MANCHESTER CITY COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED) SECTION 78

APPEAL BY
TOWERHOUSE SYSTEMS LTD

AT

SITE AT LAND AT CRINGLE ROAD LEVENSHULME MANCHESTER M19 2RW

STATEMENT BY MANCHESTER CITY COUNCIL

Planning Inspectorate Reference: APP/B4215/W/18/3196113
Planning Application Number: 116474/OO/2017

CONTENTS

1.0 Introduction

(i) The Appeal Development
(ii) Scope of Evidence

2.0 Appeal site and Surrounding Area

3.0 Site History

4.0 Application History

5.0 The Development Plan

(i) Manchester Core Strategy (Adopted July 2012)
(ii) Extant Unitary Development Plan for the City of Manchester (Adopted 1995)

6.0 Other relevant policies, documents and National Planning Policy

7.0 The Case for the City Council

(i) Introduction
(ii) Appropriateness of the appeal proposal

8.0 Comments on the Grounds of Appeal

9.0 Human Rights

10.0 Conclusions and condition

1.0 INTRODUCTION

(i) The Appeal Development

1.1 This statement relates to an appeal made by Towerhouse Systems Ltd ("The Appellant") against the decision of Manchester City Council ("The City Council") to refuse outline planning application for the erection 57 dwellings, with all matters reserved expect for access, with associated access off Cringle Road, car parking, landscaping and other associated works.

1.2 Planning application 116474/OO/2017 was determined on the 24 August 2017 by the City Council's Planning and Highways Committee. The application was refused on the following grounds:

1)The proposal to create a residential development will result in the loss and harm to an area of open space and recreation land which forms part of a local landscape surrounded by built development. This would diminish the recreational value of the site which would therefore be unduly harmful to the recreational, health and wellbeing needs of the local community. The site is not considered to be surplus to local requirements in quantitative or qualitative terms and there has been no consideration of alternative uses of the site that would fulfil an open space, sport or recreational function. The proposal is therefore contrary to saved policy LL3 of the Unitary Development Plan for the City of Manchester (1995), policies SP1 and EN10 of the Manchester Core Strategy (2012), the National Planning Policy Framework (NPPF) and National Planning Policy Guidance (NPPG).

2) The creation of 56 residential would have an unduly harmful impact on the visual amenity value of the application site and in the wider open space context of Highfield Country Park and other open spaces. The proposal would therefore erode local character and fail to integrate successfully into the local area. As such, the proposal will be unduly harmful to the visual amenity of the site and the local landscape character. The proposal is therefore contrary to policies SP1, H1, EN1 and DM1 of the Manchester Core Strategy (2012, saved policy LL3 of the Unitary Development Plan for the City of Manchester (1995), the Guide to Development in Manchester SPD (2007), the Residential guide (2016) and the National Planning Policy Framework and National Planning Policy Guidance.

(ii) Scope of Evidence

1.3 The evidence for the City Council will firstly describe the appeal site and its context. It will then identify the planning policy framework against which this appeal development is to be assessed proceeding to an assessment of the City Council's case. This will demonstrate:

- That development at this site is contrary to saved planning policy LL3 which seeks to protect the appeal site from development; and
- That there would be a unduly harmful impact on the visual amenity of the local area and local landscape context.

1.4 An analysis of the appellant's grounds of appeal will take place in Section 8.0 followed by the conclusions of the City Council.

2.0 APPEAL SITE AND SURROUNDING AREA

2.1 The appeal site is approximately 1.66 hectares and forms an area of open space and recreational land. The land also forms part of a wider area of semi natural open space 'Highfield Country Park' (both pieces of land are protected by saved policy LL3 of the Unitary Development Plan for the City of Manchester (1995)) together with open space which straddles the Manchester and Stockport administrative boundaries. This creates an open aspect to the area and has a positive impact of the visual amenity and the character of the area.

2.2 There are two main plots of land which form part of this appeal:

- Plot 1 to Cringle Road which is approximately 0.3 hectares and consists of a series of low rise buildings and associated structures which form a small enclosure where animals are grazed. There is a public entrance to the site during the summer months as part of an animal farm. The site is secured by a low boundary fence;

- Plot 2 (to the rear of plot 1) is approximately 1.3 hectares and is used for equestrian grazing.

2.3 The plots are bounded by Cringle Road to the south, a footpath to the east and Highfield Country Park to the north and west. The appeal site is situated on the administrative boundary with Stockport Metropolitan Borough Council to the east.

2.4 The topography of the site is relatively flat. There is currently no formal means of vehicular access to the site with minor servicing taking place from Nelstrop Road North. There is a significant and mature tree line which bounds the site to the north together with more limited coverage to the east, south and west boundaries. This tree and vegetation coverage form a mature landscape setting to the appeal site particularly when viewed in the context of the wider Highfield Country Park.

2.5 The surrounding area is characterised by two storey residential properties. The properties located along Cringle Road, Wilsthorpe Close, Red Rose Crescent, and Lingcrest Road are semi-detached in nature. Immediately to the east of the site (beyond the eastern footpath and into Stockport's boundary) there is also an area of open land which forms part of a 'green chain' and strategic open space within the Stockport Development Plan.

2.6 The Highfield Country Park, which bounds the site to the north and west, forms part of an area identified as Natural and Semi- natural open space within the Manchester City Wide Open Spaces, sports and recreation study. The entire area (including the appeal site) is protected by saved policy LL3 within the Unitary Development Plan for the City of Manchester (1995).

3.0 APPEAL SITE HISTORY

3.1 The planning history associated with the appeal site is as follows:

- F04245: Erection of 46 semi-detached houses and garages, with a children's play area and provision of public open space **Refused 7 April 1976**

The reasons stated for the refusal were as follows:

1. The site of the proposed development is not within an area which is allocated for residential purposes.

2. The site is required as an integral part of the open-space between the built up areas in Manchester and Stockport and to meet the open-space needs of the City.

4.0 APPLICATION HISTORY

4.1 The planning application, which is the subject of this appeal, was validated by the City Council on the 21 June 2017.

4.2 The planning application consisted of the following drawings and supporting information:

- Application forms;
- Planning statement;
- Environmental standards statement;
- Archaeological assessment;
- Marketing report;
- Viability statement;
- Noise assessment;
- Tree survey;
- Biodiversity survey;
- Flood risk assessment;
- Transport assessment;
- Travel Plan;
- Drawing L(--) 011 Rev 2 'site layout plan'

4.3 Comments were received from Highway Services, Environmental Health, Environment Agency, flood risk management, Greater Manchester Ecology Unit and Design for Security at Greater Manchester Police. These comments have been supplied to the Planning Inspectorate.

4.4 In addition, there were 58 individual objections from local residents together with objections from a local councillor.

4.4 The Planning application was refused by the Planning and Highways Committee on the 24 August 2017. A copy of the committee report has been previously supplied to the Planning Inspectorate, including late representation and minutes.

5.0 THE DEVELOPMENT PLAN

5.1 The development Plan consists of the:

- Manchester Core Strategy Development Plan Document (Adopted July 2012); and
- The extant Unitary Development for the City of Manchester (Adopted 1995).

a) Manchester Core Strategy Development Plan Document (July 2012)

5.3 The Manchester Core Strategy Development Plan Document 2012 -2027 ("the Core Strategy") was adopted by the City Council on 11th July 2012. It is the key document in Manchester's Local Development Framework. The Core Strategy replaces significant elements of the Unitary Development Plan for the City of Manchester (UDP) as the document that sets out the long term strategic planning policies for Manchester's future development.

5.4 A number of UDP policies have been saved until replaced by further development plan documents to accompany the Core Strategy. Planning applications in Manchester must be decided in accordance with the Core Strategy. In terms of the saved UDP policies, paragraph 215 of the NPPF states that due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework.

5.5 The relevant policy to this appeal is as follows:

5.6 Policy SP1 '*Spatial Principles*' states that one of the key spatial principles is the emphasis on the creation of neighbourhoods of choice, providing high quality and diverse housing around district centres which meet local needs, all in a distinct environment.

All development should have regard to the character, issues and strategy for each regeneration area – in this case East Manchester. In addition, new development

will be encouraged that maximises the potential of the City's transport infrastructure, in particular promoting walking, cycling and the use of public transport.

The policy goes on to state that development in all parts of the City should:

- Make a positive contribution to neighbourhoods of choice including;
    - Creating well designed places that enhance or create character.
    - Making a positive contribution to the health, safety and well being of residents;
    - Considering the needs of all members of the community;
    - Protect and enhance the built and natural environment.
- Minimise emissions, ensure efficient use of natural resources and reuse previously developed land wherever possible;
- Improve access to jobs, services, education and open space by being located to reduce the need to travel and provide good access to sustainable transport provision.

5.7 The proposal will have pacts on the natural environment including the loss of green infrastructure, which will affect the visual amenity and character of the area.

5.8 Policy H1 '*Overall Housing Provision'* states that the proportionate distribution of new housing, and the mix within each area, will depend on a number of factors, in particular, the need to diversify housing stock in mono tenure areas by increasing the availability of family housing. High density developments (over 75 units per hectare) are appropriate in both the City Centre and parts of the Regional Centre given the accessible location. 90% of residential development will be on previously developed land. The re-use of vacant housing, including the renewal of areas characterised by poor quality housing, will be prioritised. New developments should take advantage of existing buildings where appropriate through refurbishment or

rebuilding works. If this is not possible, development schemes should contribute to renewal of adjacent areas which contain vacant or derelict buildings.

5.9 Policy H1 goes on to state that new residential development should take account of the need to:

- Contribute to creating mixed communities by providing house types to meet the needs of a diverse and growing Manchester population;
- Reflect the spatial distribution set out above which supports growth on previously developed site in sustainable locations and which takes account of the availability of developable sites in these areas;
- Contribute to the design principles of Manchester LDF including in environmental terms. The design and density of a scheme should contribute to the character of the local area. All proposals should make provision for appropriate usable amenity space. Schemes should make provision for parking cars and bicycles (in line with policy T2) and the need for appropriate sound insulation;
- Prioritise sites which are in close proximity to centres of high frequency public transport routes;
- Be designed to give privacy to both its residents and neighbours.

5.10 Policy EN1 '*Design principles and strategic character areas'* states that all development in Manchester will be expected to follow the seven principles of urban design. Opportunities for good design to enhance the overall image of the City should be fully realised, particularly on major radial and orbital road and rail routes. Proposals for new development must clearly detail how the proposed development addresses the design principle, reinforces and enhances the local character of that part of the City and supports the achievement of the Core Strategic objectives.

5.11 Policy EN10 '*Safeguarding open space, sport and recreation facilities'* states that the Council will seek to retain and improve existing open spaces, sport and recreation facilitates to an appropriate standards. Proposals will be supported that:

- Improve the quantity and quality of accessible open space, sport and recreation in the local area;
- provide innovative solutions to improving the network of existing open spaces, increase accessibility to green corridors, and enhance biodiversity;
- improve access to open space for disabled people.

5.12 Proposals on existing open spaces and sport and recreation facilities will only be permitted where:

- Equivalent or better replacement open space, sport or recreation facilities will be provided in the local area; or
- The site has been demonstrated to be surplus for its current open space, sport or recreation function and the City wide standards set out above are maintained, and it could not fulfil other unsatisfied open space, sport or recreation needs, and a proposed replacement will remedy a deficiency in another type of open space, sport or recreation facility in the local area; or
- The development will be ancillary to the open space, sport or recreation facility and complement the use or character.

5.13 Policy DM1 '*Development Management'* all development should have regard the following specific issues:-

- Appropriate siting, layout, scale, form, massing, materials and detail;

- Impact on the surrounding areas in terms of the design, scale and appearance of the proposed development. Development should have regard to the character of the surrounding area;

- Effects on amenity, including privacy, light, noise, vibration, air quality, odours, litter, vermin, birds, road safety and traffic generation. This could also include proposals which would be sensitive to existing environmental conditions, such as noise;

- Community safety and crime prevention;
- Design for health;
- Adequacy of internal accommodation and external amenity space;
- Refuse storage and collection;
- Vehicular access and car parking;
- Effect on biodiversity, archaeological or built heritage;
- Green infrastructure;
- Flood risk and drainage.

The Unitary Development Plan for the City of Manchester (1995)

5.21 The Unitary Development Plan for the City of Manchester was adopted in 1995. However, it has now been largely replaced by the Manchester Core Strategy. There are some saved policies which are considered relevant and material and therefore have been given due weight in the consideration of this planning application. The relevant policies are as follows:

5.22 Saved Policy LL3 '*Environmental Improvements and Protection'* states that the Council will protect from development and improve the major existing areas of open land on the boundary of the area with Stockport. Priority will be given to upgrading Highfield Country Park'

Reason – To safeguard the amenity of valuable open space. Highfield Country Park in particular needs major investment to enable it to play an effective role in the recreation needs of the local are during the plan period.

5.23 For the reasons given above and below, it is considered that the proposal is contrary with the policies contained within the UDP.

6.0 OTHER RELEVANT LOCAL POLICIES, DOCUMENTS AND NATIONAL PLANNING GUIDANCE

National Policies and Other Relevant Guidance

6.1 The relevant national policies/guidance, which are relevant to this appeal, are is follows:

a) The National Planning Policy Framework (NPPF)

6.2 The central theme to the NPPF is to achieve sustainable development. The Government states that there are three dimensions to sustainable development: an economic role, a social role and an environmental role (paragraphs 6 & 7).

6.3 Paragraph 8 of the NPPF goes on to state that these roles should not be undertaken in isolation:

"*…to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system"*

6.4 Paragraph 9 of the NPPF states that pursuing sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment as well as in people's quality of life. This includes making it easier for jobs to be created in cities.

6.5 Section 4 outlines the Governments objectives in respect of promoting sustainable transport, in particular developments should be supported that exploit opportunities for the use of sustainable transport modes for the movement of goods or people.

6.6 Section 6 'Delivery a wide choice of high quality homes' outlines the requirements to significantly boost housing supply. This states that Local Planning Authorities should:

- Use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for marker and affordable housing in the housing market area;
- Identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements with an additional buffer of 5% to ensure choice and competition in the marker for land;
- Set out their own approach to housing density to reflect local circumstances.

6.7 Paragraph 49 goes on to state that housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites.

6.8 Paragraph 50 provides guidance on the delivery of a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities. The guidance goes on to state that Local Planning Authorities should:

- plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community (such as, but not limited to, families with children, older people, people with disabilities, service families and people wishing to build their own homes);
- identify the size, type, tenure and range of housing that is required in particular locations, reflecting local demand; and
- where they have identified that affordable housing is needed, set policies for meeting this need on site, unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified (for example to improve or make more effective use of the existing housing stock) and the agreed approach contributes to the objective of creating mixed and balanced

communities. Such policies should be sufficiently flexible to take account of changing market conditions over time.

6.9 Section 7 'Requiring Good Design' outlines the Governments expectations in respect of new developments:

"*The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people" (paragraph 56)*

6.10 Paragraph 58 states that local plans should develop robust and comprehensive policies that set out the quality of development that will be expected for the area. In particular, planning policies and decisions should aim to ensure that developments:

- Will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- Establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit;
- Respond to local character and history, and reflect the identity of local surroundings and materials, whilst not preventing or discouraging appropriate innovation;
- Are visually attractive as a result of good architecture and appropriate landscaping.

6.11 Paragraph 59 goes on to state that:

"*Local planning authorities should…concentrate in guiding the overall scale, density, massing, height, landscape, layout, materials and access of new development in relation to neighbouring buildings and the local area more generally"*

6.11 Paragraph 63 of the NPPF also states that great weight should be given to outstanding or innovative design which helps raise the standard of design more generally in the area.

6.12 Paragraph 64 states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

6.13 Paragraph 65 goes onto state that buildings which are incompatible with an existing townscape but are of high level of sustainability in general can be supported if mitigated by good design.

6.14 Section 8 'Promoting healthy communities' is an integral part of delivering the 6Government sustainable vision; this includes creating safe and accessible environments where crime and disorder do not undermined quality of life. In addition, there should be high quality public spaces.

6.15 Paragraph 73 states that access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities. Planning policies should be based on robust and up-to-date assessments of the needs for open space, sports and recreation facilities and opportunities for new provision. The assessments should identify specific needs and quantitative or qualitative deficits or surpluses of open space, sports and recreational facilities in the local area. Information gained from the assessments should be used to determine what open space, sports and recreational provision is required.

6.16 Paragraph 74 goes to state that existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:

- an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or
- the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or
- the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss.

6.17 Paragraph 109 of section 11 '*Conserving and enhancing the natural environment'* states that the planning system should contribute to and enhance the natural and local environment. In particular, "*protecting and enhancing valued landscapes".*

6.18 Paragraph 111 states that "*planning policies and decisions should encourage the effective use of land by re-using land that has been previously developed (brownfield land)…"*

6.19 Paragraph 124 states that planning policies should sustain compliance with and contribute towards EU limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and the cumulative impacts on air quality from individual sites in local areas. Planning decisions should ensure that any new development in Air Quality Management Areas is consistent with the local air quality action plan.

6.20 Meeting the challenge of climate change is also important part of the NPPF. This includes supporting energy efficient developments as part of a low carbon future. In addition, areas at risk of flooding should be avoided. Conserving and enhancing the natural environment is also a key consideration and efforts should be made to increase biodiversity at development sites.

6.21 Paragraphs 11, 12, 13 and 14 of the NPPF outline a "presumption in favour of sustainable development". This means approving development, without delay, where it accords with the development plan and where the development is absent or relevant policies are out-of-date, to grant planning permission unless any

adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the NPPF.

b) Guide to Development in Manchester SPD (2007)

6.22 This document provides guidance to help develop and enhance Manchester. In particular, the SPD seeks appropriate design, quality of public realm, facilities for disabled people (in accordance with Design for Access 2), pedestrians and cyclists. It also promotes a safer environment through Secured by Design principles, appropriate waste management measures and environmental sustainability. Sections of relevance are:

- Chapter 2 'Design' – outlines the City Council's expectations that all new developments should have a high standard of design making a positive contribution to the City's environment;

- Paragraph 2.7 states that encouragement for "the most appropriate form of development to enliven neighbourhoods and sustain local facilities. The layout of the scheme and the design, scale, massing and orientation of its buildings should achieve a unified form which blends in with, and links to, adjacent areas.

- Paragraph 2.8 suggests that in areas of significant change or regeneration, the future role of the area will determine the character and design of both new development and open spaces. It will be important to ensure that the development of new buildings and surrounding landscape relates well to, and helps to enhance, areas that are likely to be retained and contribute to the creation of a positive identity.

- Paragraph 2.14 advises that new development should have an appropriate height having regard to the location, character of the area and specific site circumstances. Although a street can successfully accommodate buildings of

differing heights, extremes should be avoided unless they provide landmarks of the highest quality and are in appropriate locations.

- Paragraph 2.17 states that vistas enable people to locate key buildings and to move confidently between different parts of the neighbourhood or from one area to another. The primary face of buildings should lead the eye along important vistas. Views to important buildings, spaces and landmarks, should be promoted in new developments and enhanced by alterations to existing buildings where the opportunity arises.

- Chapter 8 'Community Safety and Crime Prevention' – The aim of this chapter is to ensure that developments design out crime and adopt the standards of Secured by Design;

- Chapter 11 'The City's Character Areas' – the aim of this chapter is to ensure that new developments fit comfortably into, and enhance the character of an area of the City, particularly adding to and enhancing the sense of place.

7.0 THE CASE FOR THE CITY COUNCIL

(i) Introduction

7.1 In section 7.0 of the evidence of the City Council, consideration will be given as to why the appeal proposal is an inappropriate form of development.

7.2 Conclusions will then be drawn which outline why the appeal development is inappropriate, harmful and are contrary to the provision of the Manchester Core Strategy (July 2012) and the extant Unitary Development Plan (UDP) for the City of Manchester (1995).

7.3 Against the background of the policy context outline within section 5.0, it is now necessary to consider in greater detail the City Council concerns in respect of this appeal proposal. This will state that the City Council believes the proposal is an inappropriate form of development. Consideration will therefore be given to the following:

a) The principle of development; and
b) Impact on visual amenity and local character

(a)Principle of development

7.4 The first reason for refusal of the planning application, to which this appeal relates, is that the principle of the development at the appeal site would fail to satisfy key development plan policies and therefore result in the loss of and harm to an area of open space and recreation land.

7.5 The appeal site is allocated as an '*Environmental Improvement Area"* to which saved policy LL3 of the UDP applies. This policy states:

"*The Council will protect from development and improve the major existing areas of open land on the boundary of the areas with Stockport. Priority will be given to upgrading Highfield Country Park"*

7.6 The purpose of the policy is to safeguard the amenity of valuable open space.

7.7 Furthermore, the City Council contends that the applicant has failed to demonstrate that the appeal site is surplus to local requirements, or suitability mitigate against the loss of the site or whether the appeal site can fulfil another open space, sport or recreational function before alternative uses are considered (as required by policy EN10 of the Core Strategy).

7.8 As outlined within the report of the Head of Planning to the Planning and Highways Committee, the determination of any planning application for planning permission must be made in accordance with the relevant development plan, unless material considerations indicate otherwise (Section 70(2) of the Town and Country Planning Act 1990, section 38(6) of the Planning and Compulsory Purchase Act 2004, paragraphs 11 to 13 of the NPPF).

7.9 In accordance with the above, the National Planning Policy Framework (NPPF) is a material consideration for the purposes of determining this appeal, however, it does not replace the presumption in favour of determining a planning application in favour of the development plan.

7.10 In this instance, the development plan consists of:

- The Manchester Core Strategy (CS) (2012); and
- The saved policies within the Unitary Development Plan (UDP) for the City of Manchester (1995).

7.11 The proposal to erect 57 two storey dwellinghouses at the appeal site would mark a clear conflict with saved policy LL3 of the UDP. It would involve development and would not safeguard the amenity of this valuable open space.

7.12 In determining the weight given to saved policy LL3 of the UDP, consideration should be given to paragraph 49 of the NPPF. This states:

"Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites"

7.13 The recent Supreme Court decision in Richborough Estates Partnership LLP v Cheshire East Borough Council [2017] held that the expression "policies for the supply of housing" should be interpreted narrowly and should not extend to policies which merely affect the supply of housing. However, if as a result of the operation of policies affecting the supply of housing there is no five year housing supply, such policies may still be considered out of date.

7.14 Policy H1 of the Core Strategy acknowledges that 3,333 dwellings per year are required during the plan period. The City Council does not currently have a five year supply of deliverable housing to meet this target.

7.15 In light of this, policies affecting the supply of housing will be considered out-of-date, and there is a presumption in favour of granting planning permission for sustainable development in accordance with paragraph 14 of the NPPF. This states that the presumption in favour of sustainable development should be applied in the following way:

"*Where the development plan is absent, silent or relevant policies are out-of-date, granting planning permission unless:*

- *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the framework taken as a whole; or*
- *specific policies in this framework indicate development should be restricted"*

7.16 The purpose of saved policy LL3 of the UDP is to safeguard the amenity of the appeal site as open space from development. The City Council acknowledges that saved policy LL3 is much older than other policies within the development plan and, together with the fact the City Council cannot demonstrate a five year housing supply, the NPPF directs local planning authorities in the direction of the presumption in favour of development.

7.17 Policy LL3 is not a policy for the supply of housing, but that its operation contributes to the lack of a five year land supply and therefore the tilted balance in paragraph 14 should apply.

7.18 The City Council considers that there would be adverse impacts associated with developing the site for residential proposes which would outweigh the positive benefits of increasing housing supply. Such a consideration is in line with paragraph 14 which allows such a judgement to be formed. Such a judgement is supported by other specific guidance within the NPPF which seeks to protect the loss of valuable open space from development.

7.19 In informing the weight that should be applied to policy LL3, consideration should be given to Annex 1 of the NPPF. Paragraph 210 reiterates that planning decisions should be made in accordance with the development plan unless material considerations indicate otherwise. In supporting this approach, the NPPF emphases the value of the development plan and the role that they play in reflecting the needs and priorities of local people for their area:

"…*it provides a framework within which local people and their accountable councils can produce their own distinctive local and neighbourhood plans, which reflect the needs and priorities of their communities"* (paragraph 1 of the NPPF)

" …*Local Plans are the key to delivering sustainable development that reflects the vision and aspirations of local communities…"* (paragraph 150 of the NPPF)

7.20 In acknowledging that saved policy LL3 pre-dates the NPPF, the weight to be given to it should accord with the degree of consistency with NPPF. Indeed, paragraph

211 provides that "*the policies in the Local Plan…should not be considered out-of-date simply because they were adopted prior to the publication of the Framework".* In giving effect to this, paragraph 215 requires that:

"*due weight should be given to the relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the framework, the greater the weight that may be given"*

7.21 As part of the Head of Planning's report to the Planning and Highways Committee, the report sought to consider in what way, and to what extent, saved policy LL3 was consistent with the NPPF. It should be noted that the policy was saved by way of direction by the Secretary of State in 2007.

7.22 The thrust of policy LL3 is to '*protect from development'* and '*improve the major existing areas of land on the boundary of the area with Stockport'.* It should also be noted that Stockport Metropolitan Borough Council have also allocated the land immediately to the east of the appeal site for open space to which saved policies NE3.1 and UOS1.2 of the Stockport UDP relate (see appendix one).

7.23 The relevant saved policy within the Stockport UDP states that '*only limited development'* in this area will be permitted. The policy goes on to state that '*development which, by reason of its type, scale, siting, materials or design would be insensitive to the maintenance or enhancement of attractive green and open areas for public enjoyment and recreation will not be permitted"*

7.24 The need to retain and protect vital open spaces/recreational land from development in order to support the wellbeing of sustainable communities and promote development of previously developed land is a theme which has continued to be re-stated within the current iteration of local planning policy (in the form of policies SP1, H1, EN9 and EN10 of the Core Strategy).

7.25 The Core Strategy policies are considered to be up-to-date, having been adopted in 2012, and were judged to be in line with the NPPF at the Examination in public.

As such, these policies are based upon the NPPF and consistent with the guidance, particularly sections 8 and 11 of the NPPF.

7.26 Section 8 of the NPPF seeks to '*promote healthy communities'* whilst section 11 is to '*conserve and enhance the natural environment'*.

7.27 Paragraph 109 of section 11 of the NPPF states that the planning system should contribute to and enhance the natural and local environment. In particular, "*protecting and enhancing valued landscapes".* Paragraph 111 states that "*planning policies and decisions should encourage the effective use of land by re-using land that has been previously developed (brownfield land)…"*

7.28 Within the Core Strategy, policy H1 '*Housing'* similarly seeks to promote the re-use of brownfield sites stating that "*90% of residential development will be on previously developed land"* with the emphasis being of the re-use of vacant housing and renewal of existing areas.

7.29 Section 8 of the NPPF is dedicated to promoting healthy communities and states within paragraph 73:

"*that access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities"*

7.30 Paragraph 74 goes on to state that existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:

- an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or
- the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or
- the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss.

7.31 This approach to promoting and conserving open space for access by local communities is reiterated within policy SP1 '*Spatial Principles'* of the Core Strategy states that '*the City's network of open spaces will provide all residents with access to recreation opportunities'.* This policy also outlines a number of core development principles that all development in the City should adhere to. This includes making a positive contribution to health, safety and wellbeing of residents together with the protection and enhancement of the built and natural environment (consistent with paragraphs 73 and 109 of the NPPF). The policy also emphasises the re-use of previously developed land wherever possible (consistent with paragraph 111 of the NPPF) along with improving access to open space by being located to reduce the need to travel (consistent with paragraphs 73 of the NPPF).

7.32 Policy EN9 '*Green Infrastructure'* of the Core Strategy also seeks to protect open spaces and states that '*new development will be expected to maintain existing green infrastructure in terms of its quantity, quality and multiple function'* . The policy goes onto state that where there are opportunities, there should be an enhancement to the quality and quantity of green infrastructure in order to improve the performance of its functions and create and improve linkages to and between areas of green infrastructure.

7.33 Further specific guidance on the need to retain and improve open spaces, sport and recreation facilities is provided within policy EN10 '*safeguarding open space, sport and recreation facilities'.* This policy is consistent with paragraph 73 of the NPPF in that that proposals on existing open spaces and sport and recreation facilities will only be permitted where:

- Equivalent or better replacement open space, sport or recreation facilities will be provided in the local area;

  or

- The site has been demonstrated to be surplus for its current open space, sport or recreation function and the City wide standards are maintained, and
    - it could not fulfil other unsatisfied open space, sport or recreation needs, and
    - a proposed replacement will remedy a deficiency in another type of open space, sport or recreation facility in the local area;

or

- The development will be ancillary to the open space, sport or recreation facility and complement use or character.

7.34 In conclusion, policies such as LL3 in the UDP, which pre-date the NPPF, and which, are inconsistent with the NPPF shall be given limited weight.

7.35 Indeed, there are no objections to the provision of new housing in the City subject to the location, size and site specific circumstances making sites appropriate for residential developments as part of creating neighbourhoods of choice. In this case, the proposal would have a harmful impact on local character and a parcel of land which has a role to play in terms of maintaining the openness of the area together with the recreational value of the site.

7.36 In this regard, and as detailed above, the provisions of paragraph 215 of the NPPF require consideration. This allows '*due weight'* to be given to development plans policies to according their degree of consistency with the NPPF.

7.37 It is considered entirely relevant that the City Council has given weight to saved policy LL3 of the UDP, together with the other policies in the Core Strategy, due to their consistency with the NPPF for the reasons outlined above. The Core Strategy was prepared in line with the NPPF and was considered relevant and up-to-date at the Examination In public of Core Strategy.

7.38 In addition, it should be noted that there was significant evidence from local residents with regards to the value and contribution that this space has in terms of its group value with Highfield Country Park, and neighbouring land in Stockport, together with the positive impact on the visual amenity of the area require due consideration and weight.

7.39 The City Council has sought to demonstrate that due to the allocation of the appeal site as an '*Environmental Improvement Area'* within saved policy LL3 of the UDP, and due to the consistency with the aims of the NPPF, substantial weight should be given to this policy and its objective of protecting the appeal site from development. Development of the form proposed as part of this appeal will conflict with this saved policy along with others identified within the Core Strategy.

7.40 In determining whether it is appropriate to allow the appeal site to be development for the proposal subject to this appeal, paragraph 74 of the NPPF and policy EN10 of the Core Strategy require consideration. Policy EN10 states that existing open spaces, sport or recreational uses should not be built upon unless the specific criteria in the policy can be satisfied.

That is, that:

- Equivalent or better replacement open space, sport or recreation facilities will be provided in the local area;

or

- The site has been demonstrated to be surplus for its current open space, sport or recreation function and the City wide standards are maintained, and
    - it could not fulfil other unsatisfied open space, sport or recreation needs, and
    - a proposed replacement will remedy a deficiency in another type of open space, sport or recreation facility in the local area;

or

- The development will be ancillary to the open space, sport or recreation facility and complement use or character.

7.41 The appellant has sought to demonstrate that the proposal is in compliance with this policy by stating that the site has no function as open space due to its limited public accessibility and therefore does not serve the local community, that there would not be any appreciable loss of accessible open space and therefore does not need to be replaced and it is not necessary to consider the need for alterative provision.

7.42 The appellant states within their planning statement which was submitted as part of the planning application:

"*The majority of the site …is clearly inaccessible to the public and hasn't been for approximately the past 25-30 years. Only a small portion is accessible to visitors and therefore it is not considered that the site serves any distinctive function as accessible open space, rather the land has operated continually as a private agricultural smallholding"*

7.43 An article was prepared on the site by the Manchester Evening News on the 24 June 2017 (https://www.manchestereveningnews.co.uk/whats-on/family-kids-news/hidden-farm-cheap-levenshulme-manchester-13229947). Within the article it outlines the 'hidden gem' status of the site together with listing some of the activities which take place at the site:

"Children can buy buckets of food for 50p to feed the animals and the farm has also recently started its own pony grooming and riding sessions too"

7.44 The article goes on to state:

The farm is in Levenshulme, just behind the A6 on Cringle Road, and also features a play area, picnic benches and an indoor area with a tuck shop.

7.45 To summaries, the activities which take place at the appeal site include:

- Riding sessions;
- Pony grooming;
- Feeding of animals;
- Play area;
- Picinic benches;
- Indoor areas.

7.46 A visitors to the site was asked to summaries the contribution the site made to the local area:

"I stumbled across it recently and my kids absolutely love it. There's pigs, goats, chickens and rabbits to feed and a play area. They're just starting to offer pony rides too…. I think it's a great local place and a real hidden gem - it's such a lovely community place."

7.47 The City Council contends that the appellant has somewhat downplayed the offer and contribution the appeal site has to open space and recreational facilities in the local area and the value of this offer to the local community. Is clear that an extensive range of recreational activities is offered at the appeal site including riding lessons and play space which will utilise the whole site and not just the farm element to the front. Indeed, within the MEN article there are photographs of children having horse rising lessons in the rear field. The provision of play facilities also demonstrates that the site has a broad recreational use. Lastly, it is clear from this article the community value the site and what it offers to residents, particularly young children.

7.48 The full article can be found in appendix two.

7.49 The appeal site is an area of open space and recreational use and its loss must therefore be considered against policy EN10.

7.50 It is noted that the 2009 City Wide Open Spaces, Sport and Recreation Study prepared by the City Council does not include the appeal site whilst the wider Highfield Country Park site is identified as a natural and semi-natural open space.

7.51 Policy LL3 does not distinguish the appeal site from Highfield Country Park and together with the open space allocated adjacent within Stockport, provides a valuable green wedge in this part of the City and provides a contribution to the visual amenity of the area.

7.52 Notwithstanding that the appeal site does not form part of the open space study it is clear the appeal site is an area of open space/recreational land which is evident from the services it offers. It is too simplistic to argue that the land should not be considered in this particularly given saved policy LL3 and the facilities on offer at the appeal site. As such, the tests of policy EN10 and the NPPF do apply and must be robustly considered.

7.53 Due to the appellant contention that the land is 'private' and has no open space or recreational value, the planning submission was light in terms of its assessment of the loss of this open space/recreational land.

7.54 The City Council's open space study suggests that the level of use of open space is high, but the quality of open space in the area surrounding the appeal site is varying. In addition, there are a lack of amenities within park areas together with shortfalls in natural and semi-natural open space and amenity space. These deficiencies are considered to be large.

7.55 In light if this context, It is considered that the appellant has failed to demonstrate that the site is surplus to requirements in both quantitative and qualitative terms, or the site can be replaced or satisfied that that an alterative use of the site can be found.

7.56 Given the deficiency in open space and recreational land identified in the open space audit, it is considered that it is too simplistic an approach to take, to say that the land, despite its allocation in the UDP and clear function and community offer, would not successfully fulfil another open space or recreational function.

7.57 It is considered that the applicant's position conflicts with the guidance within paragraph 74 of the NPPF and the Core Strategy.

7.58 It has already been demonstrated that the UDP is still relevant and consistent with the NPPF and the Core Strategy and therefore weight can be attached to it. In addition, it is not considered that the requirements of policy EN10 and paragraph 74 of the NPPF have been satisfied by the applicant.

7.59 Saved policy LL3 states that the site will be protected from development with priority given to upgrading the site. The 2009 open space study states that there is a deficiency in south Manchester for natural and semi-natural spaces together with other provision.

7.60 Notwithstanding this, it is also considered that the application site forms a key part of the group value of the Highfield Country Park allocation together with the land allocated adjacent within Stockport. Furthermore, the applicant has not tested if the site could fulfil another function instead relying on the provision of the wider area of Highfield Country Park. Whilst the current function may no longer be viable, there is nothing to suggest that the site would be unsuitable for alternative recreational or outdoor uses.

7.61 Paragraph 73 of the NPPF makes it clear that access to high quality open space and opportunities for sport and recreation is important to the health and wellbeing of communities. Accordingly, policy EN10 is consistent with the provisions of paragraph 74 in that it requires equivalent or better replacement open space, sport or recreation facilities will be provided in the local area or that the site has been demonstrated to be surplus for its current open space, sport or recreation function

and the City wide standards are maintained including that it could and not fulfil other unsatisfied open space, sport or recreation needs together with remedy a deficiency in another type of open space, sport or recreation facility in the local area.

7.62 The applicant has not proposed any provision of land for replacement provision in the area. However, they have stated that they are willing to make a financial contribution to the Council towards improvements at nearby open spaces such as Highfield Country Park.

7.63 It is considered that the principle of developing the site for housing would not be acceptable in principle. Whilst residential growth within the City is vital, in terms of meeting housing and economic growth, it is important residential growth is located in the right location and responds positively to the site specific circumstances.

7.64 The site is 'greenfield' by definition and given the preference towards developing brownfield sites, this proposal would be contrary to that approach. In addition, the proposal would result of the loss of the site which could be used for alternative recreational or open space provision. The unduly harmful impacts in this regard are not considered to outweigh the benefits of increasing the housing supply in this area of Manchester.

b)Visual amenity and character of the area

7.65 The second reason for refusal stated that the proposed development of the appeal for residential purposes would have an unduly harmful impact on the visual amenity value of the appeal site and the open space context of Highfield Country Park and other open spaces (particularly the immediately neighbouring open space allocated by the Stockport MBC development plan). As a result of this, the proposal would erode local character as the development would fail to successfully integrate into this context. The resulting impact will be a unduly harmful impact on the visual amenity of the local area.

7.66 As detailed elsewhere within this report, the appeal site, for the purposes of saved policy LL3, forms part of Highfield Country Park. The appeals site, together with the wider park area, performs an important role in maintaining the openness of the area. The desire to maintain this openness, and protect land from inappropriate development that would harm this, is replicated by Stockport MBC in the form of policies NE3.1 and UOS1.2.

7.68 This highlights that there is both a recognition by the City Council and Stockport MBC of the important role this green landscaped area plays and hence therefore the allocations within the respective development plans.

7.69 The appeal site is located in an area where there are two distinctive characters present. There are two storey residential properties to the south of Cringle Road whilst the northern aspect of the road is open and is only broken by trees, boundary treatment and the modest buildings which are currently located at the appeal site associated with the onsite farm and equestrian offer.

7.70 The creation of 57 dwellinghouses at the appeal site will have an unduly harmful impact on the landscaped character and visual amenity of the appeal site and the wider area. It is clearly been acknowledged the importance and value based on this area which dates back to the planning decision made in 1976 which refused 47 dwellings for the same reason. The provision of built form at the appeal site will un-doubtly break the openness of the area and the ‘green wedge’ that is formed with the land within the Stockport MBC boundary therefore undermining the visual quality of the area.

7.71 It is not considered that the provision of housing at the application site outweighs the harm that would arise from the loss of the site together with its contribution to the wider visual amenity and character of the area.

8.0 COMMENTS ON THE GROUNDS OF APPEAL

8.1 The City Council has the following comments on the appellant's grounds of appeal.

8.2 Paragraph 2.3 – the City Council disputes that the appeal site is sole use if for agricultural purposes. It is clear from the uses that take place at the appeal site there is a clear recreational use to the site together with the contribution the open land has to the character and visual amenity of the area. Evidence supplied by the City Council elsewhere within the appeal documentation gives a clear understand of the offer at the site and its contribution to the local community and recreational offer.

8.3 Notwithstanding the appellants judgement that the land is not open space or has a recreational use, there is a relevant saved policy which clearly identifies the appeal site to be 'open land'. The City Council has demonstrated that this policy remains relevant, up-to-date and consistent with policies in the Core Strategy (principally EN10) and the NPPF. The appellant indicates that the current owner intends to retire and close the animal farm.

8.4 The appellant has failed to demonstrate that the proposal complies with policy EN10. There are a series of tests within this policy none of which have been met. There is clear demand for good quality open spaces (as directed by the open space study). The appellant has failed to consider this policy and whilst the current owner may well wish to retire this does not mean that the land is unsuitable for an alternative recreational or outdoor use.

8.5 Paragraph 5.3 – the appellant states that the appeal site is only open to the public on a limited basis and private equestrian grazing. The City Council contends that this has been under played. Paragraphs 5.10 – 5.18 go on to state that the City Council has ignore its own evidence in the form of the open space study.

8.6 The City Council maintains its position that policy EN10 is relevant to this appeal on the basis that:

(a) The appeal site is considered 'open land' as part of a wider area of open space for the purposes of saved policy LL3;
(b) The site performs a recreational and open space purpose.

8.7 On this basis, policy EN10 is relevant in terms of considering whether the loss of the site to an alterative use is appropriate. The City Council is not ignoring its own open space study as the appellant asserts. However, nowhere within policy EN10 does it state that land that is not identified within an appropriate open space study or indeed private land is exempt from consideration by this policy. The City Council has demonstrated through this appeal that policy LL3 is consistent with the Core Strategy and the NPPF and therefore it is relevant to consider the loss of the land from an open space/recreational perspective.

8.8 The appellant states that the City Council has ignored a recent decision on another site in Manchester. The City Council contends that any decision taken on an alterative site is not relevant to this consideration of this appeal and that each site should be judged on its own merits. However, in the case of 115299/FO/2017 this was a redundant running rack and the applicant tested the loss of the running track against policy EN10 and provided suitable and appropriate mitigation.

8.9 Notwithstanding the above, the City Council is unclear as to why the appellant is drawing the Inspectors attention to this matter. The appellant's case is based on the fact this appeal site is not open space and therefore accordingly has sought not to demonstrate that the appeal site complies with policy EN10. If another application is submitted to the City Council and is able to demonstrate compliance with policy EN10, together with providing suitable mitigation, this is not evidence of inconsistent decision making or failure to properly give weight to the open space study. As detailed above, policy EN10 does not state that land not in an appropriate open space study does not have to be considered against this policy

particularly where it is clear that the function of the land is one of open space/recreation.

8.10 Paragraphs 5.25-5.33 – The City Council contends that the appellant has failed to fully consider the impact on the landscape character of the area. There is no acknowledgement within the appeal statement of the difference in character on the northern side of Cringle Road to the south. In addition, the appellant fails to acknowledge the allocation and open space within Stockport MBC. This is an important point as it demonstrates the group value the appeal site has with the wider Highfield Country Park and the open space in Stockport.

9.0 HUMAN RIGHTS ACT 1998

9.1 This appeal needs to be considered against the provisions of the Human Rights Act 1998. Under Article 6, the appellants (and those third parties, including local residents, who have made representations) have a right to a fair hearing and to this end the inspector must give full consideration to their comments.

9.2 Article 8 and Protocol 1 Article 1 confers a right of respect for a person's home and a right of peaceful enjoyment of one's possessions, which includes a person's home, and other land and business assets. In taking account of all material planning considerations, including City Council policy as set out in the Manchester Core Strategy and extant polices within the UDP, the City Council has concluded that some rights conferred by these Articles of the appellant, objectors and residents and other occupiers and owners of nearby land that might be affected may be interfered with but that interference is justified by being in the public interest and on the basis of the planning merits of the Appeal. The City Council believes that any restriction on these rights posed by refusal of the Appeal is proportionate to the wider benefits of refusal and that such a decision falls within the margin of the discretion afforded to the City Council under the Town and Country Planning Acts.

10.0 CONCLUSION

10.1 The City Council maintains that the proposed development would be in direct conflict with saved policy LL3 of the UDP. This policy is considered to be up-to-date as it is consistent with other polices within the development plan such as EN10.

10.2 These policies were up-to-date by the Inspector at the Examination in Public for the Core Strategy.

10.3 The proposed development would result in the loss of the appeal site which is in direct conflict with policy EN10 of the Core Strategy.

10.4 The site is a greenfield site and would be contrary to the provisions of directly development to brownfield land as required by policy H1 of the Core Strategy.

10.5 The proposed development would have an unduly harmful impact on the visual amenity and landscaped character of the area. In particular, there would be an encroachment on the group value of the appeal site in the context of Highfield Country Park and the land allocated within the administrative boundaries of Stockport MBC.

10.6 In light of the contents of this statement, the City Council respectfully requests that the Inspector dismisses the appeal.

10.7 Should the Inspector be minded to approve the appeal it is requested that the conditions contained below, together with and condition relating to the appellant entering into a legally binding agreement with regards to suitability mitigating against the loss of the appeal site and improvement to recreational/open space in the local area.