

APPEAL REF: APP/E3715/W/23/3322013
LPA REF: R18/0186

IN THE MATTER OF AN APPEAL BY

BRANDON ESTATES

**LAND AT COVENTRY STADIUM,
RUGBY ROAD, COVENTRY, CV8 3GJ**

OPENING SUBMISSIONS ON BEHALF OF THE APPELLANT

Introduction

1. This is an Appeal made by Brandon Estates ('the Appellant') following Rugby Borough Council's ('the Council') refusal of an application for the demolition of existing buildings and outline planning permission (with matters of access, layout, scale and appearance included) for residential development (Use Class C3), including means of access into the site from Rugby Road, provision of open space and associated infrastructure, and provision of a sports pitch, erection of a pavilion and formation of associated car park ('the Proposed Development') at Land at Coventry Stadium, Rugby Road, Coventry, CV8 3GJ ('the Site').

2. There was one reason for refusing permission¹. During the Case Management Conference (“CMC”) on 17th July 2023, the Inspector distilled the main issues as follows²:
 - i. Whether the proposed development forms inappropriate development in the Green Belt, the effect on openness and Green Belt purposes.
 - ii. Whether the stadium is surplus to requirements having regard to national and local planning policies.
 - iii. Whether it is financially viable to reinstate the speedway stadium.
 - iv. Whether there is an identified need for the alternative sports provision proposed.
 - v. Whether the benefits of the alternative sports provision outweigh the loss of the former speedway use.
 - vi. Other benefits of the proposal including the delivery of new market and affordable housing.
 - vii. Whether the proposed development makes an appropriate contribution to education
 - viii. The overall planning balance.
3. We will deal with each briefly at this stage.

Whether the proposed development forms inappropriate development in the Green Belt, the effect on openness and Green Belt purposes

4. The site lies to the north-east of Rugby Road (A428), between Gossett Lane to the north-west and north-east, and Speedway Lane to the south-east. It is surrounded by residential development to the immediate west, east and south and woodland to the north³. The existing development consists of a racetrack, spectator stands and outbuildings with substantial areas of hardstanding in connection with the former Brandon Stadium.

¹ Decision Notice, CD05: *The development would result in the loss of a sporting facility that has both local and national significance and although an alternative sporting provision is proposed there is not a clearly identified need for the alternative sporting provision and therefore it is considered that the proposed benefits of the new facility do not clearly outweigh the loss of the stadium. The proposal would therefore be contrary to Policy HS4(C) of the Local Plan (2019), Policy LF1 of the Brandon and Bretford Neighbourhood Development Plan (2019) and Paragraph 99(c) of the National Planning Policy Framework (2021).*

² Paragraph 8, CD C11.

³ Paragraph 9.1.2, PoE Matthew Chard. See also paragraph 9.1.1, PoE Matthew Chard

5. Policy GP2 sets out the settlement hierarchy of the Borough and shows the site as ‘Green Belt’ where the policy states “*New development will be resisted; only where national policy on Green Belt allows will development be permitted*”. The NPPF sets out the five purposes of Green Belt at paragraph 138⁴. Mr. Chard will give evidence explaining how, though the site is located within the defined Green Belt, the proposed development would not constitute inappropriate development⁵ nor result in harm⁶.

6. It would plainly be the redevelopment of previously developed land (‘PDL’) meeting that the exception at paragraph 149 g) of the NPPF⁷ bites. The site comprises 10.86 hectares (ha) of PDL⁸; accepted and noted within the Officer’s Report⁹. The site has a *very limited* contribution to the purposes of the Green Belt¹⁰. Its existing buildings are utilitarian, dilapidated and in a deteriorating condition creating a detracting influence¹¹. The developed nature of the site, its enclosed boundaries, and the existing residential development within the immediate setting result in it having a much closer relationship with the existing settlement edge than the more rural countryside beyond the woodland to the north¹². The level of enclosure and existing development within the site result in there already being development visible from immediate views¹³.

7. Inevitably, there would be a change to the openness from the proposed development, by definition¹⁴; but as the Officer’s report notes it “*would not have a greater impact on the openness of the Green Belt than currently exists therefore the proposal complies with paragraph 149 of the NPPF*”¹⁵. There would be no very significant intensification

⁴ a) to check the unrestricted sprawl of large built-up areas; b) to prevent neighbouring towns merging into one another; c) to assist in safeguarding the countryside from encroachment; d) to preserve the setting and special character of historic towns; and e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

⁵ Within the meaning of paragraph 147 of the NPPF: “*Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances*”.

⁶ Both the submitted LVIA and Officer’s report consider there to be no harm to the 5 purposes of the Green Belt

⁷ Paragraph 149 g) of the NPPF: “*limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would: – not have a greater impact on the openness of the Green Belt than the existing development; or – not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority*”.

⁸ Paragraph 9.1.3, PoE Matthew Chard

⁹ Paragraph 19.2, page 66, CD06. It is common ground between the Appellant and the Council that the site constitutes PDL: see paragraph 3.1 of the SOCG at CD14.1.

¹⁰ Paragraph 9.1.18, PoE Matthew Chard and Appendix B Green Belt Review Table, Table 1: Contribution of the Site to the Purposes of the Green Belt. See also the submitted LVIA.

¹¹ Paragraph 9.1.4, PoE Matthew Chard

¹² Paragraph 9.1.5, PoE Matthew Chard

¹³ Paragraph 9.1.16, PoE Matthew Chard

¹⁴ Paragraph 9.1.11, PoE Matthew Chard

¹⁵ Paragraph 19.2, Officer’s Report, CD06.

of built development nor would it result in large scale urbanisation within the countryside¹⁶. The potential harm to the Green Belt is mitigated through a well-considered design rationale and high-quality scheme within a site that provides very little towards the contribution of Green Belt purposes¹⁷. Large linear monolithic buildings presently in situ would be removed and replaced¹⁸. The proposed Development has been designed to respond to the local character / settlement pattern and visual amenity, and the proposed footprint of the proposed built form will be smaller than the existing stadium with the built form being of a domestic scale¹⁹. The residential built form will be located largely within the eastern extent of the site, in and around the existing location of the existing stadium footprint²⁰.

8. The potential effects will be highly localised and partly mitigated by the sensitive design approach²¹. Potential harm to openness is mitigated as much as possible, including enhanced access to footpaths, with the potential harm to visual openness limited as a result of the existing level of enclosure to the Appeal Site²². There is a potential for significant benefits arising from the enhanced access to and quality of land remaining within the Green Belt²³.
9. The proposed development will be embedded within a substantial area of green infrastructure, set back from the site boundaries to provide a green collar around it acting as a buffer to the existing adjacent properties providing a sympathetic and characteristic transition between the built local and wider countryside to the north and south-east²⁴. The proposed open space and landscape structural planting include a network of footpaths and cycleways that will provide enhanced connectivity and permeability to the existing PRow network and roads within the vicinity²⁵. The positive outward facing development will provide views along corridors throughout the

¹⁶ Paragraph 9.1.15, PoE Matthew Chard

¹⁷ Paragraph 9.1.18, PoE Matthew Chard

¹⁸ Paragraph 9.1.14, PoE Matthew Chard

¹⁹ Paragraph 9.1.17, PoE Matthew Chard

²⁰ Paragraph 9.1.9, PoE Matthew Chard

²¹ Paragraph 9.1.15, PoE Matthew Chard

²² Paragraph 9.1.18, PoE Matthew Chard

²³ Paragraph 9.1.15, PoE Matthew Chard

²⁴ Paragraph 9.1.10, PoE Matthew Chard

²⁵ Paragraph 9.1.13, PoE Matthew Chard

scheme to provide perceptual linkage with wider landscape and mitigate loss of visual openness²⁶.

Whether the stadium is surplus to requirements having regard to national and local planning policies

10. Paragraph 99a) of the NPPF²⁷ requires the demonstration that the buildings or land are surplus to requirements. Mr. Eady and Mr. Osborne will give evidence, as will Mr. Hooper insofar as related to planning matters, that this is plainly the case. It is clear that the viability of speedway as a sport as a whole is severely challenged, the impact of which is that the need for the former stadium to be retained does not exist²⁸.

11. The appeal site has not fulfilled a role for motorsport for 7 years in which time the professional speedway team which occupied the site has been disbanded and the number of professional speedway teams and resultant fixtures has reduced²⁹. The Independent Review of the Sports Planning Case undertaken by WYG in September 2019³⁰ highlights that motorsport participation has been in decline nationally. Not only have the numbers of participants in speedway fallen, but also the number of spectators³¹. Mr. Osborne and Mr. Eady will give evidence noting the decline which has continued further still since the WYG report.

12. Though the former stadium has not hosted a speedway event since 2016, any need that might remain can be met from the several tracks which remain³². There are no “*accessibility standards*” in motorsport, as acknowledged in the 2019 WYG Report³³. Though a number of tracks are some distance, the sport has continued and evolved without the appeal site; the history and previous fanbase is not enough justification³⁴.

Whether it is financially viable to reinstate the speedway stadium

²⁶ Paragraph 9.1.17, PoE Matthew Chard

²⁷ CD8.1

²⁸ Paragraph 5.2, PoE Gareth Hooper

²⁹ Paragraph 5.85, PoE Gareth Hooper
³⁰ CD15.1.2

³¹ Paragraph 5.85, PoE Gareth Hooper

³² Paragraph 5.86, PoE Gareth Hooper

³³ CD15.1.2

³⁴ Paragraph 5.86, PoE Gareth Hooper

13. The WYG Report³⁵ concludes that the former stadium “*may struggle to be delivered viably in its current state and given the ownership would be difficult to deliver*”. It goes on to state that “*This is different however from whether a new stadium operated under a new model could potentially be operationally viable.*” However, even that is overly optimistic.
14. Mr. Osborne will give evidence as to the feasibility of the development and operation of speedway racing at Coventry Stadium concluding that there is no financial justification for the development of speedway racing facilities and, in the absence of a substantial grant of funds for the development of facilities, and the subsidy of operation costs, the operation of speedway racing at Coventry Stadium is not feasible at any level³⁶.
15. A Structural Condition Report of the former stadium conducted by Farrow Walsh Consulting in April 2023³⁷ confirms significant concerns regarding the condition of the former stadium which could not host any form of events without demolition and significant re-instatement. The Cost Report, prepared by international cost consultants Rider Levett Bucknall, provides a detailed breakdown of the cost for the demolition, refurbishment and construction required to restore the stadium back to a level where it could host the same level of activity as it did at the point of closure in 2016³⁸. The total cost of the works would be some £13.7M³⁹
16. The cost of re-instating the stadium to serve the previous uses is not viable and the operating costs are so high relative to the income that even if the stadium were re-instated, it could not operate on a financially stable basis longer-term without subsidy⁴⁰. This is in the wider context of the operational costs of speedway which means that the longer-term outlook for speedway as a sport looks, at best, uncertain⁴¹. More teams have indicated that they will not be competing next season due to commercial constraints and there is fan speculation of the need for the Premiership and

³⁵ CD15.1.2

³⁶ Executive Summary, PoE of Clarke Osborne

³⁷ Appendix 3, PoE Gareth Hooper

³⁸ Appendix 4, PoE Gareth Hooper

³⁹ Paragraph 1.2, Appendix 4, PoE Gareth Hooper

⁴⁰ Paragraph 5.89, PoE Gareth Hooper

⁴¹ Paragraph 5.87, PoE Gareth Hooper

Championship divisions to consolidate in order to maintain the required number of teams, riders and fixtures to fulfil their contractual obligations with broadcasters⁴².

17. Planning permission would be required to demolish and re-instate the former stadium in part or in whole. Mr. Hooper will explain why he does not consider that a positive outcome would be forthcoming⁴³. Moreover, even if consent were granted, it would likely be subject to conditions seeking to ensure that the operation of the site respected the amenity of the neighbouring residents limiting the operation of the stadium and adding significantly to the cost of the track⁴⁴.

18. A viable future for the stadium would need to rely on alternative uses. Mr. Osborne will also give evidence as to the alternate uses he has considered which can typically be combined with speedway tracks to promote better viability; however, none would assist in this case⁴⁵. Similarly, Mr. Hooper has considered alternate uses in planning terms but, as will be clear from his evidence, they are unlikely⁴⁶. It is clear that the Council do not have any plans for how the stadium could be brought back into use⁴⁷. Notably, they do not intend to present any of their own evidence at the appeal in relation to the future viability of the stadium.

Whether there is an identified need for the alternative sports provision proposed

19. The appeal proposal includes the provision of a 3G pitch and associated pavilion which would be available for use by the community, under a community use agreement⁴⁸. There is a clearly identified need for the same as will be explained through the evidence of Mr. Eady by reference to the Knight, Kavanagh and Page Ltd ('KKP') 3G Feasibility Study⁴⁹.

20. The feasibility study identifies a clear need for a 3G pitch plus ancillary facilities in the local area within which Brandon Stadium is located. There is a thoroughly evidenced

⁴² Paragraph 5.87, PoE Gareth Hooper

⁴³ Paragraph 5.34, PoE Gareth Hooper

⁴⁴ Paragraphs 5.50-5.52, PoE Gareth Hooper

⁴⁵ See paragraph 8.8 in respect of Greyhound Racing and paragraph 8.10 in respect of Stock Car Racing in the PoE of Clarke Osborne

⁴⁶ See paragraph 5.63 in respect of car boot sales and markets and paragraph 5.68 in respect of concerts/open air cinema, in particular, in the PoE of Gareth Hooper

⁴⁷ Paragraph 5.73, PoE Gareth Hooper. Note also paragraph 5.76 in respect of recent lessons learnt in respect of Belle Vue Speedway Stadium in Manchester.

⁴⁸ Paragraph 4.1, PoE Gareth Hooper

⁴⁹ CD3.1

3G pitch shortfall in the locality⁵⁰; based on football training requirements, both the new Coventry PPS and the KKP study identify that there is a shortfall of 3G provision across the two authorities resulting in a clear identified need for new full size 3G pitches to be established, with Brandon Stadium presenting an opportunity for this to be achieved⁵¹. Moreover, there is sufficient team-based demand from large local clubs and Sky Blues in the Community ('SBitC') to ensure a full programme of use at the proposed facility⁵². The feasibility study identified potential demand from 103 teams, increasing to 112 teams subject to management arrangements which is more than sufficient, particularly considering that the FA's model for determining the number of 3G pitches required estimates that 38 football teams can be accommodated on one full size pitch for training purposes such that it can be considered that around 38 teams need to be willing to access a 3G pitch for regular training activity to justify development and ensure financial sustainability⁵³. SBitC have also expressed an interest in accessing the proposed facility and runs various Football Association initiatives⁵⁴ feeding into the conclusion that sufficient demand has been identified to warrant the development⁵⁵. No alternative sporting options have been identified that are required or that would meet as much of a need⁵⁶.

21. The Feasibility Report demonstrates that any such pitch, including the proposed pavilion, would be a viable proposition⁵⁷. The evidence demonstrates that the five-year business plan confirms that the income generated by the pitch would enable it to remain viable and operational in the long term⁵⁸. As agreed by the Council in recommending the application for approval, the proposed 3G pitch should be afforded *substantial weight*⁵⁹.

⁵⁰ Paragraph 3.3, PoE John Eady

⁵¹ Paragraph 3.63, feasibility study, CD3.1

⁵² Paragraph 3.3, PoE John Eady

⁵³ Unless such usage is replaced by other forms of use or demand. See paragraph 3.64, feasibility study, CD3.1

⁵⁴ including Wildcats, Walking Football, and Player Development Centre training sessions. See paragraph 3.42, feasibility study, CD3.1

⁵⁵ Paragraphs 3.65 and 3.66, feasibility study, CD3.1

⁵⁶ Paragraph 3.66, feasibility study, CD3.1

⁵⁷ Paragraph 4.13, PoE Gareth Hooper

⁵⁸ Paragraph 4.13, PoE Gareth Hooper. See paragraph 6.1, feasibility study, CD3.1

⁵⁹ Paragraph 9.8, PoE Gareth Hooper

Whether the benefits of the alternative sports provision outweigh the loss of the former speedway use

22. It is very clear that the benefits the alternative sports provision would bring⁶⁰ outweigh the loss of the former speedway use such that the proposed development is in accordance with NPPF paragraph 99, criterion (c) and bullet point 3 of Policy HS4 (C) of the Local Plan. That is why, in recommending the planning application for approval, the Council’s officers determined that the benefits associated with the proposals outweighed any conflict with national and local planning policy⁶¹.
23. The former stadium has not provided any economic benefits to the local community since 2016⁶² and offers very little support to economic growth and productivity⁶³. The only economic benefit the site is currently generating is the £100,000 per annum cost the Appellant is paying to maintain and provide security on site⁶⁴.
24. Though SCS suggest that “very significant” economic benefits would have continued had the speedway not departed from the site, that is simply not realistic. Mr. Osborne will give evidence of the typical expenditure of a speedway operation making clear that seeking speedway racing promotion at Brandon at any level is not viable⁶⁵. It is clear that the expenditure generated by the former Speedway use is significantly lower than the appeal proposals would generate in construction and operation. Conversely, the appeal proposals will result in *significant* economic benefits in construction and operation which will be felt locally and, in accordance with paragraph 81 of the NPPF, should be afforded *significant* or *substantial* weight as agreed by the Council in recommending the application for approval⁶⁶.
25. The much-needed 3G pitch and associated pavilion which will create a community facility⁶⁷, but it would also deliver an alternative to the former stadium Neighbourhood

⁶⁰ Including participative sport provision in respect of the 3G pitch as compared to the spectator value of the speedway stadium

⁶¹ Paragraph 6.1, PoE Gareth Hooper

⁶² Paragraph 7.25, PoE Gareth Hooper

⁶³ Paragraph 6.20, PoE Gareth Hooper

⁶⁴ Paragraph 6.15, PoE Gareth Hooper

⁶⁵ Paragraph 8.9, PoE Clarke Osborne

⁶⁶ Paragraphs 6.20 and 9.5, PoE Gareth Hooper. See the assessment of economic benefits included with the appeal submission CD3.6 and CD3.7, together with the Assumptions Note prepared by Lichfield at Appendix 11 to the PoE of Gareth Hooper which provides an updated basis of the economic benefits derived from the appeal proposals.

⁶⁷ Paragraph 9.7, PoE Gareth Hooper

Plan defined ‘community facility’, secured through a community use agreement, which could be accessed and used by the local community in which it is sited⁶⁸. As such, the appeal proposals accord with Policies HS3 and HS4 of the Local Plan and with Neighbourhood Plan Policy LF1.

Other benefits of the proposal including the delivery of new market and affordable housing

26. There are a number of other significant benefits which the development proposal will bring.
27. The appeal proposals will result in the delivery of 124 new homes with a mix that the Council considers to be acceptable⁶⁹. Though the Council are able to demonstrate the required five-year housing land supply, this is a minimum rather than a maximum requirement. The Government is clear, through paragraph 60 of the NPPF, as to the need to support the Government’s objective of significantly boosting the supply of homes. Small and medium sized sites, such as this, can make an important contribution to meeting the housing requirement of an area and are often built-out relatively quickly⁷⁰.
28. Mr. Stacey will give evidence as to the need for affordable housing across Rugby Borough. Market signals indicate a worsening trend in affordability in the Borough relative to both the West Midlands region and England as a whole, this being an authority which, in his view, is “*facing serious and worsening affordability pressures, and one through which urgent action must be taken to deliver more affordable homes*”⁷¹. The provision of 25 affordable homes in compliance with Local Plan policy H3 will make a substantial contribution which should be afforded *substantial weight*⁷². It cannot be said that there is no need for additional houses, particularly when the contribution that the ‘affordable’ housing will provide to meet the clear need that exists for that form of housing⁷³.

⁶⁸ Paragraph 4.19, PoE Gareth Hooper

⁶⁹ See Table 6.2, PoE of Gareth Hooper for the percentage split of the market housing. See also paragraph 4.2, SoCG at CD14.1

⁷⁰ See paragraph 69, NPPF

⁷¹ Paragraph 12.34, PoE James Stacey

⁷² Paragraph 12.35, PoE James Stacey

⁷³ Paragraph 7.26, PoE Gareth Hooper

29. There will be *significant* social and environmental enhancements. In addition to the above, the appeal site is currently not accessible to the public. Not only will the site be brought back into beneficial use but the proposals will also provide a significant amount of open space, with the potential to create 370% more open space on site, than the policy requirement, which can be accessed by the public⁷⁴. This open space, including a large area the north of the site to adjoin the existing woodland, will be accessible by the public creating significant benefit whilst benefiting the openness of the Green Belt⁷⁵. Improvements to links from the site to existing public rights of way outside the site will also be secured via a financial contribution, thereby promoting increased usage⁷⁶.
30. The site is currently characterised by crumbling structures and a derelict appearance⁷⁷. *Significant* biodiversity net gain will establish coherent ecological networks that are more resilient to current and future pressures than the current use, assisted by the provision of a comprehensive scheme of landscaping⁷⁸. As agreed by the LPA in recommending the application for approval, these benefits hold *substantial* weight⁷⁹.

Whether the proposed development makes an appropriate contribution to education

31. A draft section 106 agreement has been reached between the Council and the Appellant which reflects a package of contributions necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind⁸⁰. A ‘blue pencil clause’ is included in the agreement in order that the Inspector can strike out any provisions which are not considered to be compliant with Regulation 122 of the CIL Regulations.

The overall Planning Balance and conclusion

32. Critically, the appeal proposals will deliver 124 dwellings, including much needed affordable properties, in a sustainable location whilst also providing an alternative

⁷⁴ Paragraph 6.24, 6.26 and Table 6.1 – Indicative Open Space Provision, PoE Gareth Hooper

⁷⁵ Paragraph 6.26, PoE Gareth Hooper

⁷⁶ Paragraph 6.28, PoE Gareth Hooper

⁷⁷ Paragraph 6.29, PoE Gareth Hooper

⁷⁸ Paragraph 6.30, PoE Gareth Hooper

⁷⁹ Paragraph 9.6, PoE Gareth Hooper

⁸⁰ Paragraph 8.2, PoE Gareth Hooper

sports and community facility, significant public open space, biodiversity net gain and significant economic benefits. As such, the significant benefits are consistent with the objectives of national, local and neighbourhood plans⁸¹.

33. Set against even the alleged harm, it is clear that the benefits of the development are not demonstrably outweighed. Accordingly, for all of these reasons, it will be respectfully suggested in due course that the Inspector allows the Appeal.

PETER GOATLEY KC

LEANNE BUCKLEY-THOMSON

19th September 2023

⁸¹ Paragraph 7.34, PoE Gareth Hooper