



Appeal Decision

Inquiry Held on 20-23 and 27 July 2021

Site visit made on 27 July 2021

by P W Clark MA(Oxon) MA(TRP) MRTPI MCM1

an Inspector appointed by the Secretary of State

Decision date: 20 August 2021

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

Land to the west of Lytton Way, Stevenage SG1 1AG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Hill Residential Ltd against the decision of Stevenage Borough Council.
 - The application Ref 19/00474/FPM, dated 1 August 2019, was refused by notice dated 6 March 2020.
 - The development proposed is demolition of existing office building (B1 use) and structures, and the construction of seven apartment buildings comprising 576 dwellings (C3 use), together with internal roads, parking, public open space, landscaping, drainage and associated infrastructure works.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing office building (E use) and structures, and the construction of seven apartment buildings comprising 576 dwellings (C3 use), together with internal roads, parking, public open space, landscaping, drainage and associated infrastructure works on Land to the west of Lytton Way, Stevenage SG1 1AG in accordance with the terms of the application, Ref 19/00474/FPM, dated 1 August 2019, subject to the eighteen conditions appended to this decision.

Procedural matters

2. Subsequent to the making of the application, use class B1 has been abolished. I have taken the reference in the description of development to the use class of the existing building to refer to use class E.
3. Subsequent to the submission of the appeal, the Council has revised its requirements for cycle parking. The appellant has produced revised drawings which show how the proposal could be amended to meet the Council's new standards. The appellant has not asked for the appeal to be determined on the basis of an amended scheme, which has not been advertised, but has suggested that, if the appeal is allowed, a condition require the submission of an amendment to show compliance with the revised cycle parking standards.
4. The main parties reached agreement on a number of matters in Statements of Common Ground. But, these are not binding on third parties who raised other issues and who pursued issues on matters agreed between the main parties. Moreover, when an appeal is made, the proposal is considered afresh in its

entirety and so this decision is not bound but is informed by the agreements reached.

Main Issues

5. There are three. They are the effects of the proposal on:
 - The 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

Reasons

Character and appearance

Loss of existing building

6. The two main parties are agreed that the loss of existing employment floorspace and land would be acceptable and compliant with policy EC7 of the Stevenage Borough Local Plan 2011-2031 adopted on 22 May 2019 (the Local Plan). This provides that planning permission for the loss of employment land on sites not allocated for any specific purpose will be granted where (amongst other matters) there is sufficient suitable and employment land available elsewhere, or it can be demonstrated that a unit has been unsuccessfully marketed for its existing use, or has remained vacant, over a considerable period of time. All these criteria are met in this case and so, I agree with the main parties that the loss of existing employment floorspace and land and a change in its character to a residential use is acceptable.
7. The Council makes no claim that the existing building has any value as a non-designated heritage asset. Many third parties disagree. I concur with Richard Coleman, the appellant's own adviser, who refers (in paragraph 2.3.2 of his Statement on Design, Townscape and Heritage) to its striking design. He points out (in his paragraph 2.5.1) that it is very well detailed and assembled and the atrium entrance is particularly impressive both spatially and in its rich use of materials.
8. Although not of the first rank of architecture, it is nevertheless a fine building of its time (1989). I agree with Richard Coleman 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. The way that the accommodation is supported by a concrete A frame is reminiscent of Stirling's Florey Building in Oxford. In architectural terms, the existing building on site is probably one of the more distinguished buildings in Stevenage.
9. The undisputed evidence is that there is no demand for the building in its present use. Its layout produces long, thin areas of office space difficult to arrange efficiently. Its very quality puts off potential occupants. I therefore accept the inevitability of its demolition but the loss of the considerable contribution which the current building makes to the character and appearance of the local area and of Stevenage as a whole is a matter of regret and a factor to be taken into account in the overall planning balance.

Quality of replacement buildings

10. The appellant claims that the quality of its replacement would be high. At close quarters, I have no doubt that the attention to detail shown in the submitted plans of the building and of the landscape strategy would be appreciated. These include, on the buildings, an extensive use of symmetry, a quality which is often much appreciated, as figure 46 of the National Model Design Code Guidance Notes acknowledges. The use of brickwork provides human scale and interesting texture. There is subtlety in the way balconies are placed on alternate floors and in the use of alternate dispositions of clear and patterned glass. But these detailed features would be less identifiable and therefore, less influential, from further away.
11. In longer distance views, I am unconvinced by the repeated assertions in the appellant's Townscape and Visual Impact Appraisal (TVIA) that where the development makes a significant appearance, its quality would be high. Both parties agree, and I concur, that the appellant's TVIA has done a thorough job in identifying representative viewpoints (RV) from which the scheme's impact on the character and appearance of the town can be judged.
12. Those with the greatest impact appear to be the following;
 - RV1, view along Lytton Way from the north
 - RVs 5 and 6, views south along Letchmore Road
 - RVs 7, 8 and 9, views across King George V playing field, Millenium Gardens and Gates Way
 - RVs 10, 11 and 16, views west along Fairlands Way approaching the site
 - RV12, view from Town Centre Gardens
 - RV15, view from station bridge over Lytton Way
 - RV18, view east along Fairlands Way from Argyle Way
 - RV19, view east along Chequers Bridge Road.
13. But, like the Council's expert Mr Buckle, I do not share the TVIA's conclusions that the impact would be beneficial or neutral in all of these cases. In the following paragraphs, I explain why I have come to that opinion.
14. Firstly, let me state that because the site addresses wide streets augmented with wide verges, height of itself would not be harmful. Lytton Way and Fairlands Way are big spaces. South thereof are large expanses of open car parking. In such a context, tall buildings would not be out of proportion and so would not be intrinsically harmful. Moreover, the big 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.
15. Secondly, the mere fact that one can see the development would not make it harmful. Its effect, whether harmful or otherwise, is largely down to the sculptural form of the development overall and its consequent effect on the skyline of the town. Both parties agree that this is largely a matter of judgement, leaving it to me to form my own opinion based on the drawings of the scheme, the representative viewpoints of the TVIA and the evidence of my

own eyes when visiting the site and locality without offering much objective analysis on which to form that opinion. I therefore make no excuse for the exercise of judgement which follows.

Analysis of building forms

16. From an examination of the plans, one can see that the layout of each building derives from two floorplan modules, one approximately 16m x 20m, the other approximately 16m x 17.5m. A pair of the first modules, one turned through ninety degrees, combine to form blocks 1, 3, 4, 6 and 7. A pair of the second modules, linked with a service core, form blocks 2 and 5.
17. In his evidence to the Inquiry, Mr Kelly the scheme's architect explained how the chosen form of the Lytton Way frontage 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. Finally, with the involvement of the landscape architect, paired elements (or, as I have called them, modules) were joined together to enlarge the spaces between the blocks and the block numbers reduced from eight to six (formed of twelve modules, each pair economically sharing a service core).
18. Section 4.9 of Mr Kelly's proof classifies the twelve elements of the composition into three types; gateway, pavilion and wayfinder but in fact all that distinguishes them is their differing height. The gateway and wayfinder types consist of examples of the same 16m x 20m footprint module turned through ninety degrees so that their narrower facades face Lytton Way. They would have more storeys than the pavilion type. The latter consists of modules of both dimensions but with their longer facades facing Lytton Way.
19. In the earlier iterations of the scheme design, each element of the composition had vertical proportions of varying degrees of elegance. In the final iteration which forms the submitted scheme, the formerly separate elements are joined in pairs to form buildings which would still be tall but of much more squat proportions.
20. 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

21. The Guidance Notes of the National Model Design Code point out that symmetry, or a conscious asymmetry, is a factor in ensuring that buildings are attractive, both from a distance and close-up. They also advise that the form and silhouette of tall buildings need to be carefully considered. The long and short elevations need to be well proportioned in terms of their slenderness.
22. In response to my question, Mr Kelly confirmed that the composition of the scheme was arrived at pragmatically. Its aesthetic effect was not tested by the

- application of any system of proportions. It is instructive to look at the proportions which have resulted. The following commentary derives from an examination and analysis of drawings printed from those submitted electronically and so may be subject to distortions on printing. All the figures must therefore be regarded as approximate rather than precise.
23. There are many theories and systems of proportion but, it is generally accepted that the so-called "golden ratio" of 1:1.61803 is usually associated with a perception of beauty. Other proportions often found to give satisfaction are squares (1:1), double or triple squares (1:2 or 1:3) or a ratio of 2:3 (1:1.5, not far off the golden ratio).
 24. In this scheme, individual buildings display a degree of symmetry, as already noted. The scheme as a whole is more or less symmetrical, compromised only 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. Overall, its symmetry is likely to be seen with a degree of satisfaction.
 25. In form, blocks 1 and 6 are more or less identical but handed. Block 6 would have an extended plant room at ground floor level but the effects of this can be discounted in its effects on the skyline and on the townscape in longer distance views.
 26. The longer elevations of blocks 1 and 6, facing respectively on to the Lytton Way/Trinity Road roundabout or the Lytton Way/Fairlands Way roundabout and into the interior of the site, would not be symmetrical. The narrower end elevations would be symmetrical but these would have less public presence. Consequently, appreciation of symmetry would not figure greatly in their local effects on the townscape
 27. The drawings show that the taller of the end elevations of block 1 and 6 would have a proportion between width and height of 1:2.34, neither a double square, nor a triple square and so, not a very meaningful proportion. The lower of their two end elevations would have approximately a 1:2 proportion and so would give some satisfaction.
 28. On the more prominent long elevations, the drawings suggest that the taller element would have a proportion between width and height of 1:2.95. This would fall a little short of a 1:3 proportion but would probably be seen as elegant. The lower element is shown to have a width to height ratio of 1:1.69, not quite the golden ratio but, a reasonably comfortable ratio. Although acceptably pleasant to look at, both would give a sense of not quite achieving perfection.
 29. However, these two elements are not seen separately but are joined together to form a single building. Measured off the drawings, the ratio between the heights of the two elements would be 1:1.425. This would not be a notably beautiful or satisfying ratio. It would not be a relationship which would excite admiration and so the effects of these two blocks on the townscape would be disappointing. Yet these two blocks would be located at key intersections in Stevenage's road network where they would be expected to form memorable landmarks and impress themselves on travellers' minds as part of the image of Stevenage.

30. Blocks 2 and 5 would balance each other in the development's composition but they are not identical. Although each block would have its own elevational symmetry which could be appreciated at close quarters, block 2 would be eight storeys high; block 5, nine. In longer distance views of the development, this difference would compromise feelings of satisfaction derived from an enjoyment of symmetry.
31. Both blocks 2 and 5 would be composed of two elements in a darker brown brick linked by a slightly recessed element in lighter brick and with a fractionally lowered parapet and cornice line. At closer quarters the elements could be separately appreciated. In block 2, the drawings indicate that each element would have width to height ratios of 1:1.5, which is often recognised as a harmonious, though stolid, proportion. Block 5 would have a more satisfying width to height ratio of 1:1.67.
32. Because of the juxtaposition of blocks 2 and 5 with other blocks, their end elevations would be less clearly on display. The drawings show that they would have end elevations of the same proportions as those elements fronting Lytton Way but that is not consistent with the plan drawings which show slightly different dimensions. The difference is minor, may be due to distortion on printing and would be of little consequence.
33. 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. Their length would be greater than their height in the proportions of about 1:1.38 for block 5 and 1:1.53 for block 2, the latter reasonably close to a harmonious but stolid 1:1.5, the former's greater height emphasising its greater stolidity of form.
34. In many ways, blocks 3 and 4, handed on either side of the site entrance, engender comments similar to those for blocks 1 and 6. They would be composed of a juxtaposition of two elements. 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 at 1:2.46 falling mid way between a double and a triple square. The proportions of the facades facing each other across the access would be about 1:1.9, falling just short of a double square.
35. The form of blocks 3 and 4 would be least satisfactory in terms of the relationship between the heights of the two, higher and lower, elements in each block. At approximately 1:1.17, this would appear dull, even lumpen.
36. That ratio would also be the ratio between the height and width of the lower end elevation of block 7. The higher end elevation, facing Chequers Bridge Road, would also have a dull proportion of 1:1.37. Both these elevations would offer elevational symmetry but only that of Chequers Bridge Road would have much public presence.
37. Each element of the longer elevations of block 7 would have reasonably satisfactory proportions. That of the taller element would be 1:1.72, not far off the golden ratio. That of the lower element would be almost square at 1:1.04.

The ratio between the heights of the two elements would be 1:1.47; stolid but harmonious.

The skyline

38. So far, I have commented on the form, composition and proportions of each block in turn. But, it is when seen as a group that the development would have the most telling effect on the character and appearance of the area.
39. Earlier paragraphs comment on the disappointing or dull relationships between the heights of the elements which comprise blocks 1, 3, 4, 6 and 7. Here, I turn to the relationship between the heights of adjoining blocks which, in the appellant's TVIA, is repeatedly claimed to provide variety and interest on the skyline.
40. Block 5, nine storeys high, would be positioned between the eleven storey elements of blocks 4 and 6. The relationship between their heights would be in the ratio of approximately 1:1.2; in other words, a difference of about 20%. Block 2, eight storeys high would be positioned between the eleven storey elements of blocks 1 and 3. The relationship between their heights would be in the ratio of approximately 1:1.33; in other words, a difference of about 30%, more noticeable but still not dramatic. The absence of drama in the development's skyline would be emphasised by the choice of flat roofs, the least interesting choice of roofline possible, for each of the blocks.
41. In sidelong views, such as those in TVIA view RV1, along Lytton Way approaching the town centre from the north, or from the south (RV15) this relative undifferentiation is likely to matter least as perspective would cause foreshortening. The end views of blocks 1 and 6 would be likely to establish the effects of the scheme. These, as I have said above, would be no worse than disappointing.
42. However, I do agree with Mr Buckle that the effect of the scheme as one would pass in front of it, along Lytton Way, would be somewhat formidable for the following reasons. 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 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.
43. As the point of view swings around to the east, so the full effect of the extent of development and the insufficiently differentiated heights of the assembly of buildings would become more apparent. In the views along Letchmore Road (RVs 5 and 6), this begins to become noticeable. The missed townscape opportunity of a focal point to terminate the views along Letchmore Road is obvious but the relatively undifferentiated mass of buildings is also noticeable in both RVs.
44. It is the RVs from the east, across Gates Way, Millenium Gardens, King George V Playing field and along Fairlands Way (RVs 7, 8, 9, 10, 11 and 16) which convince me that the townscape impact of this scheme would be harmful to the character of Stevenage. 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 would draw attention to itself by its combination of height

and the intensity of a closely-spaced, but also extensive, agglomeration of tall buildings. Attention-drawing, of itself, particularly to transport junctions on the road network, would not necessarily be harmful, but it makes little sense, in urban design terms, for the whole of a residential quarter on the fringe of the town centre to be more noticeable in townscape views than the town centre itself.

45. Even less acceptable is that a scheme which 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

46. The development would be visible from the southern end of the Old Town Conservation Area, as is apparent from RVs 8 and 9. There is a statutory test relating to the preservation or enhancement of the character or appearance of conservation areas. Both main parties agree that the test is met in this case.
47. The Council's Old Town High Street Conservation Area Management Plan Supplementary Planning Document analyses the character and appearance of the conservation area. It recognises five distinct character zones, of which the southern end, from which RVs 8 and 9 were taken, is one. From my site visit and from this document, it would appear that the special interest of the conservation area is that it represents a market town and a coaching post on the former Great North Road. The southern edge of the conservation area contains significant hedges, trees, buildings of local importance and two significant views, to the south along the former Great North Road, and to the south-east across the cricket ground.
48. The view towards the site would be in the opposite direction from these two significant views and so would not adversely affect them. Although the development would be visible, it would have no physical effect on the heritage asset, which would thereby be preserved. I therefore concur that the significance of the conservation area would not be adversely affected by the presence nearby of this new residential quarter. It would be sufficiently separate for it and the conservation area to co-exist side by side as two separate entities, each with their own character. In townscape terms the presence of an intense development on the far side of Lytton Way would make sense of, and give purpose to, the wide pedestrian approach to the underpass visible in RV9.

Intensity

49. Hitherto, my consideration of the effects of the proposal on the character and appearance of the area has focused on aspects of appearance and townscape. I now turn to the effects on character which would result from the high density of development proposed.

50. Density, of itself, is no more than a mathematical calculation, the outcome of which is as much a matter of the area of land included within the calculation as of the characteristics of the development proposed. (In the present case, the figure is lowered somewhat by the inclusion within the site area of extensive areas of highway verge; land owned by the developer but dedicated to the highway and so not within the developable area of the site).
51. The acceptability of a site's density in terms of character turns not so much on the outcome of the mathematical calculation of density but more in terms of the qualities of development such as in terms of open areas and how they are used, privacy and overshadowing etc. Nor does it turn on whether quantifiable standards in relation to those qualities are met (the council does not present an argument that there is conflict with adopted policies in relation to the living conditions of potential occupants or existing neighbours) but more on how these qualities are perceived by those experiencing the development.
52. The existing building on site is placed close to the railway line on its western boundary. Most of the open areas of parking and landscaping are to the east and north of the building. The proposal would tend to reverse this disposition, with six of the seven blocks placed close to the eastern edge of the flat developable area at the top of the embankments which slope down to the pedestrian and cycle way which runs alongside Lytton Way. The open, undeveloped part of the site would mostly lie to the west of the line of six buildings fronting Lytton Way. There would be four small fingers of open space ("amenity terraces") between the Lytton Way frontage blocks.
53. Paragraph 5.110 of the appellant's original Statement of Case (July 2020) accepted that the open space provision would be less than sought in the Council's Design Guide. But this statement was in error because it took account only of the flats' balconies and the 900 sq m sunken garden¹, not the amenity terraces or other ancillary open space which would be provided. The matter was corrected in paragraph 3.3.12 of Mr Allen's evidence. The sunken open space, the four amenity terraces, two other areas of usable open space and the 556 balconies would provide 5,564 sq m of usable amenity space between them. That represents 96.6% of the 5,760 sq m sought by the application of the Stevenage Design Guide.
54. In addition, the development is surrounded by 5,902 sq m of sloping embankments which, although much is technically dedicated highway verge, would serve as part of the site's amenity space. Quantitatively therefore, the scheme would be provided with an adequate amount of open space, complying with local plan policy and not providing evidence for an unacceptably high intensity of development. I now turn to consider its quality.
55. Most of the open area would be laid out as circulation space for pedestrians and vehicles and as parking for cars. The efficiency of the car parking layout would be exemplary and so it would not take up more of the open space than would be absolutely necessary. It would also be exquisitely detailed and landscaped. But there is no avoiding the impression that the open space would be dominated by car parking.
56. Where buildings face each other across the car parking at what the appellant terms the arrival square, the separating distance is about 22m between

¹ Corrected to 1,000 sq m in Mr Allen's oral evidence

buildings about 35m high, a comfortable proportional relationship of about 1:1.6, not far off the golden ratio. I concur with Mr Buckle's verdict in paragraph 2.3.7 of his proof; Arrival Square would have "some form of definition and the potential for identity through the buildings that define it, the proportions of the space and the landscape treatment." The four amenity terraces would each be little bigger than a large suburban garden bounded on two sides by walls 8, 9 or 11 storeys high so would feel somewhat overwhelmed but they would be open to wider vistas on their other two sides. Elsewhere on site, the linearity of the layout means that the open areas would appear reasonably extensive and so the high density of the development would not result in an oppressive feel in terms of its external environment.

57. The high intensity of development 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 at ground level. It would not be realistic to expect that frontages onto the open area would be enlivened by pubs, bars, cafes or the like because the scheme's internal circulation area is a cul-de-sac. It would not be on a through route to anywhere and despite the intensity of development, there is unlikely to be a high pedestrian footfall. Nevertheless, 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.
58. The intensity of the development would be most noticeable in the living conditions of potential future inhabitants in terms of their privacy. This consideration does not appear in the appellant's Design and Access Statement and is somewhat lightly dismissed in paragraph 7.5.4 of the Council's committee report which asserts that the majority of the development has a side-to-side relationship but that blocks 3 and 4 would have a rear to front relationship. However, that terminology (side to side, front to rear) only makes sense in the context of rows of houses, not in the context of blocks of flats where all four sides can provide a dwelling's principal aspect. The Council's committee report recognises that "this could be an issue" but abrogates responsibility to future occupiers of the development who "would, therefore, be aware of this prior to deciding to occupy the dwellings." The consideration does not appear in the Council's reasons for refusal. Such a "caveat emptor"² approach does not sit well with the advice given in NPPF paragraph 130(f) that planning decisions should ensure that developments create places with a high standard of amenity for future users.
59. Local Plan policy GD1(f) requires development to comply with the separation distances for dwellings set out in the Local Plan. Paragraph 7.5.1 of the Council's Committee report records that the Council's Design Guide seeks distances of 30m between back to back elevations (ie with facing windows) or 20m between back to side elevations (ie a window facing a blank wall). Specific standards relating to separation distances for new and existing dwellings contained in Appendix C of the Local Plan repeat these requirements.
60. Mr Coleman, for the appellant, in paragraph 3.4.51 of his Supplementary Statement on Design, Townscape and Heritage dated August 2020 does not assert that the development complies with these standards. But he does assert that the separation distances provided between the blocks are appropriate. Mr

² A Latin phrase meaning "let the buyer beware"

Buckle, for the Council, points out that the distance between directly facing habitable rooms in blocks 2 and 3 is in the order of 12 metres. Mr Coleman confirms that it would be 13.5m. Other blocks have an angled relationship so the distances between directly facing windows varies somewhat but would usually be between approximately 11 and 13 metres.

61. Inspection of the submitted drawings shows that approximately 20 flats in block 1, 28 flats in block 2, 20 flats in block 3, 20 flats in block 4, 32 flats in block 5 and 20 flats in block 6 would contravene local plan policy GD1(f). In most cases, the flats would also have unaffected windows on other elevations but, 10 flats in block 3, 10 flats in block 4 and 32 flats in block 5 would all have rooms where the only windows provided would be subject to this degree of lack of privacy.
62. Although this precise consequence of the high density of this particular scheme might not necessarily be apparent to the average passer-by, it is probable that they would be struck, in general terms, by 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. It would certainly be apparent to the residents of the 140 flats concerned (24% of the development).
63. The developer seeks to justify the high density of the development proposed by reference to the site's close proximity to the town centre and railway stations and by its allegedly good access to public transport. Although a justified claim, care should be taken not to exaggerate the attributes of the site.
64. Because the Fairlands Way/Lytton Way roundabout does not have a pedestrian underpass beneath its south-east quadrant, access to the town centre on foot or by bicycle is indirect, either via the underpass to Gates Way, then south along Ditchmore Lane to the Tesco car park (as illustrated in figure 5 of the appellant's Transport Note HCC003), or, south along the footpath/cycleway to the station and then by the footbridge over Lytton Way. Similarly, close examination of the bus timetables included with the appellant's evidence shows that most of the routes identified extend to the Argyle Way and Gunnels Wood bus stops only in peak hours, about every half hour. Conversely, routes 8 and 9 serving Chequers Bridge Road do so only in off-peak hours, hourly. At other times, its route omits this stop. Moreover, with the exception of the (northbound only) stop in Chequers Bridge Road, use of the bus stops identified would involve a walk of 400m or more, sometimes contrary to the desired direction of travel. In most cases it would be more advantageous to walk to the town centre bus station to access bus services.
65. The frequency shown in table 4-2 of the appellant's transport statement is, as is noted, the frequency of buses at the bus station, approximately ten minutes' walk from the site, not at the stops serving the site itself. These observations do not undermine the appellant's basic premise, namely that the site is well located in relation to the railway station, bus station and town centre but it is not as well favoured as might appear at first sight.

Conclusions on character and appearance

66. Even without a direct pedestrian link to the town centre, this site is sufficiently close to the railway station and the town centre to justify a higher density scheme. The site is relatively isolated from its context by the railway, wide

- roads and extensive open car parking, so a scheme which generates its own character would be justified.
67. 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. Indeed, there would be a surprisingly open feel to the interior of the development because of the acceptable quantity of open space and the way it would be laid out.
68. An unwelcome downside to that layout would be the fact that 24% of the flats proposed would experience substandard levels of privacy, clearly contrary to policy GD1(f).
69. A user of the site would also experience the high quality of its detailing. But, that high quality would not be apparent from a distance. The proportions of the buildings themselves have not been systematically considered, as the architect acknowledged in response to my question. Some would be satisfactory, others less so.
70. In responding to my request to describe the aesthetic of the scheme, Mr Coleman included the observations that the buildings do not shout out as great pieces of architecture. They are simple rectilinear buildings arranged in an organic way. In my view, the sculptural quality of the scheme overall would be disappointing. It would not be a worthy successor to the present building on site.
71. Although the concept of marking road junctions with taller buildings would be justified, blocks 1 and 6 would be imperfectly proportioned and would be insufficiently striking to be adequate as memorable landmarks. Although there would be variation in the height of the rest of the scheme, there would be insufficient variation to avoid the effect of a wall of development at least eight stories high extending more or less continuously the length of Lytton Way between the two roundabouts.
72. Nor would there be sufficient variation in the skyline to hide the fact that, in distant views from a wide area of the town to the east and south, there would be the appearance of an extensive residential quarter of an intensity of development apparently greater than that of the town centre itself. Stevenage is the first of the new towns built after the end of the second world war. Their masterplans dictated low density development with large amounts of open space.
73. That model is perhaps now seen as unsustainable. In any event, Stevenage is now changing, as the evidence relating to the redevelopment of the SG1, Matalan and BHS sites within the town centre shows. But this appeal site is not within the town centre; it is on its fringe. 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 fringe location.
74. I therefore conclude that the scheme would have an adverse effect on the character and appearance of the area in terms of the proposal's height, design, appearance and intensity. It would be consistent with those parts of Local Plan

policies SP7, SP8 and GD1 which, amongst other matters, seek to; provide at least 7,600 new homes within Stevenage between 2011 and 2031, including land on unallocated sites, 60% of which should be on previously developed land; preserve the most important areas of Stevenage; implement the government's optional Technical Standards; create a safe environment that designs out crime and; create areas of public open space. It would however be contrary to those elements of policy SP8 which require substantial improvements to the image and quality of the town's built fabric and preservation of the most important characteristics of Stevenage and to those elements of policy GD1 which, amongst other matters, require development; to make a positive contribution to its location and surrounds; not to lead to an adverse impact on the amenity of future occupiers and; to comply with the separation distances for dwellings set out in the plan.

Supply of housing

Housing Delivery Test

75. Paragraph 6.01.22 of the Statement of Common Ground records that, in the Housing Delivery Test (HDT) 2020 published in January 2021, for the three-year period between 2017/18 and 2019/20, Stevenage delivered 702 homes against a requirement of 1,094. That represents 64% of target. NPPF paragraph 11(d) and footnote 8 advises that where the Housing Delivery Test indicates that the delivery of housing was less than 75% of the housing requirement over the previous three years, the policies most relevant for determining an application (or, in this case, appeal) should be regarded as out of date and that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework, taken as a whole. The courts have held (and NPPF paragraph 12 concurs) that this advice does not override the statutory status of the development plan as the starting point for decision making. I return to this matter when reaching my overall conclusions on the appeal.

Five-year supply

76. The courts have also held that the weight to be given to the benefits of providing housing should be proportionate to the degree of housing shortfall which pertains. The Council's two previous HDTs showed results of 100% and 113%. It maintains that the 2020 HDT result was a unique blip, caused by developers holding back on submitting planning applications for contentious sites while the adoption of the local plan was delayed because of a ministerial holding direction. That can only be a presumption, however plausible. Its current Five-year Housing Land Supply update, published in June 2021, claims a 5.46 years' supply.
77. That figure is challenged on two grounds; firstly on the method of dealing with previous shortfalls within the housing supply trajectory; secondly on the deliverability of certain sites within the trajectory, particularly those which fall within category (b) of the definition of deliverable set out within Annex 2 of the NPPF.

Liverpool v Sedgefield

78. The first issue is simply dealt with. National Planning Practice Guidance paragraph 031 Reference ID: 68-031-20190722 advises that; “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)” and; “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.” So, it should not be for me, on a case-by-case basis in this appeal to depart from anything that may have been established as part of the plan-making and examination process.
79. The plan-making and examination process for Stevenage Borough Council Local Plan 2011-2031 has considered and determined the issue. In paragraph 139 of her report on the examination of the plan, Inspector Louise Crosby writes; “Using the Sedgefield approach to dealing with previous shortfall would require the delivery of around 700 homes per year for the first 5 years. This is wholly unrealistic when considering previous delivery rates. Spreading the delivery of the previous shortfall over the Plan period is not ideal as it delays providing the shortfall over an even longer period. However, in this case there are a particular set of circumstances that mean it is the only sensible option.” That is conclusive and no more need be said.

Deliverability

80. The NPPF glossary advises that to be considered deliverable, a site for housing should be achievable with a realistic prospect that housing will be delivered within five years. The phrase “realistic prospect” implies an assessment of probability. However, the definition goes on, in respect of sites which do not have a detailed consent, to advise that a site should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years. The word “will” has been taken by the appellant (supported by quotations from appeal decision APP/Q3115/W/20/3265861) to imply a guarantee of certainty.
81. In my view, that is an unrealistic expectation. It is not reasonable, on a given day in 2021 to expect certainty that, five years’ hence, a finite number of dwellings will have been completed within a period of four years and 364 days (and so fall within a five-year supply) rather than four years and 366 days (and so fall outside a five-year supply) on a site identified, for example, by an allocation in a local plan. A degree of probability must be expected within the calculation, together with an acceptance of the possibility that the figure reached by an exercise in probability will turn out to be wrong.
82. There are seven sites in contention between the parties.
- For “Matalan”, the dispute turns on whether 70 out of 526 units will be delivered within a few months on the right side of the five-year threshold, or within a few months beyond it. From this distance in time, there can be no certainty but I consider that the Council has established a “realistic prospect” of delivery.
 - For “SG1” the Council’s inventive way of dealing with the opposition shown by one landowner to a later phase of the scheme demonstrates

that it is tackling technical legal and financial issues such as that raised by the appellant concerning the equitability of financial contributions to infrastructure provision and so, there is a realistic prospect of delivery within the five-year period.

- For “HO3 north of Stevenage”, full delivery depends on build-out rates. Whilst accepting that there can be no certainty of the build-out rates assumed by the Council, they are not unattainable and so, there is a realistic prospect of delivery within the five-year period.
- For “BHS”, detailed planning permission was expected to be delivered imminently after the last day of the Inquiry. The issue raised by the appellant concerning the equitability of financial contributions to infrastructure provision is as unlikely to be an insuperable obstacle to the progress of this scheme any more than it is to the appeal scheme itself.
- Technical Studies have been commissioned in accordance with the timetable set out in the SOCG for the delivery of housing at “HO1/6 Pin Green School”, which is evidence that the Council is tackling technical, legal and financial issues in the way expected in appeal decision APP/Q3115/W/20/3265861 as evidence of a realistic prospect of delivery within the five-year period.
- Natural England accepts that its objections to “HO2 west of Stevenage phase 1” would be overcome by the use of conditions. A request from Historic England for more information does not even imply an objection. As with “HO3 north of Stevenage”, whilst accepting that there can be no certainty of the build-out rates assumed by the Council, they are not unattainable and so, there is a realistic prospect of delivery within the five-year period.
- The delivery of site “HO1/11 West of North Road Rugby Club” is dependent on the grant of permission for the development of a new rugby club within the Green Belt in a different local authority area. I agree that this would be fraught with uncertainties and, until permission for that development within the Green Belt has been given, I would not consider that there is a reasonable prospect of this site being delivered. That would remove 160 units from the Council’s trajectory but would still leave it with a calculated supply in excess of five years.

I therefore conclude that there is no shortage of identified land capable of delivering a five years’ supply of housing. There would therefore be no disproportionate benefit arising from the supply of housing from this appeal proposal.

The benefit of housing

83. Of greater moment is the fact 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. That 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. It also demonstrates that this site alone would be expected to contribute about 15-16% of the Council’s housing requirements for each of the five years or so it would take to

construct. That is the measure of the significance of the benefit which would result from allowing the appeal. It is clearly substantial.

84. All parties agree that, because of viability constraints, the 52 units of affordable housing which would be provided would comply with local plan policy SP7(f(i)) notwithstanding that the policy seeks at least 20% of all new homes over the plan period to be Affordable Housing. The benefit of the affordable housing which would be provided is unarguable. Since the start of the plan period, delivery of affordable housing has been limited to 282 units, an average of 31 homes per annum. The 52 affordable housing units which the appeal would provide would therefore provide a significant benefit.

Supporting infrastructure

85. Subsequent to the decision to refuse permission, the Council has adopted a CIL charging regime. The CIL compliance statement advises that although the precise amount is yet to be determined, the liability is expected to be in the order of £4.3 million.

86. At the time the application was determined, without the CIL requirement, various authorities were seeking financial contributions totalling £9,694,121 towards;

- Outdoor sport and children's play space improvements
- A new primary school in Stevenage Town centre
- A new secondary school
- A new pre-school facility
- The re-provision of the Bowes Lyon young people's centre
- Sustainable transport improvements to cycle routes connecting the new development to the town centre and Gunnels Wood or to improvements to Stevenage rail station or to improvements to bus services between new development sites and the town centre
- Either the replacement or the enlargement of the County Council's waste facility at Caxton Way
- NHS GP provision
- NHS acute, mental health and community costs
- Indoor sports facilities
- Outdoor sports facilities
- Sports changing room provision

The appellant was willing to enter into a planning obligation to provide £1,662,322 of funding (as reported in paragraph 7.3.11 of the Council's committee report) and the scheme was recommended for approval on that basis.

87. The Council does not explicitly state what matters will be met from CIL contributions but it pursues planning obligation contributions amounting to £2,071,919 comprising;

- A monitoring fee of £25,000
- A Primary Education Contribution of up to £1,670,732
- An NHS contribution of £81,538
- Travel planning monitoring fee of £6,000
- A sustainable transport contribution of £266,075
- A car club contribution of £22,574.33
- The Council's legal costs

A planning obligation has been delivered which would include these provisions but contains a "blue-pencil clause" which allows me to amend or to delete any contribution through this decision.

88. The appellant contests part of the Primary Education Contribution and the sustainable transport contribution, seeking to reduce the financial payment to £1,042,788.

89. NPPF paragraph 57 advises that planning obligations must only be sought where they meet three tests;

- 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.

90. From December 2020, local authorities must publish an infrastructure funding statement. The infrastructure funding statement 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.

The Primary Education contribution

91. National Planning Practice Guidance (Guidance) advises 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 which infrastructure they expect to fund through the levy. (Paragraph: 166 Reference ID: 25-166-20190901). Paragraph: 169 Reference ID: 25-169-20190901 of Guidance continues; "Authorities can choose to use funding from different routes to fund the same infrastructure. Authorities should set out in infrastructure funding statements which infrastructure they expect to fund through the levy and through planning obligations (see regulation 121A). For example, a local authority may set out in their plan that they will use section 106 planning obligations to deliver a new school to serve additional pupils arising as a result of a new development on a strategic site. The local authority may also use levy funds to deliver the school and help support development elsewhere in the area."

92. Although Guidance is clear that local authorities can use planning obligations to supplement CIL payments, it cannot be said that a planning obligation meets the test of necessity where the infrastructure funding statement allocates CIL

- contributions which, by themselves, could meet the costs of a necessary item in full.
93. The Council's Infrastructure Funding Statement published in December 2020 includes the following; "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]
94. It is clear from that statement that the Council intends to spend CIL receipts to fund either wholly or in part schemes within its Infrastructure Delivery Plan as a priority. Mr Proietti's evidence is that a 2FE primary school within the town centre is needed to serve the pupil needs arising from the appeal proposal. Appendix 1 of the Council's Infrastructure Delivery Plan March 2021 (the IDP) includes a 2FE school within the town centre as one of four items totalling £48.3m and so, it may be presumed that it is the council's intention to spend CIL receipts on this scheme as a priority.
95. However, paragraph 3.53 of the IDP states the expectation that the County Council's need for £44m of funding for primary schooling will be realised in the form of developer contributions. Likewise, paragraphs 9.9-9.12 of the Borough Council's supplementary Planning Document "Developer Contributions" adopted in March 2021 advise that the County Council is likely to seek financial contributions towards build costs and purchasing land for the Town Centre school from nearby developments.
96. The evidence from the County Council is that as things stand no monies have been committed from the SBCs CIL receipts to fund the town centre primary school. Be that as it may, there is considerable ambiguity and uncertainty about whether, and the degree to which, CIL receipts would fund the town centre school. I cannot therefore be certain that the provision within the submitted planning obligation meets the first test for compliance with the CIL regulations.
97. The appellant does not challenge the requested contribution on this ground and so, for the purposes of this decision, I will adopt the presumption that, even if CIL monies were to be allocated in due course to the new town centre primary school, they would be inadequate to pay for it in full and that a contribution from planning obligations is therefore necessary. However, to ensure that my decision does not conflict with the CIL regulations, I conclude that, in the event that the Borough Council does commit CIL receipts to the funding of the town centre school, the financial contribution resulting from the planning obligation should be reduced pro rata to the proportion of the school's cost which would be met from CIL receipts.
98. The way that the County Council has calculated the financial contribution requested from this development is an exemplary application of government advice. The contention that the calculation in respect of two other developments in Stevenage was less than exemplary is unfortunate but I do

not consider that the contribution sought in this appeal should be reduced or found to be non-compliant with the CIL regulations for that reason. For similar reasons, I do not find that because this scheme lies in a different CIL charging zone to other schemes which would also contribute to the town centre school the contribution sought would be non-compliant with the CIL regulations.

99. However, there is an inconsistency between the way the Primary Education contribution has been calculated and the way the NHS contribution has been calculated. Paragraph 7.3.19 of the Council's committee report presents the appellant's argument that amongst the biggest drivers of household formation are people living longer or downsizing. Consequently, a significant number of new homes house people already living within the area who will therefore not add to the demand for NHS services by moving into the development. To the extent that they are new households formed by fragmentation of existing larger households, their vacated dwellings will not be taken up by incomers.
100. A similar calculation needs to be made in respect of education demand. In response to a question, Mr Hardy confirmed that the Council's method for calculating the number of school pupils arising from a development does not make an adjustment to allow for pupils already within the system because there is no government guidance on how this adjustment should be calculated. It follows from his response that the County's system presumes that all pupils arising from the development would be new to the Hertfordshire schools system. As a result, I deduce that the financial contribution sought would be greater than can be truly justified.
101. There is no evidence before me to indicate how this adjustment should be calculated, other than that used for calculating the adjustment to the NHS contribution. For consistency therefore, and to ensure that the contribution would be fairly and reasonably related to the development in scale and kind, I find that the Primary Education Contribution should be reduced to 20% of the figure sought; that is; £334,146. I take account of the planning obligation's Primary Education contribution only to that extent.

Sustainable transport contribution

102. In its comments on the application, dated 6 February 2020, Hertfordshire County Council (HCC) seeks financial contributions of £381,851 to improve cycle routes connecting new development to the town centre and Gunnels Wood employment area via cycleway network, improvements to Stevenage rail station, North-South high-quality bus corridors, improvements to bus services between new development sites and the town centre, to mitigate the incremental increase in traffic impact from developments and maximise the sustainability of the site in transport terms. The response goes on to elaborate the basis on which the contribution is sought. It explains that, in the absence of a CIL scheme, HCC operates a two-strand approach to planning obligations. The first strand addresses the immediate impacts of the new development. The second strand addresses the cumulative impacts of all development on non-car networks.
103. In the first strand are a travel plan evaluation and supporting fee of £6,000, provision for a car club, and works to improve pedestrian and cycle connections to the subway under Lytton Way. I concur that these are necessary to make the development acceptable, directly related to the development and fairly and reasonably related to it in scale and kind.

104. In the second strand, the amount sought is based on a unit rate of the number of bedrooms in the scheme related to the site's accessibility. It would be spent on two packages; a) Package 1 (Gunnels Wood and Town Centre): Cycle routes connecting new development in North Stevenage to the town centre and Gunnels Wood employment area via cycleway network, Improvements to Stevenage rail station, North-South high-quality bus corridors b) Package 2 (North and West Stevenage): Cycle routes connecting new development in North Stevenage to the town centre via cycleway network, Improvements to bus services between new development sites and the town centre, as identified in the North Central Hertfordshire Growth and Transport Plan, in order to facilitate access by sustainable modes to Gunnels Wood industrial Estate and the town centre and between new development in north and west Stevenage. The County Council's note explains that a "walking and cycling audit" to key destinations demonstrates clearly that the residential use will have a wider and more profound impact on the existing walking, cycling and public transport facilities in the area, than the previous use as an office.
105. Be that as it may, an examination of packages 1 and 2 in the North Central Hertfordshire Growth and Transport Plan identifies little that would enhance the walking, cycling and public transport facilities likely to be used by residents of the development proposed. As noted earlier, in the discussion on the intensity of development proposed, the site is well located in relation to the town centre and bus and railway stations but is unlikely to find local bus stops advantageous to use and the only specific improvement to the pedestrian and cycle network which would benefit the site would be a subway link beneath the south eastern quadrant of the Lytton Way/Fairlands Way roundabout, which does not appear to be a proposal in either of the packages of the North Central Hertfordshire Growth and Transport Plan.
106. Schedule 10 of the planning obligation refers (amongst other matters) to the upgrading of two bus stops on Lytton way with real time information screens. My site visit identified that one of the two bus stops concerned has been temporarily removed for the construction of the town's new bus station. The other is already equipped with real time information screens. Therefore, this provision of the planning obligation is unnecessary and I have taken no account of it in my decision.
107. I conclude that the financial contributions sought in relation to the HCC's second strand of its approach to planning obligations would not be necessary to make the development acceptable, nor would it be related to the development either directly or reasonably in scale and kind. Although I take account of the planning obligation's provision in relation to travel plan monitoring and car club, I take no account of the sustainable transport contribution.

Conclusion on infrastructure

108. The combination of condition (4), which would secure improved connections to the footway and cycleway network, together with those of the financial contributions towards CIL, education and health infrastructure which I endorse, would ensure that the scheme would make adequate provision for supporting infrastructure. It would therefore comply with local plan policy SP5 which seeks to ensure that the infrastructure required to support its targets and proposals is provided.

The planning balance

109. As noted earlier, the operation of the Housing Delivery Test means that the policies most relevant for determining this appeal should be regarded as out of date and that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF, taken as a whole. The courts have held (and NPPF paragraph 12 concurs) that this advice does not override the statutory status of the development plan as the starting point for decision making.
110. The benefits would be considerable and tangible. A vacant brownfield site would be brought back into use, with the economic benefits in terms of job creation during construction and household expenditure during subsequent occupation that would ensue. The Council depends upon the delivery of the site as part of its five-year housing land supply, to which the scheme would contribute about 15-16% of the Council's housing requirements for each of the five years or so it would take to construct. The affordable housing provided would be the equivalent of that provided in an average year and a half of previous performance.
111. The adverse impacts would be less tangible but also considerable. Nearly a quarter of the flats would offer substandard living conditions in terms of privacy. Although all the buildings would have high quality detailing, some would be less well-proportioned than others. In terms of placemaking, the arrival square would be well-proportioned but the sculptural quality of the scheme overall would be disappointing. The two blocks intended to mark the roundabouts at either end of the scheme would be imperfectly proportioned and would be insufficiently striking to be adequate as memorable landmarks. The variation in the height of the rest of the scheme would be insufficient to avoid the effect of a wall of development at least eight stories high along Lytton Way. In longer distance views, 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.
112. 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 and so, in accordance with the advice set out in NPPF paragraph 11(d) and footnote 8, I allow the appeal.

Conditions

113. In a Statement of Common Ground, both parties agree to recommend thirty conditions in the event that the appeal is allowed. I have considered these in the light of national guidance and the tests set out in the NPPF, preferring where appropriate the model wording of the annex to the otherwise superseded circular 11/95, *the use of conditions in planning permissions*. I have also re-ordered the conditions so that pre-commencement conditions are stated first.
114. The plans list in condition (2) has been amended to include the two detailed landscaping plans in place of the sketch landscape masterplan drawing. There is reportedly a further revision (B) to drawing 2660-LA-01 but that was not

before me. In any event, condition (4) and possibly condition (5) will require further amendments to drawings 2660-LA-01 and 02.

115. The acceptability of the scheme partly depends upon the quality of the materials to be used and so I have adopted suggested condition (3) as condition (10). Suggested condition (4) would have required the submission of a scheme of landscaping but, in fact, a scheme of landscaping has already been submitted (drawings 2660-LA-01 and 02) and, at the Council's request has been included within the list of drawings in condition (2) in accordance with which the development must be carried out. Implementation of the landscaping scheme is covered by condition (13) which is a combination of suggested conditions (5) and (27). Consequently, there is no need for suggested condition (4).
116. The existing mature landscaping surrounding the site is a feature which all parties agree should be protected during construction but there is no need for the submission of a detailed scheme of protection since one has already been submitted within the appellant's Arboricultural Impact Assessment and so I have adapted suggested condition (6) (tree protection) to require the implementation of that document's recommendations as condition (6). In consequence, there is no need for suggested condition (7).
117. Suggested condition (8) would duplicate the provisions of other legislation and so is not necessary.
118. The nature of any public lighting on site is a safety concern of Network Rail and so suggested condition (9) is adopted as condition (11).
119. I have no doubt that the developer will prepare a construction management plan (and a site waste management plan) for the developer's own purposes but, in the particular circumstances of this site, which is isolated from neighbouring residential development by main roads and railway and has no street frontage across which servicing could take place, it is not necessary for such a document to be submitted to the local planning authority for approval (suggested condition 10).
120. Drawings of foul and surface water drainage submitted as part of the revised Flood Risk Assessment are annotated as preliminary. Suggested conditions (11) (12) and (13) to require final details and their implementation and management are therefore needed and are combined as condition (7) but it is not necessary to specify what the final details should comprise; their acceptability can be left to the local planning authority to determine when the details are submitted. I concur that the dwellings should not be occupied until any necessary soil drainage upgrades have been carried out and so suggested condition (14) is adopted as condition (14).
121. Details of fencing are not included within the submitted landscaping drawings. They are also a safety concern of Network Rail. Consequently, suggested conditions (15) and (25) are necessary and have been combined into condition (5).
122. The appellant's submitted Phase 1 ground investigation report anticipates the need for conditions to deal with potential contamination. I have combined suggested conditions (16), (17) and (18) into one; condition (8). Likewise the need for a condition to deal with the noise environment prevailing at the site is

anticipated by the appellant's Noise Impact Assessment report. Consequently, I have adapted suggested condition (19) and imposed it as condition (9). However, suggested condition 20 would duplicate the provisions of part E of the Building Regulations and so is not necessary.

123. The sustainability of the site's location and its relationship with the Stevenage cycle network is one of the reasons justifying a reduced provision of car parking. It is therefore necessary to require the provision of cycle parking as recommended by suggested condition (21). But, subsequent to the submission of the application, the Council has revised its cycle parking standards and so condition (3) imposed requires the submission of revised details and their subsequent implementation.
124. Similarly, it is necessary to secure improved access to the cycleway network which suggested condition (28) would secure. But, there is ambiguity between the provisions of WSP Technical Note HCC003, the provisions of the s106 planning obligation and the County Council's observations on the application as submitted, as a consequence of which it is not clear that the development would provide both an upgrade of the existing south-facing ramp to make it more suitable for cyclists as well as the provision of a ramp to serve north-bound cyclists and those seeking to reach Gates Way via the subway underneath Lytton Way. Furthermore, on my site visit I noted that the landscaped embankments of the existing development on site had experienced the formation of informal paths from the cycleway onto the site in several places. The layout of the development proposed and the multiple desire lines to the individual entrances of the several blocks proposed is likely to exacerbate the desire to form similar informal paths. These pedestrian desire lines should be accommodated within the scheme from the start and so, in imposing condition (4) I have adapted the suggested condition to require the submission of further details.
125. Suggested conditions (23) and (24) are also necessary to ensure that the development would achieve its sustainable transport objectives and so these are imposed as conditions (15) and (16).
126. Suggested condition (26) accords with the recommendations of the appellant's Biodiversity Net Gain Assessment and so is imposed as condition (17). Suggested condition (28) likewise accorded with the appellant's originally submitted Energy Strategy but, at the Inquiry I was informed that the appellant had reviewed its strategy and now wished to use Air-Source Heat Pumps and so the submission of a revised Energy Strategy is now required by condition (12) as imposed.
127. Suggested condition (29) is necessary to secure an essential part of the development and is therefore imposed as condition (18). However, suggested condition 30 would simply duplicate a provision of the s106 planning obligation and so is not necessary.

P. W Clark

Inspector

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

James Neill	Of counsel, instructed by Simon Banks, Solicitor to Stevenage Borough Council
He called	
Gemma Fitzpatrick BA(Hons) MRUP MRTPI	Stevenage Borough Council
David Hodbod BA (Hons) MA MSc	Stevenage Borough Council, planning policy team
Antony Proietti BA(Hons) MA	Growth Area Team Leader, Hertfordshire County Council
Dan Hardy BEng(hons)	Senior Planning Officer, School Planning, Hertfordshire County Council
Robin Buckle DipTP DipUD MRTPI	Urban Design Consultant

James Chettleburgh and Rob Walker also took part in the discussions on the planning obligation and on conditions

FOR THE APPELLANT:

Robert Walton QC	Instructed by Colin Campbell, Hill Residential Ltd
He called	
Justin Kelly DipArchTech BArch, DipArch ARB RIBA RIAI MCIAT FCIAT	Partner, BPTW
David Allen DipLA CMLI Richard Coleman DipArch(Cant) ARB RIBA RIAI	Former Managing Director, Allen Pyke Associates Principal, Citydesigner
Joanna Ede MA DipLA CMLI	Director, Turley
Colin Campbell BSc(Hons) DipTP MRTPI	Head of Planning, Hill Residential Ltd

Gemma Dudley also took part in the discussions on the planning obligation and on conditions

DOCUMENT submitted during the Inquiry

Section 106 agreement explanatory note

Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) Other than as required by conditions 3, 4 and 5 the development hereby permitted shall be carried out in accordance with the following approved plans: 16-019, D050C01, D051C01, D052C01, D053C02, D054C02, D060C02, D100C01, D101C02, D102C03, D111C01, D112C01, D113C01, D114C02, D115C02, D151C01, D152C01, D153C01, D154C01, D200C01, D201C02, D202C02, D203C02, D204C02, D251C01, D252C01, D253C02, D254C01, D300C01, D301C01, D302C01, D311C01, D312C02, D314C02, D351C01, D352C01, D353C01, D354C01, D400C03, D401C01, D402C01, D411C02, D412C02, D413C02, D451C02, D452,C02, D453C02, D454C01, D500C02, D501C02, D502C02, D503C02, D504C02, D551P02, D552C01, D553C02, D554C01, D600C02, D601C02, D602C02, D611C01, D612C01, D613C02, D614C02, D651C02, D652C02, D653C02, D654C01, D700C02, D701C03, D702C03, D706C01, D707C01, D708C02, D709C02, D751C01, D752C01, D753C01, D754P01, 2660-LA-01A, 2660-LA-02A.
- 3) Notwithstanding condition 2 and the details of car and cycle parking shown on the submitted plans, no development shall take place until revised plans showing the provision of at least 948 cycle parking spaces together with the details of their type and design should be submitted to and approved in writing by the Local Planning Authority. The cycle parking shall be fully completed for each block or phase and in accordance with the approved revised details before first occupation of that particular block or phase in the development.
- 4) Notwithstanding condition 2 and the details of improvements to pedestrian and cycle access shown on the submitted plans, no dwelling shall be occupied until the development has been carried out in accordance with revised plans which shall have been submitted to and approved in writing by the Local Planning Authority showing: (i) Provision of new ramp in accordance with Appendix B of WSP Technical Note HCC003 dated 24th January 2020, (ii) upgrading of the existing south-facing ramp (iii) provision of paths, steps or ramps following direct desire lines from the Lytton Way pedestrian and cycle route to each of the amenity terrace open spaces and to each of the entrances to the cycle stores on the Lytton Way frontages of the proposed blocks of flats 1-6. (iv) Provision of a new pedestrian and cycle access to Trinity Road as identified under Appendix C of WSP Technical Note HCC003 dated 24th January 2020.
- 5) Notwithstanding condition 2, details of the treatment of all boundaries including details of any walls, fences, gates or other means of enclosure shall be submitted to and approved in writing by the Local Planning Authority prior to any landscaping work taking place. The approved boundary treatments shall be completed in accordance with the approved details before the use hereby permitted is commenced or before the building(s) is occupied and thereafter permanently retained. No part of the development shall be occupied until an Armco or similar barrier has been installed in positions where vehicles may be in a position to drive or roll onto the railway.

- 6) No development, including any site clearance or demolition works, shall commence until all trees within the development site which are to be retained as identified in the Tree Protection Plan, drawing number 67135-02 contained within Appendix 4 of the submitted Arboricultural Impact Assessment (AIA) dated 31/10/2018 reference 67135 (V2) by Landscape Planning have been protected by fencing or other means of enclosure in accordance with Appendix 8 of the AIA, located as shown on the Tree Protection Plan, which protection shall be retained in place until the conclusion of all site and building operations. Within the tree protection areas, there shall be no alteration to the ground level and they shall be kept clear of vehicles, materials, surplus soil, temporary buildings, plant and machinery.
- 7) No development apart from demolition and site preparation works shall take place until the final design of the soil and surface water drainage schemes and their maintenance regimes have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 8) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the Local Planning Authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the Local Planning Authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the Local Planning Authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the Local Planning Authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the Local Planning Authority before any part of the development is occupied.
- 9) Construction work shall not take place until a scheme for protecting the proposed dwellings from noise from road, rail and air transport sources shall have been submitted to and approved in writing by the Local Planning Authority. Before any dwelling is occupied all works intended to protect that dwelling which form part of the scheme shall be completed and retained thereafter.
- 10) No development shall take place above slab level until samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.
- 11) Prior to commencement of works above slab level, details of any external lighting, including the intensity of illumination and predicted light

contours, shall be submitted to and approved in writing by the Local Planning Authority. Any external lighting shall accord with the details so approved.

- 12) Prior to commencement of works above slab level, 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 development shall be implemented and retained thereafter in accordance with the approved details of the energy strategy and in accordance with the water consumption targets contained within the approved Whitecode Design Associates Energy Strategy 10293-S-EBER-0001 Revision 5 dated 30 July 2019.
- 13) No more than 50% of the dwellings in the development overall and no dwelling in block 7 shall be occupied until the open space/play area adjacent to block 7 has been completed and made available for use. All other planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 14) No part of the development shall be occupied until written confirmation has been provided that either:-
 - (i) All wastewater network upgrades required to accommodate the additional flows from the development have been completed; or
 - (ii) A housing and infrastructure phasing plan has been agreed with Thames Water to allow additional properties to be occupied.Where a housing and infrastructure phasing plan is agreed, no occupation shall take place other than in accordance with the agreed housing and infrastructure phasing plan.
- 15) Prior to the occupation of the development hereby permitted, details of the siting, type and specification of Electric Vehicle Charging Points (EVCPs) for 28 vehicles, their energy sources, a timetable for their delivery and the strategy/management plan for supply and maintenance of the EVCPs shall be submitted to and approved in writing by the Local Planning Authority. All EVCPs shall be installed and subsequently retained operational in accordance with the approved details and timetable.
- 16) No part of the development hereby permitted shall be occupied prior to the implementation of WSP's approved Residential Travel Plan Doc Ref No. 70020570-RTP-001 Dated July 2019 or any replacement thereof subsequently approved in writing by the Local Planning Authority. Those parts of the approved Travel Plan that are identified therein as being capable of implementation after occupation shall be implemented in accordance with the timetable contained therein and shall continue to be implemented as long as any part of the development is occupied.
- 17) Prior to the first occupation of any dwelling, details of a scheme to provide at least 20 bird and 30 bat boxes shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall

include details of the timing of provision. The development shall be carried out in accordance with the approved details.

- 18) Prior to the first occupation of the dwellings hereby permitted the approved refuse and recycle stores shall be constructed in accordance with the details submitted with this application and shall be permanently retained thereafter.