APP/0655/V/22/3311877
Appeal by Langtree PP & Panattoni

Closing submission

John Groves MRTPI for the South Warrington Parish Councils (SWP) – the Rule 6 Party

Introduction

1. **Notwithstanding the complexity of issues which have been presented to this Inquiry, it is the Rule 6 party's position that the key determining issues are in fact simple.**

2. **Namely, the proposed development is inconsistent with the primacy of the very recently adopted development plan and is also contrary to specific provisions of the plan - particularly policies DEV4 and GB1 and therefore the underlying strategic objectives of the plan.**

3. **In this context the provisions of NPPF paragraph 47 which reflects section 38(6) of the PCPA 2004 and paragraph 152, insofar as it relates to inappropriate development in the Green Belt, are critical to the determination of this application.**

4. **On the one hand it is incumbent on the part of the applicant to show how there are material considerations which would justify departing from a recently adopted local plan. Then, additionally it is also incumbent upon the applicant to demonstrate very special circumstances which clearly outweigh the harm to the objectives of the Green Belt and any other harm.**

5. **However, it is appropriate to consider both questions by examining the harms and the benefits that would arise from the proposal. Given the VSC exercise is 'all encompassing' (looks at all harms and all benefits and the benefits must clearly outweigh the harms) this Closing will address firstly the harms and then the purported benefits. Given the primacy of the local plan and the accepted conflict with the local plan this is an appropriate starting point.**

Conflict with the Local Plan

6. **The starting point is our planning system is plan led and the primacy of local development plans is established in law (s.38 (6)).**

7. **The Warrington Local Plan could not be more up to date having been adopted less than a year ago. It is important – before turning to the breaches of policies in the local plan – to have regard to the wider context of the Local Plan's evolution.**

8. **The examination process of the Local Plan was a long and detailed one. A significant documentary evidence base was considered initially over a 4-week examination by two Planning Inspectors. The specific issue of employment land need was considered as Matter 5 and elicited 11 matter statements from various parties. The first hearing led the Inspectors to reach a preliminary view[1] that the Plan was over estimating employment land requirement – a particularly relevant issue given the Local Plan proposed to release Green Belt and allocate SEWEA to meet this inflated requirement.**

9. **That provisional view was not the end of the matter. instead, the Inspectors felt it appropriate to hold another detailed specific hearing[2] to consider the issue in light of the initial representations received (including from the Appellant). This elicited additional matter statements from 8 parties (including Mr Kingham on behalf of the Appellant) and there was then a further detailed post-hearing note (OD13) from Mr Kingham.**

[1] 16 December 2022 Letter – CD3.2
[2] ID 31

10. All of this resulted in a detailed consideration of the issue by the Inspectors in their Report (ID43) – it is by far the longest section of the report. That detailed consideration led to the Inspectors to conclude that there was only an employment land need of 168 ha (local and strategic), and that meant only an allocation of 172 ha was sound, therefore SEWEA was not sound, and that there were no exceptional circumstances[3] that justified SEWEA being released from the Green Belt.

11. The outcome of this extensive process was to remove the application site and the rest of the SEWEA as an allocated site and to retain its status as part of the Green Belt.

12. Therefore, while the Appellant accepts the conflict with the development plan as a whole and swiftly looks to move the focus to material considerations that justify departing from it, it is in fact a critical point – and one of the most weighty harms. The proposal would totally conflict with the spatial strategy and key objectives underlying the local plan.

13. Policy DEV4 is the key employment plan policy underlying Objective W1 (delivering sustainable growth) by ensuring an appropriate and

14.

[3] A "less demanding" test than VSC – [70] of **Compton Parish Council v SSHCLG** [2019] EWHC 3242 (Admin)

15. sustainable level of employment land is provided. It had SEWEA expressly removed from it. The appeal proposal is contrary to it.

16. Policy GB1 is the Green Belt policy underlying Objective W2 (maintaining the permanence of Green Belt) by only removing land from the Green Belt where exceptional circumstances justify development and protecting the rest. It had SEWEA expressly removed from it. The appeal proposal is contrary to it.

17. Given the primacy of the local plan, the detailed consideration that led to its adoption, the removal of this very proposal from it, and the accepted conflict with the development plan, the weight to be attached should be the maximum. To find otherwise would be to entirely undermine the plan led system and circumvent the detailed examination process that led to it.

Other harms

18. In addition the balance needs to take account of the additional harm which arises from impact on the landscape, heritage, highways, ecology and air quality.

19. Mr Taylor in providing evindece on landscape accepted that his conlcusions on impact were to some extent based on context relativelymodest existing buildings. He did not provide anything to contradict the findings of those commenting on the Local Plan or critcically the views of the Local Plan Inspectors that the allocation of SEWEA would have significant and unacceptable harm on character and appearance landscape. I give this harm significant weight.

20. Mr McQueen's evidence concludes that there is harm to heritage assets - some moderate adverse impact but at 7.13 of his proof (CD4.43) that the dvelopment will alter setting and remove an element which contributes positively to significance. I give this harm moderate weight.

21. Mr Vogt acknowledges that development will have a signficant impact on a highway network which is already operating beyond capacity. Whislt the proposed development attempts to deal with the impact of the development itself, this of itself adds to the harm resulting from encroachment in the open countryside. I give this harm moderate weight.

22. Ms Seil's evidence substantially relates to the level and form of mitigation necessary to manage and deal with the harm to ecology. These actions by definition illustrate the intrinsic harm to ecological considerations which

will result from the proposed development. I give this harm moderate weight.

23. **Mr Drabble appeared to accept that more vehicles would inevitably lead to more sources of air pollution- even if vehicles changed from diesel to electric power it was accepted that whilst this might reduce pollution through Nitrogen Dioxide but would potential increased pollution in terms of particulates. I give this harm moderate weight.**

Material Consideration – Employment benefits

24. **From the evidence presented to the Inquiry by the applicant I do not see that there is a fundamental difference between parties that the development is both contrary to the development plan and Green Belt Policy and that requirements outlined above apply.**

25. **The material considerations and very special circumstances presented here rely entirely on the employment and economic benefit which comes from the development. They are heart of the justification for this scheme.**

26. **However it has become clear throughout the Inquiry that assessment of economic benefit, development need and supply cannot be assessed through any clear and decisive arithmetical measure. There is an absolute need for an informed planning judgement. The applicant disputes conclusions reached through the Local Plan process and takes a different**

professional position from that adopted by the Council in adopting the Local Plan in line with the modifications proposed by Inspectors in order to make the plan sound.

27. But the Inspector made an unchallenged, lawful, and informed conclusion that the sustainable level of employment land requirement in Warrington was 168 ha. To continue to pursue an argument that the Local Plan is effectively wrong and that the site should have been allocated is seen as perverse.

28. Sustainability is the key point. The purpose of the planning system is to contribute to the achievement of sustainable development[4]. Sustainable development is achieved by balancing the economic, social and environmental objectives in a mutually supportive way[5].

29. It is clear that Warrington has a huge strategic locational advantage where demand for sites for logistics related development is almost incapable of being satisfied. The reality is that it should be for the planning system through development plan production to make informed judgement on a strategic level as to how land might be allocated to meet that demand.

[4] Para 7 of NPPF.
[5] Para 8 of NPPF

30. This was reflected in the evidence given by Mr Rolinson . It was clarified that the Appellant's case was that their proposal was to be meeting 'Warrington's Need' which was a mix of both local and strategic wider need. However, this wider strategic need was not so simplistic as to be to meet some of the 'unmet FEMA demand' set out at Table 4.5 of Mr Kingston's proof. Such an approach rightly would lead to questions of why here, and why now? Instead, the strategic need was what the Applicant judges to be the appropriate proportion of the strategic need for Warrington to shoulder.

31. But that is the fundamental issue with the Appellant's case. They – as part of the industry – are imposing on Warrington how much strategic need they think should be borne. But in a plan-led system that is not how the system works. It is the role of the Council – through the adoption of a sound local plan – to determine what is a sustainable level of that need to meet. That process has only just finished. The sound figure is 168ha. Regardless of whether Warrington started out with a higher figure, critically they adopted the Plan as modified by the Inspector with that sound figure. That is the sustainable level of employment land that can be shouldered by Warrington.

32. In this instance that process has taken place very recently. Presentation of evidence and debate through the Local Plan Examination has included specific and detailed appraisal of demand and supply conditions and critically has taken account of changing circumstances across the period of evolution of the Plan

33. The evidence of Messrs Kingham and Johnson is their professional judgement - but that it is judgement and critically judgement which is inconsistent with the conclusions reached in the Local Plan.

34. Again, it is pretty obvious that Warrington, located at the intersection the M6, M62 and M56 will attracted demand and that need can be identified but the Planning System provides scope to intervene and to give consideration to wider issues - to apply the balance of assessment of harm against the assessment of benefit.

35. It does feel that the case presented by the applicant, concludes that the ever-changing demand for modern logistics development particularly around Warrington "increasingly the epicentre for logistics development in the NW" will trump even the strongest planning policy constraints.

36. There is another element of the Applicant's case that needs to be considered – urgency.

37. It is important not to forget that the Local Plan expressly caters for the Appellant's concern: that the employment land requirement will grow larger than 168 as time goes by. It does this by providing a review mechanism [6] coupled with a specific commitment to review the employment land needs before the end of the Plan[7].

38. The Appellant's response to this is to argue that there is an urgent need which means that the planning system needs to be act now. But the evidence doesn't support the conclusion that the warning lights are flashing in relation to employment land. Far from an urgent crisis, the Local Plan expressly provides for a three year buffer in the requirement to allow for flexibility and for a sufficient pipeline of sites to be provided. The numerical evidence shows that in 2023 demand dropped, and in the six month period between Mr Johnson's original and update proof there was an increase in the supply of B8 logistics stock.

39. While a point in time the Inspector (and SoS) can note that the current supply (i.e existing or under construction units) was between 22 – 24 months. This exceeds the historic 12 -18m supply which Mr Johnson tells us "*has enabled a steady throughput of development to capture occupier*

[6] Policy M1 – ID48
[7] Para 4.2.22 (page 61) – ID48

requirements[8]". The upper range also meets the 24 m requirement which prevents market failure[9].

40. This is to ignore the future pipeline of sites in the region and sub area which for 2025 alone would meet the entire demand of 2023[10].

41. The point is none of this indicates that the warning lights are flashing and there is such an urgent need that the SoS should ignore the Local Plan, skip over the review and start granting permission for windfall sites within a year of the Local Plan being adopted.

42. Overall, while the Applicant can point of four 2021 call in decisions where B8 employment justified VSC, that shouldn't give the Inspector any comfort in this case. While there is Green Belt harm here, it is important not to ignore the significant harm that would arise from permitting development so contrary to the recently adopted development plan. That is a scenario that none of the called in decisions were considering.

43. The Applicant's main justification is the employment and economic benefit from providing B8 in this location. That should not be salami sliced and multiplied into three separate material considerations but is one material consideration where need, demand, suitability, deliverability all inform the singular weight to be given.

[8] Mr Johnson Proof: 7.9
[9] Mr Johnson Proof: 14.4
[10] Mr Johnson Addendum 1.25.

44. However weighty the Appellant places it, it cannot clearly outweigh the harm that arises from subverting the local plan, bringing forward substantial development in the Green Belt and the other harm identified above.

Conclusion

45. The SWP would contend that harm arises in the fundamental terms of inconsistency with the development plan. Harm arises from the accepted impact of the development on the principle of the Green Belt and the reasons for locating land within it. There is negative impact on openness. The development results in encroachment into the open countryside, urban sprawl and goes against policies which seek to support urban regeneration.

46. In this context it must be a material consideration as to how the LPA could resist future proposals relating to the those parts of the SEWEA outside of the application site

47. **Cumulatively the harm resulting from the development, together with Green Belt harm and the failure to comply with the provisions of the development plan result in a very substantial benchmark for the level of harm resulting from the development.**

48. **The only benefit arising from the development relates to the ability of 6/56 site to meet demand. Mr Johnson offers evidence on what the market wants. Sites are not where developers/users want to go. Evidence presented shows how development might assist in the efficiencies of logistics operators, there is limited benefit to Warrington and particularly to those experiencing the impact of the removal of land from the Green Belt.**

49. **It is the role of the planning system to direct development to locations where harm is minimised and benefit maximised. It will not always be appropriate to meet market or developer demand. To do so would give developers carte blanche for their desire to justify developing in the Green Belt contrary to the newly adoped recent plan.**

50. **It was telling that the best example the Appellant could find was a local authority decision in Wakefield which brought forward a scheme to cross fund a very particular community project (Castleford Tigers). This is a very different scenario here.**

51. As Mr Rolinson confirmed he could not recall in his extensive experience when there has ever been a case of an allocation removed from a local plan being permitted less than a year later as windfall development. That is not surprising – the concept is the very anthesis of the primacy of local plan enshrined in s.38 (6).

52. As I set out at the start the key determining issues are in fact simple. The decision should be made in accordance with the Local Plan and the proposal be refused. There are no material circumstances that justify otherwise. There are no VSC. It is on that basis that it is respectfully submitted that the application be refused.