

**APPEAL BY HILL RESIDENTIAL LIMITED**  
**LAND WEST OF LYTTON WAY, STEVENAGE, SG1 1AG**

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**CLOSING SUBMISSIONS BY THE LOCAL PLANNING  
AUTHORITY**

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*References to the Inspector's decision letter of 20 August (RD.1) take the form of DL[para.no.]*

**INTRODUCTION**

1. These are the closing submissions by Stevenage Borough Council (“the Council”) in its response to the appeal by Hill Residential Limited (“the Appellant”) brought under section 78 of the Town and Country Planning Act 1990 against the refusal by the Council’s Planning Committee on 6<sup>th</sup> March 2020 to grant consent for the appeal scheme.
2. The Council’s position remains that the appeal should be rejected essentially for the reasons set out in the first two reasons for refusal: namely, that the proposed development by virtue of its height, design and appearance would result in an incongruous form of development which would be harmful to the character and appearance of the area and its visual amenities, and therefore would not accord with Policies SP8 and GD1 of the development plan, and that there are no material considerations which outweigh the conflict with those policies.
3. That is the only substantive planning issue between the parties in terms of whether the proposal accords with the development plan, and it is dealt with first in these submissions. There is a further question whether the Council can demonstrate a 5YLS (and therefore whether the tilted balance under paragraph 11 of the NPPF applies).

**(1) IMPACT ON CHARACTER OF THE AREA AND VISUAL AMENITY**

4. The starting point is the development plan (CD.5.1). Policy SP8 is the Council's strategic policy on design. It states that the Council will  
*“will require new development to achieve the highest standards of design and sustainability”.*
5. It goes to state that the Council will *“preserve and enhance the most important areas and characteristics of Stevenage whilst delivering substantial improvement to the image and quality of the town's built fabric”.*
6. Policy GD1 states that planning permission will be granted where the proposed scheme (as applicable), amongst other matters,  
*(a) respects and makes a positive contribution to its location and surrounds*  
*€ does not lead to adverse impact on the amenity of future occupiers, neighbouring uses or the surrounding area.*
7. There can be no real dispute that the issue of whether there is an adverse impact on the character of the area and its visual amenities is directly relevant to the question as to whether or not there is conformity with those local plan policies.
8. Specifically in terms of GD1, whilst it is right that the Council has not raised the amenity of neighbouring residential occupiers specifically as an issue, Policy GD8 clearly is broad enough to encompass consideration of the impact of the development on the visual amenities experienced by both those visiting and living within this development, as well as those experiencing the development from outside.
9. The primary concern of the Council, as set out in the evidence of Mr Colligan, and those parts of Mr Buckle's evidence endorsed by Mr Colligan, relates essentially to its height, design and appearance of this development. In essence, the Council considers that the consequent harm to the character of the area and visual amenities of that area that would result from the incongruous form of development renders the proposal contrary to both the development plan and national policy.
10. The question as to the quality of the design and its impact on the character of the area – as the previous Inspector rightly identified – ultimately boils down to a subjective view of how well designed this scheme is and how it will be experienced visually, both within its immediate context and from further afield.

*The relevance of the previous Inspector's decision*

11. Notwithstanding that that question is essentially a matter of subjective judgement, this Inquiry however has the the benefit of the previous Inspector's analysis of this issue, and there would have been to be some justification (and therefore reasons identified) to depart from his analysis as to the design of the scheme and his analysis as to its impact.
12. The Council submits that significant weight can and should be attached his substantive analysis particularly of the impact of the proposal in terms of its effect on the character of the area at DL44-45, repeated in essence again at DL77 – 79 and DL111. None of the Appellant's evidence demonstrated a sufficient reason to depart from that analysis:
  - a. All the Appellant's witnesses accepted that the Inspector was entitled to reach the views he did in relation to impact on the character of the area, and none of them cited any factual or methodological flaw in his analysis;
  - b. As to the 2 new developments cited by Ms Ede as suggesting a change in the townscape (i.e the Multi-Storey Car Park "MSCP" and 11 the Forum), none of those present a change in the townscape sufficient to render the previous Inspector's analysis redundant:
    - i. 11 the Forum falls within the boundary identified in the Local Plan as the town centre. The distortive effect on the legibility of the town centre identified by the Inspector at DL45 (and explained further by Mr Colligan) remains regardless of whether this particular development were to come forward.
    - ii. As to the MSCP, whilst it is correct that would appear in RV 15, there is a good reason in townscape terms why that building is placed there: it marks where the station is.
13. Ms Ede's analysis as to why she considered the Inspector was wrong in his conclusion in particular at DL44 – 45 was far from compelling. It is surprising that Ms Ede chose not to focus on that particular analysis in her discussion of the previous Inspector's findings in her written evidence.

14. She placed undue reliance on DL112 where the Inspector states that the issues he had identified were “disappointments” not actual harm. The selective reliance on this particular paragraph by Ms Ede was selective and indeed opportunistic: the real question to be asked is whether there is a reason to depart from the Inspector’s detailed analysis in the earlier part of his decision letter. In the Council’s submission there is not. That conclusion is clearly entirely inconsistent with his earlier substantive analysis. The Inspector stated quite clearly, and rightly, that “*the form and silhouette of the proposal would not only be inimical to the traditional character of Stevenage but would be seen to be inimical to a degree not appropriate in its town centre fringe location*” ( DL111). He also stated that “*the townscape impact of this scheme would be harmful to the character of Stevenage*”: DL44. That is clearly an identification of material harm. For those reasons, it is therefore entirely open to this inquiry to accept his substantive analysis of harm but not to follow his errant conclusion at DL112.
15. As to his key finding at DL44 – 45, Ms Ede’s suggestion that the Inspector had not sufficiently considered the landscaping that would be provided around the edge of the site, even if it were correct, is no answer to the Inspector’s principal concern, namely the impact on the skyline. It also does nothing to address his identification of the harmful effect of the “relentless extent of a series of elevations” (DL42) and “wall of development” (DL111) – that terminology deriving from the Council’s expert witness.
16. She also suggested that he had only focussed on the skyline rather than other considerations. This goes nowhere: it is clear reading the decision letter as a whole that the Inspector focussed on a number of issues, looked in considerable detail at the scheme design and identified the matter that most concerned him: he was perfectly entitled to do so.

*The Council’s evidence on impact on the character of the area*

17. The evidence of Mr Colligan is that in essence is that the heights of each of the proposed blocks of this scheme (bar Block 7) (which are higher than the existing office building) in themselves do not render the scheme inherently objectionable: there is clearly a variety in height amongst the buildings which form the context for this site. Clearly, the site could accommodate a tall building, as Mr Colligan rightly and readily conceded. But it is the clustering and grouping not just of one tall building but a group of 7 blocks which is uncharacteristic of this particular area and inappropriate in visual terms: i.e the preponderance of a group of tall buildings on one particular site.

18. Mr Colligan is an experienced architect with over twenty year's experience. Quite rightly, no real challenge was made as to whether he had the requisite expertise to opine on these matters or whether he has sufficient relevant experience to comment on them. Significant weight can and should be attached to his views as to why he considers the Council was right to reject the proposal on the grounds of its harm to the character of the area and its negative impact in terms of visual amenity. Nor was there any suggestion that he failed to refer to any relevant technical guidance or notes.
19. Mr Colligan's analysis of the problematic nature of this proposal in terms of design and its impact on the townscape and character of the area accords entirely with what the Inspector had identified as the real problem with this development at DL44 – DL45 and DL111. His analysis also entirely aligned with what the Local Plan identifies as to how the town centre should be regenerated. In particular:
  - a. His concerns regarding the problems in terms of legibility that a seven block cluster of tall buildings would create on this site (which is outside the town centre ) are supported by the emphasis in the Local Plan on how the town centre should be defined spatially. It is clear that the Regeneration Plan (CD6.8) that formed part of the evidence base looked very carefully in spatial terms as to how the edge of the town centre should be defined, and identified its westward expansion. It also led to the adoption in the Local Plan of Major Opportunity Areas within the Town Centre, where massing and spatial criteria were identified, and in particular which identified where tall buildings would appropriate (see for example Local Plan CD5 para 7.14, see also 7.22). It stands to reason that the town centre should be where the preponderance of tall buildings should be. This scheme, which is common ground falls outside the boundaries of the town centre envisaged in the local plan, by introducing a 7 block tall building cluster would clearly compete with that.
  - b. He also identified those features that comprise the original New Town concept, which was drawn from the analysis presented in the development plan itself and Stevenage Borough Council's SPD.<sup>1</sup> It surprising that neither Mr Kelly, the scheme architect, nor Mr Coleman, the Appellant's urban design witness, made no reference at all to these principles in their written evidence. Mr Campbell's attempt

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<sup>1</sup> See RD5.2 para.20 (Colligan Main Proof) as to the identification of where those principles have been successfully executed.

to downplay the importance of the SPD because it pre-dates the Local Plan ignores the fact that the Local Plan itself identifies those principles as remaining relevant when it comes to the regeneration of Stevenage: see Local Plan CD5 para.4.17. And whilst he rightly noted in light of the new development on the edge of the town one of those principles would not be impinged here (views to the surrounding countryside) the other three (splendid parks, parkways, and distinct town centre) all are relevant to the determination of this appeal.

20. Mr Colligan’s analysis is entirely consistent with Mr Buckle’s analysis, and enlarges upon it. Mr Buckle noted that the:

- a. *“buildings which form the context for the site vary in height but are generally low rise with the occasional higher element”<sup>2</sup>;*
- b. *“the context is generally low rise with one or two exceptions”<sup>3</sup>.*

21. His evidence as to the wider character of Stevenage noted the Appellant’s own Design and Access Statement at para. 2.7 which recognised that *“whilst generally low rise, there are intermittent high buildings”*. His evidence was that *“taller buildings within Stevenage are generally individual blocks or higher elements of a lower scheme...although there are buildings of similar height and scale in Stevenage to some of those identified in the DAS, the form and character tended to be as point blocks and not part of a group of high buildings which would present an uncomprising wall of development along Lytton Way...this...would be uncharacteristic of Stevenage”<sup>4</sup>.*

22. The negative view of this particular aspect of this proposal was also shared by the previous Inspector: he described it as a relentless series of elevations. Whether or not this Inquiry shares the Council’s experts’ negative view of that grouping of buildings, or prefers the view of Mr Kelly in his description of that grouping as a *“bold new edge”*, is ultimately a course a matter of subjective planning judgment. And whilst the Appellant’s witnesses, and Mr Coleman and Ms Ede in particular may disagree with those experts on the importance of that context, the analysis by Mr Buckle of the site’s context, drawn as it was from the Appellant’s own DAS, and identification of this particular characteristic of Stevenage (i.e

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<sup>2</sup> See Mr Buckle’s Proof of Evidence, CD.13.13 para. 2.1.3

<sup>3</sup> *Ibid*, para. 2.1.6

<sup>4</sup> *Ibid*, para. 2.1.11

the intermittent nature of tall buildings rather than any groupings of them) with which Mr Colligan agrees was entirely reasonable and sound.

*The Appellant's evidence*

23. The Appellant's multiplicity of evidence on the question of context, from 3 different witnesses, rather than reinforcing each of those expert's views, in fact gave rise to real questions as to whether there was any consensus amongst them as to what exactly they considered the context and wider character of the area to be. Their evidence was replete with assertion but contained very little actual analysis to assist this Inquiry as to what the actual character of the area is.
24. Mr Kelly's proof of evidence contains a plethora of references to context<sup>5</sup> but provides little assistance as to what that actual context is or how much close regard has been paid to it. He stated that he agreed with the analysis of Ms Ede's Townscape Character Area 3 as the area acting as a transition but didn't seek to set out how that "transitional" element of TCA3 formed part of his his analysis.
25. He was taken to his own firm's Design and Access Statement, and when it was pointed out to him that this did not identify any clustering or family of tall buildings, referred to the grouping as a whole (delineated by the blue line in the DAS). This Inquiry will have to decide whether those buildings should be read together as a cluster or family (the Council submits that they clearly don't read together as either).
26. In terms of what the TVIA actually indicates, the Townscape Character Area 1 identified in the TVIA by Ms Ede describes the town centre as containing "*building heights as being varied between three to four storeys rising up to occasional taller buildings of up to 18 storeys to edges of the area*". That only goes so far. TCA3, in which this scheme would sit, also does not refer to any sort of clustering or "family" of buildings of the kind envisaged by this development.
27. The approach adopted by Mr Kelly as described above, which Mr Coleman endorsed, suggests that that the Appellant's various design witnesses seem to have considered themselves unshackled from the site's context. Mr Kelly's own evidence in particular at times suggested that the approach taken by the scheme designers was to treat this particular site not just a physical island set as it is between the road and the railway line, but as a site

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<sup>5</sup> See for example Mr Kelly's proof of evidence at 4.7.1, 5.2.1, 5.3.3

which can be considered in isolation. That is in essence what Mr Kelly states himself: his analysis is that the development's "*common architectural language and considered form gives the development a distinct character within the wider townscape*".<sup>6</sup> Whatever subjective view one takes of that character, Mr Kelly's analysis is very close if not tantamount to an acknowledgment that the character of this development is not consistent with that character. That same flaw was apparent in Mr Coleman's evidence at RD5.2 at paras 3.4.7 – 3.4.8.

*Other aspects of impact on visual amenity*

28. The impact on visual amenity and how the development will affect that is a related issue to the impact of the development on the wider character of the area. Ultimately, it is for the Inspector to decide whether there would be harm to the visual amenities of the area as a result of the design of the scheme, including its internal layout, and this question again is necessarily subjective.
29. Mr Colligan raised a number of important and valid concerns regarding how the site would be experienced visually by those visiting the site and experiencing it from within the access road and from its public spaces. In summary, those concerns focussed on:
  - a. The axial symmetry of the site and in particular the point of the entrance blocks.
  - b. The dominance of surface car parking; and
  - c. The lack of visual amenity afforded by the individual amenity spaces between Blocks 1 – 6 i.e the so-called "green fingers" referred to Ms Ritson.
30. As to the axial symmetry point, whilst umbrage was taken by both Mr Kelly and Mr Coleman at this criticism, the point remains that Mr Colligan has identified an important architectural technique that, in his view, is misplaced here: Mr Coleman's citation of various residential developments where he says he has come across this technique doesn't assist in understanding why this has been used in this particular site. The entrance gateway leads to nowhere – other than Block 7. The use of landmark buildings at nodal points is of course recognised as appropriate in the Local Plan. But Mr Colligan identified that specific harm that would result from this use of symmetry in terms of legibility: specifically, the use of

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<sup>6</sup> Mr Kelly Proof of Evidence, p.11

identical so-called “Wayfinder” buildings in combination and the “Gateway Buildings” do not signify anything of great importance within the town.

31. In terms of car parking dominance, it is true that the previous Inspector did not place much weight on the dominance of car parking (and said that in itself it did not render the scheme unacceptable or contrary to policy) (DL67). He nonetheless noted that it would be dominant: see DL55: “*there is no avoiding the impression that the open space would be dominated by car parking*”.
32. In terms of the amenity spaces between the blocks and Mr Colligan’s concerns as to how they would be experienced visually, Ms Ritson’s reference to other examples in her proof of similar amenity spaces working well was in my submission misplaced: those examples are clearly not analogous to the situation here particularly in terms of the height of the surrounding development.

**(2) CAN THE COUNCIL DEMONSTRATE A 5YLS?**

33. On the question of whether the Council can demonstrate a 5 year land supply (“5YLS”) there are essentially two issues:
  - a. The correct methodology for the basis for calculating the 5YLS;
  - b. Whether the Council has produced clear evidence as to the deliverability of the sites without detailed planning permission (i.e the sites which fall within the second limb of the definition of “deliverable” in the glossary of the NPPF”).

The *Liverpool* approach to undersupply.

34. This issue in essence turns on the question of interpretation of the PPG on Housing Supply.
35. The Council’s adoption of the *Liverpool* approach to undersupply is entirely reasonable. That approach allows for the historic undersupply to be delivered across the rest of the local plan period.
36. The Appellant’s case is that the PPG indicates that, absent a stepped trajectory for Council’s housing requirements set out in the adopted plan, then the Council is not entitled to adopt

the *Liverpool* approach when addressing past shortfalls in housing completions against planned requirements.

37. There is nothing in the PPG which states this. The only relevant part of the PPG which refers to how to address past shortfalls against planned requirements is paragraph 31 of the PPG. That states the following:

*“The level of deficit or shortfall will need to be calculated from the base date of the adopted plan and should be added to the plan requirements for the next 5 year period (the Sedgefield approach), then the appropriate buffer should be applied. If a strategic policy-making authority wishes to deal with past under delivery over a longer period, then a case may be made as part of the plan-making and examination process rather than on a case by case basis on appeal.”*

38. That case was made by the LPA during the local plan examination process and was not left to a case by case basis on appeal. It was accepted by the local plan Inspector. The local plan Inspector expressly noted that using the *Sedgefield* approach was unrealistic because of the Council’s reliance on a small number of strategic sites. The Inspector clearly noted that spreading the delivery of the shortfall over the entire plan period was not ideal but was clearly the only sensible option. That is highly relevant to this appeal: nothing has materially changed in terms of the Council’s reliance on a number of relatively large strategic sites. Therefore, it continues to be the only sensible option.

39. There is nothing in the PPG which states that unless stepped requirements have been adopted in the local plan then, when it comes to calculating the 5YLS figure following the adoption of the local plan, the *Sedgefield* approach has to apply. Mr Campbell’s interpretation of the PPG is therefore simply wrong. Also wrong was his reliance on paragraph 39 of the PPG: that part of the PPG (under the heading Housing Delivery Test) merely sets out how the the stepped requirements can be used in the Housing Delivery Test in place of annual average requirement figures. It states as follows:

*“Where the adopted housing requirement is stepped, these stepped requirements will be used in the Housing Delivery Test in place of annual average requirement figures. A stepped requirement allows authorities to reflect step changes in the level of housing expected to be delivered across the plan period.”*

40. Nothing in that paragraph or any other part of the PPG suggests that the Council can only apply a *Liverpool* approach if the adopted housing requirement is stepped.
41. Therefore the previous Inspector was perfectly correct in his analysis at DL78 – 79 and there is no reason to depart from his analysis.

## The deliverability of sites included by the Council in its 5YLS

42. The NPPF defines as deliverable:

*“To be considered deliverable, sites for housing should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years. In particular:*

*a) sites which do not involve major development and have planning permission, and all sites with detailed planning permission, should be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered within five years (for example because they are no longer viable, there is no longer a demand for the type of units or sites have long term phasing plans).*

*b) where a site has outline planning permission for major development, has been allocated in a development plan, has a grant of permission in principle, or is identified on a brownfield register, it should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years.*

43. The Appellant’s criticisms of the Council’s 5YLS calculation (as set out in Mr Campbell’s proof of evidence and discussed at the round table session) was primarily on those sites considered at part (b) of the NPPF definition. Those criticisms remain entirely unwarranted. Those sites are all allocated in the development plan or have outline permission and the Council has provided clear evidence that completions will be achieved on site within five years as set out in the Council’s 5YLS Addendum in accordance with the NPPF and the PPG on Housing Supply and Delivery at paragraph 7.

44. It is important to note that paragraph 7 of PPG sets out what evidence can be used to demonstrate deliverability: it sets out an inclusive list of what evidence may include including evidence of *“firm progress made towards the submission of an application, for example a written agreement between the local planning authority and the site developer(s) which confirms the developers’ delivery intentions and anticipated start and build-out rates”*.

45. The Council has provided robust, up to date evidence in accordance with that part of the PPG to support its latest calculation of 5YLS set out in its 5YLS Addendum dated May 22 (“the 5LYS Addendum”) as adjusted in the final Statement of Common Ground on 5YLS.<sup>7</sup>
46. The Appellant’s reliance on the South Oxfordshire appeal decision at CD3.20.8 is misplaced: that appeal decision does not address the sort of examples set out in paragraph 7 of the NPPG and does not, and cannot, override what the PPG says. It was referred to at the last inquiry and the Inspector did not endorse the approach set out there: see DL80.
47. Mr Campbell’s interpretation of what clear evidence entails was wholly at odds with the sort of evidence that the PPG considers could be used to demonstrate deliverability. The level of detail and analysis Mr Campbell referred to would set the bar so high that very few sites if any would ever fall within the second category of deliverable sites within the NPPF definition. Put simply, there is no requirement in the PPG or the NPPF for such evidence to be produced, and applying the PPG or NPPF in such a way would completely undermine the purpose of including the “type B” categories of site in the NPPF in the first place.
48. In any event the evidence relied on here by the Council includes detailed statements of common ground (“SoCGs”) specifically negotiated with the LPA which the Council itself has entered into. <sup>8</sup> Those are not confined to planning matters but considered the technical aspects of delivery. They fall squarely within the type of evidence expressly envisaged in paragraph 7 of the PPG.
49. In terms of build rates (which was one of Mr Campbell’s main points of issue with the Council’s trajectory) those are specifically referred to in those SoCGs. As a general point., the build rates set out in those SoCGs are consistent with the build rates assumed by Mr Campbell for his own scheme.<sup>9</sup> Precisely the same criticisms of the build rates was made by Mr Campbell at the last inquiry and the Inspector rejected them.<sup>10</sup>

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<sup>7</sup> Appendix E to Ms Martin’s Proof of Evidence RD5.3, and RD 6.6.

<sup>8</sup> See RD2.1.6

<sup>9</sup> Campbell Main Proof CD3.20 para. 1.31

<sup>10</sup> See for example DL82 (3rd bullet)

50. Turning to the specific criticisms of each of the sites in Mr Campbell's evidence, the Council does set out below all the points discussed in the roundtable but wishes to re-emphasise the following key ones.

*The Matalan Site*

51. This is a Category A site and therefore the assumption is that it will be deliverable until permission expires, unless there is clear evidence that homes will not be delivered within five years. That puts the onus squarely on the Appellant to produce that evidence. There is no clear evidence that the 383 units scheduled for completion in 2025/26 will not be delivered by that date.

*SG1*

52. In respect of SG1, the build out rates contained in the SoCG (RID09) are criticised as being unrealistic but compare broadly to the rates applied by the Appellant in relation to its own development. The mere fact that the Council is involved in this scheme as landowner means that there is also added control over the build out rates. Likewise the need for exercise of compulsory purchase powers is not a significant bar to delivery.

*HO2 – West Stevenage – Phase 1 and Phase 2*

53. Phase 1 has a detailed permission so it is common ground that it falls with paragraph A of the NPPF definition. Again the build rates are not fundamentally inconsistent with the Appellant's own indicative development trajectory.<sup>11</sup> Ms Martins explained that the remaining issues are narrow in respect of the status the s.106 agreement.
54. In respect of Phase 2, the LPA has produced sufficient evidence in accordance with PPG para. 7: evidence has been provided in the form of the SoCG agreed with the developer, which appended the trajectory showing the build out rates which the Council has relied on.
55. The suggestion that there would be issues caused by two housebuilders being involved was discussed in detail at the last inquiry. They were clearly not considered sufficiently serious for the Inspector to query the build out rates advanced there: see DL82 6<sup>th</sup> bullet.

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<sup>11</sup> CD3.20.5

*11 the Forum.*

56. Ms Martins explained that most of the s.106 heads of terms have been agreed, and final terms are likely to be agreed in the next week or so. Even if the trajectory were to slip to a certain extent as Ms Martin says it would still fall within the relevant 5 year period.
57. Ms Martins explained the progress with the section 106 agreement and the fact that it is likely to be agreed in June. Once the reserved matters have been discharged (which Mr Chettleburgh explained that it was anticipated it would take 3 months), the housebuilder has advised that they are anticipating to be on site with Q4 of 2022. That is an entirely reasonable anticipated start date and there is no reason why it cannot be achieved.

*HO3 North Stevenage.*

58. The section 106 agreement has been signed by both landowners and one of the developers. The agreement is now with the second developer to sign following which it will be sealed by the County Council, i.e sometime in the next 6 weeks approximately. Therefore the commencement date on site which has been confirmed as Q42022 (see SoCG at RID10 at para. 3.1) is entirely reasonable.

*SG1 Phases 2 - 3*

59. The assertion that there is no clear evidence by the Council to justify the inclusion of this site in the 5YLS is unwarranted: again there is a statement of common ground agreed with the developer.

*HO1 Former Pin Green*

60. Technical studies are being progressed as set out in Ms Martin's Proof of Evidence as confirmed by the County Council.

**PLANNING BALANCE AND CONCLUSION**

*Lack of compliance with development plan as a whole*

61. The first question of course for this Inquiry is to determine whether or not the scheme accords with the development plan as a whole. The Council submits that due to the conflict identified above in respect of SP8 and GD1, that the scheme does not accord with the

development plan as a whole and there are no material considerations which outweigh that conflict.

62. When determining that question of overall compliance, the importance of the policy in issue is clearly relevant as is the degree of harm.
63. Turning to the question of importance of the policy, both parties accepted that full weight should be attached to SP8<sup>12</sup>. It is common ground that it accords with the NPPF. SP8 is a strategic policy and it was accepted by the Appellant's planning witness as an important policy which secures the Council's objective of high design (see Local Plan para. 4.17), albeit in the context of the need to regenerate Stevenage. On that basis, it is simply implausible for Mr Campbell on behalf of the Appellant to suggest that if there is a conflict with this policy, that nonetheless there could be compliance with the development plan taken as a whole.

*Benefits of the scheme*

64. As is set out in the Statement of Common Ground (RD6.1), there is a considerable degree of common ground between the Council and the Appellant in respect of the benefits of this scheme and its compliance - in other respects - with the development plan. There is for example no dispute that the site is in a highly sustainable location, and that redevelopment of the site for residential uses accords with the local development plan. A vacant brownfield site would be brought back into use. The scheme would of course deliver a substantial quantity of homes, including affordable homes, and with attendant economic benefits to the town centre. All these benefits are fully acknowledged by the Council, and, as explained in the evidence of Gemma Fitzpatrick, limited to moderate weight (and - in the case of PDL - substantial) weight for the majority of them should be attached to them. But none of them (whether in isolation or as a whole) outweighs the significant breach of the strategic policy on design and the significant adverse harm that the Council has identified that this scheme would cause.
65. The degree of weight is of course a matter of judgment but the Council's position remains that Ms Fitzpatrick's views as to the degree of weight to be attached to the benefits contended for by Mr Campbell were entirely reasonable. But as an initial point, none of

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<sup>12</sup> Campbell XX 14 June 2022

those benefits (whether in isolation or as a whole) can possibly be of such weight as to override any conflict with the key design policies SP8 and GD1. Turning to the particular benefits which Mr Campbell put forward which are in issue, the Council highlights the following points:

- a. **Contribution to housing land supply.** Clearly the degree of weight to be attached to this depends to a large part as to the question of whether the Council can demonstrate a 5YLS. Ms Fitzpatrick's view that moderate weight should be attached to this is entirely reasonable: she did not take into account the degree of harm in her apportionment of weight to factors such as the contribution of housing land supply or affordable housing, which formed a significant focus of her cross-examination.
- b. **Affordable housing.** Approximately 9.5% of the scheme would be affordable housing. Of course any contribution to AH supply is a benefit, and the Council does not dispute that there has been a significant shortfall in affordable housing delivery to date. It is of course not suggested that there is any conflict with SP7 but nonetheless the contribution this scheme makes is well below the aim of the Local Plan to deliver at least 25% of all new homes over the plan period as affordable, as Mr Campbell rightly recognised. That clearly is material to the degree of weight to be apportioned to this factor. Mr Fitzpatrick's view that moderate weight should be attached to this factor is therefore entirely reasonable.
- c. **Sustainability.** Many of the sustainability benefits put forward by the Appellant are functions of the site's location and would be delivered by any high density scheme in this location. Therefore whilst they attract weight they are not reasons to attribute substantial weight to this particular scheme. Other points referred to by Mr Campbell (electric charging points etc) are required by legislation in any event.
- d. **Carbon reduction.** The fact that carbon reduction measures go beyond Building Regs and policy has to be seen in the context that these measures are essentially mitigating the effects of this scheme.
- e. **Biodiversity net gain.** That is acknowledged by the Council as a benefit, but only insofar as it goes beyond what is required in policy or legal terms (as Mr Campbell

himself suggests in his own evidence in relation to this benefit and indeed the benefits above).

- f. **Economic benefits.** Again, any scheme brought forward in this location would provide the benefits contended for by the Appellant.

66. In light of that analysis, even if the view is taken that the Council has not demonstrated a sufficient 5YLS, and therefore the tilted balance applies, the Council submits that the adverse impacts of this scheme significantly and demonstrably outweighs the benefits.

67. For those reasons above the appeal should be refused.

**JAMES NEILL**

**Landmark Chambers**

**15 June 2022**