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1. EXECUTIVE SUMMARY

1.1 Pegasus Group are instructed by Taylor Wimpey to comment on the 'Warrington Updated Proposed Submission Version Local Plan 2017-2038' ("the Plan"). Taylor Wimpey object to the Plan on the basis that it is not legally compliant and is unsound.

Legal Compliance Issues

1.2 The Plan is not legally compliant because:

- The 'Sustainability Appraisal: SA Report' (Aecom, August 2021) does not achieve the objective of contributing to the achievement of sustainable development because it fails to provide adequate weighting across the three strands of sustainable development
- The 'Sustainability Appraisal: SA Report' (Aecom, August 2021) fails to take account of 1,113 homes per annum as a reasonably alternative high level growth option;
- The 'Updated Habitat Regulations Assessment' (Aecom, August 2021) does not allow the Council to ascertain that 'Policy MD3 – Fiddlers Ferry' would not adversely affect the integrity of the Mersey Estuary SPA and Ramsar;
- The 'Updated Habitat Regulations Assessment' (Aecom, August 2021) does not consider alternative solutions to 'Policy MD3 – Fiddlers Ferry'; and
- The Council still need to address unresolved neighbouring issues.

1.3 To address these issues:

- The sustainability appraisal must be weighted to that environmental, social and economic considerations are given the same weight;
- The sustainability appraisal must consider 1,113 homes per annum as a high level growth option;
- There must be an assessment of the integrity of the Mersey Estuary SPA and Ramsar arising from 'Policy MD3 – Fiddlers Ferry';
- There must be an assessment of alternative solutions to 'Policy MD3 – Fiddlers Ferry'; and,
- The Council must address unresolved neighbouring issues.

Soundness Issues

1.4 The Plan is unsound because:

- The Council have failed to consider how many homes would be required to support the employment land requirement of 316ha and have not demonstrated that the proposed housing requirement at 816 homes per annum would not lead to unsustainable patterns of

commuting – on this basis it cannot be concluded that 'Policy DEV1 – Housing Delivery' is justified or sound;

- The Council have failed to consider a housing requirement that would align with the employment growth targeted by the Cheshire and Warrington Local Enterprise Partnership ("the LEP"), which is an exceptional circumstance to go beyond the minimum local housing need – on this basis it cannot be concluded that 'Policy DEV1 – Housing Delivery' is positively prepared or sound;
- The claimed housing land is overly optimistic, and it cannot be concluded that the claimed housing land supply will meet housing needs – on this basis it cannot be concluded that 'Policy DEV1 – Housing Delivery' is effective or sound;
- It cannot be concluded that affordable housing targets will be met – on this basis it cannot be concluded that 'Policy DEV2 – Meeting Housing Needs' is effective or sound;
- Green Belt release and the housing allocation at Fiddlers Ferry Power Station has not been justified – it has not been demonstrated that it would not adversely affect the integrity of the Mersey Estuary SPA and Ramsar and if it does consideration needs to be given to it alternative solutions – on this basis it cannot be concluded that 'Policy GB1 – Green Belt' and 'Policy MD3 – Fiddlers Ferry' is justified or sound; and,
- Green Belt release and the housing allocation at Thelwall Heys has not been justified – it has not been demonstrated that it would have "no harm" on the significance of heritage assets and their setting and if it results in "less than substantial harm" consideration needs to be given to alternative sites – on this basis it cannot be concluded that 'Policy GB1 – Green Belt' and 'Policy MD5 – Thelwall Heys' is justified or sound.

1.5 To address these soundness issues:

- Consideration needs to be given to the number of homes would be required to support the employment land requirement of 316ha so that it can be concluded that the employment land requirement does not lead to unsustainable patterns of commuting;
- Consideration needs to be given to a housing requirement which would align with the employment growth targeted by the LEP so that it can be concluded that the housing requirement is the most appropriate;
- More suitable, available and sustainably located land should be identified for housing, including affordable housing, which is an exceptional circumstance for Green Belt release;
- Justification must be provided for 'Policy MD3 – Fiddlers Ferry' which clarifies what impact it will have of the Mersey Estuary SPA and Ramsar and which demonstrates that this is the most reasonable option; and,
- Justification must be provided for 'Policy MD5 – Thelwall Heys' which demonstrates that this is the most reasonable option when considering impacts on heritage assets.

Taylor Wimpey Site at Penketh

1.6 Taylor Wimpey has a controlling interest in a 30ha Site located west of Stock Lanes, Penketh and are promoting it for residential development through the Local Plan Review (“the Site”). The Site can be released from the Green Belt and allocated for housing because there are Plan-wide exceptional circumstances for Green Belt release, including the needs to ensure that housing needs are met. The site-specific exceptional circumstances at this Site include the delivery of:

- 600 quality family homes, including up to 180 affordable homes, which will be a mix of types, tenures and sizes to address needs;
- Around 12ha of high quality, accessible open space including a ‘wetland park’ and green space network around Penketh Brook and outdoors sports provision for the benefit of future residents and the wider community; and,
- Improved access to green infrastructure and the Green Belt beyond the Site for the benefit of future residents and the wider community.

1.7 The Site is demonstrably suitable for housing development. It is within the control of a national housebuilder and is available for development. The Site is further distanced from the Mersey Estuary SPA and Ramsar than the land proposed for Green Belt release and housing allocation at ‘Policy MD3 – Fiddlers Ferry’. The Site should be considered as an alternative for this reason.

1.8 Development of this Site will result in no harm to heritage assets whereas the land proposed Green Belt release and housing allocation at ‘Policy MD5 – Thelwall Heys’ will have less than substantial harm. This Site should be considered as an alternative for this reason.

Structure of the Representations

1.1 The structure of these representations takes the following form:

- **Section 2** introduces the Site;
- **Section 3** comments on the legal compliance issues;
- **Section 4** comments on the soundness issues;
- **Section 5** summarises and concludes the representations.

1.9 Appended to these representations are:

- **Appendix 1** – Illustrative Masterplan
- **Appendix 2** – Development Statement
- **Appendix 3** – Landscape Note
- **Appendix 4** – Housing Land Supply Assessment

2. STOCKS LANE SITE

- 1.10 This section of the representations should be read in conjunction with the Illustrative Masterplan (**Appendix 1**), Development Statement (**Appendix 2**) and Landscape Note (**Appendix 3**).

Sustainable Location

- 2.1 The Site is located on the edge of the wider urban area of Warrington. It is positioned to the west of the suburb of Penketh. The Site is bound by Farnworth Road to the south and the Warrington to Liverpool railway line to the north (**Figure 1**).

Figure 1 – Site



- 2.2 The Site is in a sustainable location, approximately 1km east of the Warrington Road West Local Centre which provides local shops and facilities, and 1.5km east of the Honiton Square Neighbourhood Centre. A greater range of shops and facilities can be found in Warrington Town Centre which is 5.5km to the east.
- 2.3 It is demonstrated on the Sustainability Plan within the Development Statement that there is a wider range of services, facilities and amenities all within a 2km walking distance of the Site including primary schools, library, convenience stores, health, leisure and religious facilities. In addition, Penketh Secondary School is located approximately 2.3km from the centre of the Site, and additional high schools are located in Great Sankey and Sankey Bridges. Two larger food stores are also located at Sainsbury's in Great Sankey and ASDA at Westbrook.

- 2.4 There are bus stops on the southern boundary of the Site offering regular services to Warrington Town Centre, Huyton and Liverpool. Sankey for Penketh railway station is located approximately 2km north-east of the Site, offering frequent connections to Warrington town centre, Birchwood, Manchester, Liverpool, Widnes and Liverpool South Parkway (for Liverpool Airport).
- 2.5 Taylor Wimpey's interest in the Site shows that it is available, suitable for housing development. Taylor Wimpey can confirm that the Site can be viably developed.

Designations

- 2.6 There is a Grade II listed Farm (Brookside Farm) at the south west corner of the Site, however, this is heavily screened by trees, and is already flanked by existing residential development, which ensures that development of the Site will have minimal impact on its setting. The Site is also over 4km from the nearest Conservation Area in Widnes.
- 2.7 The Site is not fettered by any local, national or international environmental designations. The Site is 5.8km from the Mersey Estuary SPA which is positioned to the south west of the Site.

The Case for Green Belt Release

Purpose of Green Belt

- 2.8 Paragraph 138 of the 2021 NPPF sets out that Green Belt serves five purposes. In the context of this Site, if it were allocated for development, it would:
- **Not result in unrestricted sprawl of large built-up areas.** The Warrington to Liverpool railway line and Farnworth Road form strong physical boundaries which restrict sprawl to the north and south. Whilst the Site is open to the west, existing development at Doe Green to the south and Lingley Green to the north already extend further westwards that this part of Penketh making this a logical extension to the settlement which would infill and round off the edge of the urban area.
 - **Not cause the merger of neighbouring towns.** The development of the Site would not close the gap between Penketh and Widnes as the closest point between these two settlements is already established by development at Doe Green to the south of the Site.
 - **Not create unacceptable encroachment into the countryside.** The railway line and the main road provide strong boundaries preventing encroachment north and south, and also ensure that the Site is not a particularly tranquil location or one with intrinsic beauty. As such, the Site currently serves little function within its countryside setting and its loss would not be unacceptable.
 - **Not impact on the special character of historic towns.** The site is over 4km from the Warrington Town Centre Conservation Areas, and the Site does not cross an important viewpoint of the Parish Church.

- **Not discourage urban regeneration.** The Council fully accept that there is insufficient land within Warrington's existing urban and greenfield sites to meet its own needs for housing and employment land going forward and on this basis this Site would not discourage urban regeneration.

Site-Specific Exceptional Circumstances for Green Belt Release

- 1.11 The site-specific exceptional circumstances for Green belt release at this Site include the delivery of:
- 600 quality family homes, including up to 180 affordable homes, which will be a mix of types, tenures and sizes to address needs;
 - Around 12ha of high quality, accessible open space including a 'wetland park' and green space network around Penketh Brook and outdoors sports provision for the benefit of future residents and the wider community; and,
 - Improved access to green infrastructure and the Green Belt beyond the Site for the benefit of future residents and the wider community.

Green Belt Boundaries

- 2.9 If this Site was removed from the Green Belt it would provide strong and defensible physical boundaries in the form of the Warrington to Liverpool railway line to the north, Farnworth Road to the south and strengthened and reinforced boundaries to the west.

Deliverability

Introduction

- 2.10 Paragraph 68 of the NPPF states:

"Strategic policy-making authorities should have a clear understanding of the land available in their area through the preparation of a strategic housing land availability assessment. From this, planning policies should identify a sufficient supply and mix of sites, taking into account their availability, suitability and likely economic viability. Planning policies should identify a supply of:

- a) specific, deliverable sites for years one to five of the plan period³⁴; and*
- b) specific, developable sites or broad locations for growth, for years 6-10 and, where possible, for years 11-15 of the plan."*

- 2.11 The Annex 2: Glossary of the NPPF defines deliverable and developable sites as follows:

"Deliverable: *To be considered deliverable, sites for housing should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years...*

"Developable: *To be considered developable, sites should be in a suitable location for housing development with a reasonable prospect that they will be available and could be viably developed at the point envisaged."*

2.12 Planning Practice Guidance sets out the method for assessing housing and economic land availability, under the heading 'Housing and economic land availability assessment'. This section of the guidance begins by setting out the purpose of the assessment of land availability and states:

"An assessment of land availability identifies a future supply of land which is suitable, available and achievable for housing and economic development uses over the plan period. The assessment is an important source of evidence to inform plan-making and decision-taking, and the identification of a 5-year supply of housing land. It can also inform as well as make use of sites in brownfield registers.

However, the assessment does not in itself determine whether a site should be allocated for development. It is the role of the assessment to provide information on the range of sites which are available to meet the local authority's (or, where relevant, elected Mayor or combined authority) requirements, but it is for the development plan itself to determine which of those sites are the most suitable to meet those requirements.

Plan-making authorities may carry out land availability assessments for housing and economic development as part of the same exercise, in order that sites may be identified for the use(s) which is most appropriate.

An assessment should:

- *identify sites and broad locations with potential for development;*
- *assess their development potential; and*
- *assess their suitability for development and the likelihood of development coming forward (the availability and achievability)."*

Available

2.13 Taylor Wimpey UK Ltd has legal control of the Site and is seeking to develop it at the earliest opportunity. The Site is therefore in the control of a major national housebuilder and could deliver up to 600 new homes that will be critical to meeting housing need during the Plan period.

2.14 If the Site were to be released from the Green Belt and allocated for housing, Taylor Wimpey would seek to develop the Site immediately, which would contribute considerably to the Boroughs five year housing land supply and deliver highly anticipated new homes early in the Plan period. This commitment to delivery is demonstrated by Taylor Wimpey's track record of the efficient delivery of high quality greenfield housing schemes across the North West.

2.15 This is particularly relevant in Warrington, where the Council under special measures to deliver more homes.

Suitable

2.16 The Site is suitable for housing development because it:

- Offers a suitable location for development and can be developed now;
- Would consolidate and round-off the settlement to the west of Penketh, making use of the existing physical boundaries of the Liverpool to Warrington Railway line and Farnworth Road;
- Can utilise existing infrastructure surrounding the Site with no utilities or drainage constraints preventing the Site coming forward for development;
- Can accommodate satisfactory vehicular access, existing bus stops are in close proximity and the local highway can accommodate the provision of up to 600 additional homes;
- Will deliver generous areas of open space and parkland for use by residents and the local community;
- Is not subject to any ecological or environmental constraints preventing development on the Site;
- Is not located in any particularly sensitive landscape areas; and,
- Is sustainably located with several local facilities within walking distance of the Site boundary, including a primary school, shops, and recreation uses.

Achievable

2.17 The delivery of approximately 600 homes would make a significant contribution towards meeting the housing needs of the Borough. An assessment of the Site constraints has been undertaken which illustrates that delivery of the entire Site is achievable and deliverable, and a professional team of technical experts has been appointed to underpin this assessment and support the delivery of the Site moving forward. Where any potential constraints are identified, Taylor Wimpey has considered the necessary mitigation measures and required investment in order to overcome any deliverability barriers.

2.18 Taylor Wimpey has reviewed the economic viability of the proposal in terms of the land value, attractiveness of the locality, potential market demand and the projected rate of sales in Warrington; as well as the cost factors associated with the Site including preparation costs.

2.19 Taylor Wimpey can, therefore, confirm that the development of the Site is economically viable. They are committed to investing in the Site and are confident that it will assist with the delivery of residential development early in the Plan period.

Key Benefits

Economic Benefits

- 2.20 The development of the Site will contribute to building a strong, responsive and competitive economy. In particular, the development of up to 600 homes will secure a number of economic benefits in terms of job creation, tax revenues to the Council and increased expenditure in the local economy.
- 2.21 Housing supply can play a key role in the flexibility of the local labour market which is an important component in local economic competitiveness and maintaining a dynamic economy. This is because a shortage of housing or lack of affordability can act as a barrier to people accessing employment opportunities or result in long distance commuting and associated sustainability impacts.
- 2.22 Specifically, the development the Site will support the local labour market, and will generate the following benefits:
- **Direct construction-related employment:** The proposed development could support around 155 full-time equivalent jobs per annum during the construction phase (circa 12 years), in a mix of direct construction opportunities and jobs supported in the wider supply chain;
 - **Contribution of construction phase to economic output:** The construction of the new homes could contribute an additional £101m of gross value added (GVA) annually to the economy during the 12-year construction period;
 - **Household spend:** Once fully built and occupied, the households are estimated to generate expenditure in the region of £16m per annum; and,
 - **Increased Council Tax income:** The construction of the new homes could generate around £1.1 million per annum in additional Council Tax revenue, once fully developed and occupied.

Community Benefits

- 2.23 The development of the Site will also perform a social role by generating the following community benefits:
- Provide a range of open market housing comprising various types to meet the needs of the local community;
 - Provide up to 180 affordable homes of a range and type to meet the identified need in the Warrington area; and,
 - Provide over 12ha of public open space and outdoors sports provision for future residents and the wider community, which complements and strengthens links to the existing recreation areas to the south.

2. LEGAL COMPLIANCE ISSUES

Sustainability Appraisal

Legal Requirements

- 2.2 Section 19 of the Planning and Compulsory Purchase Act 2004 requires a local planning authority to carry out a sustainability appraisal of each of the proposals in a plan during its preparation. More generally, section 39 of the Act requires that the Council must when preparing the Local Plan, do so with the objective of contributing to the achievement of sustainable development.
- 2.3 Paragraph 19 of the NPPF requires the Local Plan to be informed throughout by a sustainability appraisal that meets the relevant legal requirements. The reference to relevant legal requirements refers to the Environmental Assessment of Plans and Programmes Regulations 2004, commonly referred to as the Strategic Environmental Assessment Regulations.
- 2.4 Regulation 12 of the Strategic Environmental Assessment Regulations says that where an environmental assessment is required, as is the case here, an environmental report must identify, describe and evaluate the likely significant effects on the environment of implementing the Local Plan, and reasonable alternatives.

Sustainability Appraisal Reports

- 2.24 AECOM has been commissioned by the Council to undertake a sustainability appraisal in support of the Local Plan Review. There have been three main sustainability appraisal reports including:
- Sustainability Appraisal: Interim SA Report (Aecom, July 2017) which was published alongside the Preferred Development Option Regulation 18 Consultation document. The Interim SA Report does not constitute an 'SA Report' as defined by the Strategic Environmental Assessment (SEA) Regulations, but it does document the stages of SA that were undertaken to help influence the plan-making process.
 - Sustainability Appraisal: SA Report (Aecom, March 2019) which was published alongside the Proposed Submission Version Local Plan 2017-2037 (the first draft Regulation 19 WLP (March 2019)); and,
 - Sustainability Appraisal: SA Report (Aecom, August 2021) which was published alongside the Updated Proposed Submission Version Local Plan 2021-2038 (the Plan (September 2021)).

Legal Issues 1 – The failure of the sustainability appraisal process to provide adequate weighting across the three strands of sustainable development

- 2.5 Environmental considerations account for five of the eight themes (natural resources, built and natural heritage, biodiversity and geodiversity, climatic change and resource use) and eleven of the eighteen objectives. Social and economic considerations account for three of the eight themes

(economy and employment, health and wellbeing and housing) and just seven of the eighteen objectives.

- 2.6 No one arm of sustainable development is afforded more weight than the other in national planning policy and a planning balance must be struck. However, the emphasis on items assessed in the sustainability appraisal is clearly skewed towards environmental rather than social or economic considerations.
- 2.7 The weighting of the environmental considerations has not been adjusted in the sustainability appraisal so the three strands of sustainable development including the environmental, economic and social considerations have not been given equal weighting.
- 2.8 The sustainability appraisal process should not be skewed towards environmental considerations when housing delivery has not kept pace with housing needs for a good number of years in the Borough, as and outcomes of the process will only be in the past under delivery of housing.

Legal Issues 2 – The failure to consider 1,113 homes per annum as a reasonable alternative in the 2021 SA Report, when this was previously preferred

- 2.9 The Council's preferred high level growth option at the time of the 2017 Interim SA Report was for 1,113 homes per annum to reflect economic aspirations to support higher jobs growth in line with the Cheshire and Warrington devolution bid. As such, it is reasonable to consider this again as an alternative.

Other Issues

- 2.10 The Council's preferred high level growth option at the time of the 2019 SA Report was for 945 homes per annum based on the economic growth scenario. This has been considered as a reasonable alternative in the 2021 SA Report and has been found to have more positive socio-economic effects and more negative environmental effects than the preferred option of 816 homes per annum.
- 2.11 The Development Options and Site Assessment Technical Report (September 2021) provides the Council's rationale for the preferred option of 816 homes, which seeks to align housing growth with the minimum local housing needs however this does not refer to the outcomes of the 2021 SA Report. As such, there is no evidence to suggest that the Council have considered the findings of the 2021 SA Report when choosing their preferred option of 816 homes per annum.

Habitat Regulations Assessment

Legal Requirements

- 2.12 Regulation 61 of The Conservation of Habitats and Species Regulations 2017 says that in the light of the conclusions of the appropriate assessment, and subject to regulation 62 (considerations of overriding public interest), the competent authority may agree a Local Plan only after having ascertained that it will not adversely affect the integrity of the European site.

- 2.13 Regulation 62 says that if the competent authority are satisfied that, there being no alternative solutions, the plan or project must be carried out for imperative reasons of overriding public interest (which may be of a social or economic nature), they may agree to the Local Plan notwithstanding a negative assessment of the implications for the European site.

Habitats Regulations Assessment Reports

- 2.14 AECOM was appointed by the Council to assist in undertaking an appropriate assessment of the policies and site allocations in the Plan, the findings of which are presented within the Updated Habitat Regulations Assessment (Aecom, August 2021) ("the HRA").

Legal Issue 1 – The failure to ascertain that the Local Plan will not adversely affect the integrity of a European site

- 2.15 The conclusions of the appropriate assessment do not allow the Council to ascertain that the Fiddlers Ferry allocation would not adversely affect the integrity of the Mersey Estuary SPA and Ramsar as required by Regulation 61 of The Conservation of Habitats and Species Regulations 2010.
- 2.16 The assessment finds that 'Policy MD3 – Fiddlers Ferry' poses the highest potential risk to the loss of functionally linked habitat and is the most likely to coincide with significant wintering/passage populations of the Mersey Estuary SPA and Ramsar SPA, lying close to the River Mersey south-west of Warrington.
- 2.17 The assessment goes on to state at paragraph 4.6:

"The Fiddlers Ferry allocation lies directly north of the Mersey Estuary SPA/Ramsar, comprising what appear to be three relatively large agricultural fields that are to be released from the Green Belt. The close proximity to the River Mersey is likely to be one of the main reasons why all qualifying species (i.e. shelduck, teal, pintail, golden plover, dunlin, black-tailed godwit and redshank) of the SPA / Ramsar have been recorded in the tetrad encompassing this allocation. However, most of these species are tightly associated with aquatic feeding habitats and are unlikely to rely on agricultural land, unless freshwater habitats are found on site. However, golden plover, a species that moves from its upland breeding grounds to over-winter in low-lying countryside, is strongly dependent on agricultural foraging grounds. Black-tailed godwit may also supplement their diet with earthworms and other invertebrates found in non-estuarine habitats. A Preliminary Ecological Appraisal undertaken by Arcadis in January 2021 in support of the proposed demolition of the Fiddlers Ferry Power Station³⁵, confirmed the presence of various habitats on site, including unimproved neutral grassland, swamp, standing water, saltmarsh and arable fields. The report also specifies that shelduck, teal and redshank are supported within the lagoons of the site. It concludes that the site has potential functional linkage to the Mersey Estuary SPA / Ramsar. Given the current evidence base, it is concluded that further wintering bird data is required as part of the policy requirement for the allocation of this site in the Warrington Local Plan."

- 2.18 Thus, further wintering bird data is required to support 'Policy MD3 – Fiddlers Ferry'. Indeed 'Policy MD3 – Fiddlers Ferry' itself states:

"In accordance with Policy DC4 development within the allocation site will be required to evidence that it will not have any adverse impacts on the integrity of the Mersey Estuary Special Protection Area. If habitats within the allocation site or on adjacent land are suitable to support significant populations of qualifying species of wintering birds, avoidance measures and mitigation will be required and any planning application may need to be assessed through project specific Habitats Regulations Assessment."

- 2.19 The assessment goes on to state at paragraph 4.7:

"It is noted that Policies MD1 (Warrington Waterfront) and MD3 (Fiddlers Ferry) both contain specific policy wording regarding the protection of the Mersey Estuary SPA / Ramsar and the ecological settings surrounding the site allocations. For example, Policy MD1 states that the planning application will require 'evidence that the development will not have adverse impacts on the integrity of the Mersey Estuary Special Protection Area; and have regard to sites identified in policy DC4 (Ecological Network) which should be protected...' The policy goes on to stipulate that '25. Site surveys will be required as specified by Policy DC4 to assess habitats and their suitability to support significant wildlife populations. If habitats within the site or on adjacent land are suitable to support significant populations of wildlife, avoidance measures and mitigation will be required and any planning application may need to be assessed through a project specific Habitats Regulations Assessment.' Similar protective policy wording is included in the text for Policy MD3. It is considered that this policy wording is sufficiently protective to allow a conclusion of 'no adverse effect' at the plan level, because it ensures that further work (e.g. habitat assessments and bird surveys) will be required to support relevant planning application(s)."

- 2.20 As such, the assessment delegates the acceptability of 'Policy MD3 – Fiddlers Ferry' to the project specific Habitat Regulations Assessments and bird surveys required through the policy itself.

- 2.21 Without the project specific Habitat Regulations Assessments and bird surveys it cannot be concluded that 'Policy MD3 – Fiddlers Ferry' would have no adverse effect at the Plan level. Indeed, no evidence is provided in this regard in the assessment or other supporting evidence base documents. Furthermore, the approach adopted in the assessment is at odds with Planning Practice Guidance which says that an appropriate assessment must contain complete, precise and definitive findings and conclusions to ensure that there is no reasonable scientific doubt as to the effects of the proposed plan or project (Paragraph: 003 Reference ID: 65-003-20190722).

Legal Issue 2 – The failure to consider alternative solutions

- 2.22 The assessment of 'Policy MD3 – Fiddlers Ferry' would only be legally compliant if it allowed the Council to first ascertain that there are no alternative solutions and that the allocation is imperative for overriding public interest (which may be of a social or economic nature). However, the

assessment does not consider any alternative solutions to the allocation and the Council have not ascertained that 'Policy MD3 – Fiddlers Ferry' is the most appropriate option.

Duty to Cooperate

Legal Requirements

- 2.23 Section 33A of the Planning and Compulsory Purchase Act 2004 requires the Council to engage constructively, actively and on an ongoing basis with neighbouring authorities and certain other bodies over strategic matters during the preparation of the Plan.

Duty to Cooperate Reports

- 2.24 The Council's Duty to Co-operate Statement Update (September 2021) provides minutes of the meetings held between the Council and neighbouring authorities and other bodies and summarises those meeting where minutes were not taken.
- 2.25 The Council has also prepared a draft Statement of Common Ground (September 2021) ("the draft SoCG") which provides a written record of the progress made by the Council in planning for strategic cross-boundary matters. The Council acknowledge in the draft SoCG that the final SoCG will be completed following the consultation on the Plan.

Legal Issue 1 – The Council still need to address unresolved neighbouring issues

- 2.26 Having reviewed the draft SoCG the Council still need to address unresolved neighbouring issues to full discharge their duty under the Act in relation to:
- Whether Omega west will meet the employment needs of Warrington and / or St. Helens and any subsequent agreement between the Council and St. Helens Council on the impacts and the mitigation required at J8 of the M62;
 - Noting the proposed Fiddler Ferry allocation, an agreement between the Council and Halton Borough Council on the separation between areas of proposed Green Belt release and the integrity of the Green Belt between Warrington and Widnes;
 - An agreement between the Council and Cheshire East Council on the consequences of the South East Warrington Urban Extension on the transport infrastructure and networks in Cheshire East;
 - An agreement between the Council and Halton Borough Council on the mitigation measures required within Halton arising from the proposed Fiddler Ferry allocation;
 - An agreement between the Council, Halton Borough Council and St. Helens Council on the impacts and the mitigation required at J7 of the M62 arising from the proposed Fiddler Ferry allocation; and,

- An agreement between the Council and St. Helens Council on the cross-boundary infrastructure requirements or other issues relating to the development of Parkside West, Parkside East and Bold Garden Suburb.

Other Matters

- 2.25 The Environment Act 2021 may also raise legal compliance and soundness issues for the Plan and the right is reserved to comment on this further once the final text of the Act becomes available.

3. SOUNDNESS ISSUES

Objective W1

- 3.1 Objective W1 sets out the strategic objective of delivering 816 homes per year (14,688 homes over the plan period). The supporting text goes on to suggest that 816 homes per annum will support the number of jobs that will be created from Warrington's future economic growth. It cannot be concluded that this objective is positively prepared, justified or effective (see response to Policy 'DEV1 – Housing Delivery').

Policy DEV1 – Housing Delivery

Housing Requirement

- 3.2 This part of the policy says that a minimum of 14,688 new homes will be delivered to meet Warrington's housing needs, which equates to an average of 816 homes per annum and aligns with the standard method for calculating local housing needs.
- 3.3 The Council's evidence base includes the Local Housing Need Assessment (GL Hearn, August 2021). This document considers how many homes would be needed to support employment growth of 874 jobs per annum, which is the mid-point figure between Oxford Economic forecasts of 725 jobs per annum and Cambridge Econometrics forecasts of 1,023 jobs per annum. This document identifies that between 676 homes per annum and 743 homes per annum would be required, depending on what commuting ratios are used. The document goes on to suggest that because both these figures are lower than 816 homes per annum, employment growth forecasts do not provide justification for a housing requirement above the minimum local housing need.
- 3.4 However, when identifying the amount of employment land that should be provided in the Borough, the Economic and Development Needs Assessment (BE Group, August 2021) discounts the employment growth forecast of Oxford Economic and Cambridge Econometrics in favour of the more optimistic historic land take-up forecasts. The document goes on to suggest that there is a requirement for 316ha of employment land. This is what is being planned for under 'Policy DEV4 – Economic Growth and Employment'.
- 3.5 No evidence has been provided on the employment growth that would arise from 316ha of employment land in the Borough. As such, it has not been demonstrated that 816 homes per annum is sufficient to support employment growth generated by 316ha of employment land and that it would not result in unsustainable commuting patterns. On this basis that the Council have not considered these matters, **it cannot be concluded that this part of the policy is justified or sound.**
- 3.6 Furthermore, the Local Housing Need Assessment (GL Hearn, August 2021) does not consider the employment growth which is being targeted by the LEP. The LEP have responsibility for significant amounts of public money and have set out their intent for investment in strategic infrastructure and priority housing in the 'Building a Better Future Together: Supporting Recovery in Cheshire and

Warrington¹. The strategic infrastructure improvements set out in this document are likely to drive an increase in the homes needed locally, which is an exceptional circumstance which needs to be given due consideration when identifying what the housing requirement should be.

- 3.7 The LEP are targeting employment growth of 1,240 job per annum as set out in their 'Strategic Economic Plan'. Pegasus Group have calculated that 939 homes per annum are required to support this number of jobs, which is not dissimilar to the 945 homes per annum in the first draft of the Plan².
- 3.8 On the basis that the Council have failed to consider the employment growth targeted by the LEP as an exceptional circumstance, which justifies a housing requirement to be set above the minimum local housing need, **it cannot be concluded that this part of the policy is positively prepared or sound.**

Housing Distribution

- 3.9 This part of the policy says that the majority of new homes will be delivered within the existing main urban area of Warrington, the existing inset settlements and other sites identified in the Council's Strategic Housing Land Availability Assessment (SHLAA), which together have identified deliverable capacity for a minimum of 11,785 new homes. The policy goes on to suggest that 4,821 homes would come forward from Green Belt release over the Plan period. The Council's housing trajectory is shown in Appendix 1 of the Plan, which shows a housing land supply of 16,676 homes over the Plan period³. The supporting text in the Plan says that this shows that there is a sufficient land supply to deliver the housing requirement for the Borough over the Plan period. However, this is not the case.
- 3.10 The housing land supply assessment (**Appendix 4**) shows that there is insufficient justification for 5,183 homes in the housing land supply because:
- The number of homes that will come forward in **the wider urban** area is overly optimistic – many sites are not being promoted, do not have planning permission and no lapse rate has been applied to those sites with planning permission – we have applied a 25% reduction rate to the claimed supply to take account of the likelihood of non-delivery of sites in the wider urban area;
 - The build rates at **Peel Hall** are overly optimistic and do not reflect the evidence in the 2020 SHLAA on past build rates in the Borough on large sites – we have applied an appropriate build rate at Peel Hall based on the evidence in the 2020 SHLAA;

¹ https://cheshireandwarrington.com/media/ltadfir2/cwlep-supportingrecovery_is01.pdf

² As submitted in separate representations.

³ The discrepancies between the figures in the policy and housing trajectory down to an additional 30 homes shown in the trajectory at South East Warrington Urban Extension and additional 40 homes at Thelwall Heys.

- The start on site dates at **Warrington Waterfront** are overly optimistic given the anticipated programme of the Western Link – we have applied realistic start on site dates;
- Some of the build rates at **Warrington Waterfront** are overly optimistic and do not reflect the evidence in the 2020 SHLAA on past build rates in the Borough on large sites – we have applied an appropriate build rate to some of the build rates at Warrington Waterfront based on the evidence in the 2020 SHLAA;
- Housing delivery at **Fiddlers Ferry** has not been justified – we have removed this element of the supply;
- The start on site dates of the Homes England land at the **Garden Suburb** (otherwise known as South East Warrington Urban Extension) are overly optimistic and do not reflect evidence on past delivery on Homes England sites – we have applied appropriate start on site dates based on past evidence;
- The build rates at the **Garden Suburb** are overly optimistic and do not reflect the evidence in the 2020 SHLAA on past build rates in the Borough on large sites – we have applied an appropriate build rate at the Garden Suburb based on the evidence in the 2020 SHLAA;
- Housing delivery at **Thelwall Heys** has not been justified – we have removed this element of the supply; and,
- The flat delivery from the **small sites allowance** over the Plan period is overly optimistic – we have reduced the delivery from this element of the supply towards the latter end of the Plan period.

Table 1: Comparison Between Council and Pegasus Housing Land Supply within the Plan Period

	Council	Pegasus	Difference
Wider Urban Area			
SHLAA (Sites 0.25Ha and above)	6992	5230	-1,762
Peel Hall			
SHLAA Ref: 1506	1200	741	-459
Waterfront			
SHLAA Ref: 1541 (Parcel K7)	340	100	-240
SHLAA Ref: 1633 (Parcel K5)	730	570	-160
Fiddlers Ferry Power Stn			
Northern Parcel (GB Release)	860	0	-860
Southern Parcel (GB Release)	450	0	-450
Garden Suburb			
Option 2 (GB Release)	2430	1,776	-654
SHLAA Sites (HE consented)	772	772	0
Top-up Sites			
Thelwall Heys (GB Release)	350	0	-350
Stockport Road (GB Release)	0	0	0
Settlements			
Croft (GB Release)	75	75	0
Culcheth (GB Release)	200	200	0
Hollins Green (GB Release)	90	90	0
Lymm - Warrington Rd (GB Release)	170	170	0
Lymm - Rushgreen Rd (GB Release)	136	136	0
Winwick (GB Release)	130	130	0

SHLAA (Sites 0.25Ha and above)	95	95	0
Other			
SHLAA (Sites 0.25Ha and above)	198	198	0
Small Sites Allowance			
SHLAA (Sites under 0.25Ha)	1458	1210	-248
TOTAL	16676	11493	-5,183

Source: Housing Land Supply Assessment (**Appendix 4**)

- 3.11 The housing land supply will not achieve the housing requirement for the Borough over the Plan period (**Table 2**).

Table 2: Housing Supply v Requirement over the Plan Period

		Requirement / Supply	Requirement / Supply
A	Annual Target	816	945
B	2021 to 2038 (18 years) (Ax18)	14,688	17,010
C	Flexibility at 10% (10% of B)	1,469	1,701
D	Total Requirement (B+C)	16,157	18,711
E	Supply	11,493	11,493
	Deficiency (D-E)	4,664	7,218

- 3.12** The deficiency in the identified housing land supply results in a requirement for additional land to provide 4,664 homes over the Plan period against the housing requirement at 816 homes per annum, or 7,218 homes over the Plan period against the housing requirement at 945 homes per annum. On the basis that the housing land supply would not achieve the housing requirement at 816 homes per annum or 945 homes per annum, **it cannot be concluded that this part of the policy is effective or sound.**

- 3.13 The shortfall represents an exceptional circumstance for further Green Belt release. For this part of the policy to be found sound, more housing land is required to ensure the minimum housing needs of the Borough are met during the Plan period and to ensure there is sufficient choice and competition in the market for land. Green Belt release at this Site would deliver an additional 600 homes over the Plan period, reducing the deficiency identified in the housing land supply to 4,064 homes over the Plan period, against the local housing need of 816 homes per annum, or 6,618 homes over the Plan period, with a housing requirement at 945 homes per annum.

Stepped Housing Requirement

- 2.26 This part of the policy says that the housing requirement is to be stepped in the following way:

- 2021 to 2025 (first 5 years) – 678 homes per annum; and,
- 2026 to 2038 (years 6 - 18) – 870 homes per annum.

- 2.27 The stepped housing requirement is **not justified** as it appears to be an attempt to reduce the backlog in housing supply at the start of the Plan period as a way of achieving a five-year land supply position on adoption.

- 2.28 The stepped housing trajectory is completely at odds with the Government’s requirement to deliver the homes that people need as soon as possible. People in Warrington need homes now and a

positive approach to addressing those needs would be to identify enough land that can come forward in the early years of the Plan period, like at this Site, so that the full housing requirement can be achieved from the very start.

Policy DEV2 – Meeting Housing Needs

Affordable Housing

3.14 This policy states that residential developments of 10 or more dwellings will be required to provide 20% affordable homes on sites within inner Warrington and 30% affordable homes elsewhere in the Borough and on greenfield sites.

3.15 The Local Housing Needs Assessment Update (GL Hearn, August 2021) suggests a need for 423 affordable homes per annum. This is over 50% of 816 homes per annum so this policy is not going to fully address affordable housing needs in the Borough if the housing requirement remains at 816 homes per annum.

3.16 Paragraph 58 of the NPPF states that:

"Where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable."

3.17 However, it is noted that the Emerging Local Plan Viability Assessment (Cushman & Wakefield, August 2021) highlights issues with the viability of achieving the full emerging policy requirements, including the affordable housing requirements for some of the typologies, with paragraph 8.6 and 8.7 stating:

"The base testing results indicate that the majority of the typologies in the lower value areas of Warrington (Town Centre, Inner Warrington North, Suburb Low Value and Settlement Low Value) are not viable based on full policy requirements."

This can be attributed in part to the lower assumed sales values together with the assumed abnormal / extra over development costs which means that development cannot support the total cumulative cost of all emerging policy requirements in these areas. For the higher density flatted typologies, viability is also constrained by the higher assumed base build costs which are not offset by higher sales values."

3.18 It goes on to state at paragraph 8.10:

"The results for these typologies therefore suggest that in the majority of instances, development should be able to satisfy the Council's full policy requirements. However, on the smaller sites, there may be some cases where the Council will need to seek a balance in respect of the total policy requirements sought, for example through a lower affordable housing provision and/or reduced S106 contributions."

- 3.19 The affordable contribution requirements set by this policy will not be viable in many instances and will lead to the non-delivery of affordable homes in the Borough, particularly since the housing distribution currently relies heavily on smaller sites within the urban area.
- 3.20 As such, affordable housing needs in the Borough will not be met in full over the Plan period, and on this basis, **it cannot be concluded that this part of the policy is effective or sound.**
- 3.21 This represents an exceptional circumstance for further Green Belt release. For this part of the policy to be found sound, the housing requirement should be increased, and more housing land should be identified which can deliver affordable housing. Green Belt release at this Site would deliver up to 180 affordable homes over the Plan period, helping reduce the deficiency in the housing land supply to deliver sufficient affordable homes.

Space Standards

- 3.22 The policy goes on to say that the Council will seek to provide dwellings that are appropriately sized and arranged to create well designed homes in accordance with Nationally Described Space Standards. There is insufficient evidence to justify this part of the policy, in terms of need, viability and timing and the requirements of NPPG have not been met in this regard (Paragraph: 020 Reference ID: 56-020-20150327).

Optional Standards

- 3.23 This part of the policy says that the Council will seek, as a minimum, all homes to be provided to Building Regulation M4(2) 'Accessible and Adaptable dwellings' and 10% of new housing to meet Building Regulation M4(3) 'Wheelchair user dwellings'. There is insufficient evidence to justify this part of the policy since the requirements of NPPG have not been met (Paragraph: 007 Reference ID: 56-007-20150327).

Objective W2

- 3.24 Objective W2 seeks to ensure Warrington's revised Green Belt boundaries maintain the permanence of the Green Belt in the long term. It cannot be concluded that this objective is positively prepared or justified (see response to 'Policy GB1 – Green Belt').

Policy GB1 – Green Belt

General Principles

- 3.25 This part of the policy says that the Council will maintain the general extent of the Borough's Green Belt, as defined on the Local Plan Policies Map, throughout the Plan period and to at least 2050, which extends 12 years beyond the Plan period. **It cannot be concluded that this part of the policy is justified or sound**, on the basis that there are exceptional circumstances for further Green Belt release including:

- The requirement to ensure that sufficient land is provided to meet the Borough's development needs for housing and employment land (see response to 'Policy DEV1 – Housing Delivery'); and,
- The requirement to address issues of housing affordability and the ability for all to have access to a suitable home (see response to 'Policy DEV2 – Meeting Housing Needs').

Land Removed from the Green Belt

3.26 This part of the policy lists the land which is proposed to be removed from the Green Belt. **It cannot be concluded that this part of the policy is justified or sound**, on the basis that:

- It cannot be concluded that the identified Green Belt release at Fiddlers Ferry Power Station is justified and sound (see response to 'Policy MD3 – Fiddlers Ferry'); and,
- It cannot be concluded that the identified Green Belt release at Thelwall Heys is justified and sound (see response to 'Policy MD5– Thelwall Heys').

Policy MD3 – Fiddlers Ferry

3.27 The policy says that land at the former Fiddlers Ferry Power Station site will be allocated to deliver a mixed-use development comprising approximately 101ha of employment land and a minimum of 1,760 new homes, of which 1,310 homes will be delivered in the Plan period. It goes on to identify that the allocation will include the removal of 82ha of land from the Green Belt to accommodate a minimum of 860 new homes on land to the north of the railway line and a further 900 homes to the south of the railway line (450 homes in the Plan period).

3.28 **It cannot be concluded that this policy is justified and sound**, on the basis that:

- The 'Updated Habitat Regulations Assessment' (Aecom, August 2021) does not allow the Council to ascertain that this policy would not adversely affect the integrity of the Mersey Estuary SPA and Ramsar;
- The 'Updated Habitat Regulations Assessment' (Aecom, August 2021) does not consider alternative solutions to this policy;
- The rationale for releasing Green Belt land close to Fiddlers Ferry is to allow the redevelopment of the power station site for employment, however it has not been demonstrated that the Green Belt release would achieve this; and,
- It has not been demonstrated that the land to south of the railway line could be developed viably noting its current use for ash deposits.

3.29 In addition, the site is not sustainably located. It is isolated from the main urban area of Warrington, the outlying villages within the Borough and the existing residential areas and services within Halton Borough Council.

3.30 Justification must be provided for the allocation which clarifies what impact it will have of the Mersey Estuary SPA and Ramsar and which demonstrates that this is the most reasonable option.

3.31 As an alternative, consideration should be given to allocating this Site, which can deliver 600 homes, is a further distanced from this European site and is in a more sustainable location.

Policy MD5 – Thelwall Heys

3.32 This policy says that land to the east of Grappenhall and south of Thelwall will be removed from the Green Belt and allocated for residential development for a minimum of 300 homes at a density with the requirement to preserve and enhance the heritage assets.

2.29 The evidence base includes a Heritage Impact Assessment for Thelwall Heys (August 2021) which finds that the allocation has the potential to result in consideration harm to the significant of the Grade II listed Thelwall Heys House and its setting (i.e. less than substantial harm). It goes on to suggest that the retention of buffers between the heritage assets and the housing development, screening and layout consideration can mitigate the harm to the heritage asset.

2.30 It has long been held by the Courts that preservation in heritage policy terms means to do ‘no harm’⁴. However, the Heritage Impact Assessment for Thelwall Heys (August 2021) does not demonstrate that the mitigation measures would result in “no harm”.

2.31 Furthermore, Historic England guidance is also clear that in determining whether a proposed site allocation is appropriate it should be justified in terms of any impacts on heritage assets when considered against reasonable alternative sites and based on proportionate evidence⁵.

3.33 It has not been demonstrated that Green Belt release and housing allocation at Thelwall Heys will result in “no harm” to the significance of heritage assets and their setting. No consideration has been given to alternative sites, some of which could be developed which would have no harm. On this this basis, **it cannot be concluded that this policy is justified and sound.**

3.34 As an alternative, consideration should be given to allocating this Site, which can deliver 600 homes, and will have no harm on the significance of heritage assets and their setting.

⁴ Section 66 (1) Planning (Listed Buildings and Conservation Areas) Act 1990.

⁵ Historic England, 2015. The Historic Environment and Site Allocations in Local Plans. Historic England Advice Note 3.

4. SUMMARY AND CONCLUSIONS

4.1 Pegasus Group are instructed by Taylor Wimpey to comment on the 'Warrington Updated Proposed Submission Version Local Plan 2017-2038' ("the Plan"). Taylor Wimpey object to the Plan on the basis that it is not legally compliant and is unsound.

Legal Compliance Issues

4.2 The Plan is not legally compliant because:

- The 'Sustainability Appraisal: SA Report' (Aecom, August 2021) does not achieve the objective of contributing to the achievement of sustainable development because it fails to provide adequate weighting across the three strands of sustainable development
- The 'Sustainability Appraisal: SA Report' (Aecom, August 2021) fails to take account of 1,113 homes per annum as a reasonably alternative high level growth option;
- The 'Updated Habitat Regulations Assessment' (Aecom, August 2021) does not allow the Council to ascertain that 'Policy MD3 – Fiddlers Ferry' would not adversely affect the integrity of the Mersey Estuary SPA and Ramsar;
- The 'Updated Habitat Regulations Assessment' (Aecom, August 2021) does not consider alternative solutions to 'Policy MD3 – Fiddlers Ferry'; and
- The Council still need to address unresolved neighbouring issues.

4.3 To address these issues:

- The sustainability appraisal must be weighted to that environmental, social and economic considerations are given the same weight;
- The sustainability appraisal must consider 1,113 homes per annum as a high level growth option;
- There must be an assessment of the integrity of the Mersey Estuary SPA and Ramsar arising from 'Policy MD3 – Fiddlers Ferry';
- There must be an assessment of alternative solutions to 'Policy MD3 – Fiddlers Ferry'; and,
- The Council must address unresolved neighbouring issues.

Soundness Issues

4.4 The Plan is unsound because:

- The Council have failed to consider how many homes would be required to support the employment land requirement of 316ha and have not demonstrated that the proposed housing requirement at 816 homes per annum would not lead to unsustainable patterns of

commuting – on this basis it cannot be concluded that 'Policy DEV1 – Housing Delivery' is justified or sound;

- The Council have failed to consider a housing requirement that would align with the employment growth targeted by the LEP, which is an exceptional circumstance to go beyond the minimum local housing need – on this basis it cannot be concluded that 'Policy DEV1 – Housing Delivery' is positively prepared or sound;
- The claimed housing land is overly optimistic, and it cannot be concluded that the claimed housing land supply will meet housing needs – on this basis it cannot be concluded that 'Policy DEV1 – Housing Delivery' is effective or sound;
- It cannot be concluded that affordable housing targets will be met – on this basis it cannot be concluded that 'Policy DEV2 – Meeting Housing Needs' is effective or sound;
- Green Belt release and the housing allocation at Fiddlers Ferry Power Station has not been justified – it has not been demonstrated that it would not adversely affect the integrity of the Mersey Estuary SPA and Ramsar and if it does consideration needs to be given to it alternative solutions – on this basis it cannot be concluded that 'Policy GB1 – Green Belt' and 'Policy MD3 – Fiddlers Ferry' is justified or sound; and,
- Green Belt release and the housing allocation at Thelwall Heys has not been justified – it has not been demonstrated that it would have “no harm” on the significance of heritage assets and their setting and if it results in “less than substantial harm” consideration needs to be given to alternative sites – on this basis it cannot be concluded that 'Policy GB1 – Green Belt' and 'Policy MD5 – Thelwall Heys' is justified or sound.

4.5 To address these soundness issues:

- Consideration needs to be given to the number of homes would be required to support the employment land requirement of 316ha so that it can be concluded that the employment land requirement does not lead to unsustainable patterns of commuting;
- Consideration needs to be given to a housing requirement which would align with the employment growth targeted by the LEP so that it can be concluded that the housing requirement is the most appropriate;
- More suitable, available and sustainably located land should be identified for housing, including affordable housing, which is an exceptional circumstance for Green Belt release;
- Justification must be provided for 'Policy MD3 – Fiddlers Ferry' which clarifies what impact it will have of the Mersey Estuary SPA and Ramsar and which demonstrates that this is the most reasonable option; and,
- Justification must be provided for 'Policy MD5 – Thelwall Heys' which demonstrates that this is the most reasonable option when considering impacts on heritage assets.

2.32 The Site is demonstrably suitable for housing development. It is within the control of a national housebuilder and is available for development. It should therefore be considered for Green belt release and a housing allocation which would help identified the identified issues of soundness with the Plan.