
Town & Country Planning Act 1990

Appeal against refusal by Stevenage Borough Council of application 19/00474/FPM for

Demolition of existing office building (Use Class B1) and structures, and construction of seven apartment buildings comprising 576 dwellings (Use Class C3) together with internal roads, parking, public open space, landscaping, drainage and associated infrastructure works

at

Land West of Lytton Way, Stevenage, SG1 1AG

Appellant

Hill Residential Ltd

PROOF OF EVIDENCE

PLANNING ISSUES AND BALANCE

COLIN CAMPBELL BSc (Hons) DipTP MRTPI

June 2021

Appeal Ref: APP/K1935/W/20/3255692

CD3.20

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- 1 Summary of planning evidence**
 - 2 Witness qualifications and experience**
 - 3 Five Year land Supply**
 - 4 Reason for Refusal 3: infrastructure**
 - 5 Other issues**
 - 6 Conditions and planning obligations**
 - 7 Policy Compliance and the Planning balance**

Annex A – extract from Matalan Construction Method Statement (CD3.20.1)

Annex B – Matalan Phasing Plan (CD3.20.2)

Annex C – extract from SG1 application form: Annex 2 Landowners/leaseholders (CD3.20.3)

Annex D - extract from SG1 Financial viability appraisal (CD3.20.4)

Annex E – Indicative development trajectory (CD3.20.5)

Annex F - ENERGY STATEMENT, Whitecode Consulting 10293-WDA-ZZ-ZZ-RP-ST-0001 (CD3.20.6)

1 Summary of planning evidence

Five year housing land supply

- 1.01 It is my opinion that Stevenage Borough Council (SBC) cannot currently demonstrate a 5 year supply of deliverable land.

Calculation of 5YS

- 1.02 It is my opinion that using *Sedgefield*, SBC can only demonstrate **2.04** years supply. Using SBC's assumptions about sites only **4.23** years can be shown using *Sedgefield*. Using my assessment of deliverable supply, SBC can only demonstrate **2.63** years using *Liverpool*.

Methodology

- 1.03 It is my opinion that the *Sedgefield* methodology should be used to calculate 5 year supply. The Planning Practice Guidance is clear that to use *Liverpool* the LPA would need an adopted housing requirement in a policy setting out a stepped approach (Paragraph: 039 Reference ID: 68-039-20190722). It does not.

Sites in dispute

- 1.04 The 5 year supply significantly overestimates the deliverability from a number of sites and includes sites which are not considered to meet the definition of "deliverable" within the NPPF.

Sites with detailed permission

- 1.05 I consider the maximum that the Matalan site could achieve is **456** in the 5YS, compared to **526** by SBC, a reduction of **70**.

Outline/subject to S106

- 1.06 NPPF 2019 adopts a fundamentally different approach to deliverability than NPPF 2012. NPPF 2019 requires that in order to be considered deliverable, sites with outline permission or allocated in a local plan should **only** be considered deliverable if there is clear evidence that completions will begin within five years (my emphasis). This is a significant shift in emphasis and the LPA needs to show clearly that sites will deliver. SBC considers a total of **1,540** homes within this category should be considered deliverable. I consider that this should be reduced to **231** homes. Three sites within the supply are disputed SG1 (town centre redevelopment), HO3 North of Stevenage, and BHS.

Deliverable

- 1.07 I consider that this figure should be reduced from **716** to **312** homes, a reduction of **404**. I disagree with yield from HO2 West of Stevenage phase 1, and the inclusion of HO1/6 Pin Green School and HO1/11 – west of North Road (Rugby Club).

Windfalls

- 1.08 I consider that windfalls should only be allowed from 2023/24 onwards and the contribution should be reduced by **20** homes from 80 to **60**.

Realism of the supply

- 1.09 The Council's assessments have historically overestimated delivery. In 7 of the last 9 years the level of completions have been significantly overestimated.

RFR3: infrastructure

- 1.10 The development provides for the needed community infrastructure through CIL contributions of c£4.4m and a S106 planning obligation which provides for:
- £22,754 to subsidise 2 hybrid electric vehicles for 2 years on site through Ubeqoo;
 - £6,000 for Travel Plan monitoring contribution;
 - Improvements and connections to the footway/cycle path network; and
 - £81,538 for GP provision.

Primary Education

- 1.11 The requested Primary Education contribution is not justified, fair, proportionate nor reasonable.
- 1.12 Analysis of very similar town centre schemes shows child yield estimates of 7 or 8 children per 100 dwellings used to assess flatted schemes. Hertfordshire County Council's (HCC) Pupil Yield Survey 2021 (Table 6 in E of Appendix 3 to SBC's SoC (CD13.4)) identifies that flats produce a yield of 8.2 primary school places per 100 dwellings. The contribution for the appeal site is based on a child yield of 15 per 100 dwellings. That means that the 52 affordable dwellings in the appeal are generating 46 primary school places, or the equivalent of 88 pupils per 100 dwellings.
- 1.13 I also consider that the contribution is unfair and unreasonable given that the appeal site lies in CIL Zone 2, where a higher CIL charge is payable.

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- 1.14 Access has not been granted to HCC's model to allow interrogation or interpretation. I do not see how the approach can pass the CIL tests – it is not reasonable nor justified because no one has been given access to the very complex model.

Sustainable transport contribution

- 1.15 A revised draft S106 received 14th June 2021 added an obligation for a “Sustainable Transport Contribution” of £266,075.
- 1.16 Statements of Case were due on 5th March 2021. Nothing in any documentation submitted sought or justified a sustainable transport contribution. The late inclusion is unreasonable and unjustified.
- 1.17 It is unclear what the purpose of the contribution is as that has not been set out anywhere by HCC. I assume it is to support modal shift away from car use, but the development achieves that by virtue of its location and site specific design, such as the provision of at least 948 cycle spaces, car parking at 31% of the allowable maximum, cycle and pedestrian connections to the network, provision of a car club on site. It is difficult to conceive a more sustainable location within the Borough.

Other issues

- 1.18 SBC's supplementary statement on design (CD13.3) raises the issue of noise from the railway.
- 1.19 A noise impact assessment commissioned from Cass Allen was submitted as part of the application (CD1.16). That assessed the scheme in relation to the BS8233:2014. Noise is not a ground for refusal and does not form part of SBC's case. Para. 7.1 of SBC's SoC (CD13.1) identifies that there is no issue between the parties in relation to noise.

Compliance with Planning Policy and Planning balance

- 1.20 Officers recommended approval on the grounds that the development complied with the development plan and NPPF.
- 1.21 The development accords with policies in relation to the loss of employment (EC7) and the suitability of the site to accommodate new homes (SP7, HO5). SBC accepts the principle of residential development on site.

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- 1.22 The site is located in a highly sustainable location.
- 1.23 The design and layout of the development is appropriate to the site's location and context.
- 1.24 The residents of the proposed development would enjoy a high level of amenity.
- 1.25 It would represent a high quality development resulting in landmark buildings in a prominent location at the entrance to the town centre. The density of development is appropriate given its location and other developments which have taken place or are proposed within the local plan. No harm arises to the Old Town or other heritage assets.
- 1.26 It is agreed that the provision of 52 affordable dwellings is policy compliant.
- 1.27 There were no outstanding objections from consultees.
- 1.28 It is clear that the development accords with the development plan and should be approved without delay.
- 1.29 Development supports the Government's objective of significantly boosting the supply of homes (NPPF, para. 55).
- 1.30 Notwithstanding the above, owing to performance under the Housing Delivery Test (HDT) and SBC only achieving 64% the titled balance in para. 11 d) ii of the NPPF is engaged. That requires that in the event any harms are identified they would need to be shown to significantly and demonstrably outweigh the benefits of the development. It is my view that SBC cannot demonstrate a 5 year supply of land for housing. Very substantial harm would have to be identified to outweigh the very clear benefits of the development.

Benefits

1) Contribution to Housing land supply and to addressing Housing Delivery

- 1.31 The development will deliver 576 new homes in a central location, **416** of which would be delivered in the current 5 year period. That is a **significant benefit** to which **substantial weight** should be attached.

2) Affordable Housing delivery

- 1.32 Just 282 affordable homes have been delivered since the start of the plan period in 2011, at annual average of 31 homes a year.
- 1.33 The appellants will deliver 52 affordable rented homes on a single site which equates to 168% of the annualised average achieved. It represents a **substantial contribution and benefit** to meeting needs and should be accorded **substantial weight** given the chronic and persistent under delivery of affordable housing since the start of the plan period.

3) Sustainable Transport

- 1.34 The site lies in a highly sustainable location where non-car travel can be facilitated.
- 1.35 The agreed S106 package includes the provision of 2 car club spaces onsite and agreement to fund two self-charging hybrid vehicles for 2 years. Car parking (237 spaces) is at 31% of the maximum allowed.
- 1.36 At least 28 car parking spaces are to be equipped with Electric Vehicle Charing Points.
- 1.37 These are **moderate benefits** to which **medium weight** should be attached.

4) Carbon reductions

- 1.38 The energy strategy would save 430 tonnes of carbon dioxide per year compared to a policy compliant scheme. That represents a 66% carbon saving against the Building Regulations.
- 1.39 The increased carbon savings are a **very significant benefit** to which **substantial weight** should be attached. They can be secured through a suitably worded condition.

5) Biodiversity net gain

- 1.40 The development will result in biodiversity net gain of 22.3% in terms of habitats and a gain of 4,790 units of hedgerow. Further enhancements will be achieved through the provision of roosting features for bats and boxes for nesting birds. The biodiversity enhancements are a **significant benefit** and accorded **substantial weight**.

6) Other benefits

- 1.41 Other environmental, economic and social benefits include:

- Redevelopment of 2.75 hectares of previously developed land
- Regeneration of a unused and uneconomic site at the gateway to the town centre
- The development will support in the range of 1,400 to 1,800 direct, indirect and induced jobs
- the development would generate over £15m of expenditure each year, available to support the regeneration of Stevenage Town Centre. In addition, new homes generate significant additional one-off spending on items such as furnishing and decorating equating to around £5.36m.

1.42 These benefits are **significant** and should be accorded **very substantial weight**.

1.43 The proposal accords with the development plan and the NPPF and there are no material considerations to indicate that that the appeal should be determined other than in accordance with the Development Plan the appeal should be allowed.

1.44 In the event it is concluded that the development does not comply with the development plan, the tilted balance is engaged owing to both the lack of 5 year supply and performance under the Housing Delivery Test. The adverse impacts asserted by SBC and third parties cannot be said to pass the very high threshold of significantly and demonstrably outweighing the substantial benefits identified when assessed against the policies of the Framework as a whole.

1.45 Given the lack of five year supply and failure under the HDT, there is added urgency in permitting the proposal to ensure new homes can be delivered in a sustainable location and assist with the transformation of central Stevenage.

1.46 The appeal should be allowed.

2 Witnesses qualifications and experience

2.01 I am Colin Charles Campbell BSc (Hons), DipTP, MRTPI, Head of Planning at Hill Residential Ltd (the appellant).

2.02 I have over 30 years' experience in planning in the public and private sectors, 11 years gained at local authorities, six years within the Government Office for the East of England where amongst other things I led and was responsible for the government's input to the regional spatial strategy for the East of England. I have eight years' experience in planning consultancy as a director at Savills and seven years direct experience working in-house for developers.

2.03 The evidence which I have prepared and provide for this appeal reference APP/K1935/W/20/3255692 in this proof of evidence is true and has been prepared and is given in accordance with the guidance of my professional institution and I confirm that the opinions expressed are my true and professional opinions.

2.04 In this proof of evidence I deal with:

- Five year land supply for housing
- Reason for Refusal 3 – infrastructure
- Robin Buckle's comments on noise
- Planning conditions and obligations
- Policy compliance and the Planning balance

3 Five year housing land supply

3.01 It is my view that SBC cannot currently demonstrate a 5 year supply of deliverable land for housing as required by the NPPF. Accordingly, the titled balance is engaged and it needs to be demonstrated that if any harm arises from the development that it significantly and demonstrably outweighs the benefits of the scheme.

3.02 I set out below my opinion on

- the appropriate methodology for calculating five year supply;
- the buffer required;
- my view on particular sites which are in dispute as to whether or not they are “deliverable”;
- the number of years supply that I consider can reasonably be demonstrated.

Methodology

3.03 There are 2 commonly accepted and used methodologies for calculating 5 year land supply – *Sedgefield* and *Liverpool*. *Sedgefield* involves adding any undersupply in the plan period to date to the basic 5 year requirement (and then a buffer) to ensure that the shortfall is made up as soon as is possible and within 5 years.

3.04 *Liverpool* involves adding any undersupply in the plan period to date to the remaining local plan requirement and making up the shortfall across the remainder of the plan period.

3.05 The penultimate paragraph of Paragraph: 031 Reference ID: 68-031-20190722 of the Planning Practice Guidance (PPG) says that the *Sedgefield* methodology is to be used. The PPG is clear that the local planning authority must use the plan-making and examination process to justify using *Liverpool*.

3.06 Policy SP7 of the Stevenage Local Plan 2019 (SLP) sets out a requirement to deliver *at least* 7,600 new homes in Stevenage between 2011 and 2031. The policy sets out no phased requirement, nor does the plan include a phased or stepped trajectory. SP7 d) states that the council will “*Make sure there is always enough land to build homes for the next five years*”. Paragraph 5.81 of the plan states that:

“As well as ensuring we meet the overall housing target, national guidance also requires us to maintain a rolling five-year housing land supply. As we are reliant on a number of large schemes, and relatively few small sites, many of our new homes are likely to be delivered towards the end

*of the plan period. As such, **we will not phase development**, so that sites can be delivered whenever the market decides. We will actively encourage development to come forward towards the front end of the plan period.” (my emphasis in bold)*

3.07 The local plan does not establish or justify the use of *Liverpool*. For it to do so it would need an adopted housing requirement in a policy setting out a stepped approach as set out in the PPG (Paragraph: 039 Reference ID: 68-039-20190722).

3.08 The correct approach is to use the *Sedgefield* methodology for calculating housing land supply.

Buffer

3.09 It is common ground that a 20% buffer is appropriate, and SBC correctly applies the buffer once it has added the shortfall to the annual requirement.

Sites in dispute

3.10 It is my opinion that the 5 year supply significantly overestimates the deliverability from a number of sites and includes a number of sites which are not considered to meet the definition of deliverable within the NPPF.

Sites with detailed permission

3.11 I accept that the site referred to as Matalan is deliverable, but I do not consider SBC's assessment of its contribution to be realistic or achievable.

3.12 Reserved Matters (RMs) were granted 9th April 2021. The Housing Land Supply Update Sept 2020 (CD13.7) expected commencement in August 2021. Applications have been submitted to discharge some of the 14 pre-commencement conditions on the outline permission. However, at time of writing the LLFA and Thames Water had objected to the discharge of the pre-commencement condition on Surface Water Drainage. Condition 24 of the Reserved Matters also requires submission and approval of a detailed surface water drainage scheme prior to commencement of development. There is little time for pre-commencement conditions to be discharged to allow a start in August.

3.13 A Construction Method Statement (extract at Annex A, CD3.20.1) was submitted in April 2021 to discharge condition 19 on the outline permission. It states (on page 3) that a contractor has

not yet been selected. It is unclear whether or not that process has commenced. I would expect that such a process would take at least six months.

- 3.14 Following demolition, archaeological site investigations are required.
- 3.15 The draft update on housing land supply which I have seen and which I understand is to be Appendix 1 to Mr Hodbod's proof (CD13.14) (hereafter "June 2021 update") states that an 18 month build period is expected and there to be 300 completions in 2023/24 and 226 in 2024/25. SBC's assessment is considered unrealistic.
- 3.16 SBC's position in its September update (CD13.7) was predicated on RMs submitted in September 2020 and Commencement in January 2022. RMs were submitted in November 2020 and hence I assume commencement now in March 2022 at the earliest. SBC's SoC (Appendix 1 para 4.24, CD13.2) referred to an 18-month build period for the whole development and to would achieve completion by August 2024. An 18 month construction period is also referred to at 3.1 of the Milestones in the 2020 SoCG with the developer (Guinness). I consider 18 months to deliver such a scheme wholly unrealistic, especially when only 5% of the dwellings are affordable. The Lytton Way development of 576 homes is expected to take 54 months to build out.
- 3.17 The Construction Phasing Plan approved as a RM for Matalan shows Phase 1 comprising Blocks C and D (Annex B, CD3.20.2). Together they provide for 143 (89 + 54). None of the other blocks in combination provide to 167 homes, and with flatted schemes, apartments are only completed and released when the whole block is completed. I cannot see what combination of blocks can be delivered by March 2024 to achieve 300 completions. It is also highly unlikely that any developer would sell apartments across multiple blocks in the way that would be required. It is not efficient for cost purposes and it is not efficient for sales. I would expect a phased release of blocks.
- 3.18 The developer expects completions in Year 2023/24. I allow for Block C (89 homes) to be completed early in 2023/24, with Block D (54) then being completed late in Year 2023/24 – a total of 143.
- 3.19 I then allow for Block B (104 homes) to be completed in 2024/25. Given the need to sell 104 homes in Block B, Block E (59 homes) is not completed and released until early in Year 2025/26. Block A (150 homes) is then released early in 2026, delivering a total of 209 in 2025/26. Given

the need to sell 150 homes in Block A, the remaining 70 homes in Block F would be delivered in 2027/28.

- 3.20 I therefore consider a maximum of **456** could be delivered in the 5YS, compared to **526** by SBC, a reduction of **70**.

Outline/subject to S106

- 3.21 NPPF 2019 adopts a fundamentally different approach to deliverability than NPPF 2012. NPPF 2012 considered that sites with planning permission should be considered deliverable unless there was clear evidence that sites **would not** be delivered (footnote 1 to para 47) (my emphasis). NPPF 2019 requires that in order to be considered deliverable, sites with outline permission or allocated in a local plan should **only** be considered deliverable if there is clear evidence that completions will begin within five years (my emphasis). This is a significant shift in emphasis and the LPA needs to show clearly that sites will deliver. SBC considers a total of **1,540** homes within this category should be considered deliverable. I consider that this should be reduced to **231** homes. Three sites within the supply are disputed.

SG1 town centre redevelopment phase 1

- 3.22 I note that SBC has pushed this development back in its trajectory, however, I consider that its delivery is still overestimated and is unrealistic.
- 3.23 The Council has resolved to grant permission for the first phase in detail. That in itself is not clear evidence of delivery.
- 3.24 There remain a number of outstanding issues and some complex S106 issues to be agreed. One of the landowners within the SG1 application sites, Rank, has written to the Council strongly objecting to the development and stating that *“there is no certainty the development can be delivered in respect of Plot C”* (CD3.13.2 Annex 2). Rank is a freehold owner within the site and operator of Mecca Bingo within the application site. Rank raises concerns regarding its existing operations (which it says it has no intention of ceasing). Rank also make clear that its position has a direct impact on deliverability of the proposal. Whilst none of the early phase housing is in Plot C, that land needs to be bound by the S106 agreement. It must be considered highly unlikely that Rank will enter into the S106 with such strong objections and lack of certainty over its future.

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- 3.25 Annex 2 to the application form for 19/00743/FPM shows there to be 37 land/leaseholders within the application site (Annex C, CD3.20.3). Gaining agreement to and executing such a S106 will take some considerable time even once SBC and the developer are content with it.
- 3.26 Given the continuing passage of time without resolution and following further research into the site, I consider that there is not clear evidence that this site can or when it can deliver. Given the change in definition of deliverability is about ensuring sufficient supply will be available I do not consider the site can be said to meet the definition of deliverable.
- 3.27 In the event that it was considered to be deliverable, I would consider that the trajectory needs to be pushed back considerably.
- 3.28 Once a decision is issued there will be a need to discharge pre-commencement conditions, serve CIL notices and secure CIL reliefs, agree S278 with HCC Highways and complete any necessary site acquisition. That is likely to take at least 9 months.
- 3.29 As with all schemes, developers do not release multiple blocks of accommodation at the same time. To do so would result in, firstly, needing to complete several blocks at once, and hence incurring significant development costs and borrowing, and secondly sales in multiple blocks which result in part occupied blocks. Developers seek to sell out a block of apartments before releasing further blocks. Whilst Block K is 496 units of Build to Rent (BtR), that is also likely to be released in phases. Annex D (CD3.20.4) includes extracts from the submitted SG1 viability assessment. On p18 the cost to build Block K is said to be £200 per sqft and the gross internal area is given as 322,669 sq ft (on 3rd page extracted). That means a construction cost of at least £64,533,800 for the BtR element. That is a very significant investment. Given that is BtR one would expect there to be an investor in place in order to trigger commencement. Given that the market is untested for such significant scale of BtR in Stevenage, I would expect a staged approach to construction and delivery.

HO3 – north of Stevenage

- 3.30 SBC considers 525 homes are deliverable. I consider a maximum of **226** could be considered deliverable in the 5 Year period, a reduction of **299**.
- 3.31 Application 17/00862 was submitted in December 2017. That is an outline, with all matters reserved except for access. Permission has not yet been granted. The access plans show

direct access from the highway network into the site, but do not contain details of strategic infrastructure within the site. The September 2020 Update (CD13.7) was based on a decision being issued “End 2020” and RMs and conditions all discharged by end of 2021. That timetable has not been achieved. The SoCG within CD13.7 does not state when a start is expected. At March 2021 it was clear that the timetable was already at least 4 months behind.

- 3.32 The June 2021 update (CD13.14) allows a six month delay on what was previously assumed. But in March 2021 it was already apparent that the timetable was 4 months behind.
- 3.33 In order to commence the following are required: completion of a S106 agreement, discharge of pre-commencement conditions, reserved matters approval for strategic infrastructure and for the first phase of residential development, a S278 agreement with HCC Highways, serving of notices and securing any CIL reliefs, and completion of purchase of the site from the landowner. If consent were issued in July 2021, I consider that a start might reasonably be achieved in July 2022. Assuming a year before the first completions, would give completions from July 2023.
- 3.34 Delivering 150 homes in Year 1 of a greenfield development of this nature in is unrealistic. Completions are achievable by the start of Year 2 of a development. Assuming 50 sales a year in a good market and with completions being achieved in July 2023, that results in 38 in 2023/24. In 2024/25 I allow for a second outlet and some affordable housing completions. With 2 house builders operating in tandem I would expect to see the market sales rate per outlet to fall below 50 per year, and therefore allow for 3 sales per month and hence allow for 94 completions in 2024/25 and 2025/26.

BHS

- 3.35 The Council resolved to grant permission in October 2020. Discussions are still ongoing with regards the S106. The site does not yet have a detailed planning permission and simply having an application in cannot be considered to be clear evidence of deliverability. There is no evidence of house builder involvement and no certainty as to when the development might commence.

Deliverable

- 3.36 The HLS includes **716** homes in this category. I consider that this figure should be reduced to **312** homes.
- 3.37 I disagree with the Council’s approach to the three sites set out below.

HO2 – west of Stevenage phase 1

- 3.38 The Sept 2020 update (CD13.7) assumes a hybrid application submitted November 2020. It assumed 8 months to get to committee and issue a decision. An application for 1,500 homes, of which 390 are in detail, was finally validated in April 2021. Despite being 6 months behind the previous timetable, the trajectory is still based on a 10th August 2021 Committee. That would be four months from validation to committee for an EIA development. As of 27th May 2021 Natural England has requested further information with regards to the impact on Knebworth Woods SSSI and Historic England consider that there is not sufficient information to enable the impact on heritage assets to be assessed. At 21st June 2021 no further information had been submitted on these issues.
- 3.39 A S106 agreement for a hybrid application of 1,500 homes is likely to take some time to agree. In my experience such agreements take a minimum of 6 months and potentially in excess of a year. Given the outline application for 800 homes at HO3 North Stevenage (reference 17/00862, see para. 3.31) has been running for 3 years, I consider it would be highly optimistic to assume anything less than a year from submission to determination and issuing a S106.
- 3.40 Assuming one year from submission to decision, would result in a consent in April 2022. The September Update (CD13.7) assumed a year from permission to start on site (so, April 2023 for a start). Completions would then be achieved from April 2024. SBC assumes 2 house builders operating on site from the outset. That is likely to be difficult to achieve within the first year as it requires more strategic infrastructure to be delivered, but assuming it is achievable I allow for 3 completions per outlet per month, plus affordable housing. I allow therefore 94 completions per year. I consider a maximum of **198** could be delivered in the 5YS, compared to **390** by SBC, a reduction of **192**.

HO1/6 Pin Green School

- 3.41 I consider that the site does not accord with the definition of deliverable in the NPPF. Appendix D of the September Update (CD13.7) includes an email from HCC Property, the owners of the site, saying that HCC *intends* to bring it forward but no detailed work has started. I do not consider that a landowner simply saying they intend to bring forward a site is clear evidence that completions will be achieved on site. Indeed, SBC asked for evidence that work had started and HCC confirmed in email that no work has been undertaken. I consider this site should be removed entirely from the 5YS.

HO1/11 – west of North Road (Rugby Club)

- 3.42 Development of the site is dependent upon the relocation of the Rugby Club onto land within North Hertfordshire. No such provision is believed to have been made within the soon to be adopted North Hertfordshire Local Plan. Any site close to the edge of Stevenage, in North Hertfordshire, would be in the Green Belt. It is unclear what facilities are required for the relocated Rugby Club and whether that would be inappropriate development or not, and whether or not Very Special Circumstances can be shown. The site does not have permission and relies on another permission being granted for the rugby club in the Green Belt. That cannot be considered to be clear evidence of deliverability. I consider this site should be removed entirely from the 5YS.
- 3.43 In conclusion, our assessment of the deliverable element of supply is **312** homes, a reduction of **404** from SBC's **716**.

Windfalls

- 3.44 As set out in the SoCG on 5 year supply (CD3.18), I consider that windfalls should only be allowed from 2023/24 onwards and the contribution should be reduced by **20** homes from 80 to **60**.

Calculation of 5YS

- 3.45 Table 1 of CD3.18 sets out a comparison of SBC's and my position on supply.
- 3.46 It is my opinion that SBC cannot demonstrate a 5 year supply of deliverable sites using either *Liverpool* or *Sedgefield*.

Realism of the supply

- 3.47 I undertook an assessment of actual completions against predicted completions in the preceding year's annual monitoring report in March 2021 (CD3.13). In SBC's June 2021 Update (CD3.14) 143 homes were completed in 2020/21. As late as September 2020 SBC was projecting 236 completions. 143 represents 61% of the predicted level. In 7 of the last 9 years the level of completions have been significantly overestimated. Simply applying the evidence of previous predictions to SBC's projected supply of 2,723 dwellings, would result in 4.25 years *Liverpool* or 3.29 *Sedgefield*.

Table 2: Comparison of predicted supply and completions 2012 to 2021

Year	Reported completions for year	Predicted completions in previous year's AMR	Difference	% of the predicted completions achieved
2012/13	85	173	88	49%
2013/14	172	245	73	70%
2014/15	146	237	91	62%
2015/16	153	321	168	48%
2016/17	690	505	-185	137%
2017/18	71	277	206	26%
2018/19	285	436	151	65%
2019/20	321	193	-128	166%
2020/21	143	236	93	61%
Total	2,066	2,623	557	78%

Source: SBC Annual Monitoring Reports

3.48 It is my opinion that SBC is not currently able to demonstrate a 5 year supply of land for housing and therefore, the *"titled balance"* is engaged. Given the parlous state of the housing supply and persistent under delivery in recent years, there is added urgency in granting permission to a house builder that has a track record of delivery in the local area.

4 RFR3: infrastructure

- 4.01 RfR3 relates to failure to provide a necessary infrastructure contributions, but the decision notice makes no reference to particular infrastructure. SBC's SoC (CD13.1) at 6.19 states that RfR3 relates to the failure to provide a financial contribution towards Primary Education. SBC's SoC (CD13.1) does not say that there are other obligations necessary to make the development acceptable, although I assume SBC still considers the bulleted list at para. 4.02 to be necessary.
- 4.02 The development provides for the needed community infrastructure through CIL contributions of c£4.4m and a S106 planning obligation which provides for:
- £22,754 to subsidise 2 hybrid electric vehicles for 2 years on site through Ubeqoo;
 - £6,000 for Travel Plan monitoring contribution;
 - Improvements and connections to the footway/cycle path network; and
 - £81,538 for GP provision.

Primary Education

- 4.03 There is disagreement over whether or not a Primary Education contribution is justified and if so, what is a fair, proportionate and reasonable contribution.
- 4.04 CD3.16 sets out a comparative assessment by Quod of the request for a Primary Education contribution. I consider that the requested contribution does not meet the tests set of in CIL Regulation 122.
- 4.05 Quod's analysis (CD3.16) demonstrates that proportionately the appeal scheme is being asked to pay approximately double on a per dwelling basis of a 2 very similar town centre schemes. SG1 has 3 times the number of dwellings to the appeal site, double the number of 3 bed flats, it has almost double the number of 2 bed flats, and almost 4 times as many 1 bed flats, yet its education contribution is only 33% greater. The child yield from SG1 and BHS equates to 7 or 8 children per 100 dwellings. For the appeal site it equates to 15 per 100 across the whole scheme. As explained at 2.22 of CD3.16 that means that the 52 affordable dwellings in the appeal are generating 46 primary school places, or the equivalent of 88 pupils per 100 dwellings. Most telling, Table 6 in E of Appendix 3 to SBC's SoC (CD13.4) identifies that flats produce a yield of 8.2 primary school places per 100 dwellings. That presumably is based on actual schemes which have been built and include affordable homes. The requested contribution cannot be said to accord with Regulation 122 (c) and be considered fairly and reasonably related in scale and kind to the development. In the event that a Primary Education is considered

justified, the child yield used should be consistent with other schemes and HCC's published documentation and accordingly around 7 or 8 children per dwelling and at a maximum of £907,676.

- 4.06 Given Quod's analysis, the request cannot be said to meet Regulation 122 (b) and be directly-related as it seeks a contribution significantly in excess of what could be considered fair and reasonable in scale.
- 4.07 Access has not been granted to HCC's model to allow interrogation or interpretation. I do not see how the approach can pass the CIL tests – it is not reasonable nor justified because no one has been given access to the very complex model.
- 4.08 I also consider that the contribution is unfair and unreasonable given that the appeal site lies in CIL Zone 2. That means that the CIL rate applicable to the appeal site is £99.70 per sq.m. compared to £39.88 per sq.m. within the Stevenage Central. That is despite the site lying adjacent to Zone 1. CIL and S106 working in tandem are not intended to have a greater proportionate impact on one development over another, or on one location over another, however, that is precisely what is happening here.

Sustainable transport contribution

- 4.09 On 14th June 2021 Hill received a revised draft S106 agreement from HCC which added an obligation for a "Sustainable Transport Contribution" of £266,075 (index-linked to SPONS 2006) towards the cost of "[insert details of specific infrastructure project]".
- 4.10 Statements of Case were due on 5th March. Nothing in any documentation submitted seeks or justifies a sustainable transport contribution. The late inclusion is unreasonable and unjustified and the Appellant reserves its position fully in this regard. By email (CD3.27) in February 2020, HCC accepted that viability was a material consideration and that the package of measures put forward by the appellants in its email of 20th December (see CD2.6) was accepted. I also note that the SBC case officer considered the overall package was "perhaps better than expected."
- 4.11 SBC's SoC (CD13.1) at 7.1 states that it is agreed the site is located in a sustainable location with easy access to town centre facilities, transport hubs and leisure facilities.
- 4.12 The proposals include a number of measures to support sustainable transport.

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- 4.13 Car parking is limited to around 31% of that allowable under policy. That on its own will result in significant reductions in car travel.
- 4.14 The site is within 10 minutes' walk of both the railway station and bus station.
- 4.15 The site immediately adjoins Stevenage's extensive network of cycle and pedestrian links. Connections are made directly onto these, including a new cycle ramp.
- 4.16 It is difficult to conceive of a more sustainable location within the Borough.
- 4.17 The S106 provides for a contribution towards a car club and 2 spaces are reserved on site for hybrid vehicles.
- 4.18 At least 28 Electric Vehicle Charging Points (EVCP) are provided for in accordance with policy.
- 4.19 It is unclear what the purpose of the contribution is as that has not been set out anywhere by HCC. I assume it is to support modal shift away from car use, but the development achieves that by virtue of its location and site specific design, such as the provision of 948 cycle spaces, reduced car parking provision (31% of the maximum), cycle and pedestrian connections to the network, provision of a car club on site.
- 4.20 The approach to sustainable transport does not meet the tests of the CIL regulations. If the quantum of money sought is on the basis of a "standard charge", that seems not to take into account the circumstances of the development.
- 4.21 The inspector is asked to conclude that the primary education and sustainable transport contributions are not necessary and justified. The S106 will include a mechanism by which the contributions can be secured if they are deemed to meet the tests of CIL Regulation 122.
- 4.22 The development complies with the NPPF, PPG and the adopted SLP with regards community infrastructure provision.

5 Other issues

5.01 Robin Buckle in his supplementary statement (CD13.3) raises the issue of noise from the railway line (at 3.1.102) and says he hasn't seen any evidence of noise readings for the spaces to refute this assertion. Mr Buckle clearly has not reviewed the whole planning application.

5.02 A noise impact assessment commissioned from Cass Allen was submitted as part of the application (CD1.16) which assessed the scheme in relation to the BS8233:2014. Noise is not a ground for refusal and does not form part of SBC's case. Para. 7.1 of SBC's SoC (CD13.1) identifies that there is no issue between the parties in relation to noise. In the SoCG (CD3.6) the parties agree:

5.02.1 The site lies in the centre of an urban area where elevated noise levels are to be expected.

5.02.2 A suitable living environment can be delivered. Draft conditions 19 and 20 require further details of noise mitigation measures to be submitted and approved.

5.02.3 The development accords with local and national policies on noise.

6 Conditions and planning obligations

Conditions

6.01 Agreed conditions are set out in the draft Statement of Common Ground.

6.02 Further to the production of proofs I consider 2 further conditions are required.

Cycle parking

6.03 In CD3.14 an amendment to proposed condition 21 was suggested requiring that further details of the cycle parking should be submitted to deliver 928 cycle spaces and an accompanying drawing (CD3.15) was submitted showing how those spaces could be accommodated. Following further review, 948 spaces are required. Drawing 16-019 - D 051 - Site Plan - Ground Floor_C04 (at Appendix F to Mr Corrance's proof CD3.24 and CD3.29) demonstrates how with double stacking and external provision 1,006 spaces be accommodated. It is proposed therefore that condition 21 be amended to read

Prior to first occupation of the development hereby approved the details of the type and design of at least ~~576~~ 948 cycle parking spaces (at least one per property) should be submitted to and approved in writing by the Local Planning Authority. Residents cycle parking should be in the form of lit, lockable and weather resistant cycle lockers or stores and be installed in accordance with the approved details. Cycle parking shall be fully completed for each block or phase and in accordance with the approved details before first occupation of that particular block or phase in the development.

Updated ground floor plans for each block have been prepared and those are included and could be conditioned (CD3.30 to CD3.36).

Energy and water

6.04 The SoCG (CD3.6) included an agreed, proposed condition 28 which secures the energy and water consumption measures contained with the submitted application. Given the changes proposed to the energy strategy, I suggest that condition 28 be amended to deal with water and a new condition be imposed on energy.

28. The development shall be implemented in accordance with the ~~above slab level measures to reduce energy and water consumption~~ targets contained within the approved Whitecode Design Associates Energy Strategy 10293-S-EBER-0001 Revision 5 dated 30 July 2019

Prior to the first occupation, an energy strategy to achieve 65% carbon reduction against Part L of the Building Regulations 2013 shall be submitted to and approved in writing by the Local Planning Authority. The energy strategy shall be implemented in accordance with the approved details and retained thereafter.

S106

6.05 A draft S106 is well advanced and will be provided 10 days ahead of the opening of the inquiry.

6.06 As matters stand the S106 includes a viability review mechanism which provides the potential for 5 reviews: early stage, 2 mid stage reviews, a late stage review and a substantial delay review. It is unclear why the council considers so many reviews to be necessary. It is likely that the mid stage reviews could only be a year apart. Mid stage reviews are really only necessary for longer term phased schemes where there is realistic prospect of changes in circumstances. That is the approach followed in London and I note that Mayor's SPD (extract at CD3.26) states on page 19

*"For longer-term phased schemes it **may** also be appropriate to secure mid-term reviews prior to implementation of later phases..." (my emphasis in bold)*

6.07 This scheme is not a longer term phased scheme. It is a short to medium term scheme, likely to be built out over a period of less than 5 years (See Annex E, CD3.20.5). I consider that mid stage reviews are unnecessary and excessive. The inspector is requested to advise whether there should be mid stage reviews.

7 Compliance with Planning Policy and Planning balance

- 7.01 The development accords with policies in relation to the loss of employment (EC7) and in relation to the suitability of the site to accommodate new homes (SP7, HO5). SBC accepts the principle of residential development on site complies with the policy and it is included within its housing land supply as a “developable” site. Development supports the Government’s objective of significantly boosting the supply of homes (NPPF, para. 55).
- 7.02 The site is located in a highly sustainable location with access to local buses, train services, Stevenage’s high quality cycle and pedestrian network is immediately adjacent the site, it is in close proximity to both the Old Town and Stevenage Town Centre and the facilities which they provide, and is close to employment within Gunnels Wood the town’s main employment area. It is difficult to envisage a more sustainable location for development. The proposal provides adequate off-street parking in line with the Council’s adopted standards as well as an appropriate level of cycle parking provision. Sustainable transport measures are supported through its location, connections provided from the site to the local network, significantly reduced car parking provision, and the provision of 2 self-charging hybrid car club vehicles. 28 car parking spaces are to be installed as Electric Vehicle Charing Points. The development accords with policies SP6, IT4, IT5, IT6, and IT7.
- 7.03 The design and layout of the development is appropriate to the site’s location and its context. There would be no significant harm to the amenities of the occupiers of neighbouring residential properties and the residents of the proposed development would enjoy a high level of amenity. In design terms, it would represent a high quality development resulting in landmark buildings in this prominent town centre location. The density of development is appropriate given its location and other developments which have taken place or are proposed within the local plan. No harm arises to the Old Town or other heritage assets. The development accords with policies SP8, GD1, NH10, HO8 and HO9.
- 7.04 The development provides a range of sizes of dwellings from studios to 3 beds. Officers concluded at para. 7.2.15 of the committee report (CD4.1) that the development would be in accordance with HO9 as it would add to the overall mix of housing which is required to meet the objectively assessed need over the local period.

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- 7.05 In terms of the provision of affordable housing and community infrastructure, the parties are agreed that the development is not capable of delivering the full level of obligations sought. As a consequence, affordable housing is reduced to 9% (52 dwellings). It is agreed that this is policy compliant.
- 7.06 There were no outstanding objections from consultees. Any issues relating to construction management, materials and landscaping, drainage can be satisfactorily addressed through the use of conditions.
- 7.07 Officers were clear in their report (CD4.1) at 8.1 that the development complies with the development plan. They considered that the design and layout would not significantly harm the amenities of neighbours and the amenity for residents would be acceptable.
- 7.08 The NPPF (CD7.1), para. 11, requires that development which accords with the development plan be approved without delay. It is clear that the development does accord with the development plan and should be approved.
- 7.09 Notwithstanding the above, owing SBC's performance under the HDT only achieving 64% the tilted balance in para. 11 d) ii of the NPPF is engaged. That requires that In the event any harms are identified they would need to be shown to significantly and demonstrably outweigh the benefits of the development. In addition, it is my view that SBC cannot demonstrate a 5 year supply of land for housing. In my opinion very substantial harm would have to be identified to outweigh the very clear benefits of the development. The scheme would not cause any significant harm and (as I set out below) would deliver a range of very substantial benefits and so plainly the tilted balance falls heavily in favour of the grant of planning permission.

Benefits

1) Contribution to Housing land supply and to addressing Housing Delivery

- 7.10 The development will deliver 576 new homes in a central location, 416 of which would be delivered in the current 5 year period (see Annex E, CD3.20.5). That is a **significant benefit** to which **substantial weight** should be attached.

2) Affordable Housing delivery

- 7.11 The SoCG (CD3.6), at 6.01.21 identifies that since the start of the plan period just 282 affordable homes have been delivered at annual average of 31 homes a year.
- 7.12 The adopted SLP aims to deliver at least 20% of all new homes over the plan period as affordable, and up to 40% where viable. That is a recognition in the local plan that affordable housing needs are significant. Indeed, the SLP (CD5.1) at footnote 30 (p42) refers to the 2013 Strategic Housing Market Assessment by David Couttie identifying an annual need for 575 affordable homes in Stevenage over the next 5 years. Therefore, between 2013 and 2018, 2,875 affordable homes were required. Achieving 20% of the 7,800 homes as affordable will not meet needs.
- 7.13 The appellants will deliver 52 affordable homes, even though that returns a sub-17.5% margin. It is proposed that all 52 homes are Affordable Rent, given that is the greatest need within Stevenage and SBC's priority.
- 7.14 Para. 4.16 of CD6.7 (Stevenage and North Hertfordshire Strategic Housing Market Assessment Update 2015 Report of Findings June 2015, ORS) advised SBC that "*Given the substantial need for affordable housing identified...*" it would be "*...important for the Councils to consider all of the options available to help deliver more affordable homes in the area.*"
- 7.15 The delivery of 52 affordable homes on a single site equates to 168% of the annualised average achieved across the whole Borough since 2011, or 18.4% of what has so far been delivered in 10 years of the Plan period. It represents a **substantial contribution and benefit** to meeting needs and should be accorded **substantial weight** given the chronic and persistent under delivery of affordable housing since the start of the plan period.

3) Sustainable Transport

- 7.16 The site lies in a highly sustainable location where non-car travel can be facilitated.
- 7.17 The agreed S106 package includes the provision of 2 car club spaces onsite and agreement to fund two self-charging hybrid vehicles for 2 years. Car parking is at 31% of the maximum allowed.
- 7.18 28 car parking spaces are to be equipped with Electric Vehicle Charing Points.

7.19 These are **moderate benefits** to which **medium weight** should be attached.

4) Carbon reductions

7.20 Hill has committed to tackling Climate Change and being a carbon neutral business by 2030. As a result the energy strategy for all schemes currently progressing through planning are based on low to zero carbon technologies. Gas is only to be used as a last resort. Hill has changed its energy strategy for the appeal site to one based on Air Source Heat Pumps (ASHPs) as the primary source of energy, along with photovoltaics as per the submitted application. That revised energy strategy by Whitecode is included as Annex F (CD3.20.6). The SLP contains no policies requiring carbon reductions. In combination the measures proposed by this development would save 430 tonnes of carbon dioxide per year compared to a policy compliant scheme. That represents a 66% carbon saving against the Building Regulations.

7.21 The use of ASHPs results in an extra over cost of c£1,200 per apartment.

7.22 The increased carbon savings are a **very significant benefit** to which **substantial weight** should be attached. They can be secured through a suitably worded condition.

5) Biodiversity net gain

7.23 The development will result in biodiversity net gain of 22.3% in terms of habitats and a gain of 4,790 units of hedgerow (from 0). Further enhancements will be achieved through the provision of roosting features for bats and boxes for nesting birds. In the context of an urban site the biodiversity enhancements should be considered a **significant benefit** and accorded **substantial weight**.

6) Other benefits

7.24 Other environmental, economic and social benefits which arise from the development and should be accorded weight in its favour include:

- Redevelopment of 2.75 hectares of previously developed land;
- Regeneration of a unused and uneconomic site at the gateway to the town centre;
- Direct, indirect and induced jobs – the HBF’s research paper *The economic Footprint of House Building, July 2018* (CD3.28) identifies (page 13) that for every dwelling built between 2.4 and 3.1 jobs are supported. The development will support in the range of 1,400 to 1,800 jobs;

- Increased footfall for the town centre and increased expenditure - *The economic Footprint of House Building, July 2018* (CD3.28) identifies (p16) that the average household expenditure per week was £503 in 2017, meaning that the development would generate over £15m of expenditure each year. That is expenditure available to support the regeneration of Stevenage Town Centre. In addition, new homes generate significant additional one-off spending on items such as furnishing and decorating. Based on the report, that would equate to around £5.36m.

- 7.25 These benefits are **significant** and should be accorded **very substantial weight**.
- 7.26 The proposal accords with the development plan and the NPPF and there are no material considerations to indicate that that the appeal should be determined other than in accordance with the Development Plan the appeal should be allowed.
- 7.27 In the event it is concluded that the development does not comply with the development plan, the tilted balance is engaged owing to both the lack of 5 year supply and the Housing Delivery Test. The adverse impacts asserted by SBC and third parties can not be said to pass the very high threshold of significantly and demonstrably outweighing the substantial benefits identified when assessed the policies of the Framework as a whole.
- 7.28 Given the lack of five year supply and failure under the HDT, there is added urgency in permitting the proposal to ensure new homes can be delivered in a sustainable location and assist with the transformation of central Stevenage.
- 7.29 The appeal should be allowed.