



## Appeal Decision

Inquiry (In-Person and Virtual) Held on 11 – 14 January, 1 – 4 February and 8 – 11 February 2022

Site Visit made on 7 February 2022

**by Andrew McGlone BSc MCD MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 6 May 2022**

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**Appeal Ref: APP/Q4245/W/20/3258552**

**Former B&Q, Great Stone Road, Old Trafford, M32 0YP**

- 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 Accrue (Forum) 1 LLP against Trafford Metropolitan Borough Council.
  - The application Ref 100400/OUT/20, is dated 19 March 2020.
  - The development proposed is the demolition of existing retail unit and associated structures; erection of buildings for a mix of use including: 332 apartments (use class C3) and communal spaces ancillary to the residential use; flexible space for use classes A1, A3, D1 and/or D2; undercroft car parking; new public realm; and associated engineering works and infrastructure.
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### Decision

1. The appeal is dismissed and planning permission is refused for the demolition of existing retail unit and associated structures; erection of buildings for a mix of use including: 332 apartments (use class C3) and communal spaces ancillary to the residential use; flexible space for use classes A1, A3, D1 and/or D2; undercroft car parking; new public realm; and associated engineering works and infrastructure.

### Applications for costs

2. An application for costs was made by Accrue (Forum) 1 LLP (the appellant) against Trafford Metropolitan Borough Council (the Council) and in the alternative Lancashire County Cricket Club (LCCC). This application is the subject of a separate decision.

### Preliminary Matters

3. The application submitted to the Council was in outline, with landscaping the only one of the matters reserved for future consideration.
4. The Council did not determine the planning application, which has resulted in this appeal being lodged by the appellant. Had the Council reached a decision on the planning application it confirmed that it would have refused planning permission for several putative reasons.
5. During the appeal, it became clear that one of the apartments had been double counted and that the submitted plans show 332 apartments not 333 apartments. There have been no changes to the submitted plans and, having regard to the main parties' comments on the matter, I am satisfied that no

prejudice would be caused if I determined the appeal based on the lower number of apartments.

6. I outlined the provisional main issues at the Case Management Conference (CMC)<sup>1</sup> having regard to the Council's putative reasons for refusal. The reasons were then revised following the submission of further evidence<sup>2</sup>. This meant that the Council no longer pursued a case in relation to main issues 6 and 7, set out below, and the living conditions of existing residential properties on Great Stone Road and Trent Bridge Road, with regards to daylight and sunlight. The Council did, however, add a further putative reason for refusal relating to noise from concerts at LCCC and whether this give rise to inappropriate living conditions for any future occupants. In setting out the main issues at the start of the Inquiry I had regard to the Council's updated position and the body of evidence before me.
7. For reasons explained later, the Council withdrew its reason for refusal in relation to the proposal's effect on the fine turf training facility (FTTF) at LCCC. It also made no case about the non-turf training facility (NTTF). LCCC, a Rule 6 party, decided not to call its own evidence on this issue and instead relied on the Council's evidence. Even so, despite the Council's new position, LCCC still considered an adverse effect on the FTTF would be caused by the proposal. I consider the merits of this later.
8. LCCC, who were granted Rule 6 status at this Inquiry, raised concerns relating to highway matters through its written evidence but did not call a witness at the Inquiry on this topic. As the Council did not raise issue with the scheme in this respect, I sought written responses from the appellant's highway witness to my questions<sup>3</sup>. I have had regard to all the comments made in respect of highways in reaching my conclusion on this matter.
9. A signed and dated Unilateral Undertaking (UU) was submitted after the Inquiry closed. It provides for a Traffic Regulation Order (TRO) review, a design certifier and a contribution for sports facilities. The UU also provides for affordable housing and/or a primary school contribution, having regard to my findings on viability. I consider the obligations and the UU later in my decision.

## **Main Issues**

10. The main issues in this case are:

- 1) the effect of the proposed development on the character and appearance of the area;
- 2) whether the effect of noise from activities at Emirates Old Trafford (EOT) would result in acceptable living conditions for future occupants of the proposed development, and whether, as a consequence, unreasonable restrictions may be placed on LCCC's operations;
- 3) whether future occupants of the proposed development would have acceptable living conditions, with regards to amenity space provision, outlook, sunlight and daylight;
- 4) whether the proposed development would have an overbearing effect on

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<sup>1</sup> CD-F29

<sup>2</sup> Inquiry Document 6

<sup>3</sup> Inquiry Document 19

the living conditions of the occupants of residential properties on Great Stone Road, Trent Bridge Walk, Gorse Avenue and Gorse Crescent, having regard to its height, massing, scale and layout;

- 5) whether or not the proposed development would make adequate provision in terms of affordable housing and education, having regard to viability;
- 6) the effect of the proposed development on the character or appearance of Longford Park Conservation Area and on the setting of nearby listed buildings;
- 7) the effect of the proposed development on EOT, a non-designated heritage asset and an internationally significant visitor attraction, cultural and tourism venue;
- 8) the effect of the proposed development on the fine turf and non-turf training facility at EOT; and
- 9) the effect of the proposed development on the safety of vehicular and pedestrian users of the access to the site, EOT and Great Stone Road.

## **Reasons**

### *Approach to decision-making*

11. The Council is currently unable to demonstrate a five-year supply of deliverable housing sites. Disagreement between the Council and the appellant exists on the extent of that supply. I shall consider this dispute later in my decision, but the Council and the appellant agree that the policies which are most important for determining the application are out-of-date and paragraph 11 d) of the National Planning Policy Framework (the Framework) is engaged.
12. While the most important policies in this case may be out-of-date this does not mean that they carry no weight. Were relevant, I consider the degree of weight that should be given to them, having regard to the parties' views<sup>4</sup>, according to their degree of consistency with the Framework. However, the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making.

### *Character and appearance*

13. The appeal site lies within the Lancashire County Cricket Club Quarter. It is one of five strategic locations identified for change in The Trafford Local Plan: Core Strategy (CS). Each location offers an opportunity for major economic and residential development to enable the growth of the Borough.
14. CS Policy SL3 specifically relates to the LCCC Quarter. It sets out that a major mixed-use development will be delivered in this location to provide a high-quality experience for visitors, balanced with a new, high quality residential neighbourhood centred around an improved stadium at LCCC. The policy goes on to say that this location can deliver 400 residential units comprised predominately of accommodation suitable for families. It sets out a number of development requirements that need to be met in order for development to be considered acceptable.

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<sup>4</sup> Paragraph 5.1.22, Statement of Common Ground, October 2021

15. The site itself is located off Great Stone Road and is roughly 1ha in size. The site is broadly rectangular and contains the former single-storey B&Q store building and a large area of hardstanding once used for car parking and associated structures. The store ceased operating in January 2016 and the building has been vacant ever since. Vehicular access into the site is taken from Great Stone Road, just as the road starts to rise over the Metrolink line. This extends alongside the site's tree lined south-eastern boundary. The site is generally flat but its southern and eastern parts are lower than the road.
16. The cricket ground and its stands are a prominent feature within the site's immediate context but also the wider area. The height of the stands around the field of play at EOT ranges between around 15 metres to just over 20 metres. The stands that include the pavilion, hospitality or media facilities, alongside spectator seating, tend to be of a bulkier scale and mass compared to the open-air terraces, which consist of banks of spectator seating. During the summer months, and for certain cricket matches, a temporary stand is erected between the south-west terrace and The Point. The height of this stand is around 22.6 metres, roughly equivalent to seven storeys. The stand does, however, need to be removed when concerts take place at EOT as the location is also where the stage is erected.
17. To the north is Lancastrian House which is a large office building comprising of a mixture of two and six-storey blocks with surface car parking between it and the appeal site.
18. The appeal site is not a landmark site, but it marks a transition between suburban two-storey inter-war residential development and mixed-use and mixed-scale development to the north and east between the Metrolink line and the A56. Development on the appeal site and the western part of EOT is of a low scale, which provides a soft urban transition to the cricket ground stadium, Lancastrian House and the much more varied scale, type and form of development beyond.
19. The appeal site is viewed in conjunction with existing development in the distance to the north and east. However, EOT provides a strong physical and spatial break to this area of development and its scale, height and massing<sup>5</sup>. The area to the east of EOT at the former Kellogg's site is earmarked for further considerable change and is subject to a masterplan and a maximum height parameter plan. If realised, the height of development would rise up from the southern corner of this site to the north and west opposite Oakland House. Notwithstanding this, I consider the site's immediate context to comprise of the site, the adjacent residential development, EOT, Lancastrian House and the Metrolink. This is the primary consideration here so that the design of any development proposal appropriately recognises it as a transitional site and responds accordingly.
20. The Council considers that there should be a six-storey limitation on development at the appeal site due to the site's proximity to suburban housing. The evidence base for the Council's approach is part of the soon to be examined Civic Quarter Area Action Plan (AAP) which is the Council's vision for the site and the LCCC Quarter which has been developed over several years. The merits of the AAP are for the Examination in Public (EiP) especially as there are unresolved objections to it. Setting aside the six-storey limitation, it is

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<sup>5</sup> Debra Harrison Proof of Evidence, Appendix H3

ultimately about achieving a suitably designed scheme for the site. This may or may not involve a development that is above six storeys, but the key is that it responds to the site and its context.

21. As the appeal site is generally unconstrained it could be developed in any number of ways to address the southwestern corner of the LCCC Quarter and provide general improvement to the urban area. The appeal scheme comprises of two blocks. The first would be next to the surface car park at EOT, the other next to the Metrolink line.
22. There would be a clear break inserted between the two blocks at the rear and upper and lower cuts added at the rear of the first block<sup>6</sup>. The changes strive to artificially make the development read as three separate buildings. This would be the case for the front part of the development next to Great Stone Road which would consist of three distinct blocks separated by around 14 metres of space. Conversely, the rear part of the development would not be read in the same manner. The first block would be read as a single entity enclosing the northern courtyard. The upper and lower cuts to the rear would not avoid this block being read as a high solid mass of built form enveloping the rear boundary of the courtyard from Great Stone Road<sup>7</sup> or the gap between the 'block' next to the road. Once inside the courtyard, users' experience and understanding that this is a single block would only be compounded<sup>8</sup>.
23. The full height gap to the rear between the two blocks would mean that they would be distinct from one another. Yet, the benefit of this would be diluted by the proposed layout, which would serve to narrow the gap next to the southern courtyard and in turn only offer glimpsed views through and beyond the two blocks when one stands at Great Stone Road looking inwards<sup>9</sup>. As a result of the design approach to the rear of the site, the appeal scheme would read as two large blocks of development.
24. That said, each block would actively address Great Stone Road and have a varied and stepped increase in its scale, height and massing towards either the rear of the site and/or the Metrolink line. The principle of this approach to developing the site is an appropriate response to the site's context. However, the middle to rear sections of the development rise to a scale that exceeds the permanent stands at EOT along the entire length of the north-eastern boundary.
25. Comparisons made between the AOD's for the proposed development and EOT are relevant, but there are also obvious differences in the scale, height and massing of each body of development. For example, the massing of the southwestern terrace at EOT is distinct from that proposed along with the north-eastern façade<sup>10</sup>. The media building at EOT is bulkier, but again it is not directly comparable in terms of its overall scale, height and massing. Even the scale, height and massing of Lancastrian House is different due to the regular pattern and scale of development here that breaks the taller parts up physically and visually.
26. The appeal scheme would not be sympathetic to the surrounding built

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<sup>6</sup> CD-K5, point e

<sup>7</sup> Mr O'Connell's Proof, Figure 72

<sup>8</sup> Mr O'Connell's Proof, Figures 73, 90 and 92

<sup>9</sup> Mr O'Connell's Proof, Figures 75, 76 and 95

<sup>10</sup> 103m length with 11m gap, cuts and 5-9 storeys

environment despite its stepped approach, with the north-western and south-eastern facades both 65 metres plus in length and either five to seven or seven to nine storeys high. The articulation and step up in both facades would fragment the roofline and create architectural interest. However, when the entirety of the scheme is considered, it would read as a large block of development of a considerable scale and mass that does not achieve an appropriate transition between the lower scale residential development and EOT. The more appropriate design response to Great Stone Road does not alter my view on this.

27. Concerns are cited by the Council about the proposed development's proximity to the site's boundaries. This is directly influenced by the proposed layout. There is a trade-off between making effective use of brownfield land, ensuring a viable development, and responding to the site's context. The proposal pushes the former two in favour of the latter. That said, the site coverage would broadly correspond with the scheme at the former Kellogg's site<sup>11</sup>, so I agree with the appellants on this point.
28. Nonetheless, the proposed plans and photomontages showing the north-western boundary next to the LCCC car park show several trees and a hedge. A verified view<sup>12</sup> indicates a stretch of grass, but that does not tally with the proposed site plan<sup>13</sup>, which shows a footpath leading to the rear of the site. The access road, footpath and layout of the development would be fixed and not reserved matters. The footpath is the minimum width necessary, and a retaining structure is required for the ramp down into the undercroft car park. This would leave insufficient space to accommodate trees along the north-western boundary up until the north-east corner, either between the footpath and the boundary or within the footpath itself as this would restrict its usable width. Hence, the softening effect that the illustrated trees are shown to offer could not be realised. This is a matter that weighs against the proposal.
29. A density of development of around 332dph would be in stark contrast with the lower density residential dwellings to the south and west. However, to realise the Council's vision for the site and the Framework's objective to avoid homes being built at low densities, there would be a contrast of some sort. In the absence of a definitive figure to guide density, the key question is whether the proposal simply optimises the site, or not.
30. A numeric approach to developing a site is not a design or context led approach<sup>14</sup>. I recognise that the two cannot be treated in isolation, but the appropriate density will result from the context, accessibility, the proposed building types, form and character of the development<sup>15</sup>. A high density of development on the appeal site may not in itself be harmful, but in this case, the brief for the site creates direct tension between the proposal's resultant scale, height, massing and layout on one hand and the site's transitional context on the other. The outcome would be a development that would be of a density that would clearly and harmfully jar with that of the site's context and the lower density of development nearby.
31. I note the appellants' Townscape Visual Impact Assessment (TVIA) and the

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<sup>11</sup> Appellants Closing, Paragraph 64

<sup>12</sup> CD-K48 CAM-03

<sup>13</sup> CD-K49 P5

<sup>14</sup> Mr O'Connell confirmed he understood his brief was to design a scheme for the site for around 300 units

<sup>15</sup> National Design Guide, Paragraph 66

TVIA prepared by Randall Thorpe in relation to the emerging AAP. Part of the appellant's assessment draws on the proposal being broadly similar and coherent in scale to EOT and nearby office developments off Talbot Road. But, as noted above, a tighter sphere of reference is needed for this site to ensure development appropriately transitions between developments of different scale and use. Furthermore, comparisons drawn by the appellant on the conclusions reached by the Randall Thorpe TVIA are not directly comparable due to the differences in scale, height and massing of the two to four storey building assessed on the site.

32. I consider that the proposed development would lead to a medium magnitude of change to this urban landscape. The scale, height and massing proposed would introduce development that is likely to be perceived as negative. It would be discordant in its context. Whilst there are beneficial elements to the scheme, and development of the site could yield beneficial change as an end product, the proposal in overall terms would likely amount to an adverse effect locally to the townscape's character.
33. The overall harmful effect of the scheme would be principally experienced from Great Stone Road to the north of the site and in front of it, along Trent Bridge Walk and from EOT for years to come. A planning condition would ensure the level of detailing shown on the submitted details would be delivered on site, but it would not overcome the harm identified. Landscaping may help soften the built form at certain points, but it would need to be substantial to mitigate its harmful visual impact in this urban landscape even some years down the line. I do not consider suitable mitigation could be achieved with this scheme.
34. Beneficial changes were made by the appellant following the Places Matter panel, some of which include the amount of car parking, the space along the north-eastern boundary and the private amenity spaces along here and the potential connection to Old Trafford Metrolink stop. However, they do not alter or outweigh my concerns.
35. Drawing these matters together, I conclude in respect of this issue, that the proposed development would harm the character and appearance of the area, and conflict with CS Policies SL3 and L7. These jointly seek a new, mixed-use, high-quality residential neighbourhood appropriate to its context, which addresses appropriately scale, density, height, massing and layout.
36. For these reasons, the proposal would conflict with Framework paragraphs 126 and 130 and the National Design Guide as the development would not create a high quality, beautiful place that would function well, be visually attractive, sympathetic to local character, and add to the overall quality of the area over the development's lifetime. Given the importance placed by Government and the Framework on creating high quality buildings and places and the opportunity presented here, I attach substantial weight to this harm.

#### *Noise from Lancashire County Cricket Club activities*

37. EOT, home to LCCC, is adjacent to the site's north-east and north-west boundaries. It has been home to LCCC since 1864, with the original pavilion built in 1895. EOT has been developed and enhanced in recent years, with the ground consisting of the pavilion and the new stands, with a hotel, hospitality and events facilities.
38. EOT is one of the leading cricket venues in the world and it is an internationally

significant sporting/visitor attraction. It is the most significant cricket venue in the northwest of England. It hosts international cricket (including five-day test matches, one day limited overs or balls matches such as the T20 and The Hundred) and county cricket/first-class cricket (in various formats). EOT also hosts music concerts. Hence, there are two noise generating activities that take place at EOT.

#### Noise surveys

39. The appellant and LCCC carried out noise assessments during a concert in September 2021. The Council has not carried out its own survey but relies on LCCC's assessment.
40. The modelled noise levels at the closest façade of the appeal scheme to the concert stage reached by each noise assessment differ in relation to what was agreed to be the loudest part of the concert. LCCC's survey was taken as close to the location of the proposal's nearest façade as possible. It covered the full extent of the concert including several warmup acts and the main act. During this time the survey location was regularly checked to ensure that there were no localised effects that could influence the results. The survey also took into account the sound system configuration at EOT and it was modelled to the measured noise levels at the mixing desk to ensure consistency<sup>16</sup>, and to ensure there were no localised noise events impacting the survey. The appellant did not, when pressed, dispute the LCCC survey methodology or the witness's extensive concert noise experience.
41. Conversely, the appellant's survey is based on measurements taken from two locations, for limited periods of time, during the main act's performance. The first location, covering two 15-minute periods, is screened from the stage by the cricket school at EOT. Recorded noise levels also cover a period when the act took an interval in the middle of their set. Noise levels dropped considerably in this time, even with recorded music playing instead of live music. The appellant's witness was unaware of the interval or the change in noise level.
42. Location 2 was directly behind the PA and stage noise sources. There was a line of sight to the stage right side hang but not the other components of the main PA or the delay stacks sited within the audience area. The proposed development would have a line of sight to the stage right side hang also but would also be at a different angle to the other elements of the main PA and stage. Location 2 was further away than the proposed nearest façade. On this basis, there is likely to be a substantial difference in noise perception when comparing location 2 with the proposed development. Measurements at location 2 covered an eight-minute period due to localised noise issues relating to people leaving the concert early. Hence, it did not cover the end of the concert.
43. Locations 1 and 2 were used due to accessibility issues around EOT, but this should have been expected at a ticketed concert and no effort was made to arrange access with LCCC before or during the concert. In short, locations 1 and 2 are not as robust or reliable as the location used in the LCCC survey.
44. The appellant modelled noise from a fixed calibration point (location 2) using a

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<sup>16</sup> Mr Fiumicelli's Rebuttal, Figure 1, Page 8



point source propagation method towards the noise source. This method is said to represent a worst-case scenario with a higher noise level at the façade of the proposed development. However, crucially, modelling is simply that and is reliant on the correct data to yield a reliable outcome. It was unclear what figures had put into this model based on the written evidence, but the average sound levels<sup>17</sup> for locations 1 and 2 seem to have been relied on. The model is also based on a speaker set up not used at EOT<sup>18</sup>. There is no substantive evidence to support a view that this would make a negligible difference or to show that the modelling had been adjusted accordingly.

45. The appellant's survey does not analyse the 32 Hz octave band which covers the very low 'sub-bass' thump of most modern music. I have no reason to disagree with LCCC that without this analysis there would be an underestimation of the potential impact.
46. In the round, I consider LCCC's survey to be more robust and reliable and I therefore give this significant weight. It shows that future occupants would be subject to considerably higher noise levels at the closest façade than is currently experienced at the façade of properties on Trent Bridge Walk. LCCC's assessment places levels at 87dB<sub>L<sub>Aeq</sub> 15 mins.</sub>, whereas the appellant's survey produces levels up to 78dB<sub>L<sub>Aeq</sub> 15 mins.</sub>. A difference of 9dB. Once a 3dB effect for the façade is accounted for, even when the assessed concert operated a few dB below what it could under the premises licence, this means the noise level at the façade would be 90dB<sub>L<sub>Aeq</sub> 15 mins.</sub>. Notwithstanding their survey results, the appellant accepted this figure for projected noise levels based on LCCC's survey.

#### Concerts

47. Based on the premises licence, concerts can take place at EOT up to seven times per year with up to 55,000 people at each one. Each would have soundchecks on preceding days, which takes the maximum number of affected days within the year to 14. Concerts could take place at any time during the year but, due to the open-air nature of EOT, they are typically held between May and September. They are scheduled to avoid cricket matches and/or when the temporary stand is erected as the latter needs to be removed for the stage to be erected. The licence also means that no more than four concerts with a capacity of over 5,000 people can be held in a four-week period unless the Council provides its written consent.
48. LCCC has not historically held the maximum number of concerts set by the licence, but this may not always be the case and LCCC are holding at least five concerts in 2022. Further dates are potentially planned to help the club recover economically from the effects of the pandemic. However, it is a moot point whether or not the full seven concerts (and preceding soundchecks) actually take place as my assessment having regard to the agent of change principle needs to be against what can take place courtesy of the current licence<sup>19</sup>.
49. The license permits an upper noise limit of 80dB LA<sub>eq</sub> 15 mins at the facades of 23 – 37 Trent Bridge Walk, 30 Great Stone Road and 19 Barlow Road. This limit was specifically set by the Magistrates Court in 2003 to allow concerts to take place at EOT. It is the highest noise limit set in the UK for an open-air venue

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<sup>17</sup> Mr Patterson's Appendix, Table 1

<sup>18</sup> Mr Fiumicelli's Rebuttal, Figure 2

<sup>19</sup> CD-G3, Paragraph 009 Reference ID: 30-009-20190722

notwithstanding limits set elsewhere for one-off events<sup>20</sup>. To achieve this, the position of the stage and sound system has been refined over time to achieve a dual aim of creating a high noise level for the performer and audience but at the same time falling within the noise limit set by the licence. Noise levels are monitored during concerts for licence compliance purposes and there are measures in place to ensure that these levels are not breached.

50. Previous concerts at EOT have generally attracted a low number of noise complaints, save for two concerts in 2016 which resulted in significantly higher numbers of complaints. It was explained that atmospheric conditions at the time meant that noise from these concerts could be heard 8 to 10 miles away from EOT. This led to the number of complaints received. That said, regardless of the number of complaints received it has not led to LCCC's licence being reviewed. In this context, the three noise experts agreed that there is no current nuisance caused by holding concerts at EOT.

#### The effect and consequences

51. Each noise expert considered a different benchmark should be applied to assess concert noise against based on their own professional judgment.
52. The BS points to the Noise Council's Code of Practice on Environmental Noise Control at Concerts (1995) ('COP95')<sup>21</sup>. This is the primary resource for this type of noise<sup>22</sup> and it outlines the music noise levels that should not be exceeded. This is 15dB above background noise level which, in this case, is 73dB. While COP95 is around 25 years old, and the appellant does not place reliance on COP95 or any other standard for internal or external noise for concerts, it is the only guidance specifically applicable to concerts and the BS points directly towards it. Using the LCCC survey results, future occupants would experience concert noise 17dB above COP95.
53. Opinion is expressed that COP95 has been unduly restrictive and there have been instances when licence limits exceed levels which COP95 set. However, single exceptions are accounted for in COP95 where circumstances dictate it is possible to have a higher noise level without causing 'unacceptable levels of disturbance'. This is not, and would not be, the case at EOT under the terms of the premises licence.
54. The noise level in the premises licence was set by applying COP95 and taking a pragmatic view based on the site-specific circumstances. The closest existing noise sensitive receptors are around 200 metres from the main stage array on Trent Bridge Walk. These properties face away from the Metrolink line, EOT and thus the source of concert noise. Added to this, there is the south-west terrace and car park at EOT between the array and those properties. Consequently, they experience lower noise levels at their front facades compared to their rear elevations. Conversely, the nearest parts of the north-western and north-eastern elevations of the appeal scheme to the stage and arrays would be just under 50 metres away. All the upper floor habitable rooms would have a clear line of sight between the two and those units would have a single aspect.
55. Using the noise level set by the licence would not be appropriate as it is based on circumstances which would not be the same as the appeal scheme. It also

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<sup>20</sup> Council Closing, Paragraph 71

<sup>21</sup> CD-N9

<sup>22</sup> Mr Patterson's Proof, Paragraph 6.7

relates to the licencing regime which controls activities affecting existing development and not planning, which considers the effect on new development. As COP95 concerns itself with concerts, it is a relevant benchmark, though it is based on music noise levels at 1 metre from the façade of any noise sensitive premise. However, it is of note that future occupants would experience concert noise 10dB higher than the highest licence condition in England. It is a very high noise level that would be extremely apparent to future occupants of the units closest to EOT.

56. The BS typically applies to continual and steady noise sources and not noise from concerts. However, the Council considers the internal ambient noise levels within the BS are appropriate to apply in the absence of any other standard. As concerts finish at 22:30, the noise levels between 07:00 and 23:00 would be relevant<sup>23</sup>, though a 5dB leeway can be applied. The maximum number of concerts and soundchecks at EOT would not in my view be 'occasional events' in the same way as those cited in Note 3 to this table are. The BS is the only standard before me in respect of internal noise levels, though the Planning Practice Guidance<sup>24</sup> (the Guidance) explains that the numerical values in here are not to be regarded as fixed thresholds and as outcomes that have to be achieved in every circumstance. Hence, the crucial factor in this case is the living conditions for future residents when concerts take place. This requires judgement.
57. Due to the open-air nature of, and the dual use of EOT the frequency of concerts is concentrated to certain times in the summer months. Future occupants would be far closer to the source of concert noise than any existing residential receptor and subject to noise levels externally that exceed COP95 and the levels set within the licence, potentially for the duration of any concert and any soundcheck. The noise source would also include a very low 'sub-bass' thump. The effect of concert noise would not just be a disturbance and would last for considerable periods on the affected days.
58. No mitigation is proposed to residents' private gardens or balconies. These are an intrinsic part of the proposed design and could not be enjoyed as intended unless future occupants wished to enjoy the concerts. Otherwise, residents would be likely to avoid using these spaces during concerts. Other alternative amenity spaces would be available, but the loudest part of concerts at EOT are in the evening when people would typically wish to be in their own home.
59. Acoustic glazing would mean future occupants would experience internal noise levels of around 46dB when concert noise is at its loudest<sup>25</sup>. This may well compare to the noise level of a fridge or a library, and offer a better internal noise level than that experienced at existing properties, but factually, it would be 11dB above the BS or 6dB above the BS with a 5dB allowance factored in. Music is also more disturbing because of its varied character which is quite different to the steady tone produced by a fridge.
60. The standard of glazing is far higher than that used at existing residential receptors, but the mitigation proposed is reliant on residents keeping their doors and windows closed. This is simply not realistic, reasonable or controllable during the months when concerts typically take place and

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<sup>23</sup> Table 4 of British Standard BS8233:2014

<sup>24</sup> CD-G3, Paragraph: 015 Reference ID: 30-015-20190722

<sup>25</sup> The caveat to this is that it doesn't consider the low frequency noise

completely undermines the effectiveness of the mitigation. Keeping windows and doors closed would also be to the detriment of future residents' wellbeing as, due to the lack of alternative means of ventilation, they would have no option but to open them in warm weather to combat internal heat levels. In this situation, future occupants would likely experience similar noise levels inside their single aspect units as those outside. Thus, concert noise would cause a significant adverse effect at certain times across the summer as future occupants would be likely to change their behaviour during concerts to avoid certain activities when they are scheduled and/or keep their windows/doors closed as there are no alternative means of ventilation proposed.

61. Properties on Trent Bridge Walk are already said to experience 46dB during concerts. These properties have very different internal layouts to the appeal proposal. Hence, what is experienced at the Trent Bridge Walk façade facing EOT is not necessarily the same experience on the other side of the property which contains the habitable rooms. The units proposed in the development closest to the concert noise source would all be single aspect, so notwithstanding the appellant's arguments, the comparative effect would not be the same.
62. Future occupants may choose to live in the proposed development in the knowledge that concerts take place at EOT, but what cannot be guaranteed is that they would know or appreciate the level of noise that they generate.
63. Alternative forms of mitigation are not considered necessary by the appellant. A Deed of Easement to provide protection to LCCC and its operations was discussed at length during the Inquiry, but as it is not part of the UU I have not had regard to it.
64. The 'agent of change' principle is set out in Framework paragraph 187. This explains that existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant should be required to provide suitable mitigation before the development has been completed.
65. For LCCC, there are potential consequences if the development is built out and future occupants experience a very high noise level from concerts. There are two possible scenarios. Both relate to potential consequences for the premises licence.
66. The first scenario would mean that the premises licence remains as it is and is fixed with reference to properties on Trent Bridge Walk. However, the proposed development could not possibly breach the premises licence as it would not be one of the specific properties listed. This would not, however, mean that future occupants would not experience the significant adverse effect at certain times across the summer. Noise levels at the closest façade would be far higher than those stated in the licence and subjectively double that experienced at Trent Bridge Walk at the same time that these properties would still meet the terms of the premises licence. As such, the premises licence would not address the adverse noise impact outlined.
67. As the proposed mitigation cannot be said to be fully effective, a significant adverse effect could be caused by concerts at EOT on future occupants of the

proposed development. The key word here is 'could'. Local authorities have a duty to take such steps as are reasonably practicable to investigate a statutory nuisance complaint. It is for the Council to decide if a statutory nuisance exists. However, if they decide one does exist, they must serve an abatement notice. The existence of any noise complaint may not be sufficient to trigger a review of the licence, but they could equally be. It is about substance.

68. Ultimately, whether the licence is reviewed, or the Council takes further formal action to remedy a statutory nuisance is a matter for them, but there is a strong likelihood that both could be based on the noise environment that future occupants would experience during concerts. A statutory nuisance can include noise affecting balconies and gardens<sup>26</sup>.
69. The second scenario is that the premises licence is updated to refer to the closest façade of the proposed development. If the licence was reviewed and updated to refer to the closest façade of the proposed development, it would be significantly breached from concert noise or there would need to be a reduction in concert noise to ensure that the closest façade could meet the 80dB limit. There is also a risk of civil nuisance action by future occupants. Either could undermine the very reason behind the licence noise level which was set to make holding concerts at EOT possible. The upshot could be to curtail concerts at EOT, and thus LCCC's activities resulting in direct financial consequences for LCCC<sup>27</sup>.

#### Noise from cricket activity

70. It was agreed that noise from cricket activities at EOT is not always the same, whether this be measured in noise levels or its character. It does happen with some regularity during the cricket season, albeit the actual days in the year and duration of play may not always be fixed, whether planned or for performance reasons.
71. A range of cricket formats take place on a single day or over multiple days. Most of these matches are not typically well attended. Those that are can see the ground at capacity or at least with a considerable body of spectators. EOT has a capacity of around 20,000. The worst-case scenario is likely to be a one-day international, typically attended by 15,000 to 20,000 people, at which there are regular music bursts and PA announcements. In this scenario, the facades of the proposed development that would face EOT are predicted to experience noise of 66 dB<sub>L<sub>Aeq,T</sub></sub>.
72. British Standard BS8233:2014 ('the BS') does not explicitly provide a noise level to assess sporting noise against, but it does advise that specialist advice might be required.
73. The three noise experts all consider that by using up rated glazing and trickle vents, high and low frequency noise arising from cricket matches could be mitigated against so that future occupants would experience internal noise levels in line with the BS. Hence, it was suggested, they would have acceptable internal living conditions when cricket matches are played, even accounting for day/night matches. However, this would only work when windows and doors are closed, and it would not mitigate the impacts of noise on residents' private amenity spaces.

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<sup>26</sup> CD-G3, Paragraph: 017 Reference ID: 30-017-20190722

<sup>27</sup> Mr Fiumicelli's Proof, Appendix 2

74. It would be unrealistic and unreasonable to expect residents to have to keep their windows and doors shut every time there is a cricket match, especially during the summer months (when matches are typically played), to overcome adverse noise impacts.
75. In any case, due to the location of the proposal, noise from certain cricket matches, whether that be the crowd, the PA or music played at particular points in the match, such as in response to a wicket, would be audible to future occupants on their balconies on the north-west and north-east elevations at levels above the BS standard.
76. The Guidance<sup>28</sup> outlines that noise impacts may be partially offset if residents have access to other areas. These include a relatively quiet, protected nearby external amenity space for sole use by a limited group of residents and/or a publicly accessible amenity space nearby.
77. The proposed courtyards would be relatively quiet, protected and near to residents. Additionally, there are local parks at Seymour Park, Longford Park and Gorse Hill Park, all of which are a short walk away. Together they would provide a range of amenity spaces for future occupants to use should they be affected by cricket related noise.
78. In terms of the effects and consequences of cricket noise, whilst future occupants may make small changes to their behaviour, I find that, subject to the imposition of a planning condition, they would have satisfactory living conditions. On this basis, the proposed development would not affect the ability for LCCC to hold cricket matches of any form and so in this regard the proposed development would comply with the aforementioned policies and guidance. This matter carries neutral weight as the proposal would mitigate the effect to a satisfactory level.

#### Conclusion on this main issue

79. Noise from concerts at EOT would result in a time-limited but significant adverse effect on future occupants of the proposed development. The proposed mitigation to address the internal noise environment would be ineffective if residents opened their windows and doors, which would not be unrealistic, unreasonable or controllable during the months when concerts typically take place, especially in the absence of any alternative means of ventilation to prevent overheating. There is no mitigation for the private amenity spaces to address the significant adverse effect and these spaces are an intrinsic part of the proposed design. The consequence of this for LCCC could be the review the premises licence, further formal action to remedy a statutory nuisance or for a civil nuisance action to be taken by future occupants. There is a real risk, therefore, that concerts could be curtailed at EOT and for LCCC to suffer direct financial consequences as a result.
80. On this basis, I conclude, in respect of this issue, that the proposed development would not accord with CS Policies SL3, L5.13 and L7.3. These policies do not permit development that has the potential to cause adverse noise and prejudice the amenity of future occupiers unless it can be demonstrated that adequate mitigation measures can be put in place. The proposal would also be contrary to Framework paragraphs 185 and 187 and the

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<sup>28</sup> CD-G3, Paragraph 011 Reference ID: 30-011-20190722

Guidance as the significant adverse effect of concerts on future occupants would not be mitigated and reduced to a minimum potential adverse impact, thereby avoiding unreasonable restrictions being placed on LCCC's activities. I attach substantial weight to this harm.

*Future occupants' living conditions – amenity spaces, outlook and sunlight and daylight*

Amenity spaces

81. A mix of amenity spaces are proposed, consisting of two large central courtyards, multiple rooftop spaces and private spaces in the form of gardens or balconies for units across the development. The rooftop spaces would be accessible to all future occupants of the development, whilst the two courtyards would be accessible and open to use by future occupants and the public.
82. A total of around 3,579m<sup>2</sup> of amenity space is proposed across the development. The quantum of this is not at issue. Nor is the 100% sunlight that the proposed rooftop spaces would receive or their ability to provide functional amenity spaces for future occupants to use during the year.
83. A central part of the proposal's design is the two courtyards. The northern courtyard would be around 1,085m<sup>2</sup> in size whilst the southern courtyard would be roughly 1,164m<sup>2</sup>. Jointly, they amount to just under two thirds of the total amenity space proposed. The courtyards would offer multifunctional spaces for people to meet, relax, play, access or traverse. They are most likely to be used by residents on the lower floors, due to proximity, but, equally, they may be used by every resident due to their size and central position. This could facilitate community interaction.
84. The BRE Guidance is not mandatory nor is it an instrument of planning policy, but it outlines the value of good site layout planning for daylight and sunlight and that this should not limit itself to providing good natural lighting inside buildings<sup>29</sup>. As such, it is a valuable resource as sunlight in spaces between buildings has an important impact on the overall appearance and ambience of a development and is valuable for a number of reasons, such as making outdoor activities like sitting out and children's play more pleasant. BRE Guidance goes on to say that special care needs to be taken in the design of courtyards as often they can turn out to be sunless and unappealing. As a check, BRE Guidance recommends that at least half of all the amenity areas should receive at least two hours of sunlight on 21 March.
85. Against this check, the appellant's courtyard shading analysis<sup>30</sup> shows that 52% of the northern courtyard and 11% of the southern courtyard would receive two hours of sunlight on 21 March. Therefore, the southern courtyard would be significantly affected by shade at this point in the year, with the northern courtyard less affected and just passing the BRE Guidance check.
86. However, the appellant's analysis only covers the central parts of those courtyards and not the full functional areas of each. Looking at the 22 March on the OEA transient sun study<sup>31</sup>, whilst a day later than the BRE Guidance, the full extent of both courtyards would be shaded for the best part of the day.

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<sup>29</sup> CD-Q3 Paragraphs 3.3.1, 3.3.2, 3.3.3 and 3.3.7

<sup>30</sup> Mr Hann's Proof, Appendix E

<sup>31</sup> Ms Harrison Proof, Appendix F

87. On this unconstrained site, the cause of the courtyard shading during the year would be the proposal's height, scale, massing and layout. Effectively, both courtyards would be enclosed by tall built form despite the gap and break proposed. Given their central role, the high degree of shading that would affect both courtyards for large parts of the year would significantly affect their appeal and usability as amenity spaces. Not everyone wishes to be in direct sunlight for all or part of the time but, given the mix of housing proposed, some of which would be occupied by families, the quality of external amenity spaces is important<sup>32</sup>. The courtyards would not provide suitable outdoor spaces for future occupants as they would not function as they ought to or could do. Thus, future residents would not be provided with appropriate living conditions even if each courtyard contained high quality hard and soft landscaping with plant species that can respond to direct or partial sunlight.
88. Balanced against this are the multiple rooftop spaces that would be accessible, sunlit and landscaped to provide functional and flexible spaces for every resident to enjoy throughout the year. When these spaces are included, around 61% of the total amenity spaces proposed would meet the BRE Guidance. Furthermore, both courtyards would be safe spaces and subject of quality hard and soft landscaping.
89. However, given that the courtyards collectively equate to around two thirds of the total amenity space provision and this is an unconstrained site, I consider that the proposal overall would not deliver a high standard of amenity for future users due to the appeal and usability of both courtyards as amenity spaces. Hence, the proposal would not promote future occupants' health and wellbeing in this respect, and they would not be provided with acceptable living conditions even if each courtyard would contain high quality hard and soft landscaping and would be safe spaces. This outweighs any overall compliance against BRE Guidance.

#### Outlook

90. The first of the Council's concerns relates to the units proposed on levels 0, 1, 2 and 3 of the south-east elevation, facing the belt of trees next to the tram line. Excluding the units at either end of this elevation, each unit would be single aspect and have habitable room windows facing the belt of tall established trees along the site's boundary with the tram line. The trees provide a screen to the tram line and buffer the noise from it, but future occupants of these units would have a harmful outlook not because it is onto a bank of trees *per se*, but because of the proximity of such a tall bank of trees, which will form a dense visual barrier when they are in leaf. The effect would be less harmful for the units on level 3, as they are likely to have views over the canopy with those views increasing when the trees are not in leaf.
91. The proposal is further away from the tram line boundary than the outline scheme at the former Kellogg's site, which the Council have resolved to approve, subject to the s106 being resolved. Work is also underway preparing the reserved matters scheme<sup>33</sup> and the indicative masterplan shows a block of four storey high development next to the Metrolink boundary. However, this has yet to be granted planning permission. There are also no details of the internal layout of the blocks next to the Metrolink to know whether they might

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<sup>32</sup> National Design Guide, Paragraph 126

<sup>33</sup> Housing Land Supply Addenda, 27 January 2022, Appendix 13a(i)



be single aspect or not. As such, the current position on the Kellogg's site does not justify the outlook proposed for the units on levels 0, 1 and 2 on the south-east elevation, which I consider to present a harm to the living conditions of future residents.

92. The second area of concern relates to the 18 single aspect units proposed on levels 0 and 1, in the north-east façade, facing the indoor training facility at EOT. There would be around 12.5 metres between them, which would exceed the distance advised in Supplementary Planning Document 4 (SPD4), which is a useful barometer. The proposed layout would allow for a potential future pedestrian connection between Great Stone Road and Old Trafford Tram Station between the indoor training facility at EOT and the north-east façade. Each of the 18 units would either open out directly onto their own private landscaped garden or towards the path, which is earmarked to be supplemented by landscaping. Elevated gardens would mean that the soft landscaping and the indoor training facility would appear lower to future occupants. There is also sufficient room to accommodate landscaping to screen the indoor training facility at EOT and soften the outlook for future occupants. I consider an attractive outlook would be created for the 18 units highlighted despite the inconsistency between the proposed plans and the photomontage, as this could be resolved at reserved matters stage.
93. A third area of concern relates to the outlook from certain flats facing into the courtyards. Yes, they would generally be enclosed or offer glimpsed or oblique views of the surrounding area, but generally the inward facing units would benefit from a good outlook across each of the courtyards due to the stepped nature of development, gaps to the Great Stone Road frontage or distance.

#### Sunlight and daylight

94. BRE Guidance sets out standards in relation to the levels of sunlight and daylight reasonably expected within new development, but these standards are advisory and should be interpreted flexibly<sup>34</sup> and in relation to site specific circumstances.
95. The BRE Average Daylight Factor (ADF) criteria are the most appropriate measures of light within the rooms proposed in the development as it considers light reaching a window, the size of the window and internal surface reflectance. Against the ADF criteria, 88% of all the rooms within the proposed development would meet the relevant threshold, 8.5% are a negligible or minor amount below it and the remainder falling below the target ADF value. Of the remaining number around half are bedrooms.
96. This outcome is based on the application of BRE's upper target value of 2% for mixed-use rooms. When a 1.5% value is used, as has found to be a reasonable approach in other schemes with mixed-use rooms<sup>35</sup>, 93% of the rooms fully satisfy the ADF criteria, 5% are a negligible or minor amount below the ADF criteria. However, of the rooms below that (2%), all but one are bedrooms. The BRE Guidance confirms that bedrooms do not need as much daylight.
97. When the appeal scheme is compared against other local schemes that have been granted planning permission by the Council at Sale Square, MKM

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<sup>34</sup> CD-Q3, Paragraph 1.6

<sup>35</sup> APP/E5900/W/17/3171437, Paragraph 128, Mr Radcliffe's Proof, Appendix D

House/Warwick Road and Wharf Road, it would perform more favourably than these in sunlight and daylight terms.

98. The BRE Guidance is not concerned with windows that are not within 90 degrees of due south as they would never see the sun. However, it remains a sensible aim to minimise the number of dwellings that face a degree of north. In this case, it is said that 151 units would do so. However, as the proposal is a large, flatted development and due to the site's location, shape, orientation and physical parameters, to an extent this scenario is unavoidable. Of the assessed windows, all pass the Annual Probable Sunlight Hours test save for two windows in the summer and 12 in the winter.
99. A flexible approach should also be taken so that the site is used efficiently according to Framework paragraph 125c). I consider, when the proposal is looked at in the round in sunlight and daylight terms, that a minor level of harm would be caused to a number of units, but overall, the appeal scheme would provide adequate living conditions to future occupants insofar as sunlight and daylight. This does not change my view about the proposal's effect on character and appearance of the area as Framework paragraph 125 outlines that they are to be created in parallel.

#### Conclusion on this main issue

100. I conclude that the proposed development would result in a poor level of amenity for future occupants of the proposal in relation to the two courtyards and the outlook from the units on levels 0, 1 and 2 on the south-east elevation. I have also concluded that a minor level of harm would arise in respect of the living conditions of some future residents in respect of sunlight and daylight. As such, the proposal would not accord with CS Policies L7.3 and SL3.1 which, among other things, seek development not to prejudice the amenity of future occupants by creating a high-quality neighbourhood. The wording of the policies do not replicate the wording used in the Framework, but they are consistent with its aims to achieve high-quality buildings and places which create better places to live and work and provide a high standard of amenity for existing residents. I attach full weight to these policies on this issue. Conflict would also arise with Framework paragraph 130f) which requires places with a high standard of amenity for future users.

#### *Living conditions of nearby residential occupants - overbearing*

101. SPD4 is not strictly applicable to the appeal scheme as it concerns itself with house extensions and alterations. The appeal scheme would meet and exceed the figures in SPD4 for properties on Great Stone Road and Trent Bridge Walk. The nearest properties on Trent Bridge Walk would be around 41 metres from the proposal whereas 34 metres away on Great Stone Road with those on Gorse Avenue and Gorse Crescent varying according to their location.
102. Planning is not, however, just a mathematical exercise. Judgement is needed to assess whether something is overbearing or not based on factors such as a development's height, width and depth, orientation, the existing relationship, the character of the area and the presence of habitable room windows.
103. Development on the appeal site would be of a greater scale and mass than the nearby residential properties. There is also a need to make best use of brownfield land, deliver new homes and help regenerate the area. By developing the site, it would result in a changed view and relationship for any

of the residential properties on the roads referred to, even if the Council's vision for the site at a lower scale and mass is realised. This does not automatically equate to harm. Nor does the fact that something might be visible. Built form on the site does not also necessarily need to replicate the lower scale of development to the south and west of the site, but it does need to respond to it and the site's context.

#### Trent Bridge Walk

104. Properties on Trent Bridge Walk have front and rear window openings, but their habitable rooms tend to be positioned towards Headingley Drive.
105. The proposed development would be a similar distance away from properties on Trent Bridge Walk as is the media building at EOT. However, the proposal would be taller and wider and would be square onto properties on Trent Bridge Walk. The full extent of the north-eastern elevation would also present itself as an elongated façade when viewed from Trent Bridge Walk.
106. The highest part of the development would also be opposite properties on Trent Bridge Walk. The effect would be felt from first floor bedroom windows of properties between 8 Trent Bridge Walk and CAM-06<sup>36</sup>. The remainder of EOT collectively covers a considerable area and is of some scale and mass. However, the greatest collection of this is at the north end of the ground, furthest away from Trent Bridge Walk. The stands to the south and either side of the media building are angled open air seated terraces. They are not a vast mass individually or collectively, so they do not have an overbearing effect.
107. Despite the articulation, the full height and partial gaps in the north-east elevation would fail to break up the development sufficiently to avoid the proposal being read as a substantial block of tall development. The proposed intervening distance would exceed SPD4 requirements, and there are trees and shrubs on either side of the Metrolink line. Although the trees and shrubs would help screen the development to varying degrees across the year, they are not universal along the path to Trent Bridge Walk. Furthermore, the proposed lower scaled elements would not be a feature in views from Trent Bridge Walk. Based on these various factors, I consider the proposal would be overbearing on the outlook from dwellings on this part of Trent Bridge Walk.

#### Great Stone Road

108. Currently, there is a significant distance between the residential receptors along Great Stone Road between Lancastrian House and the Metrolink line and the scale and mass of the cricket stadium and the training facilities. The relationship does vary between receptors along this stretch.
109. Lancastrian House is a six-storey block opposite dwellings at the junction of Great Stone Road and Talbot Road. However, the length of this block is significantly less than the full extent of the appeal scheme and the alignment of subsequent blocks of Lancastrian House are fairly tight to Talbot Road and are largely screened by the initial block when stood directly opposite it.
110. Whilst there would be a visual change to the outlook from properties on Great Stone Road close to Lancastrian House, an overbearing effect would not arise due to the long intervening distance between them and the proposed

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<sup>36</sup> Mr O'Connell's Proof, Page 28

development, the presence of the surface level car park and the relationship presented by Lancastrian House to the receptors.

111. From those properties directly opposite the site or immediately next to it, the proposed development would appear considerably closer, longer and taller than the stadia/training facilities or the former B&Q building. Closest to the road and the properties, the proposed design would break the development up somewhat, and the rising road level of Great Stone Road and the roadside hedge would play a varying role in the relationship between residents and the appeal scheme. Nonetheless, the proposed development would still be dominant and overbearing to residents due to its scale and massing, which would extend not just in front of the current properties but also increase as the proposal steps away from Great Stone Road. This would create a harmful effect.

#### Gorse Avenue and Gorse Crescent

112. The closest properties on Gorse Avenue (between Great Stone Road and Gorse Crescent) are generally side on to the appeal site. Therefore, even with front and rear facing rooms, the proposed development would always be at an oblique angle regardless of its proximity. The stepped form of development, allied with more obvious breaks along the Great Stone Road frontage and the backdrop afforded by the cricket ground beyond, leads me to consider that the proposal would not create an overbearing effect upon occupiers of the relevant properties.
113. Properties in Gorse Crescent are arranged into terraced blocks. The proposal would rise above the neighbouring dwellings and its stepped design would be visible from midway round the crescent<sup>37</sup>. Despite the visual change for occupiers, the proposal would not have an overbearing effect on their living conditions due to the form of development, intervening distance and/or orientation of the properties.

#### Conclusion on this main issue

115. The proposal would not have an overbearing effect on outlook from properties on Gorse Avenue and Gorse Crescent. Even so, this does not alter or outweigh my conclusion that the proposed development would have an overbearing effect on the outlook from residential properties on Great Stone Road and Trent Bridge Walk, due to its height, massing, scale and layout. The proposal would not accord with CS Policies SL3, L3 and L7 as the development would not be compatible with the surrounding area as it would prejudice the amenity of occupants of adjacent properties by reason of it being overbearing. It follows that, in accordance with Framework paragraph 130f), the proposal would not deliver a high standard of amenity.

#### *Affordable housing and education*

116. CS Policy L8.3 states that contributions will be sought for all new development and the nature and level of contributions will be established on a site-by-site basis, relating to the type and size of the development proposal. CS Policy SL3.4 confirms that provision of affordable housing should be made in accordance with Policy L2. This requires appropriate provision to be made to meet the identified need for affordable housing. There is no dispute that there

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<sup>37</sup> Mr O'Connell Proof, Page 31

is a clear need for affordable housing in the Borough and for an appropriate housing mix to achieve a balanced offer, especially for families.

117. Policy L2.9 identifies three broad market locations to take viability issues into account in the Borough. The site lies within a cold market location where no more than a 5% affordable housing target will be applied under normal market conditions, with a flexibility to raise this to a 10% requirement under "good" conditions<sup>38</sup>. The parties agree that the higher figure applies given current market conditions. These figures are subject to viability.
118. However, bullet point 4 of CS Policy L2.12 explains that for developments that, in viability terms, perform differently to generic developments within a specified market location, the affordable housing contribution will be determined through a site-specific viability study and will not normally exceed 40%.
119. The Council and the appellant disagree on whether the proposal would perform in viability terms differently to generic development in Old Trafford, having regard to the typologies that were tested prior to the CS being adopted.
120. The density of the appeal scheme would be more than double the density of the highest density development tested in Old Trafford for the CS. The site is also in a distinct location next to the internationally renowned EOT and near to facilities and services such as an easily accessible tram stop. Furthermore, the scale and nature of the proposal differs from the generic development tested to underpin the CS.
121. The high-density scheme at The Botanic Gardens at Talbot Road was deemed to be generic by the Council. However, there is no explanation to support the view taken<sup>39</sup>. I also understand that a 22% affordable housing contribution was secured with a non-policy compliant change in tenure. That said, the location of The Botanic Garden site is further away from EOT and the tram stop. Aside from the different quantity of apartments that both schemes would deliver, the development at The Botanic Gardens includes office space whereas the appeal scheme includes flexible spaces within use classes A1, A3, D1 and/or D2. Taking matters in the round, I consider that the appeal scheme could perform differently to the generic development in Old Trafford.
122. The appellant has submitted a Financial Viability Assessment (FVA), which is what CS Policy L2.12(4) seeks to determine the affordable housing contribution based on. On the appellant's case this is 6.3% with homes either as Affordable Rented Units or Shared Ownership Units split proportionately across each phase and as per the mix found in CS Policy L2. This equates to 21 units.

#### FVA

123. The credentials of the witnesses who provided evidence on this main issue should not dictate an outcome in and of themselves. Despite the criticisms about qualifications, memberships and experience, all the inputs into the FVA were agreed. The upshot of this is a gross improvement in viability of £14m. The sole difference between the parties now relates to construction costs, which directly influence viability and the affordable housing contribution.

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<sup>38</sup> CD-H4, Paragraph 3.13

<sup>39</sup> Mr Hann's Proof, Appendix 6, Paragraph 28.

124. The Guidance is clear that an assessment of costs should be based on evidence, which is reflective of local market conditions. Build costs should also be based on appropriate data (that provided, for example, by the Building Cost Information Service (BCIS)). The Guidance also says that for a viability assessment of a specific site or development, market evidence (rather than average figures) from the actual site or from existing developments can be used.
125. The Rev G elemental unit cost assessment has been prepared by an experienced costs professional. It comprises of lots of separate elements, which are individually quantified and costed. Some of the elements in the assessment rely on BCIS rates, some do not.
126. Those elements in Rev G that rely on BCIS rates moved in line with the agreed construction costs inflation figure of 6.58% compared to Rev D. Eight, non-BCIS rated elements, however, rely on professional judgement. These elements include costings for external walls, windows and doors, internal doors, wall finishes and floor finishes. The increase in each between Rev's D and G ranges between 46% and 97%. The rate of the eight elements in Rev D were agreed by the Council after reviewing them against BCIS elements and other FVA's.
127. Despite Rev G, Rev D does provide important context. Both are the appellant's own considered assessments, and the proposal's design has not changed between Revs D and G. The increase in these eight elements is said to be due to the appellant's delivery model. I have no reason, given that it is not before me, to dispute the appellant's position that Rev A was based on a standard design and build model. Rev D moved to a developer model with the appellant using their in-house expertise as they were in a JV with the property investor PGIM. It was expected that this model would secure an economy of scale and cost savings compared to a design and build contractor. PGIM are now no longer on the scene and Rev G has reverted to the standard design and build model, but it incorporates the design changes accounted for in Rev D.
128. Using a standard model ought to enable design and build contractors to achieve the economies of scale and cost savings as they are working on multiple large projects and have the resources, skills, delivery experience and buying power to do so. A design and build contractor who tried to charge 45% more than an owner/developer could secure in house would be unable to compete. Without an explanation by the appellant, I cannot comprehend why there would be such a stark difference in non-BCIS rated elements based solely on the delivery model alone, especially when there was no suggestion that the rates adopted in Rev D were 'exceptionally low' or specific to a delivery model.
129. The same point applies to external costs. Preliminaries in Rev G are set at 15% based on a mean unit rate from BCIS prelims study for projects over a certain amount. Using 15% would be wholly appropriate based on BCIS data<sup>40</sup> if the mean were to be relied upon, but it is affected by all the rates in the sample and can be unduly influenced by one or two extreme values when the same size is small. Thus, the median is more reliable as it is less affected by anomalies. Moreover, the sample size for Q1 2021 is low compared to previous quarters which typically show a lower preliminary figure whether the mean or median is used, save for the Q1 2019 sample which seems to be affected by a

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<sup>40</sup> Mr Latham Rebuttal Proof, Page 12

wider range of preliminaries. I therefore disagree that there is robust evidence to support the 15% for preliminaries when BCIS puts this at around 12% which broadly compares with other apartment schemes in Old Trafford<sup>41</sup>.

130. For the reasons set out above, there are unanswered questions around the costs in the Rev G assessment that mean it cannot be seen as a fair and reasonable assessment. Nor can it be looked at independently from previous revisions as the purported changes relate to the delivery model not the actual development itself. On face value, the changes to the eight elements, external costs and preliminaries have seen the costs on a comparative basis increase by 28% which is over 20% more than the agreed construction cost inflation figure in the FVA of 6.58% despite them being the same build elements, in the same location and to the same specification.

#### Benchmarking

131. The appellant arrives at global figure for the scheme of £1,787m<sup>2</sup> having divided the total costs by the total Gross Internal Area. This is inclusive of the undercroft car parking and commercial development. This figure was said to lie between the median and mean, but closer to the median when assessed against the BCIS for six-storey + flats as of 23 October 2021. However, given the date of the Inquiry, the most up to date and correct figure for the median is £1,723<sup>42</sup>. The appellant is some £64 above this median rate. Either rate is below the mean as of 23 October 2021 and at the end of Q4 2021.
132. However, BCIS reports basement parking, six-storey flats and commercial spaces as separate entities. Commercial space and parking are usually cheaper to build. As a result, when compared to the cost of a flatted development only, it would inflate the costs of these elements and deflate the costs of the flats. This is borne out by the appellant's costing for the undercroft car parking at £135m<sup>2</sup> which is some £1,652m<sup>2</sup> shy of the appellant's global figure. The flats would therefore need to be costed accordingly to arrive at the appellant's figure. As such, I disagree with the appellant that these spaces would be accounted for as part of a six-storey flatted development as not every development would include these elements or may indeed include others not proposed in the appeal scheme. Hence, the appellant's benchmarking exercise is not like-for-like.
133. While the appellant's assessment is site specific, I do not find it to be reliable. Given this situation, it is appropriate to use a blended rate from BCIS to arrive at a like for like comparison. This approach is supported by the Guidance as an appropriate data set. Whether or not the blended rate of £1,609m<sup>2</sup> set out by the Council sits between the mean and the median for the six-storey + flat is irrelevant as that would not be a like-for-like comparison. The appellant's global figure is considerably higher than that and would therefore depress the amount of money available towards an affordable housing contribution. The same point would apply even if a comparison was drawn based on the more reliable Q4 2021 median which the appellant's global figure is some £64 above.
134. The Council asserts that the proposal can deliver 39% of the proposed apartments as affordable homes alongside all the other contributions inclusive of the primary school contribution. This is based on a blended BCIS rate from

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<sup>41</sup> Mr Lloyd Proof, Paragraph 6.4.7

<sup>42</sup> Inquiry Document 18

Q4 2021, Rev D costs, 12% preliminaries and the agreed costs inflation figure of 6.58%. This equates to a build cost of £156.44ft<sup>2</sup>.

135. Compared to recent schemes<sup>43</sup> granted planning permission in Old Trafford for various quantities of units, the average affordable housing contribution secured is around 7%. This would be out of kilter with the delivery of 39% affordable housing here on the Council's case.
136. However, Guidance in respect of viability was changed extensively in 2018. RICS Guidance has more recently been updated to reflect the central change to avoid land value expectations pricing out affordable housing. The Council also changed its approach in 2017 by challenging the industry narrative on viability. This seems to have taken time to have effect given that all but one of the schemes that make up the 7% comparison were granted planning permission after the Council changed its approach. However, most of them were prior to the Warburton Lane decision which was the first scheme tested on appeal since the change in approach. It was accepted by the appellant's witness that the appellant's approach to viability in that case was rejected. In that decision, the Inspector found that there were sufficient funds for 45% affordable housing.
137. Notwithstanding these schemes, the fundamental premise of an FVA is that it is an objective exercise, and in this case, based on the proposed development. The outcome of the FVA should determine the affordable housing contribution and not be based on what may have been the norm or accepted elsewhere.

#### The level of contribution

138. The appellant's position of a 6.3% contribution is not, for the reasons set out, supported by a reliable FVA assessment. As I consider the appeal scheme could support a higher affordable housing contribution, it follows that a contribution at 6.3% would not be fairly and reasonably related in scale and kind to the development and would, therefore, conflict with Core Strategy Policy L2.12.
139. The Council's assessment of a 39% contribution is underpinned by inputting either agreed, factual or what I determine to be suitable figures. This, however, also accounts for the primary school contribution, which could mean that the affordable housing contribution could be higher still. I shall consider the merits of the primary school contribution, but solely in relation to affordable housing, the Council's level of contribution is what the evidence indicates that the appeal scheme can at least support.

#### Education

140. The Education SoCG<sup>44</sup> narrowed the dispute between the Council and the appellant considerably and now only a primary school contribution is sought. To determine whether this is warranted, the dispute focuses on the methodology used for the 'demand' (pupil yield) and 'supply' (shortfall in primary school places). All the figures involved have been agreed.
141. There is no mechanism before me that could state when the proposed development is to be built by, just a planning condition stating when it must start. This cannot specify a timetable for building out or at all. Hence, relying on any timetable for buildout must also come with a health warning that it

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<sup>43</sup> Mr Lloyd Proof, Paragraph 7.4

<sup>44</sup> Inquiry Document 8



could change. Nevertheless, according to the appellant, phase 1 of the appeal scheme is anticipated to be complete in Autumn 2024 (20-month build out period), with full completion by summer 2026 (23-month build out period). Both would follow a six-month lead in period.

142. The appellant's methodology in respect of 'the supply' is based on the Council's school capacity planning ('SCAP') forecasts. These are prepared by each local education authority to help determine how many school places must be provided in the future and to inform resourcing decisions. They rely upon all new developments which have been granted planning permission. SCAP is carried out in May/June each year wholly based on GP registration data provided in the preceding April. This data seeks to capture all the children who will be starting primary school five years after they are born. Births between April and September are then factored in before models are used to extrapolate that population forward over the coming five-year period to account for annual changes in migration and survival.
143. The Council prepares its SCAP forecasts as per the SCAP guidance<sup>45</sup>, which confirms that robust forecasts are important for agreeing investment from other services and for housing developers for infrastructure improvements. Guidance on Securing Developer Contributions<sup>46</sup> states that it does not replace or override any aspects of other Department for Education publications such as the SCAP guidance, which clearly envisages SCAP forecasts to be used for this purpose.
144. Based on the completion dates for phases 1 and 2, the appellant considers the appropriate SCAP forecasts are for the years 2024/2025 and 2025/2026. However, even if the Council did not challenge them<sup>47</sup>, the appellant's version of suggested planning condition 1 would mean later completion dates and a knock-on effect for the appropriate SCAP forecast years. I note the appellant's rationale for their version of condition 1, but the logic around the judicial review period is incorrect<sup>48</sup>.
145. In practice, the appellant's anticipated timeframes may be correct and/or the reserved matters could be submitted, or the development built out sooner, but if their version of condition 1 was fully utilised, the effect would be that phase 1 may not be built out until mid-May 2025 at the earliest with phase 2 being completed by mid-April 2027. Therefore, 216 of the 332 units proposed would not be completed and would not start generating pupils until after the last year of the SCAP forecasts before me. In this scenario, there is no forecasting evidence before me as the children are yet to be born. This highlights an issue with using SCAP forecasts for developments that would generate pupils further into the future, which is a conceivable possibility on the appellant's own case.
146. However, the Council's version of condition 1 would result in an earlier start on site and, if the appellant is correct on their initial timeframe for phases 1 and 2, then completions would arise in the years of 2024/2025 and 2025/2026.
147. There are downsides to relying on SCAP forecasts, such as that their reliability reduces the further ahead you look due to there being a greater chance of change. They are also not based on actual recorded births between April and

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<sup>45</sup> Education SoCG, Paragraph 2.8

<sup>46</sup> CD-M1, Page 4

<sup>47</sup> Appellant Closing, Paragraph 197

<sup>48</sup> Section 91(3B) automatically gives the time extension in this scenario.

September. Furthermore, there can be a difference between expected and actual pupils turning up at reception; a point demonstrated with a higher number on roll in October 2021<sup>49</sup> than expected. This increase will only travel with the cohort as they progress through primary school.

148. Two further criticisms are levelled at SCAP forecasts by the Council. The first relates to delays in GP registrations or children starting school due to the pandemic. However, the effect of this is unknown either way and is time limited in any event. The other criticism is the effect on inward migration. Trafford has recently seen an uptick in migration from Hong Kong. That said, Trafford's most recent SCAP forecast have already accounted for this as the inward migration rate was amended so that this is carried forward in future years. Any further immigration from Hong Kong or anywhere else would not be picked up in the SCAP forecasts figures before me, but I need to consider this case based on current circumstances and there is no evidence, either way, to indicate whether there has been additional inward migration.
149. Although the SCAP guidance clearly envisages SCAP forecasts are to be used for this purpose, that is not to say that they are the only methodology. There can be great value in detailed local methodologies and guidance for the collection of developer contributions for education in that area<sup>50</sup>. Trafford's 'snapshot' methodology is local and does not require any forecasting. It is based on current numbers on roll against published admission numbers of relevant schools, and to add in any child yield from previously committed development to see whether any level of surplus places remain. It is the Council's extant policy on education contributions, following Member's discussion at Scrutiny Committee, though the methodology is not part of a Supplementary Planning Document.
150. However, when either of the timeframes set out are applied it would mean that a significant proportion of the pupils currently accounted for will not be at the school when the proposal starts generating pupils for primary school education. It is an agreed matter that a shortfall cannot be caused by the appeal scheme unless it arises after the proposal starts generating pupils<sup>51</sup>. Thus, even if birth rates are predicted to be steady, it would not be correct to consider whether there would be a shortfall in primary school places on the October 2021 figures, as any shortfall noted at this point would not be due to the proposal. Therefore, in this case, notwithstanding the successful application of the Council's local methodology to other schemes, an education contribution using the Council's methodology would not be directly related to the development or necessary to make it acceptable in planning terms.
151. Forecasting and modelling the future is not a perfect science and there will always be some inherent uncertainty and the potential for different outcomes. Out of the two methods before me, I prefer the appellant's methodology in respect of the supply as it looks at the period after the proposal starts generating pupils subject to the Council's version of suggested condition 1. As such, as a consequence, and as set out in the Education SoCG, I conclude that no primary contribution from the proposed development is necessary regardless of the pupil yield. The effects of the proposal on education provision, specifically primary schools, would be acceptable without the need for any

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<sup>49</sup> 15 pupils higher for the reception year

<sup>50</sup> CD-M1, Bottom of Page 4

<sup>51</sup> Appellant Closing, Paragraph 197, Footnote 199

contribution. I have therefore not gone on to consider the merits of the pupil yield cases. As such, the proposal would accord with CS Policies L2.2, SL3.2, SL3.4 and L8.4.

#### Conclusion on this main issue

152. I have found that a primary education contribution is not necessary to mitigate the effects of the appeal scheme. The tests set out in CIL Regulation 122 and Framework paragraph 57 are not therefore met and I give this contribution no weight in reaching my decision.
153. An affordable housing contribution is necessary to make the development acceptable in planning terms. A 39% affordable housing contribution was with a primary school contribution. As the latter is not necessary, this money could go towards affordable housing and take that contribution to more than the Council's conclusion of 39%. However, in the absence of evidence, I cannot conclude that the site could deliver more than 40%. Notwithstanding the appellant's case, the UU has been drafted to allow for such other number of dwellings as set out in this decision. On this basis it seems to me that the UU would be directly related to the development and fairly and reasonably related in scale and kind to it. The UU in respect of the affordable housing contribution would satisfy the tests in CIL Regulation 122 and Framework paragraph 57. Affordable housing provision carries considerable weight in favour of the appeal scheme given the identified need and the mix that the UU would provide for.

#### *Longford Park Conservation Area and the setting of nearby listed buildings*

154. Trafford Town Hall, a Grade II listed building, is to the north of EOT and Talbot Road. The Town Hall is set within formal gardens and has been extended to the north with a contemporary addition. The Conservation Area is broadly to the south of the site.
155. Despite the Council's position, I have a statutory duty under Sections 66(1) and 71(1) of the Planning (Listed Building and Conservation Areas) Act 1990 (as amended).
156. The Conservation Area's significance derives from the site of the former Longford Hall and its association with John Rylands. The estate was designated as a public park in the 20th century, and its key aesthetic value relates to its green spaces, mature trees, planting and openness. It is a highly valued recreation space. The park's layout reflects the historic estate use with the central and southern parts of the Conservation Area defined by the estate buildings, formal gardens and tree-lined paths, with the northern end displaying a more open character, with wide expanses of fields bounded by fencing, hedges and mature trees. These afford views of land to the north of the Conservation Area in the direction of the appeal site with a largely uninterrupted skyline. Tall, mature trees encircle the Conservation Area and screen the two-storey houses to the south and east of the appeal site.
157. The appellant's verified view of the proposed development, looking northwards from within Longford Park, together with my own observations, indicates that the proposed development would not be a prominent feature or interrupt the skyline, as the mature trees would partially obscure the proposal even during winter months. The appeal scheme would, therefore, have a neutral effect on the significance of the Conservation Area and would hence preserve it.

158. Trafford Town Hall lies beyond EOT to the north-east of the appeal site. The Town Hall is a local landmark building and its southern elevation facing Talbot Road holds the most architectural significance, with several neo-classical features with hints of Art Deco motif at various points. The proportions of the building's elements, materials and architectural details all contribute to the Town Hall's overall significance. The landscaped grounds and sunken memorial garden to the west also contribute positively to the significance of the Town Hall. The clock tower rises above the remainder of the building and there are glimpsed views of it across the appeal site from the footway, to Great Stone Road, and from Gorse Avenue near to its junction with Great Stone Road. This allows for a limited appreciation of the heritage asset.
159. The clock tower and the proposed development could be viewed together from Gorse Avenue, but the latter would not alter how the former is experienced as it is a narrowed, focused view between EOT and Lancastrian House. The proposal would not, therefore, cause any harm. It would, however, affect the view of the clock tower across the appeal site from Great Stone Road as the road rises up in response to the Metrolink line. Given the intervening development, I consider this would result in a negligible degree of harm, which lies at the lowest end of a spectrum of 'less than substantial harm'. Great weight, however, does need to be given to the asset's conservation and the public benefits of the appeal scheme need to be weighed against this harm. I will return to this later in my decision.
160. There is a cluster of other grade II listed buildings at the entrance to Gorse Hill Park<sup>52</sup>. Having regard to the setting and significance of them, no harm would arise due to their scale, lack of visual relationship and the type, form and design of nearby development and that proposed.
161. CS Policies SL3 and R1 are not wholly consistent with the Framework in terms of how they approach the consideration of designated heritage assets, and as such, carry moderate weight. However, there would be no harm arising from the proposed development in respect of the Conservation Area or the grade II listed buildings at the entrance to Gorse Hill Park. In this respect, I conclude that the proposal would accord with CS Policies R1 and SL3. Nonetheless, due to the less than substantial harm identified in respect of Trafford Town Hall, the proposed development would be contrary to CS Policies R1 and SL3. I will return to weigh this harm against any public benefits of the proposal.

*Fine turf and non-turf training facility at LCCC*

162. EOT is one of a handful of stadia in the UK to conform to the ECB facility standards for High Profile Match Venues (including Men's Test and International Cricket) and the International Cricket Council's (ICC) facility standards for international cricket venues. To qualify as a High-Profile Venue the ECB and ICC requires a high-quality FTTF for elite level teams involved in competitions at EOT. The FTTF also serves a significant number of professional users and talented individuals on the elite player pathway, including but not limited to England teams, visiting international teams, LCCC, Manchester Originals, Women's Regional Academy and Lancashire age groups. The FTTF and NTTF are split into two blocks of nets comprising of multiple wickets with a central run up area serving a set of wickets to the north and south.

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<sup>52</sup> The Great Stone at the entrance to Gorse Hill Park; Gorse Hill Park Entrance Portal and Lodges; and Stretford War Memorial.

163. The concerns raised in respect of this issue relate to the effect of overshadowing from the proposal, which could affect light and temperature levels. In turn, this was said to necessitate the purchase and use of growth lights for the FTTF. I concur with the parties agreed position that the proposal would not lead to an effect on the northern bank of nets of the FTTF. Insofar as the NTTF is concerned, as there is no grass grown here no harm would be caused by the proposal. Thus, the focus is the effect of the proposal on the ten wickets in the southern bank of nets with the batter's end located at the southernmost part of the FTTF nearest to the appeal site.
164. The cricket season usually ends in September with the FTTF used right up until then. Between October and the end of March the FTTF is not used for practice, but between these months renovation, restoration and grass growth take place. A hard-wearing Perennial Ryegrass, adapted to close mowing, is used. The crucial months for this are October and February. October is seen as a critical period for grass establishment by the ECB. In November, December and January active grass growth does not typically occur, with grass usually remaining dormant unless there is a spike in sunlight and/or temperature. However, in February, grass growth accelerates in readiness for the FTTF being readied for use at the end of March.
165. The Council contended that a lighting rig may mitigate the proposal's alleged effect in terms of sunlight, overshadowing and temperature. The appellant disputed this, but photographs<sup>53</sup> submitted during the Inquiry show LCCC have, and already are using, a lighting rig on the FTTF. This led to the Council confirming that it wished to withdraw its case on this main issue.
166. However, LCCC clarified the existing use of lighting rigs at EOT and whether these could provide suitable mitigation against the proposal's effect on the FTTF<sup>54</sup>. Before doing so, I shall first consider the proposal's potential effect.
167. The appellant's evidence places the FTTF below the lower-level limit range for active growth of Perennial Ryegrass whether or not the appeal scheme is built. This technical analysis shows that there would be a slight reduction in solar radiation and temperature during the months of October, December, January, February and March on the southern part of the FTTF with the appeal scheme in place. There would be no change in November.
168. Accounting for the clearness index for Manchester, which ranges between 27 and 30% during the winter months<sup>55</sup>, the upshot is that sunlight during these months will be diffuse and there can be no overshadowing as a result. I do not disagree with the appellant's assessment that any reduction in temperature caused by the proposal would be minimal and would not alter significantly the existing conditions for turf management or renovation of the FTTF during the winter months.
169. Notably, without development on the appeal site, growth lighting would theoretically be needed to provide suitable lighting conditions for active grass growth in the winter. However, setting this aside, if I were to consider that harm would be caused to the FTTF, it is LCCC's position that further growth lights are required as mitigation to address that harm.

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<sup>53</sup> Inquiry Document 5

<sup>54</sup> Inquiry Document 7

<sup>55</sup> Mr Collier's Proof, Paragraph 2.2.5

170. LCCC say that the small lighting rig currently used on the FTTF is not fit for purpose as it can only cover three of the 25 nets at any one time and is, therefore, of limited benefit. It has, however, been used to combat a frost and provide light to the FTTF. LCCC also explain that their existing larger lighting rigs would be too large for the FTTF and that a minimum of three further small lighting rigs would be required to cover 12 pitches with the ability to move them around.
171. However, LCCC's position is not supported by substantive technical evidence and the case for mitigation has not been made out in relation to the nature or impact of the development. A condition cannot be imposed to remedy an existing problem or issue not created by the proposal.
172. Thus, I conclude on this issue that the proposal would accord with CS Strategic Objective OTO11 and Policies SL3 and R6, which seek, among other things, to encourage, support and maximise the potential of LCCC as a visitor attraction and its potential to lead major regeneration in the area.

*Lancashire County Cricket Club - a non-designated heritage asset and an internationally significant visitor attraction, cultural and tourism venue*

173. Improvements made to EOT in recent years underpin its role as an international sporting venue and one of the leading cricket venues in the world. The pavilion was designed by Thomas Muirhead, a Manchester architect, who later designed the pavilion for Surrey County Cricket Club at the Oval. It has been extended and altered several times, most recently in 2012. The front part of the pavilion has been retained and still faces the field of play, which provides an historic architectural focal point for the ground. However, it has been substantially altered internally and externally, with contemporary additions behind. Modern buildings are either side of the pavilion, but its red brick front façade and original features can be experienced from within the ground and at an angle from the appeal site. It is a building which offers architectural and historic value due to its age and use over time, especially as the remaining parts of the ground have been extensively re-developed in recent years.
174. The pavilion holds communal value in terms of its cricketing history and cultural characteristics. While the principle of experiencing cricket at EOT from various places around the playing surface has not changed much over time despite the changes to the game and the range of formats, the redevelopment of EOT has seen the ground become a contemporary first-class cricketing venue alongside other corporate and event offers. I therefore consider the extent of the non-designated heritage asset (NDHA) to be the pavilion.
175. Despite the separation and the presence of other components of the ground between the appeal site and the pavilion, it nonetheless forms part of its setting, albeit it currently contributes little to the significance of the asset. The development proposed on the site would abut LCCC's indoor training facility, the surface level car park next to the FTTF, and rise above the southwest terrace. It would be clearly visible during the spring, autumn and winter months, between the gap where the temporary stand is erected for the summer months. This would not be the case when the temporary stand is in place and less so when the stage is in situ for concerts at EOT.
176. The proposal's scale, height and massing would alter the relationship between the site and EOT and how EOT is experienced both from within the ground and

from Great Stone Road, Gorse Avenue and Gorse Crescent. But it would not be dominating, in this regard, and reflective only of the glimpsed views currently available at certain times. However, due to the wider area's context, including other elements of EOT, I consider that the proposed development would result in negligible harm to the significance of the pavilion.

177. For the reasons outlined earlier, CS Policies SL3 and R1 carry moderate weight insofar as they relate to heritage matters. Although there would be no conflict with CS Policy R6, on the basis that it encourages and supports the Borough's culture and tourism offer in key areas such as at EOT, due to the negligible harm identified to the NDHA, I conclude that the proposal would not accord with CS Policies R1 and SL3 which seek to protect, preserve and enhance locally significant historic buildings. As such, a balanced judgement is therefore required as set out in Framework paragraph 203, which is a significant material consideration, having regard to the scale of the harm identified to the NDHA and its significance. I turn to this later.

#### *Highway safety*

178. The proposed vehicular and pedestrian access into the appeal site would use the existing access point from Great Stone Road, which is next to a vehicular access into EOT. This access is used occasionally by service vehicles and more intensively when events take place. The pedestrian footpath extends along the road either side of the LCCC/site access. The back of the footway marks the extent of the adopted highway. The access road within the site would not be adopted with it being owned and maintained by the developer.
179. No highway related concerns have been raised by the Council and there is no putative reason for refusal on this matter, but in response to LCCC's concerns, the appellant confirmed through a revised drawing that there will not be any raised kerbs that would hinder vehicle movements in or out of the LCCC access. The footway and accesses will be resurfaced and designed to the current footpath level. Tactile paving would be installed at either end of the pedestrian footway. Hence, the proposal would not result in any change to LCCC's ability to use its access in a safe manner.
180. Flush kerbs are proposed within the adopted highway to define the two accesses. They could be driven over but would act as a visual cue for pedestrians. This is not intended as a protected zone for pedestrians and the existing access arrangements require pedestrians to cross not only the LCCC access but an in/out arrangement for the appeal site connected with its former use. There is no evidence to suggest that this arrangement has caused accidents or highway safety issues. There is also good visibility at the access point for all highway users. This would remain the case if boundary treatments were kept low or set back from the back of the footway through a planning condition. The proposal would not therefore cause a significant change in the use of the access.
181. There is no national or local policy requirement to complete a road safety audit before the appeal is determined. The proposed access arrangements are also not likely to change fundamentally road user behaviour as they accord with Manual for Streets and could operate in a safe and efficient manner. The proposed works would be subject of a Section 278 agreement with the Local Highway Authority (LHA) and at this point would be subject to a road safety audit, giving independent recommendations on safety matters in design. These

could be accepted or rejected by the designer who would have a chance to respond with the LHA determining the appropriateness of the design.

182. I conclude that the proposed development would not harm the safety of vehicular and pedestrian users of the access to the site, EOT and Great Stone Road. Hence, the proposal would accord with CS Policy L4, even though it carries less weight due to its inconsistency with the Framework<sup>56</sup>, and CS Policy L7.2 and Framework paragraphs 110 and 111. Jointly, they seek safe and suitable access for all and to only refuse planning permission if new development is likely to have a significant adverse impact on highway safety.

### **Housing Land Supply**

183. The Council produces an annual housing land supply position in March each year, but for the purposes of the Inquiry, the parties engaged to provide an up-to-date assessment as of 23 November 2021. Following discussions prior to and during the Inquiry<sup>57</sup> the appellant considers there to be a supply of 3.30 years. The Council considers the supply to be 4.24 years.
184. Of the now disputed sites, the disagreement largely rests with the differing approaches of the parties to whether the sites accord with the term 'deliverable' as set out in the Framework and the Guidance which supports this. The disputed sites fall into three broad categories.

#### Outline planning applications

185. The former Kellogg's site is a Joint Venture (JV) between the Council and a developer, Glenbrook. Outline planning permission has been granted subject to a s106 which is said to be imminent. A reserved matters application was due by 31 March 2022 and detailed discussions have taken place to front load the process. A range of tenures would be delivered through four different sales outlets. The site is suitable and available for development and due to the JV nature of the development, there is clear evidence that housing completions will begin on site within five years in line with Glenbrook's letter<sup>58</sup> and based on the Council's assessment.
186. The Council expect 600 of the 800 residential units proposed in the hybrid planning application at Stretford Mall, submitted in November 2021, to be delivered by November 2026. The residential development is split into 3 phases on this Council owned site. I consider that 150 units at the Lacy Street site will be completed in this time. The planning application is due for consideration by the Council's Planning Committee. While a s106 is required, the principles of this are agreed. The site is a JV between the Council and Bruntwood and the site is central to the Council's own investment programme. This, alongside the £17m of Future High Streets Funding and a development team, shows that there is a clear intention to bring the development forward and a strategy<sup>59</sup> to do so. However, beyond the 150 units, there are limited details about how units in the other phases on the site will be started and the rate at which they will be built out. Without this, I consider that there is insufficient certainty to include more than 150 units in the forward supply.

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<sup>56</sup> Paragraph 5.1.22, Statement of Common Ground, October 2021

<sup>57</sup> Council conceded that the sites at Bakemark, 94b Talbot Road, Stretford Memorial, Claremont Centre and at Higher Road Depot should no longer form part of the supply

<sup>58</sup> Inquiry Document 10, Page 34

<sup>59</sup> Ms Coley's Proof, Paragraphs 4.7 to 4.10



187. Setting aside the appeal scheme, it is unclear whether a new scheme will come forward on the appeal site in order for housing completions to begin by November 2026. The Council estimate 163 units will be delivered on the site, but this is based on the emerging AAP which is yet to be examined and not a specific scheme. Hence, the site should not be included in the forward supply.

#### Full planning applications

188. Planning applications are being considered for the sites at the Greatstone Hotel, The Pelican and the Robin Hood Hotel. However, it is unclear whether permission will be granted for these sites as they either lack officer support or have received objections and need to go before Planning Committee. In any event, there is insufficient evidence that housing completions will begin on these sites within five years. There is little evidence about the developers' intentions, with regard to an anticipated start date or build-out rate to support their inclusion at present. There is also not enough clear evidence that an alternative scheme for each site will materialise let alone how the relied upon completions will transpire before November 2026.

189. An application at Land at/adjacent Katherine Lowe House was recently refused by the Council on design grounds. The Council is optimistic that a revised design will come forward, but there is no clear evidence from the applicant that this will be the case. Moreover, there is no word from the applicant about potential delivery on any quantum of homes on this site. It should therefore be discounted from the overall total.

190. Warwick Road South is on the Council's brownfield register. The applicant has completed the land assembly exercise, a contractor has been identified and it is their intention to start on site in Spring 2022. Completion would be by the end of 2023. While this timetable may remain accurate, or it may have slipped depending on the application's outcome at the Planning Committee meeting in March 2022, there is clear evidence of the developer's intentions and an aspiration to address concerns raised in local objections. For these reasons, I consider there is a strong likelihood of housing completions beginning on this site by November 2026.

191. The dispute over the Sale West Estate site relates to whether 13 extra units should be included in the Council's supply or not. These homes have outline planning permission, but the site is complex and split into phases. Even so, I consider the programme provides sufficient clear evidence that the 13 units would be completed by November 2026.

#### Pre-application stage

192. All the disputed sites, save for the Council owned site at land East of Partington Shopping Centre are on the brownfield register. However, the East of Partington Shopping Centre site is on the Council's development and investment programme and discussions have been held with Registered Providers in relation to its development. The evidence doesn't fully explain the stated start and completion dates and a single-phase construction, given the steps being taken by the Council, but I consider that there is a fair chance that housing completions may be completed on this site by November 2026.

193. There is also enough clear evidence to support the Council's view on the Curzon Cinema site. While the site will only become 'available' once planning permission is granted, the reason for this is clear and the termination notices

have been served. Significant pre-application discussions mean that officers are likely to support the scheme. The site would be brought forward with Southway, a Registered Provider.

194. Of the other sites, some or all of them may come forward and yield housing completions before November 2026 as the Council suggest. I do not discount the Council's local knowledge and experience. But, based on current evidence, despite the ongoing discussions and likely planning applications, there is not enough clear evidence<sup>60</sup> in terms of the developer's delivery intentions, anticipated start and build-out rates (even if the Council say that the developer has a strong track record of delivery and in the case of 94a Talbot Road wishes to enter into a PPA) to support their inclusion in the housing land supply total. There are also unknown technical reports to progress for the Christie Road site before the developer's hopeful timeframes can be realised. There are also several steps and potential delays to the Globe Trading Estate site as the timeframes set out have already slipped and the public consultation had not started at the time of the Inquiry. Ongoing legal discussions with the landowners are taking place and the site is occupied by an existing business. For these reasons, there is not enough clear evidence that housing completion will begin by November 2026.

#### Conclusion on the extent of the supply

195. Whilst a snapshot in time, it seems to me that Trafford's current supply of deliverable housing sites lies somewhere between the two figures presented to me but far closer to the appellant's figure than the Council's.

#### The narrative to the five-year supply position

196. The Council suggests that the current benchmark for assessing housing supply based on the CS is artificially inflated. However, this is the basis on which to consider this case. Figures from and reliance placed upon the Greater Manchester Spatial Framework are irrelevant as this plan was withdrawn and not examined. Places for Everyone is proposing a lower figure, but it needs to be examined and could be subject to change due to unresolved objections.
197. The 2021 Housing Delivery Test (HDT) published on 14 January 2022 indicates that the delivery of housing in Trafford has been below the housing requirement over the previous three years. As a result, the HDT identifies that a 'buffer' applies in Trafford. However, there has been an upward trajectory of new homes being delivered in Trafford in recent years with the Council no longer falling into the 'presumption' category compared to the 2020 HDT. This is due to the action that the Council has taken and continues to take to address the shortfall through its Action Plan. It appears to be doing everything it can in this regard. The Council is granting more permissions than the housing requirement and taking other proactive steps. Added to this, even on the appellant's case, the extent of the Council's five-year supply has improved since the Warburton Lane appeal<sup>61</sup> of just over a year ago.
198. The Council is confident that the trajectory will only get better and that it will be able to demonstrate a five-year supply of deliverable housing sites. They may be right, but there are simply too many unknowns and given the bumpy nature of Trafford's supply in recent years, caution needs to be exercised. Yet,

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<sup>60</sup> 94a Talbot Road, Christie Road, Sale Masonic Hall/Sale Police Station, the Bowden Hotel and the Cresta Hotel

<sup>61</sup> CD-L1, Paragraph 15, five-year housing supply 2.4 years

there remains a substantial shortfall which must be set against the context of significantly boosting the supply of new homes.

## **Planning Balance**

### The Development Plan

199. The proposed development would be contrary to the development plan due to its design, namely as a result of its scale, massing, density, layout and height. As such, the proposal would conflict with CS Policies SL3 and L7.
200. The proposed design would also fail to mitigate the time limited, significant adverse effect on future occupants arising from the noise generated by concerts at EOT. This could, in addition, lead to a review of LCCC's licence, formal action being taken to remedy a statutory nuisance or a civil nuisance action by future occupants. This presents a real and significant risk to LCCC's current activities at EOT specifically in relation to concerts and the financial benefits that they would not realise as a result. Thus, the proposal would conflict with CS Policies SL3, L5.13 and L7.3.
201. There are also resulting effects of the proposal's design in terms of the usability of the two courtyards, the outlook from several units on the south-east elevation and a certain number of units in terms of sunlight and daylight. In combination that would fail to provide appropriate living conditions for future occupants and conflict with CS Policies SL3 and L7.
202. The proposal's design would also cause an overbearing effect upon the outlook from properties on Great Stone Road and Trent Bridge Walk. On this basis, the proposal would not accord with CS Policies SL3, L3 and L7.
203. Harm that would be caused to the designated heritage asset at Trafford Town Hall and the NDHA at EOT, would be contrary to CS Policies R1 and SL3. No harm would arise to the significance of the Conservation Area.
204. There would be no conflict with CS Strategic Objective OTO11 and Policies SL3 and R6 in respect of the FTF and the NTF. Moreover, there would no conflict with CS Policy R6 as the proposal would not cause a dominating adverse impact on EOT or affect its cultural or tourism offer. Cricket and transport noise could also be adequately mitigated so that the appeal scheme would accord with CS Policies SL3, L5.13 and L7.3.
205. The proposal would not harm the living conditions of occupants in properties on Trent Bridge Walk and Great Stone Road in terms of sunlight and daylight. The proposal would not be contrary to CS Policies SL3 and L7 in this respect.
206. The safety of vehicular and pedestrian users of the access to the site, LCCC and Great Stone Road would be ensured, which means that the proposal would accord with CS Policies L4.7 and L7.2.
207. A primary school education contribution is not necessary so there would be no conflict with CS policies L2.2, SL3.2, SL3.4 and L8.4 in respect of this issue. The proposal would, based on viability, provide a policy compliant level of affordable housing and accord with CS Policies SL3.4 and L2.
208. The UU includes local open space and sports facilities contributions that would improve various provisions at Longford Park and a 3G pitch within one of two sites in Trafford. The UU also includes provisions for a highway improvement,

TRO review, design certifier. As these would all mitigate the effect of the development, they would do not weigh in favour or against the proposal. However, as the appeal is to be dismissed on other substantive issues, I have not looked at these provisions in detail, given that the proposal is unacceptable for other reasons.

209. Considering these issues in the round, I find that the appeal scheme would be contrary to the development plan when taken as a whole. This is a matter of very substantial weight. I will now consider whether there are material considerations that would indicate that my decision should be made otherwise than in accordance with the development plan.

#### The benefits of the appeal scheme

210. The proposed 332 apartments would make a significant contribution to addressing the Council's housing shortfall and provide an appropriate mix of market and affordable homes that would widen the housing choice within Trafford. The proposal would also make a sizeable contribution to addressing the significant and ongoing need for affordable homes in Trafford. I give these matters considerable weight in favour of the appeal scheme.
211. Undoubtedly the appeal scheme would make effective use of a vacant and derelict brownfield site within the urban area close to a range of facilities and services and in a highly accessible location. This is encouraged by national and local policies and so the principle of doing so here carries significant positive weight. The proposal would also actively address Great Stone Road and include a variety of uses. I give these matters moderate positive weight.
212. There would be multiple economic benefits associated with the appeal scheme. These are a £11.4 million Gross Value Added to the local economy, around £8.5 million additional household expenditure per year, 186.6 person years of temporary construction jobs. These matters carry considerable positive weight.
213. A high amount of cycle parking would help encourage people to travel by sustainable transport modes and the proposal would increase green infrastructure and biodiversity on the site. Both carry limited positive weight in my view. The fact that both courtyards would be publicly accessible is a benefit of the appeal scheme, but one that carries very modest weight due to the harm identified and the consequential effect on the usability of these spaces. The proposal would safeguard a connection through the site to allow a potential future connection between Great Stone Road and Old Trafford Metrolink stop. This carries modest positive weight.
214. As I understand it, the New Homes Bonus is not ring fenced by the Council for projects that might help the local area. Council Tax receipts are needed to help the Council deliver local services and infrastructure. It is a form of mitigation given the proposed development would place extra demands on both. These matters therefore carry neutral weight.

#### **The heritage balance**

215. The harm to the significance of Trafford Town Hall would be less than substantial, with the harm at a low level within that spectrum. I afford great weight and importance to its conservation as it is an irreplaceable resource. However, having regard to the benefits set out above, I consider that they would collectively outweigh the harm that would be caused to it.

216. Due to the loss of glimpsed views, the proposal would cause negligible harm to the pavilion, a NDHA at EOT. This is a low degree of harm, though the setting of the pavilion would remain unchanged. Against this there are numerous benefits associated with the scheme which I have outlined above. In my judgement when I consider the scale of harm identified against these, the balance is firmly in favour of the appeal scheme.
217. As a consequence of my heritage balance conclusion, and having regard to the lack of a five-year housing land supply, it is correct for me to apply the tilted balance as set out in Framework paragraph 11d)ii).

## **Conclusion**

218. The proposal would bring a vacant derelict site back into use within the urban area and within an area of transformational change. The principle of developing the site accords with the development plan. The development would make use of the site's accessible location and deliver a quantity and mix of houses in the context of the current housing land supply position alongside various uses that would collectively provide economic and social benefits. The proposal in all these regards responds to national and local policy. The proposal would also make a sizeable affordable housing contribution and help address the clear need in Trafford. These matters all carry considerable weight. There are further social, economic and environmental benefits set out above that weigh in favour of the appeal scheme. I have also stated my view on the significance of Trafford Town Hall and the scale of the harm to EOT above.
219. However, the proposal would not deliver a high-quality, well-designed building and place. Substantial harm would be caused to local character and appearance in this regard, and there would be consequential effects for existing and future occupants' living conditions in terms of the amenity spaces and overbearing outlook owing to the design. These carry, significant, limited, and moderate weight respectively. Furthermore, despite the mitigation proposed to address concert noise at EOT, I have concluded that there would be direct harm arising to future occupant's private amenity spaces. It would also not be realistic, reasonable or controllable to expect future occupants to keep their windows and doors closed during concerts to achieve acceptable internal living conditions. As a result, there would be a material risk of complaints, statutory nuisance or an unfavourable review of the premises licence conditions. Hence, there is the potential risk of serious and direct financial consequences for LCCC if concerts are curtailed at EOT. This is a matter of substantial weight. The proposal would also harm the living conditions of some of the future occupiers in respect of sunlight and daylight. I give this harm moderate weight. The most important development plan policies relating to these matters are consistent with the Framework. I attach very substantial weight to the appeal scheme's conflict with the development plan when taken as a whole.
220. The proposal would result in benefits, but it would also cause harm. Weighing the two up is not a mathematical outcome; it is an overall judgement. Many of the benefits could theoretically be delivered through a similar scheme on the site with a satisfactory design. High-quality, well-designed buildings and places are a key aspect of sustainable development and design is paramount to achieving this. In this case, due to the harms that the proposal's design would cause, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

221. There are therefore no material considerations to indicate that this decision should be made otherwise than in accordance with the development plan. Accordingly, for the reasons given above, I conclude that the appeal should be dismissed, and planning permission refused.

*Andrew McGlone*

INSPECTOR

## APPEARANCES

### FOR THE APPELLANT:

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assisted by Daisy Nobble, of Counsel,

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He called

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Matthew Evans\*

Counsel, Forsters

\* Participated in the Planning Obligation session only.

### FOR THE LOCAL PLANNING AUTHORITY:

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Borough Council

He called

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David Pearson*	Major Projects Team Leader

\* Participated in the Housing Land Supply, Planning Conditions and Planning Obligation sessions.

#### FOR LANCASHIRE COUNTY CRICKET CLUB:

Killian Garvey	Of Counsel, instructed by Grant Anderson, Partner of Hill Dickinson LLP
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He called

Dani Fuimicelli	Technical Director, Vanguardia Limited
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#### PERSONS OBSERVING:

Jack Wiseman	Trafford Metropolitan Borough Council
Victoria Ward	Trafford Metropolitan Borough Council
Noah Billing	Trafford Metropolitan Borough Council
Claire Kefford	Trafford Metropolitan Borough Council
Richard Gore	Trafford Metropolitan Borough Council
Rosalind Gralton	Trafford Metropolitan Borough Council
Joanne Egeli	Trafford Metropolitan Borough Council
Sarah Lowes	Trafford Metropolitan Borough Council
Gerard Lennox	Trafford Metropolitan Borough Council
Russell Crocker	Trafford Metropolitan Borough Council
Victoria Welch	Senior Planner, WSP
Grant Anderson	Partner, Hill Dickinson LLP



INQUIRY DOCUMENTS

1	List of Plans
2	Appellant Opening Statement
3	Council Opening Statement
4	Lancashire County Cricket Club Opening Statement
5	Photographs of lighting rigs at Lancashire County Cricket Club
6	Revised Council putative reasons for refusal
7	Lancashire County Cricket Club letter, 12 January 2022
8	Education Statement of Common Ground
9	Viability Statement of Common Ground, 28 January 2022
10	Addendum to Housing Land Supply – Updated 28 January 2022
11	Ms Harrison Living Conditions Note
12	Places Matter Bundle
13	Five Year Housing Land Supply Table Rev A
14	Housing Land Supply Emails re disputed sites
15	Council Housing Land Supply Position,
16	Appellant Housing Land Supply Position, 3 February 2022
17	Council BCIS Clarification
18	Appellant BCIS Table Clarification
19	Highways Questions – Response in Writing to Inspector’s Questions
20	Letter from Accrue Capital, 8 February 2022
21	Lancashire County Cricket Club Closing Submissions
22	Council Closing Submissions
23	Appellant Closing Submissions

## CORE DOCUMENTS

CD-A	Appellant's Application Submission (Ref: 100400/OUT/20)
A1	Application form and covering letter
A2	Crime Impact Statement (Design for Security)
A3	Wind microclimate report (WSP)
A4	Air Quality Assessment (REC)
A5	Air Quality Note (REC)
A6	Carbon Budget Statement (Paragon)
A7	Phase 1 Environmental Risk Assessment (Paragon)
A8	Arboricultural Impact Assessment (TEP)
A9	Ecological Assessment (TEP)
A10	Flood Risk Assessment and Drainage Strategy (Waterco)
A11	Statement of Community Engagement (Lexington)
A12	CIL Form (WSP   Indigo)
A13	Site Location Plan (Ref: 1664_PL_100)
A14	Level -1 Plan (Ref: 1664_PL_101) (Superseded)
A15	Level 0 Plan (Ref: 1664_PL_102) (Superseded)
A16	Level 1 Plan (Ref: 1664_PL_103) (Superseded)
A17	Level 2 Plan (Ref: 1664_PL_104) (Superseded)
A18	Level 3 Plan (Ref: 1664_PL_105) (Superseded)
A19	Level 4 Plan (Ref: 1664_PL_106) (Superseded)
A20	Level 5 Plan (Ref: 1664_PL_107) (Superseded)
A21	Level 6 Plan (Ref: 1664_PL_108) (Superseded)
A22	Level 7 Plan (Ref: 1664_PL_109) (Superseded)
A23	Level 8 Plan (Ref: 1664_PL_110) (Superseded)
A24	Level 9 Roof Plan (Ref: 1664_PL_111) (Superseded)
A25	S-W Elevation Plan (Ref: 1664_PL_200)
A26	N-W Elevation Plan (Ref: 1664_PL_201)
A27	N-E Elevation Plan (Ref: 1664_PL_202)
A28	S-E Elevation Plan (Ref: 1664_PL_203)

A29	Courtyard Section AA (Ref: 1664_PL_221)
A30	Courtyard Section BB (Ref: 1664_PL_222)
A31	Courtyard Section CC (Ref: 1664_PL_222)
A32	Existing building, elevations and plans (Ref: M705.06A, M705.05A, M705.04A)
A33	Existing building, ground floor plan (Ref: 28900-45_01-AG)
A34	Appellant Statement of Case - Appendix 3.3 – Leading Counsel’s Opinion, 28 May 2020
A35	Appellant Statement of Case - Appendix 3.1 – Invalid letter, 3 April 2020
A36	Appellant Statement of Case - Appendix 3.2 – Email chain between TMBC and WSP (9-27 April 2020) regarding validation
CD-B	(Submissions made during the course of the application)
B1	Plans with revised red line to match Site Location Plan (23 July 2020)
B2	Level -1 Plan (1664_PL_101_B) (Superseded)
B3	Level 0 Plan (1664_PL_102_B) (Superseded)
B4	Level 1 Plan (1664_PL_103_B)
B5	Level 2 Plan (1664_PL_104_B)
B6	Level 3 Plan (1664_PL_105_B)
B7	Level 4 Plan (1664_PL_106_B)
B8	Level 5 Plan (1664_PL_107_B)
B9	Level 6 Plan (1664_PL_108_B)
B10	Level 7 Plan (1664_PL_109_B)
B11	Level 8 Plan (1664_PL_110_B)
B12	Level 9 Roof Plan (1664_PL_111_B)
B13	Level -1 Plan (1664_PL_101_C), 14 August 2020
B14	Level 0 Plan (1664_PL_102_C), 14 August 2020 (Superseded)
CD-C	Additional information submitted between submission of the appeal and reporting the application to committee
C1	Tree Removal and Protection Plan (D6370.01.002B), 29 September 2020
C2	Accessibility Report, 29 September 2020

C3	Level 0 Plan (1664_PL_102_D), 5 October 2020
C4	Courtyard elevations (1664_PL_205), 5 October 2020
CD-D	Committee Reports and additional information
D1	Trafford Council Report to Executive re. joint venture to acquire Kellogg's site, 2 October 2017
D2	Pre application response from LPA (PREAPP/00849/18)
D3	Committee Report to Trafford's Planning and Development Management Committee (Ref: 94974/OUT/18)
D4	Additional Information Report to Trafford's Planning and Development Management Committee (Ref: 94974/OUT/18)
D5	Decision Notice (Ref: 94974/OUT/18)
D6	Trafford Council Report to Executive re. Civic Quarter AAP and CPO of Former B&Q site, 27 January 2020
D7	Committee Report to Trafford's Planning and Development Management Committee (ref: 100400/OUT/20)
D8	Additional Information Report to Trafford's Planning and Development Management Committee (ref: 100400/OUT/20)
D9	Former Kellogg's site Committee Report, 24 September 2020
D10	Committee Report to Trafford's Planning and Development Management Committee (ref:100400/OUT/20), 9 December 2021
CD-E	Appeal Submission Documents
E1	Appeal Form
E2	Cover letter to PINS
E3	Letter to request inquiry
E4	Cover letter enclosing CD
E5	List of documents under consideration at time of appeal
E6	Statement of Case (August 2020) + appendices
E7	Statement of Common ground (August 2020 submission draft)
E8	EIA screening Report
E9	EIA screening Report (appendix A) – original screening request
E10	EIA screening Report (appendix B) – original screening opinion
E11	EIA screening Report (appendix C) – site location plan
CD-F	Hearing Documents (November 2021)
F1	Cover letter

F2	Appellant Statement of Case
F3	Appellant Statement of Case Appendices
F4	Appendix 3.4 – email from TMBC to WSP, 10 September 2020 regarding Use Classes and Consultee feedback
F5	Appendix 3.5 – email from WSP to TMBC, 29 September 2020 providing Section drawings and Accessibility Report, comments regarding Use Classes
F6	Appendix 3.6 – email from TMBC to WSP, 29 September 2020 regarding outstanding information
F7	Appendix 3.7 - email from TMBC to WSP, 29 September 2020 regarding courtyard elevation drawings
F8	Appendix 3.8 – email from WSP to TMBC, 5 October 2020 providing elevation plans
F9	Appendix 3.13 – revised Level 0 plan (ref: PL_102 Rev D) and courtyard elevations, 5 October 2020
F10	Appendix 3.15 - Tree removal and protection plan (D6370.01.002B), 29 September 2020
F11	Appendix 3.18 - email from WSP to TMBC, 1 October 2020 regarding RPAs of metrolink trees
F12	Appendix 3.28 - email from TMBC to WSP, 7 October 2020 – TfGM, Sport England and Contributions
F13	Appendix 3.37 – LCCC Objection Letter, 8 October 2020
F14	Appendix 4.1 – Email from TMBC to WSP, 9 November 2020 Residential Allowance
F15	Appendix 7.1 – Schedule of LCCC Quarter development post 2012
F16	Appendix 9.1 – Advertorial Page 1, 21 March 2019
F17	Appendix 9.2 – Advertorial Page 2, 21 March 2019
F18	Appendix 10.2 – Photo of LCCC Pavilion
F19	Appendix 12.2 – Email from TMBC to WSP, 25 June 20 confirming validation
F20	TMBC cover letter requesting viability to be dealt with by inquiry
F21	TMBC Statement of Case
F22	Sport England Representations
F23	Interested party - Dr Ursula Gonthier
F24	LCCC Representations
F25	Appendix 1 – Match day photographs
F26	LCCC Statement of Case
F27	Pre-Inquiry Conference Invitation, 1 November 2021

F28	Pre-Inquiry Conference Agenda and Note, 1 November 2021
F29	Inspector's Case Conference Note, 1 November 2021
F30	Draft Unilateral Undertaking
F31	LCCC and Appellant Statement of Common Ground
CD-G	National Planning Policy / Guidance
G1	National Planning Policy Framework (2021) Achieving sustainable development; paragraphs 11, 60, 119-120, 124-125, 130, 134 and 187
G2	The National Design Guide
G3	National Planning Practice Guidance - Noise
G4	National Policy Statement for England (Defra)
CD-H	Local Policy/guidance: Adopted Development Plan, Supplementary Planning Documents/Guidance, unadopted/abandoned
H1	Trafford Local Plan Core Strategy (2012), namely policies: SO1, SO2, SO6, OTO1, OTO2, OTO11, SL1 – SL5, L1-L3; L5; L7; L8; R1; and R5
H2	Adopted Policies Map
H3	Trafford Local Plan: Land Allocations document LAN1 and LAN 2 – LCCC Quarter
H4	Revised SPD1 Planning Obligations
H5	Stretford Refreshed Masterplan (January 2018)
H6	Trafford CIL Charging Schedule
H7	Trafford CIL Regulation 123 list
H8	Trafford SHLAA 2020
H10	LCC Development Framework
H11	Civic Quarter Masterplan SPD – 2018 consultation draft
H12	Appendix 4 - New Trafford Local Plan Extracts
CD-I	Emerging Local Policy
I1	Submission Draft CQ AAP - CQ AAP Submission and Examination Stage Appendices
I2	Civic Quarter Area Action Plan Committee Report
I3	Civic Quarter AAP - APPENDIX 1 – Report to Planning and Development Committee, 11 November 2011
I4	Civic Quarter AAP - APPENDIX 2 – Main Modifications
I5	Civic Quarter AAP - APPENDIX 3 - Boundary Update

I6	Civic Quarter AAP - APPENDIX 4 – Additional Modifications
I7	Civic Quarter AAP - APPENDIX 5 – Updated Integrated Assessment
I8	Civic Quarter AAP – Appendix 5 A Part 1 – Integrated Assessment of the draft Civic Quarter Area Action Plan, January 2020
I9	Civic Quarter AAP – Appendix 5 A Part 2 - Integrated Assessment of the draft Civic Quarter Area Action Plan, Appendix 1
I10	Civic Quarter AAP - Appendix 5 A Part 3 - Integrated Assessment: Appendix 2, Equality Impact Assessment, January 2020
I11	Civic Quarter AAP - Appendix 5 B - Integrated Assessment: Draft Scoping Report
I12	Civic Quarter AAP - Appendix 5 C - Integrated Assessment: AAP Vision and Policies
I13	Civic Quarter AAP - Appendix 5 D - Integrated Assessment: EqIA Assessment
I14	Civic Quarter AAP - Appendix 6 A – Reg 18 Consultation Summary
I15	Civic Quarter AAP - Appendix 6 B and C – Responses to Reg 18 version of AAP
I16	Civic Quarter AAP - Appendix 7 – Reg 19 Consultation Summary
I17	Summary of representations and responses – CQ AAP, Appendix 7
I18	Civic Quarter AAP - Appendix 8 – Habitats Regulations
CD-J	Viability Documents
J1	Trafford Economic Viability Study, May 2009, GVA Grimley
J2	Avison Young Financial Viability Assessment, January 2020
J3	Viability Assessment
J4	Viability Report, Cushman Wakefield
J5	Viability Report, Cushman Wakefield, NPG Viability
J6	Viability Report, Cushman Wakefield, Edmund Shipway Cost Plan
J7	Former Kelloggs’s Site Location Plan and Masterplan
J8	Continuum Independent Viability Assessment, September 2020
J9	Viability Statement of Common Ground, 26 November 2021
J10	Independent Viability Assessment by Trebbi Continuum
J11	Email from WSP to Council on contributions, 5 October 2020
J12	Email from Council to WSP on sports contribution
J13	Viability consultation responses – Civic Quarter AAP
J14	Continuum Viability Report, August 2021
J15	BCIS Appraisal Note

CD-K	Design / Landscape Documents
K1	Civic Quarter Masterplan SPD – Townscape and visual impact (Planit-IE)
K2	Civic Quarter Masterplan SPD – Appendix 1.3 baseline photography and photomontages
K3	Civic Quarter Masterplan SPD – Appendix 1.4 Townscape and visual figures
K4	Places Matter Design Pack
K5	Places Matter Design Comments, 3 December 2019
K6	Places Matter Pro Forma
K7	Landscape and Townscape VIA (TPM) (Superseded)
K8	Updated Landscape/Townscape & Visual Impact Appraisal, 26 August 2020
K9	Landscape Design Sketch Book (TPM)
K10	Design and Access Statement- 94974/OUT/18
K11	Design and Access Statement (O'Connell East Architects)
K12	1664_PL_115 Feature brick panel and terracotta baguette details
K13	1664_PL_116 Brick Feature panel details
K14	1664_PL_117 Raked panel details
K15	1664_PL_118 Set back balcony details
K16	SK_004 Materials
K17	Schedules plan (PL-500 Rev B), 26 August 2020 (Superseded)
K18	Phasing Schedule Plan (AP_002)
K19	Appellant SOC - Exhibit 3 Design Report
K20	Appellant SOC - Exhibit 3, appendix 1 walkthrough video
K21	Cricket Pitch CGIs, 26 August 2020
K22	Cricket Pitch CGIs - View 1 – temporary stand
K23	Cricket Pitch CGIs - View 1
K24	Cricket Pitch CGIs - View 2 – temporary stand
K25	Cricket Pitch CGIs - View 2
K26	Appellant Statement of Case - Exhibit 4 Townscape Assessment (appendices)
K27	Appellant Statement of Case - Appendix 3.10 – email from TMBC to OEA, 17 September 2020 site accessibility



K28	Appellant Statement of Case - Appendix 3.11 – Accessibility report prepared by OEA, 29 September 2020
K29	Appellant Statement of Case - Appendix 3.12 – email chain between TMBC and OEA, 30 September – 1 October 2020 re accessibility
K30	LPA Statement of Case Appendix 7 - Photograph from within LCC towards Manchester City Centre
K31	LPA Statement of Case Appendix 8 - CGI's
K32	LPA Statement of Case Appendix 9 - Photograph from within LCC towards Appeal Site
K33	LPA Statement of Case Appendix 10 - Map
K34	LPA Statement of Case Appendix 11 - Wireframes
K35	LPA Statement of Case Appendix 12 - Former Kellogg's site Maximum Height Parameter Plan
K36	Townscape and Visual Assessment (Randall Thorpe)
K37	Townscape and Visual Assessment (Randall Thorpe) – Figures 1-19
K38	Townscape and Visual Assessment (Randall Thorpe) – Figures 20-44
K39	Civic Quarter AAP - APPENDIX 3 - Building Heights
K40	Civic Quarter AAP - APPENDIX 3 - Greenspace
K41	Civic Quarter AAP - APPENDIX 3 - Parameters
K42	2017 Pre-app extracts:
K43	Letter from Matthew Hard to Rebecca Coley
K44	Visuals Sheet
K45	Typical Block Plan
K46	Site Elevation Plan
K47	2019 Pre-app extracts: Site Plan and Elevation drawing
K48	Verified Views, December 2021
K49	Combined Proposed Drawing Bundle
CD-L	Appeal Decisions
L1	Land at Warburton Lane, Trafford – APP/Q4245/W/19/3243720
L2	679 High Road, North Finchley - APP/N5090/W/21/3271077
L3	Brewery Quay, Island Street, Salcombe, Devon TQ8 8DP - APP/K1128/W/18/3215145
L4	18-20 Albion Court, Frederick Street, Birmingham B1 3HE - APP/P4605/W/18/3217413
L5	Council Note on appeal decisions relied on

CD-M	Education Documents
M1	DfE guidance: 'Securing developer contributions for education' (November 2019)
M2	Education for health capacity assessment, 19 March 2020
M3	Education and healthy capacity assessment revised, 15 July 2020
M4	SoC Exhibit 5 – Education Impact Assessment
M5	LPA SoC Appendix 17 – Educational Background Report
M6	LPA SoC Appendix 17a – LEA response to Alfredson York report
M7	LPA SoC Appendix 17b – B&Q Education Developer Contribution, 27 May 2021
CD-N	Noise Documents
N1	BS 6472-1: 2008 Guide to evaluation of human exposure to vibration in buildings: Part 1 Vibration sources other than blasting
N2	BS 8233: 2014 Guidance on sound insulation and noise reduction for buildings
N3	ProPG: Planning & Noise 2017
N4	Association of Noise Consultants (ANC) guidelines Measurement and assessment of ground-borne noise and vibration, 3rd edition, 2020
N5	Association of Noise Consultants (ANC) Acoustics Ventilation and Overheating, residential Design Guide, v1.1, January 2020
N6	Vanguardia Review of noise issues, Lancashire Cricket B&Q site, doc ref: VC-103597-EA-RP-001, 9 August 2021
N7	Holtz Acoustics Site at Former B&Q, Great Stone Road, Trafford, Inquiry evidence, Noise – Summary/Main proof/Appendices, doc ref HA2020023/A/REV1, 5 November 2021
N8	Vanguardia Noise from concerts at LCCG, doc ref: 05636-0820-0-PN-0001, 30 November 2021.
N9	Code of Practice on Environmental Noise Control at Concerts
N10	Noise and Vibration Impact Assessment (Holtz Acoustics)
N11	LCCC representations Appendix 2 – Vanguardia Noise Report
N12	Noise Statement of Common Ground, 4 January 2021
CD-O	Heritage
O1	Heritage Statement (WSP/Indigo)
O2	Exhibit 8 Heritage (appendices) (Appellant Statement of Case)
O3	Appendix 3.14 – Heritage Officer Comments, 9 September 2020 (Appellant Statement of Case)
O4	Longford Conservation Area Appraisal

O5	Appellant Statement of Case - Appendix 10.2 – Photo of LCCC Pavilion
CD-P	Transport
P1	Transport Assessment, March 2020
P2	Travel Plan, March 2020
P3	Transport Assessment Addendum Note, August 2020
P4	Transport Assessment Addendum, 2 September 2020
P5	SoC Appendix 3.19 – Local Highway Authority comments, 2 September 2020
P6	SoC Appendix 3.20– Transport Addendum and emails
P7	SoC Appendix 3.21 – Local Highway Authority parking comments, 29 September 2020
P8	SoC Appendix 3.16 – Transport for Greater Manchester comments, 30 September 2020
P9	SoC Appendix 3.17 – Council email re Transport for Greater Manchester comments
P10	SoC Appendix 3.23 – Local Highway Authority comments, 2 October 2020
P11	SoC Appendix 3.22 – Council email with Local Highway Authority comments, 5 October 2020
P12	SoC Appendix 3.24 – parking survey commitment email, 5 October 2020
P13	SoC Appendix 3.25 - Transport for Greater Manchester comments, 30 September 2020
P14	SoC Appendix 3.26 – email traffic data response to Transport for Greater Manchester, 5 October 2020
P15	SoC Appendix 3.27 – full input data and results prepared by Vectos
P16	SoC Appendix 3.29 – Vectos Traffic Modelling Response
P17	SoC Appendix 3.30 - Transport for Greater Manchester response, 14 October 2020
P18	Full traffic input data and results
P19	Great Stone Road modelling response to Transport for Greater Manchester, October 2020
P20	SoC Exhibit 2 – Highway Safety Technical Note and Appendix 1
P21	LCCC – Appendices Part 3
CD-Q	Living Conditions
Q1	Daylight and Sunlight Assessment (AA Projects)
Q2	Exhibit 7 to Appellant Statement of Case - Daylight Sunlight (appendices)

Q3	Site Layout Planning for Daylight and Sunlight, A guide to good practice
CD-R	Contributions
R1	Affordable Housing Statement (WSP   Indigo) (Superseded)
R2	Revised Affordable Housing Statement (14 April 2020)
R3	Affordable Housing Plan Level 0 (Ref: 1664_PL_102), 14 April 2020
R4	Affordable Housing Plan Level 1 (Ref: 1664_PL_103), 14 April 2020
R5	Affordable Housing Plan Level 2 (Ref: 1664_PL_104), 14 April 2020
R6	Appellant Statement of Case - Appendix 3.33 - email from TMBC to WSP (2 October 2020) corrected sports contributions
R7	Appendix 18 - Counsel Advice to TMBC on Policy L2.12
CD-S	5YHLS
S1	Appendix 8.2 - Trafford's Five Year Housing Land Supply Statement, 31 March 2020
S2	Appendix 19 - Update to Housing Land Supply, September 2021
S3	Housing Land Supply Addenda, 1 December 2021
CD-T	Fine Turf
T1	Sun Study (1664_PL_112)
T3	March 9am - 8pm
T4	April 9am - 8pm
T5	May 9am - 8pm
T6	June 9am - 8pm
T7	July 9am - 8pm
T8	August 9am - 8pm
T9	September 9am - 8pm
T10	October 9am - 8pm
T11	Appellant Statement of Case - Exhibit 1 Hemiview 3D light assessment (Appendix 1 STRI CVs)
T12	LPA Statement of Case - Appendix 6 - Sport England Evidence
T13	Appendix 10.1 - Cricket Ground note
CD-U	Planning
U1	Planning Statement (superseded)
U2	Draft Heads of Terms, 19 March 2020

U3	Planning Statement Revised, 14 April
U4	Planning Statement of Common Ground, 27 October 2021
U5	Planning Statement of Common Ground Addenda, 26 November 2021
U6	Joint Position Statement on Policies
U7	Agreed conditions table, 26 November 2021