
TOWN AND COUNTRY PLANNING ACT 1990

SECTION 77 / CALL-IN INQUIRY

**IN RESPECT OF OMEGA ZONE 8, WEST OF OMEGA SOUTH AND SOUTH OF
THE M62, ST HELENS, MERSEYSIDE, WA8 3TR**

HYBRID PLANNING APPLICATION COMPRISING:

- 1) FULL PLANNING PERMISSION FOR THE ERECTION OF A B8
LOGISTICS WAREHOUSE, WITH ANCILLARY OFFICES,
ASSOCIATED CAR PARKING INFRASTRUCTURE AND
LANDSCAPING; AND**

- 2) OUTLINE PLANNING PERMISSION FOR MANUFACTURING (B2)
AND LOGISTICS (B8) DEVELOPMENT WITH ANCILLARY
OFFICES AND ASSOCIATED ACCESS INFRASTRUCTURE
WORKS (DETAILED MATTERS OF APPEARANCE,
LANDSCAPING, LAYOUT AND SCALE ARE RESERVED FOR
SUBSEQUENT APPROVAL)**

**OPENING STATEMENT ON BEHALF OF
THE APPLICANTS**

**Appeal Ref: APP/H4315/V/20/3265899
LPA Ref: P/2020/0061/HYBR**

I. INTRODUCTION

1. The joint applicants are Omega St Helens Limited ('Omega Limited') and T J Morris Limited ('TJM') who applied to St Helens Council ('SHC') for planning permission for the development of land to the west of the existing Omega development ('Omega')¹ known as Omega West and also as Omega Zone 8. For the purposes of this document the former description will be used.
2. The application site ('the Site') extends to approximately 75.3ha and lies 4 miles to the south east of St Helens town centre and 3.3 miles to the north west of Warrington town centre. Omega immediately adjoins the eastern boundary, the M62 the northern boundary with Lingley Mere business park to the south / south east. The Site lies within the St Helens Green Belt with the Mersey Valley Golf Club to the south and the residential area of Lingley Green to the south/south east.
3. Omega West will take access through the existing Omega development. Omega is a highly successful strategic mixed use development which is home to numerous national occupiers and based, broadly, upon the former RAF / USAF Burtonwood Airbase at J8 of the M62. It comprises some 6m sq ft of manufacturing and logistics development along with permission for up to 1,400 residential units, a primary school, local centre and 35 acre park. Omega lies within the administrative boundaries of Warrington Borough Council ('WBC'), Omega West within the administrative boundaries of SHC.
4. The application was made in hybrid form ('the Application') seeking detailed permission for the T J Morris element of the scheme ('Unit 1') comprising a 81,570 sqm (878,012 sq ft) B8 unit with associated development and outline permission comprising up to 123,930 sqm of B2/B8 floorspace which is shown in the Indicative Masterplan² as being 3 units (Units 2,3 and 4) with a split between B2 and B8 floorspace of 30% and 70% respectively. A further area of land within the Site, lying between the proposed Unit 1 and Omega is intended to provide future expansion land for TJM.

¹ comprising the existing Omega North and Omega South developments

² CD33.186

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5. The proposed occupier of Unit 1 is TJM, a highly successful locally based and nationally represented discount retail operator. TJM presently operate two Distribution Centres ('DCs') to support their operations – the first at Axis, Liverpool ('Axis') opened in 2005 (with significant subsequent extensions) and the second at Amesbury, Wiltshire ('Solstice') in 2015. The Axis DC comprises over 92,902 sqm (1m sq ft) of warehousing floorspace, the Solstice DC 71,658 sqm (771,326 sq ft) with further expansion land.
 6. The DC the subject of the Application will be in addition to, not a replacement for, those existing DCs. TJM is principally a 'bricks and mortar' operator with over 545 stores across the UK at present with planned growth to a target of 800 stores within the next five years and 1,200 stores in the next 10 years. The provision of a third DC is critical to realising that growth opportunity as the Axis DC already operates at capacity and the Solstice DC serves the southern half of the country³.
 7. At 81,570 sqm plus the expansion land⁴ the proposed DC is broadly comparable in size to the existing DCs. A high degree of automation is critical to TJM's business operations allowing it to operate in the discount sector⁵. That automation requires high-bay facilities and the height of Unit 1 is designed to accommodate the bespoke high bay racking system providing a minimum clear internal height of 38m with a corresponding maximum external height of 41.6m⁶ for the warehouse element (36m to eaves) to the eastern end of Unit 1 (i.e. toward the adjoining Omega development). Toward the western end of Unit 1 this will reduce to a maximum external height of 29.4m (24.8m to eaves).
 8. Omega is now reaching its full development potential in terms of B2 / B8 floorspace and, in particular, has no further capacity for large floorplate warehousing or manufacturing units. In addition to Unit 1, the outline Units 2, 3 and 4 will provide critically needed new employment space and assist in meeting the needs of both WBC and SHC along with the wider Liverpool City Region. This element of the Application being in outline allows for flexibility to meet the specific needs of future occupiers, as B2 / B8 operators often have bespoke requirements.

³ And in any event is expected to reach capacity by 2024

⁴ The Site, including the expansion land, meets TJM's minimum requirement of 92,902 sqm (1m sq ft) (CD38.7 James Clarke PoE §4.5.1 Pg 12)

⁵ This can properly be considered to entirely align with UK Government policy. See, for instance, the 2021 Budget (CD43.52) and a number of other policy documents seeking to shift the focus of the economy towards investment in technology and automation.

⁶ The roof is curved so this maximum height is at the apex of the roof.

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9. Importantly, in terms of Unit 1, there is both the identified occupier in the form of TJM⁷ and that portion of the Site is ready for immediate development. The proposals have been specifically developed to allow for a very quick start on site following the grant of planning permission. This readiness extends to long lead time infrastructure (for example power supply, road access), the agreed planning conditions and the agreed s106 obligation.
10. Unlike many other proposals the Site is genuinely ‘oven ready’ and the development can be built out and occupied, with all of the commensurate benefits, in a comparatively short time frame. The extent of the detailed work undertaken by the Applicants and SHC during the application process means that there are no pre-commencement conditions suggested in respect of the full application. Indeed, in terms of Unit 1 it is a specific requirement of TJM that the development comes forward quickly given their immediate operational needs⁸.
11. The Application was presented to SHC’s Planning Committee on 27th October 2020 whereupon the Officer’s Recommendation to approve the Application was followed. In the comprehensive Officer’s Report (‘OR’) (extending to some 182 pages)⁹ the case officer concluded that the proposed development was:
- (i) in terms of Green Belt policy consistent with the Unitary Development Plan, the Core Strategy and the NPPF;
 - (ii) by reference to the NPPF considered to be sustainable development because Very Special Circumstances (‘VSC’) have been demonstrated such as to outweigh the substantial harm to the Green Belt;
 - (iii) acceptable in heritage terms with the identified ‘less than substantial harm’ being outweighed by the public benefits flowing from the scheme;
 - (iv) in compliance with the development plan; and

⁷ Who are under contract, subject to planning

⁸ TJM’s planned business requirement is that a third DC is operational by Autumn 2024.

⁹ CD35.1

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- (v) that the material considerations provided further support to the grant of planning permission.

12. That remains the position of SHC. The evidence submitted to this Inquiry affirms the conclusion that VSC exist, the proposal accords with the development plan and that material considerations further support the grant of planning permission¹⁰. Strikingly, the evidence submitted by SHC describes the public benefits of the proposed development as “*formidable*”¹¹. This is of especial significance when those benefits are properly considered within the socio-economic context of St Helens.

II. THE PRINCIPAL MATTERS

13. The Main Issues which the Secretary of State (‘SoS’) considers require addressing were further refined in the Inspector’s Note, following the CMC¹², as:

Main Issues

- (i) the extent to which the proposed development is consistent with Government policies for protecting Green Belt land (NPPF Chapter 13);
- (ii) the extent to which the proposed development is consistent with Government policies for building a strong, competitive economy;
- (iii) the extent to which the proposed development is consistent with the development plan for the area, including any emerging plan.

Further considerations

14. The Inspector’s Note additionally sets out further considerations for exploration through the course of the Inquiry which are the effect of the proposal on:

- (i) the character and appearance of the area;

¹⁰ Alyn Nichols PoE on behalf of SHC [CD 39.1 §7.16 & 7.21 Pg 63]

¹¹ Alyn Nichols PoE on behalf of SHC [CD 39.1 §7.20 Pg 63]

¹² Held on 8th March 2021- Inspector's note of CMC at CD36.3

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- (ii) air quality;
 - (iii) ecology;
 - (iv) heritage and landscape assets;
 - (v) climate change;
 - (vi) the living conditions of neighbouring residents with particular regard to noise; and
 - (vii) the highway network and how the development can contribute to meeting sustainable transport objectives.

15. Given SHC's support for the scheme (reflected in its resolution to grant planning permission) it is unsurprising that there is a broad degree of agreement between both the Applicants and SHC across these matters. That level of agreement is captured in greater detail in the three Statements of Common Ground ('SoCGs') in relation to Planning¹³, Transport¹⁴ and Need¹⁵.

16. Importantly the SoCG on Planning Matters records that "*...whilst there may be differences in judgment about the level of impacts and the weight to be accorded to relevant matters, there is no disagreement about the conclusion on planning merits and that there are very special circumstances to outweigh the strong presumption against inappropriate development in the Green Belt*"¹⁶.

III. MAIN ISSUES

Main Issue 1 – Green Belt

17. The proposed development lies entirely within the Green Belt. St Helens is particularly constrained with some 65% of the Borough being designated as Green Belt, the highest proportion of any of the Merseyside districts, the boundaries of which have remained unaltered since 1983.

18. In 2018 SHC undertook a Green Belt Review as part of the preparation of the new St Helens Borough Local Plan 2020-2035 ('the eLP'). It has been recognised from the very outset of

¹³ CD 37.1

¹⁴ CD 37.2

¹⁵ CD 37.3

¹⁶ CD 37.1 §1.6 Pg 3

the new local plan process that without significant Green Belt release SHC will not be able to meet its employment land needs (the striking conclusion being that of the need identified in the Submission Draft Plan¹⁷ only 11.75ha out of a total requirement for 215.4ha could be met within the urban area)¹⁸.

19. The eLP proposes to allocate 265ha of land for employment uses through the eLP period to 2035. Draft allocation LPA04.1, totalling 31.22ha, is the eastern part of the Application Site. Considered against the proposed development LPA04.1 hosts 51% of the net developable area of the Site, 39% of the Unit 1 'site' and 60% of the proposed 'site' for the outline element (Units 2, 3 & 4).
20. Whilst the eLP has not reached a stage where it can be given material weight it is important to recognise that the evidence base underpinning it reflects the most up to date position as regards need, the assessment of potential employment land sites and Green Belt assessment. Whilst the eLP cannot carry material weight those up to date assessments and appraisals can and do.
21. It is agreed that the proposed development is inappropriate development in the Green Belt and that the harm caused by that inappropriateness is to be given substantial weight, per NPPF §144. Whilst the proposed development will have a significant impact upon the openness of the Green Belt the detailed and considered structural landscaping strategy will reduce the visual effects of that impact. Furthermore, the proposed development must be seen within, and is inseparable from, the context of the existing Omega development.
22. The proposed development will conflict with two of the five Green Belt purposes: checking the sprawl of a large built-up area and safeguarding the countryside from encroachment. However, it is agreed that it will not conflict with the remaining purposes of preventing neighbouring towns merging, preserving the setting and special character of historic towns nor undermine urban regeneration.

¹⁷ Subsequently subject to a schedule of changes in October 2020. EiP Hearing are anticipated to commence in May 2021.

¹⁸ CD3.5 para 1.18

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23. Whilst there is some modest disagreement over particular aspects of harm and the level of effects those differences are not material and whether the Applicants' or SHC's position is preferred the overall planning balance clearly lies in favour of permission being granted.
24. Given that the Site lies in the Green Belt and that it is inappropriate development it is necessary, for permission to be granted, for Very Special Circumstances to be demonstrated - the potential harm to the Green Belt by reason of inappropriateness and any other harm must be clearly outweighed by other considerations (NPPF §144).
25. Those considerations need not, of themselves, be special or indeed very special but taken together they must 'add up' to VSC. There is no checklist or formula, each proposal must be considered on its merits. In the present case those merits are wide ranging and significant. It is necessary to turn to the second Main Issue to consider them.

Main Issue 2 – Building a strong, competitive economy

26. A foundation stone of this government's national economic policy is to 'level up' those areas which have been 'left behind'. This is stressed as a key national economic priority. Importantly, this is not a policy of redistribution or rebalancing but, in its simplest form, an instruction to deliver socio-economic improvements in areas which have lagged behind the national average. Delivering on that promise requires both direct investment and policy interventions (for example Northern Powerhouse and Freeport strategies) and also decision-making which aligns positively with, and supports, that objective.
27. The objective of delivering sustained economic growth in St Helens is a core tenet of the adopted development plan. Preparation of the eLP has recognised that it has not delivered. The consequences are manifested in the stark socio-economic indicators for the district. The indices of multiple deprivation have deteriorated over time with St Helens ranking 51st in 2010, 36th in 2015 and 26th in 2019.
28. Whilst the evidence presented to the Inquiry considers those indices in much greater detail it is pertinent to note that 29 Lower Super Output Areas lie within the 10% most deprived nationally and 50 within the 20% most deprived nationally with nearly a quarter of the population living in the most deprived neighbourhoods. In real terms that is 42,877 people. Not only that but the situation has worsened significantly in a short space of time – in 2010

the figure was 33,926 people. That translates to St Helens being the 8th most deprived district for health indicators, the 9th most deprived for employment and the 34th most deprived for income.

29. There is an identified significant need for new employment land both in St Helens and in WBC. Part of the Site, draft allocation LPA04.1, is to meet part of WBC's employment land needs.
30. The Application however does not contribute toward meeting that need in the abstract. As explained the Site is 'oven ready', furthermore TJM are the identified occupier for Unit 1. That element alone will deliver 1,207 FTE jobs once operational and 1,127 FTE construction jobs. The outline element of the scheme will provide 2,679 FTE jobs once operational and 362 FTE construction jobs.
31. Those jobs will be delivered in a district ranked 333rd of 382 nationally in terms of job density which presently stands at 0.67 jobs (per resident aged 16-64), a figure significantly below the national average of 0.86 and, by way of comparison, well below the figure of 1.18 in neighbouring Warrington.
32. Furthermore, the involvement of TJM means not only is the proposal a jobs generator but it is a jobs multiplier. TJM was founded in Liverpool in 1980, it now employs over 25,000 staff across the UK. The Axis DC alone employs over 1,500 staff and TJM is the largest private sector employer in Merseyside.
33. The requirement for the third DC is to support the opening of the planned new retail stores. Only the Site meets the operational requirements of TJM, only this proposal will deliver those far-reaching benefits. It is agreed that the Alternative Site Assessment has identified no other sites which could accommodate the minimum occupational requirements met by Unit 1. Furthermore, it is the only site which can deliver the required accommodation (both in terms of the TJM requirement and the outline B2 / B8 floorspace) in the required timeframe.
34. The two existing DCs have capacity to support c650 stores¹⁹, fulfilling the planned expansion to c800 (with 545 stores already open) within the next five years will not be

¹⁹ CD38.7 James Clarke PoE §3.4.3 pg 7

possible without this proposal. The Site is the only suitable site which is available and which can be delivered within the required timeframe to allow TJM's planned growth. Each store delivers between 50 and 90 jobs²⁰, that is new jobs in local areas, business rates receipts, and increased expenditure in those local economies. It is investment in towns many of which are suffering the effects of structural changes in the retail sector which have only been accelerated by the COVID-19 pandemic.

35. The economic benefits of the proposed development do not simply contribute toward building a strong and competitive economy in St Helens, in the Liverpool City Region ('LCR') or even in the North West region – they will flow across the country.

Main Issue 3 – The Development Plan

36. As explored fully in the PoE's of both Sean Bashforth on behalf of the Applicants and Alyn Nichols on behalf of SHC the proposal is compliant with the adopted development plan, read as a whole, the eLP and the NPPF.

37. s38(6) Planning and Compulsory Purchase Act 2004 (as amended) requires that applications be determined in accordance with the development plan unless material considerations indicate otherwise.

38. Not only is this proposal compliant with the development plan but the material considerations lend further support to the grant of planning permission (a conclusion noted in both the OR and in Alyn Nichol's PoE).

IV. FURTHER MATTERS

39. A range of topic papers have been prepared to assist the Inspector in relation to the further matters identified for consideration. They will be examined more fully through the course of the Inquiry but in brief summary:

- (i) character and appearance of the area - whilst there is a level of disagreement between the Applicant and SHC as to the overall level of effects the position of

²⁰ CD38.7 James Clarke PoE §2.2.3 pg 3

SHC's advisors was fully considered through the course of the Application and was not considered to indicate that the scheme ought be refused;

- (ii) air quality – the Site does not lie within an AQMA (though is adjacent to the M62 AQMA), the proposal has been fully assessed and incorporates measures to mitigate the negligible negative effects of the development (including electric car charging points);
- (iii) ecology – whilst the development of the Site will lead to some loss of habitat there will, post implementation of mitigation measures (secured through a mixture of on-site measures and financial contributions) be an overall bio-diversity net gain;
- (iv) heritage and landscape assets – the level of heritage impact is ‘less than substantial’ (with Historic England confirming that the proposal will have minimal impacts upon designated assets and the OR considering it ‘slight’²¹) whilst the impact upon non-designated assets is assessed as negligible. There has been concern raised as to compliance with the Bold Forest Park Area Action Plan, as will be explored in evidence there is no basis for the suggestion that the proposal is in any way harmful to what has been described as the medieval deer park;
- (v) climate change – there has been no suggestion of a moratorium on road based / logistics development. In fact such operations are considered to be critical infrastructure and derive support from NPPF §80 and §82. The response to meeting climate change targets is embedded in the decarbonisation of road transport not its eradication. The scheme will include electric charging points, Unit 1 will host PV cells which will contribute towards its power demand and the existing Compressed Natural Gas (‘CNG’) fuelling station will be available to users of the development providing 100% renewable biomethane fuel for HGVs;
- (vi) the living conditions of neighbouring residents with particular regard to noise – access is to be taken to the Site through the existing Omega development from J8 of the M62, construction phase effects will be negligible adverse at sensitive

²¹ CD35.1 p73

receptors (and will be controlled by a Construction Environmental Management Plan), operational phase effects in terms of noise will be the subject of mitigation proposals to be agreed once the outline proposals are finalised (Unit 3); and

- (vii) the highway network / contribution to meeting sustainable transport objectives - access will be taken via the existing Catalina Drive within Omega, financial contributions have been agreed with both SHC and WBC for public transport initiatives to support new bus services to serve the Site (and wider area), electric charging points will be provided within the car parking areas for the development.

V. CONCLUSIONS

40. It is agreed that that economic benefits of the proposal should be afforded substantial weight and that the social and regenerative benefits should be afforded substantial weight²².
41. It is further agreed that significant weight should be afforded to supporting economic growth and productivity considering local business needs and wider opportunities for development along with significant weight to the proposal's contribution toward meeting the employment land needs of St Helens, Warrington and the LCR.
42. It is the position of both the Applicant and SHC that the harm to the Green Belt caused through the inappropriateness of the proposed development along with other harms is clearly outweighed by the benefits of the proposal and other considerations such that Very Special Circumstances exist.
43. The proposal is in compliance with the development plan, read as a whole, and accords with national planning policy in terms of protection of the Green Belt and contributing toward building a strong and competitive economy. Furthermore, it closely aligns with, and strongly supports, national economic policy in terms of the 'levelling up' agenda and regional policy in terms of the Northern Powerhouse and objectives of the LCR.
44. Accordingly, in due course, the Applicants will respectfully invite the Inspector to recommend to the Secretary of State that planning permission should be granted in order

²² CD 37.1 SoCG Planning §9.2 & §9.3 pg 23

that the myriad benefits which will flow from the development can be secured as soon as possible.

**PETER GOATLEY QC
CHRISTIAN HAWLEY**

**27th April 2021
No5 Chambers**