

UPPER TRIBUNAL (LANDS CHAMBER)



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TRIBUNALS, COURTS AND ENFORCEMENT ACT 2007

*COMPULSORY PURCHASE - COMPENSATION – grazing land and part of car park
acquired for the A6 – Manchester Airport Relief Road – rule 2 value in no scheme world - s.5,
Land Compensation Act 1961 – Compensation determined at £584,971*

IN THE MATTER OF A NOTICE OF REFERENCE

BETWEEN:

MARTYN JOHN GARNER AND MICHAEL PAUL GARNER

Claimants

-and-

METROPOLITAN BOROUGH COUNCIL OF STOCKPORT

Acquiring Authority

**Re: Land to the East of the A523 Macclesfield Road,
Hazel Grove,
Stockport**

**Mr Mark Higgin FRICS
Royal Courts of Justice
9-10 September 2021**

Jonathan Easton, instructed by Shoosmiths LLP, for the claimants
John Barrett, instructed by TLT LLP, for the respondent

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The following case is referred to in this decision:

Compton PC v Guildford BC [2019] EWHC 3242 (Admin)

Introduction

1. This is a reference to determine the amount of compensation payable to Martyn John Garner and Michael Paul Garner (“the claimants”) following the compulsory purchase by Stockport Metropolitan Borough Council (“the acquiring authority”) of their freehold interest in land situated at Macclesfield Road, Hazel Grove (“the reference land”).
2. The land is identified as Plot Nos. 2.4, 2.4A, 2.4B, 2.4C and 2.4D in the Metropolitan Borough of Stockport (Hazel Grove (A6) to Manchester Airport A555 Classified Road) Compulsory Purchase Order 2013 (“the Order”), which was made on 6 December 2013. A Notice to Treat was served on 9 February 2015 in relation to all of the plots and the acquiring authority served Notice of Entry and took possession of the land on 2 March 2015 (except Plot No. 2.4 where possession was taken on 4 March 2015). The agreed valuation date is 2 March 2015 but 4 March 2015 for Plot No.2.4. There is no material difference between the two.
3. At the hearing of the reference the claimant was represented by Mr Jonathan Easton and the respondent by Mr John Barrett, both of Counsel. I am grateful to them both for their helpful arguments.
4. In the paragraphs that follow I will firstly examine the factual background to the reference and then consider the evidence and arguments made in relation to planning, valuation, injurious affection and disturbance.

Background

5. The land was taken to facilitate the construction of the Manchester Airport Relief Road (known as the A6-MARR) which links the airport with the A6 Trunk Road. The road opened in October 2018.
6. The land is situated at the southern extremity of Hazel Grove immediately adjacent to the A523 Macclesfield Road. This is the primary trunk road linking Macclesfield and Poynton with Stockport. Stockport town centre is located about 3.8 miles to the north of the reference land.
7. Prior to the acquisition the claimant’s land comprised three elements, namely 16.65 acres of grazing land (“the grazing land”), 2.94 acres of land used as a car park (“the car park land”), and a site used for a telecommunications mast. The acquiring authority took possession of 9.224 acres of the grazing land, and 0.55 acres of the car park land. Additionally, an area of 0.26 acres contained within Plot Nos. 2.4B and 2.4C was acquired for drainage easements.
8. The grazing land had frontage onto the Macclesfield Rd with direct access by means of a metal gate. The land was bounded on its northern side by housing developed in the 1950s and on its southern side by a garden centre and car park. The eastern boundary adjoined

further grazing land which was in the occupation of the same farmer to whom the grazing land was let. A small stream known as Norbury Brook flowed on an east-west axis through the land. Prior to construction of the road, the grazing land was a greenfield site immediately adjacent to the southern edge of the district of Hazel Grove which is contiguous with the Greater Manchester conurbation. There is suburban housing development immediately to the north on Darley Road and existing built development on the western side of Macclesfield Road. Brookside Garden Centre, with a range of built structures and a car park, is located immediately to the south. The residential area of Poynton within the adjacent authority of Cheshire East lies about 180 metres to the south of the site. The site is located approximately 115 metres from Fiveways Shopping Parade.

9. The car park land was used by the adjoining Brookside Garden Centre for the parking of customers' cars and for the storage of palletised goods such as bags of compost. Broadly rectangular in shape it had a partial tarmac surface but the parking areas themselves were of crushed stone, so none of the spaces were marked. The western boundary on to Macclesfield Road was originally a combination of a beech hedge and a wooden picket fence. It contained a wide gateway which could be closed off with a pair of gates which had previously been used on a railway level crossing. The northern boundary was a row of tall conifers, and the garden centre formed the southern boundary. The eastern end of the site contained an area accessed by a ramp and which could be used for additional car parking but at the time of my visit it was being used as a site for fairground rides which were operational at various times of the year. Following the completion of the scheme access to the remaining car park is by means of a two-way road and bridge which forms part of the garden centre.
10. The car park land is leased by the claimants to Klondyke Properties Limited for a term of 33 years effective from 1 July 2000 at a rent of £46,000 per annum. Under the terms of the lease rent reviews are due on every third anniversary of the lease commencement. Accordingly, reviews were due in July 2015 and 2018 but were not implemented on account of the loss of spaces resulting from the scheme. A further review was due on 1 July 2021. A notice proposing that the rent be increased from that date to £50,000 per annum has been served and the matter is still in negotiation.
11. The mast site adjacent to the eastern end of the car park land is let to T-Mobile by means of an agreement dated 23 November 2007. This site was not acquired but is the subject of a claim for injurious affection.

Statutory provisions for assessment of compensation

12. Section 5 of the Land Compensation Act 1961 ("the 1961 Act") sets out the rules for assessing compensation for land taken, of which the relevant rules at the valuation date were:
 - (1) No allowance shall be made on account of the acquisition being compulsory;
 - (2) The value of land shall, subject as hereinafter provided, be taken to be the

amount which the land if sold in the open market by a willing seller might be expected to realise;

13. Section 14(2) and (5) of the 1961 Act are relevant to the consideration of the value of land for development, including for development for which planning permission already exists or ‘hope value’ for development for which no permission has yet been obtained. Specifically, in assessing the value of land under rule 2:

(2) In consequence of that rule, account may be taken—

(a) of planning permission, whether for development on the relevant land or other land, if it is in force at the relevant valuation date, and

(b) of the prospect, on the assumptions set out in subsection (5) but otherwise in the circumstances known to the market at the relevant valuation date, of planning permission being granted on or after that date for development, on the relevant land or other land, other than—

(i) development for which planning permission is in force at the relevant valuation date, and

(ii) appropriate alternative development.

...

(5) The assumptions referred to in subsections (2)(b) and (4)(b) are—

(a) that the scheme of development underlying the acquisition had been cancelled on the launch date,

(b) that no action has been taken (including acquisition of any land, and any development or works) by the acquiring authority wholly or mainly for the purposes of the scheme,

(c) that there is no prospect of the same scheme, or any other project to meet the same or substantially the same need, being carried out in the exercise of a statutory function or by the exercise of compulsory purchase powers, and

(d) if the scheme was for use of the relevant land for or in connection with the construction of a highway (“the scheme highway”), that no highway will be constructed to meet the same or substantially the same need as the scheme highway would have been constructed to meet.

Summary of the dispute

14. The claim comprises a number of components and the parties’ rival positions are set out in the following table:

Head of Claim	Claimants	Acquiring Authority
<i>Grazing Land</i>		
• Market value	£338,493	£ 95,000
• Severance & injurious affection	£200,880	£ 29,760
<i>Easement</i>		
• Severance & injurious affection	£ 980	£ 655
<i>Car Park</i>		
• Market value	£107,905	£ 75,000
• Severance & injurious affection	£116,774	£ 20,000
<i>Telecommunications mast</i>		
• Injurious affection	£ 19,871	£ 19,871
<i>Disturbance</i>		
• Landowners' time	£ 57,480	£ 26,350
• Other	£ 22,095	£ 18,148
<i>Basic Loss Payment</i>	£ 33,479	£ 12,750
Total	£897,957	£297,534

I now turn to the individual aspects starting with the most contentious issue.

The Grazing Land

15. The grazing land is situated in the green belt and before I consider its value it is necessary to examine the planning context, specifically in relation to development in the green belt.

Planning Policy Position as at the Valuation Date

16. At the valuation date, the Development Plan consisted of saved policies of the 2006 Stockport Unitary Development Plan Review ('UDP'), together with the 2011 Stockport Core Strategy (2011). The National Planning Policy Framework (NPPF) 2012 is also relevant.

The Development Plan (saved policies of the 2006 Stockport Unitary Development Plan Review ('UDP') and the 2011 Stockport Core Strategy (2011)).

17. The Core Strategy of the local planning authority (LPA) is contained in Part One of the Local Plan. This sets out the strategic policies of the Borough. It was intended this document would be supplemented by the Local Plan Part Two Site Development Plan Document, which would have identified sites for development. However, at the Valuation

Date this document had become delayed and subsequently agreement was reached amongst the ten Greater Manchester Planning Authorities to collaborate on strategic planning by participation in the Greater Manchester Spatial Framework (GMSF). As a consequence, no comprehensive green belt review was undertaken by the LPA as part of the Core Strategy or the Allocations DPD, and no appraisal of the green belt by the LPA is available to inform the Tribunal's decision in relation to this site.

Greater Manchester Spatial Framework (GMSF) – Green Belt Assessment (July 2016)

18. Without a green belt appraisal undertaken by the LPA it is instructive to examine the GMSF, notwithstanding that it was not completed until 2016, some 16 months after the valuation date. It is worth noting that there was no change to the green belt between these two dates. The GMSF assessed the performance of the green belt against the five purposes set out in paragraph 80 of the NPPF. These are as follows:
 - “80. Green Belt serves five purposes:
 - i. to check the unrestricted sprawl of large built-up areas;
 - ii. to prevent neighbouring towns merging into one another;
 - iii. to assist in safeguarding the countryside from encroachment;
 - iv. to preserve the setting and special character of historic towns; and
 - v. to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.”
19. The GMSF was conducted in the ‘real world’ rather than in the ‘no-scheme world’ context. The grazing land is contained within a larger parcel identified as SP68 but nevertheless the assessment makes some observations which are informative. Notably it concludes that: ‘Currently the parcel plays a key role towards checking the unrestricted sprawl of Norbury House and Hazel Grove.’
20. In connection with the second NPPF purpose the Framework says that: ‘The parcel lies between Poynton to the south and Hazel Grove to the north. These are in close proximity of each other across the parcel. The parcel forms part of a gap between these settlements and is of critical importance to the separation of the two settlements.’
21. The Framework’s conclusion with reference to the third purpose which is concerned with safeguarding the countryside from encroachment was that: ‘The A6-MARR.....once built...will represent a large urbanising feature and is likely to detract significantly the rural character of the parcel’.
22. The Council withdrew from the GMSF in late 2020. I will consider the experts’ views on the performance of the grazing land against the NPPF purposes later in this decision but it is clear that the LPA will have to undertake such an appraisal when deciding whether to release green belt sites for development as part of its Local Plan process.

National Planning Policy Framework

23. Section 9 of the NPPF is concerned with the protection of green belts and provides guidance for local planning authorities. Paragraph 79 is of particular relevance and describes the aims and purposes of the green belt and green belt policy, as follows:

“79. The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.

24. The NPPF also addresses housing provision, described as ‘delivering a wide choice of high-quality homes’. Paragraph 47 of the framework is concerned with significantly boosting the supply of housing and says that local planning authorities should use their evidence base to ensure that their local plan meets the full objectively assessed needs for market and affordable housing. The LPA is also required to identify a supply of sites sufficient to provide five years’ worth of housing with an additional buffer of 5% to ensure choice and competition in the market for land. The buffer is increased to 20% where there is a record of persistent under delivery. They are also required to identify a supply of specific developable sites or broad locations for growth for years 6-10 and where possible, for years 11-15.

Ministerial Statements

25. Further guidance has been provided in Ministerial Statements. Housing Minister Brandon Lewis published a written statement to Parliament in July 2013 saying:

“Unmet need, whether for traveller sites or for conventional housing, is unlikely to outweigh harm to the green belt and other harm to constitute the “very special circumstances” justifying inappropriate development in the green belt”.

In March 2014, Nick Boles, Parliamentary Under Secretary of State (Planning), sent a formal letter to Sir Michael Pitt, the Chief Executive of the Planning Inspectorate regarding Inspectors’ Reports on Local Plans as follows:

“The Framework makes clear that a Green Belt boundary may be altered only in exceptional circumstances and reiterates the importance and permanence of the Green Belt. The special role of Green Belt is also recognised in the framing of the presumption in favour of sustainable development, which sets out that authorities should meet objectively assessed needs unless specific policies in the Framework indicate development should be restricted. Crucially, Green Belt is identified as one such policy”.

Housing need and delivery

26. Having outlined the green belt context, I now turn to the question of housing need in Stockport. The Core Strategy dates from 2011 and Core Policies CS2 and CS4 are significant. Policy CS2 makes provision for the delivery of 7,200 new homes over the period 2011 to 2026, of which 90% should be on previously developed land. Where there

is not an identifiable five-year supply of land the target is relaxed to 80%. In practice this means that the Council could potentially deliver 1,440 homes on urban greenfield or green belt sites during the plan period.

27. Policy CS4 deals with the spatial allocation of housing across Stockport. The policy allocates provision between the Central Housing Area, Neighbourhood Renewal Priority Areas and other accessible areas. The grazing land does not fall within any of these areas.
28. The policy recognises that it might be necessary to allocate urban greenfield and green belt sites to meet need but that between 2013 and 2023, these sites will not be allocated solely to achieve increased housing provision. Any change to the green belt boundary must be justified by exceptional circumstances. The policy goes on to set out a sequential methodology to the allocation of urban greenfield and green belt land:

Firstly, the use of accessible urban sites that are not designated as open space, or considered to be areas of open space with amenity value;

Secondly, the use of private residential gardens in accessible urban locations where proposals respond to the character of the local area and maintain good standards of amenity and privacy for the occupants of existing housing, in accordance with Development Management Policy H-1 'Design of Residential Development';

Thirdly, the use of accessible urban open space where it can be demonstrated that there is adequate provision of open space in the local area or the loss would be adequately replaced, in accordance with Core Policy CS8 'Safeguarding and Improving the Environment';

Fourthly, and only if it is essential to release additional land to accommodate the borough's local needs, particularly the need for affordable housing or to support regeneration strategies in Neighbourhood Renewal Priority Areas, a limited number of the most suitable Green Belt sites will be used for housing. Sites must be accessible, attached to the urban area, maintain openness between built-up areas, and there must be no exceptional substantial strategic change to the Green Belt or its boundaries.

29. The other side of the coin is housing delivery for which I was referred to the Authority's Monitoring Report 2013 – 2014 for evidence. This document provides details of the Council's performance against a variety of targets, housing being just one amongst many. Its findings were that housing delivery was running 20% behind the target set by the Core Strategy and almost 40% behind if the buffer recommended by the NPPF is taken into account.
30. It can be seen therefore, that the Council was under performing in terms of delivery and by their own admission 'completions are expected to remain below target for the next 2 years at least'. The planning experts agree that the five-year supply requirement was not being met and that the threshold for considering development in the green belt had been reached,

but they disagree on the likelihood of such an extension. Putting it another way, it is common ground that development opportunities in Stockport are constrained by the green belt, and the issue between them is whether at the valuation date there was any prospect that the grazing land would, in the foreseeable future, be available for residential development notwithstanding its current green belt status.

Agreed Facts

31. The planning experts had usefully prepared a statement of agreed facts and issues from which I note that the following matters were agreed between them:
 - (a) There was no realistic possibility that planning permission could have been obtained for residential development on the grazing land at the valuation date.
 - (b) The site's value at the valuation date could be affected by any 'hope value' ascribed to it by a potential purchaser. Any decision would be based on the potential purchaser's view of the likelihood of planning permission being granted for an alternative use now or in the future.
 - (c) Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that "If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise".
 - (d) Planning consent for development other than that specifically prescribed within paragraphs 89 and 90 of the NPPF would be likely to require an alteration of the green belt boundary by means of a review of the Development Plan. It should be assumed that built development would not occur within the portion of the site within Flood Zones 2 and 3.

In addition, both experts state in their reports that that housing need could not be satisfied without the allocation of green belt land for development. Having set out the planning context I now turn to the evidence from the planning experts.

Evidence for the Claimant

32. Planning evidence for the claimant was given by Mr Paul Williams MRTPI who is a Chartered Town Planner and a Director at Mosaic Town Planning. He has 32 years' experience and has spent most of his career in various roles based in the North West. The claimants also submitted as evidence a report by How Planning but did not call the author as an expert witness.
33. Mr Williams considered that given there is existing development opposite the site at Norbury Hall there is no perception of a clear break between Hazel Grove and Poynton. He qualified this assessment by reference to an unbroken buffer of open land between Hazel Grove and Poynton on the western side of London Road, to the southwest of the

site. He said that the flood risk area surrounding the Norbury Brook means that if developed it would still be adjacent to a green corridor. He also identified that Core Strategy Policy H-3 of the Core Strategy DPD regarded this area as a 'hot area' for residential values.

34. In relation to permitted uses of the grazing land at the valuation date Mr Williams concluded that there is no realistic possibility of residential development, but the site could have been used for agriculture or for outdoor sport and recreation. He also considered that there was scope for the provision of affordable housing through the Development Plan without an alteration of the green belt boundary in accordance with Paragraph 89 of the NPPF.
35. I have already set out details of the housing requirement for the Borough, but Mr Williams provided additional analysis. He said that the Core Strategy housing requirement was derived from the North West Regional Spatial Strategy. He explained that the 2012 iteration of the NPPF had redefined the method of arriving at housing need and the local authority should use an alternative approach based on 'objectively assessed need'(OAN). Accordingly, the Core Strategy was out of date at the valuation date because it did not contain an assessment of OAN and because the Council could not demonstrate five years supply of housing land. Taking these circumstances into account Paragraph 213 of the NPPF anticipated that the plan would be revised as quickly as possible. He explained that in a series of other local plans since the publication of the NPPF a significant housing shortfall was regarded as sufficient to constitute exceptional circumstances as required by the NPPF to review the green belt.
36. Mr Williams confirmed that the North West Regional Spatial Strategy was revoked in March 2013. He said that the NPPF required local planning authorities to "use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in this Framework". In other words, they should undertake an OAN review.
37. No assessment of OAN for Stockport was available at the valuation date. In Mr Williams' experience it was widely assumed by planning and development professionals that the OAN was substantially greater than the policy-led Core Strategy assessment of housing need.
38. His view was that 'it would seem futile to now estimate a figure from data which would have been available at the time, when evidence published in 2016 for GMSF performs the exercise with the starting point of the 2012-based data. This identified an OAN of for Stockport of 20,212 dwellings between 2015-2035, equating to 1,011 per annum.' He saw no reason to assume that an analysis undertaken in March 2015 would have been materially different.

39. For the purposes of comparison, Mr. Williams provided an example from Cheshire East where a green belt assessment was carried out as part of the Cheshire East Local Plan Strategy. He said that there was a widespread expectation that a similar review process was pending in Stockport to address the housing shortfall there.
40. Mr. Williams identified a parcel of land containing what would later become the Handforth Growth Village which was said to make a major contribution to the first three of the five purposes of the green belt which were assessed by the study. Nevertheless, the site was proposed as a draft allocation in the Submission Draft of the Cheshire East Local Plan Strategy. Mr Williams noted that the Council said the development will be an extension of Handforth, Cheadle Hulme, Bramhall and surrounding settlements, meaning that the Council clearly understood the site was not detached from these areas. In the detailed assessment it was found that the site formed part of the gap between Handforth/Wilmslow and the Greater Manchester conurbation. Specifically, 'whilst the A555 northern boundary means that the development of this parcel alone would not lead to the merging of settlements it would dramatically reduce the gap and seriously compromise the openness of the Green Belt between them'.
41. Mr. Williams referred to Paragraph 83 of the NPPF and the necessity in the context of a local plan review to demonstrate exceptional circumstances for a change in allocation. The application of the 'exceptional circumstances' test was, he said, considered in *Compton PC v Guildford BC* [2019] EWHC 3242 (Admin). This case obviously postdates the valuation date but relates to the 2012 iteration of the NPPF. Mr. Williams said that the decision shows that housing need can be sufficient to meet the test, and that the 'exceptional circumstances' test is not as stringent as the 'very special circumstances' test and the phrase is not limited to some unusual form of housing or to a particular intensity of need. Mr. Williams identified two further considerations assuming that the need for releasing green belt land was accepted. Firstly, whether there are sufficient alternative locations within the green belt which would also be in sustainable locations but make a lesser contribution to green belt purposes. He said that he is not aware of any such sites. Secondly, the spatial strategy adopted by the Council could have a bearing on the choice of sites depending on whether the council favoured large strategic allocations in parallel with new infrastructure or adopted smaller changes to the green belt boundary.

Evidence for the respondent

42. Planning evidence for the acquiring authority was given by Mr Harry Bolton MRTPI who is a Director in the Planning and Development team at CBRE in Manchester. He has 15 years' experience.
43. Mr Bolton also acknowledged that the Council did not have a five-year housing land supply at the valuation date. He says it is reasonable to assume that the shortfall would have been made up by using brownfield or urban greenfield sites ahead of any release of green belt land. It would be necessary to demonstrate a series of very special circumstances as well as the lack of supply in order to justify amendments to the green belt boundary.

44. He noted that the preparation of the Local Plan Part 2 Site Allocations DPD was put on hold and in the circumstances, he turns to the Core Strategy which contains detailed guidance in connection with the quantum of development proposed and its location. The Core Strategy also provides guidance on the release of urban greenfield land and green belt land for development and in Mr Bolton's view these policies would have been followed by the Council in allocating sites for development. In his summary of the position he stated that the grazing land would have featured as the fourth most sequentially preferable location and noted the definition of 'suitable sites' in Policy CS4 which I mention above in paragraph 28. He did concede however, that it was possible given the shortfall in the five-year supply, that some green belt land release would be required.

Green belt assessment

45. I now turn to the experts' views on the contribution of the grazing land to the purposes of the green belt. Paragraph 83 of the NPPF says that green belt boundaries should only be altered in exceptional circumstances and where a LPA cannot meet its housing needs without utilising green belt land a green belt assessment should be undertaken as part of the evidence base for a Local Plan review. Both experts undertook such an assessment, but Mr Williams stressed that a site might be found to make a strong contribution to one or more purposes of Green Belt yet still be allocated for development. He also observed that Paragraph 84 of the NPPF requires Councils to promote sustainable patterns of development in reviewing green belt boundaries, with the implication that an accessible site adjoining the urban area might be favoured over a more peripheral location. Mr Bolton's assessment was in relation to Parcel SP68 which is a larger site of which the grazing land forms part.
46. The experts made the following assessments in relation to the five purposes of the green belt:

- (a) To check the unrestricted sprawl of large built-up areas

Mr Williams did not consider that a modest and planned urban extension on the edge of Hazel Grove would constitute 'unrestricted' sprawl. In his view the flood plain provides a permanent boundary due to flood risk. He judged the contribution to preventing sprawl to be weak.

Mr Bolton took a more nuanced approach based on two considerations. Firstly, does the parcel exhibit evidence of existing urban sprawl and consequent loss of openness? He classified the site's performance as 'strong' commenting that he agreed with the view put forward within the 2016 GMSF assessment that "the parcel plays a key role towards checking the unrestricted sprawl of Norbury House and Hazel Grove." He considered that in a no scheme world, it is reasonable to assume that the site would have continued to provide such a role.

Secondly, does the parcel protect open land from the potential for urban sprawl to occur? Again, Mr Bolton's classification is 'strong', agreeing with the 2016 GMSF assessment that "the parcel is adjacent to Hazel Grove. There are no strong barrier features on urban edge Hazel Grove that could prevent urban sprawl from taking place within the parcel." He goes on to say that in the absence of such a barrier, he concludes that the role of this parcel would have been of increased importance at the valuation date.

(b) To prevent neighbouring towns from merging into one another

Mr Williams said that it is a matter of fact that Hazel Grove and Poynton are relatively close together in this location. The situation on the ground is that there is very little physical separation on the eastern side of London Road. He also concluded that Brookside Garden Centre already encroaches into this area, and at the valuation date there were car parking areas and small buildings which were closer to the site.

Mr Williams' analysis is that to the south of Brookside Garden Centre, the area of suburban housing between Anglesey Drive and Towers Road and with a frontage onto London Road North represents a major extension of the built-up area of Poynton into what would otherwise have been an open area between Hazel Grove and Poynton. The presence of the garden centre and the Anglesey Drive/Towers Road housing area means that Hazel Grove and Poynton do not have separate and distinct identities in this location. Somebody travelling in a vehicle along London Road North would not have any real perception that they had left one town, passed through an area of open countryside, and entered a different town.

He expressed the view that there is a clear area of separation to the west side of London Road North, which limits the degree of merger between the towns. He accepted that the site does make some contribution to separation because it is open. However, he believed that built development directly to the west of the subject site restricts the degree to which the wider green belt is genuinely open in this vicinity. His conclusion was that the contribution under this heading was moderate.

Mr Bolton preferred to define the question as: Does the parcel prevent the merging or erosion of the visual or physical gap between neighbouring settlements? He classifies the site's performance as 'strong'. He comments that in a no-scheme world the site played a fundamental role in preventing Poynton and Hazel Grove merging into one another. He is again in agreement with the 2016 GMSF assessment.

(c) To assist in safeguarding the countryside from encroachment

Mr Williams thought that without the A6-MARR the site would already have had an urban fringe character owing to the suburban housing on its northern boundary and the buildings and car parking of the adjacent and extended garden centre to the south. He assessment of the contribution was ‘weak’.

Again, Mr Bolton develops the question as: Does the parcel have the characteristics of countryside and/or connect to land with the characteristics of countryside? Has the parcel already been affected by encroachment of urbanised built development? His assessment is ‘Weak/Moderate’. He concludes that in a no-scheme scenario the site would retain some characteristics of the countryside. However, that site contains a car park which has an urbanising effect.

(d) To preserve the setting and special character of historic towns

Mr Williams says this purpose is not applicable or weak whilst Mr Bolton believes that there is no contribution at the valuation date.

(e) To assist in urban regeneration, by encouraging the use of derelict and other urban land

Mr Williams proffered that green belt has an important function in recycling derelict and other urban land, by restricting the availability of greenfield sites. He noted that in 2011, the Stockport Core Strategy anticipated that there would not be sufficient previously developed land to meet needs later in the plan period (2018-2023), and this was based on an annual requirement of only 450 units. Despite the intention to satisfy 90% of the requirement on previously developed land, by the time of the Valuation Date this reliance on brownfield sites had contributed only 246 dwellings in the 5 years leading up to the 2013/14 Annual Monitoring Report. He said that ‘notwithstanding this evidence that Stockport lacks sufficient brownfield land to meet its development needs, I consider that this purpose would apply equally to any site adjoining the urban area’.

Mr Bolton agrees with the 2016 GMSF assessment that “it is difficult to distinguish the extent to which each green belt parcel delivers against Purpose 5”, but comments that it should be acknowledged that the green belt plays a key role in recycling derelict and other urban land.

47. Mr Williams concluded that at the valuation date there was a realistic possibility that the site could have been allocated for residential development in a forthcoming review of the development plan.
48. He said that within the context of the NPPF, shortfalls in housing provision have been taken as sufficient justification to review green belt boundaries, as was the case in Cheshire

East. He did not consider that the site makes a significant contribution to the purposes of the Green Belt and even sites that do make such a contribution have been allocated for development. It would be credible in his opinion for a Development Plan review to allocate modestly sized sites on the periphery of the urban area as an alternative to or in combination with larger strategic allocations, thereby achieving earlier delivery as it would not require land assembly or infrastructure.

49. Mr Bolton's conclusion was that in a no-scheme world, parcel SP68 would perform well against the purposes of the green belt as outlined within the NPPF. Furthermore, as prescribed by policy CS4, the role the parcel performs as part of the green belt would have been a key consideration by the Local Planning Authority when identifying sites for removal from the green belt for prospective development.
50. He acknowledged that the GMSF Assessment found that parcel SP68 made a moderate contribution to the purposes of the green belt; but this was in the context of the A6 MARR and, he concluded that in a no scheme world the parcel would make a strong contribution. He concluded that there was no potential for development of the grazing land prior to 2023 and in his opinion no prospect of it being released for development thereafter.

Discussion – Planning

51. I now return to the question I posed at paragraph 18, namely: in a no scheme context, what prospect was there on the valuation date that the grazing land would be earmarked in the future for development, and if so, within what time? Both experts have undertaken their own assessments and have come to different conclusions. But what they have overlooked is that the choice of sites to be released from the green belt involves comparisons. By focussing only on the contribution which the grazing land makes to the green belt they have failed to consider where in the hierarchy of green belt sites it sits and how likely it is to be selected for development. It may well be the case that the land is the best of the worst from the perspective of the Council or it may be that there are other sites which make less of a contribution to green belt purposes and which would be likely to be selected for development in preference to it.
52. The GMSF assessments are of limited use since they take account of the A6-MARR in the scheme world and not of the circumstances which must be assumed for the purpose of the valuation. Additionally, the assessments are of the whole of parcel SP68 of which the grazing land forms only part; the parcel is quite extensive, taking in land on both sides of the A523 Macclesfield Road and the GMSF conclusions may not be transferrable in their entirety to the grazing land.
53. I am mindful that at the valuation date the GMSF had been initiated and a prospective purchaser would have been aware of its purpose and timeline. At that time, it would have been reasonable to expect that the assessment exercise would run its course and that site allocations would be made by the beginning of the plan period which was

intended to be 2020 to 2037. The withdrawal of Stockport from the process in late 2020 would not have been foreseen.

54. I must therefore make my own assessment of the grazing land against the NPPF green belt purposes. Only the first two purposes are engaged, and the experts agreed that the land does not make a significant contribution to the others. It appears to me that the site does perform strongly in checking the unrestricted sprawl of the large built-up areas and in preventing neighbouring towns merging with one and other. The GMSF considered that SP68 was of critical importance to the separation of Hazel Grove and Poynton and that is a reasonable conclusion to draw. In the no-scheme scenario that conclusion would be more robust. The role that the site would play in safeguarding the countryside from encroachment is more opaque and the remaining purposes have very limited or no relevance at all. I take the view that in a no-scheme world the land would make a strong contribution to green belt purposes, and accordingly Mr Bolton's assessment is to be preferred.
55. I agree with Mr Bolton that, at the valuation date, in the short term (which he defines as up to 2023) there would have been no prospect of development on the grazing land. However, that is not especially determinative. By its very nature, hope value relates to a longer term perspective, certainly beyond the eight years contemplated by Mr Bolton. It is likely that the pressure on housing supply will persist beyond 2023 and the experts agree that some green belt land will have to be released for development. I have formed the view that in the no-scheme world the grazing land would make a strong contribution to the purposes of the green belt, and accordingly its prospects for development are quite remote. However, that does not mean that a prospective purchaser would not include an element of hope value in his bid. The matter to be addressed is the quantification of that bid. For the answer I now turn to the valuation evidence.

Valuation Evidence

56. Mr Ian Coulson FRICS gave evidence for the claimant. He is a director and sole practitioner in Coulson Property Services Limited which he founded in August 1989. He has held a series of posts in Councils in the Greater Manchester area, and he currently provides advice to a number of Borough Councils in connection with the acquisition and disposal of surplus land and property.
57. Mr Coulson said that land of this type in this locality tends to be in the ownership of wealthy landowners who he described as not being under pressure to sell other than at a premium. Their reluctance to sell means that such land is not often transacted. Mr Coulson's opinion was that land of this type would only normally sell at a level which includes an element of hope value which reflects the long-term possibility of development and takes into account demand for uses which are permitted in the green belt such as equestrian or outdoor sports and leisure uses.

58. Where Mr Coulson has had direct responsibility for the sale of residential development land on behalf of Councils, he has regularly received approaches from national and local house builders seeking any available vacant land in the North West. It is his experience that house builders will enter into exclusive option agreements for up to five years with the landowner to provide sufficient time to secure planning consent. He provides an example of such an agreement relating to a site at Norbury Hall on the opposite side of Macclesfield Road from the grazing land. In this case Barratt David Wilson Trading Limited entered into an option agreement for 5 years from 2 April 2015 with an ability to extend for a further 5 years on payment of an additional sum.
59. In Mr Coulson's view the land would constitute one of the most sought-after locations in the South Manchester/Cheshire area and developers could expect to secure sales values for houses in excess of £400 per sq. ft in comparison to elsewhere in Greater Manchester where £200-£225 per sq. ft would be the norm.
60. Mr Coulson provided details of thirteen transactions, all relating to Green Belt land. These vary in size from 1.3 acres to 20.34 acres and with a date range from December 2012 to February 2021. I have summarised them in the following table. Mr Coulson said that these confirmed sales provide evidence of a trend for greenbelt grazing/equestrian land selling at a figure between £17,857 per acre to £46,280 per acre.

	Address	Description	Terms/Price	Analysis
a	Land at Moorend Golf Course, Woodford Road, Stockport	Green belt land used as a pay and play golf course comprising 20.34 acres in area	Settlement agreed with acquiring authority £940,000 plus fees	£44,247 per acre
b	Land at Ladythorn Road, Bramhall, Stockport	Triangular shaped parcel of land within green belt, accessible by foot only from pathway below main west coast railway line or from adjoining golf course. 1.3 acres in area	Sold at auction 10 June 2019 for £40,000	£30,769 per acre
c	West of Woodford Road, Poynton	Grazing green belt land totalling 14.26 acres in area.	Settlement agreed with acquiring authority in the total sum of £285,000 completed 31 March 2015	£19,986 per acre

d	Warrington Road, Mickle Trafford, CH2 4AB	3.80 acres (1.54 hectares) of grazing land. Access via a track way only leading off the A56 in Mickle Trafford	Sold for £100,000 at auction, held by Wright Marshall Limited on Thursday 23 April 2015	£26,315 per acre
e	Longsight Lane and Stanley Road, Cheadle, Hulme, Stockport	4 acres of green belt land used for grazing.	Originally sold with restriction on use on 31 January 1990 for £100,000 with a further agreement reached to release restriction on use for additional payment of £30,000 completed on 4 December 2012	£32,500 per acre
f	Land at Fallibroome Farm, Alderley Road, Prestbury	14.84 acres of grazing green belt land	Sold at auction on 25 September 2019 for £265,000	£17,857 per acre
g	Land at Towers Road, Poynton	2.1 acres of green belt agricultural grazing land	Sold at auction by Wright Manley Estate Agents on 26 November 2019 for £80,000	£36,897 per acre
h	Land at Windmill Lane, Macclesfield	Equestrian green belt land extending to 6.94 acres in area	Sold by Whittaker Biggs Agents in December 2019 for £280,000.00	£46,280 per acre
i	Spring Bank Stables, Congleton Edge, CW12 3GR	4.03 acres of green belt land with stables	Sold September 2020 for £120,000.00	£29,777 per acre
j	Cloud View Stables, Congleton Edge, CW12 3GR	Green belt land extending to 3 acres in area	Sold in February 2021 for £100,000	£33,333 per acre
k	Green belt land at Over Alderley	9.92 acres of grazing land	Sold 20 September 2020 for £208,000	£21,000 per acre
l	Chelford Road,	2.7 acres of grazing land	Sold for £85,000 in 2019	£31,481 per acre

	Prestbury, SK10 4PT			
m	Land at Chelford Road, Prestbury SK10	8.4 acres of grazing land	Sale proceeding for £170,000	£20,238 per acre

64. Mr Coulson had not provided any planning appraisals of any of these sites and consequently he could not offer any insight into how each of them compared to the grazing land in terms of their performance against the green belt purposes as defined in the NPPF. Two of the comparables are not open market transactions but relate to compensation cases agreed with the acquiring authority and another has yet to complete. Ten of the transactions took place after the valuation date, in one case six years later. The land at Windmill Lane, Macclesfield included a building with planning consent for conversion to an office/teaching facility, an all-weather area and a feed store. Mr Coulson asserted that a comparison of the Council's purchase of Moorend Golf Course and the Windmill Lane land showed that values have not altered greatly for the period from the Valuation Date until very recently.
65. Mr Coulson considered that this type of land with main road access would have sold at a similar level to the comparables set out above and he assessed the market value at £38,697 per acre. In cross-examination he confirmed that the value adopted had been based on the sale at Towers Road, Poynton and that he had meant to use a figure of £38,897 which was his analysis of the transaction. He also confirmed that the successful bidder at the auction was the co-owner of the site and therefore had a particular concern in acquiring the seller's interest. Two adjacent plots sold at the same auction for a fraction of the price achieved on the site in question. Mr Coulson also said that he had taken an average of the other transactions and concluded that this approach compared reasonably to the price achieved on the Towers Road land. He undertook a further check by observing that his adopted value equated to about 2% of the site with consent for development. In support of this approach he provided details of two land sales in Poynton which dated from 2019. He regarded the numerical relationship as informative and further considered that prospective purchasers would be prepared to pay 3.5 times the agricultural value of the land because of the site's proximity to residential development and the level of risk involved was low. The fact that no approaches from developers had been received was he said, entirely a result of the presence of the road scheme.
66. Evidence for the Acquiring Authority was given by Mr Henry Church MRICS FAAV, a Senior Director of CBRE based in London. He has more than 25 years' experience in compulsory purchase matters and is an elected board member of the Compulsory Purchase Association.
67. Mr Church's approach to hope value was based on what he described as an evidence-based analysis. He began by stating that "usually it is an area where, as here, valuers seek

to rely on assertion and contention rather than comparable transactions or other verification”.

68. There are a number of reasons he said that underlie such an absence of evidence including a lack of sales, the taking of options, the existing use value being higher than the value with an uplift for development potential and simply that there is no hope. The latter appears to me to be an outcome of at least two of the previous three reasons rather than a reason in itself. He identifies four factors that mitigate against the existence of hope value. These comprise physical constraints such as topography, transactional/valuation history, planning/development considerations and a lack of a market for the land.
69. Mr Church’s opinion was that in all instances claims of hope value should be subjected to a systematic analysis. His examination of mitigating factors was limited to just two: planning and a lack of market activity. In relation to the former he drew heavily on Mr Bolton’s report and his conclusions. However, his own conclusion is not unequivocal. He recounts Mr Bolton’s view that there are a number of steps that have to be gone through before the land could be removed from the Green Belt and each of these holds considerable uncertainty. Any potential purchaser, he said, would have been cognisant of this.
70. Mr Church noted that there have been no approaches from developers or others interested in the land but as Mr Coulson had made clear this was not surprising given the long-anticipated road scheme. Drawing the two strands of his analysis together he arrived at a reasoning that attaching any hope value to the site would be inappropriate. This approach left Mr Church with a straightforward assessment of the land for agricultural purposes. His list of comparable properties was as follows:

No	Address	Sale Price	Sale Date	Area (Acres)	Comments	Analysis
1	Lot 7 Old Hall Farm, Woodford, Cheshire, SK7 1RN	£712,500	11/05/15	69.055	Comprising freehold grade 3 arable farmland which is generally level to gently sloping and having frontage to the River Dean	£10,317/acre
2	Lot 5, Ornell House Farm, Ostler’s Lane, Mobberley, WA16 7LY	£966,000	23/05/15	13.91	Generally level grade 3 permanent pastureland divided in two fields across to Woodland Lane and water supply via a natural drain along the northern boundary. The land was sold without Basic Payment Scheme entitlement.	£6,901/acre
3	Lots 1 & 2	£80,000	March	8.299	Auction as two parcels however	After

	Kingsway, Gately		2015		sold as a single lot, grazing land with frontage to the River Mersey. The land is improved with horse shelters and storage sheds. The site is near the motorway and railway as well as an overhead powerline. Built development sits on the other side of River Mersey	allowing £10,000 for structures, shows £70,000 or £8,434/acre
4	Lot 4 Orrell House Farm, Mobberley, WA16 7LY	£82,000	April 2015	9.62	Generally level grade 3 permanent pastureland with a small pond and mature shade trees. No services connected to land.	£8,524/acre
5	Land off, Congleton Road, Nether Alderley	£200,000	2014	9.72	Gently sloping, permanent pastureland which formed part of the AstraZeneca Alderley Park Estate.	£20,576/acre

71. Mr Church says that the sale of land at Old Hall Farm, Woodford completed after valuation date, but the transaction was close enough to be considered contemporaneous. It is he says, better quality arable farmland than the grazing land and was sown to maize and potatoes in the recent past. He considers it a good guide to agricultural values in the area.
72. Lot 5, Ornell House Farm, Ostler's Lane, Mobberley is thought by Mr Church to be in a less desirable location, although it has superior rural amenity. The land was unequipped with services and although it is a similarly sized parcel of pastureland he considers it inferior overall. He notes that it was sold without agricultural subsidy entitlements which potentially reduced the value of the land. Neither expert provided any evidence of such subsidy entitlements associated with the grazing land.
73. The land at Kingsway, Gately is a smaller parcel located in a similar urban fringe location. The land offers inferior rural amenity, poorer access and was in a worse condition than the grazing land. Mr Church's view is that this parcel is inferior on a bare land basis.
74. Lot 4 Orrell House Farm, Mobberley is a smaller parcel, put to permanent pasture. Mr Church considers it to be in an inferior location, but it has superior rural amenity. The land is without services and considered inferior overall.

75. The land off Congleton Road, Nether Alderley was purchased by Cheshire East Council to protect it from future development. Considered superior overall by Mr Church as it has a better location and offers superior rural amenity.
76. Taking these transactions into account Mr Church arrived at the value of £10,000 per acre with a total for the 9.224 acres of £92,240 which he rounded up to £95,000.

Discussion – Grazing Land Valuation Evidence

77. I am presented with two disparate approaches. Mr Coulson clearly knows the local market, but his analysis lacks focus. Most tellingly, his long list of comparable transactions lacks an appraisal of each site's prospects for release from the restrictions of green belt status or of how this would have informed the value achieved. Without that insight I have no way of differentiating the useful from the superfluous. The sale of land at Towers Road, Poynton is the transaction upon which he places most weight, but it was a sale to a special purchaser and is in my view unreliable. Similarly, I am not convinced that Mr Coulson's conclusion that there has not been any growth in values between 2015 and 2019 is justified. He takes this view on the strength of a comparison between a settlement relating to a compulsory acquisition and a sale of equestrian land and buildings with planning consent for a complimentary use. The fact that the two sites have the highest analysed values adds to the sense that his view lacks objectivity.
78. Mr Church on the other hand, extolls the virtues of an evidence-based analysis but his dismissal of the prospects of development is almost perfunctory and largely reliant on Mr Bolton's conclusions. It is clear from the evidence before me that grazing land transacts at figures higher than the level adopted by Mr Church and in fact one of his own comparables sold at more than double the £10,000 per acre he adopts although the circumstances for that transaction were unusual. Mr Church did not elaborate on the details of the Congleton Road sale, but it is reasonable to conclude that there may have been some hope value in the market price, although the purchaser may have been buying to avoid development.
79. Neither valuer, it seems to me, properly puts themselves in the position of the prospective purchaser. Mr Coulson is right in his assessment that the land represents a low-risk proposition. It has an underlying value as grazing land and given the size of the site, the modest additional value that could be attributed to the medium to long term possibility of development would not represent a barrier to a developer or speculator contemplating its purchase. There is clearly a mismatch between housing need and the supply of available sites in Stockport and both planning experts acknowledge that green belt land will be needed to fulfil the demand. I concluded earlier in this decision that a prospective purchaser would include an element of hope value in his bid. I have no evidence to judge how this site compares to other green belt land in Stockport but in my view, there is a slender possibility of development which a prospective purchaser would recognise in their bid. It follows that the land is worth more than just its value as grazing. My

assessment is that £20,000 per acre fairly represents its value. I note that this figure falls within the lower extremity of Mr Coulson's evidence and the upper limits of that of Mr Church. The adoption of £20,000 per acre results in a value of £184,480 which I round to £184,500.

The Car Park Land

Valuation evidence

80. Mr Coulson considered that the rent received for the car park constituted a secure income as the garden centre cannot be properly operated without the car park land. His starting point for the assessment of the compensation was a market value of the freehold interest in the car park as demised. He took the passing rent of £46,000 per annum and capitalises it at a yield of 8% which equates to a market value of £575,000. In support of this methodology, he referred to a number of investment transactions which he said informed his choice of yield. These were a diverse group including a lock up shop occupied by William Hill in Southport (8.91% yield) and a pair of industrial units in Stockport (7.91% yield). Most of his investment comparables are let at similar rents to the car park but the degree to which they are reversionary is not explained and the dates of many of the transactions are missing. He noted that the land taken constituted 18.766% of the total area included in the lease or, by an alternative measure, 111 car spaces from a total capacity of 282 spaces which equates to 39.36% of those available.
81. Mr Coulson arrived at his assessment by applying 18.766% to the market value of the whole which resulted in a figure of £107,905. At the hearing he did not explain why he had approached the assessment in this way, simply stating that he felt his approach was more reasonable than the methodology based on the number of car spaces lost.
82. Mr Church on behalf of the respondent said that there is an absence of a general market for the car park or evidence that might support a market rent assessment. This being the case the rent would reflect the utility to the garden centre or to use his words: 'the garden centre will pay no more than the value it derives for the car park'. He went on to say that the claimant would seek the same figure as they cannot exploit their monopoly position there being no competing interest for the land and a significant risk of vacancy.
83. Mr Church was unable to find any directly comparable transactions and consequently relied upon the rent for the Hazel Grove Park & Ride which he said reflects £115 per space as at January 2015. In cross-examination he admitted that he had very little information about this transaction and that his analysis reflected the buildings on site as well. He said that the passing rent on the car park land devalued to £165 per space.
84. Mr Church observed that the car park has never been marked out with individual spaces and said that it was never fully occupied. He noted that the land taken was furthest away from the entrance to the garden centre and it was appropriate to assess spaces in that area which were seldom used at a lesser rate than those frequently utilised. He therefore

elected to use a rate of £100 per space for the lost spaces. To take account of the inefficient way in which the spaces were used he took the view that 75 spaces had been lost. His rental valuation for the land taken was therefore £7,500 pa which he capitalises at 10 years purchase, arriving at a final figure of £75,000. When I questioned him about the adoption of the 10% yield, he said it was simply his professional opinion. He subsequently confirmed that he was not experienced in investment agency. Mr Church did not initially set out his valuation of the entirety of the car park land. He addressed this omission in his Supplementary Report whilst dealing with his assessment of injurious affection.

Discussion – Car Park Land Valuation Evidence

85. Mr Church acknowledged that overall, the passing rent devalues to £165 per space, and this implies a total of 279 spaces which is at odds with his assertion that the car park is inefficiently used and that Mr Coulson's figure of 282 spaces would only be achieved if the car park was properly surfaced and marked out. His only comparable, Hazel Grove Park & Ride, is in my view of very limited relevance and he has supplied scant details of the transaction. Mr Church's observation that the spaces on the land taken were the least used may well be true but the only evidence he supplied to prove his point were some photographs taken during the Spring of 2020 when the country was in the grip of a pandemic. I do not believe that these support his case. I understand why he selects 75 spaces as being representative of the number lost but this appears to be an arbitrary choice. Similarly, he asks the Tribunal to rely on a yield derived from a professional opinion when in reality he has no evidence on which to base such a view.
86. It is clear from the evidence that the car park land is also used for open storage, there being nowhere in the garden centre itself to receive and process palletised deliveries. In addition, part of it is used for a miniature railway and other land is utilised for covered stalls. Given that the land is put to more than one use I agree with Mr Coulson's approach of taking a simple proportion of the area. I am less convinced about his choice of comparables to support the yield used to capitalise the rent and he has not explained why a rent which he says was set four years prior to the valuation date, should not be considered reversionary. Nevertheless, his case is more persuasive than Mr Church's and I therefore determine a value of £107,905 which I round to £107,900.

Severance and Injurious Affection

87. The Tribunal heard evidence in relation to severance and injurious affection in connection with the grazing land, the car park land, the easements and the telecommunications site. I will therefore deal with them separately. The Compulsory Purchase Act 1965 section 7 sets out the entitlement to compensation in case of severance as follows:

“In assessing the compensation to be paid by the acquiring authority under this Act regard shall be had not only to the value of the land to be purchased by the acquiring authority, but also to the damage, if any, to be sustained by the owner of the land by reason of the severing of the land purchased from the other land of the owner, or otherwise injuriously affecting that other land by the exercise of the powers conferred by this or the special Act.”

The Grazing Land

88. Following the acquisition for the scheme the claimants have been left with 7.44 acres (3.01 hectares) of grazing land. The only access to that land is either over land in the occupation of the garden centre or over land in the ownership of the adjacent farm. According to Mr Coulson, the freehold owner of the garden centre has said that they will only be prepared to grant a right of way as long as the garden centre remains open for business, leaving the claimants reliant on an informal, verbal agreement.
89. In his report Mr Coulson states that the market value of the grazing land is £36,000 per acre (a figure which does not tally with his earlier valuation), resulting in a valuation of £267,840. He regards the land as being landlocked having previously enjoyed the benefit of access directly from Macclesfield Road. In his view there is no realistic prospect of taking farm machinery or livestock through the garden centre and the tenant farmer must cross the Norbury Brook from his adjoining land. To take account of these difficulties Mr Coulson adjusts the value of the land by 75% equating to a reduction of £200,880 to £66,960.
90. Mr Church did not dispute that the land no longer has direct access to a public highway but says that at the valuation date the previous access was blocked by agricultural machinery and seemingly had not been used for many years. The tenant has accessed the land from his farm on the other side of the brook. He also said that the rent received for the land did not reduce after the completion of the scheme and he considers that the loss of the highway access has no effect on value. I should add at this point that Mr James Wainwright, the tenant farmer in question, is now deceased but was alive at the valuation date and subsequently.
91. Mr Church considered Mr Wainwright or his successors to be the most likely purchaser of the retained land. He was a special purchaser being the only person with direct access to the land and would seek a discount from full value. The owner, according to Mr Church, would be mindful that the land is of particular interest to the special purchaser. Land let under secure agricultural tenancies has a yield of 1-2% depending on factors including the age of the tenant and the number of extant successors. This land is occupied on a licence where possession is easy to obtain. Noting a paucity of comparables for this type of situation, Mr Church applied a yield of 5% to the passing rent of £100 per annum per acre culminating in a capital value of £2,000 per acre and representing a diminution of 80% from the value with vacant possession and access.
92. Mr Church went on to say that since Mr Wainwright was a special purchaser and the only person who can facilitate access, he is key to unlocking the marriage value with the

freeholder. This additional value would be split in equal proportions with each party getting 40%. The diminution in value is therefore 40% of the value of 7.44 acres taken at £10,000 per acre. This equates to £29,760.

93. I have already determined that but for the scheme the grazing land would have had a value of £20,000 per acre. As a result of the scheme there is no prospect of development on the retained land, roadside access to the site having been lost. In his submissions on the hope value that might be attributed to the site Mr Church rejected the notion that the claimant's land, taken as a whole, had any development value. He simply valued it as 'permanent pasture', with the existing occupier in place, at £10,000 per acre. Mr Church assumed that Mr Wainwright would be prepared to pay the landlocked value plus half of the marriage value but as a special purchaser he holds all of the cards. In my view Mr Wainwright would simply need to pay a small premium over the value of the capitalised income stream to tempt the owner to part company with land which presumably no longer serves any purpose for him other than producing a meagre annual income. The adoption of £10,000 per acre is no longer appropriate given the problems of access. I am mindful that use of the land by Mr Wainwright is subject to his ability to cross Norbury Brook either with his livestock or farm vehicles.
94. I agree with Mr Church's assessment of value of the land on the basis of income from the licence at £2,000 per acre. I assess the premium payable by Mr Wainwright at £1,000 per acre which means that the value of the grazing land after the acquisition is £3,000 per acre and £22,320 in total. The diminution in value is therefore 7.44 acres at £20,000 per acre less £22,320. By my calculation that is £126,480 which I round to £126,500.

The Car Park Land

95. I heard evidence in support of a figure of £116,774 on the part of the Claimant and £20,000 for the Acquiring Authority. After the hearing, I directed that the parties consider whether an apportionment of the passing rent on the car park would be appropriate under section 19 of the Compulsory Purchase Act 1965. The parties subsequently advised that they had agreed the injurious affection at £75,000 and this being the case I need make no further comment.

The Telecommunications Mast

96. The parties have agreed the injurious affection in relation to the mast at £19,871. This being the case I need not dwell on it any further.

The Easements

97. Neither party adduces any evidence in connection with the injurious affection due to the drainage easements. Mr Coulson puts forward a figure of £980 and Mr Church says that his approach is adopt a nominal 25% in value across the two strips and this equates to £655. In the circumstances I determine a figure of £825.

Disturbance

98. Section 5, Rule (6) of the Land Compensation Act 1961 entitles claimants to claim for disturbance and losses incurred as a result of the compulsory acquisition. The principle of equivalence underlies the assessment of compensation in this context, and in simple terms it means that the owner should be put, as far as money can do so, in the same position as if his land had not been taken.
99. Mr Coulson provided details of costs connected with the claim as follows:
- (a) A report from How Planning - £2,844.12
 - (b) Advice from TADW Architects in connection with a draft housing scheme and preparation of plans – three invoices totalling £3,947.26
 - (c) Advice from Mosaic Town Planning in relation to preparation for the hearing – six invoices totalling £9,855.64
 - (d) SAS Daniels LLP – cost of processing right of way agreement - £1,843.20
 - (e) Ayres Water Solicitors - £30.00
 - (f) HM Courts and Tribunal Service - £275.00
 - (g) Shoosmiths LLP – first interim fee - £3,300.00
100. The only matter that is in dispute between the parties is the expenditure in relation to the work undertaken by TADW Architects. This involved a draft scheme which was said by the claimants to indirectly inform their claim for the grazing land.
101. It seems to me that the cost was incurred reasonably as part of the claimants' attempt to assess the value of their claim and they should therefore be able to recover it.
102. As far as the landowner's time is concerned the Acquiring Authority have agreed to pay for the period prior to the appointment of Mr Coulson in November 2016. This amounts to £21,350. The amount of time spent on the claim since 2016 and the rate at which it is charged out is questioned by the Acquiring Authority. Mr Garner is a practising chartered surveyor and Mr Coulson says that since 2016 it has been necessary for Mr Garner to spend time away from his primary business to provide input into the team dealing with the claim. Mr Coulson says that Mr Garner's position as a surveyor has meant that he has dealt with such matters more efficiently than someone not similarly qualified.
103. Details supplied as part of the claim show that Garner and Sons (Mr Garner's firm) spent a total of 106.75 hours over five years on the claim which he charged at £200 per hour. In the following five years he spent a total of 132.75 hours on the claim although a significant proportion of this time relates to dealing with non-specific e-mails lasting an average of 15 minutes each. It seems to me that Mr Church is right to point out that having handed over the reins to Mr Coulson it could be reasonably expected that Mr

Garner would spend less time on the case than before. However, there is no evidence to prove anything other than what is included in Mr Garner's stated records.

104. Additionally, Mr Garner owns the site with his brother in a private capacity and there is no evidence that his business has suffered a loss as a result of time he has spent on the claim. It is inappropriate therefore for Mr Garner to claim at the same rate as for the period when he was handling the claim through his surveying practice.
105. Mr Church says that claims have been settled in relation to the same scheme at £25 per hour for landowners' time but he makes an adjustment for an affected party's input. This seems reasonable to me and I therefore determine the amount due to the claimants at £26,350.

Summary

106. I determine the claim as follows:

(a) Land taken (market value)	£292,400
(b) Grazing Land (severance and injurious affection)	£126,500
(c) Car Parking Land (severance and injurious affection)	£ 75,000
(d) Telecoms Mast (injurious affection)	£ 19,871
(e) Easements (injurious affection)	£ 825
(f) Basic Loss Payment	£ 21,930
(g) Disturbance (landowner's time)	£ 26,350
(h) Disturbance	£ 22,095
TOTAL	£584,971

Costs

107. This decision is otherwise final on all matters other than the cost of the reference. Any application for costs should be made in accordance with rule 10(10) of the Tribunal's Procedure Rules.

Mark Higgin FRICS
Member
Upper Tribunal (Lands Chamber)

1 February 2022

Right of appeal

Any party to this case has a right of appeal to the Court of Appeal on any point of law arising from the decision. The right of appeal may be exercised only with permission. An application for permission to appeal to the Court of Appeal must be sent or delivered to the Tribunal so that it is received within 1 month after the date on which this decision is sent to the parties (unless an application for costs is made within 14 days of the decision being sent to the parties, in which case an application for permission to appeal must be made within 1 month of the date on which the Tribunal's decision on costs is sent to the parties). An application for permission to appeal must identify the decision of the Tribunal to which it relates, identify the alleged error or errors of law in the decision, and state the result the party making the application is seeking. If the Tribunal refuses permission to appeal a further application may then be made to the Court of Appeal for permission.