

BIOPARK, WELWYN GARDEN CITY

Appellant's Opening and List of Appearances

Appearances

Zack Simons & Isabella Buono instructed by **Victoria Du Croz** of Forsters LLP will call:

- (i) **Simon Camp** BA (Hons) Arch, Pg Dip. Arch. RIBA, Partner at Alan Camp Architects (design).
- (ii) **Stephen Levrant** RIBA, AA Dip, FRSA, Dip Cons (AA), IHBC, ACArch, principal of Heritage Architecture Ltd (heritage, townscape and visual).
- (iii) **Alex Roberts** BSc (Joint Hons), Assoc RTPI, Director in Lambert Smith Hampton's Planning, Regeneration & Infrastructure division (housing need and mix).
- (iv) **Neil Marshall** BSc (Hons), CMILT, MIHT, Partner at I-Transport LLP (highways and parking).
- (v) **Petrina Froud**, Senior Viability Surveyor at Kempton Carr Croft (viability).
- (vi) **Mark Westcott** BSc (Hons), DipTP, MRTPI, Director at hgh Consulting (planning policy and balance).

Opening



The appeal scheme, along with (a) the Roche Factory scheme approved in 2011, and (b) the former Shredded Wheat Factory scheme approved in 2019.¹

1. This part of Hertfordshire has been let down by the planning system.
2. Years go by – decades pass – national policies come and go. But through it all, this Council has managed to keep its head buried firmly in the sand. New plan-making exercises have been tried. They have failed. The adopted plan for this Council is from another era.
3. Welwyn Hatfield’s last plan was adopted in 2005. It was designed in a totally different national policy context to meet the needs of a different generation, in particular the

¹ HTVIA – CD-F1, Appendix 6, p.20.

requirements set by the Hertfordshire Structure Plan from 1991-2011. Many moons before the first NPPF and its radical shift in approach to meeting housing needs.

4. The Council's latest draft plan was submitted to the Planning Inspectorate for examination in May 2017 – over 5 years ago. Remarkably, it is *still* being examined. Under the 2012 NPPF, which has already been superseded not once, not twice, but three times (with a fourth on the way). The examination is now (by a considerable distance) the longest-running in the country and, as we will show you, the plan is still nowhere near adoption.
5. One symptom of these chronic failures in plan-making are housing shortages in Welwyn Hatfield on a staggering scale:
 - (i) The shortfall in affordable housing completions in Welwyn Hatfield over only the last 4 years is over 3,000 homes. Almost 2,900 people are on the housing register, with more and more people being forced to rely on temporary accommodation.
 - (ii) On the Council's best case, its shortfall in housing delivery over the next 5 years will be 2,674 homes. On the appellant's case, the position is even starker: a 3,423 home shortfall over the next 5 years alone. All of those numbers, of course, are measured against minimum 5 year targets. Which are a floor and not a ceiling to delivery. The Council has also failed the most recent Housing Delivery test by hundreds and hundreds of homes.
6. These shortages are very substantial. They are severe. Only last year, Inspector Masters² described the situation in this district as “*bleak*”, “*critical*” and “*extremely acute*”. If anything, matters have deteriorated since then. The imperative at §8(b) NPPF of ensuring enough

² CD-F33.

homes are provided to meet the needs of present and future generations is being failed in Welwyn Hatfield. This Council has no plan to correct these failures.

7. So the planning system is failing in its most basic task here. Those failures are having dire social, economic and environmental consequences: families unable to afford somewhere to live, unsustainable solutions with people being forced to find a home further away from where they work, shop and socialise. Economic growth which simply is not and cannot happen without sensible population growth. When it comes to this scale of failure to deliver housing, justice delayed is justice denied.
8. That takes us to the Biopark Site: part of the centrally located Broadwater Road West area which has been earmarked by the Council for strategic regeneration for almost 15 years. From the earliest days of Welwyn Garden City, this area has been an industrial zone of a very different character to the conservation area over the railway. The existing building on this site is redundant and of no architectural merit:



The existing Biopark building approached from Broadwater Road.

9. The Council supports its replacement with a residential-led scheme. Since November 2020,³ the Council has promoted our site through its emerging plan for a residential allocation of 250 homes. In June 2021,⁴ the Examining Inspector - Melvyn Middleton – confirmed that the allocation of this site for 250 homes is **sound**.
10. This scheme responds to and reflects the Council’s vision. It sits comfortably within the Broadwater Road west cluster of already-consented schemes which now includes the Roche Factory scheme and the former Shredded Wheat Factory scheme (the latter still under construction). Which is why, in a comprehensive and sensitive report, the case officer recommended it for approval.
11. In particular, the scheme’s design was developed over a series of pre- and post- application meetings not only with Council officers but also with the Principal Urban Designer at Place Services who found that the scheme:

“achieves that high bar of expected design quality and will help to set the tone for future developments coming forward within this rapidly changing area of Welwyn Garden City, presenting a positive and truly distinctive uplift in design quality for the area.”⁵

12. The Principal Urban Designer’s conclusion was that Mr Camp’s design is a “*triumph*”.⁶ In the end, the case officer concluded that:

“The sustainable location of the site is such that higher density development would be acceptable in principle in this location, and the provision of flats will also generally result in a higher density of development than when compared to houses. Indeed, the site has been allocated in the emerging Local Plan for 250 dwellings. This figure will inevitably involve a

³ CD-F38, F39.

⁴ CD-B27.

⁵ CD-C23.

⁶ CD-C24.

significant proportion of flats.”



13. What is more, our scheme will finally put a highly sustainable, accessible, strategically important brownfield site in Welwyn Garden City to efficient use. That is critical because over 79% of Welwyn Hatfield is in the Green Belt. Outside its urban areas, effectively all this Council’s area falls within the Green Belt. The Council’s case to Inspector Middleton that “*exceptional circumstances*” exist for releasing Green Belt land to meet its spiralling housing needs is predicated on its maximising opportunities to bring forward development on those rare few remaining previously developed sites in this district. Of which this is one. And an important one.

14. In the end, for all the documents before you, sir, the question is simple:

Do any adverse effects the scheme causes **significantly** and **demonstrably** outweigh its benefits?

That question, at §11(d)(ii) NPPF, is the determinative test in national policy for this appeal.

15. On the one hand, you have the profound benefits of providing market and affordable housing on a highly sustainable brownfield in a district where it is so critically needed. Those

benefits are **substantial**. That is not only the judgment of the Appellant’s team, and of the Council’s case officer. It is the approach prescribed by national policy.⁷

16. What harms are said to significantly and demonstrably outweigh those substantial benefits?

The Council identified 3:

- (i) **Parking**: The reason for refusal on parking provision is – rightly – no longer pursued. The scheme also has the full support of the Highways Authority.

- (ii) **Design**: The Council says our scheme will be taller than the existing building (it will not be), and departs from what Ms McLarney calls “*the prevailing built form of 2 to 4 storeys*”. Well *of course* it would be higher than 2-4 storeys. That is a necessary consequence of the Council’s vision for this site, and the emerging context of its surroundings. Again, this Council must optimise the capacity of its sustainably located brownfield sites in order to maintain its position on exceptional circumstances, and address some of its critical housing needs in a sustainable way which avoids unnecessary incursions into the Green Belt. A 2-4 storey development on such a precious, sustainably located brownfield strategic regeneration site like this would conflict with a raft of national policy.

- (iii) **Mix**: The Council says this scheme’s mix of homes does not comply with an emerging policy that – it accepts – (a) is not part of the development plan and (b) must not be interpreted in a way that is overly prescriptive, and (c) does not fix a mix to be applied to individual schemes. Applying the Council’s preferred mix would make an unviable scheme even less viable to the point of being undeliverable. It also would reduce the scheme’s capacity, which again only puts more pressure on the Council to release valuable Green Belt land. In any event, there is an air of unreality about the

⁷ NPPF §120(c).

Council's points on mix. There is, of course, a need for many more 3-4 bedroom homes in Welwyn Hatfield. But the Council **also** needs **thousands** more 1-2 bed homes. And again, there is no plan to deliver those homes, and none is in sight.

17. In this brief opening, we do not comment on the evidence of the Rule 6 parties. We will address it to the extent required in our evidence and in closing. They make much of the wonderful legacy of Ebenezer Howard, and in particular 1898 book "*Tomorrow: A Peaceful Path to Real Reform*" which was re-issued in 1902 as "*Garden Cities of Tomorrow*".⁸ Of course, Howard's work is the touchstone of this town's history. But it must not be misunderstood. Ebenezer Howard was a visionary. He was a reformer. He never intended his garden cities to be frozen in aspic. To adopt a single character, and then never to evolve. They were to be living, breathing and *expanding* communities. Howard predicted that the inhabitants of his garden cities would not "*be selfishly preventing the growth of their city, and thus preclude many from enjoying its advantages*".⁹ On the contrary, he told us that "*each generation should build to suit its own needs*"¹⁰ and that:

"The town *will* grow. But it will grow in accordance with a principle which will result in this – that such growth shall not lessen or destroy, but ever add to its social opportunities, to its beauty, to its convenience."¹¹

Just so. Of course, that is exactly what this Council's officers concluded that our scheme would achieve.

18. In the end, our case is straightforward: the benefits of our scheme are profound, the imperative to bring them forward is compelling, and they are not outweighed – still less

⁸ CD-A12.

⁹ CD-A12, p.129.

¹⁰ CD-A-12, p.133.

¹¹ CD-A12, p.129.

significantly or demonstrably outweighed – by any adverse effects. So permission should be granted applying the balance at §11(d)(ii) NPPF.

19. For those reasons, which we will develop in our evidence and in closing, we will ask you to allow the appeal.

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12th JULY 2022