indicate an intention that it should be developed before 2027.

28. By seeking to develop land that is safeguarded from development until at least 2027 the proposal conflicts with the SPD and with Policies SP3 and GN2. It also conflicts with paragraph 85 of the Framework which states that planning permission for safeguarded land should only be granted following a Local Plan review which proposes its development. The appeal proposal would result in substantial harm by undermining the LP development strategy and by constraining opportunities for meeting development needs in Burscough after 2027 and/or increasing pressure for the release of Green Belt land to meet those future needs.
29. As in relation to the Harlow appeals³ at Mr Richards' Appendix IV, the history of the LP and SPD preparation has resulted in a clear expectation within the Council and the local community that the future of the appeal site and the other safeguarded land at Yew Tree Farm will be established through the local planning process when the existing LP is reviewed. That was confirmed in the evidence given by Mr Bailey on behalf of the Parish Council. The release of the site for development before 2027 would fly in the face of that expectation and undermine local confidence in the LP and the plan-led system and would cause significant harm in this respect.
30. The proposal conflicts with other objectives and requirements of Policy SP3 and the SPD. It would be unreasonable to expect all of those requirements to be met on the appeal site. However, the supporting text to SP3 sets out the intention that provision of the necessary communal infrastructure be achieved through the co-ordinated development of the Yew Tree Farm site. The proposal makes no meaningful contribution to that provision.
31. Key amongst the SPD objectives is that Yew Tree Farm should have a clear and tangible road network with the primary access comprising two east-west link roads, connecting a single access from the A59 with two accesses from Tollgate Road to the north and south. Although vehicular access from Meadowbrook may be acceptable in highway terms, it does not comply with that objective. This separate access would limit the extent to which the proposal would integrate with and be perceived as forming part of the larger Yew Tree Farm development.
32. There is little in the Design and Access Statement to indicate that that the appellants attached importance to the SPD or the outline permission on the Crompton Land as part of the relevant context for the appeal proposal or that these have informed the scheme design. Although not part of the reason for refusal I see no evidence that the proposal would contribute to the creation of the Town Park or Linear Park, the funding of which from the Community Infrastructure Levy is expressly excluded on the Council's Regulation 123 List (ID3). Neither has it been demonstrated how the pedestrian and cycle paths within the site would link into a comprehensive pedestrian and cycle network, within which all routes are safe, attractive, direct and convenient.
33. The proposal makes no contribution to the provision of an east-west road link which might help to reduce congestion on the A59, or of any local retail or community facilities to serve the larger development. Neither does it contribute to the safeguarding of a site for a future primary school which might be needed if all of the safeguarded land is developed after 2027. The burden of these various elements of infrastructure required by the SPD is left for

³ APP/N1540/A/11/2167480 & 3174502

others to bear. In respect of these considerations I find that the proposal is not fully consistent with these elements of the SPD and derives little support from that guidance.

Delivery of housing land

34. Development of Yew Tree Farm started later than envisaged when the LP was adopted but construction is well underway on the first phase of 146 dwellings. Outline permission has been granted for 580 dwellings on the Crompton Land and the second phase of residential development is being marketed. Given Redrow's commitment to that first phase and Bloor Homes' interest in carrying out housing development in Burscough, there is a good prospect that a major housebuilder will be secured for Phase 2 and other future phases.
35. In my experience, it is common that the first reserved matters application under a large outline permission requires more detail and is more involved than subsequent applications. In this case, the Phase 1 reserved matters application was lodged very shortly after the outline permission was issued and approved within 6 months. I see no reason that subsequent reserved matters approvals should not be secured such that future phases of the development can be commenced in line with the trajectory shown on page 12 of Mr Richards' proof.
36. The appellants accept that the residential market in Burscough is capable of taking up 70 dwellings per year, given the lack of significant development in the recent past, but question whether multiple outlets on the same site could deliver this number. It is common practice for larger developments to be built out by 2 or more housebuilders and for these to run concurrently. Mr Richards' trajectory indicates that there could be 3 sales outlets on the site in 2022/23 and 2023/24. However, these represent very small degrees of overlap during which one of the 3 phases would be almost complete and another would only just be starting to deliver completions. This does not, in my view, call into question the projected delivery shown in Mr Richard's table.
37. There is no evidence that housebuilders are put off by such competition or that Crompton Developments would seek to delay bringing future phases to the market in order to increase the return on the land. Indeed, their actions to date, including the acquisition of the land required to complete the employment development and an east-west link across the site, indicate a strong willingness to progress the development within a reasonable timescale. The acquisition of that land was revealed in the representations submitted by Lichfields dated 6 December 2017 which also set out Crompton Developments' intention to make a planning application for the employment development and remainder of the link road early in 2018. That application has now been lodged.
38. If approved, that planning permission would prepare the ground for future residential phases to satisfy the requirement, in condition 8 of the outline permission, that construction works should not commence until a scheme for the construction of the internal access for that phase has been approved. Each section of the road would need to be funded but it is reasonable to assume that Crompton Developments has undertaken viability assessments before committing to the costs of preparing the outline and subsequent planning applications. It is also reasonable to assume that the employment development will make some contribution to that funding, notwithstanding that this may have a lower land value than residential development.

39. The appellants question whether the outline permission can deliver the 500 dwelling target without building on the 'Phase 6' safeguarded. Those concerns are misplaced. There is an error in the calculation of the Phase 1a and 1b site areas on page 4 of the NRE letter dated 11 May 2018; the total area of these phases is around 4.16ha rather than just over 5.0ha as stated. Applying the resultant net density of around 35 dph to the future phases listed on page 5 indicates a capacity for a further 474 dwellings and a total capacity which would be greater than the 580 dwellings approved under the outline permission. Hence, the 5 phases approved under condition 4 are more than capable of accommodating the minimum 500 dwelling target.
40. I do not accept the appellants' assertions that a significant shortfall in delivery against the SP3 target of at least 500 homes within the LP period is likely. The main risk to that delivery is the condition 36 requirement for monitoring and management of the A59/Square Lane junction. However, until the necessary traffic monitoring has been completed and assessed, there is no certainty as to what, if any, additional measures might be needed or that occupation of the 451st dwelling is likely to be delayed as a result.
41. If the appeal is allowed the proposal would be progressed in tandem with and direct competition to the existing and proposed phases on the Crompton Land. It is unlikely that the Burscough market could support more than about 70 sales per year. The opening up of a sales outlet on a competing site would, therefore, be likely to slow the rate of sales on the Crompton Land and, thereby, threaten the delivery of 500 completions on that site within the LP period. That risk would be increased because of the competitive edge that the appeal scheme would have by reason of its not carrying any of the costs of providing the communal infrastructure required under Policy SP3 and the SPD. Crompton Developments' fears about this potential effect on delivery of new homes on their site are, in my view, justified.
42. Accordingly, I find that the proposal would prejudice the delivery of housing on land allocated under Policy SP3 and would conflict with the policy in this regard.

Other material considerations

43. For the reasons set out, I do not accept that there is evidence of any significant risk that Yew Tree Farm will under-deliver against the housing targets across the LP period. Hence, I see no grounds on which the SPD should be considered to be out of date and be given anything less than full weight. In light of my conclusions as to the risk that the appeal proposal would cause to delivery of the dwellings approved on the Crompton Land I also reject the appellants' contention that the proposal would assist in achieving those targets.
44. Even if a material shortfall in delivery of the LP housing targets was predicted it would not justify the release of land that is safeguarded until at least 2027. LP Policy SP1 sets a minimum target of 4,860 new dwellings for the Borough as a whole and states that this borough-wide target will be divided between the different spatial areas listed in the table on Page 40. This shows a minimum target of 850 dwellings for Burscough. It is these broader targets rather than the 500 minimum envisaged on the Yew Tree Farm site that are subject to the monitoring requirements within Policy SP1.
45. These provide that, if the monitoring shows that the development targets for the LP are not being delivered or if new evidence demonstrates a need to

increase the residential development targets, the Council may choose to enact all or part of Plan B as set out in Policy RS6. The reasoned justification to RS6 explains that the 830 dwelling capacity of the Plan B sites equates to more than 15% on top of the 15 year LP housing target and ensures that even the largest of the housing allocations is covered by the flexibility provided by Plan B should it fail to be delivered.

46. Drawing these matters together, there is no separate target in SP1 for the Yew Tree Farm site and any potential shortfall would need to be assessed against the target for Burscough as a whole. There is no evidence that a shortfall against that target is likely but, if such a shortfall was to occur, the LP provides for this to be dealt with through the implementation of Plan B. The release of any of the Plan B sites would need appropriate justification under the terms of Policy RS6 and would require a formal resolution of the Council. There is no mechanism within the LP for the early release of land safeguarded under Policy GN2 (b) even if minimum housing delivery targets are not being met. A grant of planning permission for the appeal proposal would seriously undermine the mechanisms incorporated in the LP to monitor and manage the delivery of the identified housing requirement and would conflict with Policy SP1.
47. The LP never sought to meet the full affordable housing need as identified in the Housing Need and Demand Study 2010. This may be regrettable in terms of meeting those full needs but it is the basis on which the LP has been prepared and examined and on which it has been found to be sound. The LP targets are the only targets against which performance in the delivery of affordable housing can be measured.
48. The relevant targets are set out in Objective 5 of Appendix B to the LP and are:
- That 20% of all annual housing completions should comprise affordable dwellings; and
 - That 25% affordable provision should be achieved on all schemes with a capacity greater than 8 dwellings.

Mr Richards' evidence is that affordable housing provision over the first 5 years of the LP period has exceeded the target of 20% of all completions and that the 25% affordable provision target across all schemes of more than 8 units has been exceeded in the last two monitoring years.

49. There has been limited provision in Burscough since the start of the LP period but there is no specific target for affordable housing in the various settlements within the Borough. However, the Council's evidence is that completions and planning permissions since the start of the LP period provide for some 241 affordable units. That provision would exceed the notional requirement of 170 such dwellings in Burscough if the borough-wide target is apportioned in line with the distribution of the overall housing target as set out in Policy SP1. There is, therefore, no evidence that Burscough will not be provided with a reasonable level of new affordable housing over the LP period.
50. A S106 Agreement requires that 35% of the housing developed under the outline permission on the Crompton Land should comprise affordable dwellings. As no affordable housing is included within Phase 1, that will require a higher average proportion of affordable units across the remaining phases. However, those phases are not likely to be bearing the same infrastructure costs as

Phase 1. The necessary provision might possibly be achieved, as the Council suggests, by one phase being developed by a Registered Social Landlord for an affordable scheme. In whatever manner it is achieved, the 35% affordable provision remains a requirement of the outline planning permission. The developer has not sought to amend the terms of the S106 Agreement and there is no evidence that it proposes to do so.

51. The Council accepts that the provision of affordable housing at the 35% rate sought under LP Policy RS2 carries significant weight. There is no doubt that this would make an important contribution to meeting local needs in Burscough as evidenced in the letters of support for the appeal proposal. However, there is no evidence that significant under-delivery against the LP plan targets for affordable housing is likely and no reason to attach more than significant weight to this potential benefit of the proposal.
52. There was much discussion about the A59/ Square Lane junction but the only expert evidence presented at the Inquiry was that of Mr Wooliscroft. He agreed that the signalisation required under condition 11 of the outline permission would need to be installed to allow the appeal proposal to be developed. Once this has been done, his professional opinion is that the development of the 580 dwellings approved on the Crompton Land in tandem with the 124 dwellings proposed on the appeal site would not justify the need for further physical improvements to the junction. The widening scheme shown on the Croft drawing could benefit the wider area and make it safer for pedestrians to cross over the junction. However, the traffic effects of the combined developments would not result in a severe residual impact that would justify a refusal of planning permission for the appeal proposal having regard to the advice at paragraph 34 of the Framework.
53. The Highway Authority seems to consider a physical improvement to the junction necessary to offset the impacts of the combined proposals. This view is not supported by Mr Wooliscroft or by CBO Transport who do not agree that the junction would operate significantly over-capacity. Whichever technical opinion is to be preferred, condition 36 is a monitoring and management condition. It reflects the uncertainties about background traffic growth set out in the officer report on the outline application and about the potential effect of the proposed east-west link through the site on congestion on the A59.
54. The condition requires that the 'no development' traffic flows at the junction be monitored and that the results be submitted to the Council. A mitigation scheme is required only if the monitored flows exceed the flows set out in CBO's Transport Assessment of February 2015 but the condition neither specifies nor gives any indication as to what form of mitigation might possibly be required. There is no certainty that further physical works will be required or whether any concerns that might be revealed by the monitoring could be dealt with by other measures.
55. The Officer report on the appeal application concluded that, without the physical improvements indicated on the Croft drawing, it is unlikely that any more than 400 dwellings could be provided on the wider Yew Tree Farm site. That is incorrect since the permission allows for 450 dwellings to be occupied before any further measures are needed. However, even if the figure is corrected, I consider that conclusion to be misplaced.

56. No need for further physical improvement of the junction has been demonstrated. The appellants' position is such improvement is not required to accommodate the combined flows from the appeal scheme and 580 dwellings on the Crompton Land. On the basis of the evidence as to the need and potential benefit of the widening proposal, no weight can be attached to the appellants' offer to make land available to carry out the widening or to contribute towards the costs of those works. Those obligations, as set out in the S106 Agreement, do not meet the tests in paragraph 204 of the Framework and it would not be appropriate for me to take them into account in my determination of the appeal.
57. I also have some concerns about the deliverability of the proposed widening scheme. My observations are that these improvements would be likely to result in a significant encroachment on the orchard and paddock areas within the Finch House Farm site and to require the removal of a number of mature trees and a considerable length of hedge to the roadside boundary of that property. Such works would lead to a material change in the existing character of the site's frontage to the road junction and of this part of Burscough.
58. Subject to the detail of any proposal, the works also have the potential to affect the setting of Finch House (No.172 Liverpool Road South) which is a Grade II Listed Building. No assessment of this potential effect appears to have been carried out by the appellants or the Council but this would be a material consideration in the determination of the planning application that would be required for any such works.

Other Matters

59. The assessment of the balance between "*perceived harm*" and public benefits in paragraph 6.6 of the Heritage Statement is called into question by the author's misunderstanding of the LP designation of the appeal site. However, my observations are that that the listed building at No. 143 Liverpool Road South is seen and experienced primarily from within its existing residential curtilage and from public vantage points on the A59 and Square Lane. There may historically have been a functional link between the farm house and the appeal site. That link has largely been eroded and the appeal site now makes a very limited contribution to the setting of the listed building.
60. The site layout proposes single storey development in the south east corner of the appeal site and that the nearest dwellings be sited some distance from the listed building, with the intervening area comprising a private garden and landscaping around an access and turning area. Subject to appropriate conditions to prevent the erection of buildings or structures in this buffer area this proposed arrangement would provide for a satisfactory relationship between the new buildings and No. 143. Accordingly, I find that the proposal would not cause material harm to the setting of the listed building or to its significance. In my view the appeal site makes no contribution to the setting of the listed building at No. 172 Liverpool Road South and there would be no adverse effect on its setting or significance.
61. I saw on my site visit that the proposed direct accesses to Plots 121-124 from Meadowbrook could be achieved without any third party land and that the widening of Meadowbrook to enable two cars to wait at the give way line would be possible. However, this improvement would require land outside of the

highway boundary and a separate planning application as it is not within the red line of the appeal proposal.

62. I note the local concerns about flooding but have no evidence to indicate that the proposed drainage systems would either cause flooding or add to any existing problems in this respect.

Planning Obligations

63. I am satisfied that the obligations included in the S106 Agreement with regard to open space areas, sustainable travel and affordable housing are necessary to meet the relevant policy requirements and that these obligations meet the tests in paragraph 204 of the Framework. However, for the reasons already given, I do not attach any weight to the obligations in relation to the Square Lane junction improvements.

The Planning Balance

64. I find that the appeal site is safeguarded in the LP from development until at least 2027 and that its development prior to that date would conflict with Policies SP3 and GN2. Its early release would be contrary to the LP development strategy and undermine the mechanisms for monitoring and managing housing delivery and would conflict with Policy SP1 for these reasons. I also find that the proposal is inconsistent with Policy SP3 by reason of a failure to meet its objectives and requirements for the provision of communal infrastructure to serve the larger Yew Tree Farm development. I do not agree that Policy SP3 provides the flexibility suggested by the appellants or that there is evidence of a likely significant shortfall against the target for the provision of at least 500 dwellings at Yew Tree Farm over the plan period.
65. I note the appellants' reference to the judgment in *R v Rochdale*⁴ but do not consider this proposal to be one which complies with some parts of the development plan and conflicts with other parts. My findings, as set out above, lead me to conclude that the proposal conflicts with the development plan as a whole. In accordance with section 38 (6) of the Planning and Compulsory Purchase Act 2004 planning permission should be refused unless material considerations indicate otherwise.
66. On one side of the balance, those material considerations include the conflict with the SPD and with national policy in section 9 of the Framework. I give substantial weight to the harm resulting from the adverse effect on the development plan strategy; the effect in terms of constraining the Council's ability to meet potential development requirements after 2027 and/or increasing pressure to remove additional land from the Green Belt; and the risk to delivery of the housing approved on the Crompton Land. I attach significant weight to the harm that would be caused to public confidence in the LP and the plan-led system.
67. On the other side of the balance, the provision of additional market housing is a material consideration of significant weight although this housing is not required to meet any identified shortfall in supply. The provision of up to 43 affordable dwellings should also be given significant weight. Although material, these considerations neither outweigh the harm that I have identified nor

⁴ *R v Rochdale* [2001] Env LR 22 at [406]

indicate that the appeal should be determined other than in accordance with the provisions of the development plan.

Conclusion

68. For the reasons set out above and having regard to all matters raised, I conclude that the appeal should be dismissed.

Paul Singleton

INSPECTOR

Richborough Estates

APPEARANCES

FOR THE APPELLANT

Richard Kimblin QC, instructed by Nicholas Lee, NJL Consulting.

He called:

Nicholas Lee BA (Hons) Dip TP MTP MRTPI NJL Consulting

Philip Wooliscroft Croft Transport Solutions

FOR THE COUNCIL

Ian Ponter of Counsel, instructed by Ian Blinkho, Assistant Solicitor, WLBC

He called:

Peter Richards MA MRTPI Strategic Planning Manager, WLBC

INTERESTED PERSONS

Cynthia Derily Local Resident

Brian Bailey Burscough Parish Council

David Crompton Crompton Developments

DOCUMENTS SUBMITTED AT THE INQUIRY

ID1 Consultation response from WLBC Heritage Officer

ID2 Bundle of Plans referred to by Mrs Derily

ID3 CIL Compliance Note

ID4 Bundle of third party responses to consultation on planning application