

Appeal Decision

Inquiry held on 23 – 25 May 2017

Site visit made on 25 May 2017

by Helen Hockenhull BA(Hons) B.PI MRTPI

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

Decision date: 13 July 2017

Appeal Ref: APP/V4250/W/16/3161656

Land East of Rectory Farm, Rectory Lane, Standish, Wigan WN6 0XD

- 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 HIMOR (Land) Ltd against Wigan Metropolitan Borough Council.
 - The application Ref A/15/81740/OUTMES, is dated 4 December 2015.
 - The development proposed is residential development.
-

Decision

1. The appeal is allowed and planning permission is granted for residential development on Land East of Rectory Farm, Rectory Lane, Standish, Wigan WN6 0XD in accordance with the terms of the application, Ref A/15/81740/OUTMES, dated 4 December 2015, subject to the conditions in the attached schedule.

Application for costs

2. At the Inquiry an application for costs was made by HIMOR (Land) Ltd against Wigan Metropolitan Borough Council. This application is the subject of a separate Decision.

Procedural Matters

3. The appeal was made because of the Council's failure to determine the planning application within the prescribed period. The Council have advised that if they had determined the application they would have refused it on the grounds that the proposal would increase the number of homes to 1532 within the broad location for new development in Standish, which is significantly in excess of the approximately 1000 homes set in Policy SP4 of the Wigan Local Plan Core Strategy (CS). This is contrary to the spatial distribution of development planned in the borough, as set out in Policy SP1, and would therefore harmfully undermine the delivery of the spatial strategy. On this basis and given that there are insufficient material considerations in support of the planning application to override the identified policy harm, the proposed development is unacceptable and should be refused.
 4. The application was submitted in outline with only the matter of access to be determined at this stage. Matters of appearance, landscaping, layout and scale were all reserved for future determination and I have dealt with the appeal on
-

this basis. The application proposes residential development of up to 128 dwellings.

5. A Statement of Common Ground (SoCG) dated 28 April 2017 was submitted before the Inquiry. In addition a further SoCG dated 25 May 2017 with regard to Five Year Housing Land Supply was submitted at the event.
6. The appellant submitted an Environmental Statement (ES) with the application. I have had regard to the relevant environmental information included in the ES in making my decision.
7. A unilateral undertaking under Section 106 of the Town and Country Planning Act 1990 dated 25 May 2017 signed by the appellant was submitted at the Inquiry. This makes provision for financial contributions towards primary and secondary education, public open space, affordable housing, travel plan monitoring and highways improvements.

Main Issue

8. The main issue in this case is the effect of the development on the spatial strategy of the borough.
9. At the Inquiry I identified a further main issue, whether the site is a suitable location for development in terms of its accessibility to local services and facilities. However in light of what I have heard at the Inquiry I consider this is not a main issue but rather it forms part of the consideration of the spatial strategy and I will address it as part of my consideration of this issue.
10. Both parties accept that a five year housing land supply cannot be demonstrated in Wigan. However there is dispute on the extent of the under supply. Before I turn to the main issue I shall deal with this matter.

Reasons

Housing Land Supply

11. In the Housing SoCG it is agreed that the base date for the assessment of housing supply is 1 April 2016 and that the five year supply period is 1 April 2016 to 31 March 2021. The base annual housing requirement is 1000 dwellings and the five year requirement is therefore 5000 dwellings. A demolition allowance of 50 dwellings per year is added. The accumulated undersupply accrued since 2011 is 2501 dwellings and it is agreed that this should be addressed over the five year supply period in line with the Sedgefield approach. It is also common ground that having regard to persistent past undersupply, a 20% buffer must be applied. This results in an annual requirement of 1860 dwellings.
12. There are a number of sites in the Council's 5 year housing land supply that the appellant considers will not come forward in that timeframe. These were considered in detail at the Inquiry during a round table discussion. Some concessions were made by both parties. The final position of the Council is that a 5 year supply of 7288 dwellings, ie.3.92 years can be demonstrated. In contrast the appellant considers the supply amounts to 6300 dwellings, a 3.39 years supply.

13. The sites in dispute include sites under construction, sites with outline planning permission, sites the subject of a current planning application and sites without permission. I have assessed the respective sites' deliverability in light of the guidance in the National Planning Policy Framework¹ (the Framework) which states that to be considered deliverable, there should be a realistic prospect that sites will be delivered within five years. The appellant argued at the Inquiry that the burden of proof in showing whether or not a site was deliverable rested with the local planning authority. This approach however is not supported by the Framework. Furthermore the Council brought my attention to the judgment of Ouseley J. in *St Modwen Developments Ltd V SSCLG* [2016]² where it was concluded that the assessment of housing land supply does not require certainty that the housing sites will be delivered. Moreover the judgement held that considerations of specific burdens of proof on specific aspects are wholly inappropriate for evaluative planning decisions of this nature.
14. I do not intend to go through each site in turn rather I will comment on the sites where I consider the Council's position is overly optimistic. With regard to the two sites under construction, clearly they will both make a contribution to the 5 year supply however I consider that in the case of Site Ref B01 Ag Barr Factory, Atherton, the delivery rate of 58 dwellings per annum(dpa) suggested by the developer is too optimistic. Whilst I acknowledge that the site includes both detached dwellings and extra care apartments, so that delivery rates will be higher, I consider that the delivery should reflect the past record on this site of 50 dpa. I therefore reduce the sites contribution to the 5 year supply by 32 units.
15. In respect of sites with outline planning permission, I consider that the lead-in time assumed for the Landgate, Ashton site (Site Ref D01) is optimistic. Whilst there is developer interest they have not yet acquired the site and there would be significant infrastructure to be put in place. I consider that the site is likely to provide completions in the last year of the supply period only. Bearing in mind the developer's suggested delivery rate of 39 dpa, I deduct 13 dwellings from the supply. On the Garrett Hall site (Site Ref D18) the Council suggests that 286 dwellings could be provided in the 5 year supply period. There are two developers involved. The developer with the largest interest in the site suggests a delivery of 200 units by 2021 which I consider to be overly optimistic bearing in mind the need to seek reserved matters permission and the likely lead in time before development will commence. My view is that the site could provide 186 dwellings over the supply period and therefore I deduct 96 units.
16. Turning to developments the subject of current planning applications, many of these sites are small scale. I have been provided with no evidence that they will not deliver and contribute to the 5 year housing land supply. However in respect of the largest development in this category, 162 dwellings at Nel Pan Lane (Site Ref E17), there are a number of issues to resolve before development can commence, including the uncertainty of the Homes and Community Agency involvement in the site and the provision of infrastructure. I therefore consider a start in 2018/19 to be unlikely. The site could start to deliver in 2020/2021 and applying the rate of delivery

¹ Paragraph 47 footnote 11

² *Ouseley J. in St Modwen Developments Ltd V SSCLG* [2016] EWHC 968 (Admin)

suggested by the Council's Strategic Housing Land Availability Assessment (SHLAA), ie 25 dpa, I consider the site could deliver 25 units. I therefore reduce the site's contribution to the supply by 100 dwellings.

17. A number of sites included in the 5 year supply are sites identified in the SHLAA but which do not have planning permission. Again many of these sites are small scale and on the evidence before me I see nothing to suggest that there would not be a realistic prospect that they would deliver dwellings before the end of the supply period in March 2021. However there are 2 sites where I consider that the anticipated supply would be unlikely to come forward.
18. Firstly the South of Atherton site (Site Ref F03) is estimated by the Council to deliver 100 dwellings in the supply period. The site has yet to be marketed and planning permission must be obtained which will take time. Based on the Council's estimated lead-in times for sites without planning permission, I consider that the agent is being too optimistic and completions would be likely to be delivered from 2020/21, the last year of the supply period. Assuming 2 developers, the site could provide 50 dwellings. Therefore I reduce the Council's anticipated delivery on this site by 50 dwellings.
19. Secondly in respect to Site Ref F10, the Hindley Learning Centre, the Council suggests the site will deliver 45 dwellings in the supply period. Again bearing in mind the likely lead-in time to bring on board a developer and gain planning permission, I consider the start date anticipated of the last quarter of 2017 to be overly ambitious. Having regard to the lead-in times suggested by the SHLAA I would suggest a delivery in the last year of the supply period of 25 dwellings. Accordingly I deduct 20 dwellings from the supply.
20. In light of the above I deduct a total of 311 dwellings from the 5 year housing land supply put forward by the Council, resulting in a supply figure of 6977 dwellings. My assessment suggests that the supply is likely to be in the region of 3.7 years.

Consequence of Housing Land Supply Position

21. It is accepted by both parties that a 5 year supply of housing land cannot be demonstrated. Therefore in accordance with paragraph 49 of the Framework policies for the supply of housing cannot be considered to be up-to-date. Accordingly paragraph 14 of the Framework is engaged.
22. Policy SD1 of the CS states a presumption in favour of sustainable development. The appellant's interpretation of this policy is such that where CS policies are out of date; permission is to be granted unless adverse impacts of granting planning permission significantly or demonstrably outweigh the benefits assessed against the policies of the Framework taken as a whole. The appellant argues that in these circumstances this implies that the tilted balance is to apply, assessing proposals against the policies of the Framework only.
23. However looking at the background to Policy SD1, the CS Examination Inspector's report in paragraph 30 states that a specific policy setting out a clear presumption in favour of sustainable development would ensure that it is fully consistent with the Framework. This suggests to me that the inclusion of Policy SD1 was simply to reflect the Framework's presumption in favour of

sustainable development. There is no suggestion in his report that this policy should be interpreted in the way now suggested by the appellant. If a decision maker were to follow this approach, it would mean that the policies of the CS, which have been carefully prepared and considered in order to guide development in the borough, would effectively be ignored. It also runs contrary to a finding in the Richborough³ judgment that the Framework is no more than guidance and as such a material consideration. It cannot and does not purport to displace the primacy given by statute and policy to the statutory development plan. I therefore do not accept the appellant's interpretation of this policy.

Spatial Strategy

24. Policy SP1 of the CS sets out the spatial strategy for Wigan. It provides that development will be directed primarily to the east west core (EWC) of the borough in order to achieve transformational regeneration and create attractive places for people to live and businesses to locate and thrive. It goes on to say that in the north of the borough a broad location for development is identified in Standish. The explanatory text refers to a limited amount of new housing at Standish to expand the range and choice of sites available for new housing whilst bringing flexibility in the supply of land to meet the borough's housing needs.
25. Policy SP4 identifies areas of safeguarded land as broad locations for new development, including land at Standish. The Policy states that specific sites will be allocated in a subsequent plan though recognises that development may be permitted in advance of allocations in order to contribute to the supply of housing land in the short term. In respect of Standish the policy makes provision for around 1000 dwellings on safeguarded sites up to 2026. The policy states that allocations and specific proposals would need to take account of three criteria; the capacity of infrastructure, the ability to integrate the development with the local community and the ability to deliver the development including addressing site constraints and provision of the physical and green infrastructure.
26. Policy CP6 of the CS relates to housing provision. This policy amongst other things provides that at least 80% of new housing shall be focused in the east west core of the borough.
27. The Council in their proof of evidence argued that the development was in conflict with Policy SP1 as it proposed further housing outside the EWC. However on cross examination the Council conceded that there was indeed no conflict with the wording of this policy. Nevertheless the Council argued that this policy is part of a suite of CS policies setting down the spatial strategy for the borough. In this context the Council maintained the view that the development would undermine the strategy of primarily focusing development in the EWC. It appears to me that the appeal site clearly lies within the broad location of development identified in the CS key diagram. Accordingly the proposal does not conflict with the provisions of this policy. The Council in cross examination were unable to clearly explain their view and I have no evidence before me to suggest that the proposal offends this policy.

³ Richborough Estates Partnership LLP v Cheshire East Borough Council [2015] EWHC410 (Admin) paragraph 21.

28. In terms of Policy SP4 the development is proposed on safeguarded land within the broad location and in that regard complies with the policy. In respect to the three criteria of the policy, whilst the Council tried to suggest in cross examination that there was some conflict here, it was ultimately agreed that the proposal complied with each of these. However turning to the approximately 1000 dwelling threshold, this has already been exceeded and the appeal proposal would bring this figure up to 1532 dwellings. In this regard it is common ground that the appeal scheme would conflict with this part of the Policy.
29. Conflict with CS Policy CP6 is not referred to in the Council's suggested reason for refusal or in their evidence. This was confirmed to be the case by the Council in cross examination. I have no reason to disagree.
30. The Council has drawn parallels between the appeal case and an appeal at Martock⁴. Here the Inspector considered the harm to the spatial strategy of allowing a development in excess of the specified number in the adopted local plan. He concluded that the proposed development would result in serious distortion of the carefully considered spatial strategy which would lead to harmful consequences with social, economic and environmental disadvantages, eg excessive commuting. Whilst there are similarities between the Martock appeal and this appeal case in terms of the policy issues raised, there are also differences. Martock is a small town classified as a Rural Centre in the South Somerset Local Plan in a largely rural area whereas Standish is a settlement in the metropolitan borough of Wigan designated as a broad location for development. Accordingly the two cases are not comparable. I consider that the appeal case should be considered on its own merits having regard to the issues raised and the evidence presented.
31. In order to understand the background to the figure of approximately 1000 it is necessary to look at the CS Inspector's report⁵. The Inspector was concerned that there would be a shortfall of housing land in the early years of the plan period and that there would not be a 5 year supply of deliverable housing land from the outset. He stated that the scale of housing at Standish and the broad locations at Golborne and Lowton needed to be sufficient to address this issue. Taking account of the likely capacity of sites and rates of development he considered that a figure of approximately 1000 dwellings would give a realistic prospect of more than one site and multiple sales outlets coming forward and the required rate of development being achieved.
32. The appellant suggests that had the Inspector been presented with evidence that more than 1000 houses were needed to maintain a supply of housing in the short term that he would have recommended a larger figure. Clearly the Inspector thought that based on the evidence before him, the figure of approximately 1000 houses would be enough to maintain a supply in the short term. However this has proved not to be the case. The Inspector was aware that the broad allocations had capacity in excess of the 1000 figure⁶. This is why he required the provision of the 3 criteria to ensure that development reflected the scale and form of the development and took account of local infrastructure, integration with the local community and the ability to deliver having regard to site constraints.

⁴ Appeal Reference APP/R3325/W/15/3131336 Land North of Lavers Oak, Stapleton Road, Martock, Somerset

⁵ Core Strategy Inspectors Report 15 August 2013, Page 22 Paragraphs 99-101

⁶ Core Strategy Inspectors Report 15 August 2013, Page 23 Paragraph 105

33. The Inspector assumed that 7% of new housing would come from the Standish broad location whilst 82% would come from the EWC. Policy CP6 makes reference to at least 80% of new housing from the core area. The Council have confirmed that even with the approval of the appeal scheme, the figure of 80% would not be breached, albeit it would be close. Accordingly there is common ground that the proposal does not conflict with Policy CP6.
34. In focussing development in the EWC the CS Inspector recognised that this ensures development is well related to local facilities and transport links. Standish has no rail station and the appeal site has only an hourly public transport service though other more frequent services can be accessed from within the village. The Council comments that as a result it is not surprising that Standish has higher than average commuting levels by unsustainable modes. The Council has provided Greater Manchester Accessibility Level (GMAL) data to demonstrate that the EWC has stronger public transport links than Standish. Whilst I have taken this into account, I am mindful that the CS Inspector considered Standish to form a sustainable location for development, identifying it as a broad location.
35. In light of the above, I conclude that the appeal scheme would not cause harm to the spatial strategy of primarily focussing development in the EWC with at least 80% of new development being focussed in this location.

Effect on the delivery of development and supply in the Standish broad location.

36. The CS Inspector concluded that 150 homes per annum were deliverable in Standish. This is reflected in the trajectory at Table 9.3 of the CS. The Council argue that the approval of the appeal site would not lead to an increase in delivery. It would add to the considerable bank of permissions in the area, increase competition and saturate the market.
37. With regard to the delivery of houses in Standish, the SHLAA includes 1315 homes in Standish in the 5 year supply which amounts to 263 dwellings per year. This is greater than the Core Strategy Inspector's assumptions. The Council in evidence provided a table of approved sites in Standish⁷. This illustrates that in the region of 81 homes have been delivered in Standish between 2015/16 and 2016/17. The Council suggests this illustrates the low delivery rates in the village. However the sites currently under construction appear to be delivering completions ahead of the SHLAA timetable. This suggests that delivery is progressing at a reasonable pace.
38. The appellant has also commented that delivery has been delayed on many sites due to the considerable length of time it has and is taking to gain planning permission from the Council. This was evident from the round table discussion on sites in the 5 year supply. However it appears from the evidence before me that once sites commence they achieve a good rate of delivery.
39. At the Inquiry reference was made to a housing trajectory provided by consultants Nathaniel Lichfield at a joint Inquiry for two developments of land in Standish adjacent to Lurdin Lane and south of Rectory Lane⁸ in 2015. This suggested a delivery rate much higher than has been experienced to date in

⁷ Mr Kearsley Proof Figure 2 page 22.

⁸ Appeal Refs APP/V4250/W/15/3003142 and APP/V4250/W/14/3001130

Standish. However this trajectory was an estimate based on the information available at that time. Sites may have come forward slower than was expected, but many are now progressing and delivering new homes.

40. There is no evidence before me that if the appeal were to succeed the site would not be built out and contribute to the 5 year supply. The developer on the neighbouring site is delivering completions faster than the SHLAAA delivery expectations. The majority of this site could be completed before April 2021. As the two sites are inter linked by the proposed access it may well be the case that the same developer would take on the appeal site and continue to deliver houses at a similar rate.
41. In terms of the saturation of the market, I accept that there are a number of sites under construction in the Standish area which I observed on my site visit. No representations have been received from any of these developers to indicate that they are concerned about completions or poor sales if another site were to come on stream. I therefore have no evidence that the market is saturated or that the appeal site would cause harm to the future delivery of houses in Standish.

Effect on the EWC

42. The Council have raised concern that greenfield development in Standish and other affluent areas of the borough would constrain housing delivery in the EWC and lead to developers 'cherry-picking' the least challenging sites. This contention was supported by a map and table of housing development being undertaken by volume housebuilders and their location in the Borough.⁹ It is suggested that in the less affluent areas, a considerable proportion of sites are brought forward by small to medium housebuilders.
43. However my assessment of this information is that it is not that clear cut. Whilst there are major housebuilders operating in the more affluent areas of the borough they are operating in both the EWC and the less affluent parts of the borough as well. Some of these schemes involve significant numbers of houses in excess of 400 dwellings. Not all developers have a presence in Standish and there are some larger developers operating in the EWC only. In terms of the small and medium housebuilders, they are present in both the poorer and more affluent areas. Consequently it appears to me that there is no convincing evidence that large housebuilders are concentrating on the better less problematic sites in Standish and other more affluent areas of the borough.
44. The appellant has provided evidence that Standish can be viewed as a functionally different sub housing market. Reference is made to a number of Council documents including Wigan's Changing Housing Market Report 2005. This states that Wigan's market is not a single entity and is influenced by outside pressures. It consists at the local level of a whole series of sometimes quite distinct local markets. The same report identifies two market types: weak/vulnerable which are principally within the EWC and strong/high value markets which includes Standish. House price sales data¹⁰ further demonstrates the difference, higher values in Standish and lower values in the EWC. I consider that this indicates that Standish forms a distinct sub market

⁹ Mr Kearsley's Proof - Appendix C

¹⁰ Mr Coxon's proof page 54 Table 7.1

housing area in Wigan with different characteristics and it does not directly compete with the EWC.

45. I therefore conclude that additional development in Standish is unlikely to impact on the delivery of housing on sites in the EWC. No substantive harm has been demonstrated to the spatial strategy.

Addressing the Shortfall in Housing Supply.

46. It is common ground that the shortfall in housing delivery is significant. In 2016/17 net completions in the borough totalled 789. Whilst it is accepted that this is an improvement on previous years, the shortfall is increasing to the extent that it is now in the region of 2500 dwellings. I consider that this scale of undersupply must be given significant weight.
47. The Council in cross examination suggested that the scale of the under delivery made no difference, that maintaining the 80:20 split, with development focussed on the EWC, outweighed maintaining the 5 year housing land supply. However there is no support for this position in the CS. Policy CP6 clearly states that in order to ensure sufficient housing in the Borough a five year supply of deliverable housing land should be maintained.
48. The Council's SHLAA¹¹ demonstrates that there are sufficient sites to meet housing needs over the next 15 years. The Council argued that the current shortfall in housing supply was a temporary phenomenon rather than one which would affect the ability to deliver its housing requirement over the plan period. Whilst the supply would meet the requirements of the third bullet point of paragraph 49 of the Framework, identifying a supply of specific developable sites for growth for years 6-10 and beyond, it does not meet the requirement of the second bullet point to identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing against the housing requirements.
49. The Council has brought my attention to a range of measures that they are employing to address the shortfall of delivery and demonstrate their proactive approach. These include the granting of planning permissions for over 13000 homes between 2011 and 2017, regular liaison with developers and landowners and being a Brownfield Land Register Pilot. The Council have also been making use of assets to unlock schemes, using New Homes Bonus to assist delivery, seeking grant funding to facilitate developments and supporting affordable housing programmes. The appellant has suggested that these measures are 'underwhelming'. I consider this to be an overly harsh view. These actions are what would be expected from a Council trying to encourage growth, though from the evidence before me it is difficult to assess their effectiveness in terms of actual numbers of homes delivered. As pointed out in the St Modwen¹² judgment the local planning authority can only do so much. The market, comprising housebuilders, finance and purchasers has to do the rest.
50. The appellant has pointed to the effect of the absence of an adopted site allocations development plan document (DPD) on housing supply. The Council had started preparing such a plan, however it has in effect been superseded as the Council is now working with the other Greater Manchester Authorities to

¹¹ Strategic Housing Land Availability Assessment 2016 Table 4

¹² Ouseley J. in St Modwen Developments Ltd V SSCLG [2016] EWHC 968 (Admin)

prepare the Greater Manchester Spatial Framework (GMSF). If the Council had continued to prepare a separate policy document they would more than likely have been criticised for doing so without reassessing the objectively assessed need and the housing requirement. The Council have been pro-growth and approved 94% of residential planning applications; however I agree that the lack of an Allocations DPD, some 4 years after the adoption of the CS, creates uncertainty and would impact negatively on housing supply.

51. The Council has assessed its supply position against the draft GMSF OAN figure. Whilst a 5 year housing land supply can be demonstrated in this context, it is not relevant to my consideration as this is a draft figure, yet to be tested through Examination. The GMSF is in the early stages of preparation and is subject to a considerable opposition mainly due to the planned release of Green Belt. I have been made aware of the intention in the draft Plan to re-allocate the appeal site as Green Belt. However this is yet to be confirmed and in light of the early stage of preparation of the GMSF very limited weight can be attributed to it.

Other relevant appeals and decisions.

52. There was considerable discussion at the Inquiry with regard to other appeal cases and other recent decisions which raise similar issues to the appeal case. In particular two other recent appeals¹³ for land to the south of Rectory Lane, Standish and land adjacent to Lurdin Lane, Standish were discussed. Both of these proposals were allowed and raised the same issue with regard to the impact on the spatial strategy for the borough. At the time they were considered, the approximately 1000 dwellings in Standish had also been breached. The appellant made several references to these appeals arguing that there was no material difference between them and the current appeal. In fact many of the arguments put forward by the Council at these appeals have also been put to me in this case.
53. However each proposal must be considered on its own merits. There are indeed similarities in that there is still a lack of a 5 year supply of housing land however the shortfall has now increased. The Council have argued that whilst they acknowledge these decisions, the evidence presented would not have been exactly the same or necessarily in the same depth as that presented in this case. Whilst I consider these appeals to form a material consideration, I have determined this appeal on the merits of the evidence before me.
54. In written evidence the Council has brought my attention to a residential development for 80 dwellings on Langham Road, Standish which was approved at the same Committee where it was resolved that if they been able to determine the appeal case, it would have been refused. It is accepted by the Council that this other scheme raises the same issue with regard the harm to the spatial strategy, however there are important differences. The Langham Road site was smaller in scale and viewed as an infill site. It also related well to existing development and was located close to the centre of Standish. The Council argued that these factors outweighed the harm to the spatial strategy. Comparison is made in the Council's evidence of the walking distances from the Langham Road site to the services and facilities in the village and the respective distances from the appeal site. It was concluded that the appeal

¹³ Appel Ref APP/V4250/W/15/3003142 and APP/V4250/W/14/3001130

site was less accessible with longer walking distances to local amenities and much poorer public transport provision.

55. However some sites will always perform better than others in accessibility terms. The key consideration is whether the appeal site is in an accessible location, not if there are any better sites. There is no suggestion in the Council's evidence that the appeal site is unsustainable or inaccessible to services in Standish. Furthermore there have been no objections from the highway authority on accessibility grounds.

Other matters

56. Standish Voice, the designated Neighbourhood Forum, is currently preparing a Neighbourhood Plan for Standish. A draft of the plan is scheduled for consultation in summer 2017. As the plan is at an early stage of preparation it can only attract very limited weight in this appeal.
57. Local residents, Councillors and Standish Voice have raised concern regarding the traffic that would be generated by the development. Along with other recently approved schemes, the cumulative effect would be further congestion in Standish, in particular queues and delays at the crossroads in the centre of the village. The appellant has prepared a Traffic Assessment which concludes that the resultant impact on the transport network would be minimal. The access proposals for the site include a connection to Rectory Lane directly from the southern boundary for use by pedestrians and cyclists, the provision of an additional footway along the northern side of Rectory Lane and a new signal controlled crossing facility incorporated within the existing shuttle working signals at the railway bridge on Rectory Lane. A Travel Plan is also proposed to encourage non car modes of travel. I note that no objections have been made by the Highway Authority. With the above mitigation and improvement measures I consider that the scheme would be acceptable in highway terms.
58. I understand the concerns of local residents with regard to traffic in Standish resulting from the new development under construction and proposed developments. However I am advised that there are a number of infrastructure improvements to be provided as part of these schemes. Once implemented they will assist to mitigate their impact locally.
59. Concern has also been raised with regard the lack of school places and other community facilities. The unilateral undertaking put forward by the appellant includes a financial contribution towards primary and secondary school provision to provide further facilities for future families moving into the area.
60. Issues of air quality, ecology, flood risk and drainage have also been raised. The Environmental Statement submitted with the application addresses these matters and concludes that subject to appropriate mitigation measures that there would be no significant adverse effects. The necessary mitigation measures can be secured through the imposition of appropriate planning conditions.

Planning Balance

61. I have concluded that the appeal proposal would not cause material harm to the spatial strategy of the borough and would comply with Core Strategy policies SD1, SP1 and CP6. The proposed development forms safeguarded land

located in the Standish broad location for new development and would accord with Policy SP4 in terms of the three criteria it requires to be taken into account. It would however conflict with the scale of development envisaged in the policy, approximately 1000 dwellings.

62. Nonetheless the scheme should be considered against the development plan as a whole.¹⁴ I am mindful that Policy CP6 requires the maintenance of a 5 year supply of housing land. It is clearly the case that the Council cannot demonstrate this and the shortfall in the delivery of housing is significant. The appeal scheme would contribute towards significantly boosting the supply of housing in the borough in line with paragraph 47 of the Framework.
63. The proposal would also provide 32 affordable homes of which there is currently a significant shortfall in the borough. In the period 2011-2016 a total of 434 affordable homes were provided out of a requirement of 1386. The proposed development would make a material contribution to addressing this shortfall.
64. I have identified no conflict with other Core Strategy policies. I therefore conclude that the proposal accords with the development plan as a whole. I have not identified any other material considerations that might indicate the appeal scheme should be determined other than in accordance with the development plan. The appeal should therefore succeed.
65. It is common ground that the Council cannot demonstrate a 5 year supply of deliverable housing land and that CS policies relevant to the supply of housing cannot be regarded as up to date. However as I have found that the appeal scheme should be allowed in accordance with the development plan, it is not necessary for me to comment on the further considerations outlined in paragraph 14 of the Framework.

Planning Obligation

66. The appellant has submitted a unilateral undertaking under Section 106 of the Town and Country Planning Act 1990 to cover a range of matters. Firstly it makes provision for a financial contribution to enhance primary and secondary education provision. This is necessary to address the need for additional school places in the area as a result of the development.
67. Secondly the undertaking provides for a highways contribution to undertake footpath improvements in the vicinity of the site and to install a Microprocessor Optimised Vehicle Actuation (MOVA) signal management pedestrian crossing facility at the Rectory Lane railway bridge. These contributions are directly related to the development and will benefit future residents of the site. This contribution is also justified by CS Policies SP4 and CP7. A Travel Plan contribution is also included to enable the monitoring of the plan. This is directly related to the development and will ensure the implementation of the Travel Plan measures to encourage the use of non-car means of travel in line with CS Policy CP7.
68. In addition the undertaking provides for 25% of the dwellings to form affordable housing in compliance with CS Policy CP6. I am satisfied that there is a clear basis for this requirement. Finally the undertaking ensures the provision of on-site public open space and its future maintenance in line with

¹⁴ Regina V Rochdale Metropolitan Borough Council [2000] EWHC 650(Admin)

Saved Policy R1E of the UDP and the Council's Open Space in New Housing Supplementary Planning Document 2013.

69. In respect of the above obligations I am advised by the Council that they have collected no more than 5 contributions in respect of each of the above matters and therefore the pooling restrictions of Regulations 123 of the CIL Regulations are not breached. I am also satisfied that the obligations are necessary to make the development acceptable in planning terms, that they are directly related to and are fairly and reasonably related in scale and kind to the development. I therefore consider that the submitted obligation meets the tests set out in paragraph 201 of the Framework and the CIL Regulations 2010 and should be given significant weight.

Conditions

70. The Council has suggested a number of conditions that it considers would be appropriate and I have considered them in light of the Framework and the Planning Practice Guidance. I have amended the wording of certain conditions to reflect that guidance and in the interests of clarity and precision. For ease of reference I refer to the numbers in the attached schedule.
71. Condition 1 and 2 are necessary as the permission is in outline. The Council suggested at the Inquiry that the timeframe for the submission of reserved matters could be reduced to 12 months in order to ensure the site boosts the supply of housing as soon as possible. However I do not consider this to be necessary as an early commencement could still be achieved with a 3 year permission. Condition 3 requires the development to be carried out in accordance with the approved plans and is necessary in the interests of clarity. Condition 4 restricts the number of dwellings to no more than 128 and is required in order to control the number of homes in the broad location.
72. In order to ensure an appropriate mix of homes on the site to meet local needs and to assimilate the development into the local area Condition 5 is necessary. In the interests of maintaining the character and appearance of the area a design code to ensure a high quality development (6) and details of the storage of building materials and equipment (18) are required.
73. Condition 7 requires details of site levels and floor levels to be submitted at reserved matters stage and is required to ensure that the development integrates into its surroundings. In the interests of ecology I consider that conditions relating to the preparation of a Landscape and Habitat Creation and Management Plan, a mitigation strategy for bats and tree protection measures are necessary (8, 15 and 20). Condition 16 which requires notification of commencement on site is needed to give time for Council Officers to confirm that the appropriate tree protection measures are in place. In order to protect the living conditions of future residents condition 9 requiring noise mitigation measures and condition 13 requiring a Construction Environmental Management Plan are also necessary.
74. Condition 10 regarding the submission of a surface water drainage scheme is required to ensure that the site is satisfactorily drained. In the interests of the wider environment and safeguarding future occupiers of the site, conditions requiring assessment of any on site contamination and any impacts associated with past coal mining uses are necessary (11 and 12).

75. With regard to highway and sustainable travel matters Condition 14 is necessary to ensure the preparation and implementation of a Travel Plan and condition 19 is required to provide for footpath improvements on Rectory Lane in order to promote sustainable means of travel. Finally in order to record any areas of archaeological interest on the site Condition 17 is necessary.

Conclusion

76. For the reasons given above and having had regard to all other matters raised, I allow this appeal.

Helen Hockenhull

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Jonathan Easton
(of Counsel)

Instructed by the Legal Services
Department, Wigan MBC

He called

David Kearsley
MTCP MRTPI

Principal Planner, Planning Policy
Team, Wigan MBC.

Gareth Jones¹⁵

Principal Planning Officer, Wigan
MBC

FOR THE APPELLANT:

Vincent Fraser QC

Instructed by John Coxon,
Emery Planning

He called

Mr John Thompson
BEng MIHT CMILT

Project director, SK Transport
Planning Limited

Ben Pycroft
BA (Hons) MRTPI

Associate Director, Emery Planning

John Coxon
BSc (Hons) MRTPI

Associate Director, Emery Planning

INTERESTED PERSONS:

Cllr George Fairhurst

Ward Councillor

Gill Foster

Chairperson - Standish Voice
Neighbourhood Forum

Raymond Whittingham

Local Resident

¹⁵ Contributed to round table discussion on conditions.

DOCUMENTS SUBMITTED AT THE INQUIRY

1. Appellants Opening Statement.
2. Councils Opening Statement.
3. Statement from Standish Voice (Mrs Foster).
4. Community Infrastructure Levy Compliance Statement.
5. List of draft Conditions.
6. Site Access Plan Drawing No. SK21212-018.
7. Signed and dated Unilateral Undertaking.
8. Council's Closing Submission.
9. St. Modwen Developments Ltd V SSCLG [2016] EWHC 968 (Admin).
10. Council's Response to Costs application.
11. Closing Submission on behalf of the appellant.
12. Appellant's Costs Application.
13. Statement of Common Ground re Housing Land Supply dated 25 May 2017.
14. Summary Table of Positions re Housing Land Supply dated 25 May 2017.

SCHEDULE OF CONDITIONS

- 1) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission. The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 2) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 3) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing No. 5982_SP (90)51J - Location Plan, Drawing No. 5892_SP (90)95 - Parameters Plan, Drawing No. SK21212-018 Site Access General Arrangement.
- 4) The approval hereby granted shall relate to a maximum of 128 dwellings.
- 5) As part of the first reserved matters application details of the proposed housing mix shall be submitted to the local planning authority for approval in writing. The development shall subsequently be implemented in accordance with the approved details.
- 6) As part of the first reserved matters application, a Design Code shall be submitted to, and approved in writing by, the local planning authority. The Design Code shall, where relevant, have reference to the Design and Access Statement supporting the outline application, and may include :
 - Built form:-
 - Block structure;
 - Building forms and types;
 - Use of building heights to enhance legibility;
 - Corner treatments;
 - Elevation composition;
 - Placement of entrances; and
 - Building materials palette;
 - Public realm:-
 - Landscape design principles;
 - Street types;
 - Surface materials palette;
 - Street furniture and design of play equipment, lighting and boundary treatments;
 - Planting palette; and
 - Integration of car parking and traffic calming measures;
 - Private space:-
 - Living standards which will establish a benchmark for detailed submissions to be assessed against, e.g. storage provision for individual dwellings, provision of private outdoor space; and
 - Integration of usable terraces and balconies;
 - Other matters:-
 - Character areas;
 - Types of refuse and recycling storage;
 - Cycle parking;
 - Standards to be applied (including back-to-back distances, car parking ratios, garden sizes) which shall have regard to the adopted standards.

- 7) Any application for the approval of reserved matters shall be accompanied by the following information for that part of the application site:
 - (i) a full site survey showing the datum point used to calibrate the site levels, levels along all external site boundaries, and levels across the site at regular intervals, and
 - (ii) full details of the finished floor levels of all buildings and hard surfaces.
- 8) Any application for the approval of reserved matters in respect of layout shall be accompanied by the following information, and no development shall be commenced until the approval in writing of the local planning authority has been obtained in respect of those matters:
 - A Landscape and Habitat Creation and Management Plan, including protection measures during the construction period and details of biodiversity enhancements;
 - A comprehensive method statement giving details of measures to ensure the protection and enhancement of habitat for Great Crested Newts and other amphibians;
 - A methodology for assessing whether Badgers are present on the site, including the carrying out of a pre-development survey and details of any necessary mitigation measures;
 - Details of the treatment and management of a 10 metre wide landscaped buffer alongside the boundaries with the Barrowcroft Wood Site of Biological Importance and a minimum 20 metre wide landscaped buffer to the eastern boundary.
- 9) Any application for the approval of reserved matters in respect of the scale, layout and/or appearance of any dwelling shall be accompanied by a scheme for protecting the dwelling from noise from the adjacent railway line, road traffic along Rectory Lane and the commercial and industrial uses on Bradley Hall Trading Estate. No dwelling shall be occupied until the approved noise mitigation measures relating to that dwelling have been implemented in full and they shall thereafter be retained.
- 10) No development shall take place until a surface water drainage scheme for the site, based on sustainable drainage principles, and an assessment of the hydrological and hydrogeological context of the development, has been submitted to, and approved in writing by, the local planning authority. The drainage strategy should demonstrate the surface water run-off generated up to and including the 1 in 100year critical storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed and shall also include details of how the scheme shall be maintained and managed after completion.
- 11) Prior to the commencement of the development hereby permitted, the site investigation works to address coal mining legacy issues within the site as specified within the recommendations of the Phase 1 Geo-Environmental Ground Investigation (September 2015), prepared by Integra Consulting Environmental, shall be undertaken and fully

completed. In the event that intrusive site investigation works confirm the need for remedial measures to treat shallow mine workings, details of such remediation work shall be submitted to, and approved in writing by, the local planning authority, and must be fully implemented in accordance with the approved details prior to the commencement of development.

- 12) No development shall be commenced until an investigation and assessment of the nature and extent of any contamination of the site has been submitted to, and approved in writing by, the local planning authority. The assessment shall identify any remedial measures required to deal with any hazards identified and such measures (if any) shall be implemented before the occupation of any of the buildings hereby permitted.
- 13) Prior to the commencement of any development hereby approved, a scheme in the form of a Construction Environmental Management Plan (CEMP) shall be submitted to, and approved in writing by, the local planning authority. The scheme shall include details of the methods to be employed to control and monitor noise, dust, vibration impacts, routing details for all construction traffic and how the wheels of vehicles can be cleaned before leaving the site. It shall also include construction hours of working. The approved scheme shall be implemented to the full written satisfaction of the local planning authority before the construction works are commenced, and shall be maintained for the duration of the construction works.
- 14) Notwithstanding the particulars accompanying the planning application, a Travel Plan shall be submitted to, and approved in writing by, the local planning authority prior to the first occupation of the development, or in accordance with a timeframe that has been previously agreed in writing by the local planning authority. The Travel Plan shall show measures to reduce the need to travel to and from the site by private transport and the timing of such measures. The plan shall be implemented in accordance with the details as approved.
- 15) Any application for the approval of reserved matters in respect of layout and/or landscaping shall be accompanied by an up-to-date tree survey and an Arboricultural Implications Assessment (AIA). The AIA shall include details of proposals for tree protection during development operations, mitigation for any tree removal, an assessment of any overshadowing implications of the existing trees for new development and an assessment of any arboricultural implications for the installation of service lines. The measures contained in the approved AIA shall be adhered to throughout the construction of the development.
- 16) The developer shall provide the local planning authority with a minimum 14 days written notice of the commencement of development operations.
- 17) No demolition/development shall take place until a Written Scheme of Archaeological Investigation shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an assessment of significance and research questions - and [if indicated by the Desk Top Study submitted with the application]:
 - i) the programme and methodology of site investigation and recording;
 - ii) the programme for post investigation assessment;

- iii) the provision to be made for analysis of the site investigation and recording;
 - iv) the provision to be made for publication and dissemination of the analysis and records of the site investigation including the deposition of the final report with the Greater Manchester Historic Environment Record;
 - v) the provision to be made for archive deposition of the analysis and records of the site investigation;
 - vi) the nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation.
- 18) Prior to the commencement of any part of the development hereby approved, details of the provision for the storage of building materials, equipment and plant, and the placement of site cabins, site offices and storage containers shall be submitted to, and approved in writing by, the local planning authority. The development shall be carried out only in accordance with the approved details and shall be maintained at all times in this manner until the completion of the construction works.
- 19) Notwithstanding the details shown on the hereby approved plans, no dwellings approved by a subsequent reserved matters application shall be occupied until a footpath, which ties in with the existing footpath on Rectory Lane to the west and the proposed new pedestrian crossing facilities to the east, shall be installed along the Rectory Lane frontage of the site in full accordance with a scheme previously submitted to, and approved in writing by, the local planning authority. Such a scheme shall include details of;
- The pedestrian and cycle access to the site, including the provision of any gates or stiles;
 - The layout, width, finished grounds levels of the footpath and any necessary re-grading and landscaping works, including details of any trees or hedgerows required to be removed;
 - The proposed construction materials and surface finish of the footpath; and
 - The proposed surface water drainage arrangements for the footpath and associated works.
- 20) No site clearance, site preparation or development works shall take place until a detailed mitigation strategy for bats has been submitted to, and approved by, the local planning authority. The strategy will demonstrate avoidance of any breach of the Conservation of Habitats and Species (Amendment) Regulations 2012 (as amended) and shall include further details of, but not be limited to:
- Trees with roosting potential – pre-felling surveys and felling methods;
 - Replacement bat roosting opportunities – potentially within retained trees or new buildings;
 - Bat foraging and commuting habitat – maintenance and enhancement of both during and after construction; and

- Light pollution – avoidance of artificial illumination/light spill of known and potential bat roosts, and bat habitat both existing and potentially proposed.

The strategy shall include the timings for the implementation of all necessary works, and the development shall be carried out in full accordance with the approved details.