

**TOWN AND COUNTRY PLANNING
ACT 1990 (AS AMENDED)**

**STATEMENT OF
WELWYN HATFIELD BOROUGH COUNCIL**

Local Planning Authority Reference:- 6/2020/3420/MAJ

Planning Inspectorate Reference:- APP/C1950/W/22/3294860

TOWN & COUNTRY PLANNING ACT 1990 (AS AMENDED)

APPEAL BY HG GROUP

AGAINST REFUSAL of PLANNING PERMISSION

for the following development:

DEMOLITION OF EXISTING BUILDINGS AND CONSTRUCTION OF 289 RESIDENTIAL UNITS (USE CLASS C3) AND COMMUNITY HUB (USE CLASS E/F.2), WITH PUBLIC REALM AND OPEN SPACE, LANDSCAPING, ACCESS, ASSOCIATED CAR AND CYCLE PARKING, REFUSE AND RECYCLING STORAGE AND SUPPORTING INFRASTRUCTURE.

At:

BIOPARK, BROADWATER ROAD, WELWYN GARDEN CITY, HERTFORDSHIRE, AL7 3AX

Planning Inspectorate Reference: APP/C1950/W/22/3294860

LPA Ref: 6/2020/3420/MAJ

STATEMENT OF CASE

Prepared on behalf of Welwyn Hatfield Borough Council by

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APPENDICES (ENCLOSED AS SEPARATE DOCUMENTS)

- APPENDIX 1: Decision Notice Ref: 6/2020/3420/MAJ (16 September 2021)
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- APPENDIX 4: Broadwater Road West Supplementary Planning Document (December 2008)
- APPENDIX 5: Welwyn Hatfield Technical OAN Paper - The implications of the 2016-based SNPP and SNHP on the Welwyn Hatfield OAN – prepared by Turley (Local Plan Examination Reference: EX103A)
- APPENDIX 6: Schedule of Proposed Main Modifications January 2020 (Local Plan Examination Reference: EX235)
- APPENDIX 7: Strategic Housing Market Assessment (SHMA) Update 2017 Welwyn Hatfield May 2017 (Examination Library Document – prepared by Turley (Local Plan Examination Reference: HOU/21))
- APPENDIX 8: Email Objection (16 April 2021) from WHBC's Parking Services Team Leader
- APPENDIX 9: Email consultation response (11 May 2021) from WHBC's Parking Services Team Leader

1.0 INTRODUCTION

- 1.1 This is the Statement of Case (SoC) on behalf of Welwyn Hatfield Borough Council, in their capacity as the Local Planning Authority (LPA). The Council have refused planning permission for development following a meeting of the Council's Development Management Committee on 9th September 2021.
- 1.2 Planning application 6/2020/3420/MAJ (otherwise hereafter referred to as the Application), was recommended for approval by planning officers, although Members of the committee resolved to refuse planning permission and applied the following three Reasons for Refusal:
 1. *The proposed housing tenures and mix (including affordable housing) would fail to meet the objectively assessed need (OAN) for housing in the borough and would not contribute to creating a sustainable, inclusive and mixed community. As such, the application is contrary to Policy SP 7 of the emerging local plan.*
 2. *The application, including the Transport Assessment, fails to provide sufficient evidence that the transport impact, car parking and proposed transport mitigation strategy shall achieve sustainable transport objectives and shall not result in any unacceptable impact. As such, the application is contrary to Policy H2 of the District Plan, the Council's Parking Guidance SPG and interim Policy for Car Parking Standards and Policies SP 4, SADM 2 and SADM 3 of the emerging local plan.*
 3. *The proposal by reason of its form, height, bulk, scale and massing does not achieve high quality design. The proposed Development also does not respect or relate to the character and context of the local area and fails to maintain, enhance or improve the character of the existing area. As such, the application is contrary to Policies D1 and D2 of the District Plan and the Broadwater Road West SPD, Paragraphs 130 and 134 of the NPPF and Policy SP 9 of the emerging local plan.*
- 1.3 The Decision Notice confirming the wording of these Reasons for Refusal is enclosed at **Appendix 1**.

2.0 THE APPEAL SITE AND ITS SURROUNDINGS

- 2.1 The Appeal Site is an area of approximately 1.24 hectares in size and is located to the south east of Welwyn Garden City town centre and train station. The irregular shaped parcel of land comprises a large building and other ancillary buildings and was in use as a Research and Development complex (Class B1b).
- 2.2 The existing buildings on site include laboratories with 5 industrial storeys and two levels of basement. The 5 industrial storeys are combined with a 2 storey plant space on the roof, this gives a total building height of approximately 30.51 metres to the stair core roof on the roof top and 34.75 metres to the top of the chimney flues. Along the eastern boundary there are ancillary buildings such as outhouses and plant rooms. Vehicular access to the site is provided via BioPark Drive, a private road which joins Broadwater Road.
- 2.3 The main part of the site is currently occupied by the former research laboratory buildings, while there is a smaller area to the south of Biopark Drive which was previously laid out as a car park, and which now appears largely vacant, although this area does currently appear to be in use informally for external storage.
- 2.4 Part of the application site is defined on the District Plan Proposals Map as part of the Mixed Use Development Site at Broadwater Road West, which is subject to Policy EMP3 of the District Plan. This is part of Welwyn Garden City Industrial Area (EA1) and, as such, is subject to the provision of Policy EMP2 of the District Plan.
- 2.5 Other notable features of the immediate surroundings are the close proximity of recently developed housing at Penn Way to the east of the Appeal Site, where the buildings range from 2 – 4 storeys. Longer-established housing to the south at Broadwater Crescent and Corals Mead is generally in the form of two-storey houses and blocks of three-storey flats along the northern edge of Broadwater Crescent.
- 2.6 The site is adjoined to the north by the extensive warehouse premises and associated service yards. The railway line is beyond this further to the west. Directly to the south are allotment gardens, accessible via Corals Mead.
- 2.7 The site is approximately 300 metres as-the-crow-flies from Welwyn Garden City Station, although pedestrian access currently involves a walk of approximately 800 metres via Broadwater Road and Hyde Way, where the station, and the town centre beyond this to the west can be accessed via a footbridge. It is anticipated that this situation will change following the completion of approved development at the Broadwater West development site to the north where construction works are currently (as of April 2022), underway.

3.0 PLANNING HISTORY

3.1 Prior to the submission of the Application in December 2020, the site has been the subject of a number of planning applications. These include proposals relating to the previous use of the site as a research and development facility.

3.2 This list of planning application records relating to the site, which pre-date the submission of the Application, is provided below:

Application Number: N6/1995/0349/FP

Decision: Granted

Decision Date: 10/07/1995

Proposal: Extension above fourth floor level of building 30 to provide laboratories, services/plant room.

Application Number: N6/2010/0263/MA

Decision: Granted

Decision Date: 17/05/2010

Proposal: Erection of two storey building for employment (B1) use.

Application Number: 6/2017/1243/FULL

Decision: Granted

Decision Date: 11/08/2017

Proposal: Retention of 3 and erection of 1 further antenna on lift shaft roof of BioPark.

Application Number: 6/2020/2354/EIA

Decision: EIA Required

Decision Date: 18/11/2020

Proposal: Request for a Screening Opinion to determine whether an Environmental Statement is required for a proposed redevelopment of BioPark, Broadwater Road, Welwyn Garden City, AL7 3AX

Secretary of State Screening Direction

Secretary of State case reference: PCU/EIASCR/C1950/3263775

Decision: An Environmental Statement is not required.

Decision Date: 4/02/2021

3.3 Prior to the submission of the Application, there have been a number of pre-application enquiries relating to the development of the site. These have ultimately resulted in a reduction in the number of units proposed; the maximum height of the proposals from 15 to 9 storeys; the introduction of townhouses; the introduction of features resembling mansard roofs; and a greater range of external materials and features. Details of these are provided below:

Pre-Application Number: 6/2020/0804/PA

Decision Date: 01/07/2020

Proposal: Erection of 340 residential units with associated private and communal amenity space, public open space, car and cycle parking and landscaping

Pre-Application Number: 6/2020/1932/PA

Decision Date: 10/09/2020

Proposal: Erection of 297 residential units with associated private and communal amenity space, public open space, car and cycle parking and landscaping

Pre-Application Number: 6/2020/2378/PA

Decision Date: 16/09/2020

Proposal: Design workshop for the erection of 340 residential units with associated private and communal amenity space, public open space, car and cycle parking and landscaping

Pre-Application Number: 6/2020/2805/PA

Decision Date: 19/11/2020

Proposal: Erection of 289 residential units with associated private and communal amenity space, public open space, car and cycle parking and landscaping.

4.0 THE APPLICATION

- 4.1 The Application sought full planning permission for a development described as: *Demolition of existing buildings and construction of 289 residential units (Use Class C3) and community hub (Use Class E/F.2), with public realm and open space, landscaping, access, associated car and cycle parking, refuse and recycling storage and supporting infrastructure.*
- 4.2 This was submitted to and validated by the Local Planning Authority on the 22nd December 2020.
- 4.3 The Application was considered by the Council's Development Management Committee on Thursday 9th September 2021. The Officer Report to committee (enclosed at **Appendix 2** of this Statement), recommended the application for approval.
- 4.4 As noted in the Printed Minutes of the committee meeting (enclosed at **Appendix 3**), following discussion, members decided not to accept the officer's recommendation to approve the Application and resolved to refuse it by a vote of 10 to 3.
- 4.5 As highlighted above, the full details of the Reasons for Refusal that members of the committee resolved upon are set out above in Section 1.0.

5.0 PLANNING POLICIES

- 5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.
- 5.2 The Reasons for Refusal of the application reference specific planning policies in the Statutory Development Plan, and other areas of planning policy which are material considerations in the consideration of the application. In this case, the Development Plan takes the form of the Saved Policies of the Welwyn Hatfield Local Plan (adopted April 2005, and subsequently saved following a direction provided by the Secretary of State in 2008).
- 5.3 Other policy documents published by the Council which are relevant material considerations in the consideration of this application include:
- Draft Local Plan Proposed Submission (August 2016)
 - Supplementary Design Guidance 2005 (SDG)
 - Supplementary Planning Guidance, Parking Standards 2004 (SPG)
 - Interim Policy for Car Parking Standards and Garage Sizes 2014 (Interim Car Parking Policy)
- 5.4 In addition, the relevant paragraphs of the National Planning Policy Framework (NPPF), the latest iteration of which was published in July 2021, are material considerations in the determination of this application. As the primary statement of national planning policy the Framework must be afforded significant weight in decision making, particularly given that the Development Plan policies and other areas of local planning policy listed above pre-date its publication.
- 5.5 The policies cited in the reasons for refusal of the application are listed below.
- 5.6 Reason for Refusal 1 cites conflict with Policy SP7 of the Draft Local Plan Proposed Submission August 2016. This policy reads as follows:

Policy SP 7: Type and Mix of Housing

In order to deliver a choice of homes and help create sustainable, inclusive and mixed communities, provision will be made for a range of housing to support the needs and requirements of different households.

Housing mix: Proposals for 11 or more new dwellings should demonstrate how the mix of tenure, type and size of housing proposed on sites will reflect the council's latest evidence of housing need and market demand and contribute towards meeting the varied needs of different households including single person households, couples, families with children, older people, people with disabilities and people wishing to build their own homes. For larger sites, there should be a greater opportunity to deliver a broader mix.

Affordable Housing: As part of the overall housing target, a proportion of new homes built in the borough will be for affordable housing. Subject to viability, affordable housing will be sought on the following basis (for residential or residential-led mixed use schemes):

Location	On-site delivery target	Site threshold
Hatfield (including SDS5/Hat1)	25%	11 new dwellings or a site of 0.5ha or more
Welwyn Garden City (including SDS1/WGC4, SDS2/WGC5, SDS3/Pea02b and SDS4/Pea02c)	30%	11 new dwellings or a site of 0.5ha or more
Excluded Villages	35%	11 new dwellings or a site of 0.5ha or more
Symondshyde – new village (SDS6/Hat15)	30%	N/A
Re-development or re-use of Major Developed Sites or other previously developed sites in sustainable locations compatible with Green Belt policy	30%	11 new dwellings or a site of 0.5ha or more

In order to contribute to the creation of mixed communities, the priority will be for affordable housing to be delivered on the main application site. Off-site provision or a commuted payment will only be supported where it can be robustly justified and where it would result in the delivery of at least an equivalent number of new affordable homes or to a broadly equivalent value. Unless otherwise agreed, alternative delivery should be made within the same settlement as the main application site and still contribute to the creation of mixed communities.

Rural Exceptions Sites to provide small scale affordable housing schemes of up to 4 new dwellings within or adjoining the borough's Green Belt villages, and adjoining those excluded villages where no sites have been allocated for housing within this Plan, will be supported where it can be robustly demonstrated that the proposed development is required to help address the identified housing needs of the local community.

Self-build and Custom Housebuilding: Strategic Development Sites SDS1 (WGC4), SDS2 (WGC5), SDS5 (Hat1) and SDS6 (Hat15) should make provision for a proportion of serviced plots of land to contribute towards meeting the evidenced demand for Self-build and Custom Housebuilding in the borough. Serviced plots of land for Self-build and Custom Housebuilding will also be supported on other allocated sites or permitted windfall sites where overall, this would not result in an over-provision of this type of housebuilding when compared to the Council's supply/demand evidence.

Housing for older people: As part of the overall housing target, a net increase of around 715 dwellings will be supported to help meet the varied housing needs of an ageing population, through the provision of a range of housing options such as sheltered housing, flexi-care, extra-care, assisted living and other forms of supported housing, provided such developments are located in accessible locations. Around 5% of all new housing delivered at Strategic Development Sites should comprise housing which is specially designed for older people.

Specialist housing: In addition to the overall housing target, a net increase of around 330 bed-spaces to help meet the accommodation needs of those who need specialist (Use Class C2) residential or nursing care will be supported in the borough's towns and excluded villages.

Accessible and Adaptable dwellings: At least 20% of all new dwellings on sites involving 5 or more new dwellings will be required to meet Building Regulations Part M4(2) standards for 'accessible and adaptable dwellings' (or as subsequently amended), the delivery of which should be distributed across market and affordable tenures(35). This proportion may be varied where a proportion of dwellings are proposed to meet Part M4(3) standards for 'wheelchair user dwellings' (or as subsequently amended).

Pitch provision for Gypsies and Travellers: Sites have been allocated to facilitate the delivery of additional 61 pitches over the plan period to meet the accommodation needs of Gypsies and Travellers. Delivery will be phased over the plan period and pitch delivery in the later part of the plan period will be brought forward where the need continues to be demonstrated as evidenced by future reviews of accommodation needs assessments.

Houses in Multiple Occupation: To maintain mixed, balanced, sustainable and inclusive communities, applications for Houses in Multiple Occupation will only be approved where they would not create an over concentration of such accommodation resulting in an imbalance within local communities or other significant adverse impacts. Proposals should comply with the Houses in Multiple Occupation Supplementary Planning Document.

Purpose built student accommodation: Purpose built on-campus student accommodation to meet the demonstrated needs of higher education providers in the borough will be supported where this is in accordance with a master-plan that has been approved by the Council. Off-site purpose built student accommodation will be supported where it is highly accessible to a main university or college campus within the borough by walking, cycling and public transport and provides sufficient on-site car parking.

Development should not on its own, or cumulatively with other similar developments in the area, have a significant adverse impact on the amenity of residents and local communities, or on the character of the area.

- 5.7 Reason for Refusal 2 cites a conflict with Saved Policy H2 – Location of Windfall Residential Development – of the Welwyn Hatfield District Plan (which is an extant Development Plan policy). This policy states that:

All applications for windfall residential development will be assessed for potential and suitability against the following criteria:

- i. *The availability of previously developed sites and/or buildings;*
- ii. *The location and accessibility of the site to services and facilities by transport modes other than the car;*
- iii. *The capacity of existing and potential infrastructure to absorb further development;*
- iv. *The ability to reinforce existing communities, including providing a demand for services and facilities; and*
- v. *The physical and environmental constraints on development of land.*

- 5.8 Reason for Refusal 2 cites conflict with a number of policies in the emerging local plan. These policies, as set out in the Draft Local Plan Proposed Submission (2016), are set out in full below:

Policy SP 4 - Transport and Travel

Consistent with the vision and objectives of this Local Plan, the Council will seek to support both planned growth and existing development with appropriate transport infrastructure, with the emphasis on promoting the use of sustainable modes of travel and on improving safety for all highway users. The Council will work together with the County Council as the local highway authority, Highways England, public transport operators, developers and other relevant bodies to design and fund improvements to transport infrastructure where these are necessary to support growth or to improve accessibility to existing centres, employment areas and community facilities.

Policy SADM 2 – Highway and Network Safety

Development proposals will be permitted provided:

- i. *There would be no unacceptable impacts on the local and /or strategic transport network. Development proposals which generate a significant amount of traffic movements must be*

- accompanied by either a Transport Assessment or Transport Statement as appropriate in accordance with the criteria in the Hertfordshire County Council Highway Design Guidance(26);*
- ii. There would be no negative impacts on highway safety;*
 - iii. They are designed to allow safe and suitable means of access and site operation; and*
 - iv. They provide satisfactory and suitable levels of parking.*

SADM 3 - Sustainable Travel for All

All developments at or above the thresholds set out in Hertfordshire County Council's Hertfordshire Travel Plan Guidance will be required to submit a Travel Plan as part of a planning application.

Development proposals should make provision where appropriate for:

- i. Cyclists, through safe design and layout of routes integrated into new development and the wider cycle network and provision of secure cycle parking and where appropriate changing facilities.*
- ii. Pedestrians (including disabled persons and those with impaired mobility), through safe, accessible, direct and convenient design and layout of routes within the new development and wider pedestrian network.*
- iv. Safeguarding existing Public Rights of Way and promoting enhancements to the network, where appropriate, to offer walking and cycling opportunities.*
- v. Public transport, through measures that will improve and support public transport and provide new public transport routes.*
- vi. Community transport, through the implementation of Travel Plans where appropriate (for example including measures that will promote car pools, car sharing and voluntary community buses, community services and cycle schemes).*
- vii. Servicing and emergency vehicles.*
- viii. Facilities for charging plug-in and other ultra-low emission vehicles.*

- 5.9 This Reason for Refusal also states that the proposed development would result in a conflict with the Council's Parking Guidance SPG (2004) and the Interim Policy for Car Parking Standards (2014). The areas of these documents considered most relevant to the consideration of the Application and by extension this appeal, are set out below.
- 5.10 The Parking Standards Supplementary Planning Guidance (SPG) uses maximum standards as a basis for controlling parking provision. This is not consistent with the NPPF and is therefore afforded less weight than more recently-adopted measures, including the interim Policy for Car Parking Standards.
- 5.11 The Council have produced an interim Policy for Car Parking Standards that states that parking provision will be assessed on a case by case basis and the existing maximum parking standards within the SPG should be taken as guidance only. This means that higher or lower car parking standards than those set out in the SPG can be proposed and determined on a case by case basis taking into account the relevant circumstances of the proposal, its size context and its wider surroundings.
- 5.12 Reason for Refusal 3 cites conflict with Saved Policies D1 and D2 of the Welwyn Hatfield Local Plan (the Development Plan). The text of these policies is set out below:

Saved Policy D1 - Quality of Design

The Council will require the standard of design in all new development to be of a high quality. The design of new development should incorporate the design principles and policies in the Plan and the guidance contained in the Supplementary Design Guidance.

Saved Policy D2 – Character and Context

The Council will require all new development to respect and relate to the character and context of the area in which it is proposed. Development proposals should as a minimum maintain, and where possible, should enhance or improve the character of the existing area.

- 5.13 Policy SP 9 – Place Making and High Quality Design of the Draft Local Plan Proposed Submission (2016), is also cited in the Reason for Refusal. This emerging local plan policy is set out in full below:

Proposals will be required to deliver a high quality design that fosters a positive sense of place by responding to the following principles in an integrated and coherent way.

Respond to character and context

- *Proposals have been informed by an analysis of the site's character and context so that they relate well to their surroundings and local distinctiveness, including the wider townscape and landscape, and enhance the sense of place.*
- *Proposals are of an appropriate density (typically between 30 - 50 net dwellings per hectare) that combines the efficient use of land with high quality design that respects character and context. Higher density development will be encouraged in accessible locations, such as around transport hubs or town and neighbourhood centres, where this is appropriate.*

Legible, permeable and well connected

- *Places are easy to understand and navigate by virtue of the layout; hierarchy and design of routes; height, scale and design of buildings; and views and vistas, and other landmarks such as public art.*
- *Places are accessible, permeable, well connected and easy to move through for all in society. New routes connect into the existing route network and are safe and pleasant to use.*
- *Public spaces seek to prioritise the pedestrian and cyclist above motor vehicles in their layout, landscaping and provision of street furniture/facilities.*

High quality public space and landscaping

- *Proposals provide an appropriate amount of public open space that is well sited and designed to help create and enhance a sense of place.*
- *Public open spaces are coherent, attractive, multi-functional, safe, inclusive and utilise high quality soft and hard landscaping.*
- *Public open spaces promote health and wellbeing, with play and leisure spaces well located and attractively designed to encourage their use.*
- *Continuity of frontages and appropriate definition of spaces is created or maintained through the siting, layout and design of routes, buildings, landscaping and boundary treatments.*

Space for nature

- *Proposals make space for nature, enable the movement of wildlife through the development, and protect and improve the connectivity of habitats at the wider landscape scale.*
- *Layout and design of development respects and guides people's interaction with spaces for nature, with strategies in place to manage and maintain the ecological integrity of those spaces.*

Vibrant and diverse

- Proposals offer an appropriate mix of uses to support sustainable and vibrant places to live, work and visit.
- Public spaces and publicly accessible buildings are designed to be inclusive, promote social interaction and provide opportunities for informal cultural and economic activities.

Safe and secure

- The design of buildings and boundary treatments create a sense of safety and security that is consistent with achieving active, welcoming, legible and permeable places.
- Building entrances and public spaces are appropriately sited, designed and lit in order to maximise natural surveillance and a sense of safety.

Building function and form

- Development proposals respect neighbouring buildings and the surrounding context in terms of height, mass and scale.
- Development proposals are of a high quality architectural design that creates coherent and attractive forms and elevations and uses high quality materials.
- Alterations to buildings relate well to the character and proportions of the existing building and its curtilage, the surrounding context and the street scene in terms of their siting, height, mass, scale, detailed design and materials.
- Buildings and their approaches are accessible and provide adequate internal amenity and functionality for occupiers and users.

Taller buildings

In addition to other design principles and criteria set out within the Local Plan, proposals for taller buildings should positively respond to the following matters within their design solution:

- Clustering with other existing or proposed taller buildings within the immediate and wider area.
- Long distance views.
- Impact on skyline, townscape, historic assets and landscape.
- Shadowing.
- Micro-climate and wind tunnelling.
- Relationship and interaction with the street and human scale.

5.14 This Reason for Refusal also cites conflict with the Broadwater Road West SPD (2008). A copy of the SPD is enclosed at **Appendix 4**. This sets a clear framework for development in this area with the aim of bringing about the sustainable regeneration and redevelopment of the site. The SPD establishes the type, amount and mix of development that should be delivered on the site, as well as identifying design and layout constraints, and other requirements that need to be addressed as part of the redevelopment process: details on design and sustainability initiatives are also provided.

5.15 It is noted that there is specific reference to the Appeal Site insofar as it is envisaged that this would remain in its former use as a research and development facility. Paragraph 3.5 states that:

The Bio Park buildings located in the south western corner of the site are occupied by the University of Hertfordshire and provide a unique facility for bioscience and health technologies. The SPD does not therefore propose the redevelopment of this part of the site as it recognises the economic development potential of the facility for the town, which should be supported through the redevelopment of the rest of the land.”

- 5.16 It is acknowledged that this aspect of the SPD does not reflect the current situation with the previous use now having ceased and the building and the wider site having become vacant. However, the fundamental guiding principles for design of development in the area contained within the SPD remain relevant and important material considerations in the determination of planning applications relating to sites in or around the area it covers.
- 5.17 In addition to the areas of the Development Plan and other areas of local planning policy, Reason for Refusal 3 cites the conflict with Paragraphs 130 and 134 of the NPPF as reasons why planning permission should be refused.
- 5.18 Paragraph 130 of the Framework reads as follows:

Planning policies and decisions should ensure that developments:

- a) *will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*
- b) *are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*
- c) *are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);*
- d) *establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;*
- e) *optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and*
- f) *create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users⁴⁹; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.*

- 5.19 Paragraph 134 states that:

Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design⁵², taking into account any local design guidance and supplementary planning documents such as design guides and codes. Conversely, significant weight should be given to:

- a) *development which reflects local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes; and/or*
- b) *outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.*

¹ Footnote 49 of the Framework which is cross-referenced in the text at this point reads as follows:

Planning policies for housing should make use of the Government's optional technical standards for accessible and adaptable housing, where this would address an identified need for such properties. Policies may also make use of the nationally described space standard, where the need for an internal space standard can be justified.

² Footnote 52 of the Framework which is cross-referenced in the text at this point reads as follows:

Contained in the National Design Guide and National Model Design Code.

- 5.20 In addition to those areas of local planning policy, other relevant documents and areas of the NPPF which have been cited in the three reasons for refusal, there are numerous other policy considerations which may be afforded weight in the consideration of this appeal. Where considered relevant, and where referenced in this Statement of Case, these have been quoted in full in subsequent sections of this document.

6.0 STATEMENT OF CASE

- 6.1 This section sets out the substance of the LPA's Statement of Case, specifically in relation to the three reasons for refusal. The relevant areas of the Appellant's Statement of Case and other relevant supporting documents have also been considered and are referenced in the text below.
- 6.2 It is firstly acknowledged that the Application was recommended for approval by planning officers. The Officer Report to committee recommended approval of the application subject to conditions and the terms of a Section 106 Agreement (which would subsequently have been agreed in full), obliging the beneficiary of the planning permission to make financial contributions towards outdoor recreation and sport facilities, waste and recycling, community healthcare, general medical services, mental health services, primary and secondary education, childcare, libraries and youth services. A review mechanism for the affordable housing (that would be provided on-site as shared ownership units), would also have been included in such an agreement, as would a management scheme for the areas of communal open space within the development.
- 6.3 In reaching their recommendation to approve planning permission subject to these terms and conditions, it is evident from the Officer's Report, that this was a conclusion that had been reached following consideration of a range of different issues where subjective judgements would have been made in relation to these matters. Officers concluded in carrying out a 'planning balance' that the benefits of granting planning permission outweighed the negative aspects of the proposals, which included non-compliance with areas of planning policy including those cited in the reasons for refusal which are set out in full above.
- 6.4 The benefits of the scheme, which include the provision of predominantly market housing, were considered by officers to outweigh the harm arising from the development.
- 6.5 Members of the Council's Development Management Committee nevertheless determined, as is their right and prerogative, that greater weight should be afforded to the harm arising from the proposals, particularly where these result in conflicts with planning policy. It is evident from the Printed Minutes of the meeting, and the 'webcast' of the discussions, that Members considered (1) that the proposed development would not provide the right type of housing to meet the needs of the Borough, (2), it has not been demonstrated that there would not be unacceptable impacts in relation to transport and car parking matters, primarily as a result of the absence of sufficient car parking, and (3) that buildings of this scale and nature would not ultimately be well suited to their context, particularly given the prominence of the site in a key 'gateway' location to Welwyn Garden City.
- 6.6 The concerns raised by Members of the Committee are set out in the three reasons for refusal in the Decision Notice. This section of the LPA's Statement of Case explains the reasoning behind each of the reasons for refusal, as well as setting out the LPA's case why the appeal should be dismissed.

Reason for Refusal 1

- 6.7 As highlighted above, the first reason for refusal relates to the failure of the proposed development to provide an appropriate mix of dwellings. The proposed mix of units is heavily weighted towards the provision of smaller dwellings, with 88% of the total number of units comprised of 1 and 2-bedroom flats. This is not in accordance with the 'implied mix of housing' (as defined by number of bedrooms), that would reflect the Objectively Assessed Need (OAN), in the Borough as set out in the Technical OAN Paper (June 2019)³, which represents the most up-to-date evidence of housing need. The Technical OAN Paper is enclosed at **Appendix 5** to this Statement.

³ Welwyn Hatfield Technical OAN Paper - The implications of the 2016-based SNPP and SNHP on the Welwyn Hatfield OAN – prepared by Turley (Local Plan Examination Reference: EX103A).

- 6.8 As a result it is considered that by failing to contribute effectively towards meeting the areas of greatest housing need, the proposed development would be contrary to the requirements in draft Policy SP7 of the emerging Local Plan.
- 6.9 It must be acknowledged at this stage that Policy SP 7 of the Proposed Submission Local Plan has been amended during the course of the ongoing examination of the Plan. The revised wording (with deleted text struck through and new text underlined), which is reflected in the Schedule of Main Modifications⁴ (January 2020), a copy of which is enclosed at **Appendix 6** of this Statement, now reads as follows:
- "Proposals for ~~11~~10 or more new dwellings should demonstrate how the mix of tenure, type and size of housing proposed on sites ~~will reflect~~ has had regard to the council's latest evidence of housing need and market demand and contribute towards meeting the varied needs of different households including single person households, couples, families with children, older people, people with disabilities and people wishing to build their own homes. For larger sites, there should be a greater opportunity to deliver a broader mix."*
- 6.10 It is acknowledged that the change in the wording of the policy results in the policy advocating a less prescriptive approach to the mix of tenure, type and size of housing proposed on sites, which the Appellant notes at Paragraph 7.55 of their Statement of Case. While the wording of the draft policy set out above does suggest that the mix of dwellings in any proposal should not necessarily be fixed, both the original and amended policy text place the onus on applicants to provide a justification for the mix of housing that is proposed. The requirement for schemes to have regard to (rather than reflect), the latest evidence of housing need and market demand does not absolve the applicant of their responsibility to demonstrate why the proposed mix is appropriate or reduce the importance or significance of any failure to do so.
- 6.11 It is also to be noted that this section of the policy is effectively in two parts (although these are conjoined by the nature of the policy wording). This sets out two related, yet separate, 'tests' that proposals for major residential development must meet. The first (as described above), is clearly that applicants must demonstrate how the proposed mix of dwellings would be appropriate and that it has had regard to the latest evidence of housing need and market demand. The second 'test' is whether proposals contribute towards meeting the varied needs of different households.
- 6.12 In the view of the LPA, the proposed development has not satisfied either of these two tests set out in the draft policy. The reasons for this are explained in greater detail below. Since the evidence relating to these is largely interlinked and interrelated, no distinction is made between the two in the subsequent paragraphs, although we return to the question of the tests at Paragraph 6.34 below.
- 6.13 The Officer's Report to Development Management Committee (**Appendix 2**), describes the mix of units that are proposed and notes that this would not be in accordance with the latest evidence of housing need and market demand in the Technical OAN Paper.
- 6.14 The report considers the issue of Housing Mix (within Section 7: Other considerations), on Page 31. Paragraph 9.142 which reads as follows:

"As for the housing mix, Policy SP 7 of the emerging Local Plan states that proposals for ~~11~~10 or more new dwellings should demonstrate how the mix of tenure, type and size of housing proposed on sites will reflect⁶ the Council's latest evidence of housing need and market demand and contribute towards meeting the varied needs of different households. The most up to date evidence

⁴ Schedule of Proposed Main Modifications January 2020 (Examination Document EX235) which was produced to capture likely modifications following the Hearing sessions.

⁵ This policy has subsequently been amended in the Main Modifications to the emerging Local Plan so that it refers to schemes of 10 or more dwellings.

⁶ This policy has subsequently been amended in the Main Modifications to the emerging Local Plan so that it now requires schemes to 'have regard' to the mix.

is found in the Technical OAN paper (June 2019) which has been produced in connection with the Local Plan examination. This states that the implied size of housing required (2013 – 2032) is as follows:

1 bed	2 bed	3 bed	4+ bed
14%	23%	41%	22%

- 6.15 While not included in the officer's report as a direct comparison, the mix of units in the proposed development is set out in the table below in order to illustrate the extent of the difference between this (as a proportion of the units for which consent is sought), and the implied size of housing required in the Borough and that which the Appellant seeks to provide:

	1 bed	2 bed	3 bed	4 bed
Housing Mix (OAN)	14%	23%	41%	22%
Appeal Proposal	44%	44%	9%	3%
Difference (%)	+30%	+21%	-34%	-18%

- 6.16 Subsequent paragraphs 9.143 and 9.144 go on to highlight the issues. Paragraph 9.143 notes:
- "This paper (i.e. the Technical OAN Paper), also sets out that the implied type of housing required (2013 – 2032) is 77% houses and 23% flats."*
- 6.17 The difference on this measure is clear with the proposed development providing 3% of the proposed dwellings as houses and 97% as flats.
- 6.18 Having described the breakdown of dwelling sizes set out in the table above, Paragraph 9.144 states that:
- "The proposal would not therefore meet the requirements of the latest evidence of housing need and market demand. The benefits associated with the proposed development therefore need to be balanced against the mix of dwellings proposed."*

- 6.19 The matter of need is then revisited at Paragraph 9.213 when, in considering the effect of the presumption in favour of sustainable development and its application in the determination of this application, the Officer's Report states:

"What now remains are the other harms, comprising a degree of conflict with the development plan in terms of the dwelling mix and degree of design harm by virtue of the identified less than substantial harm to the setting of a designated heritage asset." (emphasis added).

- 6.20 It is therefore evident from the Officer's Report that the LPA have deemed there to be harm resulting from the inconsistency between the mix of dwellings for which an objectively assessed need has been identified and that proposed to be delivered as part of the proposed development. While not reported explicitly to the committee, the proposed mix of dwellings represents a significant departure from the need for each type of dwelling identified in the Technical OAN Paper.
- 6.21 The Appellant's Statement of Case seeks to provide a justification for the mix of dwellings which, it is acknowledged, is heavily weighted towards the provision of smaller units (i.e. those with either one and two bedrooms). Paragraph 7.45 accepts that the proposals would result a greater proportion of 1- and 2- bedroom flats being provided than the 'implied mix' of dwelling sizes set out in the Technical OAN Paper. This paragraph quotes the Technical OAN Paper in stating that the mix presented is an 'illustrative interpretation of historic evidence'.
- 6.22 The Technical OAN Paper itself refers to the analysis contained in the 2017 SHMA Update⁷ (which is enclosed at **Appendix 7**), in its explanation of what it considers to be the implications of housing need

⁷ Strategic Housing Market Assessment Update 2017 Welwyn Hatfield May 2017 (Examination Library Document ref: HOU/21)

on the size and type of dwellings needed in the Borough. The findings are presented in Paragraphs 6.20 – 6.23. Paragraph 6.23 (which is quoted by the Appellant at Paragraph 7.45 of their Statement of Case), reads as follows:

"As highlighted in the 2017 SHMA Update, this modelling exercise represents an illustrative interpretation of available historic evidence, for the purposes of estimating the size and type of housing that may be required in Welwyn Hatfield. While it is appropriate to use this analysis to guide policy and monitoring at borough level, it is recommended that policies are not overly prescriptive in directly basing requirements for individual sites on the illustrative mix presented above. The individual mix of housing provided on a site-by-site basis will need to respond to the changing demands and needs of the market and, take account of local market evidence and viability considerations."

- 6.23 Having quoted the above passage as a 'caution' against insisting that the 'implied mix' of dwelling sizes is sought in all major developments, Paragraph 7.46 of the Appellant's Statement of Case goes on to state that:

"The estimated housing mix in the Technical OAN Paper should not be applied rigidly. The identified housing mix needs to be delivered across the whole emerging Local Plan period and achieved by the delivery of multiple and varied sites. To provide site-specific analysis of the proposed mix in the context of the local housing market and demographics, the planning application was supported by a letter from Lambert Smith Hampton ("LSH") (Appendix 6, Planning Statement)."

- 6.24 While the above text (i.e. that at Paragraph 7.46 of the Appellant's Statement of Case), is not incorrect in the point it makes about not requiring the rigid application of the housing mix, it is not considered that this, or the other supporting evidence it refers to, provide a sufficiently robust justification for the **extent of the departure** from the implied mix of dwelling sizes which is also the latest evidence of housing need (insofar as this is reflected by the size of the dwellings). While it is not unreasonable to assume that other sites with different locational characteristics to the Appeal Site **may** be more likely to deliver a higher proportion of larger dwellings, this does not in itself justify the proportion of one and two-bedroom units (totalling 88% of the total number of units proposed), which far exceeds the implied need for this form of housing across all tenures in the Borough.
- 6.25 The LPA submits that there is a clear difference between the implied mix of dwellings being used as an overly prescriptive 'template' that is applied across all developments (which, for the avoidance of doubt is not what Policy SP 7 seeks to do), and proposals which appear to bear no relation to the estimated needs for housing across the Borough. For a proposal to be consistent with the revised Policy SP 7, it should (as a minimum), have regard to the latest evidence of housing need. In seeking to provide predominantly one and two-bedroom dwellings in this development the Appellant does not demonstrate that they have had regard for the need to meet the OAN as reflected in the implied mix. In suggesting (at Paragraph 7.46 of their Statement of Case), that because significant components of housing need will be met by other sites it is not necessary for these to be met in this development, little regard has been had to the evidence of housing need and the proposals are clearly contrary to the requirements of this draft policy.
- 6.26 Furthermore, while it is acknowledged that Policy SP 7 as originally worded, and in its revised form (in the Schedule of Proposed Main Modifications⁸, which is enclosed at), make it clear that it is not expected that the mix in each and every (major) development would be expected to precisely reflect the mix as set out in the OAN, it is the extent of the departure from the implied mix is of greatest concern to the LPA. This has led the LPA to conclude that the proposed development would not contribute towards the creation of a sustainable, inclusive and mixed community. In failing to provide an appropriate range of homes and for making provision for homes suitable for families, the proposals would be contrary to the position set out in Paragraphs 62, 63, 92 and 124, of the NPPF.
- 6.27 Moreover, while the caveats in Paragraph 6.23 are noted, it remains the case that the Technical OAN Paper represents the 'latest evidence of housing need' (as of April 2022), and that major development

⁸ Schedule of Proposed Main Modifications January 2020 (Examination Document EX235)

proposals must demonstrate that the mix of tenure, type and size of housing reflects both this (i.e. the latest level of housing need), and market demand. With regard to the latter, it is evident that the Appellant has sought to provide a justification for the proposed mix of units with reference to a letter from Lambert Smith Hampton (LSH), which was submitted at Appendix 6 of the Planning Statement originally submitted with the Application. This cites the accessibility of the location and the demographic profile of the area suggesting that the demand for housing is primarily driven by younger workers and smaller households, typically of 2 – 3 people.

- 6.28 The LSH letter is supplemented by a subsequent report entitled: Five-Year Housing Land Supply & Housing Mix, which has been submitted as Appendix 10 of the Appellant's Statement of Case. This largely repeats points previously raised in the Planning Statement and the Appellant's Statement of Case, although it also looks at delivery of housing relative to need in previous years. The figures presented in Paragraph 2.3.56, and in Table 15 which follows it, suggest that 1 and 2 bedroom properties have been delivered at a rate which has largely been met or the deficit relative to the level of housing needed, has been significantly smaller than the shortfall in the delivery of 3 and 4 bedroom dwellings.
- 6.29 The report goes on to state (at Paragraph 2.3.58), that the appeal scheme:
- "supports the delivery of smaller homes in Welwyn Hatfield and will make an important contribution to the delivery of smaller and more affordable house types in coming years. Furthermore, one-and two-bedroom homes are the most suitable stock for the centrally-located site near the train station and town centre."*
- 6.30 This point is accepted to a degree, and it is acknowledged that the provision of smaller homes does represent a benefit of the proposed development, particularly in the context of the acknowledged shortfall in housing land supply. However, it is not necessarily the case that the provision of one and two-bedroom homes is the most suitable form of housing when these would represent such a high proportion of the total number of homes that would be provided in the development. It is not necessarily the case that centrally-located sites should be exempted from providing a suitable mix of dwellings (as set out in the OAN), reflects, and contributes towards the components of housing need which is greatest, and where there has been a more marked shortfall in provision in the Borough in recent years. Indeed, the fact that more smaller units (relative to need), have been delivered in recent years and that the need for these has largely been met, suggests that the need for larger units, which has fallen significantly short of what is required, remains pressing.
- 6.31 Neither the Appellant's Statement of Case, nor the LSH report explain why the site is not capable of providing a greater proportion of the units as three or four-bedroom properties. The latter asserts (at Paragraph 2.3.59), that this would further worsen the viability of the scheme, but this does not offer any explanation of why this would be the case, and whether and to what extent, the increase in sales values arising through the provision of larger units, would offset a reduction in the overall number of units that would be provided in this proposal. This paragraph, after stating that including a greater proportion of three and four bedroom dwellings would worsen the viability of the scheme, goes on to state that:
- "As such, to achieve their desired broader mix of house types, it is imperative that the Council brings forward a wide range of housing allocations in the Local Plan. Given the extensive Green Belt coverage in Welwyn Hatfield, the delivery of more 3 and 4+ bed homes is predicated on the release of Green Belt sites, without this the Council cannot meet their housing needs either in absolute numbers or certain house types. Therefore, it should not be incumbent, nor is it feasible for reasons set out above, upon all proposal that come before the release of these Green Belt sites to address the Council's failure to release land for family housing." (sic)*
- 6.32 The above is acknowledged, as is the need for housing to be provided through the development of a range of sites across the Borough in order to address the shortfall in housing land supply. However, this does not in the view of the LPA justify the extent of the departure from a mix of housing that would reflect the OAN. The departure from a policy-compliant mix of unit sizes and types to the extent that it

is heavily weighted towards the provision of smaller (one and two-bedroom units), is considered harmful to the objective of creating sustainable, inclusive and mixed communities, which is contrary to Policy SP 7 of the emerging Local Plan and to the central objectives of the NPPF.

- 6.33 Furthermore, the absence of a sufficient number of larger units will fail to provide for or contribute towards achieving mixed communities. In not providing any larger flats that would be suitable for families, the proposals would therefore not be consistent with local planning policy and would be contrary to Paragraph 124 (a), of the NPPF, which requires that planning decisions take into account “*the identified need for different types of housing and other forms of development, and the availability of land suitable for accommodating it*”.
- 6.34 In this case there is clearly a pressing need for different types of housing, while the limited availability of land identified for residential development is also a relevant consideration.
- 6.35 Returning to the question of whether the proposals would be consistent with the policy ‘tests’ set out in Policy SP 7, we can conclude this section of the LPA’s case below.

Test 1: Has the proposed mix of dwellings had regard to the latest evidence of housing need and market demand?

- 6.36 It is evident from the above that the proposed mix of dwellings has not had sufficient regard to the latest evidence of housing need as reflected in the OAN Technical Paper. The Appellant does not seek to provide a justification for the proposed mix of dwellings, instead relying on the assertion that the mix of dwellings set out in the Technical OAN Paper should not be applied rigidly and that the existence of demand for two-bedroom units in itself provides a justification for providing a higher proportion of smaller units than identified in the latest evidence of housing need in the Borough.
- 6.37 The justification for the proposed mix of housing provided in the Appellant’s Statement of Case (Paragraph 7.48), relies heavily on the assertion that the proposed housing mix meets current demand and that the provision of two-bedroom units, for which the Appellant claims there is an under supply of suitable stock, can help meet housing needs during the plan period.
- 6.38 However, the Appellant has not provided sufficient evidence to support their claim that sufficient regard has been had to both the latest evidence of housing need and market demand. The justification for the proposed mix of dwellings in this scheme is based almost entirely on the assertion that there is unmet demand for smaller housing and that providing a greater proportion of this would be appropriate in the context of the demographic profile of the area and the nature of the local housing market. The Appellant’s claim in relation to this is largely untested and it is not considered sufficient in itself to justify the proposed mix of dwelling sizes and types as a departure from the established objectively assessed housing need (OAN).

Test 2: Does the proposed mix of dwellings contribute towards meeting the varied needs of different households?

- 6.39 In considering whether the proposed mix of dwellings meets the varied needs of different households it is necessary to consider what a desirable mix would provide in terms of dwelling size, tenure and target market.
- 6.40 It is also relevant to consider whether the proposals would provide the type of facilities which facilitate occupation by families and/or those with particular needs in terms of access to and from their homes, and the type of space that surrounds the properties.
- 6.41 The LPA is concerned about the absence of specific provision for access to or from the proposed dwellings by parents with children. There is also an issue with the level and access and secure storage

of prams and pushchairs. In failing to make provision for this it is considered that the proposed development has not had sufficient regard to the needs of families, or those who may start families whilst resident at any of the proposed dwellings. To do so excludes a significant group and demographic that might be expected to purchase or take occupation of the type and size of housing that it is proposed to provide.

6.42 The above belies a wider issue that the mix and type of dwellings evidently fails to make sufficient provision for the needs of different households. Able-bodied adults who would walk to access the town centre or railway station to the north-west of the Appeal Site are well catered for by this development, but the same cannot be said of families with children or those who would require access to a private vehicle.

6.43 Policy SP 7 also requires that major development proposals should contribute toward meeting the needs of older people. It appears that little-to-no regard has been had to this. Indeed, it is notable that the Design and Access Statement⁹ submitted as part of the Application, states that:

"The mix [of dwellings] provided will help to establish a new community within Welwyn Garden City, attracting both families and young professionals."

6.44 While (as stated above), it is not considered that sufficient regard has been had to the needs of families in the design of the proposed development, it is evident from this statement that even less regard has been had to providing homes suitable for older people. It is notable that Policy SP 7 requires that around 5% of all new housing delivered at Strategic Development Sites should comprise housing which is specially designed for older people. Following its recognition as a residential site in the emerging Local Plan, this can be considered a Strategic Development Site, yet there is evidently no provision for this form of housing (i.e. housing specially designed for older people), as part of the proposed mix of housing. Therefore, as a result of the omission of any provision of this form of housing there is a clear conflict with this aspect of Policy SP 7.

Reason for Refusal 2

6.45 Reason for refusal 2 is concerned with the impact of the proposed development on the availability of parking for vehicles in the vicinity of the site. This concern is due to insufficient provision of parking as part of the development itself, which would have the inevitable consequence of increasing the demand for and pressure on parking in the vicinity of the Appeal Site including, but not necessarily limited to its immediate surroundings.

6.46 The objection (16 April 2021) from WHBC's Parking Services Team Leader¹⁰ (enclosed at **Appendix 8**), raised a number of concerns about lower parking provision – whilst noting the proposed amount complied with the relevant, adopted guidance.

6.47 The issues included:

- Larger household car ownership – seeking <1 space per 1-bed unit (as proposed) but 1 space per 2 or more-bed unit;
- Sustainable alternative travel modes not being adequate to encourage mode shift;
- Access control to private and visitor parking, and risks for surrounding streets;
- Visitor parking numbers should be 10%;
- Car club offsetting car ownership – greater provision required to provide viable alternatives to private car use.

⁹ Page 107 of the Design and Access Statement prepared by Alan Camp Architects.

¹⁰ Reference to WHBC Parking Services Team Leader

- 6.48 The same Officer did note a significant matter that is relevant (emphasis added as underlining below):

"A parking consultation has begun in the nearby public roads where it is likely a resident permit scheme is introduced to reduce parking issues already caused by railway station commuters and non-resident parking. If such a provision is introduced, we would not be in a position to offer any potential residents on this site an opportunity to purchase a parking permit to park in the roads nearby as we need to ensure parking demand is not outstripped in roads where properties already exist."

- 6.49 While the WHBC Parking Services Team Leader subsequently withdrew the objection (their subsequent consultation response is enclosed at **Appendix 9**), the same Officer did note the following caveat (emphasis added):

*"I have noted the response from the developer including the monetary obligation being made to improve sustainable transport, which if successful would lead to a reduction of private use vehicles, and that HCC as the highway authority supports the proposal. I do have concerns that parking demand *could* outstrip the provision on site, however the developer has shown they are taking reasonable steps to highlight to purchasers that the development does not come guaranteed parking and that its offered on a limited basis due to the site being designed to be sustainable."*

- 6.50 Regarding the concern about the proposed parking provision for the development, the Appellant's assessment only considers 2011 Census data on car ownership – essentially providing a snapshot, and one that is over 10 years old (although it is noted that the Office of National Statistics does not expect to start releasing datasets from the 2021 Census until Summer 2022 onwards).

- 6.51 The LPA has reviewed the equivalent car ownership ratios from the 2001 Census, alongside the 2011 results. This shows recorded increases in car ownership for both houses and flats (using the Middle Super Output Areas (MSOA) presented in the Transport Assessment). The Census car ownership data for Welwyn Hatfield 006 and 007 MSOAs have been averaged; the results are presented below. MSOA 007 covers the Site while MSOA 006 covers the area to the west of the railway line.

Figure 1: Comparison between 2001 and 2011 Census Car Ownership Data (Houses)

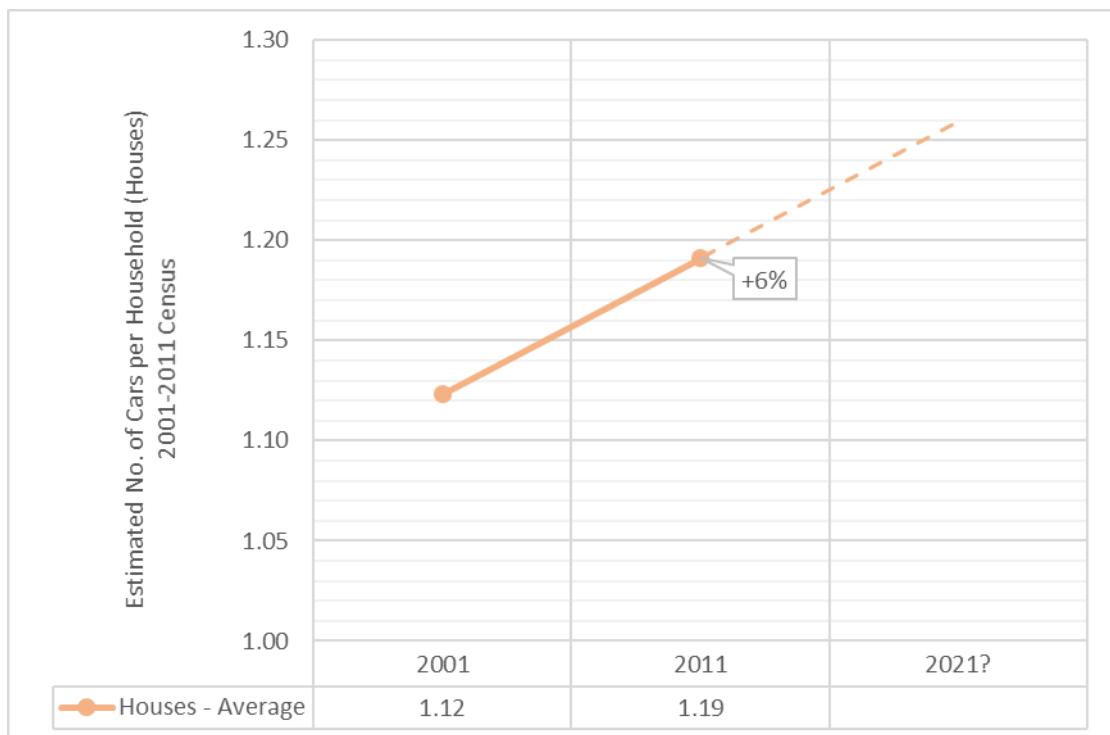
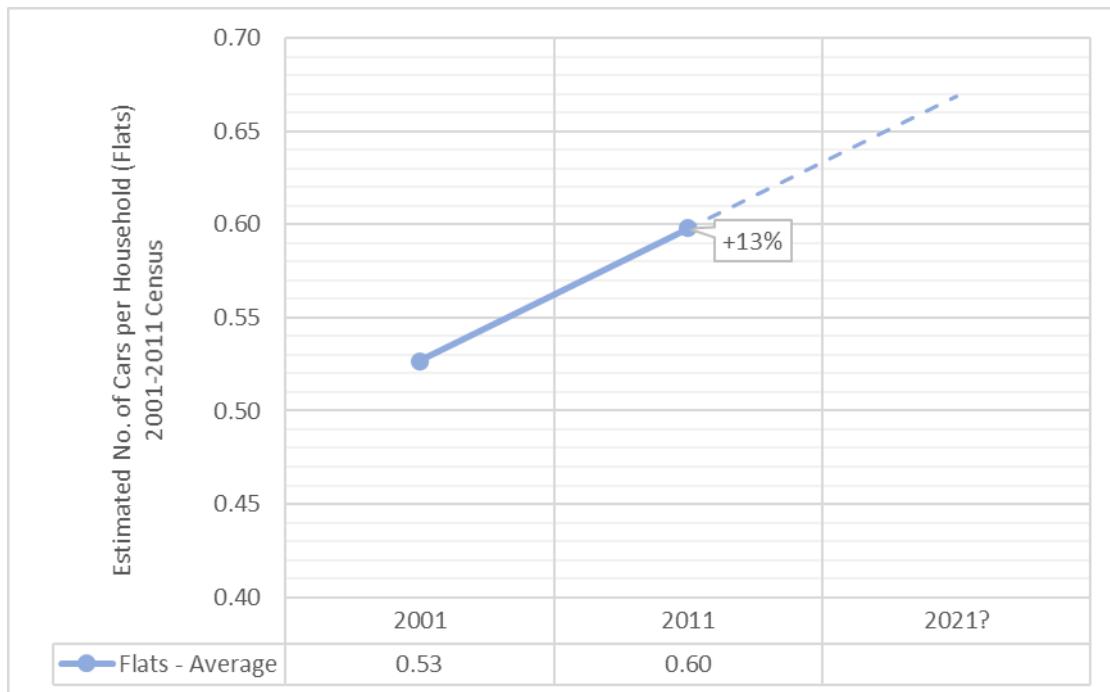


Figure 2: Comparison between 2001 and 2011 Census Car Ownership Data (Flats)



- 6.52 Car ownership for houses shows a 6% increase over the 2001-2011 period for the averaged MSOA data. Car ownership for flats shows a more significant 13% increase over the period, for the equivalent data.
- 6.53 Car ownership for houses shows a 6% increase over the 2001-2011 period, for both the local and wider areas. **Car ownership for flats shows a more significant 15% increase over the period**, for the local areas (although this reduces slightly to 11% for the wider area).
- 6.54 The Appellant has referred to MSOA (wider area) data, and not that relating to the local area. However, the recorded rates of increase are notable, as is the distinction between the local and wider areas.
- 6.55 There is therefore **an elevated risk of overspill parking to the surrounding area** arising from an increased parking demand from the Application proposals, justifying the concerns of Members, and resulting in unacceptable impacts on the availability of parking in the areas in the vicinity of the Appeal Site. Such a situation would be contrary to Saved Policy H2 of the District Plan as well as emerging policies SP 4, SADM 2 and SADM 3.

Reason for Refusal 3

- 6.56 Reason for Refusal 3 states that the Application proposal fails to achieve high quality design by reason of its form, height, bulk, scale and massing resulting in a failure to respect or relate to the character and context of the area, citing Policies D1 and D2 of the District (Development) Plan and the Broadwater Road West SPD, Policy SP 9 of the emerging local plan and NPPF.
- 6.57 The section concentrates on the issues of *Quality of Design* and *Character and Context* with a particular focus on the form, height, bulk, scale and massing of the proposed buildings.
- 6.58 It is acknowledged that there are various aspects of the design which are of good quality and it is evident that the Appellant has gone to some lengths to amend the design over the course of three pre-application meetings and they have responded to the advice of officers by reducing the scale of the proposals from that originally envisaged, with the various iterations of the design showing how the

design has evolved from a proposal which included buildings up to 13 storeys high to a proposal where the maximum height of the tallest buildings would be nine storeys. However, despite the reduction in the scale of development relative to that previously originally envisaged, the proposed development would exceed what is appropriate in this context.

- 6.59 The specific design policies in the Development Plan include Saved Policy D1 and Saved Policy D2 of the Welwyn Hatfield Local Plan respectively require that development is of a high quality of design and that it respects and relates to the character and context of the area in which it is proposed. While these are broad areas and leave scope for subjective judgement, it is the view of the LPA that the excessive height and scale of the proposed buildings ultimately results in the development failing to achieve a high quality of design which respects and relates to its context and the prevailing character of the area. On this basis the proposed development is considered contrary to these design policies.
- 6.60 The Design and Access Statement (DAS), submitted with the original Application states that the guidance contained within the Broadwater Road West SPD has been followed. However, the Appellant's Statement of Case (Paragraphs 7.61 – 7.65), suggests that this document should now be considered out of date on the basis that it does not consider the prospect of redevelopment of the Appeal Site or envisage that it would come forward for residential use. It is also claimed that development approved elsewhere within the Opportunity Area (i.e. the area covered by the SPD), and the subsequent change in ownership of the Appeal Site. Paragraph 7.64 refers to the changing context this stating that:
- "The decreasing relevance of the SPD is evidenced by recent permissions in the Opportunity Area for developments that depart from the land use, density and design principles of the SPD."*
- 6.61 However, while it is acknowledged that some aspects of the area to which the SPD relates have now changed significantly, the LPA does not consider that this document is out of date or that the design principles it sets out can simply be disregarded or afforded significantly lower weight as a document that provides guidance for the form of new development in this area of Welwyn Garden City. It is evident that the SPD had been carefully formulated to reflect the fact that this relates to a key gateway site within an internationally-renowned Garden City where particular regard needed to be had to the designated heritage assets within the site and the wider context of this unique setting.
- 6.62 Despite dating from 2008, the SPD remains a highly relevant material consideration for proposals in and around the Broadwater Road West area. The document sets out clear guidance for form, bulk, height, scale and massing, particularly in Paragraph 6.14 where it states:
- "New development should not, however, simply replicate existing building mass but relate to those buildings retained and the wider surrounding area."*
- 6.63 It is notable that the above passage states that it is not necessarily appropriate to simply replicate the mass of existing buildings. This is particularly relevant to the consideration of the development proposals affecting the Appeal Site where the height of the existing building has been used as a justification for providing buildings of similar proportions, as opposed to ensuring that the redevelopment relates well to the context provided by the retained buildings in the SPD area (including the Grade II Listed Roche Products building to the north-east of the Appeal Site which has been successfully converted into residential use), the recently developed housing at Penn Way and Otto Road, and the wider context of Welwyn Garden City. Given the importance of all of these considerations to achieving development that is both of a high quality and appropriate to its context, the site-specific policy approach contained within the SPD remains a highly relevant guiding principle for the consideration of development proposals relating to this area.
- 6.64 The principles contained in Paragraph 6.16 are of continued relevance given that these relate to how buildings should respond to the context provided by existing development that remains in situ. This paragraph reads as follows:
- "It is considered that lower rise buildings should generally be accommodated at the southern end of the site, responding to the adjacent residential character areas that the development will need to respect. Medium rise buildings should make up the majority of the site, particularly through the*

central band of the site and where located adjacent to the railway should provide an element of screening whilst seeking to retain views to the silos.”

6.65 The reference to the southern end of the site is particularly relevant given that the location of the Appeal Site is towards the southern edge, and the south-western corner of the area covered by the SPD. It is also evident that recent development at Penn Way have clearly been in accordance with these principles set out in the SPD. The provision of two storey buildings towards the southern boundary of the area, immediately to the north of Biopark Drive, have evidently responded to the context provided by the adjacent residential areas, notably the two and three storey buildings at Broadwater Crescent to south.

6.66 A key paragraph of the SPD which is also of continued relevance is that relating to proposals for buildings which would exceed five storeys in height. Paragraph 6.17 does not prohibit development of this scale, and as such it is not considered that it has been superseded or can be largely disregarded as the Appellant has suggested in their Statement of Case. This paragraph reads as follows:

“Given the context of the listed buildings, it is generally considered that buildings on the site should not be more than 5 storeys in height. Furthermore, where new build development on the site is proposing development of 5 storeys (or more) the resulting scheme will be assessed with regards to both the contribution that such height could bring and any adverse impacts. In reviewing schemes that include development of 5 storeys (or more) the Council will consider the following criteria –

- *Relationship to context of the site and the wider area*
- *Effect on historic context of the site and the wider area*
- *Relationship to transport infrastructure*
- *Architectural quality of the building*
- *Design credibility of the building*
- *Sustainable design and construction*
- *Contribution to public space and facilities*
- *Effect on the local environment and amenity of those in the vicinity of the building*
- *Contribution to permeability Provision of a well designed environment including fitness for purpose.”*

6.67 In considering whether the additional height of the buildings could give rise to adverse impacts, the LPA has determined that the proposed buildings would not achieve the objectives of the SPD when assessed against these criteria.

6.68 In terms of the form, bulk, height, scale, height and massing of the proposals, the design of the proposed development does not accord with the SPD, primarily due to the considerable increase in bulk and massing at higher levels relative to the existing building, the height of which has been used to justify the provision of buildings up to nine storeys as part of the redevelopment of the site.

6.69 The height of the existing building is described as 34.75m to the top of the chimney flues and 30.51m to the top of the stair tower. The proposed buildings are 29.45m. Page 67 of the Design and Access Statement (DAS), submitted as part of the Application, shows the elevations of the existing building with an outline of the proposed buildings overlaid. This drawing shows the relationship between the proposed building outline and demonstrates that this exceeds the general mass of the existing building. Although the highest of the proposed buildings would be 5.35m lower than the top of the chimney flues and 1.06m shorter than the stair core which projects above the main roof, the flues are tall but slender elements protruding from the main building mass while the stair core does not have the same bulk or massing as that of the proposed buildings.

6.70 The images on Page 70 of the DAS are illustrations of models showing the proposed design overlaid onto the existing building which clearly show an increase in mass over the whole site and an increase

in height in the northern part of the site where the proposed blocks are 9 storeys high. Similarly, Page 71 of DAS also shows the footprint of the existing building with the outline of the footprints of the proposed buildings overlaid. This illustrates that the proposed footprint would also exceed that of the existing building.

- 6.71 While it is acknowledged that the two storey mansard roofs represents an attempt to reduce the height and bulk of the buildings it is not considered that this has resulted in a satisfactory design solution for the upper storeys of the proposed buildings. The DAS states that this was encouraged by the Urban design Officer because it would reflect the mansard roofs of the Garden City aesthetic. Page 24 of the DAS shows examples of the 1920-1948 Neo-Georgian architecture of 'Parkway' elsewhere in Welwyn Garden City and describes red brick facades, white framed sash windows, mansard roofs, stone porticos and plinths. However, the proposed mansard roofs containing two storeys are sharply pitched and on many elevations are flush with the building facades rather than set back and do not in any way reflect these elegant structures. This is evidenced in the CGIs on pages 72, 76, 77, 80, 98, 123, 124, 156 and 158 of the DAS.
- 6.72 Had the mansard roofs been single storey and set back from the building facade behind a parapet (as in the examples shown on Page 24 of the DAS) the ground level view of the building mass would be reduced. Instead, the CGI on the pages listed above show an overbearing mass which does not reflect the Garden City aesthetic in terms of the mansard roofs specifically and leads the LPA to conclude that this is an inappropriate design solution in this context.
- 6.73 The proposed development would therefore result in a greater amount of built form being present at a higher level than the existing building, resulting in a development which has a very different relationship to its surroundings than the existing Biopark building. The nature of the proposed use also results in a greater intensity of built form which would potentially result in a harmful relationship between the proposed development and neighbouring residential properties.
- 6.74 With regard to the density of development, it is important to highlight that Paragraph 5.46 of the SPD states (emphasis added) that:
- "In considering schemes coming forward for development on this site it is recognised that higher densities will be appropriate but it is imperative that the aims of the masterplan are not compromised and that design is the key factor in deriving the densities proposed. Given the objectives of this SPD and the design guidance promoted in Chapter 6, the modelling undertaken by Urban Practitioners in developing the masterplan has resulted in an average density across the site of 75dph. Policy H6 of the District Plan allows for densities in excess of 50 dwellings per hectare in central areas and in areas with good accessibility **provided that the development does not have an adverse impact on the character of the surrounding area and complies with other design policies in the Plan.**"*
- 6.75 The proposed density of 233 dph therefore significantly exceeds that of 75 dph set out as appropriate in the SPD. While the Appellant cites (at Paragraph 7.74 of their Statement of Case), the approved proposals at the 'Wheat Quarter' as examples of comparable scale developments that are material considerations, the density of this approved development is 201dph which, while also significantly higher than the guidance, remains lower than that proposed at the Appeal Site. The LPA regards the recently approved buildings at the Wheat Quarter to be an exception that is justified by the circumstances specific to these proposals (notably the presence and proximity of the retained, listed silos), and do not consider that these represent a precedent for development elsewhere in this area.
- 6.76 The extent to which the proposed density exceeds that anticipated in the guidance is significant, resulting in this case in excessively proportioned buildings which fail to respect or relate to the context of a internationally-renowned Garden city. In this context, it is particularly important to consider that the form, bulk, height, scale, and massing of the building mean it would be a prominent feature in the townscape, visible from a greater range of vantage points and impacting not just on the immediate

character and setting of the Appeal Site and the commercial area in which it is located, but the wider context of Welwyn Garden City.

- 6.77 It is particularly important to ensure that the character and setting of this internationally-recognised garden city (where the low, and mid-rise character of the built environment are defining characteristics), are maintained in order that the town continues to appear and function as a garden city and remains true to these principles which define its identity. The Council's Supplementary Design Guidance¹¹ requires that the characteristics of the garden city (derived primarily from its layout and architecture and the complete integration of landscape with built form), should apply "not only to the residential areas but also to the commercial and industrial areas of the town."
- 6.78 The proposed development would not be compatible with the key strategic policy objective of maintaining and enhancing the character of Welwyn Garden City through the use of high quality design. The height and scale of the proposals which while not unprecedented given that permission has been granted for development up to nine storeys high as part of the Broadwater Road West, this is not considered appropriate in the case of this particular location.
- 6.79 Accordingly, the proposed development would not represent a high quality of design as a result of its excessive height and scale and its relationship to adjoining land and buildings. It follows that the departure from the prevailing built form (evident in this case through the increase in height to nine storeys) would mean that the proposed residential buildings would not relate well to their context, resulting in an uncomfortable juxtaposition of higher-density residential buildings with other low, rise buildings which would be inappropriate in this area and as a result would be contrary to Policies D1 and D2 of the Local Plan, as well as conflicting with emerging planning policy and Paragraphs 130 and 134 relating to the design of development.

¹¹ Welwyn Hatfield District Plan: Supplementary Design Guidance (February 2005).

7.0 HOUSING FIVE YEAR SUPPLY AND PLANNING BALANCE

- 7.1 It is acknowledged that the Council are not currently able to demonstrate that there is five-year supply of land for housing which is comprised of deliverable sites and that this shortfall engages Paragraph 11d) of the NPPF. It is also acknowledged that this development within the urban area of Welwyn Garden City would make contribution towards providing new homes and contribute towards addressing the acknowledged shortfall in the housing land supply. This benefit of the proposal would therefore be afforded weight in the overall planning balance.
- 7.2 While Paragraph 11(d) of the NPPF does require that where the policies relating to the determination of planning applications are out-of-date, then that permission should be granted, this does not automatically mean that development proposals should be approved. The caveats within this paragraph are clear and highly relevant this case which states that permission should be granted unless:
- i. *the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed(7)¹²; or*
 - ii. *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.*
- 7.3 It is accepted that Part (ii), above is applicable in this instance, in that in the view of the Local Planning Authority, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits.
- 7.4 In this case, the adverse impacts of granting planning permission include the failure of the proposed development to provide a suitable mix of housing resulting in homes being provided that do not necessarily deliver what is required to meet the requirements or aspirations of local residents or those seeking to acquire residential properties in the area.
- 7.5 In promoting a scheme where the mix of housing is contrary to planning policy in relation to the mix of housing, the Appellant relies to a degree on greater weight being afforded to the benefits arising from the proposed development which, in the context of the five-year housing land supply position, it is acknowledged are substantial. However, it is maintained that the weight to be afforded to the provision of housing, to the extent that it contributes towards meeting housing need, should be reduced where the needs are only partially met, and where the greatest component of need in the Borough (i.e. three-bedroom houses), has not been sufficiently addressed as part of the proposals.
- 7.6 It is considered that the combination of the failure to provide an appropriate mix of dwellings, the highways issues associated with the development, particularly those relating to parking provision, and the excessive height, bulk, scale and massing of the proposed buildings would outweigh the contribution that the provision of housing would make towards addressing the shortfall in housing land supply in the Borough. When assessed against the policies of the NPPF as a whole, there are key areas of the NPPF that the proposed development would be in conflict with including Paragraphs 130 and 134 relating to design which are of particular relevance in the context of this prominent site in an internationally-renowned Garden City.
- 7.7 Significant and demonstrable harm arises as a result of the excessive height and scale of the proposed buildings which are not sympathetic to local character and history, and which fails to optimise the potential of the site (by exceeding its capacity), and fails to sustain an appropriate amount and mix of development. It is significant that the proposed buildings would extend up to nine storeys, which is higher than any existing buildings in the vicinity, and any which have been permitted with the exception

¹² Footnote 7 of the Framework states that: The policies referred to are those in this Framework (rather than those in development plans) relating to: habitats sites (and those sites listed in paragraph 181) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 68); and areas at risk of flooding or coastal change.

of the ‘Wheat Quarter’ where an exception has been made to the design principles set out in the Broadwater Road West SPD. In failing to reflect these local design policies which remain extant and relevant material considerations in the determination of this Appeal, the proposed development is also considered contrary to the requirements of Paragraph 134 of the NPPF for development to be well designed and in accordance with local design policies.

- 7.8 Furthermore, the proposed development fails to relate sufficiently well to neighbouring buildings in a way which is sympathetic to the townscape or character of either the recently-constructed housing at Penn Way/Otto Road, or the wider context of the Garden City, particularly since the Appeal Site is considered to be in a prominent, gateway location, where its excessive height and scale would lead it to have impacts that extend beyond the immediate vicinity. On this basis, it is considered that the proposed development is not well designed, and thus as directed by Paragraph 134 of the NPPF, planning permission should be refused.
- 7.9 Significant and demonstrable harm therefore results from the presence of buildings of a significantly larger scale as a result of their visual impact and incongruous appearance in the context of an otherwise more harmonious townscape, particularly in the context of one which is valued in its own right for its architectural merit and as an internationally-renowned Garden City.
- 7.10 Moreover, it has not been demonstrated that adequate parking provision has been made for a development of this scale and nature. In the absence of a robust justification for the level of parking provision other than the use of assumptions based on 2011 Census data, the accuracy of which has been questioned above, the LPA considers that the level of parking provision would fall significantly short of the level of vehicle parking provision that would be required if the local parking standards were applied as minimum requirements. Since this may result in a significant increase in parking demand in nearby residential areas, the harm arising from this needs to be balanced against the provision of housing.

8.0 CONCLUSIONS

- 8.1 Whilst the Borough's current five-year housing supply engages Paragraph 11d) of the NPPF, it is strongly contended that the adverse impacts of the proposal are so significant as to demonstrably outweigh the benefit of 289 additional dwellings proposed when assessed against the policies of the NPPF taken as a whole.
- 8.2 Overall, while it is accepted that the Application would result in the provision of residential accommodation in a sustainable location, it is not the most appropriate form of development, and not the most appropriate use of this site. It is ultimately considered that the proposals have failed to provide that the height and scale of the proposed buildings are too large and not appropriate to the context. This has also meant that it is not possible to accommodate sufficient levels of vehicle parking within the site and led to a failure to provide a mix of housing types and tenures that contributes towards meeting the objectively assessed needs (OAN), of the Borough. The absence of a sufficient range of housing sizes and types is of particular concern given that the mix of dwellings has not had regard to the latest evidence of housing need and insufficient provision has been made for the needs of particular groups (e.g. older persons).
- 8.3 The Appellant has not provided a sufficiently robust justification for the level of parking provision in the proposed development, and it is not considered that the assumptions based on 2011 Census data, would necessarily reflect the likely levels of car ownership that would arise, resulting in additional pressure for parking spaces and inevitable overspill beyond the Appeal Site that would potentially be disruptive to the local road network.
- 8.4 The NPPF requires development to be of a high quality that is sympathetic to local character. The form, height, bulk scale and massing of the development proposed, and its relationship with neighbouring properties would result in a dominant and overbearing development that fails to relate well to and which would be out of keeping with the prevailing built form in the area.
- 8.5 The benefits of the provision of housing must therefore be balanced against the significant harm arising from the development, namely, the failure to provide an appropriate mix of housing that reflects and addresses the Objectively Assessed Need (OAN), for homes in the Borough, the impacts of insufficient parking provision, and the impact of the excessive form, height, bulk, scale and massing which do not achieve high quality design.
- 8.6 In conclusion it is considered that there would be significant and demonstrable impacts of granting planning permission that would result from the areas of policy conflict set out in the reasons for refusal would outweigh the contribution towards the provision of housing, and as such the Inspector is respectfully requested to dismiss the appeal.
- 8.7 In the event that the Appeal is allowed, draft conditions agreed with the Appellant (so far as possible) will be put forward, however, it is initially considered that the list of conditions set out in the Officer's Report to the Development Management Committee would all be applicable.