

**BIOPARK, BROADWATER ROAD, WELWYN GARDEN CITY, AL7 3AX**

**AN APPEAL UNDER SECTION 78 OF THE TOWN  
AND COUNTRY PLANNING ACT 1990**

**APPEAL REFERENCE: APP/C1950/W/22/3294860**

**Summary of proof of evidence of  
MARK JOHN WESTCOTT BSc (Hons) DipTP MRTPI**

**on behalf of**

**HG Group**

**JUNE 2022**

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## **1.0 Name and Qualifications**

- 1.1 This section sets out my professional experience as a Chartered Town Planner. The evidence in my Proof is true, to the best of my knowledge, and has been prepared in accordance with the guidance provided by the Royal Town Planning Institute.

## 2.0 Introduction

- 2.1 The Appellant and Appeal Site owner is HG Group, a leading contractor developer within a proven track record for delivering high quality residential-led mixed-use schemes.
- 2.2 Independent marketing evidence shows the site is not suitable to be retained in its current lawful use, a position accepted by Welwyn Hatfield Borough Council and the Examining Inspector of the draft Local Plan.
- 2.3 It summarises the application timeline:
  - i. A collaborative pre-application process with the Council to secure in-principle support on many matters including principle of development, housing mix, parking and design;
  - ii. Public consultation held in advance of the submission of the planning application;
  - iii. Submission of the planning application on 18<sup>th</sup> December 2020;
  - iv. Consultation on the application – no objections were received from statutory consultees and 674 objections were received from the public;
  - v. The planning application was heard at the Council’s planning committee on 19 September 2021. Despite the case officer’s recommendation for approval, the Planning Committee resolved to refuse for the reasons set out in the Decision Notice (CDC26); and
  - vi. Since the publication of the Decision Notice, the Council has confirmed that Reason for Refusal 1 deals with housing mix only, not housing tenure or affordable housing.
- 2.4 My Proof of Evidence considers the issues cited in the Reasons for Refusal and the Appeal Proposal’s compliance with the development plan, with reference to the Proofs of Evidence of the other Expert Witnesses acting for the Appellant. It addresses relevant issues raised by Rule 6 Parties relating to affordable housing, impact on neighbouring residents, and the reuse of the building. Finally, my Proof addresses the planning balance.

### **3.0 Welwyn Hatfield Draft Local Plan – History**

3.1 This section outlines the Welwyn Hatfield Draft Local Plan timeline, which has wavered at the Examination in Public stage since 2017.

3.2 With respect to the Appeal Site, the timeline sets out that the Council accepted the proposed residential allocation of the site in January 2020 and have continually supported its allocation ever since, including increasing the Appeal Site's development capacity to reflect the Appellant's positive pre-application discussions with the Council. The Proposed Main Modifications to the Submission Draft Local Plan include the residential allocation of the Appeal Site for 250 units.

3.3 I make the following points:

- i. The delay to the Draft Local Plan has been caused by the Council's unwillingness to accept the Objectively Assessed Need ("OAN") proposed by the Inspector, its inconsistency in proposing its own OAN and its difficulty in identifying specific, deliverable sites to supply the OAN.
- ii. The consequence of the delay has been a failure to plan properly and thus a very poor housing land supply and poor housing delivery. The underlying reason for this is the very high coverage (c. 80%) of Green Belt land in the borough.
- iii. In the context of Green Belt constraints, there remains a significant impetus on the Council to deliver housing through optimising the use of brownfield land in sustainable locations. Hence the failure to adopt the Draft Local Plan places an even greater reason to develop brownfield land.
- iv. The Council has created a vicious circle, meaning there is little prospect that the Draft Local Plan will be adopted.
- v. This situation demonstrates the crucial importance of windfall sites on brownfield land in sustainable locations, supported by demonstrable optimisation. The Appeal Site falls neatly within these requirements.

## 4.0 Development Plan Policy and Other Material Considerations

- 4.1 In this section, I appraise the Appeal Proposal through the prism of s. 70(2) of the Town and Country Planning Act 1990 and s. 38(6) of the Planning and Compulsory Purchase Act 2004, by considering whether the scheme complies with the Development Plan and whether other material considerations support the scheme.
- 4.2 I first tend to Development Plan policies that form the reasons for refusal and are areas of disagreement (Policies H2, D1 and D2). I then address other policies relevant to the Appeal Proposal (Policies SD1, GBSP2, R1, EMP1, EMP2, EMP3, R25, R28, H6, H7, M4).
- 4.3 I identify no conflicts between the Appeal Proposal and the Development Plan and conclude that allowing the appeal would clearly accord with the statutory Development Plan when read as a whole.
- 4.4 Secondly, I consider other material planning considerations, including:
- National Planning Policy Framework (“NPPF”) Paragraphs 8, 11, 60, 74, 77, 92, 110, 112, 119, 105, 120, 124, 125, 130 and 135;
  - Draft Local Plan Policies SP7, SP4, SADM2, SADM3, SP1, SP2, SP3, SADM15, SP15, SP9, SP13, SP17;
  - Broadwater Road West Opportunity Area SPD (2008);
  - Wheat Quarter Planning Permissions;
  - Land Ownership;
  - National Design Guidance;
  - Town & Country Planning Association (TCPA) – Garden City Principles (2020);
  - Design SPD (2005);
  - Parking Standards SPG (2004) & Interim Car Parking and Garage Size Policy (2014);
  - Hertfordshire Local Transport Plan 4 (2018); and
  - Planning Obligations SPD (2012).
- 4.5 I identify no material planning considerations that alter my conclusion in Paragraph 4.3 above. Indeed, I find that the other material considerations would support the Appeal Proposal. In particular, there is a high degree of adherence to fundamental objectives of the NPPF, namely those seeking to boost housing supply, make effective and efficient use of (brownfield) land, direct development to sustainable locations, and produce high quality design.

## 5.0 Planning Balance, and Conclusions

- 5.1 This section conducts the planning balance for the Appeal Proposal in accordance with Paragraph 11 of the NPPF.
- 5.2 It establishes that Paragraph 11c is not applied because the Development Plan policies are out-of-date, the Council cannot demonstrate a 5 year land supply and have a poor Housing Delivery Test result.
- 5.3 Paragraph 11d is therefore engaged and the tilted balance applied in support of the Appeal Proposal. The presumption in favour of sustainable development is adopted.
- 5.4 My evidence demonstrates that the Appeal Proposal does not meet:
  - i. Paragraph 11di insofar that other than heritage assets, none of the protected areas or assets, as set out in Footnote 7, are affected by the Appeal Proposal. With regards to heritage assets, strong evidence is presented to demonstrate that no harm will be caused. Therefore, the application of heritage policies does not provide a clear reason for refusing the development proposal; and
  - ii. 11dii, insofar that no adverse impacts are shown to exist. Therefore, benefits (listed at para. 5.10) that will be achieved by the Appeal Proposal are not significantly and demonstrably outweighed, when assessed against the policies in the NPPF taken as a whole.
- 5.5 Whilst not accepted by the Appellant, the Council's alleged 'less than substantial harm' to Hatfield House Grade I Listed Building and Registered Park and Garden is greatly outweighed by the level of public benefit that will be delivered by the Appeal Proposal. Therefore, Paragraph 11di does not provide a clear reason to refuse permission for the proposed development.
- 5.6 The characteristics and benefits that weigh in the Appeal Proposal's favour are summed up below, as follows (and supported, where relevant, by the Proofs of Evidence of the other Expert Witnesses):
  - i. **Housing delivery** – Very substantial weight should be afforded to the delivery of 289 units in the context of past under-delivery, an extreme housing shortfall, a housing land supply position that falls far short of 5 years, and the Council's failure to adopt a new Local Plan to help remedy the situation.
  - ii. **Affordable housing provision** – Very substantial weight must be afforded to the delivery of a minimum of 29 affordable homes to help resolve the borough's chronic backlog of unmet affordable housing need.
  - iii. **Optimising the use of vacant brownfield land** - Substantial weight must be afforded to the delivery of housing on underutilised brownfield land that is available for development, in the context of significant Green Belt pressure in the borough.
  - iv. **Townscape enhancements**
  - v. **Exceptional design quality**
  - vi. **Employment generation**
  - vii. **Increased activity and spending**
  - viii. **Community infrastructure**
  - ix. **Public realm benefits**
  - x. **Supporting health and wellbeing**

- xi. **Play space provision**
- xii. **Enhancing neighbouring amenity**
- xiii. **Biodiversity enhancements**
- xiv. **Energy efficiency**
- xv. **Sustainable travel**
- xvi. **Reducing vehicle trips**
- xvii. **Surface water management**

5.7 In my undertaking of balances, I sum up that the Appeal Proposal accords with the Development Plan when read as a whole. Should the Inspector disagree with this conclusion, I find that other material planning considerations indicate that permission should be granted nonetheless, including (amongst other supporting material considerations):

- a. The Appeal Proposal accords with the NPPF and engages Paragraph 11d where demonstrable evidence is presented such that the tilted balance is applied in favour as per Paragraph 11dii, because granting permission for the Appeal Proposal would not cause adverse impacts that outweigh, or significantly or demonstrably outweigh, the benefits in favour of the Appeal Proposal; and
- b. Overall compliance with draft policies in the Draft Local Plan, which attracts up to moderate weight.

5.8 If the Inspector concludes that 'less than substantial harm' will be caused to Hatfield House Grade I Listed Building and Registered Park and Garden, the public benefits at Paragraph 5.11 of my Proof of Evidence far outweigh that level of harm.

5.9 The concluding section of my Proof of Evidence explains that I find no grounds within the issues cited in the Reasons for Refusal, nor the additional issues raised by Rule 6 parties, to persuade me to differ from my view that the Appeal Proposal should be awarded planning permission.



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