

Meeting: Planning and Development
Committee

Agenda Item:

Date: Tuesday 7 September 2021

INFORMATION REPORT - APPEALS / CALLED IN APPLICATIONS

Author – Linda Sparrow 01438 242837

Lead Officer – Zayd Al-Jawad 01438 242257

Contact Officer – James Chettleburgh 01438 242266

1. APPEALS RECEIVED

- 1.1 20/00198/FPH, 55A Whitney Drive. Appeals against refusal of planning permission for a single storey front garage.

2. DECISIONS AWAITED

- 2.1 None.

3. DECISIONS RECEIVED

- 3.1 19/00474/FPM, Land West of Lytton Way. Appeal against refusal of planning permission for the demolition of existing office building (Use Class B1) and structures, and the 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.

3.1.1 Main Issues

- Character and appearance of the area in terms of the proposal's height, design, appearance and intensity;
- The supply of market and affordable housing;
- The demand for and provision of supporting infrastructure.

3.1.2 Reasons

Character and appearance - Loss of existing building

It was agreed that the loss of existing employment floorspace and land and a change in its character to a residential use is acceptable. The Council made no claim that the existing building has any value as a non-designated heritage asset. It was considered that the building had a striking design which was well detailed and assembled with an impressive atrium entrance which is impressive both spatially and its rich use of materials.

The building, whilst not of first rank architecture, is a fine building of its time. It was considered that its angular use of patent glazing and red brick circulation cores is probably inspired by the engineering aesthetic of James Stirling (demonstrated most famously in his trio of University buildings in Leicester, Cambridge and Oxford), applied in this case to a commercial building.

However, it is accepted the inevitability of its demolition due to the lack of demand for the building in its present use combined with its overall layout with respect to the office space. The inspector considered that the loss of the considerable contribution which the current building makes to the character and appearance of the local area of Stevenage as a whole and a matter of regret and a factor taken into account in the overall planning balance.

Character and appearance - Quality of the replacement buildings

The inspector did not agree with the TVIA's conclusions that the impact would be beneficial or neutral in all other cases. The inspector considered that the site addresses wide streets which are augmented with wide verges, height of itself not be harmful. There are also large expanses of open car parking. In such a context, the inspector sets out that tall buildings would not be out of proportion and so would not be intrinsically harmful. The wide spaces make the site relatively isolated, in which a development presenting its own character, not necessarily closely related to nearby development, could be acceptable.

The mere fact that one can see the development would not make it harmful. The inspector advises that its effect will be largely down to sculptural form and its consequent effect on the skyline of the town.

Analysis of building forms

The inspector in his report sets out a detailed analysis of the layout of buildings as well his review of the appellants evidence. This looked at the scheme had evolved from eight elements of equal width with heights varying in a catenary pattern, through patterns of two types of element with taller, slimmer elements forming firstly bookends, then entrance gateways, to a pairing of the two types of element with greater and lesser spaces between them. The inspector also talks about composition of the development in terms of gateway, pavilion and wayfinding and concludes that the only fact distinguishing the buildings was their height. The gateway and wayfinder types consist of footprint modules turned through 90 degrees so the narrower facades face Lytton Way.

In the final iteration of the proposal, the formerly separated elements are joined in pairs to form buildings which would still be tall but of much more squat proportions. The core which links the elements of blocks 2 and 5 would be slightly recessed, with a slightly lower parapet than the elements on either side and would comprise brickwork of a different colour so that it would visually separate the elements on either side. In contrast, although the two elements of blocks 1, 3, 4, 6 and 7 would be distinguished by differently coloured brickwork, the two elements would simply butt together, articulated solely by their differing depth and so likely to be perceived as a single geometrical form, of greater bulk than the two elements separately.

Symmetry and proportion

The inspector considered that the individual buildings display a degree of symmetry which is only compromised by a difference of one storey in the height of balancing blocks 2 and 5, the asymmetry of block 7 and the slightly asymmetrical adjustment of the building line to follow the alignment of the Lytton Way frontage. The inspector states "its symmetry is likely to be seen with a degree of satisfaction" (paragraph 24).

In form, blocks 1 and 6 are more or less identical but handed, with block 6 having an extended plant room at ground floor level, the effect of this can be discounted in its effects on the skyline as viewed from longer distances. The longer elevations of these blocks when viewed from the roundabouts would not be symmetrical, but have less public presence. On the more prominent long elevations, the inspector considered that whilst they would be acceptably pleasant to look at, both would give a sense of not quite achieving perfection.

Blocks 2 and 5 were considered to balance each other in terms of the developments composition but are not identical. Whilst each block would have its own elevational symmetry which are appreciated up close, in longer views the difference in the height of these blocks would compromise feelings of satisfaction from an enjoyment of symmetry. The use of contrasting materials and recognised as harmonious in terms of the blocks proportions.

In longer distance views, the variation in brickwork colour between the two main elements and their linking element would be less noticeable. The height difference of the linking element would be barely perceptible. Consequently, blocks 2 and 5 would be seen not as four conjoined elements but as two single entities each with a continuous flat roof.

The form of blocks 3 and 4, their longer elevations, facing each other across the access to the site would have symmetry but other elevations would not. The proportions of the lower elements would be the same as those of blocks 1 and 6. The taller elements would be less tall and so, less elegant, with proportions of the narrower elevations facing Lytton Way. Their form was also considered least satisfactory in terms of relationship between the height of the two blocks. They would appear dull, even lumpen.

Each element of the longer elevations of block 7 would have reasonably satisfactory proportions.

The Skyline

The Inspector sets out in his report that although the heights would not, in themselves, be excessive in relation to the width of the highway and its verges, the gaps between the buildings narrow to their rear. Consequently, seen sidelong in passing, the inspector states that the "extent of deeply planned side elevations would be more apparent than the gaps between buildings and so, the gaps would barely relieve the relentless extent of a series of elevations never less than eight stories in height" (Paragraph 42). In contrast to the rest of the town centre, which is surrounded by individual, but widely-spaced tall buildings on its fringe, in these views, the scheme, as set out by the inspector, would draw attention to itself by its combination of height and the intensity of a closely-spaced, but also extensive, agglomeration of tall buildings

Consequently, the inspector stipulated that the scheme would draw attention to itself in this way would do so with a skyline which would be no more than competent or workmanlike in providing visual interest and would be, in parts, disappointing. Because of its height and extent, the scheme would be widely visible. NPPF paragraphs 126 and 128 refer to the creation of high quality, beautiful and sustainable buildings and places as fundamental to what the planning and development process should achieve. The sustainability of this development is not in question. In detail and in parts it would be of high quality. But, in its skyline and in its contribution to the character of Stevenage in its broadest extent, it would not be beautiful or of the highest quality and so, it would not be a worthy successor to the building which it would replace.

The Conservation Area

The inspector sets out here that whilst the development would be visible from the Old Town Conservation Area, he felt that it would have no physical effect on the heritage asset, which thereby be preserved. As such, it was determined that the development that the significance of the conservation area would not be adversely affected by the presence of the proposed development. It felt the development would be able to co-exist side by side with the conservation area as being two separate entities.

Intensity

Here, the inspector considered that due to the high intensity of development, it means that the scheme would have to be serviced by substantial areas of bin stores, undercroft parking and cycle stores. These predominate in the frontages of the buildings at ground floor level. The inspectors set out that it would not be realistic to expect these frontages onto the open areas would be enlivened by pubs, bars, cafes because the schemes internal circulation area is a cul-de-sac. Nevertheless, the inspector does state in his report that the “succession of undercroft car parks, bin stores and cycle stores would make for a somewhat anonymous frontage at street level and would be a physical manifestation of the high density of the scheme” (Paragraph 57).

Separately, the inspector sets out that the developments overall intensity would be more noticeable in the living environment in terms of privacy. This is mainly down to the close proximity of facing windows across the amenity terraces and would form an adverse impression of the intense character of this development as a result.

The inspector did emphasise the sites sustainable location in terms of its location in relation to the railway station, but station and town centre.

Conclusions on character and appearance

Whilst the scheme does not have a direct pedestrian link to the town centre, the inspector concluded that the site is sufficiently close to the railway station and the town centre to justify a higher density scheme. The site is identified as being relatively isolated from its context by the railway, wide roads and extensive open car parking, so a scheme with its own character as seen as justified.

However, the inspector did explicitly set out in his decision that a user of the site would “experience the high density in terms of the dominance of car parking, the utilitarian nature of street frontages largely comprising bin stores, cycle and undercroft car parking and the effect of tall buildings abutting the small amenity terraces but none of these would be unacceptable or contrary to policy” (Paragraph 67).

In addition to the above, due to the layout of the development, a number of flats proposed would experience substandard levels of privacy. The use of the site would, as set out in the report, would experience high quality of detailing, but, this would not be so when viewed from long distances. In addition, the sculptural quality of the scheme is disappointing. In terms of the concept of the taller buildings at the end of the site can be justified, the building are insufficiently striking or seen as memorable landmarks.

The inspector also considered that there would not be sufficient variation in the skyline which gives an impression of an extensive residential quarter of intensity of development which is greater than that experienced in the town centre itself. The inspector therefore concluded, that the scheme would have an adverse effect on the character and appearance of the area in terms of the proposals height, design and appearance.

Supply of housing – Housing delivery test and the benefit of housing

Five-year housing land supply was challenged on the methodology of dealing with previous shortfalls and the deliverability of certain sites within the five years. However, the Inspector concluded that the methodology being used by SBC was correct and that there was no shortage of identified land capable of delivering a five years' supply of housing (Paragraph 82).

Furthermore, the Inspector notes that the appeal site itself is contained within the Council's five-year housing trajectory, with an expected delivery of 100 units per year

from 2023. The Inspector concludes that this means that if this appeal is dismissed without expectation of a successful alternative, the Council would not be able to demonstrate a five-year housing land supply.

The appeal site is providing 52 affordable housing units. The Inspector considers the affordable housing to be a **significant benefit**, particularly given the past delivery of affordable housing (since the start of the plan period this has been limited to 282 units, an average of 31 homes per annum) (para 84 of Appeal Decision).

Supporting Infrastructure

The Council did not explicitly state what matters will be met from CIL contribution, but it pursues contributions amounting to £2,071,019 [Paragraph 87 of the report lists the obligations in detail].

In terms of the primary education contribution, a primary education contribution of up to £1,670,732 was sought and defended by HCC through the appeal. The appellant argued that the primary education contribution did not meet the CIL tests given that it was not proportional in comparison to those contributions sought from other developments in the area and that access had not been granted to HCC's pupil yield Model. However, the appellant noted that if the Inspector considered that a primary education contribution met the CIL tests that it should be capped at a maximum of £907,676 (figure based on comparable contributions sought from other developments in the area).

The primary education contribution requested from this development, as advised by the Inspector, was seen as an exemplary application of government advice. He also disagreed with the appellants arguments that their primary education contribution should be reduced such that it was proportionally similar to contributions sought from other sites in the area (which were calculated using an alternative methodology which produced lower contributions) and that there should be a reduction given the CIL charging zone the site is located in.

When assessing the legitimacy of the primary education contribution the Inspector firstly considered whether it met the statutory CIL tests, namely:

- *Necessary to make the development acceptable in planning terms;*
- *Directly related to the development; and*
- *Fairly and reasonably related to it in scale and kind.*

The Inspector notes that National Planning Practice Guidance (NPPG) is clear that authorities can choose to pool funding from different routes to fund the same infrastructure provided that authorities set out in their Infrastructure Funding Statements (IFS) which infrastructure they expect to fund through the Levy (para 91 of Appeal Decision). This is the case for the primary education project (new 2 form of entry primary school in Stevenage Town Centre), for which the intention is that it would be primarily funded through S106 obligations with CIL proposed to be used to "top-up" any funding shortfall. Furthermore, the new primary school is included in SBCs Infrastructure Funding Statement. The primary education contribution therefore meets the Inspectors rationale.

In addition, the Inspector notes local authorities can use planning obligations to supplement CIL payments only if CIL is not meeting the cost of the project in full (para 92 of Appeal Decision). Again, this is not the case for the primary education project as CIL is not proposed to be used for 100% of the project, so based on this statement S106 obligations can also be sought.

However, the Inspector then progresses to offer his definition on what a local authorities IFS should include. He notes that the IFS should identify infrastructure needs, the total cost of this infrastructure, anticipated funding from developer

contributions, and the choices the authority has made about how these contributions will be used (para 90 of Appeal Decision).

The Inspector notes that SBCs IFS (published in December 2020) includes the following information; "Reiterating that the Council does not expect to spend any CIL receipts this year and that it is not yet in a position to publish a detailed infrastructure list, for the sake of meeting Regulation 121A paragraph 1(a), the Council expects to spend collected CIL receipts, other than those to which regulation 59e and 59f applies, to wholly or partly fund:

- Schemes within the SBC Infrastructure Delivery Plan as a priority, and
- Where possible, schemes within Council policy documents," [These are then listed] (para 93 of Appeal Decision). Therefore, importantly, the SBC IFS does not set out specifically how the CIL monies will be spent and exactly how much will be allocated for each project. This is not an unusual position for a CIL authority given the length of time it takes to collect CIL and that funding priorities may change.

The Inspector notes that currently no monies have been committed from SBC's CIL receipts to fund the town centre primary school (para 96 of Appeal Decision). In addition, the inspector argues, that there is inconsistency between the way the Primary Education contribution has been calculate and the way the NHS contribution has been calculated. Consequently, the inspector, therefore, argued that for consistency, and to ensure the contribution would be fairly and reasonably related to the development in scale and kind, the contribution was reduced to 20% of the figure sought, that is £334,146.

Sustainable transport contribution

The inspector set out in the report that the planning obligations for sustainable transport i.e. to improve cycle routes connecting the development to the town centre, were not necessary due to the sites sustainable location. As such, he did not consider the obligation was necessary to the make the development acceptable, nor would it be related to the development either directly or reasonably in scale and kind. However, the inspector did take account of the planning obligations to travel planning monitoring and car club and concluded these obligations were acceptable.

Planning balance

The Inspector concluded in his decision that the benefits of the development would be considerable and tangible in that it would bring a vacant brownfield site back in use, with the economic benefits of job creation during construction and household expenditure during subsequent occupation. The inspector also considered that the scheme would contribute approximately 15% of the Council's housing requirements for each of the five years. In addition, the affordable housing provided would be the equivalent of that provided in an average year and a half on previous performance.

The inspector considered that the adverse impacts of the development would be less tangible but also considerable. Nearly a quarter of flats would have substandard living accommodation in terms of privacy. In addition some of the buildings were deemed to be less well-proportionated and although some of the buildings would have high quality detailing, some would be less well-proportionated and the sculptural quality of the scheme was seen as disappointing overall. The larger blocks located at the ends of the site would be seen as imperfectly proportionated and would be not seen as striking to be adequate as memorable landmarks. The variation in building height was seen as insufficient to avoid the effect of a wall of development at least 8 stories high along Lytton Way. In addition, in longer views, the scheme fails to respect the traditional character of Stevenage and not as appropriate in its town centre fringe frontage.

Other than the effect on living conditions of potential future occupants, these adverse impacts would be disappointments rather than actual harm. They would not

significantly and demonstrably outweigh the benefits. Therefore, in accordance with the advice set out in the NPPF.

3.1.3 Conclusion

The appeal is allowed (decision attached).