



Statement of Case

Welwyn Garden City Society

17th May 2022

TOWN AND COUNTRY PLANNING ACT 1990

s.78 APPEAL BY 'HG GROUP' AGAINST REFUSAL OF PLANNING PERMISSION FOR BROADWATER 'GARDENS' AT BIO-PARK, WELWYN GARDEN CITY, HERTFORDSHIRE, AL7 3AX

Planning Inspectorate Appeal Ref: APP/C1950/W/22/3294860

Public Inquiry – Scheduled Commencement 5th July 2022

Introduction

1. This Statement of Case has been prepared by the Welwyn Garden City Society ('we,' 'us,' 'the Society').
2. The Society supports Welwyn Hatfield Council's refusal of planning permission for the Appeal Proposal and we set out our Statement of Case on the following pages:

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The Welwyn Garden City Society

3. The Society was established in 1947 by the first residents' association to be set up in WGC, to:
 - a. promote high standards of planning and architecture in, or affecting, the town.
 - b. educate the public in the geography, history, and architecture of the town.
 - c. secure the protection and preservation of features of historic interest in the town.

4. It is the town's civic society, with a voluntary membership who pay annual subscriptions. It seeks to ensure the ethos of the town is preserved whilst embracing change. It does so by engaging in discussions on proposed developments and by informing public opinion. It has no party-political affiliations.
5. The Society publishes a News Bulletin and a Magazine (Appendix W) to inform its members and residents of events and issues in the town.
6. We have been actively involved in planning matters since the Society's inception:
 - a. We seek to work with Welwyn Hatfield Council ('the Council') on issues that affect the town, such as the Estate Management Scheme and its Design Guide.
 - b. We have been involved in developing the Council's Local Plans, attending hearings, and making representations.
7. The Society has also successfully challenged plans that would damage the town:
 - a. In 2012, we opposed developing the Shredded Wheat site into a hypermarket, because it was unnecessary and would strip the town centre of its economic purpose.
 - b. In 2018, we successfully opposed plans by J D Wetherspoon to establish a large public house in a strictly residential area, right next to a care home for the elderly.
8. The Society actively participates in supporting the fabric of the Garden City when suitable opportunities arise. In 2020, the Society acquired, obtained funding for, and refurbished the two iconic Poster Booths situated in WGC town centre. The Booths were originally installed in 1951 as part of the Festival of Britain in celebrating Art & Design and the restoration project was aided by a grant from the Heritage Lottery Fund.
9. The Society prefers to do its work by influencing developers as their plans are formulated. Recently, most developers have had fixed views on their proposals, preferring overly intensive developments. Initial discussions took place with the Appellant, but they did not appear to be in 'listening mode' and these discussions were curtailed by Covid-19.

The Society's Representations on the Appeal Proposal

10. The Society is not opposed to the BioPark site being developed, but we wish it to be compliant with local and national policies and be in keeping with its surroundings.
11. The Appeal Proposal is contrary to several Council policies and we view the proposed development as being out of keeping with the ethos and architecture of the town.
12. The Society has represented members' concerns about the proposed developments at Shredded Wheat and Broadwater Road West, including this BioPark development, and over 2,500 objections from residents were submitted to the Council's planning department.
13. In 2020, the Society objected to the Appellant's original planning application (6/2020/3420/MAJ) to redevelop the Bio-Park (Appendix A)
14. Our Statement of Case aims to outline the arguments the Society will address at the public inquiry. We will focus on the Council's three reasons for refusal given in its Decision Notice dated 16 September 2021.

15. Our case will be led by Mr William Walton, Senior Lecturer in Property Law at Oxford Brookes University. The Society will present a witness to speak to each of the three reasons for refusal.

Inappropriate Housing Tenure and Mix

16. The Council's first reason for refusal was as follows:

"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."

17. There is a substantial need for affordable housing (including social housing) in Welwyn Hatfield and this is an essential part of the Council's development policy H7 in the existing Welwyn Hatfield Local Plan, and policy SP7 of the emerging Local Plan.
18. The Appellant is offering only 10% of its units as affordable housing, compared to 30% required by the Council policies. The Appellant has cited a lack of financial viability as justification for its low offer. We contend the Appellant was aware of this policy when the site was purchased and residents should not have to endure the under-provision of affordable housing because of the Appellant's decisions.
19. A significant local precedent on affordable housing was set in 2009 when the Council refused planning permission for a proposed development of the 'Mirage' site, immediately adjacent to the BioPark (Ref: N6/2009/1053/MA).
20. The case went to appeal in 2010 (PINS ref: APP/C1950/A/09/2113786/NWF) and was dismissed for insufficient provision of affordable housing. (Appendix V).
21. The developer of the Mirage site submitted a new application in 2010 (N6/2010/1776/MA) offering 25% affordable housing if a grant was available from the Homes and Communities Agency, or 15% if no grant was available. This planning application was approved.
22. More recently, several other developers have offered levels of affordable housing in WGC that better support the Council's policies:
 - a. 'Wheat Quarter Ltd' offered 31% affordable housing in their approved Broadwater Road project, WGC, AL8 6UN – Ref 6/2018/0171/MAJ
 - b. MTVH Ltd offered 45% affordable housing in their Broadwater Road, WGC, application, – Ref 6/2021/0671/MAJ
 - c. Crest Nicholson Chiltern Ltd are building 30% affordable housing at their 'Ratcliff Tail Lifts' site on Bessemer Road, WGC, AL7 1ET – Ref 6/2018/3110/MAJ
 - d. The developers of 73 Bridge Road, WGC, AL7 1UT are offering 30% affordable housing– Ref 6/2021/3380/MAJ
23. The Society believes the Proposal should support the Council's saved and emerging policies in the Local Plan and offer 30% affordable housing.

Dwelling Mix

24. The Appellant's proposal would make inadequate provision for family housing and would conflict with Council policy and the OAN, in that it would not maximise the provision of family homes. The Appeal Proposal comprises 88% "1 & 2-bedroom units" and only 12% of family units. This is grossly imbalanced and more family units need to be provided.
25. In support of the above issues, the Society will refer to the following Appeal decisions:
 - a. 235 Westferry Road, London E14 3QS (Appendix B)
 - b. 65-69 Parkhurst Road, London N7 0LR (Appendix C)
26. The Society contends that the Appellant should comply with Council policy, as with other major developments in Welwyn Hatfield, and the Appeal should therefore be dismissed.

Failure to Achieve Council Transport Objectives

27. The Council's second reason for refusal was as follows:

"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."

Car Parking

28. The Council's Statement of Case goes into extensive detail regarding the breaches of Policy H2 of the District Plan, the Parking Guidance SPG, the interim Policy for Car Parking Standards and Policies SP 4, SADM 2 and SADM 3 of the emerging local plan.
29. We believe that car parking provision in the Appeal application is grossly inadequate by WHBC's standards (the Parking Guidance SPG, the interim Policy for Car Parking Standards). This will lead to acute problems for residents onsite and in neighbouring areas.
30. The proposal will only have 226 spaces for 289 dwellings, with little or no provision for on-street parking. The provisions for visitor and disabled parking are also inadequate.
31. The Mirage site, recently built on Broadwater Road and immediately adjacent to the BioPark, has 248 spaces for 207 dwellings, plus a further 20-30 additional spaces of unplanned street parking, making a total of over 270 spaces. Despite this higher level of parking provision, 'Mirage' residents know their parking arrangements are insufficient. Studies on local car parking will be produced in our proofs of evidence.
32. Applying the levels of parking provided at other local developments, such as 'Mirage,' would lead to the BioPark planning application needing to provide 315 car parking spaces – 90 (+40%) more than currently proposed.

Transport Sustainability

33. The Proposal plans accommodation capacity for 852 people. This number of people onsite will be c.40% higher than when the site was used for employment (Appendix D)
34. The Appellant's claim that the BioPark is a sustainable transport site, supported by a high-quality public transport network, is not supported by the real experiences of local residents. Bus services running east-west, even from the town centre, are infrequent and many residents in the area come to rely on personal forms of transport (Appendix E). There are no plans to significantly improve matters in the future.
35. The main transport link is the railway, which runs north/south, and the BioPark is located significantly further away from the railway station than the Shredded Wheat development near the town centre.
36. All these points reinforce Hertfordshire County Council's Highways Department's concerns about the inadequate level of proposed car parking, as expressed in the Council's Statement of Case and so the Appeal should be dismissed.

Adverse Impacts on Townscape, Residents and Heritage

37. The Council's third reason for refusal was as follows:

"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. "

38. The Society supports the Council's decision and we note it goes into extensive detail on the breaches of its Policies.
39. Furthermore, we note the advice from the Planning Inspectorate that the Appeal can consider evidence that is relevant to the appeal that may cover a wider range of issues than mentioned in the Decision Notice.
40. We therefore contend that the Appeal should be dismissed because the Proposal contradicts National Design Guide, particularly paragraph 43 which states:

"Well-designed new development is integrated into its wider surroundings, physically, socially, and visually. It is carefully sited and designed and is demonstrably based on an understanding of the existing situation, including....

- *patterns of built form, including local precedents for routes and spaces and the built form around them, to inform the layout, grain, form, and scale.*
- *the architecture prevalent in the area, including the local vernacular and other precedents that contribute to local character, to inform the form, scale, appearance, details, and materials of new development."*

Excessive Height and Bulk

41. The Proposal is higher and bulkier than the existing building outline – (Appendix F)
42. The Proposal also fails to comply with the Council's 'Broadwater Road West Supplementary Planning Document' ('SPD'), (Appendix 4 of the Council's Statement of Case), in being higher than the permitted maximum height of 5 storeys. The SPD continues to be the valid policy for the area (Appendix G).
43. It is the Society's contention that the Proposal will cause irreversible harm to the local area and the townscape. The Appellant's statements to the contrary are not fully supported by facts and will be refuted in the Society's Proofs of Evidence.

Excessive Density

44. The Proposal seeks to construct 289 dwellings on the 1.24 hectares site, resulting in an average density of 233 dph, which is three times the density suggested in the Broadwater Rd West SPD, of 75dph. The proposal provides accommodation for 852 persons, equivalent to 687 persons/hectare.
45. The Proposal's housing density is 16% greater than the Wheat Quarter site, next to the railway station, which was approved in 2018 (Appendix H)
46. The Proposal also represents an additional 62% of Gross Internal Floor Area over the existing BioPark Building (Appendix I)
47. The BioPark site is in Peartree ward, which is the most deprived ward in Welwyn Hatfield. Congested, high-density living is one of the inner-city problems that the Garden City was designed to avoid. As one objector to the planning application noted, *'I moved out of London to get away from high density housing. Now I find that it is proposed to follow me.'*

Lack of Usable Outdoor Space

48. The Proposal has insufficient open space for its residents (Appendix J). This assessment uses the definition of "open space" as provided in the NPPF:

"All open space of public value.... which offer important opportunities for sport and recreation and can act as a visual amenity"
49. The allocation of roof space and balcony spaces as usable spaces (Appendix J) is erroneous and fails to comply with LPA Policy Guidance (Appendix K).
50. The Proposal has external 'open' space that is sandwiched between two blocks of 8 and 9 storey buildings. The presence of the tall buildings either side of the 'open' space means that the quantity of sunlight and daylight will be severely compromised. (Appendix O). The area is also overlooking the busy, noisy railway line. For these reasons, the proposed uses for these outdoor areas will be unsuitable.
51. Key learnings from the Covid Pandemic have included the importance of excellent quality outdoor space. This is lacking in the Proposal. This need has yet to be fully documented into updated policy directives, but it should be taken account of in the decision process.
52. The Proposal will lead to significant harm to the neighbourhood as residents, finding the outdoor space arrangements to be insufficient, will overspill into surrounding areas.

53. Further refutation of the Appellant's claims on usable outdoor space will be submitted in the Society's Proofs of Evidence.

Change of Use Means Reduction Required in Building Height and Bulk

54. The Proposal seeks to change the use of the site from employment to residential purposes. The Society contends that the current building was granted planning permission because of its importance as an employment resource (Appendix L). The proposed change to residential use means that the Proposal would become a redevelopment of the site and this redevelopment should be governed by the Broadwater Road West SPD's guidance of a maximum of 5 storeys.

55. Such a precedent was set in the redevelopment of the surrounding areas, including the neighbouring Mirage housing development: after the old, tall industrial buildings were demolished, the new residential buildings were built to a lower height and mass (Appendix M).

Adverse Impact on Local Residents

56. The Society contends that, through superior design, the existing BioPark building has a benign impact on the local environment (Appendix N). The combination of light cladding, few windows and a reflective facade mean that the existing building's impact is minimised.

57. The Proposal has no such features and would be a blight on the local landscape. Detrimental impacts that the Proposal will inflict upon local residents include:

- a. negative impact from increased solidity of the facades.
- b. light-pollution from change of designated use from employment to residential.
- c. surrounding residents will also be negatively impacted by:
 - i. the overwhelming bulk of the Proposal.
 - ii. privacy being infringed by being overlooked by residents in the Proposal.
- d. Gascoyne Estates (Hatfield House) has expressed its concerns in a separate representation'
- e. The Proposal is incongruous to the Garden City.
- f. Daylight will be compromised.
- g. The design and placement of the structures may increase local wind velocities in communal areas and the neighbourhood.

58. A member of the Society has kindly produced a 3D-model of the Proposal to assist the inquiry and to demonstrate the negative impacts and shading effects. (Appendix O)

59. The Proposal is unpopular with many residents and this should be considered in the Inspector's decision. Approximately four hundred residents assembled for the Development Management Committee meeting on 9 September 2021 (Appendix T).

60. The Proposal also fails to comply with the TCPA's Garden City Principles, despite the Appellant's claims to the contrary. (Appendix Q).

Heritage

61. Every town believes that it is special, but Welwyn Garden City has a place as an internationally renowned design icon. It was established by its founder, Sir Ebenezer Howard as an example of ‘the marriage of town and country.’ The founding principles were based on providing an alternative to high density living. Sadly, the Proposal is trying to introduce high density living which is exactly what Howard was seeking to avoid.
62. The importance of the Garden City and the pressures that it faces was summarised in an article in The Economist journal: ‘The Fight to Preserve a Pioneering Planned Town’ (Appendix R).
63. Welwyn Garden City attracts many national and international visitors. This fact is becoming increasingly recognised, as the Garden City is the subject of a future World Heritage Site Application.
64. The recent report by the Place Alliance, “Appealing Design - Does Design Quality Carry Weight in Planning Appeals?” (Appendix S) summarises the position on page 6:
- “Of particular significance is the fact that design quality seems no longer to be set aside as a sacrificial lamb for other factors, namely housing numbers, or viability concerns. 100% of the post-July 20th design-related appeals examined during the research were decided on their design merits. In particular, the issue of quality seems finally to be considered on equal terms to quantity, with the spectre of the five-year land supply no longer automatically trumping design quality when appellants can prove it is deficient.”*
65. The Society contends that the appeal proposal is too large, too bulky, and too tall. It represents an excessive increase in density of occupation of the site. It will disfigure the Garden City skyline and cause significant and irreversible harm to the Garden City.

Further Reasons for Refusal

66. We wish to address two issues that were discussed by councillors in their DMC meeting on 9th September 2021, but which were not mentioned in the Council’s reasons for refusal.

Financial Viability of The Proposal

67. The Appellant and the Council’s viability consultant concur that the Proposal is not financially viable, at an assumed land valuation of £6m.
68. The actual financial position is worse as the Appellant paid £10m for the site, plus VAT, a £4m increase in cost. In addition, the Council’s examination of the Appellant’s viability study did not include £2m of forecast Section 106 contributions. (Appendix T).
69. In the light of this information, the Proposal appears to be unviable and the Appellant’s real intentions are unclear.

Inadequate Efforts to Reuse BioPark Building

70. The loss of BioPark as a valuable employment centre has received insufficient attention. Hertfordshire has already lost an excessive amount of employment space, (Appendix U).
71. The Planning Application included an outdated marketing report from 2019. No account was taken of the fact that the market for laboratory space has been transformed by the Covid pandemic. The business case was developed by the vendor who was not an independent party.
72. The reuse of the existing building is the most environmentally sustainable solution. Further effort should be focussed on this aim in conjunction with the local community e.g. could it be used as a temporary school whilst the planned Peartree school is redeveloped. Considering the site as a permanent school replacement is another option. The Community should be more actively consulted on the potential to re-use the existing building.

Appendices

- A. The Society's Objections to The Proposal at Planning Application stage
- B. Appeal Case: Westferry Printworks London E14 3QS
- C. Appeal Case: 65-69 Parkhurst Road, London N7 0LR
- D. Occupancy on the Existing BioPark
- E. Poor Transport Links from East to West in Hertfordshire
- F. Image Demonstrating that the Proposal is both higher and bulkier than the existing BioPark building. Extract from Appellant's DAS Document
- G. Assertion That The Current SPD (Supplementary Planning Document) Is An Important Policy Document:
- H. Density Comparison of the Proposal with The Wheat Quarter (Extracted from Appellant's Case)
- I. Comparison of Existing and Proposed Gross Internal Floor Areas (Extracted from The Appellant's CIL Form).
- J. Summary of Outdoor Space - Some of Which is Not Deemed Usable.
- K. LPA Policy: An Assessment of Welwyn Hatfield's Open Space, Outdoor Sport, and Recreation June 2009.
- L. 1969 Planning Permission for the Existing BioPark building.
- M. Commentary on Change From the Original Planning Permission for Employment Purposes
- N. Local Photos Demonstrating the Benign Impact of the Existing BioPark Building on the Local Environment.
- O. 3D-model of the Proposal to demonstrate the negative impacts and the shading effects
- P. BBC news item dated 10 September 2021 on DMC Planning Meeting 2021
- Q. TCPA Garden City Principles Compared to The Proposal.
- R. The Economist magazine 'The Fight to Preserve a Pioneering Planned Town.'
- S. Report by the Place Alliance, "Appealing Design - Does Design Quality Carry Weight in Planning Appeals?"
- T. Viability - Transcript of Planning DMC Discussion
- U. LSH Report into Loss of Employment Space in Hertfordshire Loss of Employment Space in Hertfordshire
- V. Appeal Decision on Neighbouring Mirage Site Rejecting Proposed Reduction in Affordable Housing
- W. Sample Copy of Welwyn Garden City Society Magazine