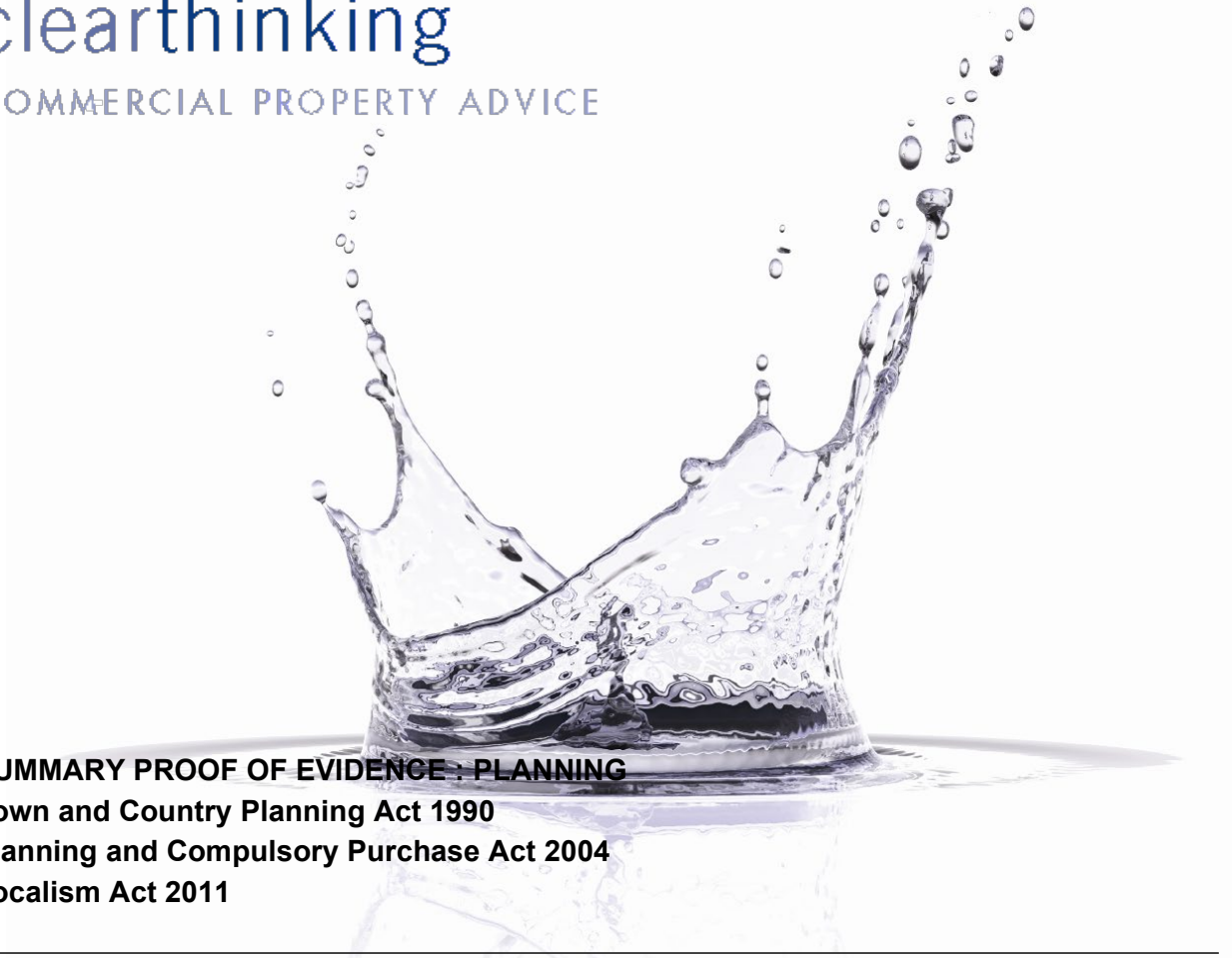


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COMMERCIAL PROPERTY ADVICE



SUMMARY PROOF OF EVIDENCE : PLANNING

Town and Country Planning Act 1990

Planning and Compulsory Purchase Act 2004

Localism Act 2011

Outline Application for up to 196 Dwellings with all Matters Reserved Other than the Means of Access

Land North West of 1 – 12, Twelve Houses, Sowbrook Lane, Stanton-by-Dale, Derbyshire, DE7 4QX

Appeal Ref: APP/N1025/W/23/3319160

Council Application Ref: ERE/0722/0038

On Behalf Of:

Wulff Asset Management Limited

Prepared By:

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Job Ref: P1763

Date: 12th July 2023

SUMMARY PROOF OF EVIDENCE : PLANNING

**LAND NORTH WEST OF 1 – 12, TWELVE HOUSES, SOWBROOK LANE,
STANTON-BY-DALE, DERBYSHIRE, DE7 4QX**

Main Contributors

Simon Hawley BA (Hons) MA MRTPI

Issued By



Signature:

Print Name: Simon Hawley

Date: 12th July 2023

Approved By



Signature:

Print Name: Sam Silcocks

Date: 12th July 2023

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PERSONAL BACKGROUND

- a) My name is Simon Joseph Hawley. I am a Director and Head of Planning in the Harris Lamb Planning Department. I hold a Bachelor of Arts Degree (Honours) in Human Geography from the University of Wolverhampton and a Masters Degree in Town and Country Planning with Distinction from the University of Central England.
- b) I am familiar with the Appeal Site, land north west of 1 to 12, Twelve Houses, Sowbrook Lane, Stanton-by-Dale, Derbyshire ("***the Appeal Site***"), and its surroundings.
- c) I can confirm that the evidence which I have prepared and provided for the appeal (reference APP/N1025/W/23/3319160) is true and has been prepared and given in accordance with the guidance of my professional institution. I can confirm that the opinions expressed are my true and professional opinions.

1.0 INTRODUCTION

- 1.1 My Proof of Evidence (“**PoE**”) has been prepared in relation to a planning appeal made by Wulff Asset Management Limited (“**the Appellant**”) pursuant to S.78(i) of the Town and Country Planning Act 1990 (as amended) following the decision of Erewash Borough Council (“**EBC**”) to refuse planning application ERG/0722/0038 that proposed the residential-led development of land north west of 1 to 12, Twelve Houses, Sowbrook Lane, Stanton-on-Dale (“**the Appeal Site**”). The planning application was submitted in outline form with all matters reserved for subsequent approval with the exception of access. The description of the development, as it appears on the Decision Notice, is:

“Outline Application for up to 196 dwellings with all matters reserved other than the means of access.” (“the Appeal Scheme”)

- 1.2 The planning application was refused at a meeting of the EBC Planning Committee on 13th October 2022. The Decision Notice contains 10 reasons for refusal. As detailed in the main Statement of Common Ground (“**SoCG**”) (**CD L1**) it is an agreed position between the Appellant and EBC that Refusal Reasons 2, 3, 4 and 6 have now been overcome and no longer form part of EBC’s case for refusal of planning permission.
- 1.3 My PoE has been prepared to address planning matters relating to the principle of development. I assess the compatibility of the Appeal Scheme against the relevant Development Plan policies and material planning considerations before undertaking the planning balance. In preparing my assessment of the Appellant’s case I have had regard to and rely upon the evidence produced by the Appellant:
- Mr Martin Andrews – Director, MAC Pre-planning Engineering – Highways and transport. Mr Andrews addresses Refusal Reason 1 in relation to the proximity and the quality of the routes to services and facilities.

- Mr Robert Hughes – Director, Incola Landscape Planning – Character and Appearance. Mr Hughes addresses Refusal Reason 5.
- Daniel Slatcher – JTC Heritage Limited – Heritage. Mr Slatcher addresses Refusal Reason 7.

2.0 PLANNING POLICY REVIEW

2.1 The Development Plan is the starting point for the determination of planning applications. The EBC Development Plan consists of:

- The Erewash Core Strategy (2014) (**"ECS"**) (**"CD B1"**)
- The Erewash Local Plan (2005) Saved Policies (**"ELP"**) (**"CD B2"**)

2.2 Material planning considerations include:

- The National Planning Policy Framework (**"CD A1"**)
- The Erewash Core Strategy Review Submission Version November 2022 (**"ECSR"**) (**"CD B3"**)
- ECSR Evidence Base Documents
- Developer Contributions SPD (**CD B5**)
- Housing Delivery Test Results

The Erewash Core Strategy

2.3 The ECS was adopted in March 2014. It was prepared to set a strategy for development across the Borough between 2011 and 2028. It is an agreed position that the housing policies in the ECS are out of date in their own right and due to a five year housing land supply shortfall.

2.4 The policies relevant to the determination of the Appeal Scheme are agreed in paragraph 3.2 of the SoCG (**CD L1**). They are:-

- Policy A – Presumption in Favour of Sustainable Development
- Policy 1 – Climate Change
- Policy 2 – The Spatial Strategy
- Policy 8 – Housing Size, Mix and Choice
- Policy 10 – Design and Enhancing Local Identity
- Policy 11 – Historic Environment
- Policy 14 – Managing Travel Demand
- Policy 16 – Green Infrastructure, Parks and Open Space; and

- Policy 17 – Biodiversity

2.5 The refusal reasons suggest that the Appeal Scheme conflicts with ECS policies 10, 14 and 17.

Erewash Borough Local Plan Replacement 2005 (“ELP”)

2.6 The ELP was adopted in July 2005. A series of its policies were “saved” in 2014 for decision making purposes. The Appeal Site is not subject to any specific designation by the Policies Map. The ELP Inspector advised that the Appeal Site should be considered safeguarded land that may be required to meet longer term development needs (ELP Inspector’s Report paragraph 14 on page 183 - **CD B12**).

2.7 The ELP policies relevant to the determination of the Appeal Scheme are:-

- H9 – Section 106 obligations
- H12 – Quality and Design
- T6 – Cycling
- EV11 – Protected Species and Threatened Species
- EV16 – Landscape Character

2.8 The refusal reasons suggest a conflict with three ELP policies, EV11, H12 and H10. Saved policy H10 – Conversion to Residential Use, relates to the conversion and adaption of the upper floor of shops and commercial premises, which is not applicable to the Appeal Scheme.

Emerging Core Strategy

2.9 EBC are in the process of preparing a replacement Local Plan, referred to as the Erewash Core Strategy Review (“**ECSR**”). The draft plan was submitted for examination in November 2022. The latest update on the progress of the draft plan was published on the EBC website on 5th July where it is advised:

- 2.10 ***“Following the Inspector’s Initial questions and the Council’s response to them the Council is currently undertaking additional work and a further update will be provided in due course. No other updates including timings for the Inspectors Matters, Issues and Questions or Hearing dates are available at this moment in time.”***
- 2.11 There are unresolved objections to the ECSR. It is unclear what additional work the Council are undertaking and what effect that will have on ECSR. The emerging ECSR can be afforded minimal weight in the decision making process.

3.0 CASE FOR THE APPELLANT

- 3.1 The Development Plan comprises the Erewash Core Strategy 2014 and the saved policies of the Erewash Local Plan 2005. It is an agreed position between the Appellant and the Council that the housing requirements and development strategy in the Development Plan are out of date in their own right and due to the fact that the Council is only able to demonstrate a 2.65 year housing land supply.
- 3.2 There are no restrictive policy designations applied to the site by the Development Plan. It is “white land” on the Proposals Map. The Appeal Site is located in an area where the Development Plan seeks to focus the majority of the plan’s housing growth. It is located next to the Stanton Regeneration Site, which is a mixed use employment and residential allocation that the adopted Local Plan expects to provide 2,000 dwellings, 20 hectares of employment land, a neighbourhood centre and associated infrastructure including a primary school. Planning permission has been granted for part of the employment element of this site.
- 3.3 Twelve Houses, to the south east of the Appeal Site, are Grade II listed. The Appeal Scheme will result in less than substantial harm to the significance of these heritage assets and Mr Slatcher concludes in his PoE that the less than substantial harm is on the lower end of the scale. There is a series of public benefits of the development that outweigh the harm meaning that the heritage balance test in paragraph 202 of the Framework is passed. The tilted planning balance in paragraph 11.d of the Framework is engaged due to the fact that EBC is unable to demonstrate a five year housing land supply and its adopted Development Plan is out of date.
- 3.4 The Decision Notice contains 10 Refusal Reasons. However, it is now an agreed position between the Appellant and the Council that Refusal Reasons 2, 3, 4 and 6 have been overcome. The essence of the Council’s case for refusal of planning permission is:-

- The site is unsustainably located and remote from services and facilities (Refusal Reason 1)
- The proposed development would lead to the loss of an open landscape which is characteristic to the area and would cause significant harm to the visual amenity of the area (Refusal Reason 5)
- The scheme would lead to adverse impacts on the setting of the Grade II Listed Buildings, New Stanton Cottages (Twelve Houses) and there are no public benefits to overcome this harm (Refusal Reason 7)
- The development is of such a substantial scale it would harm the plan making process of the emerging Core Strategy and is contrary to draft Core Strategy policies (Refusal Reasons 8, 9 and 10).

3.5 The Refusal Reasons are not justified.

3.6 In his Proof of Evidence Mr Andrews demonstrates that the site has good access to a range of services and facilities by foot, cycle and car.

3.7 In his Proof of Evidence Mr Hughes demonstrates that the Appeal Scheme accords with the landscape character policies within the Development Plan and concludes that the scheme would have a limited, localised adverse effect on the local landscape that is not considered to be significant.

3.8 In his Proof of Evidence Mr Slatcher concludes that the heritage impacts of the development would be less than substantial, and at the lower end of less than substantial scale.

3.9 Whilst the emerging Core Strategy has been submitted for examination there are a significant number of unresolved objections. Following initial questions from the Inspector the Local Authority has had to undertake a series of undefined work items to inform the emerging Plan. These work items are not completed. There is no certainty if, and when, the draft Core Strategy will be adopted.

- 3.10 The scheme is compliant with the policies in the adopted Development Plan when read as a whole.
- 3.11 The 'tilted planning balance' (Framework paragraphs 11d) is engaged as the public benefits of the scheme outweigh the less than substantial harm to the Heritage Assets in accordance with the balancing exercise set out in paragraph 202 of the Framework. The benefits for the purpose of the balancing exercises include:-
- Helping to address the Council's significant five year housing land supply shortfall – significant positive weight
 - Providing much needed affordable housing - significant positive weight
 - Improving public transport opportunities – significant positive weight
 - Improving footpath connections in the locality – moderate positive weight
 - Formalising pedestrian links through the Appeal Site and delivering part of the proposed Local Cycle Network - significant positive weight
 - The provision of public open space – moderate positive weight
 - Enhancing biodiversity net gain - limited positive weight
 - Economic benefits associated with the construction of the scheme and residents using local shops, services and facilities - significant positive weight
 - The development of a non-Green Belt site in an Authority that seeks to place significant reliance on Green Belt land release in its emerging Local Plan to deliver housing – limited positive weight
- 3.12 The harm in the planning balance exercise is limited to the less than substantial harm to the heritage asset at the lower end of the scale and the development of a greenfield site that will have a limited localised landscape impact and a minor to moderate effect on views and visual amenity.
- 3.13 The scheme is in accordance with the policies in the Development Plan when read as a whole. The tilted balance is engaged and the significant benefits of

the Scheme outweigh any limited harm. It is respectfully requested that the appeal is allowed and planning permission granted.

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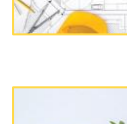
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