

**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**

**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 My name is Mark John Westcott. I hold an Honours Degree in City & Regional Planning from the University of Wales, Cardiff, and a Diploma in Town Planning from the same University. I am a Chartered Town Planner, having attained Membership of the Royal Town Planning Institute in 2006.
- 1.2 I have been a town planning consultant for nearly 18 years, holding senior positions in a succession of companies. I was Associate and Associate Director at WYG and Associate Director and now Director at hgh Consulting. hgh Consulting employs thirty planners and related professionals, and is a busy planning consultancy practice, primarily acting for landowners and developers. It is based in Marylebone, central London, and about three-quarters of the practice's work is in Greater London and the Home Counties.
- 1.3 My professional experience ranges across most types of development and includes the large scale to the small. Of relevance to the current inquiry, some of my work involves residential development on brownfield sites in London and Hertfordshire.
- 1.4 Current or recent examples of complex residential use schemes include Tavistock Works in West Drayton, which has involved promoting residential use on a challenging site allocation; the White Hart Pub in Wimbledon, which has involved promoting residential use on highly accessible and sustainable site; and the East Beckton District Centre in Beckton, which has involved promoting residential use in a tall building also on a highly accessible and sustainable site.
- 1.5 The evidence I have prepared and which I provide in this Proof is, to the best of my knowledge, truthful as to the facts, and honest as to my professional opinions. It has been prepared in accordance with the guidance provided in Royal Town Planning Institute Practice Advice, 'Planners as Expert Witnesses' (2018).

## 2.0 Introduction

- 2.1 At this public inquiry, I represent HG Group, the Appellant.
- 2.2 HG Group is a leading contractor developer specialising in the creation of high quality residential-led mixed-use schemes across Hertfordshire, the South East and beyond. It has a 20-year track record for delivering construction excellence. As a Hertfordshire based business, HG is committed to investing in local communities; supporting local economies, creating jobs, and enhancing neighbourhoods to help lay the foundations for the future and create welcoming places to live, work and play.
- 2.3 HG Group builds schemes across the residential, Build-to-Rent and Student Living sectors. To date, HG Group is delivering or has delivered 22 development projects in the aforesaid sectors. This amounts to a total of 3,252 units. HG Group is a credible developer with a proven track record.
- 2.4 HG Group own the BioPark facility (the Appeal Site). It purchased the property in 2020.
- 2.5 Independent marketing evidence, commissioned by the previous owner, University of Hertfordshire, and produced by Savills dated February 2019 (CDC17) shows the site is not suitable to be retained in its current lawful use as Research & Development (Use Class Eg(ii) formerly B1b). The reasons are summarised in the marketing report's executive summary (Appendix 1) and the Planning Statement (CDC8, pg. 34, para. 7.12). Welwyn Hatfield Borough Council accepted this evidence in proposing the site to be allocated for housing in its draft Local Plan. The Examining Inspector has since accepted the proposed allocation. The draft Local Plan awaits completion of the Examination in Public.
- 2.6 HG Group engaged with Welwyn Hatfield Borough Council ('the Council') through three pre-application cycles and one design workshop. The collaborative approach secured in-principle support on many matters including housing mix, parking and design. This support was given in the recognition that Welwyn Hatfield Borough Council cannot demonstrate a 5 year housing land supply and that the brownfield site, which is in a sustainable location, was suitable for the amount of development proposed.
- 2.7 Public consultation was also held with two virtual webinar sessions, which included the presentation of the proposal and a Q&A forum, and a website which enabled feedback from interested parties to be given 24/7. No individual members of the public or organisations approached HG Group to discuss the proposals before the planning application or during its determination.
- 2.8 The planning application was submitted on 18<sup>th</sup> December 2020. No objections were received from statutory consultees. Historic England in assessing 'less than substantial harm' as being caused to Hatfield House Registered Park & Garden and Grade I Listed Building, did not object in principle. 674 objections were received from the public.
- 2.9 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).
- 2.10 It is noted that since the publication of the Decision Notice, the Council has confirmed that Reason for Refusal 1 deals with housing mix only. Housing tenure and affordable housing do not form part of the reason for refusal (CDD1, pg. 22, para. 6.14).

- 2.11 It is further noted that Rule 6 Parties have raised matters not put forward by the Council's Reasons for Refusal, as follows:
- i. Heritage;
  - ii. Financial viability;
  - iii. Affordable Housing;
  - iv. Impact on neighbouring residents; and
  - v. Reuse of the building.
- 2.12 The first two additional matters are addressed in the Proofs of Evidence produced by other Expert Witnesses on behalf of HG Group. I will therefore adopt those enclosures where relevant to do so. The remaining three will be addressed in this proof of evidence.
- 2.13 HG Group's essential position is set out in its Statement of Case.

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

3.1 Efforts to adopt the Welwyn Hatfield Draft Local Plan have been ongoing for many years and the plan has wavered at the Examination in Public stage since 2017.

3.2 Below I provide a timeline, identifying the milestone dates of key stages in the plan-making process. I also identify statements from the Examining Inspector, Mr Melvyn Middleton DipTP DipMgmt MRTPI, which have sought to move the process along.

- i. January 2015: Regulation 18 Draft Local Plan public consultation (preceded by public consultations on the emerging Core Strategy dating back to 2006);
- ii. August 2016: Regulation 19 Proposed Draft Local Plan (2016) submission public consultation;
- iii. May 2017: Draft Local Plan (2016) submitted to the Secretary of State;
- iv. Since 2017: The Inspector has repeatedly asked the Council to increase their housing supply;
- v. 2019: WHBC commissioned further Green Belt assessment and undertook a call for sites and subsequent consultation;
- vi. 8<sup>th</sup> August 2019: In his letter (CDB14, pg. 3, para. 11) the Inspector suggests withdrawing the Draft Local Plan if requisite assessment work cannot be undertaken or programme slippage continues;
- vii. January 2020: Officers presented a site selection strategy to members to allocate c. 16,000 dwellings to meet the Objectively Assessed Need (OAN) at the time. Councillors rejected officers' strategy, instead voting for a strategy that would deliver a total of 14,011 dwellings. This included the proposed residential allocation of the Appeal Site for 179 dwellings. Councillors also voted to no longer support the new settlement at Symondshyde (allocated for 1,130 dwellings in the Submission Draft Local Plan (CDB11, pg. 196, Policy SP 24).
- viii. February – April 2020: Further consultation on preferred alterations to the plan took place. The Appellant submitted representations supporting the proposed residential allocation of the Appeal Site and identifying greater development capacity of the site to reflect pre-application discussions that were ongoing at the time. WHBC agreed and allocated the Appeal Site for 250 residential units – see xi below;
- ix. November 2020: WHBC Councillors agreed upon a 13,800 dwelling OAN figure but, at the same time, failed to identify sufficient housing sites to meet this figure;
- x. 22<sup>nd</sup> December 2020: In his letter (CDB15, pg 1, para, 1, EX220 Inspector Email) the Inspector advises he's not convinced that the sites identified by the Council to deliver an OAN of 16,000 units would meet the soundness requirements he had previously set out;
- xi. January 2021 – publication of the Proposed Main Modifications to the Submission Draft Local Plan (including the residential allocation of BioPark for 250 units);
- xii. 8<sup>th</sup> June 2021: In his letter (CDB16, pg. 3, para. 13) the Inspector reconsidered the OAN figure to conclude 15,200 units and published Round Up Notes (this included acceptance of the BioPark site allocation for

250 units). He also sought a list of additional sites, and supplementary information, to support the OAN and concluded that if it was not received by a specific date the Draft Local Plan would be found unsound;

- xiii. June 2021: In his Supplementary Report following the Stage 9 Hearing Sessions (CDB22, pg.2, para. 4), the Inspector said the Council had failed to provide a sound reason that Symondshyde was no longer being proposed for Green Belt release and development allocation within the Submission Draft Local Plan.
- xiv. January 2022: WHBC Officers presented Councillors with development strategy options to meet the 15,200 OAN figure. This was rejected;
- xv. 16<sup>th</sup> February 2022: In his letter (CDB17), the Inspector summarised the several OAN figures that had been presented to him (the Council's 13,800 and subsequent 13,279; the Council's consultant's, Turleys', range of 14,300 – 16,000 but towards the lower limit; and, the Inspector's 15,200). He gives options as to how the Council may proceed but warns that if the Council cannot adopt any of the options or withdraw the plan, he will find it unsound (CDB17, pg 6, para. 17).
- xvi. 5<sup>th</sup> April 2022: In his most recent correspondence (CDB18), the Inspector gives the Council until 8<sup>th</sup> July 2022 to submit its 10 year housing trajectory (which would assist in making the plan sound).

3.3 In summary, the delay to the Draft Local Plan has been caused by the Council's unwillingness to accept the OAN proposed by the Inspector, its inconsistency in proposing its own OAN and its difficulty in identifying specific, deliverable sites to supply the OAN. The Council has clearly resisted the advice of the Mr Middleton and that of its own consultants, Turleys, on OAN. In doing so, the prolongation of the plan-making process has resulted.

3.4 The consequence of the delay has been a failure to plan properly and thus a very poor housing land supply (according to the Council's latest AMR it is 2.46 years – see CDB10, pg. 32, 'Indicator HO5') and poor housing delivery (the latest Government delivery figure shows 66% of the housing target over the three years from March 2018 - see CDB16, Table 1, Row 284). The underlying reason for this is the very high coverage (c. 80%) of Green Belt land in the borough and the Council's struggle to release any sizable amount of such land to relieve housing pressure.

3.5 There is also a real prospect WHBC Councillors will vote down the Draft Local Plan due to its inclusion of Symondshyde, a strategic site that has been rejected by members but it remains uncertain as to whether it can be removed from the Draft Local Plan without prejudicing the plan's soundness.

3.6 Although the Draft Local Plan does propose a substantial amount of strategic Green Belt release, there remains a significant impetus on the Council to deliver housing through brownfield land by optimising sites in sustainable locations. Otherwise, the pressure to develop on Green Belt land, which the NPPF tells us not to do, does not fall away. Hence the failure to adopt the Draft Local Plan places an even greater reason to develop brownfield land.

3.7 Essentially, the Council has created a vicious circle that shows little sign of being broken in the short, medium or long term. Hence, the adoption of the Draft Local Plan is of little prospect within these timeframes. This situation only serves to demonstrate 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 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 The statutory development plan comprises the Welwyn Hatfield District Plan 2005 (saved Policies 2008).
- 4.3 The draft of the Welwyn Hatfield Local Plan (CDB11) was submitted to the Secretary of State in 2017. I have set out the reasons for its delay at Examination in Public stage in the previous section.
- 4.4 I now consider the Appeal Proposal against the relevant development plan policies and other material planning considerations.

### A. Welwyn Hatfield District Plan 2005 (Saved Policies 2008) (CDB1a and CB1b)

- 4.5 I first tend to the 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.

#### Policy H2 (Location of Windfall Residential Development)

- 4.6 The proposal complies with the requirements of Policy H2:
- i. The Appeal Site is available previously developed land, and thus a priority location for windfall residential development, particularly in the context of rapidly growing pressure on Welwyn Hatfield's Green Belt land. The Examining Inspector of the emerging Local Plan has concluded that Green Belt release will be necessary to meet WHBC's housing needs (CDB23, pg. 9, paras. 45-46). This is partly premised on a lack of available previously developed land;
  - ii. The site is highly accessible by alternative modes of travel to the private car, being easily walkable from Welwyn Garden City train station and town centre via Broadwater Road (12-minute walk/ 1km). The train station is served by Great Northern and Thameslink rail services, providing six services to London per hour (off-peak), with a sub-hour journey time. The site is well connected to existing pedestrian, cycling and bus infrastructure, with bus stops outside the site access on Broadwater Road served by the 601 bus route between Welwyn Garden City and Borehamwood via Hatfield and St Albans (2 services per hour on weekdays). Full details of the baseline conditions are at Section 3 of the Transport Assessment (CDC4, pg. 9-22). The Appeal Proposal includes enhancements to pedestrian/cyclist routes and public transport infrastructure through agreed conditions and proposed Section 106 obligations;
  - iii. The site is within the borough's main town where existing and planned infrastructure can support the proposed level of development. The proposal would deliver the key benefit of financial contributions to community infrastructure.
  - iv. The development would provide greater footfall to established commercial uses in Welwyn Garden City town centre, and emerging uses within the approved Wheat Quarter. The increased activity and spending would encourage economic growth through the multiplier effect and, ultimately, the proposals would enhance the vitality and viability of these centres. The development would contribute to the emerging local mixed-use community in the Broadwater Road West Opportunity and form a key element of the regeneration of this area of Welwyn Garden City. The appeal scheme proposes extensive landscaped public open space and public realm which creates opportunities for the local community to mix and to integrate the site and its future residents to the surrounding town.



- v. There are no physical or environmental constraints that preclude the redevelopment of the site. It is an urban, previously developed site in Flood Zone 1 and does not have any landscape or environmental designations. It is not within a Conservation Area, nor are there any statutorily or locally listed buildings on the site.

4.7 Criteria i) to v) of the first part of Policy H2 are met.

4.8 The criteria in Part 2 are not relevant because the proposal would not lead to an oversupply of housing in Welwyn Hatfield. The Council's latest Annual Monitoring Report (2021) (CD notes that the borough's housing land supply is 2.46 years. In his proof of evidence, Mr Alex Roberts Expert Witness on Housing Mix, (CDF9, pg. 41, para. 7.1.5) sets out that the housing shortage is more severe, at 1.75 years housing land supply.

4.9 It is a matter of common ground between the Appellant and the Council that there is a considerable shortfall of housing land in Welwyn Hatfield (CDD1, pg. 20, para. 6.8). The delivery of 289 homes would make a significant contribution to meet this shortfall.

#### Policy D1 (Quality of Design)

4.10 Paragraphs 320-324 of the Appeal HTVIA (CDF1, Appendix 6, Appendix 1, pg. 48) respond to the 'character' and 'continuity and enclosure' principles of Policy D1.

4.11 The improvement to the character of the existing area because of the Appeal Proposal is established in both heritage assessment and townscape assessment in the Appeal HTVIA. The merits of the Appeal Proposal are set out and supported by Mr Stephen Levrant, RIBA AADIP DIPCONS (AA) FRSA ACARCH IHBC, Expert Witness on Townscape and Heritage, in his proof of evidence.

4.12 As Mr Levrant advises, (CDF7, pgs. 50-56, paras. 7.5.44-72), the Appeal Proposal complies with the objectives of Policy D1 and achieves the high quality of design sought by the policy.

#### Policy D2 (Character and Context)

4.13 The design proposals are a contemporary reference to the distinctive design principles of the Garden City. A context study of architecture in proximity to the site and broader Garden City design principles is included in Section 2 of the application Design and Access Statement (CDC1). This is elaborated on and explained further the proof of evidence by Mr Simon Camp, BA (Hons) Arch. Pg Dip. Arch. RIBA, Expert Witness on Design and Architecture (CDF5).

4.14 The Appeal HTVIA (CDF1, Appendix 6, Appendix 1, Section 11) concludes upon the heritage assessment and the townscape assessment that the Appeal Scheme does enhance and improve the character and context of the existing area.

4.15 I concur with the evidence provided by Mr Camp and Mr Levrant, which leads me to conclude that the design proposals respect, relate to, and significantly enhance the character of the surrounding area. The Appeal Proposal complies with Policy D2.

#### Policy SD1 (Sustainable Development)

4.16 The Appeal Proposal comprises sustainable development and meets the objectives and policies of the Local Plan. The sustainability checklist requested by Policy SD1 was completed and submitted in support of the application (CDC9, Appendix B).

Policy GBSP2 (Towns and Specified Settlements)

4.17 The Appeal Proposal complies with Policy GBSP2 because it proposes development within the town of Welwyn Garden City. Alongside Hatfield, Welwyn Garden City is the focus for new development.

Policy R1 (Maximising the Use of Previously Developed Land)

4.18 The appeal proposes the redevelopment of previously developed land, thereby fulfilling the objective of Policy R1.

Policy EMP1 (Employment Areas)

4.19 There are no criteria within Policy EMP1, therefore the appeal scheme does not conflict with the policy.

Policy EMP2 (Acceptable Uses in Employment Areas)

4.20 The lack of demand for the existing facility for Use Class E(g)(ii) (formerly B1b) use is evidenced by the independent Marketing Report, commissioned by the previous owner, the University of Hertfordshire, and produced by Savills (CDC17). The report establishes that the facility is not required to meet future employment requirements or business needs. Factors leading to this conclusion include extensive refurbishment at a significantly high capital expenditure, which would not have been recouped even if the facility was subsequently at full occupancy, whilst the site is in the wrong location with a lack of demand for its use. Far greater attractive facilities are found in clusters nearer to places like Oxford and Cambridge. This meets the test of Policy EMP2 which permits non-employment uses.

4.21 The principle of the loss of the existing employment use, and that the site should be considered surplus employment land, has also been established through the draft Local Plan process. In the Local Plan Proposed Alterations - Additional Sites document (January 2020) (CDB5, pg. 99, para. 10.19), which set out the WHBC Officers' recommendations for additional site allocations to Councillors, it is concluded that:

*"The University of Hertfordshire has confirmed its intention to close the facility and the site has been marketed for sale... The building is understood to need modernisation at considerable costs to attract life science occupants. Marketing evidence submitted indicates limited interest in the site for specialist B class users. On balance, it is considered that the specialist nature of the buildings and the investment requirement could make the site difficult to sell or let and the contribution the site could make to housing land supply outweighs the loss of employment land."*

4.22 The acceptability of the loss of employment use is an area of common ground between the Council and the Appellant (CDD1, pg. 20, para. 6.7).

4.23 The Appeal Proposal complies with the relevant criteria in Policy EMP2 by:

- i. Proposing small-scale employment-generating development (comprising a 112.4sqm community hub in café/ gym use) that would not generate an unacceptable demand for housing in the travel to work area;
- ii. Having no unacceptable impact on local and strategic transport infrastructure, as evidenced by the support from the Highway Authority;
- iii. Causing no harm to the amenities of nearby residential properties, including daylight and sunlight, outlook and privacy; and

- iv. Providing adequate parking, servicing and access, as set out elsewhere in this Statement, and evidenced by the Highway Authority and WHBC Client Services consultee responses.

4.24 The Appeal Proposal also complies with the design policies of the Local Plan, as I have addressed above. Therefore, full compliance with Policy EMP2 is achieved.

4.25 I add here that that reuse of the site for another use, such as a community facility, would not make the most effective use of the land, particularly in a borough with an acute housing shortage, as required by the NPPF. I address this in more detail in the NPPF section, below.

#### Policy EMP3 (Mixed Use Development Site at Broadwater Road West)

4.26 The proposal to redevelop the site for residential use complies with the regeneration objectives and uses sought within the Broadwater Road West Opportunity Area by Policy EMP3.

4.27 As set out above, the Appeal Proposal complies with Policy EMP2. Elsewhere in my evidence, it is established that the proposal complies with other relevant Local Plan policies, as well as the Development Brief (which was later adopted as the Broadwater Road West SPD, 2008). The latter requirement is addressed in the Other Material Planning Considerations section.

#### Policy R25 (Works to Listed Buildings)

4.28 As set out in Section 6 of the Appeal HTVIA (CDF1, Appendix 6) the Appeal Proposal will not have an adverse effect on any listed building or its setting. By contrast, the two listed buildings nearby will experience a positive (minor beneficial) impact, and the high value listed building (Hatfield House) will experience a neutral impact.

#### Policy R28 (Historic Parks and Garden)

4.29 When consulted on the application, Historic England did not object in principle to the redevelopment of the site (CDC20, pg. 31, para. 197 and 199). However, concerns were raised that the mass of the building would increase the visibility of the site from Hatfield House, Park and Garden (Grade I Listed). Ultimately, Historic England concluded that the development would cause less than substantial harm, low in scale, to these heritage assets.

4.30 Bidwells produced an HTVIA (CDC12) that was submitted in support of the application. To support the appeal, the application HTVIA has been independently reviewed and supplemented in the Appeal HTVIA (CDF1, Appendix 6, Appendix 1) prepared by SLHA. Mr Levrant provides additional expert opinion in his Proof of Evidence.

4.31 With respect to the impact on Hatfield House Park and Garden, at Paragraphs 199-202, the Appeal HTVIA (CDF1, Appendix 6, Appendix 1, pg. 31) finds that the Park and Garden stands at too great a distance (being c. 3km away) from the Appeal Site with too much intervening townscape to be considered part of the asset's setting. There is no visibility of the Appeal Proposal from ground level within the park. The HTVIA concludes the Appeal Proposal would have no impact, thus constituting no harm to the registered Park and Garden. Paragraph 331 of the Appeal HTVIA (CDF1, Appendix 6, Appendix 1, pg. 54) responds to Policy R28.

#### Policy H6 (Densities)

4.32 The Appeal Proposal complies with Policy H6's expectation for higher density development to be suitable in central locations. The proposal is of an appropriate density that combines the efficient use of land with high quality design and reflects the site's accessible location near to the train station and town centre.

The design section of Policy H6 is dealt with in the Appellant's response to design policies is addressed in the Appeal HTVIA (CDF1, Appendix 6, Appendix 1) and by Mr Levrant in his Proof of Evidence.

#### Policy H7 (Affordable Housing)

- 4.33 Policy H7 targets 30% affordable housing provision within development proposals such as the Appeal Proposal. WHBC's Planning Obligations SPD is relevant to the application of Policy H7. The SPD recognises that affordable housing contributions attributed to a scheme can affect the financial viability of a development proposal. In these circumstances, an Applicant for planning permission would be expected to submit a viability appraisal and pay for the Council to have this appraisal independently reviewed and verified.
- 4.34 The Appellant submitted a Financial Viability Appraisal ("FVA") in support of the application which concluded that the proposed development could not viably provide affordable housing. The Council's appointed independent reviewer, Aspinall Verdi, agreed with this conclusion. This is accepted in the Committee Report (CDC24, pg.36, paras. 9.181-9.184).
- 4.35 The conclusion of the Appeal Proposal being 'non-viable' remains. Mrs Petrina Froud, Expert Witness on Viability, elaborates on this position in her proof of evidence. She also considers an alternative mix, linked to Mr Roberts' considerations on Housing Mix, demonstrating a more severe non-viable scheme.
- 4.36 Despite the Appeal Scheme being accepted as technically 'non-viable' by the Council's independent assessor, and thus the inability to provide affordable housing in line with the policy threshold, the Appellant proposes 10% on-site affordable housing provision, comprising 29 units of shared ownership tenure.
- 4.37 The proposed 29 units will contribute to the borough's chronic affordable housing shortage. The Affordable Housing Statement (CDC8, Section 8.0, pg. 70, paras. 8.1-8.14) set out the affordable housing need at the time of the planning application submission in December 2020. It is understood that there is no change to the position.
- 4.38 The Council's latest Annual Monitoring Report (AMR) (CDB10, pg. 37, Table 19, WelHat AMR) shows that since 2013/14 the average number of affordable housing completions as a proportion of total completions per annum is 13.2% or in absolute terms 55 units. This is substantially below the 818 affordable homes per annum required up to 2022 (and thus 602 thereafter up to 2032) to clear the backlog of unmet need, as identified in the Welwyn Hatfield Strategic Housing Market Assessment (SHMA) Update 2017 (CDB20, pg.62, para 4.137). It is clear to see that the Development Plan is not delivering affordable new homes for the local community.

#### Policies M4 (Developer Contributions) and IM2 (Planning Obligations)

- 4.39 To ensure the Appeal Proposal makes appropriate financial contributions towards infrastructure, services and facilities to provide the mitigation sought by Policy M4 and IM2, the suite of conditions have been agreed between the Appellant and the Council (CDD1; pg. 19, para. 6.3 and CDC24, Section 11) and planning obligations will be dealt with under draft Section 106.

#### Conclusion: Development Plan

- 4.40 In the preceding section I identify no conflicts between the Appeal Proposal and the Development Plan. Therefore, I conclude that allowing the appeal would clearly accord with the statutory Development Plan when read as a whole.

4.41 I now turn my attention to other material planning considerations.

**B. National Planning Policy Framework (CDA1)**

4.42 The latest version of the NPPF was released in July 2021

4.43 Of the three overarching objectives to achieving sustainable development, as set out in Paragraph 8, Part b (a social objective) is of greatest relevance. The Appeal Proposal will make a significant contribution to supporting a strong, vibrant community, through the delivery of a number and range of homes that will meet the needs of present and future generations. Its design is of such high quality that it will foster a beautiful and safe place with an abundance of open space that reflects current and future needs and support the health, social and cultural well-being of the local community.

4.44 Paragraph 60 sets out the Government's longstanding objective to significantly boost housing land supply and requires that land with permission is developed without delay. The Appellant is the site owner and is in full control of its future. The Appeal Site is therefore available and deliverable. Indeed, the Appellant is readily agreeable to a planning condition requiring development to begin in a shorter time period than a standard 3-year requirement. This commitment also reflects the objective of the Paragraph 77 to expedite housing delivery.

4.45 Paragraph 74 requires Councils to identify and maintain a supply of specific deliverable sites to provide a minimum of five years' worth of housing against their housing requirement. Where there has been significant under delivery of housing over the previous three years (footnote 41 defines this as a Housing Delivery Test result below 85% - which applies to Welwyn Hatfield), a 20% buffer must be added to the housing supply (Paragraph 74c). The consequences of failing to demonstrate a 5 year housing land supply are set out in footnote 8 of paragraph 11d.

4.46 Paragraph 11d (ii) advises that, *where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date*[footnote 8]<sup>1</sup>, *granting permission unless:*

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed*[footnote 7]<sup>2</sup>; or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*

4.47 Paragraph 11d underpins the appellant's case and is something that I return to in the Planning balance section at the end of my evidence.

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<sup>1</sup> This includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 74); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years.

<sup>2</sup> The policies referred to are those in this Framework (rather than those in development plans) relating to: habitats sites (and those sites listed in paragraph 181) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 68); and areas at risk of flooding or coastal change.

- 4.48 The Appeal Proposal meets many of the objectives of the NPPF. Fundamentally, it will deliver 289 new homes in a sustainable location on available brownfield land in a borough that cannot demonstrate a 5 year land supply.
- 4.49 The Appeal Proposal would make effective use of land to meet the need for homes, thereby meeting the objective of Paragraph 119. The current lawful use of the BioPark facility is Research and Development (Use Class Eg(ii)). It ceased operation in 2019. Marketing evidence (CDC17) demonstrating the facility is no longer suitable for the location has been accepted by the Council. The current use is an ineffective use of brownfield land.
- 4.50 The Appeal Site is located within the settlement boundary of Welwyn Garden City close to the town centre and railway station. It is therefore deemed a suitable site for housing, a point that is reflected by the Council in proposing its allocation for housing in the draft Local Plan. The Appeal Proposal will deliver 289 new homes for the borough. Paragraph 120c requires substantial weight to be given to the value of using suitable brownfield land within a settlement for homes.
- 4.51 The ineffective use of brownfield land coupled with the sustainable location makes the Appeal Site under-utilised land. Land supply is very constrained in Welwyn Hatfield; it is common ground that the Council cannot demonstrate a 5 year land supply. The Appeal Proposal represents 1.9% of the Council's latest OAN figure (15,200 dwellings over the plan period, equivalent to 800 per annum) (CDB20, pg. 97, paras. 6.33 and 6.36). It would therefore make a significant contribution towards meeting identified needs for housing in Welwyn Hatfield and is aligned with Paragraph 120d.
- 4.52 This last point crosses over with Part 5 of the Framework, which underlines the Government's commitment to significantly boost the supply of new homes. In accordance with Paragraph 60, the Appeal Proposal brings forward land for residential development in an area of identified need.
- 4.53 In addition to my previous point on the Appeal Proposal making effective use of land, it also achieves the efficient use of land. My basis for this conclusion is aligned with Paragraph 124 and the listed points of consideration:
- a) There is an identified need for different types of housing. The Appeal Proposal proposes a mix (129 x 1-bed (44%); 126 x 2-bed (44%); 26 x 3-bed (9%); and 8 x 4-bed (3%)) that fulfils an identified need. This is set out in detail in Mr Alex Roberts' Proof of Evidence. Whereas, I have set out earlier the availability of the Appeal Site and its suitability for accommodating the Appeal Proposal.
  - b) Market evidence, produced by Lambert Smith Hampton, was submitted with the planning application (CDC8, Appendix 6, pg.120). It demonstrated market demand, predominantly for 1 beds and 2 beds, in the locality. A Financial Viability Appraisal, by Kempton Carr Croft, was also submitted (CDC16). It showed that the scheme on the basis of the proposed mix is non-viable. This is not contended by the Council. Additional evidence is submitted (CDF11, Section 5.0, pg. 13-15) inclusive of sensitivity testing based on different mixes with a greater proportion of 3-bed and 4-bed units, which shows the non-viability to be worse. This proves the Appeal Proposal's mix is the optimum level, when taking into account other considerations (townscape, heritage, etc). Otherwise, taken in isolation a greater density is required to make the scheme viable.

- c) The Appeal Site is in a sustainable location being within walking distance of the railway station and town centre. Bus stops serving local routes are also located on Broadwater Road, the northbound stop being adjacent to the site access and southbound stop just 50m from the Appeal Site. Financial obligations associated with the Appeal Proposal amount to c.£2.93M towards improvements to community infrastructure and services (CDF11, pg. 56, para. 3.7 and 3.8, and CDF25) whilst measures to promote sustainable travel modes are set out in the Framework Travel Plan (CDC5).
- d) By regenerating the Appeal Site, the area's prevailing character and setting will be improved by the Appeal Proposal. Whereas the quality of its design and attractiveness (paragraph 124e) has been a core objective of the Appellant. This is covered in detail by Mr Stephen Levrant's Proof of Evidence.
- e) The Appeal Proposal credentials as a healthy place is set out in the Health and Wellbeing report (CDC10). Notwithstanding its sustainable location, the design is supported by a comprehensive landscape strategy which proposed features such as child playspace, a small orchard and a total area of 3,000sqm of public open space, 800sqm of communal space, 16.4sqm per unit of private amenity space, as well as a community hub which could support a gym.

4.54 With regards to paragraphs 110 and 112, I refer to Mr Neil Marshall's, BSc (Hons) CMILT MCIHT, Proof of Evidence.

4.55 The design criteria of Paragraphs 130 and 134 are dealt with by Mr Stephen Levrant in his Proof of Evidence. Notably, the proposal achieves the exceptional design quality sought by Paragraph 134b of the Framework and significant weight should be afforded to this benefit.

4.56 Before leaving the NPPF, I will comment briefly upon other paragraphs the appellant relies upon, as follows:

NPPF Paragraph	My Comment
Para. 92 addresses healthy and safe communities .	The Appeal Proposal the scheme would support a high standard of living and enhanced health and wellbeing for residents.
Para. 105 promotes development in sustainable locations	The Appeal Proposal focuses housing development in a location which is sustainable, where the need to travel is limited and a genuine choice of transport modes are available.
Para. 125 seeks development to make optimal use of land, especially in areas where there is an existing shortage of land, and avoid homes being built at low densities.	The Appeal Proposal will contribute to addressing an existing shortage of land at a high density, appropriate for the locale. It will therefore make optimal use of the land.

**C. Draft Local Plan Proposed Submission Document (2016) (CDB2)**

4.57 Notwithstanding the current position over the Council's OAN and the pause to the Examination in Public, the Draft Local Plan is subject to proposed main modifications (CDB3). Those which are relevant to the Appeal Proposal are listed in CDF1, pg. 30, para. 7.54 and Table 3.

- 4.58 In accordance with NPPF Paragraph 48, it is my view that policies relating to housing supply and delivery be given low weight owing to the extent of the unresolved matter of OAN and the large degree of inconsistency with Paragraph 74 (5 year land supply). Other policies can be broadly afforded up to moderate weight given the Draft Local Plan is at Examination in Public stage.
- 4.59 As with the previous section, I will first tend to the policies cited in the Reasons for Refusal (SP7, SP4, SADM2, SADM3). I will then address other relevant policies.

#### Policy SP7: Type and Mix of Housing

- 4.60 Despite the Appeal Proposal providing a greater proportion of 1- and 2-bed flats than the implied need identified, the Technical OAN Paper (2019) (CDB19), which is the latest housing needs assessment adopted by the Council, is clear that these mix figures are an “*illustrative interpretation of historic evidence*”, and cautions:

*“While it is appropriate to use this analysis to guide policy and monitoring at borough level, it is recommended that policies are not overly prescriptive in directly basing requirements for individual sites on the illustrative mix presented above. The individual mix of housing provided on a site-by-site basis will need to respond to the changing demands and needs of the market, and take account of local market evidence and viability considerations.”* (pg. 23, para. 6.23)

- 4.61 The estimated housing mix in the Technical OAN Paper should not be applied rigidly. The identified housing mix needs to be delivered across the whole emerging Local Plan period and achieved by the delivery of multiple and varied sites. In his proof of evidence, Mr Robert’s goes into the detail of housing mix and the grounds for which the proposed mix is appropriate.
- 4.62 The proportions of M4(3) and M4(2) dwellings proposed are agreed with WHBC.
- 4.63 The proposal will deliver a variety of unit types and sizes in a mix that is appropriate for the Appeal Site’s urban and accessible location. It will contribute towards meeting the OAN for the borough, local market demand, and WHBC’s objective to create mixed communities.
- 4.64 With respect to affordable housing, draft Policy SP7 states that, subject to viability, 30% affordable housing will be sought on sites in Welwyn Garden City providing 11 new dwellings or more. Draft Policy SP7 prioritises the delivery of affordable housing on-site versus off-site provision or the payment of a commuted sum.
- 4.65 I have already addressed the Appellant’s position on viability. In short, it has been demonstrated that the Appeal Proposal is ‘non-viable’ based on a 100% private housing proposal. This is verified by Mrs Froud in her Proof of Evidence (CDF11).
- 4.66 I have also already set out my thoughts over the Council’s extremely poor record of delivering affordable housing and shall not repeat them here.

#### Policy SP4 (Transport and Travel)

- 4.67 The Appeal Proposal’s compliance with the principles of this policy is set out in detail in Mr Neil Marshall’s, Expert Witness on Transport, Proof of Evidence. I agree with the evidence presented by Mr Marshall.



4.68 SP4 refers to the Council working with a number of parties, including developers to “...*fund improvements to transport infrastructure where these are necessary to support growth or improve accessibility...*”. The Appellant has agreed with Council the following transport-related contributions:

- i. £100,000 financial contribution towards a bus serve to enable the provision of an additional 4 hours evening service and 12 hours Saturday/Sunday services for the number 601 bus for two years;
- ii. £92,772 financial contribution towards packages PK14 of the South Central Growth and Transport Plan;
- iii. £6000 monitoring fee for the implementation of the scheme Travel Plan;

#### Policy SADM2 (Highway Network and Safety)

4.69 It is a matter of common ground (CDD1, pg, 24, para. 6.27) that the part of draft Policy SADM2 relevant to RfR 2 is criteria iv) (provision of satisfactory levels of parking); the Appellant understands RfR2 relates to the number of car parking spaces to serve the residential units only.

4.70 The Transport Assessment (TA) (CDC4) shows compliance with all other parts of SADM2, namely the provision of a TA, no negative impacts on highway safety and safe and suitable means of access and site operation. More detail can be found in Mr Neil Marshall’s proof of evidence.

4.71 Mr Marshall presents a strong case for the level of proposed residential car parking provision being sufficient and fully justified in line with criteria iv) of draft Policy SADM2.

4.72 The Appellant’s position is fully supported by HCC as Highway Authority, whereas WHBC Parking Services did not object to the Appeal Proposal.

#### Policy SADM3 (Sustainable Travel for All)

4.73 The appeal proposal responds to each of the criteria in draft Policy SADM3. Again, Mr Marshall sets this out in detail in his proof of evidence and demonstrates a strong case, which underpins the compliance with the policy.

4.74 The acceptability of the highways, access, parking, and servicing arrangements was agreed by HCC as Highway Authority.

#### Policy SP1 (Delivering Sustainable Development)

4.75 The Appeal Proposal meets the core objectives of Policy SP1, as follows: supporting economic growth, increasing the supply of housing, prioritising the development of previously developed land, minimising the need to travel, and avoiding development within areas of highest environmental value or high flood risk.

4.76 The Appeal HTVIA (CDF1, Appendix 6) and evidence provided by Mr Levrant confirms that the heritage assets in the borough will be protected and enhanced. The Appeal Proposal responds to the climate change objectives of Policy SP1, incorporating energy efficiency measures, renewable energies and sustainable urban drainage systems.

### Policy SP2 (Targets for Growth)

4.77 Draft Policy SP2 sets development targets for the borough, including reference to maintaining 294.1ha of existing employment land, and providing the 12,000 new dwellings allocated within the Submission Draft Local Plan. Since the publication of the draft Local Plan, the principle of the loss of the existing employment use has been established and is a matter of common ground between the Council and the Appellant (CDD1, pg.20, para. 6.7). At the time of writing, the Council are proposing Main Modifications to the Submission Draft Local Plan that would increase the housing target and allocate the Appeal Site for residential development. This is reflected in my response to Policy SP17 below.

### Policy SP3 (Settlement Strategy and Green Belt Boundaries)

4.78 The Appeal Proposal is wholly supported by Draft Policy SP3. Development is proposed within the urban area of Welwyn Garden City, which is the primary focus for new development in the borough. The proposed residential uses will bring increased activity and spending, and new jobs in the construction and operational phases, which in turn will reinforce Welwyn Garden City's role as the borough's principal centre for economic activity. Residential redevelopment of the urban previously developed Appeal Site will assist with protecting Green Belt areas elsewhere in the borough, in line with Policy SP3's objectives.

### Policy SADM15 (Heritage)

4.79 The Appeal HTVIA (CDF1, Appendix 6) and the expert opinion of Mr Levrant establishes that the Appeal Proposal respects the setting of heritage assets in terms of design, scale, materials and impact on key views. In fact, it is concluded that there would be an enhancement to the former Shredded Wheat Factory, former Roche Office Building and Welwyn Garden City Conservation Area. I have no reason to disagree with this conclusion.

4.80 It is agreed between the Appellant and the Council that there would be no harm to in Welwyn Garden City, namely the former Shredded Wheat Factory, former Roche Office Building and Welwyn Garden City Conservation Area, and Peartree Conservation Area , as a result of the appeal proposals (CDD1, pg. 22, para 6.16).

### Policy SP15 (The Historic Environment of Welwyn Garden City)

4.81 It is an area of common ground that the proposals will cause no harm to the heritage assets within Welwyn Garden City (CDD1, pg .22, para 6.16).

### Policy SP9 (Place Making and High Quality Design)

4.82 Draft Policy SP9 sets out general design objectives of the emerging plan. The scheme is assessed against the relevant objectives at Paragraphs 332 to 342 of the Appeal HTVIA (CDF1, Appendix 6) and Mr Levrant's proof of evidence (CDF7). Additional evidence is provided by Mr Camp (CDF5).

4.83 The draft policy suggests an appropriate density for the borough is typically 30-50 net dwellings per hectare. It recognises the efficient use of land must be balanced with high quality design that respects character and context. In addition, it encourages higher density development in accessible locations, such as around transport hubs or town centres.

4.84 The policy adds that taller buildings should respond positive to the following matters within their design solution:

- i. *Clustering with other existing or proposed taller buildings within the immediate and wider area* - the site is located within an Opportunity Area, where approved precedent developments adjacent to the site are of up to 9 storeys.

- ii. *Long distance views* – See Paragraph 342 of Appeal HTVIA (CDF1, Appendix 6, Appendix 1).
- iii. *Impact on skyline, townscape, historic assets and landscape* – see Paragraph 342 of Appeal HTVIA (CDF1, Appendix 6, Appendix 1).
- iv. *Shadowing* - The proposed breaking up of massing compared to the existing building increases permeability through the site as well as light penetration, particularly to the recently completed residential development on the former Roche products site to the east. This is verified by the application Daylight and Sunlight report (CDC14), which finds that a number of neighbouring properties would experience an increase in daylight and/or sunlight availability as a result of the proposals. An excellent level of adherence to the BRE guidelines is achieved, particularly considering the site’s urban location. The results have been independently reviewed by WHBC’s advisors and are a matter of common ground (CDD1, pg. 23, para 6.21).
- v. *Micro-climate and wind tunnelling* – At two to nine storeys, the Appeal Proposal is lower rise than the scale of development (typically over 11 storeys) that would be at risk of causing adverse wind effects. Therefore, when considered in isolation or cumulatively with other developments in the surrounding area, the Appeal Proposal is unlikely to give rise to micro-climate or wind tunnelling effects.
- vi. *Relationship and interaction with the street and human scale* – see Paragraph 342 of Appeal HTVIA (CDF1, Appendix 6, Appendix 1).

Policy SP13 (Infrastructure Delivery)

4.85 The Appellant and Council have agreed conditions (CDC24, pg. 41-59) and planning obligations will be secured under the draft Section 106 obligations to secure appropriate infrastructure provision to support the development.

Policy SP17 (Mixed use development site at Broadwater Road West)

4.86 The Appeal Proposal would contribute to draft Policy SP17’s objectives to accommodate approximately 1,020 new homes in the Broadwater Road West Opportunity Area. The proposal would assist with the creation of a sustainable neighbourhood in the Opportunity Area and proposes development at an appropriate density for the Appeal Site’s central location.

4.87 In the Submission Draft Local Plan, the Appeal Site itself is to be retained in Class B1b use unless it can be demonstrated that it is no longer suitable for use as a research facility or it is re-provided elsewhere in the borough. However, in January 2021, Policy SP17 was amended in the Proposed Main Modifications to the Submission Draft Local Plan. Policy SP17 no longer seeks to retain the Appeal Site for employment but instead seeks to allocate it for residential uses, with an indicative capacity of 250 dwellings (see CDB3, pg. 67 and 68). This provides clear emerging policy justification to support the principle of residential development at the Appeal Site.

**D. Broadwater Road Opportunity Area SPD (2008) (CDB4)**

4.88 With regard to the Appeal Site, the SPD says:

*“The BioPark buildings located in the south western corner of the site are occupied by the University of Hertfordshire and provide a unique facility for bioscience and health technologies. The SPD does not therefore propose the redevelopment of this part of the site as it recognises the economic development potential of the facility for the town, which should be supported through the redevelopment of the rest of the land.”*

- 4.89 The SPD should be afforded low weight for the following reasons:
- i. It was adopted in 2008 and is outdated, as demonstrated by the context of emerging development within the Opportunity Area, which comprises fundamental inconsistencies with the design guidance..
  - ii. It is based on out-of-date national policy, which preceded the NPPF, and an out-of-date evidence base.
  - iii. It does not consider the redevelopment of the Appeal Site and therefore the design principles cannot necessarily be rigidly applied.
  - iv. It does not account for the change in ownership of the Appeal Site and marketing evidence that it is no longer suitable for Research & Development use.
  - v. It does not account for the Council's current stance towards the preferred use for the Appeal Site for residential use (Site Allocation: pea102).
- 4.90 The decreasing relevance of the SPD is evidenced by recent permissions in the Opportunity Area for developments that depart from the land use, density and design principles of the SPD. Further detail is at Paragraphs 6.18 and 6.20 of the application Planning Statement (CDC8, pg. 30).
- 4.91 The design proposals have accounted for the parts of the Broadwater Road West SPD that can be considered to remain relevant to the Opportunity Area (an assessment of which is provided at Section 10.4 of the Appeal HTVIA – CDF1, Appendix 6, Appendix 1, pg. 55). This has been done so in the spirit of the SPD, encouraged by the collaborative approach between the Appellant and the Council during pre-application engagement, and is not an admission as to its validity to the Appeal Site. Although, notably, the retention of the Appeal Site in its current built form in the SPD indicates an historic acceptance of a tall building and large mass.
- 4.92 The fundamentals and thrust of the SPD have diminished over time as development has come forward within the Opportunity Area and the draft Local Plan has progressed through the final stages of Examination towards adoption. This underpins the assessment of the Appeal Proposal in line with the criteria in the SPD, which is provided in the Planning Statement (CDC8, pg. 29 and 30, para. 6.17-6.21).

**E. Wheat Quarter Planning Permissions (Refs 2015/0293, N6/2015/0294/PP & 6/2018/0171/MAJ) (CDF12-16)**

- 4.93 The extant planning permissions for the Wheat Quarter to the immediate north of the Appeal Site are material planning permissions. The following principles of the most recently approved scheme (reference 6/2018/0171/MAJ - CDF14) are of particular relevance:
- i. Land use - the approved Wheat Quarter development comprises residential-led mixed-use development, including 1,340 dwellings, 114 extra care homes, health, community, office, retail, gym, restaurant, and café uses. The redevelopment of the site follows on from the demolition of the majority of the previous employment buildings on the site (as approved under application 2015/0293).
  - ii. Parking ratios - the Wheat Quarter scheme was approved with a site-wide car parking ratio of 0.7 spaces per dwelling, and a ratio of 0.73 within the southern side of the site. In comparison, the Appeal Proposal parking ratio, at 0.76 spaces per dwelling, exceeds the provision within the approved Wheat Quarter scheme. When disregarding visitor and car club spaces in the southern side of the Wheat Quarter scheme, residential spaces equated to 0.57 spaces per unit whereas the Appeal Proposal equates to 0.68 spaces per residential unit.
  - iii. Heights - the buildings approved in the Wheat Quarter scheme range in height from 5 to 9 storeys. The Appeal Proposal includes buildings from 2 to 9 storeys.

- iv. Density - the net density of the Wheat Quarter scheme is 201dph compared to 233dph within the Appeal Proposal.
- v. Mix – the approved Wheat Quarter housing mix compared to the Appeal Proposal is:

<b>Beds</b>	<b>Wheat Quarter</b>	<b>Appeal Proposal</b>
1B	653 (49%)	129 (44%)
2B	592 (44%)	126 (44%)
3B	95 (7%)	26 (9%)
4B	0	8 (3%)

- vi. A higher proportion of 1B and 2Bs was allowed. Amongst other things, this is likely due to the Wheat Quarter’s sustainable and accessible location.

4.94 Notwithstanding the need to assess every application individually on its own merits, the Appeal Proposal is fundamentally within the scope of the development granted planning permission on the neighbouring Wheat Quarter site.

**F. Land Ownership (CDC27)**

4.95 The Appeal Site is owned outright by the Appellant. In line with the definition set out in the NPPF Glossary, it is arguable that the Appeal Site is *deliverable*; it is available now, it offers a suitable location for development now, and it’s achievable with a realistic prospect that housing will be delivered on the site within five years. Although it cannot be demonstrated to accord with the express criteria set out in the Glossary, it is my view that the Appeal Site is implicitly deliverable.

4.96 The Appeal Proposal can be built out within two years of demolition being completed. To secure the Appellant’s commitment to deliver the Appeal Proposal in the short term, the Appellant is agreeable to a planning condition requiring the commencement of development with 2 years from the date of the decision notice.

4.97 The Appellant’s offer reflects Paragraph 77 of the NPPF.

**G. National Design Guidance (CDA2)**

4.98 The Appeal Proposal’s compliance with the NDG is set out in the Statement of Case (CDF1, pg, 31, paras. 7.56-7.58).

**H. Town & Country Planning Association (TCPA) – Garden City Principles (2020) (CDA3)**

4.99 A key driver of the design proposals is the TCPA’s Garden City Principles for the 21<sup>st</sup> Century. The Appeal Proposal realises the objective of providing beautifully and imaginatively designed homes which are complemented by attractive green spaces for the local community. A context study of architecture in proximity to the Appeal Site and broader Garden City design principles is included in Section 2 of the Design and Access Statement (CDC1, pg.23-27) that supported the application

4.100 Table 3 in the Health and Wellbeing Statement (CDC10, pg.15, para, 4.6) and the Planning Statement (CDC8, pg. 52-53, para. 7.66) that supported the application provides an assessment of the scheme against the TCPA Garden City principles. The conclusion is a high level of adherence to the core principles.

**I. Design SPD (2005) (CDB6)**

4.101 WHBC's design SPD provides guidance on the design and layout of new development to supplement the policies in the District Plan. The Appellant's response to design-related policies in the Development Plan equally applies to the Supplementary Design Guidance.

**J. Parking Standards SPG (2004) & Interim Car Parking and Garage Size Policy (2014) (CDB7 and CDB8)**

4.102 Full details in response to the parking guidance and interim policy is given in Mr Neil Marshall's Proof of Evidence (CDF3, pg, 38-39, paras. 5.3.6-10).

**K. Hertfordshire Local Transport Plan 4 (2018) (CDB12)**

4.103 Full details in response to the Hertfordshire Local Transport Plan 4 (2018) is given in Mr Neil Marshall's Proof of Evidence (CDF3, pg. 40, paras. 5.3.13-14).

**L. Planning Obligations SPD (2012) (CDB9)**

4.104 The Appeal Proposal aligns with the guidance in the SPD. The planning obligations were agreed between the Appellant and the Council prior to the application being refused. They will be included in the draft s106 agreement (CDF25).

**Summary**

4.105 I have summarised document by document the extent to which the Appeal Proposal fits with the relevant planning policies and related material. In the case of the development plan policies, I have identified no incompatibilities. The Appeal Proposal clearly complies with the development plan read as a whole.

4.106 The question then arises: are there any other material considerations which would point in a different direction? I have identified none. Indeed, the other material considerations I have noted all point in a favourable direction.

## 5.0 Planning Balance, and Conclusions

5.1 I now turn now to the planning balance for the Appeal Proposal.

5.2 Paragraph 11 of the NPPF sets out:

*“Plans and decisions should apply a presumption in favour of sustainable development ... For decision-taking this means:*

*c) approving development proposals that accord with an up-to-date development plan without delay; or*

*d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date [footnote 8<sup>3</sup>], granting permission unless:*

*i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed[footnote 7<sup>4</sup>]; or*

*ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”*

5.3 The Welwyn Hatfield Local Plan was adopted in 2005 (with saved policies adopted in 2008) and covered the period up to 2011. All policies within the Development Plan are therefore time-expired and are not up-to-date. Hence, Paragraph 11c is not applied.

5.4 Policies in the Development Plan also pre-date the NPPF, having first been published in 2012. Further still, the Council cannot demonstrate a 5 year land supply whilst the 2021 Housing Delivery Test results show the delivery rate from 2018/19 to 2020/21 was 66%. This is substantially below (less than 75%) the Council's housing requirement over the previous three years.

5.5 In accordance with Paragraph 11d, footnote 8, the Development Plan policies are therefore deemed to be out-of-date.

5.6 The Development Plan policies are substantively out-of-date as well. They were based on a different national policy framework, which did not include the requirement for OAN. Indeed, the Development Plan was allocated 5,600 homes to be delivered over the period 1991-2011 by the (now abolished) Hertfordshire County Structure Plan (1991-2011) 1998. An obvious example of how outdated the Development Plan is.

5.7 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.

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<sup>3</sup> This includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 74); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years.

<sup>4</sup> The policies referred to are those in this Framework (rather than those in development plans) relating to: habitats sites (and those sites listed in paragraph 181) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 68); and areas at risk of flooding or coastal change.

- 5.8 The Appeal Proposal must be assessed against 11di and 11dii. 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.
- 5.9 Whilst not accepted by the Appellant, even accounting for Historic England's concerns, 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 and Paragraph 202 of the NPPF is satisfied. As a consequence, Paragraph 11di does not provide a clear reason to refuse permission for the proposed development, meaning an assessment under 11dii is necessary.
- 5.10 The characteristics and benefits that weigh in the Appeal Proposal's favour are summed up below. They are supported, where relevant, by my Expert Witness colleagues, as set out in their Proofs of Evidence:
- i. **Housing delivery** – Very substantial weight should be afforded to the delivery of 289 units. The Council has consistently under-delivered on housing provision and there is an extreme shortfall of housing in Welwyn Hatfield. The borough has a realistic housing land supply of only 1.75 years (or 2.46 years according to the latest Council figure). The Council's failure to adopt a new Local Plan in a timely manner or agree to a development strategy that meets the Borough's (unconfirmed) OAN suggests that housing supply is highly unlikely to improve in the short term. Even if the new Local Plan is adopted, it is not realistic that the significant shortfall in housing supply will be recouped. The Appeal Proposal uses an accessibly and sustainably located site to deliver, within a short timeframe (noting the Appellant's willingness to accept a shorter time-implementation condition), approximately 1.9% of Welwyn Hatfield's (unconfirmed) OAN for the emerging Local Plan period. The Proposal includes a sizeable proportion of family-sized units and wheelchair adapted dwellings. Granting planning permission for the Appeal Proposal will contribute to reducing the significant gap between housing need and supply.
  - ii. **Affordable housing provision** – Very substantial weight must be afforded to the delivery of a minimum of 29 affordable homes (despite the scheme being accepted as technically 'non-viable' by WHBC's independent viability consultant). The Council's Strategic Housing Market Assessment (SHMA) Update (CDB20, pg. 7, para. 20) sets out that 818 affordable homes are needed per annum between 2015 and 2020, plus 602 affordable homes needed annually thereafter. In the period between 2015/16 to 2020/21, the Annual Monitoring Report (CDB10, pg. 37, para. 5.26 and Table 19) confirms that 369 affordable homes were delivered annually, equivalent to just 62 affordable homes per annum, and resulting in a staggering affordable housing delivery shortfall of 4,539 homes (92%) over this period. There are 2,876 households on Welwyn Hatfield's Housing Register waiting list (CDB23, sheet C, cell E13). The proposed affordable housing provision will contribute towards resolving 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 brownfield land. The Appeal Site is previously developed, vacant, underutilised and available for development. The Appeal Proposal will contribute to the emerging mixed-use community in the Broadwater Road West Opportunity Area. There is significant pressure on the Borough's Green Belt and identified need to release Green Belt land to meet Welwyn Hatfield's housing needs. This lends further weight to the benefits of optimising the capacity of brownfield sites such as this.
- iv. **Townscape enhancements** - Enhancements to the quality of the townscape in the site's surroundings, creating a strong sense and identity in keeping with the Garden City Principles. As Mr Levrant concludes, the Appeal Proposal "*has sought to consolidate the aesthetic and historic identity of the surrounding area, taking cues from the varied character around the Appeal Site. In particular, the proposals have sought to retain the sense of industrial character through appropriate scale, massing and design,*" (CDF7, pg. 56, para. 7.5.71) Overall, Mr Levrant considers the Appeal Proposal to be, "*an appropriate response to its context that will have a positive impact on the Welwyn area and views from the Welwyn Garden City Conservation Area*" (CDF7, pg. 57, para. 8.1.4).
- v. **Exceptional design quality** - Welcomed by Mr Levrant, "*I consider the Appeal Scheme strikes a successful and carefully considered balance between the industrial and residential aesthetics representative of the Appeal Site location, and the "Garden City ethos"... "This is achieved through the architectural features which include industrial black framed windows and "art deco" influences, curves and contrasting domestic scaled mansard roofs and bronze dormers.*" (CDF7, pg. 52, para. 7.5.54)
- vi. **Employment generation** - New jobs in both the construction (c. 121 jobs) and operational stages (c. 13 jobs) leading to beneficial effects on the local economy. Provision of new publicly accessible open spaces and community hub gym or café bringing associated employment provision.
- vii. **Increased activity and spending** - Annual gross expenditure of new residents anticipated to be over £10M, contributing significantly towards local economic growth through the multiplier effect, and enhancing the vitality and viability of the town centre and Wheat Quarter commercial uses.
- viii. **Community infrastructure** - Financial contributions to community infrastructure totalling c.£2.93M, including contributions towards the upgrade/provision of NHS medical services, educational, childcare, youth, open space, play space, library and sustainable travel facilities.
- ix. **Public realm benefits** - Enhancements to the permeability of the area including providing a pedestrian link from the town centre and train station towards the northwest. There is 0.3 hectares of landscaped new open space proposed onsite which is to be publicly accessible, to the benefit of the local community. Landscaping improvements to the currently private, access road (BioPark Drive) to create a welcoming approach to the development.
- x. **Supporting health and wellbeing** - The proposals support an enhanced level of health and wellbeing for future residents, with a high standard of accommodation including ample communal and private amenity spaces for future occupants. Place Services (representing the Council at application stage) welcomed the amenity space provision as "*a triumph*" of the scheme that "*goes above and beyond*" what would ordinarily be expected. The application's supporting Health and

Wellbeing Statement confirms the proposal responds positively to all criteria within the NHS Healthy Urban Planning Checklist (2014).

- xi. **Play space provision** – Provision of play space equipment on site to accommodate the needs and wellbeing of children.
- xii. **Enhancing neighbouring amenity** - Breaking up of the monolithic massing of the existing building to improve the appearance of outlook and natural light penetration through the site to residential development in the east, resulting in improvements to light levels which have been independently reviewed and verified by WHBC’s daylight and sunlight consultant.
- xiii. **Biodiversity enhancements** - Extensive soft landscaping and green roofs resulting in a significant biodiversity net gain of over 700%. Support was given for the proposals from Natural England and the WHBC Landscape/Tree Officer at application stage, who concluded “*the proposed... landscaping is well thought out and is considered to be of a high standard*” that would “*improve the visual amenity of the site*”.
- xiv. **Energy efficiency** - The incorporation of renewable energy technologies, including photovoltaic panels and an air source heat pump, and fabric-first approach to achieve emissions savings of 12.86% (residential) and 13.86% (non-residential).
- xv. **Sustainable travel** - Encouragement of sustainable modes of travel through the provision of Electric Vehicle Charging Points, car club bay, cycle parking and Framework Travel Plan.
- xvi. **Reducing vehicle trips** - The Transport Assessment of the scheme predicts a net reduction in the number of vehicle trips to the site, with related benefits of improving highways safety and air quality in the vicinity of the site. The expected reduction in vehicle trips has been verified by Hertfordshire County Council as the local Highways Authority.
- xvii. **Surface water management** - An integrated SuDS system which will reduce flooding risk to the site and surrounding and brings additional benefits in terms of reducing pollution and enhancing biodiversity.

5.11 In my undertaking of balances, I sum up as follows:

- i. The Appeal Proposal accords with the Development Plan when read as a whole;
- ii. Even in the event the Inspector disagrees and finds that allowing the scheme would conflict with the Development Plan when read as a whole, other material planning considerations exist and indicate that permission should be granted nonetheless, as follows:
  - 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;
  - b. Overall compliance with draft policies in the Draft Local Plan, which attracts up to moderate weight;
  - c. The Broadwater Road West SPD 2008, which due to its age, erosion by the acceptance of non-compliant schemes elsewhere in the area and the fact that the Appeal Site sits outside of the SPD’s demise, attracts low weight;

- d. The approved Shredded Wheat Quarter scheme, which sets development parameters (i.e heights, parking ratios, mix, etc) and thus precedent, attracts moderate weight;
- e. The land ownership being within the Appellant's control and the commitment (by agreement to an appropriate time-limited condition) to deliver within the short term, attracts low weight;
- f. A planning obligations package which broadly aligns with the requirements within the Council's Planning Obligations SPD and financial contributions sought by various infrastructure delivery organisations amounting to £2.93M and 10% of Affordable Housing, despite the non-viability of the Appeal Proposal, attracts moderate weight; and
- g. Compliance with the National Design Guide (2021) and TCPA Garden City Principles (2020) attracts low weight.

iii. 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 aforementioned public benefits far outweigh that level of harm.

5.12 I have addressed the issues cited in the Reasons for Refusal as well as additional issues raised by Rule 6 parties. I find no grounds that persuade me to differ from my view that the Appeal Proposal should be awarded planning permission.

**Appendix 1 – Executive Summary of Savills Marketing Report (March 2020)**

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# BioPark, Broadwater Road, Welwyn Garden City AL7 3AX

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## Marketing Report – Existing Use

**REDACTED VERSION**



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## Executive Summary

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## Executive Summary

1. University of Hertfordshire ('UoH') owns and controls (through various subsidiaries) BioPark, a 72,000 sq ft (6,690 m<sup>2</sup>) mixed offices and laboratory innovation centre in Welwyn Garden City.
2. BioPark has struggled to attract occupiers in recent years and it suffered a major setback in November 2018 when the largest tenant, Heptares, relocated to Granta Park near Cambridge. **It is now only 44% occupied.**
3. BioPark uses both external agents and in-house specialists to market the property: both confirm their view that it is difficult to attract new tenants and the prospects of refilling the building are very poor.
4. The building is tired and dated and requires refurbishment. In particular the M & E services are old, inefficient, expensive to run and prone to breakdown. A 2015 report by M & E Consultants, Couch Perry Wilkes comments that '...the existing plant is in poor condition, has exceeded the end of its life expectancy...' they recommend that **£24.85 million needs to be spent over 3 – 10 years** to fully strip out and replace the installation. That excludes any cosmetic improvements or reconfiguration.
5. UoH comments that even with full occupancy, BioPark will run at a loss. That is before taking into account any capital expenditure.
6. We review Cambridge as an example of a successful tech cluster and identify key requirements needed to attract occupiers. These include business environment, tech environment, city 'buzz', talent pool, real estate costs and mobility. In Section 5 we identify further requirements for successful 'tech' locations to include master planning, amenities, clustering, connectivity and quality of building.
7. We consider BioPark in terms of these headings: Although it is possible to try and put an optimistic spin on the analysis, we conclude that **BioPark fails on almost every count**. As an isolated single building it does not provide the clustering and other elements that tech occupiers require.
8. Even with the hypothetical assumption of a totally refurbished building we comment that **BioPark is likely to fail because of the fundamental problems of (1) Wrong location and (2) Lack of demand.**
9. We agree that Hertfordshire is an established location for tech companies, although we note the emphasis on manufacture not just pure research & development. We highlight two Hertfordshire locations that satisfy the key requirements and are therefore successful – namely Stevenage Bioscience Catalyst and Melbourn Science Park.
10. We accept that Welwyn is in the heart of the 'golden triangle' of tech growth between Oxford, London and Cambridge, however we argue that occupiers are 'polarising' towards established clusters within the triangle and away from isolated buildings such as BioPark.
11. Based on our comments in the report, **we conclude that BioPark is unlikely to be sustainable in its current format. The most viable option available to UoH appears to be disposal of the site for residential development.**

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