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## Appeal Decision

Inquiry held between 4 and 12 May 2016

Site visit made on 11 May 2016

**by Mark Dakeyne BA (Hons) MRTPI**

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

**Decision date: 04 July 2016**

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**Appeal Ref: APP/R0660/W/15/3027388**

**Harman Technology Site and adjacent land, Ilford Way, Town Lane, Mobberley, Knutsford WA16 7GJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Argonaught Holdings Ltd against the decision of Cheshire East Council.
  - The application Ref 14/0114M, dated 23 December 2013, was refused by notice dated 29 November 2014.
  - The development proposed is a hybrid planning application for mixed-use redevelopment seeking:
    - A. Full planning permission for alterations to existing employment buildings, construction of new employment buildings and installation of new over ground services, piping and ducting;
    - B. Full planning permission for demolition of remaining redundant employment buildings and removal of redundant over ground services, piping and ducting;
    - C. Outline planning permission for construction of dwellings, B1 office space, associated infrastructure, landscaping and associated works (means of access).
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### Decision

1. The appeal is dismissed.

### Preliminary and Procedural Matters

2. The appeal site lies at the north-west end of Mobberley and comprises two distinct parcels. The majority of the site, around 15 ha, is occupied by Harman Technology and contains a variety of industrial buildings with ancillary offices and laboratories used for administration and research and development. The remainder of the site, to the east of the developed area, is a roughly rectangular field of about 8 ha.
  3. The appeal proposal is a hybrid application comprising full details of the refurbishment of existing, and the erection of new, employment buildings for Harman Technology in the south-east corner of the developed site and an outline scheme for residential development on the vast majority of the remainder of the previously-developed land. The field would be used as public open space with a sports pitch, allotments, play area, tranquillity zone, changing rooms and parking area, although the application does not include details of any of these elements. Therefore, although the change of use of the field should be treated as a full application, the various components within it
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- are effectively in outline. In terms of the outline components of the scheme, all detailed matters are reserved apart from the means of access.
4. It was confirmed at the inquiry that an area of speculative office development was included as part of the outline proposal in May 2014 before the application was determined by Cheshire East Council (CEC). Although the description of development was not changed, consultation took place on the revision and the Council's decision had regard to the amendment. The matter was also discussed at the inquiry. Therefore, no party would be prejudiced by my consideration of the speculative office development as part of this proposal which I have included in the description of development in the banner.
  5. An indicative site layout plan, Drawing No 12004-01-Rev A, was submitted with the application. I have treated this as an indication of how the housing, office and open space areas would be laid out. However, as access is not reserved, the plan forms part of the proposal in this regard. The housing and office development would be served by an extension of Ilford Way which currently forms the main access to the site. The open space would be reached by a leg off the housing estate loop road, entering the field at its north-west corner across a track used by United Utilities to access a sewage treatment works (STW) to the north.
  6. A draft planning obligation under Section 106 of the Town and Country Planning Act 1990 (S106) in the form of a Unilateral Undertaking was submitted to the inquiry by the appellants. The S106 was completed with my agreement after the close of the inquiry on 18 May 2016. The obligation includes provisions relating to affordable housing, education and highways contributions, open space, the speculative office space and travel planning. I will return to these provisions later in my reasoning.
  7. The proposal has been screened by both CEC and the Planning Inspectorate as Schedule 2 development and judged not to require an Environmental Statement (ES). I concur with these screening opinions.

### **Main Issues**

8. Planning permission was refused for three reasons relating to (1) the effect of noise from overhead aircraft on the external amenity areas of the residential development with impacts on health and quality of life; (2) adverse impacts on the character of the village of Mobberley; and (3) the provision of insufficient affordable housing.
9. However, CEC withdrew the second and third reasons in advance of the inquiry. Therefore, the single area of dispute between CEC and the appellants at the inquiry was 'noise impact and its significance in relation to outdoor living/amenity areas, including the impacts on general amenity' as recorded in the Statement of Common Ground between CEC and the appellants dated 29 April 2016. That said Mobberley Parish Council (MPC), who had Rule 6 status at the inquiry, raised objections on a number of different grounds, notably loss of employment land, noise, harm to heritage assets, highway impacts, effect on the character of Mobberley, Green Belt and affordable housing.
10. The field which is proposed for public open space lies within the Green Belt and the Mobberley Conservation Area (MCA). It was agreed that the change of use from agricultural land to public open space constitutes inappropriate

development in the Green Belt as it does not fall within the forms of development set out at paragraph 90 of the National Planning Policy Framework (the Framework). The changing room building and engineering operations associated with the open space would not be inappropriate development provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in the Green Belt<sup>1</sup>.

11. On the basis of the above and taking into account the evidence, the main issues in this appeal are:

- (1) the effect of the changing room building and engineering operations associated with the open space on the openness and purposes of the Green Belt and whether the harm to the Green Belt by reason of inappropriate development would be clearly outweighed by other considerations so as to amount to very special circumstances;
- (2) whether the housing development, including any proposed mitigation, would be subject to noise which would give rise to significant adverse impacts on the health and quality of life for future residents;
- (3) whether the development would preserve or enhance the character or appearance of the Mobberley Conservation Area, including its setting;
- (4) whether the other dimensions of sustainable development would be achieved, taking into account the economic, social and environmental roles; and,
- (5) whether any adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits of the development when assessed against the Framework's policies as a whole.

## **Reasons**

### ***Green Belt***

#### *Green Belt Openness and Purposes*

12. The changing room building would be an appropriate facility for outdoor sport and recreation to be used predominantly in connection with the single sports pitch. Although part of the outline proposal, it is envisaged that the building would be relatively small in footprint, of single-storey scale and sited discretely in the north-west corner of the site. There would inevitably be some effect on openness from the modest quantum of development. But some effect is inherently accepted by paragraph 89 of the Framework and does not necessarily lead to a finding of harm. In this context the changing rooms would be unlikely to lead to harm to openness. Similarly the extent of encroachment into the countryside from the changing rooms would not be material.
13. The erection of goal posts associated with the sports pitch and the formation of the play area and the zone of tranquillity would lead to structures where there were none before. There could be some modest fencing and small structures associated with the allotments. Cars left in the parking area would have some effect on openness. However, the enclosures and structures would be small, the parking limited and the field would remain predominantly undeveloped such that Green Belt openness would be largely preserved and there would not be any significant encroachment of development into the countryside. The

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<sup>1</sup> Paragraphs 89 and 90 of the Framework

proposal would provide opportunities for outdoor sport and recreation in accordance with the requirement to positively enhance beneficial use of the Green Belt<sup>2</sup>.

### *Inappropriate development*

14. For the above reasons the changing room building and engineering operations would not be inappropriate development. However, as the change of use of land does amount to inappropriate development, that element of the proposal is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances<sup>3</sup>. Substantial weight should be given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations<sup>4</sup>. Any other harm includes non-Green Belt harm<sup>5</sup>. I will return to this Green Belt balance within my overall conclusions.

## **Noise**

### *Noise Environment*

15. The appeal site lies close to Manchester International Airport (MIA) and its two runways. The south-western end of Runway 2 is just over a mile to the north-east of the appeal site. Runway 1 is some 350m to the north of Runway 2 but with its south-western end further to the north-east. Runway 1 is used more frequently than Runway 2. For example use of Runway 2 is limited to 0600 to 2200 hours other than in certain circumstances. Due to prevailing wind direction the main mode of operation is for aircraft to depart in a south-westerly direction towards the appeal site. Some 80% of aircraft fly in this direction with the remainder leaving to the north-east over Wythenshawe. Departing aircraft are noisier than aircraft landing. There are morning and late afternoon/early evening peaks in aircraft activity.
16. Aircraft departing or arriving are required to use Preferred Noise Routes (PNR). The exact position of the PNR are not clear due to the small scale nature of the maps but one route<sup>6</sup>, used by lighter aircraft, goes over the site whereas another used more frequently and by larger aircraft appears to be slightly to the north of the site<sup>7</sup>. This is confirmed by what I saw when I was in the area. With the latter PNR, aircraft turn west to avoid Knutsford which can lead to a change in noise frequency through thrust.
17. MIA provides noise contours based on 16 hour dB(A)  $L_{Aeq}$  day and 8 hour dB(A)  $L_{Aeq}$  night<sup>8</sup>. The noise contours, taking a precautionary approach, are based on the busier summer months. The method of measurement is an average noise indicator but tends to give greater weight to higher noise events, correlating to subjective responses such as annoyance.

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<sup>2</sup> Paragraph 81 of the Framework

<sup>3</sup> Paragraph 87 of the Framework

<sup>4</sup> Paragraph 88 of the Framework

<sup>5</sup> Redhill Aerodrome Ltd v Secretary of State for Communities and Local Government and others [2014] EWCA Civ 1386

<sup>6</sup> Known as LISTO 2R

<sup>7</sup> Known as MON 1R/Y

<sup>8</sup> For the remainder of the decision I use the short-form dB(A) rather than dB(A)  $L_{Aeq}$  for ease of reading

18. The information shows an increase in noise levels between 2012 and 2014 explained by greater airport activity as the country came out of recession. The 2014 data shows that three daytime contours affect the appeal site with the south-east part of the site lying above the 57 dB(A) contour, the central band of the site being between the 60 dB(A) and 63 dB(A) contours and the north-west part being beyond the 63 dB(A) contour. However, that part of the site proposed for housing is above the 60 dB(A) and 63 dB(A) noise contours (73% and 27% of the housing area respectively).
19. Noise measurements taken by the appellants in 2013 showed daytime noise ranging from 57 dB(A) to 65 dB(A) with the higher levels when the airport was operating with aircraft taking off towards the appeal site. Further surveys undertaken between late December 2014 and mid-January 2015 showed daytime noise levels between 57 dB(A) and 64 dB(A). Although these measurements would have included noise from Harman activities, they are broadly consistent with the MIA contours.
20. I saw aircraft approaching and leaving MIA during different times of the day. I noted a discernible difference in aircraft noise when moving from the areas above the 57 dB(A) contours compared to those above 63 dB(A). Evidence from witnesses and local residents and my own observations indicates that noise from aircraft can interfere with conversations, requiring a short pause in chatter. There are also effects on other activities carried out in gardens such as reading, resting, sunbathing, quiet gardening activities, games and social gatherings/BBQs with friends and family which were referred to in evidence.
21. There is a requirement that new aircraft are manufactured to be quieter. Over time as older models are replaced this will have noise benefits. However, at the same time the number of aircraft movements is likely to increase as MIA is operating at well below capacity. Plans for terminal expansion and refurbishment will increase passenger capacity. These changes, when considered together, are likely to lead to increased noise in the shorter term but then a levelling out in the longer term. For the purposes of this appeal it would appear to be reasonable to work on the basis of the 2014 noise contours. This reflects the fair balance between noise issues and economic factors sought by the Aviation Policy Framework (APF).

#### *Noise Policy*

22. The Framework refers to pollution and noise at paragraphs 109, 120 and 123. Paragraph 109 states that the planning system should prevent new development from being adversely affected by unacceptable levels of noise pollution. Paragraph 120 states that to prevent unacceptable risks from pollution, decisions should ensure that new development is appropriate for its location. Paragraph 123 indicates that decisions should aim to avoid noise giving rise to significant adverse impacts on health and quality of life as a result of new development.
23. It is an objective of Government policy to limit the number of people significantly affected by aircraft noise as set out in the APF. The APF identifies that the 57 dB(A)  $L_{Aeq}$  16 hour contour is used as an average level of daytime noise marking the approximate onset of significant community annoyance. The APF states that average noise exposure contours are a well established measure of annoyance. Moreover, annoyance is a well documented subjective response to noise.

24. The World Health Organisation<sup>9</sup> (WHO) indicates that serious annoyance, daytime and evening, would arise in outdoor living areas subject to 55 dB(A). BS 8233:2014<sup>10</sup> refers to it being desirable for traditional external areas used for amenity space to have an upper guideline value of 55 dB(A) in noisier environments but that such guidelines are not achievable in all circumstances where development should be designed to achieve the lowest practicable levels.
25. The Planning Practice Guidance<sup>11</sup> (PPG) and Noise Policy Statement for England (NPSE) refer to observed noise effect levels, including the Significant Observed Adverse Effect Level (SOAEL) above which significant adverse effects on health and quality of life occur and the Lowest Observed Adverse Effect Level (LOAEL) above which adverse effects on health and quality of life can be detected. There are no defined dB(A) thresholds for LOAEL and SOAEL. But as the 57 dB(A) marks the onset of significant community annoyance it would be reasonable to equate 60 dB(A) and above to SOAEL which is the CEC position.
26. It is accepted that noise can affect both health and quality of life. The NPSE clearly distinguishes between the two so it is not necessary for there to be significant adverse impacts on both.
27. That said current policy as expressed in the Framework, NPSE, PPG and BS 8233:2014 accepts that noise is only one of the factors to be weighed in the balance alongside the other dimensions of development.
28. Local plan policy on noise is limited to Policy T18 of the adopted Macclesfield Borough Local Plan 2004 (MLBP) which requires the securing of mitigation to ensure acceptable internal noise levels but does not refer to external areas. Section 3 of the policy is relevant having regard to the daytime and night time noise contours and advises that planning permission will be granted if satisfactory soundproofing is provided, subject to compliance with other policies.

#### *Noise Effects*

29. The housing would be affected by noise above the 60 or 63 dB(A) contours. Based on the above noise policy it would be reasonable to categorise the housing development as falling into the SOAEL category. This is supported by the PPG which equates SOAEL with having to keep windows closed for most of the time, a consequence that would arise from this development in order to avoid undesirable exposure to noise within the dwellings. Within the SOAEL category noise is perceived as noticeable and disruptive. The PPG and NPSE advise that such situations should be avoided.
30. In this case CEC is concerned about the affect on quality of life rather than health but I have considered both in this decision. Quality of life would be affected by noise having a significant effect on the day to day activities outlined in paragraph 20 for future residents of the housing development. Although the periods of the year when most of these activities can be carried out are limited they are still an important part of most peoples' life. The Aircraft Noise Index Study suggests that between 30% and 45% of residents on the site would be highly annoyed by aircraft noise.

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<sup>9</sup> WHO – Guidelines for Community Noise

<sup>10</sup> Guidance on sound insulation and noise reduction for buildings

<sup>11</sup> ID 30-003-20140306

31. In terms of health the appellants undertook a Health Impact Assessment (HIA) which concluded that, whilst there are undoubtedly negative health impacts arising from aircraft noise exposure, there is a great deal of uncertainty about the quantification of these impacts and at what levels they are likely to occur. Moreover, health impacts are primarily associated with night time noise which affects the site less due to the way that the runways operate. Public Health England did not raise concerns about the methodology and conclusions in the HIA.
32. High disturbance to night time sleep could affect about 10% of future residents based on the appellants' assessment. The cardiovascular effects are likely to be very limited based on various studies so there would be no significant risk of heart problems associated with the aircraft noise.

#### *Mitigation*

33. The appellants propose measures to mitigate the impact of noise on both the internal and external residential environments.
34. The evidence indicates that, with the use of measures such as high performance sealed windows and doors, enhanced roof construction and mechanical ventilation, an acceptable level of indoor noise could be achieved and there would be compliance with Policy T18 of the MBLP. It is on this basis that there is no issue between CEC and the appellants on the internal noise environment. Sound insulation would ensure that sleep disturbance would not constitute a significant health problem.
35. That said the 'sealed box' solution should be seen as a last resort. An acceptable noise environment would be dependent on not opening windows and doors so that the everyday benefits of village life such as 'fresh air', bird song and country sounds could only be enjoyed if the internal noise environment was to be compromised.
36. In terms of the external noise environment, the appellants have sought to mitigate the impact on the residential development by proposing the measures set out in the PPG and BS 8233:2014 and which can be applied in areas such as the appeal site which adjoin the strategic transport network where noise levels are high.
37. Virtually all of the housing would be subject to noise levels above 60 dB(A). The appellants propose mitigation to the gardens through the provision of covered areas where structures would reduce noise levels. In view of the APF reference to 57 dB(A), the objective would be to achieve an external area where noise levels would be less than 57 dB(A) in a part of the garden. Due to existing noise levels all of the housing would need some form of mitigation.
38. At the application stage the Design Code proposed mitigation in the form of canopies with three open sides placed against the dwellings to cover not less than 12 sq m of outdoor space. It was stated that the roofs to the canopies would allow sunlight penetration but would reduce sound transmission. This was on the basis of the 2012 noise contours. With the recent publication of the 2014 contours the appellants have revised their mitigation proposals indicating that for the parts of the site most affected by noise, a structure with enclosed sides or even a conservatory type structure with opening floor to ceiling French doors on the outside elevation would be needed to achieve sufficient reduction

- in noise levels. Noise absorbing materials might also need to be incorporated. These structures would be used in combination with a shadowing effect created by the positioning of the buildings to provide a relatively quiet sitting out area.
39. The appellants suggest that the mitigation could achieve reductions in noise levels of between 6 and 15 dB(A) depending on the type of structures. However, although some modelling has been undertaken, no testing of structures has taken place. There does not appear to be sufficient certainty that the reduction in levels sought would be achieved. Nobody at the inquiry could point to other developments where similar measures to outside areas had been used to successfully mitigate, and provide refuge from, aircraft noise.
40. Moreover, if a canopy was used, those sitting towards its edge with a line of sight to aircraft would not benefit from the full noise reducing properties. An enclosed conservatory type structure would be more likely to achieve noise reduction over all of the footprint but would not comprise an external amenity space. Furthermore, most of the garden area beyond the structure where the majority of outdoor activities would normally take place would be subject to unmitigated noise save for those limited areas benefiting from the shadowing properties of the buildings. This is demonstrated by the modelling undertaken by the appellants. For these reasons the mitigation would not be likely to achieve the objective of avoiding SOAEL.
41. In addition to the mitigation to individual residences, a Zone of Relative Tranquillity is also proposed within the public open space, an area which is subject to the 57 dB(A) contour. The zone would include a water feature providing relaxing sounds as a respite from other noise. However, the zone would not be relatively undisturbed by noise or valued for its tranquillity as it would be affected by daytime noise marking the onset of significant community annoyance. Moreover, it would be some distance from the dwellings affected by the highest noise levels. I consider it unlikely that many residents would make much use of such an area for 'quiet' activities so its value for mitigation would be limited.
42. For the above reasons I do not consider that the mitigation would be effective or could be secured by conditions. Significant adverse effects on quality of life would not be avoided.

#### *Other Factors*

43. People would know what they were buying. The noise environment would be one of the factors that would be weighed up alongside the advantages of living in a village surrounded by the Cheshire countryside but close to MIA and the Manchester conurbation. But not all future residents would necessarily have that choice, for example some of the affordable housing occupants.
44. Thousands of households in the South Manchester area are affected by aircraft noise. That said only some 2600 homes are affected by daytime noise levels above 60 dB(A) and only 850 homes by noise above 63 dB(A)<sup>12</sup>. The inquiry revealed that many existing residents have lived in the village for a long time and not moved away. However, apart from a few dwellings on Smith Lane and isolated country dwellings under the flight path, the proposal would lead to the most substantial concentration of dwellings in the Mobberley area close to the

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<sup>12</sup> MIA Noise Action Plan 2013-18



take off/landing zone for Runway 2 and the associated PNRs. Moreover, some of the existing dwellings have been there for some time when airport operations and noise levels would have been very different.

45. Reference was made to the grant of planning permission for housing at Parkgate on the edge of Knutsford near the MON 1R/Y PNR without noise mitigation measures to the external areas. From what I saw and due to the distance from the runways, aircraft are higher in the sky when flying by Parkgate compared to the appeal site. The 2014 noise contours show that none of the Parkgate site would be affected by the 63 dB(A) and above level. Moreover, I have not been made aware of all the factors that were taken into account with that decision. Furthermore, unacceptable noise impacts on one site do not justify similar adverse effects arising from development on another.
46. Improvements in terms of industrial noise would be gained with the consolidation of Harman and the construction of modern buildings. But not much housing is currently affected by industrial activities. Moreover, the proposal would bring residential development closer to the Energies Building which was shown by the 2013 noise measurements to be the highest source of industrial noise, confirmed by my site visits when a continuous humming sound was audible. Measures such as reduced fan speed and attenuators to fan inlets could be introduced to lessen noise by 7 dB(A)<sup>13</sup> which would result in the building on its own not creating unacceptable noise. However, the residual noise from the cooling towers combined with that from aircraft and other noise sources, such as traffic, would still be likely to add to the annoyance factor for those residents nearest to them, particularly when using their gardens.

#### *Conclusions on Noise*

47. For the above reasons an acceptable external noise environment would not be achieved. The housing development would not be appropriate for this location. The external noise environment would not be positive but would have a significantly adverse impact on the quality of life of future residents. Whilst noting that an acceptable internal acoustic environment would technically be achievable, the sealed box solution would further detract from future residents' quality of life and is an additional factor weighing against permission. However, there is insufficient evidence to conclude that the health of future residents would be significantly affected.
48. As a result of the development there would be conflict with paragraphs 109, 120 and 123 and one of the core planning principles of the Framework, to always seek to secure a good standard of amenity for all future occupants of buildings. In particular the proposal would not avoid noise giving rise to significant adverse impacts on the quality of life of future residents.

#### **Conservation Area**

49. The field that lies in the MCA has no specific attributes in itself but forms part of the pasture land that surrounds the developed core and the more dispersed parts of the village. The relationship between agricultural landscape and buildings contributes to the village's rural feel and the significance of the heritage asset of the MPC. However, this is most important around part of the historic core of the village along Church Lane, near St Wilfrid's Church and

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<sup>13</sup> See Noise Report dated 1 November 2013

school; in the vicinity of the junction of Church Lane with Town Lane and Hall Lane where the hedge bounded fields lie adjacent to the village roads; and in more outlying parts of the MCA as recognised by the Mobberley Conservation Area Appraisal.

50. The field at the appeal site is largely enclosed by trees and hedges and by developments at the Harman site and the housing estate to the south which have a more urban character. There are glimpsed views of the church tower of the listed St Wilfrid's above vegetation but it is not readily apparent. Open space and associated buildings and structures, such as the cricket ground with its pavilion, are part of the MCA and village scene. In the context of the MCA as a whole, the change from pastureland to open space, with its various accoutrements, would preserve the character and appearance of the MCA, provided that the changing rooms and other elements are sensitively designed. This could be secured at reserved matters stage. The change from field to open space would not lead to the loss of an element which makes a positive contribution to the MCA. Views of the church tower across the field from within the open space, public footpath no 13 and existing and proposed developments outside the MCA would not be adversely affected.
51. The rural setting of the MCA is currently harmed by the backdrop of the existing Harman site with its large industrial buildings. I saw this in views across farmland from Church Lane and Hobcroft Lane. Similar views are obtained from some of the footpaths to the north of the village. Removal of a significant number of these buildings and replacement with lower key domestic scale development would result in an enhanced setting to the MCA.
52. Overall the proposal would preserve the character and appearance of the MCA and have a modest enhancing effect on its setting and therefore its significance as a heritage asset. There would be compliance with Policy BE3 of the MBLP in this regard.

### ***Other Dimensions of Sustainable Development***

#### *Employment Land*

53. The proposal would lead to the loss of employment land. Saved Policy E4 of the MBLP identifies the site as one where general industry, warehousing, high technology and light industry will normally be permitted. Saved Policy E1 of the MBLP indicates that existing employment areas will normally be retained for employment purposes. Thus there would be conflict with Policy E1 and by association Policy E4 of the MBLP.
54. The MBLP was intended to have a lifespan up to 2011. The employment policies of the MBLP are not entirely consistent with the Framework which advises against policies which seek the long term protection of sites allocated for employment use and that land allocations should be regularly reviewed. Moreover, the shortage of housing land in the Council area suggests that consideration should be given to alternative housing uses where there is no reasonable prospect of the site being used for the allocated employment use.
55. The need for employment land is being reviewed as part of the emerging Cheshire East Local Plan Strategy (LPS) which is currently under examination. There are indications that CEC need to plan for significant economic growth as demonstrated by the Examining Inspector's Interim Views and the suggestion

- that there is a need for 380 ha of employment land. Much of the greenfield land within the northern part of the District is Green Belt.
56. Draft Policy EG3 of the LPS requires that existing employment sites will be protected for employment use unless certain criteria are met. There are no proposals within the LPS to remove the employment protection from the appeal site. One of the criteria is that no other occupiers can be found and in this regard sites should be marketed for employment use for 2 years in accordance with a footnote to policy. Marketing has not taken place. However, the examination of the LPS has been protracted since its submission in May 2014. Although the appellants have not objected to Policy EG3, it is not clear whether other objections have been received. The main hearings and full scrutiny of policies will not take place until autumn 2016 and the Inspector's findings are not likely to emerge until 2017. Although Policy EG3 appears to be reasonably well aligned with paragraph 22 of the Framework, it can only be afforded moderate weight in accordance with paragraph 216 of the Framework.
57. Moreover, the Employment Land Review which forms part of the LPS evidence base indicates that the appeal site is unlikely to be suitable for speculative industrial or office development. A marketing report submitted with the application questions the viability of that part of the site not to be used by Harman based on either reuse of the residual existing buildings or through speculative industrial and/or office development. Other developments such as Airport City and key sites identified in the LPS will serve the market better. A small amount of speculative office development forms part of appeal proposal and the more recent application refused in March 2016 proposed a larger portion of office development. But the evidence before me does not demonstrate that the part of the appeal site intended for residential development is necessarily viable for employment use.
58. The proposal as a whole would make effective use of previously-developed land. The buildings on the site were designed for the particular needs of Ilford's and are somewhat dated. They are unlikely to be suitable for other businesses. Even the existing occupants, Harman, only fully utilise a relatively small proportion of the overall floorspace on the site.
59. The proposal would enable Harman to consolidate its operations in new and refurbished buildings in the south-east corner of the developed part of the appeal site. As a result there would be significant savings in energy, rental and maintenance costs going forward and the buildings would be fit for modern purposes such that the business would be sustainable in the longer term. Carbon emissions would reduce. Some 180-200 jobs would be safeguarded. The manufacturing of photographic and film paper which has been a part of village life for over 100 years and employs local people would be retained. It would be possible to ensure that the Harman consolidation took place as part of the phased development of the site<sup>14</sup>.
60. The proposal for a small amount of speculative office floorspace would provide the opportunity for some additional employment development to come forward. There is a prospect that this could be related to the Harman use given the research and development activities currently being developed. There are no guarantees that the office floorspace would be forthcoming given that it is

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<sup>14</sup> The requirement could be incorporated into the suggested phasing condition

dependent on marketing resulting in acceptable commercial terms as set out in the S106. However, it is a consideration to be weighed in the balance.

61. Having regard to the following factors – that full weight should not be afforded to the saved and emerging employment policies; the fact that CEC do not object to the loss of employment land; the evidence base in relation to the appeal site; the consolidation of the Harman operation; and the potential for some further employment use on the site – on balance the loss of the majority of the site for employment use would not be a reason to dismiss the appeal.

#### *Housing Supply*

62. Boosting significantly the supply of housing is a key plank of Government policy expressed through the Framework. In the case of CEC it is agreed that there is no five year supply of deliverable housing sites and the shortfall is substantial. The need to boost supply and the benefit that is derived from the housing component, up to 375 homes, should be given substantial weight. The fact that the majority of the housing development is unlikely to come forward in the next five years does not significantly reduce the weight to be afforded to the delivery of housing. The site would still be likely to contribute to an extent during that period and would continue to do so to the rolling five year supply going forward. It is inevitable that larger sites take longer to get off the ground but that is not a reason to discount them or significantly reduce the benefit arising from their development.
63. Housing would bring along with it economic benefits such as construction jobs, increased local spend in the village and elsewhere, and the New Homes Bonus, as well as the obvious social benefit of providing a roof over the head of those households to be accommodated. As previously-developed land, housing on the site would reduce pressure to build on the Green Belt and other greenfield areas which would be an environmental benefit.

#### *Affordable Housing*

64. There is a significant need for affordable housing in the Council area as a whole and the Mobberley area in particular. The Mobberley, Chelford and Alderley Edge Housing Sub-Area has a current requirement for 87 affordable homes per annum across a range of dwelling types.
65. When the application was submitted the affordable housing provision was indicated to be 5%. During the application process this rose to 15%. The S106 includes a provision for the amount of affordable housing to be reviewed subject to an upper limit of 25%. The change from 5% to 15-25% is not explained by the evidence before me as some of the work has not been revealed for commercial confidentiality reasons. But it is clear that the Council undertook an independent evaluation of the initial viability assessment which resulted in the figure of 15%. The appellants have committed to at least 15% affordable housing provision notwithstanding costs associated with decontamination, noise mitigation and access to the public open space.
66. Saved Policy H8 of the MBLP indicates that the Council will negotiate for the provision of 25% of dwellings to be affordable housing. A number of criteria need to be taken into account including site suitability and the economics of provision. It would seem to me that the level of provision is appropriate having

regard to the provisions of Policy H8 which appears to be reasonably consistent with the Framework and therefore should be afforded considerable weight.

67. The Council also have an Interim Planning Statement on Affordable Housing (IPS) which seeks up to 30% affordable housing but again subject to a number of provisos including economics of provision. The IPS should only be given moderate weight as it does not have development plan status, but as with Policy H8, the proposal would not breach the document.
68. Draft Policy SC5 of the LPS has a requirement for 30% affordable housing but for reasons explained earlier in relation to the LPS the policy can be afforded only moderate weight. Moreover, I note that the requirements for a developer assessment and independent review by the Council in circumstances where scheme viability may be affected have been met, albeit not entirely in accord with the details of the relevant criterion.
69. The provision of upwards of about 56 affordable housing units would be a significant social benefit. The housing types and tenures could respond to local housing needs.

#### *Highway Network*

70. The proposal would give rise to additional vehicles on the highway network and at nearby junctions. Any severe residual cumulative highway impacts could lead to economic, social and environmental harm.
71. Although the various traffic surveys between 2013 and 2016 and data produce differing results in terms of the extent to which link roads and junctions are under capacity it is evident that Town Lane and the Ilford Way/Town Lane, Ilford Way/Marion Drive, Smith Lane/Town Lane and Broadoak Lane/Knutsford Road priority junctions would be well within capacity as a result of the development, based on a design year of 2021 and applying industry norm two-way trips. Whilst the development would be unlikely to be completed by 2021 it seems to me that the design year is broadly appropriate.
72. The development would also, on its own, not be likely to lead to significant capacity issues at the traffic light controlled junctions at Hollow Lane/Brook Street and Adams Hill/Toft Road in Knutsford. However, CEC as local highway authority is concerned that the cumulative impacts of the development together with other committed schemes, such as Parkgate and Booths Hall, would be likely to lead to capacity issues reflected in unacceptable queuing. I experienced significant queuing at the junctions during morning and evening peaks. As a result a scheme for improvements to the above junctions is proposed, to be funded by contributions from committed developments. In this respect the S106 makes provision for a financial contribution to the improvements.
73. The improvements in Knutsford are modest and would be unlikely to significantly increase capacity. However, I was advised that a SCOOT<sup>15</sup> system is to be introduced shortly, funded by the Aldi development on Brook Street. This would enable the traffic lights to respond to real time fluctuations in flows with the indication that capacity can increase by around 12%. Based on the evidence before me the development would not lead to severe residual cumulative highway impacts in Knutsford, subject to the mitigation.

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<sup>15</sup> Split Cycle Offset Optimisation Technique

74. CEC only identified the above junctions for assessment. It is unlikely that other junctions, such as those onto the M56 and in Wilmslow and Alderley Edge, or the wider highway network, would be materially affected by the development.

#### *Accessibility of Site*

75. In terms of accessibility of the site, the village shops, including a Coop convenience store, and other facilities such as the doctor's surgery, dentist and vets, are located along Town Lane at the western end of the village. Parking is limited but these top-up shopping and service facilities would be about ½ mile from the centre of the housing development and therefore accessible by foot for most with a pedestrian crossing facility on Town Lane near the Coop. Some of the other village facilities such as the primary school, church, cricket ground and the several public houses are further away, predominantly to the east, and would be unlikely to be regularly accessed by walking. Cycling would be an option, albeit that there are no dedicated cycle paths in the vicinity.
76. A regular weekday and Saturday bus service, linking the village with Knutsford and Wilmslow and onwards to Altrincham, runs along Town Lane with bus stops close to Ilford Way. The railway station lies about a mile to the north of the village and would not be readily accessible by foot as the routes are along country lanes with no pavements or via field paths. In addition there is limited car parking at the station although some cycle stands. However, it would provide an alternative means of travelling into Manchester and other destinations for some.
77. Although the interim travel plan accompanying the application needs fleshing out, this would be facilitated by the S106 which contains obligations to produce and implement travel plans for both the employment and residential developments. Overall the development would be reasonably accessible and there would be opportunities for sustainable transport modes to be used.

#### *Public Open Space*

78. There are some existing areas of public open space within the village but the proposal would provide a full size football pitch with changing rooms and allotments, neither of which are currently available, together with a play area. Natural surveillance would be available from the housing to the south and the public footpaths. The proposed new footpath routes would not be blocked by the area of public open space. The main area of open space could be reached by footpath links from the existing housing estates and Town Lane to the south. Additional play areas and open space would be provided within the residential development.
79. MPC criticised the pre-application consultation exercise conducted by the appellants as a tick box exercise and had not identified the same needs in its own investigations. However, the CEC Open Spaces Summary Report: Local Service Centres 2012 identified a shortfall in open space including children's play space for the village as a whole, the lack of access to a full-size sports pitch at the western end of the village and the absence of allotments.
80. Formal agreement has not been reached with United Utilities to form an access to the open space across the drive to the STW. However, I do not regard the absence of such consent to be unusual at this stage. United Utilities have not raised any objection to the access proposal. There does not appear to be any

reason why the open space would not be deliverable. A Grampian style condition could be imposed on any permission to require that access to the open space is secured before residential development commences.

81. Having regard to the above, the public open space would provide that which is necessary to serve the development. In addition, in addressing shortfalls in terms of the overall quantum of open space and providing particular typologies which are not currently present which would be available for use by other local residents, some social benefit would accrue from the public open space provision.

#### *Education*

82. In terms of education MPC raised concerns about the ability of Mobberley CE Primary School to accommodate children from both the development and existing families in the village and the implications for the social cohesion of the village. The village school was extended in 2014 to provide an additional 70 places. In addition Manor Park Primary School in Knutsford which is within 2 miles of the site was expanded recently to provide around 105 additional school places. There is also spare capacity at St Vincent's in Knutsford. The cluster of primary schools is forecast to have surplus places sufficient to accommodate primary age children from the development.
83. Enough capacity exists in the catchment for the projected 49 secondary aged pupils. However, a shortfall in Special Educational Needs (SEN) provision has been identified which would be met by a contribution of £182,000 secured by the S106. Subject to the contribution to SEN there would be no issues for education provision arising from the development. Social integration within the village would be assisted by the village school taking a mix of children from existing and new households.

#### *Village Character*

84. With regard to the impact on the overall character of the village, Mobberley is defined as a Local Service Centre in the MBLP and it is not intended to change that status with the LPS. The development would lead to an increase in the number of dwellings in Mobberley Parish by about 25% with a greater percentage increase in the western village core. Whilst this would be by far the largest increase in the size of Mobberley from one development, building rates would be likely to ensure a steady growth of about 50 dwellings per annum over a period of some 7 years. Moreover, the proposal would not expand the built envelope of the village.
85. Appropriate layout, design and landscaping could be secured at reserved matters stage based on the principles set out in the Design Code, including the retention of existing trees around the site's perimeter. The garden structures required for noise mitigation could be designed to appear as commonplace additions to the dwellings. There would be a perceptible increase in traffic and human activity as a result of the development but there is no evidence that this would lead to material harm such as social severance. Indeed the additional population would help to sustain existing shops and services. The overall character of the village would not be significantly harmed. There would be compliance with Policies BE1, DC1 and H13 of the MBLP.

### *Other Matters*

86. There is no evidence that the safe operation of MIA would be affected even though the development would be close to the matrix of crash zones. MIA did not object to the application in its role as aerodrome safeguarding authority, albeit that it requested a number of conditions be imposed on any permission relating to such matters as height limitations, lighting and bird hazard management. But these requirements would not appear to be unusual for development close to an airport.
87. Anecdotal evidence about the effects of fumes and odour from aircraft and the STW respectively has not been substantiated. CEC did not identify any issues. When I visited the site and surroundings I did not notice any significant smells from the STW. The field to be used for public open space is not the best and most versatile agricultural land.

### ***Planning Obligations***

88. For the reasons given earlier in this decision the planning obligations contained with the S106 are necessary to make the development acceptable in planning terms; directly related to the development; and are fairly and reasonably related in scale and kind to the development. The evidence indicates that none of the contributions would breach the pooling restrictions introduced from 6 April 2015. In particular the obligations relating to highways, travel planning and education (paragraphs 72, 77 and 83 refer) would offset the impact of the development on services and infrastructure in the area. Those relating to the speculative office space, affordable housing and open space (paragraphs 60, 65 and 81 refer) would realise benefits associated with the development. They meet the legal and policy tests and I have taken them into account in my decision.

### ***Benefits and Adverse Impacts***

89. The provision of housing, including affordable housing, would deliver significant economic and social benefits and some environmental gains which taken together should be given substantial weight. Moderate weight should be given to the social benefits for villagers arising from the provision of the open space and the environmental benefits from an enhancement to the setting of the MCA and reduced carbon emissions.
90. There are economic and social benefits from the consolidation of Harman on the site but these would be offset by the loss of employment land such that the benefits to employment would be neutral overall.
91. The impacts on highways and education would be mitigated and are neutral factors in the planning balance. Similarly the effect on the character of the village and the accessibility of the site are neutral considerations.
92. There is definitional harm to the Green Belt by reason of inappropriate development which attracts substantial weight. There is no other material Green Belt harm. The harm from noise to the quality of life of future residents of the appeal site would be adverse and unacceptable and should be attributed significant weight. The harm from noise would primarily impact on the environmental and social dimensions of sustainable development.



### **Overall Conclusions**

93. CEC cannot demonstrate a five-year supply of deliverable housing sites. The MBLP is time expired. Therefore, although the development plan is the starting point for decision making and there is conflict with the employment policies of the MBLP which carry some weight, the development plan is out-of-date in many respects, including in relation to its policies relevant to the supply of housing. It is appropriate to apply the decision-taking tests within the final bullet point of paragraph 14 of the Framework in deciding whether the proposal accords with the presumption in favour of sustainable development. As part of the site lies within the Green Belt the two strands under the final bullet need to be considered.
94. In considering the first strand, the adverse impacts of the proposed development (Green Belt and noise) would significantly and demonstrably outweigh the housing, public open space, conservation area setting and carbon emission benefits outlined above. In particular I find that the adverse impacts from noise are overriding notwithstanding that noise is only one of the factors to be weighed in the planning balance. The unacceptable noise impacts could not be made acceptable through the use of conditions.
95. In considering the second strand, specific policies of the Framework relating to Green Belt indicate that development of the field should be restricted. That on its own would not, in my view, be a reason to dismiss the appeal because the definitional harm to the Green Belt from the open space would be clearly outweighed by the benefits which would arise from the development as a whole. However, more pertinently, applying the test in paragraph 88 of Framework to the development as a whole, the substantial harm to the Green Belt by reason of inappropriate development and significant harm to the living environment for future residential occupiers from noise would not be clearly outweighed by other considerations such that very special circumstances exist.
96. For the above reasons the proposal would not constitute sustainable development and the appeal should be dismissed.

*Mark Dakeyne*

INSPECTOR

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Graeme Keen of Counsel  
Instructed by the Head of Legal  
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He called:  
Stephanie Bierwas MSc Enforcement Officer (Environmental Protection)  
BSc (Hons) MCIEH  
Paul Wakefield BSc (Hons) Principal Planning Officer  
MA MRTPI

### FOR MOBBERLEY PARISH COUNCIL:

Freddie Humphreys of Counsel  
Instructed by the Parish Council

He called:  
Helen Mountney Chair of Governors, Mobberley CE Primary School  
BA (Hons) and Local Resident  
William Jamie Macrae CEC Ward Councillor and Local Resident  
BA (Hons) Dip Arch RIBA  
Ian Norbury Parish Councillor and Local Resident  
Helene Evans BSc (Hons) Acoustic Consultant and Local Resident  
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### FOR THE APPELLANTS:

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Adrian Spawforth BA Managing Director, Spawforths  
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### INTERESTED PERSONS:

James Shepherd Local Resident and Aviation Consultant (Rtd)  
Barbara Cooper Local Resident  
Pauline Hout Local Resident  
Peter Brown Local Resident

## **DOCUMENTS SUBMITTED TO THE INQUIRY**

### **CHESHIRE EAST COUNCIL (CEC)**

1. CEC1 – Opening Statement
2. CEC2 - Details of runway operations at MIA
3. CEC3 – Interim Views of Inspector examining LPS
4. CEC4 – List of suggested conditions
5. CEC5 – CIL Regulations 2010 Compliance Statement with Appendices 1 to 11
6. CEC6 – Arrivals and departures 0700 to 0800 hours 11 May 2016
7. CEC7 – Amended suggested conditions 12-15
8. CEC8 – Briefing Note on Education
9. CEC9 – Closing Submissions

### **MOBBERLEY PARISH COUNCIL (MPC)**

1. MPC1 - List of appearances
2. MPC2 – Opening Statement
3. MPC3 – Calculated % of housing areas subject to noise contours
4. MPC4 – Corrected Proof of Evidence of Helene Evans
5. MPC5 – Viability Report – Version 2 February 2014 and update letter dated 27 February 2014 - Savills (UK) Ltd
6. MPC6 – 1100M radius from Mobberley CE Primary School
7. MPC7 – Replacement Figure A5 from Dr Sutton’s Proof of Evidence
8. MPC8 – Tables of Link Capacity to Demand based on 2016 traffic counts
9. MPC9 – Departure Tracks from MIA – April 2016 and 1 May 2016
10. MPC10 – Still from video on You Tube of aircraft landing
11. MPC11 – E-mail from United Utilities dated 6 May 2016
12. MPC12 – E-mail from CEC Highways dated 24 March 2016
13. MPC13 – Definitive Footpaths in vicinity of appeal site
14. MPC14 – Land registry entry for STW and access track
15. MPC15 – Extract from public consultation document on proposals
16. MPC16 – Location of public open space in Mobberley
17. MPC17 – Closing submissions

**ARGONAUGHT HOLDINGS LTD (AHL)**

1. AHL1 – Opening Statement
2. AHL2 – Draft S106 planning obligation dated 12 May 2016
3. AHL3 – Plan of school catchments
4. AHL4 – Proposed Indicative Site Layout Plan Drawing No 12004-01-Rev E
5. AHL5 – Aerodrome Safeguarding Response from MIA dated 7 March 2014
6. AHL6 – Plan showing PNR for airport departures in a westerly direction
7. AHL7 – Technical Note on 2016 Traffic Surveys
8. AHL8 – Tables of data taken from Manchester Airport Flight Monitor
9. AHL9 – Suggested locations for Inspector to visit
10. AHL10 – Closing submissions