
**Town and Country Planning Act 1990
Planning and Compulsory Purchase Act 2004**

Section 78 Appeal by Redrow Homes Ltd

Land at Little Bushey Lane, Bushey

Planning Proof of Evidence
Summary

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Director at Barton Willmore now Stantec

Appeal Ref: **APP/D0121/W/21/3285624**
LPA Ref: 22/1071/OUT

April 2023

Town and Country Planning Act 1990 – Section 78

Planning and Compulsory Purchase Act 2004

**Town and Country Planning
(Inquiries Procedure) (England) Rules 2000 (As Amended)**

Land at Little Bushey Lane, Bushey

**Appeal against non-determination of planning permission by Hertsmere Borough Council of an outline planning application for residential development (up to 310 units) with access from Little Bushey Lane, and land reserved for primary school, community facilities and mobility hub (Class E) along with car parking, drainage and earthworks to facilitate drainage, open space and all ancillary and enabling works.
(Outline Application with Appearance, Landscaping, Layout and Scale Reserved)**

**Planning Proof of Evidence
Summary**

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1.0 QUALIFICATIONS AND EXPERIENCE

- 1.1 My name is Kathryn Ventham. I hold a Bachelor of Science Degree (with Honours) in Human Geography from the University of Reading (1997) and a Masters Degree in City and Regional Planning from the University of Wales (Cardiff) (2000). I am a Chartered Member of the Royal Town Planning Institute.
- 1.2 Barton Willmore, now Stantec is one of the UK's leading planning and design consultancies. Barton Willmore was formed as an architectural practice in the 1930s, it developed into a comprehensive planning, architectural, landscape and urban design practice in the 1970s to 1990s and has strong track record in the design and implementation of major housing and mixed-use development. Barton Willmore become part of Stantec UK in April 2022.
- 1.3 I am a currently a Planning Director, having been a Partner at the Birmingham Office of Barton Willmore since 2013. I joined the company as a Senior Planner in October 2003, having previously been employed as a Planning Consultant by the Derek Lovejoy Partnership (now part of Capita Symonds). I have also held positions at Chiltern District Council and Cherwell District Council. In total, I have over 22 years experience working in both the public and private sector.
- 1.4 I currently undertake a wide range of professional town planning consultancy work advising private developers, landowners and public sector clients on a wide range of planning issues. I have extensive experience of S78 Appeals dealt with via all methods. I have been involved with the promotion of the Appeal Site through the plan review and also the planning application forming the basis of this appeal.
- 1.5 The evidence which I have prepared and provide for this appeal in this proof of evidence is true and has been prepared, and is given in accordance, with the guidance of my professional institution and I confirm that the opinions expressed are my true professional opinions.

2.0 INTRODUCTION

2.1 This Statement is submitted on behalf of Redrow Homes Ltd (the 'Appellant') in support of an appeal against the non-determination of an outline planning application by Hertsmere Borough Council (HBC), for the proposed residential development of land at Little Bushey Lane, Bushey (the 'Appeal Site').

2.2 The description of development for the Appeal Scheme is as follows:

"Outline planning application for residential development (up to 310 units) with access from Little Bushey Lane, and land reserved for primary school, community facilities and mobility hub (Class E) along with car parking, drainage and earthworks to facilitate drainage, open space and all ancillary and enabling works. (Outline Application with Appearance, Landscaping, Layout and Scale Reserved)"

2.3 The application was submitted to the Council on 20th June 2022. The list of accompanying plans and documents is incorporated in the Core Documents list.

2.4 An appeal against non determination was lodged on the 6th January 2023. Officers then presented a report to the Council's Planning Committee on 23rd February 2023. At this meeting, three putative reasons for refusal were provided:

1. Per paragraph 11 of the NPPF, the presumption in favour of sustainable development applies. Planning permission should therefore be granted, unless the application of policies within the NPPF that protect areas or assets of particular importance (which includes land designated as Green Belt) provides a clear reason for refusal.

The proposed development is considered to be inappropriate development in the Green Belt, given that it would fail to comply with any of the defined exceptions at paragraphs 149 and 150 of the NPPF. A case for Very Special Circumstances (VSCs) has been made by the applicant, outlining a number of benefits of the scheme. However, these benefits when taken together are insufficient to clearly outweigh the

substantial harm to the Green Belt, by virtue of inappropriateness and due to the significant harm to openness that would arise.

Therefore, the proposed development is considered to be contrary to the NPPF (2021), Policies SP1, SP2, and CS13 of the Core Strategy (2013) and Policy SADM26 of the Site Allocations and Development Management Policies Plan (2016)."

2. The proposed development is considered to result in harm to the character and appearance of the landscape; in particular, due to the visual impact of the development on existing open views with rural aspect from Little Bushey Lane and nearby Public Rights of Way, including those that cross through the application site (PRoW Bushey 033 and 040). In particular, views through and within the site from PRoW 040 would become enclosed and constrained by built form.

Therefore, the proposed development is considered to be contrary to the NPPF (2021), Policy CS12 of the Hertsmere Core Strategy (2013) and Policy SADM11 of the Site Allocations and Development Management Policies Plan (2016).

3. The proposed development has failed to demonstrate that it would not result in increased flood risk to future occupiers of the development or the surrounding area, and that an appropriate drainage scheme could be achieved. This is contrary to the NPPF (2021), Policy CS16 of the Hertsmere Core Strategy (2013), and Policies SADM14 and SADM15 of the Site Allocations and Development Management Policies Plan (2016).

2.5 This wording was re-affirmed in the Council's Statement of Case (**CD D2**).

3.0 THE APPEAL CASE

Main Issues / Evidence Structure

- 3.1 Following the Case Management Conference (CMC) on the 2nd March 2023, the following matters were confirmed by the Inspector as the likely main issues:
- a) The effect of the proposed development on the purposes and openness of the Green Belt;
 - b) The effect of the proposed development on the character and appearance of the area;
 - c) The effect of the proposed development on flood risk; and
 - d) Whether any harm to the Green Belt and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the proposed development.
- 3.2 My evidence is concerned with the final main issue and I review the compliance of the Appeal Scheme with the Development Plan and the planning balance. My evidence is to be read alongside the evidence of the following witnesses:
- Mr. Patrick Clark (Barton Willmore, now Stantec) who addresses landscape matters and matters relating to the purposes and openness of the Green Belt;
 - Mr. Colin Whittingham (RSK) who addresses flood risk and drainage matters;
 - Mr. James Stacey (Tetlow King) who addresses affordable housing matters; and
 - Mr. Andy Moger (Tetlow Wing) who addresses self build / custom build matters.
- 3.3 In addition, and appended to my evidence at **Appendix 1**, I include evidence from my colleague Mr Patterson-Neild in relation to housing land supply.

4.0 THE DEVELOPMENT PLAN

4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 ("the Act") states that:

"If regard is to be had to the development plan for the purposes 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".

4.2 It is agreed at paragraph 5.2 of the signed SoCG (**CD D8**) that the Development Plan, insofar as it relates to this assessment of the Appeal Scheme, comprises:

- Hertsmere Core Strategy (January 2013);
- Hertsmere Site Allocations and Development Management Policies Plan (November 2016).

Core Strategy (January 2013) (CD F1)

4.3 The reasons for refusal allege a breach of the following Core Strategy (CS) policies:

- Policy SP1: Creating Sustainable Development
- Policy SP2: Presumption in favour of Sustainable Development
- Policy CS12: The Enhancement of the Natural Environment
- Policy CS13: The Green Belt
- Policy CS16: The Environmental Impact of Development

4.4 In addition to the abovementioned policies, the Council's Statement of Case (**CD D2**) at paragraph 3.4 lists Policies CS1 (The Supply of New Homes); CS2 (The location of new homes); CS3 (Housing delivery and infrastructure), CS4 (Affordable Housing) and CS17 (Energy and CO₂) reductions as being of most relevance to the appeal. It is also acknowledged at paragraph 4.2 of the Council's Statement of Case that the "policies relevant for the determination of the application are out date". I have taken this to mean all relevant policies, including the most important policies (with regard to paragraph 11d of the NPPF).

Hertsmere Site Allocations and Development Management Policies Plan (November 2016) (CD F2)

4.5 The Site Allocations and Development Management (SADM) Policies Plan was adopted on the 23rd November 2016 with the aim of supplementing and delivering the strategy / spatial

vision set out in the Hertsmere Core Strategy 2013. Paragraph 20 of the Inspector's Report (IR) **(CD F21)** of the SADM notes that post 2021, the trajectory shows a "marked falling away" to below the annual average of the CS requirement [this requirement being a requirement based on an abolished Regional Spatial Strategy]. The Inspector notes that should this trajectory play out, then there would be implications for the maintenance of a continued five year supply of housing land during the period 2021 – 2027, which as set out in the housing land supply evidence appended to my evidence **(Appendix 1)**, is exactly what has transpired. The Council therefore had ample prior warning and have simply failed to progress a plan led approach to rectifying this. This is the context therefore in which the policies in the Development Plan should be read.

Compliance with the Development Plan

- 4.6 I conclude within this Section of my evidence that the proposals are in accordance with the Development Plan taken as a whole.
- 4.7 In particular, through Policy SP2, the presumption is built in the Development Plan i.e. the Development Plan anticipates and facilitates a position where it may be necessary to undertake a planning balance in order to meet plan objectives. Sub-paragraph (b) refers to "*specific policies in that Framework indicate that development should be restricted*". Those policies include the policy balance required through paragraph 148 of the NPPF (i.e. that the substantial weight given to harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations). Thus in the event that the Inspector agrees with my conclusions in respect of the paragraph 148 balance then the proposal will also accord with the Development Plan.
- 4.8 The following section reviews what I consider to be the other material considerations which weigh in favour of the Appeal Scheme.

5.0 OTHER MATERIAL CONSIDERATIONS

Emerging Planning Policy

Hertsmere Local Plan Review

Draft Hertsmere Local Plan Regulation 18 (2021) + Evidence Base

5.1 The Appeal Site is identified as part of a potential development site (Site B1) (pg. 87) and thus in identifying the site as a preferred site, it follows that in accordance with the proceeding paragraph, the Council considered that:

- The Appeal Site is sustainable or capable of being made sustainable.
- The development of the appeal will respect the character of the area.
- The development of the appeal site will integrate well with the scale and pattern of local development,
- The development of the appeal site will not have an adverse impact on existing communities and environments.
- The development of the appeal site will be part of an overall development strategy which meets local plan objectives and all relevant policies in the Development Plan (as proposed) and will provide a framework for the creation of healthy, safe and inclusive communities throughout the Borough.

5.2 It is agreed in paragraph 5.10 of the SoCG, that the evidence base underpinning the draft Local Plan is a material consideration in the determination of the Appeal and I review this in detail in my evidence, which includes

- South West Hertfordshire Local Housing Needs Assessment (LHNA) (2020)
- Housing and Economic Land Availability Assessment (HELAA) (2019) (extracts at **CD G13**)
- Green Belt Assessment
- Landscape and Visual Sensitivity Assessment (LVSA) (2020) (**CD G14**)
- Settlement Hierarchy and Accessibility Mapping Analysis (**CD G15**)
- Strategic Flood Risk Assessment (SFRA) (May 2018) – **CD G16**

THE NEED FOR HOUSING

5.3 I conclude that Hertsmere only has **1.23 years supply of deliverable housing sites.** Even without the 5% buffer being applied (should the NPPF be changed as proposed by

the recent consultation proposal) the Council would require 727 dwellings per annum (3,635 over 5 years), and this would equate to a supply of 1.3 years.

- 5.4 Therefore, as I consider that Hertsmere Council does not have an NPPF compliant assessment of local housing need as required by paragraphs 61 and 74 of the Framework, I therefore consider, as do the Council, that the policies which are most important for the determination of the application are out of date and I therefore consider that limited weight should be attributed to the following policies which are important for determining the application as the presumption in favour of sustainable development contained in Paragraph 11d of the Framework is engaged. These policies comprise CS1 (Scale of New Housing), CS2 (Distribution of Housing), both of which are policies that either prescribe the level of housing growth to be accommodated or their distribution, and or relate to built up area boundaries and control development for housing out with such boundaries.

AFFORDABLE HOUSING NEEDS

- 5.5 I draw on the evidence of Mr Stacey in this respect and concur with this views.
- 5.6 In light of the key findings of my evidence and the acute need for affordable housing within Hertsmere Borough and Bushey, I consider that **very substantial weight** should be attributed to the delivery of up to 124 affordable homes through the appeal scheme in the planning balance.

SELF BUILD / CUSTOM HOUSING

- 5.7 In review this matter and the need / weight to be attributed to it, I draw on the conclusions of Mr. Moger.
- 5.8 In reviewing the evidence of Mr Moger and adopting his conclusions, I consider that nothing less than substantial weight should be attributed to the provision of 10 serviced plots in the planning balance.

National Planning Policy Framework (NPPF) (July 2021)

- 5.9 The main parties are agreed that the NPPF (the Framework) is a material consideration that must be taken into account in the decision-making process and the last iteration of the framework was published on the 20th July 2021.
- 5.10 I conclude that the appeal scheme is in accordance with the relevant sections of the NPPF.

Striking the Balance

- 5.11 I consider that as facilitated by Policy SP2 of the Core Strategy, there are clear and compelling other material considerations that direct that planning permission should be granted even if – against my evidence above – the Inspector were to decide that allowing the appeal scheme would conflict with the Development Plan when read as a whole.

6.0 PLANNING BALANCE

- 6.1 I acknowledge that the fundamental aim of the Green Belt is to prevent urban sprawl by keeping land permanently open (Framework Para 137). Inappropriate development is, by definition harmful, and will only be allowed when the potential harm to the Green Belt by inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations such as to give rise to very special circumstances: paragraph 148 of the Framework. I also note that this balancing exercise is brought into the statutory development plan by Policy SP2(b) of the Core Strategy.

Table 1

Harms	Weight
Harm to the Green Belt	Substantial
Visual effects of development	Moderate
Localised and limited harm to landscape character	Limited
Development outside of built up area	Limited

Table 2

Benefit	Weight
Delivery of up to 310 new homes	Very substantial
Delivery of 40% affordable housing	Very substantial
Delivery of 5% self-build / custom build	Substantial
Land for a primary school	Significant weight
Economic benefits	Significant weight
Bio-diversity net gain	Significant weight
Enhanced public transport offer	Significant weight
Footway / cycleway improvements	Significant weight

Benefit	Weight
Ability to deliver high quality design	Significant weight
Community / Mobility Hub	Moderate weight
Significant accessible Open Space	Moderate weight
Enhanced access to the countryside	Moderate weight
Enrichment of blue / green infrastructure	Moderate weight
Sustainable building measures	Moderate weight

- 6.2 Having conducted the planning balance, I conclude that in compliance with paragraph 148 of the NPPF (and thus Policy SP2 of the Core Strategy) that the harm to the Green Belt by way of openness by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations such that very special circumstances are demonstrated.

7.0 SUMMARY AND CONCLUSIONS

- 7.1 For reasons which I set in Section 5 of my evidence, it is my view that the Appeal Scheme complies with the Development Plan read as a whole. Whilst I accept that there is harm by definition due to inappropriate development, it is my view that the potential harm to the Green Belt by reason of inappropriateness, and other limited harm arising from the proposal, is clearly outweighed by other benefits such that very special circumstances are demonstrated. This 'balance' of harms against benefits is facilitated by Policy SP2 of the Development Plan and thus I am able to draw a positive conclusion on compliance with the Development Plan. It is my opinion that the benefits clearly outweigh the significant harm such that very special circumstances are demonstrated.
- 7.2 In the event, that any conflict is identified with the Development Plan, there are clear material considerations which indicate that planning permission should be granted.