

**IN THE MATTER OF
THE TOWN AND COUNTRY PLANNING ACT 1990**

**AND IN THE MATTER OF
LAND AT SATCHELL LANE,
HAMBLE-LE-RICE,
HAMPSHIRE.**

**OPENING SUBMISSIONS
ON BEHALF OF
THE APPELLANTS**

1. These Opening Submissions are made on behalf of the Appellants in respect of an appeal of a full application for 61 dwellings and associated development on land at Satchell Lane, Hamble-le-Rice, Hampshire [‘the site’]. The lies outside but immediately adjacent to the adopted settlement boundary, bordered on its north, east and southern sides by existing residential development and on the western side by a vegetated public right of way.
2. The context is that, in December 2018, this same site was granted outline permission on appeal for 70 dwellings (9 fewer than the current proposal)¹. That decision was unsuccessfully challenged in the High Court by the Council², so both decisions pay careful reading in the light of the objections currently raised by the Council to the appeal scheme.

¹ CD8.1

² CD9.1

3. In short, much of the Council's current case is a re-statement of the case it ran - and lost - in the last appeal and in the High Court. Other aspects it has added, despite not taking those objections against the earlier – and larger – scheme on the same site.
4. The Council refused the current application/appeal for seven reasons for refusal. Of these, four are expected to take time at the inquiry in terms of evidence:

landscape/visual;
sustainability/accessibility;
highways capacity impact; and
design quality.

5. Only the fourth is legitimately a new issue, as the current scheme is in detail whereas the approved scheme was in outline. The matters in dispute will be explored in evidence, but suffice to say that this appeal scheme fully accords with Section 12 of the NPPF and the 'build beautiful' agenda espoused by the Government.
6. Highways impact in terms of congestion is a new point, taken against a scheme of fewer dwellings than the previous scheme where no such objection was mounted. It is groundless – there have been no material changes in highways conditions since the (unobjectionable) previous scheme, and the VISSIM modelling (unchallenged in evidence) demonstrates no 'severe' impact on the network.
7. By reference to para. 111 of the NPPF, the appeal scheme should not, therefore, be refused on highways capacity grounds.
8. Reference to accessibility/sustainability is a re-run of the argument the Council mounted – and lost – at the last inquiry; and challenged – and lost – in the High Court.
9. To run the same case again, without material changes of circumstances, is to offend the clear advice in the NPPG on Costs. Neither the location of the scheme vis-a-vis the facilities in question, nor the conditions on the ground have altered since the previous Inspector found the site accessible and sustainable. That finding was found legally unimpeachable by the High Court. There is no justification for running the same point again. It is an unreasonable case to mount.

10. As to landscape/visual matters, the findings of the last inspector still stand as valid. The conditions of the landscape/townscape have not altered. The scheme is – for these purposes at least – materially the same as the previous one: it proposes 61 (as opposed to up to 70) dwellings on the same site, with the same access, and the same boundaries. The baseline conditions, therefore, are the same, and the baseline value and sensitivities are as found by the previous inspector.
11. Importantly, all parties agree this site is *not* part of a ‘valued landscape’ for the purposes of para. 174(a) of the NPPF. It, therefore, falls off the bottom of the scale of the hierarchy in para. 175 of the NPPF. There is a localised impact, but it is *not* unacceptable, and does not stand in the way of permission being granted.
12. None of this was challenged in the High Court (quite rightly) and it sets the context for judging this scheme in landscape and visual terms. The appeal proposals will, of course, introduce new built form on a greenfield site, but they will do so in the context of existing urban development already influencing the character of the site, and with the proposed development being wholly in keeping with the surrounding settlement.
13. Only *localised* landscape and visual impacts will be experienced as with *any* such development³. These do not – and cannot – amount to objections to development on the site.
14. In short, the acceptability in landscape and visual terms has already been established, here, by the last appeal and should not be being re-run by the Council on this appeal.
15. To be fair to the Council, on the surface at least, the development plan policy context has altered since the last appeal (although not between the last appeal and the refusal).
16. This is because (since that case and since the refusal of this application), the old 2006 Local Plan has been replaced by the new 2022 Local Plan. But in truth, that change only changes the policy numbers we must now refer to. In the last appeal, the 2006 Local Plan was found to be out of date (despite a claimed 7-10 years’ land supply); in

³ See CD8.1 at para. 26

this appeal, the 2022 Local Plan *is* deemed out of date by operation of Footnote 7 of the NPPF and the absence of the required 5-year land supply⁴.

17. The planning policy terms, therefore, despite the replacement of the 2006 LP with the 2022 LP, the effect is the same: the settlement boundary policies restricting development are out of date. In Eastleigh it is truly a case of *plus ca change, plus c'est le meme chose*.
18. In addition, by virtue of a quirk (now corrected) in the then NPPF, the inspector at the last appeal was operating an 'untilted' balance because the site had been subject to an 'appropriate assessment'. Under the current NPPF, a favourable appropriate assessment does not rob one of the 'tilted' balance under para. 11(d)(ii).
19. Thus, in substance, the planning analysis of the previous inspector – upheld by the High Court – applies equally (if not more so) to the current scheme. This is a proposal which delivers housing and affordable housing, together with significant economic benefits, in a sustainable location. The localised landscape and visual impact concomitant with any greenfield development should not be allowed to deny the public at large the benefits of allowing this scheme. The design issues raised are carping at what – in truth – is a very worthy response to the constraints of the site, the aspirations of the NPPF and the agenda to build beautiful places for people to call home.
20. It would be wholly wrong, therefore, for permission to be refused on the basis of groundless design issues only taken because this is a full application and a suite of re-run objections already rejected by both an appeal inspector and a High Court judge.
21. Consequently, for all of these reasons, the Inspector will be urged, in due course, to allow this appeal, and grant this much-needed development, in the public interest.

⁴ Even the Council – despite the best efforts of Cllr House – can only claim a 5.1 year's supply! – see the HLS SoCG at para.4.1

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1st November 2022

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