

Land west of Lytton Way, Stevenage, SG1 1AG

Appeal ref APP/K1935/W/20/3255692

Appellant's opening statement

1. The appeal scheme proposes 576 much needed new dwellings on an unused brownfield site on a highly sustainable location right on the edge of Stevenage Town Centre.
2. There is no objection to the loss of either the current building or the employment use of the site.
3. The scheme has been worked up through close co-operation with the Council's professional officers. It is a good scheme, well designed, a carefully considered response to the site's somewhat unusual characteristics and context. The Council's professional officers agree – that is why the scheme was presented to Committee with a clear recommendation for approval.
4. Members resolved to refuse the scheme against the advice of their Officers, concluding that that the scheme would have an adverse impact on the visual amenities, character and appearance of the area – see reasons for refusal 1 and 2. It is common ground that reason for refusal 2 adds nothing to reason for refusal 1
5. The Council previously employed Mr Buckle to defend the reasons for refusal. Mr Buckle is not being called as a witness and the Council, through its new witness Mr Corrigan, has formally abandoned much of Mr Buckle's previous analysis. Mr Corrigan does however introduce some additional points that the Council has not previously considered worthy of mention. The Council's shifting position on the scheme is of course highly regrettable; it is also strongly indicative a lack of conviction in its case.
6. In contrast, the Appellant's analysis, as presented with the application documentation and endorsed by the Council's Officers, and as presented in its appeal evidence, is thoroughly robust. In this regard, it is notable that in his written evidence (which has not been withdrawn)

Mr Buckle did not criticise the Appellant's contextual analysis to any material degree. Rather, he disagreed with the Appellant's conclusions (albeit without offering any substantial analysis in support of his own). In contrast, Mr Corrigan asserts (again a new point) that the Appellant's analysis is "weak". The Appellant's position is that its analysis and its conclusions as to the scheme's impact on the visual amenities, character and appearance of the area should be strongly preferred to the Council's and that the right conclusion here is that the scheme would be beautiful, a very high quality design, all in accordance with the Council's development plan policies, guidance and the NPPF. Mr Kelly explains his approach as the scheme architect, Ms Ritson justifies the landscaping, (including the extent and useability of the on-site amenity space, which is no longer contested by the Council) and Ms Ede and Mr Coleman explain why the scheme works well in townscape, visual amenity and design terms.

7. It is common ground that the previous Inspector's decision is a material consideration in the redetermination of the appeal, but it is of course not the starting point for your considerations, nor is it determinative either in terms of any particular issue or in terms of its overall conclusions. Both parties point to aspects of the decision with which they agree, and aspects with which they disagree and you will of course need to form your own view on all the relevant issues.
8. It is worth noting here that in terms of policy, the Council does not assert that Policies SP8 and GD1 are inconsistent in any way with the NPPF; i.e. that compliance with these policies equates to compliance with the NPPF's call for beautiful development.
9. Reason for refusal 3 concerns infrastructure provision. It is addressed by the s.106 Obligation that has been agreed between the parties.
10. On the assumption that the Inspector agrees with the Appellant on reasons for refusal 1 and 2 then it is common ground that permission should be granted.
11. If, on the other hand, the Inspector thinks the scheme would be harmful in some respect, the Inspector will need to decide whether those harms are outweighed by the benefits the scheme would deliver.

12. As Mr Campbell explains in his evidence, the scheme will deliver multiple benefits, including but not limited to the delivery of much needed new open market and affordable housing, the redevelopment of previously developed land in a highly sustainable location, and substantial economic benefits arising from the construction and operational phases of the development. The scheme also fully accords with the principles of the Local Plan which seeks to use (inter alia) new higher density residential development to drive the transformational change of Stevenage.
13. Given these benefits, it would require some very substantial harm to justify the refusal of permission.
14. There is a dispute between the parties as to whether the tilted balance set out in NPPF 11(d) is engaged. This turns on whether or not the Council can demonstrate a 5 year housing land supply (the subject of the round table session later this week).
15. The Appellant's position is that the Council is unable to demonstrate a 5 year supply, that the tilted balance is therefore engaged and that it falls decisively in favour of the grant of permission; but that even if the Council could show a 5 year supply planning permission should still be granted on the "flat" balance, given the absence of any harm and the scheme's overwhelming public benefits.
16. Properly applying s.38(6) of the 2004 Act it follows that the appeal should be allowed and planning permission should be granted.

Rob Walton QC

Landmark Chambers

7th June 2022