

LAND OFF BULLENS GREEN LANE, COLNEY HEATH

Appellant's Opening & Appearances

Appearances

1. **Zack Simons**, of Counsel, instructed by **Russell Gray** of Woods Hardwick, will call:
 - (i) **Andrew Crutchley** BA (Hons), PG Dip (Oxon), MCifA, Director at the Environmental Dimension Partnership Ltd (EDP) (heritage).
 - (ii) **John Freeman** MEng CEng MICE MICHT MIOD, Director of Woods Hardwick Ltd (locational sustainability & highways).
 - (iii) **Gary Holliday**, B.A (Hons).MPhil, CMLI, Director at FPCR Environment and Design Ltd (character and appearance).
 - (iv) **Andrew Moger** BA (Hons) MA MRTPI, Associate Director at Tetlow King Planning Ltd (self-build and custom housebuilding).
 - (v) **James Stacey** BA (Hons) Dip TP MRTPI, Senior Director at Tetlow King Planning Ltd (affordable housing).
 - (vi) **Russell Gray** BA (Hons) DIP UP MRTPI, Director of Woods Hardwick Planning Ltd (planning policy and balance).

Opening

2. This part of Hertfordshire has been let down by the planning system.
3. Years go by – decades pass – national policies come and go. But through it all, these two Councils have managed to keep their heads buried firmly in the sand. There’s been no strategic review of Hertfordshire’s Green Belt in almost 40 years. New plan-making exercises have been tried. They have failed. The adopted plans for both Councils are from another era (the St Albans local plan is the oldest in the country, and the Welwyn Hatfield plan predates the first NPPF by 7 years).
4. The break-down in the plan-led system here has real consequences for real people. Most of all, and for many years, these Councils haven’t come anywhere *remotely* close to meeting their needs – for market housing, for affordable housing, and more recently for self-build housing either.
5. The shortfalls aren’t marginal. They’re staggering. We aren’t talking about missing the mark by tens or even hundreds of homes. We’re talking about thousands. Many thousands. On both sides of the district line. With all the terrible social, economic and environmental consequences that failing to plan will bring: families unable to afford somewhere to live, thousands on the housing register waiting not weeks or months but years to find a home, unsustainable solutions with people being forced to find a home further away from where they work, shop and socialise. Mr Hughes, the Councils’ witness, is quite right to call these shortfalls “*substantial and serious*”.¹ They are terribly serious.
6. How on earth have we got here?

¹ PH PoE, §6.12.

7. The real reason is the chronic inability of these Councils to front up to the need to bring forward sensible development proposals in the Metropolitan Green Belt.
8. Outside the urban areas, almost all of both Councils is washed over by the Green Belt. 79% of Welwyn Hatfield is in the Green Belt,² and 82% of St Albans.³
9. Which means that, if either Council is to come anywhere *near* meeting its needs, release of Green Belt land isn't a choice. It's a certainty. There is literally no other option.
10. Of course, in areas of the country where the plan-led system is doing its job, national policy expects that sensible plan reviews *at least* every 5 years will manage those releases. But that just isn't happening here. Nowhere near, and not for a long time. As we will explain:
 - (i) Last year, yet *another* attempted plan in St Albans had to be withdrawn because of – among other things – basic failures in that Council's approach to considering the release of land for housing in the Green Belt.
 - (ii) On the other side of the line, albeit the draft Welwyn Hatfield plan continues to trundle on now in its *5th year of examination*, the Inspector's raised a number of profound soundness issues (and has repeatedly raised the spectre of the plan being withdrawn). We *still* don't even know what the Council's housing need actually *is* (as its members decided to undercut the advice of its own expert consultants on that issue), or what sites are actually intended to come forward to meet that need, and – most important – whether the Inspector thinks any of that will actually be sound or not. Remarkably, the plan's submission was so long ago that it's still being examined under the 2012 NPPF

² CD6.12, §2.13, p.5.

³ <https://www.gov.uk/government/statistics/local-authority-green-belt-statistics-for-england-2019-to-2020>

– of course, we’ve had 2 revisions of the NPPF since then, with another just consulted on (to say nothing of countless revisions to the PPG). So there’s a fair chance that, in the event this plan’s ever actually adopted (and just last month the Inspector told the Council “*we have almost run out of opportunities for making this plan sound*”⁴), it’d be immediately out of date.

11. In both of these authority areas, the plan-led system has broken. And our case is simple: there is no short or medium term prospect of it being fixed. The real issue before this inquiry is whether the many people in need now should have to wait another 3 years, 5 years, 10 years, or however long it takes, for one of these Councils to actually adopt a plan, and for sites to come forward in accordance with that plan. Or whether urgent problems require more urgent solutions.
12. In the last year, the Secretary of State has made his view on this issue clear. In a series of decisions in Green Belt authorities where the plan-led system has not delivered on time or at all (e.g. South Oxfordshire⁵, Stockport,⁶ and Bradford⁷), he’s given the delivery of market and affordable housing very substantial weight, and has found that it clearly outweighs harm to the Green Belt, so carrying the planning balance at §144 NPPF.
13. The same is true here, because:
 - (i) Our site’s a relatively flat, pleasant but unremarkable field surrounded by houses, intermittent hedgerows and Roestock Park. It has no statutory or local landscape designations. It isn’t a “*valued*” landscape under the NPPF. As you’ll see, its visibility

⁴ Inspector’s 18.3.21 Stage 9 “*Round up notes*”, §16.

⁵ CD11.02.

⁶ CD11.03.

⁷ CD11.01.

from the wider landscape is very limited. It's part of a local landscape character area which is strongly influenced by this area's major transport routes (in particular, the A1(M)), the major settlements, and built development. It's been consistently recognised by consultants instructed by these Councils to be part of an area with an "*urban edge*" rather than a "*rural*" character.

(ii) Our site's very well located – short walks to Roestock Park, shops, a pub and a long list of local facilities.⁸ A few more minutes, and you can walk to the Colney Heath nature reserve and the University of Hertfordshire. On a bike, it's 12 minutes to Welham Green station, and 18 minutes to Hatfield station. Within a 20 minute ride, there's the full suite of retail options, services and facilities in Hatfield.⁹ Local bus stops take you to St Albans in one direction (in under half an hour), and to Hatfield and Potters Bar in the other.

(iii) Yes, our site is a field. With not much currently on it. Which means, in the language of Green Belt policy, it's now relatively "*open*", and would be less "*open*" if new homes were built. And yes, because it's *next to* but *outside* the settlement boundary, it's deemed "*countryside*". Even though that boundary is a relic of another plan-making era. Which means our scheme would, in the language of the NPPF, "*encroach*" into that countryside. That, say Mr Hughes, is the end of the story.

14. But, with respect, that's the kind of narrow approach to development management which has prevented these Councils from getting out of the mess they're in. We know where the most important parts of the Green Belt are in this area¹⁰ – it's not us. We know where the

⁸ CD1.24, Table 5.1, p.35.

⁹ CD1.24, Table 5.3, p.40.

¹⁰ See e.g. CD6.13, figure 9.1.

most valuable landscapes are¹¹ – again, not here. In fact, the Councils’ own consultants have identified this site in one of the least sensitive parts of the area to accommodate new development.¹² We know where the important areas for ecology and built heritage - not here.¹³ We also know those areas where high or even *very* high levels of harm to the Green Belt would be caused by new development – again, not us.¹⁴

15. There are no longer any technical objections to this site coming forward. The Councils’ shopping list of reasons for refusal has been pared back. The points on ecology, highways and archaeology have either fallen away entirely or will be addressed by condition. The s.106 obligation is essentially agreed. Albeit the Council maintains a heritage objection in relation to the setting of 68 Roestock Lane, we all agree that this scheme’s public benefits clearly outweigh any such harm, so the balance at §196 NPPF tilts in favour of granting permission.

16. Which means in the end, for all the many documents before you, Madam, the real issue is simple:

Whether our scheme’s benefits clearly outweigh its harms?

17. If they do, permission should be granted because the scheme will be supported both by the statutory development plans, and by §144 NPPF.

¹¹ See e.g. CD6.17, appendix 4, FIGURE A4.1.

¹² See e.g. CD6.30, fig 3.1, p.19.

¹³ See e.g. CD6.17, appendix 4, FIGURE A4.1.

¹⁴ CD6.13, figure 7.1.

18. And remember, even on the *Councils'* case, you should give our benefits somewhere between “*the upper end of significant*” and “*substantial*” weight in relation to market housing, and “*substantial*” weight for affordable housing.¹⁵
19. Our case is straightforward: these benefits are profound, the imperative to bring them forward is compelling, and they clearly outweigh what will only be a localised impact to this appeal site and its immediate surroundings.
20. For those reasons, which we will develop in our evidence and in closing, the balance at §144 tilts decisively in favour of granting planning permission, and we will ask you to allow the appeal.

ZACK SIMONS

Landmark Chambers
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¹⁵ PH PoE, pp.78-79.