



---

## Appeal Decision

Inquiry Held on 20, 21, 22 & 23 March 2018

Site visit made on 22 March 2018

**by Sarah Housden BA BPI MRTPI**

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

**Decision date: 01 June 2018**

---

**Appeal Ref: APP/B4215/W/17/3175926**

**Tatton Arms, Boat Lane, Northenden, Manchester M22 4HR**

- 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 Britannia Group against the decision of Manchester City Council.
  - The application Ref 113823/FO/2016, dated 26 August 2016, was refused by notice dated 10 March 2017.
  - The development proposed is 'partial demolition of existing extensions and conversion of former Tatton Arms public house to create 9 No. new residential apartments (C3) and development in its grounds comprising 14 No. new homes (C3) and riverside café (A3) with associated access, parking and landscaping'.
- 

### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The planning application was made in the name of Britannia Group and Grasscroft Ltd but the appeal was made by Britannia Group.
3. On the final day of the Inquiry, the appellant requested more time to submit the completed planning obligation. I agreed to that request and a planning obligation by Unilateral Undertaking pursuant to section 106 (s106) of the Town and Country Planning Act 1990 (the 1990 Act) dated 27 March 2018 (the UU) was submitted on 29 March 2018. Following this, the Council contacted the Planning Inspectorate raising a number of matters relating to the execution and some of the provisions of the UU.
4. I afforded the appellant an opportunity to respond to these points and a revised UU dated 23 May 2018 was submitted on 24 May 2018. I am satisfied that the addition of a witness signature ensures that the UU has now been properly executed in accordance with s106 of the 1990 Act. The Schedule includes an additional provision to clarify the rights of the adjoining occupiers at 20, 22 and 24 Boat Lane to access the parking spaces that form part of the appeal scheme. I shall consider the provisions of the new UU in coming to my decision.
5. The submitted UU would secure maintenance works prior to the commencement of development to make the Tatton Arms (hereafter referred to as the 'TA') rain and weathertight. It would also ensure that the conversion of the building would be completed before the occupation of 5 or more dwellings and that the associated highway works would be completed

before the occupation 3 or more dwellings. The UU contains a further provision referred to by the appellant as a 'counter clause' relating to the construction of the proposed café and one of the dwellings and I deal with this provision later in my decision.

### **Background and Main Issues**

6. The appeal site is within the Manchester Green Belt and Northenden Conservation Area and comprises the former Tatton Arms public house (hereafter referred to as the 'TA') together with its garden, wooded areas and car park.
7. At the start of the Inquiry, it was a matter of common ground between the parties that a five-year supply of deliverable housing land as required by paragraph 47 of the National Planning Policy Framework (the Framework) could not be demonstrated. Conflict with relevant policies for the supply of housing did not form any part of the Council's reasons for refusal and there was no dispute between the parties that some form of enabling development is required to cross fund the refurbishment and retention of the TA.
8. By the end of the Inquiry there was also no dispute between the parties that, taken as a whole, the proposal constitutes inappropriate development in the Green Belt. The Council's case is that the appeal scheme would be harmful to the openness of the Green Belt and two of the purposes of including land within it, to the Mersey Valley Character Area and to heritage assets. The appellant's case is that harm to the Green Belt and heritage assets would be outweighed by the benefits of securing the retention, refurbishment and viable use of the TA along with a number of other additional benefits including the contribution to housing land supply so that very special circumstances exist to justify the proposed development in the Green Belt.
9. I have taken into account the outstanding areas of disagreement between the main parties in framing the main issues in this case which are:
  - Whether or not the proposed development would preserve or enhance the character or appearance of the Northenden Conservation Area having particular regard to the effect on the significance of the Tatton Arms as a non-designated heritage asset;
  - The effect of the proposed development on the openness of the Green Belt and the purposes of including land within it;
  - Whether or not the type and amount of enabling development proposed is justified; and
  - Whether or not any harm arising from inappropriateness and any other harm would be clearly outweighed by other considerations, including any public benefits, so as to amount to the very special circumstances necessary to justify it.

## Reasons

### *Site Context and Proposals*

10. Northenden village is located approximately 6 miles to the south of Manchester city centre. When approaching from the city centre along Palatine Road, the Golf Course to the east, the River Mersey and valley floor and M60 bridge crossing contribute to the physical separation between the urban area of Manchester to the north and Northenden village.
11. The appellant acquired the property in 2007 after it was closed by the brewery which owned and operated the site. The recession resulted in a subsequent refurbishment scheme by a new tenant being abandoned and the partial implementation of that scheme has left the building's interior in a somewhat dilapidated condition. Whilst the appellant's evidence indicates that the building has been marketed for alternative uses since that time, there have been no offers or proposals for an ongoing viable use of the building.
12. The building's condition has deteriorated in the meantime, with the absence of an ongoing use creating a focus for vandalism. Representations indicate many incidences of anti-social behaviour and break-ins. Some measures have been taken by the current owners to secure the site but trespass and vandalism remain an ongoing and significant problem. Notwithstanding these problems, the appellant's Structural Inspection Report concludes that the building is structurally sound whilst identifying the need for various interior and exterior repairs.
13. The appeal scheme incorporates a number of different elements including the retention and conversion of the TA to 9 residential apartments, the erection of a café within the car park and 14 dwellings located to the rear of the building and within the former pub garden, the formalisation of the existing riverside walkway along the site frontage, access improvements to the existing footbridge, revised parking arrangements for adjoining properties and a new footpath to the east side of Boat Lane.

### *Policy Context*

14. Saved Policy DC18 of the Manchester Unitary Development Plan (1995) (UDP) seeks to preserve and enhance the character of conservation areas with reference to a number of criteria against which proposals will be assessed. These include the relationship of new structures to neighbouring buildings and spaces, the effect of major changes to the appearance of buildings and the desirability of retaining existing features such as boundary walls, gardens and trees.
15. The appellant contends that Policy DC18 is out of date by reason of its age and its requirement that proposals should preserve and enhance which the appellant considers to be more onerous than the statutory test to preserve or enhance set out in s72(1) of the Planning, Listed Buildings and Conservation Areas Act 1990. As such, the appellant argues that Policy DC18 is inconsistent with the Framework's approach to sustaining and enhancing the significance of heritage assets. Whilst the Council accepted this point at the Inquiry, Policy DC18 sets out a number of relevant and useful criteria to assess the effect of proposals on conservation areas. Therefore it should still be afforded considerable weight subject to the overall planning balance being

undertaken in a structured way. To the extent that Policy DC18 is inconsistent with the statutory test or national policy, I shall apply the statutory test in my determination of this matter.

16. The Core Strategy Development Plan Document (2012) (CS) also forms part of the development plan for the purposes of this appeal. CS Policy EN1 indicates that new development will be expected to follow the seven principles of urban design and have regard to the strategic character area in which the development is located. CS Policy EN3 states that new development should support the Council in preserving or where possible enhancing the historic environment including conservation areas. CS Policy EN13 indicates that the extent of the Green Belt will be amended in the vicinity of Manchester Airport but no other amendments to the Green Belt are envisaged as part of the CS.
17. Whilst not referred to in the reasons for refusal, the CS also seeks to provide for a significant increase in high quality housing provision at sustainable locations to address demographic needs and support economic growth. CS Policy H7 encourages new high quality and high density development within the district centre of Northenden and on small infill sites where it contributes to the stock of affordable housing and, in the case of development in Wythenshawe, complements its garden city character.
18. The Greater Manchester Spatial Framework (GMSF) is currently under preparation. It is relevant to this appeal in so far as the evidence base includes a Green Belt Assessment which will inform decisions about the location of new development across the area. The appeal site lies within Green Belt area 26 and land parcel MA10.
19. The Northenden Village Local Plan (NVLP) is a non-statutory plan which sets out a 10 – 15 year strategy to guide future interventions in the area. The TA is included within the site specific proposals as Project 2 which seeks to investigate the potential for a pedestrian link along the site frontage to allow for an extension of the Transpennine Trail along the waterfront. The NVLP also seeks ongoing monitoring of the building with the aim of securing a positive future use. As the NVLP is a non-statutory plan, it has limited weight in the determination of this appeal.

*Whether or not the proposed development would preserve or enhance the character or appearance of the Northenden Conservation Area having particular regard to the effect on the significance of the Tatton Arms as a non-designated heritage asset*

20. In the exercise of planning functions, the statutory test set is that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of Conservation Areas. Paragraph 132 of the Framework advises that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting.

### *The Conservation Area*

21. The Northenden Conservation Area Appraisal (NCAA) provides a brief overview of the features which contribute to the character and appearance and thereby the significance of the Conservation Area. The document includes specific reference to the TA as a 'fine example of Edwardian<sup>1</sup> public house architecture on a grand scale and a building which makes a significant visual as well as social contribution to the Conservation Area'. Based on the more detailed evidence provided by both parties it is clear that the significance of the Conservation Area derives from a number of additional elements.
22. These include the historic core of the village around the church of St Wilfrids a Grade II\* listed building, the historic street pattern and the well preserved mix of Georgian, Victorian and Edwardian properties grouped around the church. Boat Lane connects the historic core of the village with the riverside and TA. Significance also derives from the association with historic uses and Ford Lane and Boat Lane allude to the ford and ferry boat crossings which connected Northenden with Manchester before the construction of the river crossing and Palatine Road. Today, the Northenden Riverside Park and Transpennine Trail provide an ongoing connection with recreation activity.
23. Trees are also a distinctive feature of the Conservation Area which contribute to its significance and the NCAA identifies that they make a significant contribution to the enjoyment of the Conservation Area. When viewed from both sides of the river, the trees around the TA's garden area, together with the woodland to the north of Ford Lane on the site of the former Highfield Nurseries, create a sylvan and semi-natural backdrop to the building.

### *The TA*

24. The Council does not maintain a register of non-designated heritage assets with each being considered on a case by case basis. The TA dates from c1874 and was designed in the Tudor Revival style by James Redland. It replaced an earlier 19<sup>th</sup> Century public house called the Boathouse. It is clear from representations made on the planning application, appeal and at the Inquiry that it is held in great affection by the local community.
25. I was able to see the interior of the building at ground and first floors at my site visit. Although much of the original interior and features have been stripped out, some original features remain including the entrance door, staircase to the first floor and timber ceilings of the larger rooms.
26. The pub garden area is immediately to the east of the building and the evidence demonstrates that it was more open in character and appearance when the public house was in use. Notwithstanding its overgrown condition, there is still a clear demarcation between the flatter expanse of the former pub garden and the wooded banks rising to the north-east and south-east. Although somewhat truncated by the pillars underneath the M60 flyover, the building and garden area create a strong presence in longer distance views from the Palatine Road river crossing which 'draws the eye'. It follows that I do not agree with the appellant's assessment that the grounds make little

---

<sup>1</sup> The building actually dates from 1874 the late Victorian era

contribution to the Conservation Area nor that the context of the building is 'utilitarian and unremarkable'.

27. The combination of the grand scale, architectural interest, historic use and riverside setting of the TA contribute to its significance as a non-designated heritage asset. Its spacious and semi-natural setting are an integral part of not only its character and appearance but also that of the wider Conservation Area. The current condition of the building and site detracts from the character and appearance of the Conservation Area, the riverside and area in the immediate vicinity of Boat Lane. However, that effect is relatively localised and does not have a serious adverse impact on the wider Conservation Area including the other features outlined above that contribute to its significance.

#### *The Proposal*

28. By reason of their height and massing and the extent of the site coverage, the 10 dwellings proposed to the east of the TA would have a significant visual impact when viewed from closer and more distant viewpoints identified in the appellant's Landscape and Visual Appraisal (LVA). By reason of the number of dwellings proposed and the layout, the development would encroach into the rising wooded bank in the south-east corner of the site. No cross sections have been provided to show how ground levels would change and the extent of excavation works required and it is likely that substantial retaining walls would be necessary.
29. Notwithstanding that the Council's Arboricultural Officer did not raise objections to the scheme, the loss of trees formed part of the reasons for refusal. The appellant's Arboricultural Report provides a detailed assessment of the condition of the existing trees on the site. 36 of 82 trees would be removed and in addition a further 3 trees along the riverside frontage are recommended for removal (T2, T3 and T7) together with one (T41) off site. Of those to be removed, 11 trees are Category 'B' trees, of moderate quality and amenity value whilst 19 are in Category 'C' which are of low quality and amenity value which reflects their condition as self-seeded and overgrown trees. The remaining 6 are in Category U, of very low quality with little or no amenity value.
30. Replacement tree planting is proposed to mitigate tree removal. However, this planting would be more formal in arrangement and dispersed across the communal parking and landscaped areas. It would not be a substitute for the more natural and informal character of the existing wooded areas around the pub garden. Notwithstanding that the majority of trees to be removed are Category C or U, the proposed development would result in a substantial reduction in the sylvan character and appearance of the site. The loss would be harmful to the character and appearance of the Conservation Area.
31. Furthermore, some of the proposed dwellings would be located to the north of the retained trees. The proximity of the dwellings to retained trees would create overshadowing of their garden areas and loss of light to habitable room windows. Whilst the protection afforded by their location in the Conservation Area would enable the Council to control any future work, I consider it would be difficult to resist an application to cut-back or even remove a tree that was adversely affecting the enjoyment of the property by the occupiers.

32. Paragraph 135 of the Framework states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. A balanced judgement will be required having regard to the scale of any harm or loss of significance of the heritage asset. The TA building itself would retain much of its original character, albeit in a different use. However, the proposed 5 terraced dwellings to the east would be in close proximity to the building albeit set back from the front elevation. The dwelling closest to the river frontage would be set forward of the front elevation, diminishing the prominence and distinctive position of the TA.
33. I conclude in relation to the first main issue in this case that the proposal would fail to preserve the character or appearance of the Northenden Conservation Area. Neither would it enhance the character or the appearance of the Conservation Area. Accordingly, there would be conflict with the statutory test and with CS Policy EN3. This indicates that development should preserve or where possible enhance the historic environment including the character and setting of areas including buildings of acknowledged importance and conservation areas. There would be further conflict with UDP Policy DC18 insofar as it seeks to retain existing features including trees.
34. The impact of the proposal would be relatively localised and in my view the harm to the Conservation Area identified above would be less than substantial. The Framework makes clear in paragraph 134 that where a proposed development would lead to less than substantial harm to the significance of a designated heritage asset, the harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. I return to this balancing exercise later in my decision.

*The effect of the proposed development on the openness of the Green Belt and the purposes of including land within it*

35. The appeal site lies at the south-west edge of the Manchester Green Belt. Notwithstanding the presence of some urbanising features in the wider area, including the raised section of the M60, electricity pylons and engineered flood defences, the wide and flat form of the Mersey river valley contributes to the sense of openness along Northenden riverside. This, together with the extent of tree cover, is one of the key characteristics of the Mersey Valley Character Area (MVCA) within which the site is located. The appeal site is viewed from a number of public vantage points including the riverside walks on the north and south banks of the River Mersey and from the roads and footways adjoining the site.
36. The appellant's LVA concludes that the key aspect of openness in the Green Belt would generally be unaffected beyond the immediate boundaries of the proposed development. It is also contended that the appeal site does not have an open character that contributes significantly to the openness of the Green Belt in this location and that the site has a limited and localised function in relation to openness.
37. The areas of car parking and hard surfacing to the north of the building contrast with the green aspect of the garden area created by the trees on the common boundary between the garden and river frontage and more densely wooded areas along the north-east and south-east boundaries of the site. However, the existence of trees and vegetation does not diminish the

- openness of the Green Belt and the car park and garden comprise undeveloped space around the building which contribute to the openness of the Green Belt.
38. My conclusion is that, when viewed from the riverside footpaths on the north and south banks of the River Mersey and from more distant viewpoints in the LVA the TA's isolated position set against the backdrop of trees and other vegetation to the side and rear of the building creates a sense of spaciousness which makes a significant contribution to the openness of the Green Belt.
  39. The TA conversion would be accommodated within the fabric of the building following the removal of two rear extensions and a flat roof toilet block to the side. The proposed 4 mews cottages to the rear would occupy the footprint of the existing rear extensions, which were confirmed at the Inquiry to be later additions to the TA. They would be located between the TA and the former Boat House to the south which has been converted to 3 dwellings. As such, they would be seen in the context of existing residential development to the east of Boat Lane. The conversion of the TA building and the 4 proposed mews cottages would have a neutral effect on the openness of the Green Belt.
  40. The 10 dwellings proposed to the east of the TA would occupy an area where there are no existing buildings. Whilst the café would be single storey and would be sited within the existing car park area, it would also be a new building on the site. The development would result in a moderate loss of openness within the Green Belt and the MVCA over and above the existing development on the site.
  41. The reasons for refusal did not include harm to Green Belt purposes. However, with reference to the GMSF Green Belt Assessment, the Council's position at the Inquiry was that the appeal site fulfils two of the five Green Belt purposes - checking unrestricted urban sprawl and preserving the setting and special character of Northenden.
  42. The appellant's report 'Green Belt Assessment: Tatton Arms' assesses the contribution of the appeal site in relation to the five Green Belt purposes set out at paragraph 80 of the Framework. It represents a more fine grained analysis compared with the broader assessment carried out for the GMSF and concludes that the appeal site performs a weak function in relation to purposes 1 to 4 but a strong function in relation to assisting in urban regeneration. I concur with the appellant's conclusion that the M60 and River Mersey form strong linear features which play a stronger role in checking the unrestricted sprawl of Northenden than the appeal site.
  43. Northenden is not a 'historic town' as referenced in paragraph 80 of the Framework and the site cannot, therefore contribute to this purpose of Green Belt designation.
  44. My conclusion in relation to the second main issue in this case is that the appeal scheme would result in a moderate reduction in the openness of the Green Belt, contrary to one of the essential Green Belt characteristics set out in paragraph 79 of the Framework. However, the purposes of including land within the Green Belt would not be undermined. There would also be a moderate loss of openness to the MVCA. For these reasons there would be conflict with CS Policies EN1 and EN13.



45. Having regard to paragraph 88 of the Framework, I afford substantial weight to the harm arising from both inappropriateness and loss of openness. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. Before considering whether very special circumstances exist, it is necessary to consider whether there is any other harm. It is then necessary to balance other considerations against the totality of that harm.

*Whether or not the type and amount of enabling development proposed is justified*

46. Paragraph 140 of the Framework indicates that local planning authorities should assess whether the benefits of a proposal for enabling development (which would otherwise conflict with planning policies but would secure the future conservation of a heritage asset) outweigh the disbenefits of departing from those policies.
47. Historic England guidance<sup>2</sup> (the 'HE guidance') defines enabling development as 'development that would be unacceptable in planning terms but for the fact that it would bring public benefits sufficient to justify it being carried out and which could not otherwise be achieved'. It indicates that the case for enabling development rests on there being a 'conservation deficit' - where the existing value of a building (often £0) plus development costs exceeds its value after conversion. The Policy sets out a number of criteria to assess proposals for enabling development including that it is demonstrated that the amount of enabling development is the minimum necessary to secure the future of the place and that its form minimises harm to other public interests.
48. Although the TA was formerly in commercial use, a residential use has not been contested by the Council. I concur that this would represent the optimum use for the site having regard to its location within a residential area. The appellant's evidence indicates that the conversion of the TA building to 9 apartments as a 'stand-alone' scheme would result in a conservation deficit. It was a matter of common ground between the parties that some enabling development is required to cross fund the refurbishment and retention of the TA.
49. The Council's reasons for refusal do not specifically refer to the extent of the enabling development proposed nor to the viability of the proposed development. Nevertheless, the Council produced evidence on this matter at the Inquiry together with an expert witness and it was necessary for the appellant to respond to the Council's evidence with a number of additional reports submitted in the run up to and during the Inquiry.
50. CS Policy H8 would normally require 30% of all residential units to be affordable. However, the appellant's Supplementary Residential Viability and Conservation Deficit Appraisal (September 2017) (SRVCDA) demonstrates that providing affordable housing in accordance with CS Policy H8 would only increase any conservation deficit. The Council has not pursued the provision of affordable housing as part of the proposed development.
51. The appellant's SRVCDA concluded that the proposed enabling development of 14 new units within the grounds of the TA is the minimum quantum of

---

<sup>2</sup> Enabling Development and the Conservation of Significant Places English Heritage (now Historic England) (2008) (revised 2012)

development required to bridge the conservation deficit that arises out of bringing the TA building back into use. A number of updated appraisals were provided with the appellant's Proof of Evidence to update variables including those relating building costs and sales values.

52. The SoCGs on viability submitted during the Inquiry helpfully narrowed the areas of dispute between the parties in relation to the inputs and assumptions used in their respective viability appraisals. The remaining area of dispute remained the level of developer profit that would be necessary to provide an incentive for the appellant to take the scheme forward. Normal expectations for developer profit may be somewhat tempered by the specific circumstances of this site, in particular the imperative for the appellant who owns the site to relieve the financial burden of the building and secure an alternative use.
53. The common industry practice for residential development is to benchmark profit as a % of Gross Development Value (GDV) and that approach was not disputed by the parties by the end of the Inquiry. However, the appellant maintained that the development industry would normally seek a profit of 20% on GDV. In support of that point I was referred to the draft Planning Practice Guidance published for consultation which outlines that 20% on GDV is a suitable starting point for assessing viability. However, that is a consultation document and as it could be subject to further change I afford it little weight in this decision.
54. The HE Guidance which is specifically related to enabling development indicates that 'as a very rough guide, in today's market, a pure entrepreneurial residential developer will look for an overall return on costs of between 15% and 20%'. The relevance of those figures was disputed by the appellant because of the age of the HE Guidance. However, with reference to examples of other development schemes in the city including the 'Camperlands' development to the west of the appeal site, the Council considered that acceptable levels of profitability fall within the range of 15 - 20% (either on cost or GDV).
55. The appellant's expected profit of 20% is at the higher end of the range. The sensitivity analysis (ID4) indicates that the appeal scheme returns a profit of 17.6% on Gross Development Value (GDV). However, it also demonstrates that a reduced scheme omitting the café and one detached dwelling would also deliver a broadly similar profit of 17.38% on GDV.
56. The viability appraisal process is not an exact science. In reality, the level of profit that would ensure a competitive return will be influenced by a wide range of factors including the prevailing market conditions. The developer profit that would be produced by the appeal scheme would be within a normal range. Whilst there are some risks associated with the conversion of the TA building in the form of unexpected costs which could justify a higher level of profit being sought, the site is in a strong market area and attractive location where sales could be anticipated to be strong and the development a less risky proposition.
57. The evidence before me indicates that a reduced scheme would deliver a level of developer profit within the range set out in the HE Guidance. Based on this, the scale of enabling development proposed is not the minimum necessary to bridge the conservation deficit and secure an optimum viable use for the site. Accordingly, my conclusion in relation to the third main issue in

this case is that the scale of enabling development proposed is not fully justified.

*Section 106 Unilateral Undertaking*

58. I have assessed the submitted UU against the statutory and policy tests set out in the CIL Regulations and paragraph 204 of the Framework. The UU contains a 'blue pencil' clause which would effectively negate any of the obligations if I were to reach the conclusion that it was incompatible with the tests set out in the Framework and the CIL Regulations.
59. The submission and implementation of a schedule of works to render the roof and exterior of the TA rain and weathertight is necessary and reasonable to improve its condition and security in the short term. Similarly, the provision to secure the conversion of the building in accordance with the submitted plans before the occupation of no more than 5 dwellings would be necessary to secure its long term future and would be reasonable. These aspects would be necessary to comply with CS Policy EN3.
60. The provision of a new footpath along the east side of Mill Lane/Boat Lane is supported by CS Policies SP1, T1, T2, H1 and DM1 and would be necessary to improve pedestrian safety and accessibility of the site. The formalisation of the existing 'informal' access over the site frontage is necessary to establish a formal Public Right of Way and in accordance with the aforementioned CS policies. The provision of a level access would ensure that all residents would be able to access the footbridge and is reasonably related in scale and kind to the development.
61. The existing parking spaces serving 20 – 24 Boat Lane would be occupied by one of the proposed mews dwellings to the rear of the TA. The UU makes provision for the occupiers of those properties to be granted rights for easements for utility services and access to the new parking spaces within the TA site. Whilst this has been included to clarify one of the Council's points of concern, it is not necessary to make the development acceptable in planning terms.
62. The provisions of the Schedule relating to the riverside café provide a mechanism so that the café and the detached dwelling closest to the river would not be built unless a counter notice is served by the Council. At the Inquiry, the Council outlined its concerns that such a scheme has not been subject to public consultation and scrutiny and nor are there any plans that would clarify the proposals for the areas that would not be occupied by the café and dwelling.
63. The proposal before me as part of this appeal is for 23 dwellings and a riverside café. No other scheme has been put forward for consideration as part of the appeal. Furthermore, the UU would effectively transfer any final decision on the erection of the café and fifth dwelling to the Council and out of my jurisdiction, creating uncertainty about the outcome of this appeal.
64. The undertakings relating to the rights to be created for adjoining occupiers and the riverside café and fifth dwelling do not meet the tests set out in the CIL Regulations and the Framework and cannot be taken into account in the planning balance.

*Whether or not any harm arising from inappropriateness and any other harm would be clearly outweighed by other considerations, including any public benefits, so as to amount to the very special circumstances necessary to justify it.*

*Public benefits*

65. The site would be in a sustainable location and would provide 23 additional market dwellings comprising a mix of properties including apartments and larger family houses. The contribution to boosting the supply of housing in an area where the Council cannot demonstrate a five year housing land supply is of significant benefit. However the weight in favour of this aspect is tempered by the absence of affordable housing provision.
66. The economic benefits of the development would include the jobs created during construction and ongoing maintenance of the apartment building and external landscaped areas. Spending by new residents would be likely to benefit local businesses and services, contributing to the vitality and viability of the village. The café would also support local jobs and would be likely to encourage more visitors to the riverside area, boosting spending in the local economy.
67. The proposal would enable the current informal access arrangements across the site frontage to be formalised and contribute to the development of the Transpennine Trail. Improvements to provide a level access the footbridge by replacing the existing steps with a ramp would be of benefit to the wider community and would contribute to the objectives of the NVLP.
68. The provision of a footway to the east side of Boat Lane which would be secured through the UU would be of benefit to the wider community. The improvements to the parking arrangements for the occupiers of Nos 20 - 24 Boat Lane are essentially a private benefit and are a neutral factor in the overall planning balance.
69. The NVLP whilst seeking to enhance the riverside as a visitor destination does not make specific reference to the provision of a café. It would be detached from the main commercial uses in Northenden District Centre and in close proximity to residential dwellings. Such matters as hours of use, deliveries and bin arrangements could be controlled by means of planning conditions. However, on balance I consider that the public benefits of the café proposal would be limited to the economic contribution outlined above and I afford it limited weight as a public benefit of the proposal.

*Heritage balance*

70. The TA clearly needs urgent repair works and a beneficial use to secure its long-term future, and the proposed development represents a viable use for the site. The proposal would prevent the further deterioration of the TA and would address the problems of vandalism, trespass, and anti-social behaviour which currently exist. There would be benefits from regenerating a derelict site which currently detracts from the character and appearance of the Conservation Area.
71. Whilst the scheme and UU would secure the retention and repair of the TA there would be material harm arising from the scale of development in its grounds and the loss of trees would result in a diminution of its sylvan and semi-natural character and appearance. Mitigation planting would not

compensate for the loss of sylvan character which contributes to the significance of the Northenden Conservation Area.

72. In summary, the heritage benefits from securing the long term future of the TA would be significant. However, based on the evidence before me I have concluded that the amount of new development proposed, including the café, is not the minimum necessary to bridge the conservation deficit and secure an optimum viable use of the site. Whilst the UU purports to address this situation, for the reasons outlined above I have found its provisions relating to the café and fifth dwelling do not meet the tests set out in the CIL Regulations and the Framework and cannot be taken into account.
73. I have found that the scale of development proposed would not represent the minimum to offset the conservation deficit and would cause material harm to the character and appearance and the significance of the TA as a non-designated heritage asset and would fail to preserve or enhance the character or appearance of the Northenden Conservation Area. There would be conflict with CS Policies EN1 and EN3 and UDP Policy DC18. Considerable importance and weight attaches to the harm that would be caused to designated heritage assets.
74. Taking all of these matters into account I conclude that the heritage harm that I have identified would outweigh the public benefits in support of the scheme. As such, the proposal would conflict with paragraph 134 of the Framework, CS Policy EN3 and UDP DC18. Having regard to paragraph 140 of the Framework, the benefits of securing the future conservation of the TA would not outweigh the disbenefits of departing from the policies in the development plan.

#### *Green Belt balance*

75. The appeal scheme is inappropriate development in the Green Belt and I give substantial weight to the harm by definition, that this would cause. There would be a moderate loss of openness within the Green Belt and MVCA over and above the existing development on the site.
76. On balance, my conclusion is that none of these other considerations including the public benefits arising from the social, economic and environmental aspects of the proposal set out above is sufficient to clearly outweigh the substantial harm arising from the combination of inappropriateness, moderate loss of openness and the heritage harm identified. It follows that very special circumstances have not been demonstrated.

#### **Other Matters**

77. I acknowledge that there have been a substantial number of representations in support of the development including from Northenden Civic Society and the Neighbourhood Forum. The appellant has clearly sought to engage with the local community in developing the proposals for the site.
78. However, a number of residents raise objections and concerns including that the proposal would constitute overdevelopment, the impact on biodiversity, the effect on the living conditions of adjoining occupiers including those on Mill Lane and at the Riverside Caravan Park, the potential for the café to be a focus for anti-social behaviour, the lack of affordable housing, school capacity and access for emergency vehicles.

79. Some of these matters are dealt with in my reasoning above. Having regard to the advice from statutory consultees provided to the Council, I am satisfied that matters including the impact on the local highway network, the effect on biodiversity and managing flood risk could be satisfactorily addressed through the use of conditions. However, as the appeal is being dismissed for other reasons I make no further comments on these matters.
80. I have also had regard to the riverside development underway at the former Camperlands site to the west of the appeal site and the completed dwellings at Michael's Close. However, as they are outside the Conservation Area, the circumstances of those sites are not comparable with the appeal site and I have determined this appeal based on the circumstances of the site and the evidence before me.

### **Overall Planning Balance**

81. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the development plan, unless material considerations indicate otherwise. It is necessary to consider the weight to attach to the policies of the development plan and whether the proposal accords with the development plan taken as a whole.
82. Because of the five year housing land supply position it is common ground between the parties that the appeal must be considered in the context of the presumption in favour of sustainable development set out in Paragraph 14 of the Framework which contains two alternative limbs for decision taking.
83. The first limb requires a balance to be undertaken where permission should be granted unless the adverse impacts significantly and demonstrably outweigh the benefits when assessed against the Framework as a whole. The second limb indicates that the presumption should not be applied if specific policies including those relating to Green Belt and heritage assets indicate that development should be restricted. Given my conclusions in relation to heritage assets and the Green Belt the presumption does not apply and it is necessary to balance benefits and harms in an ordinary planning balance.
84. I have concluded that very special circumstances have not been demonstrated. Accordingly neither this nor any of the other matters outlined above amount to material considerations which would outweigh the conflict with the provisions of the Framework and the policies in the development plan when read as a whole. In these circumstances, there are no material considerations to justify making a decision other than in accordance with the development plan.
85. Having had regard to all other matters raised, I conclude that the appeal should be dismissed.

*Sarah Housden*

INSPECTOR

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Ian Ponter

Of Counsel

He called

Paul Mason  
BA Arch, Dip Arch, RIBA,  
IHBC

Group Manager, Urban Design and Conservation

Lorrain Horne  
BSc (Hons), MRICS

Development Surveyor

Jennifer Connor  
BA (Hons), Dip TP

Principal Officer (Development Management)

### FOR THE APPELLANT:

Paul Tucker QC  
Anthony Gill

Of Counsel

They called

Gregory Beale  
MSc, BA (Hons) Dip TP  
IHBC, MRTPI

Director, Planning Heritage Ltd

Michael Coulter  
BSc (Hons), MSc, MCIOB

Grasscroft Development Solutions

Bill Davidson  
BA (Hons), Dip TP,  
Dip UD, MRTPI

P4 Planning Ltd

### INTERESTED PERSONS:

Graham Pheby

Jean Davies

Andrew Leach

Ann Taylor

Janet Breeze

Councillor Mary Monaghan

Tracy Summerell

#### DOCUMENTS SUBMITTED AT THE INQUIRY

1. Statement of Common Ground dated 20 March 2018
2. Statement of Common Ground Relating to Viability dated 19 March 2018
3. Supplemental Statement relating to the SOCG on Viability dated 20 March 2018
4. Tatton Arms Sensitivity Analysis
5. Notes on Communication between Manchester City Council & Grasscroft Development Solutions in Relation to Viability March 2018
6. Opening Submissions on behalf of the Appellant
7. Opening Submissions on behalf of the Council
8. Various historic photographs of the site and riverside
9. Sustrans Transpennine Trail Route Map
10. Map showing designated footpath, Transpennine Trail and Intended Right of Way
11. Notes on Mothballing and Heritage Funding submitted by the Appellant.
12. Royal Institute of Chartered Surveyors 'Financial Viability in Planning' document (2012)
13. Set of application plans in colour at A3 size
14. Closing Submissions on behalf of Manchester City Council
15. Closing Submissions on behalf of the Appellant

#### DOCUMENTS SUBMITTED AFTER THE INQUIRY

16. Unilateral Undertaking dated 27 March 2018
17. Unilateral Undertaking dated 23 May 2018