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Former Mondi Mill Paper Works Draft Appeal Statement of Common Ground

Eccleston Homes Limited

July 2022

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1.0 **Draft Statement of Common Ground**

Introduction

- 1.1 This Draft Appeal Statement of Common Ground [SoCG] has been prepared by Lichfields on behalf of Eccleston Homes Limited [the Appellant]. This Statement relates to an appeal against the refusal of full planning permission by Bury Metropolitan Borough Council [the Council] for the following development on land at the former Mondi Paper Mill, Ramsbottom, Bury:
- “Erection of 73 no. dwellings including the retention and conversion of 2 existing buildings to residential use (5 no. units), the retention of a chimney and the demolition of a derelict building, together with engineering operations to create a development platform and associated parking, landscaping, drainage, the layout of internal estate roads and footways and other associated works”*
- 1.2 A planning application for the above development (planning reference: 65844) was submitted to the Council on 14 August 2020 and was refused at the Council’s Planning Committee contrary to the recommendation of Officers by decision notice dated 7 June 2022.
- 1.3 This SoCG has been prepared in accordance with the Town and Country Planning (Inquiries Procedure) (England) Rules 2000 as amended by the Town and Country Planning (Hearing and Inquiries Procedures) (England) (amendment) Rules 2009 and guidance set out in PINs Procedural Guide: Planning Appeals England (12 April 2022).
- 1.4 This Draft Statement is to be completed and agreed with the Council, although it is intended to convey the following statements as agreed by both parties.

Scope of the Statement

- 1.5 This Statement is prepared jointly on behalf of the Appellant and the Council. Its purpose is to set out the agreed key factual background information to assist in the appeal. The entire contents of this SoCG are agreed matters between the Appellant and the Council, save for where it is indicated otherwise.
- 1.6 This Statement has been prepared following the exchange of draft forms of this document between representatives of the Appellant and the Council.

Signed:

.....
(Lichfields on behalf of Eccleston Homes Limited)

.....
(Bury Metropolitan Borough Council)

2.0 The Appeal Site

2.1 This Section of the SoCG sets out the agreed factual information regarding the appeal site.

Site Context

- 2.2 The appeal site comprises approximately 2.9 ha of previously developed land located on the eastern edge of Ramsbottom, Bury. The site was previously occupied by the former Mondi Paper Mill up until its closure in 2008 and subsequent demolition in 2012, with the site now comprising a large area of concrete hardstanding with grassed areas to the south. Retained buildings and structures on site include two 2-storey stone buildings, a brick building and the former mill chimney stack.
- 2.3 Since its closure, the appeal site has generated no form of employment use and is considered a redundant and underutilised site in its present form. Indeed, there has been no expressed interest for developing the site for the purposes of employment use since the current landowner purchased the site in 2010.
- 2.4 The appeal site is partly located within Flood Zone 3, with the remainder of the site lying within Zones 1 and 2. The north-western extent of the site including two of the retained non-listed structures and chimney stack are located within the Ramsbottom Conservation Area, however there are no listed buildings or trees subject to a Tree Preservation Order situated within the appeal site boundary.
- 2.5 The appeal site is sustainably located with good access to public transport services and within walking distance to a range of local amenities located within Ramsbottom Town Centre to the west. Bus stops line Bridge Street to the north of the appeal site, providing regular services to Bury, Manchester City Centre and Peel Brow.

3.0 The Appeal Development

3.1 The appeal development sought full planning permission for the following development:

“Erection of 73 no. dwellings including the retention and conversion of 2 existing buildings to residential use (5 no. units), the retention of a chimney and the demolition of a derelict building, together with engineering operations to create a development platform and associated parking, landscaping, drainage, the layout of internal estate roads and footways and other associated works”

3.2 The appeal development comprises several different house types with consistent materiality and design, providing a mix of apartments, semi-detached and detached dwellings. The proposed dwellings offer variation in the housing offer, provoking interest and providing enhanced legibility within the site. The proposed housing mix is as follows:

- 5 x 1-bed apartment;
- 14 x 2-bed apartment;
- 2 x 2-bed house;
- 26 x 3-bed house; and,
- 26 x 4-bed house.

3.3 Access is proposed off the western boundary via the existing unnamed road which will be widened to 5.5m with a 2m footpath. Additional highway improvements include the reinstatement of footpaths and incorporation of a 3.5m wide emergency access route along the northern boundary on Bridge Street. An improved junction will be formed with the existing road to the west to connect to new internal estate roads within the site. These roads will provide a series of cul-de-sac roads leading to shared accessways.

3.4 The proposed dwellings would be constructed from natural stone which has been carefully selected to respond positively to the Ramsbottom Conservation Area. The scheme has also been designed to include an area of Public Open Space (‘POS’) (approximately 0.6 ha), as well as incorporating an attractive landscaping scheme.

3.5 The proposals include two apartment blocks located at the south of the site comprising 16 no. apartments. The proposals also include the retention of two buildings on site which are proposed to be refurbished for use as residential dwellings. Building A will be converted into apartments each with their own entrance way, whilst Building B will be converted into two semi-detached dwellings. The proposals also include the retention of the existing brick chimney stack. A further building (Building C) will be demolished as part of the proposals, due to its state of disrepair which makes its retention unachievable.

4.0 The Council's Decision

- 4.1 In accordance with article 35(b) of the Town and Country Planning (Development Management Procedure) (England) Order 2015, where planning permission is refused by the Local Planning Authority, the decision notice must state clearly and precisely the full reasons for refusal, specifying all policies and proposals in the development plan which are relevant to the decision. From this, it can be properly inferred that any relevant policies not referenced by the Council in the decision notice are not breached and the development is therefore agreed to be compliant with such policies.
- 4.2 The appeal scheme was refused contrary to the recommendation of Officers by the Council's Planning Committee by decision notice dated 7 June 2022. The reasons for refusal are set out below:
- 1 *The proposal would be an intensification of the use of a site, which would be detrimental to road safety and maintaining the free flow of traffic. The proposed development therefore conflicts with the following policy(ies) of the Bury Unitary Development Plan:*

Policy HT4 - New Development

Policy H2/2 - The Layout of New Residential Development
 - 2 *Notwithstanding the provisions of the development and associated mitigation, the proposed development is located in flood zone 3, which has flooded in 2015 and would lead to increased flooding in the vicinity of the site from surface water and the combined sewer network. The proposed development would conflict with Policy EN5/1 - New Development and Flood Risk of the Bury Unitary Development Plan and Section 14 of the National Planning Policy Framework.*
- 4.3 In account of the above reasons for refusal, the only determinative matters between the parties comprise the development's conformity with UDP Policies HT4, H2/2 and EN5/1. It is agreed with the Council that the development has no conflict with any other local planning policy.

5.0 **Planning Policy Context**

5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires the determination of planning applications to be in accordance with the Development Plan unless material considerations indicate otherwise.

5.2 The only relevant planning policies and guidance which the appeal should be considered are set out below. The only policies which the Council allege to have been breached are those set out in the reasons for refusal.

The Development Plan

5.3 The adopted development plan relevant to this planning appeal comprises the Bury Unitary Development Plan [UDP], which was adopted by the Council in August 1997.

5.4 It is agreed with the Council that the UDP does not constitute an up-to-date or robust policy framework given that the plan was adopted some 25-years ago. Furthermore, planning policies contained within the UDP only address housing and employment needs up to 2001, with such policies now considered significantly dated.

5.5 The following UDP Policies are however considered to be of relevance to this planning appeal:

- Policy EC1/1 (Land for Business (B1) (B2) (B8));
- Policy EC2/1 (Employment Generating Areas);
- Policy EC3/1 (Measures to improve Industrial Areas);
- Policy H1/2 (Further Housing Development);
- Policy H2/1 (The Form of New Residential Development);
- Policy H2/2 (The Layout of New Residential Development);
- Policy H4/1 (Affordable Housing);
- Policy EN1/1 (Visual Amenity);
- Policy EN1/2 (Townscape and Built Design);
- Policy EN1/3 (Landscaping Provision);
- Policy EN1/5 (Crime Prevention);
- Policy EN1/7 (Throughroutes and Gateways);
- Policy EN2/1 (Character of Conservation Areas);
- Policy EN2/2 (Conservation Area Control);
- Policy EN3/1 (Impact of Development on Archaeological Sites);
- Policy EN3/2 (Development Affecting Archaeological Sites);
- Policy EN5/1 (New Development and Flood Risk);
- Policy EN6 (Conservation of the Natural Environment);
- Policy EN6/3 (Features of Ecological Value);

- Policy EN6/4 (Wildlife Links and Corridors);
- Policy EN7 (Pollution Control);
- Policy EN7/1 (Atmospheric Pollution);
- Policy EN7/2 (Noise Pollution);
- Policy EN7/3 (Water Pollution);
- Policy EN7/5 (Waste Water Management);
- Policy EN8 (Woodland and Trees);
- Policy EN8/2 (Woodland and Tree Planting);
- Policy EN9 (Landscape);
- Policy OL5/2 (Development River Valleys);
- Policy OL5/3 (Riverside and Canalside Development in Urban Areas);
- Policy RT2/2 (Recreation Provision in New Housing Development);
- Policy HT2/4 (Car Parking and New Development);
- Policy HT4 (New Development);
- Policy HT5/1 (Access for Those with Special Needs);
- Policy HT6/1 (Pedestrian and Cyclist Movement);
- Policy HT6/2 (Pedestrian/Vehicular Conflict); and,
- Policy TC2/3 (Vacant and Cleared Sites).

Supplementary Planning Documents

5.6 The following supplementary planning documents ('SPD') are considered relevant to the appeal:

- SPD 1 (Open Space, Sport and Recreation Provision in New Housing Development);
- SPD2 (DC Policy Guidance Note 2: Wildlife Links & Corridors);
- SPD3 (DC Policy Guidance Note 3: Planning Out Crime);
- SPD5 (DC Policy Guidance Note 5: Affordable Housing)
- SPD6 (Supplementary Planning Document 6: Alterations & Extensions);
- SPD 7 (Managing the Supply of Housing Land in Bury);
- SPD 11 (Parking Standards in Bury);
- SPD 14 (Employment Land and Premises); and,
- SPD 16 (Design and Laying Out of New Development in Bury).

National Planning Policy Framework

5.7 The National Planning Policy Framework 2021 [NPPF] sets out the Government's planning policies for England and how they are expected to be applied by Local Planning Authorities.

The policies contained within the NPPF are a material consideration in the determination of the planning appeal.

5.8 The following paragraphs of the NPPF are relevant to the appeal:

- Paragraph 7;
- Paragraph 8;
- Paragraph 11;
- Paragraph 60;
- Paragraph 92;
- Paragraph 104;
- Paragraph 110;
- Paragraph 111;
- Paragraph 119;
- Paragraph 120;
- Paragraph 122;
- Paragraph 123;
- Paragraph 130;
- Paragraph 162;
- Paragraph 163;
- Paragraph 164;
- Paragraph 190;
- Paragraph 194; and,
- Paragraph 197.

Other Material Considerations

5.9 Other material considerations relevant to the appeal comprise the following:

- Bury Five Year Supply of Deliverable Housing Land Statement;
- Department for Transport: Manual for Streets; and,
- Strategic Housing Land Availability Assessment (2018) Summary Report.

6.0 **Agreed Material Considerations**

Accompanying Plans and Reports

- 6.1 A Core Document List has been prepared to set out the plans and technical reports which were submitted as part of the planning application refused by the Council. This document sets out the material that should be relied upon in the determination of this planning appeal. The scope of the material included in the Core Document List is agreed with the Council.

Principle of the Development

- 6.2 Notwithstanding the appeal site's UDP allocation, it is agreed with the Council that there is no reasonable prospect of the appeal site being reused for employment purposes. This is due to the fact that the site has generated no employment activity since the closure of the Mill in 2008. Marketing activity undertaken by the Appellant has also identified no interest in developing the site for future employment use.
- 6.3 In accordance with paragraph 122 of the NPPF, planning policies and decisions need to reflect changes in the demand for land. Where the Local Planning Authority considers there to be no reasonable prospect of an application coming forward for the use allocated in a plan, it should support applications for alternative uses where the proposed use would contribute to meeting an unmet need for development in the area. Indeed, as of April 2020, the Council was unable to demonstrate a five-year housing supply based on the Local Housing Need as demonstrated in the *'Bury Five Year Supply of Deliverable Housing Land Statement.'* It is agreed with the Council that this matter must be treated as a material factor in determining applications for residential development.
- 6.4 The Council's inability to demonstrate a five-year housing land supply triggers a presumption in favour of sustainable development that exists in the NPPF. For decision-taking, this means granting planning permission for applications involving the provision of housing in situations where the Local Planning Authority cannot demonstrate a five-year supply of deliverable housing sites.
- 6.5 The Council agrees that the appeal site is located towards the urban area and that the appeal development conforms to surrounding land uses. In this context, it is agreed with the Council that the principle of a residential development on the appeal site is acceptable due to both the lack of any policy conflict with an up-to-date plan and the substantial weight that should be attributed to using brownfield land within settlements for homes.
- 6.6 In addition, the appeal development will contribute to addressing Bury's shortfall in housing delivery and provide much needed family homes in a sustainable and urban location. It is therefore agreed with the Council that the principle of the development is acceptable.

Residential Amenity

- 6.7 The Appellant prepared a Privacy Distances Plan (drawing reference: 102-1) to accompany the subject planning application. This plan details the interface distances across the

development, demonstrating that the appeal development conforms to the requirements of Policy H2/2 with respect to space about and between dwellings.

- 6.8 It is agreed with the Council that all relationships between the proposed dwellings within the appeal site would comply with the Council's aspect standards set out in '*Supplementary Planning Document 6: Alterations and Extensions to Residential Properties*'. This document stipulates that proposals for residential development should allow for a minimum of 20m between directly facing habitable windows and 13m between a habitable room window and two storey blank wall.
- 6.9 The proposed dwellings would also be set at least 10m from site boundaries and would have no impact upon neighbouring properties. The appeal development would therefore have no adverse impact upon residential amenity in accordance with UDP Policies EN1/2; H2/1 and H2/2.

Noise

- 6.10 The Appellant prepared a Noise and Vibration Impact Assessment which was submitted as part of the planning application to assess the impact of road traffic noise, noise from nearby sports facilities and noise associated with the operation of the East Lancashire Railway. The Assessment considered the noise generated from the nearby sports clubs and found that the impact upon future occupiers of the appeal development would be negligible.
- 6.11 Subject to the inclusion of conditions and the incorporation of recommended mitigation measures, the appeal development would not have a significant adverse impact upon the amenity of future occupiers of the proposed dwellings. The appeal development therefore complies with the requirements of UDP Policy EN7/2.

Heritage, Design and Layout

- 6.12 It is agreed with the Council that the design and layout of the appeal development would be appropriate in the context of the Ramsbottom Conservation Area. The proposed dwellings would be constructed from natural stone with a simple design which would respect the character of the historic built form of the setting of the Conservation Area.
- 6.13 In its current form, the appeal site represents a negative feature on and within the setting of the Conservation area. It is agreed with the Council that the appeal development would remove this negative feature and would respect the character of the Conservation Area by delivering a high-density development, with the use of headers, cills, pike details, porches and canopies adding visual interest to the elevations.
- 6.14 In this context, the proposed layout, house types, design and materials of the appeal development would be acceptable with regard to views in and out of the Conservation Area. It is therefore agreed with the Council that the appeal development would preserve the character of the Ramsbottom Conservation Area and would not be a prominent feature in the streetscene.

Ecology

- 6.15 The Appellant prepared an Ecology Report as part of the subject planning application to consider the appeal development's impact on bats, otter, other protected species, nesting

birds and invasive species. The Report also considered the protection of the River Irwell and the contribution towards enhancing the natural environment. As statutory consultee, GM Ecology Unit have raised no objections on ecology grounds subject to the inclusion of suitably worded conditions.

- 6.16 With the recommended conditions in place, it is agreed with the Council that the appeal development would not cause harm to protected species or the River Irwell. The appeal development therefore conforms to UDP Policies EN6 and EN6/3.

Landscaping

- 6.17 The high-quality design and landscape scheme provides an attractive development. Private amenity space is provided within the proposed area of POS which extends to approximately 0.6 ha, and throughout the development in the form of street tree planting and rear gardens to dwellings.
- 6.18 An Arboricultural Impact Assessment [AIA] was prepared by Ascerta to accompany the subject planning application. The AIA sets out that in order to facilitate the development, 4 no. trees and part of 2 no. trees will need to be removed. Compensation for the loss of trees and the impact on canopy cover can however be provided by way of new tree planting. It is agreed with the Council that this proposition is acceptable.
- 6.19 Temporary protective fencing will be installed in accordance with the '*Tree Constraints and Draft Protection Drawing*' included at Appendix 2 of the AIA for mitigation purposes during the construction phase of development. It is also proposed to provide tree lined streets, alongside a mix of native hedgerow planting and ornamental shrub planting. There will also be an area of wildflower grassland to the south of the site.
- 6.20 As set out on the accompanying planting plans, the scheme involves high quality landscaping that will contribute towards mitigating the loss of the trees set out above. Indeed, extensive areas of POS including native planting are located to the north west and east of the site. The area is designed to flood in extreme events and is also fitting with the riverside location. Each dwelling will also be afforded with front and back gardens.
- 6.21 In account of the above, it is agreed with the Council that the appeal development conforms to the requirements of UDP Policy EN1/3.

Crime Prevention

- 6.22 A Crime Impact Statement [CIS] was prepared by an independent crime prevention design consultant to accompany the subject planning application. The CIS sets out how the proposals have reduced its impact on and susceptibility to crime and disorder. The CIS also sets out recommendations for security such as: perimeter security / boundary treatments, carefully designed layout and landscaping, good lighting and security systems (i.e. intruder alarms).
- 6.23 Overall, in accordance with Policy H2/2, the proposals represent a high-quality design which creates a sense of place and maximises natural surveillance opportunities. It is agreed with the Council that all reasonable efforts to mitigate and discourage crime have been embedded within the schemes design and that the application proposals are

consistent with the current principles of the NPPF and has adopted the principles of Secured by Design.

Provision of Affordable Housing

- 6.24 The Appellant submitted a Viability Appraisal as part of the subject planning application. This independent assessment concluded that the redevelopment of the appeal site would not be viable if the full 25% (18 no. units) policy compliant level of affordable housing was delivered as part of the appeal scheme. Alternatively, the Appellant has proposed to deliver 10 no. affordable units on site, to be sold at a 25% discount on open market value. It is agreed with the Council that this provision is acceptable and therefore, the appeal development conforms to Policy H4/1 of the UDP.

Developer Contributions

- 6.25 The Appellant has agreed to enter into a Section 106 agreement with the Council to secure a £110,000 contribution towards the installation of MOVA to increase capacity and efficiency at the Bury New Road / Manchester Road junction. The Appellant will also provide a scheme for the ongoing management of the on-site recreation provision. It is agreed with the Council that no other funding as part of a developer contribution is required for the appeal development.

7.0 **Matters in Dispute**

7.1 As set out in the Council's reasons for refusal, the only matters of disagreement between the parties relate to the following:

- The appeal development's impact on road safety and capacity; and
- The flood risk associated with the appeal site.

7.2 Save for the reasons for refusal, the Council does not invite dismissal of the appeal on any other basis and save for the policies cited in the reason for refusal, the Council accepts that other relevant policies are not breached.

7.3 The areas of dispute can be summarised as follows:

- 1 The degree to which the most important policies of the UDP are consistent with the NPPF.
- 2 Whether or not the proposal will result in highways safety issues either within the site, or in the immediate vicinity of the site.
- 3 Thus, whether or not the proposed development conflicts with Policy H2/2 of the adopted development plan in that it proposes a layout that gives rise to highway safety issues.
- 4 Whether or not there is capacity on the surrounding highways network to accommodate flows from the development.
- 5 Thus, whether or not the proposed development conflicts with Policy HT4 in that it:
 - a Supports the principles of sustainable development;
 - b Assists with the implementation of a balanced transportation strategy;
 - c Minimises the environmental impact of traffic;
 - d Is located to maximise the use of public transport; and,
 - e Utilises spare capacity in the existing highways network.
- 6 Whether or not any effects on highways capacity are severe in the context of paragraph 111 of the NPPF.
- 7 Whether or not the proposed residential use of the site is appropriate in terms of the risks that arise from flooding.
- 8 Whether or not the proposed mitigation measures are sufficient to manage the risk from fluvial and surface water flooding.
- 9 Whether or not the proposals will increase the risk of flooding elsewhere.
- 10 Whether or not the proposed development would conflict with Policy EN5/1 of the UDP and paragraphs 161, 163-164, and 167 of the NPPF.
- 11 The consequences of the absence of a five year housing land supply in the balance of considerations, whether or not there is any conflict with Policies H2/2 and HT4, and how the benefits of the development should be weighed into the consideration.

8.0 Planning Conditions

8.1 Should the Inspector be minded to allow the appeal, the Appellant and the Council have agreed planning conditions relating to the following:

- 1 Three-year implementation period;
- 2 Approved plans list;
- 3 Samples of materials;
- 4 Provision of a Contaminated Land Preliminary Risk Assessment;
- 5 Carrying out of approved Remediation Strategy;
- 6 Requirement of Natural England license;
- 7 Provision of Otter Survey;
- 8 Carrying out of Bird Nest Survey;
- 9 Provision of Invasive Species Method Statement;
- 10 Provision of Method Statement to protect the River Irwell;
- 11 Implementation of landscaping scheme;
- 12 Implementation of archaeological works;
- 13 Implementation of surface water drainage proposals;
- 14 Instruction concerning foul and surface water drainage;
- 15 Provision of ground and floor levels details;
- 16 Implementation of car parking proposals; and,
- 17 Implementation of measures specified in the Noise and Vibration Impact Assessment.

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