

**FORMER DEBENHAMS,
HIGH STREET/THAMES STREET,
STAINES**

APPEARANCES ON BEHALF OF THE APPELLANT

COUNSEL:

Paul G Tucker KC
Arevik Jackson

INSTRUCTED BY:

Cerda Planning Limited

WITNESSES:

Heritage: Gail Stoten BA (Hons) MCIfA FSA Heritage Executive Director Pegasus Planning Group

Townscape and character: Colin Pullan BA (Hons) DipUD, Director Urban Design & Masterplanning
Lambert Smith Hampton

Planning: Richard West BA (Hons) MRTPI, Director Cerda Planning Limited

**FORMER DEBENHAMS,
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OPENING SUBMISSIONS ON BEHALF OF THE APPELLANT

1. This appeal relates to a decision of Spelthorne Council to refuse a planning permission for the redevelopment of a highly accessible 0.28Ha site known as 'Former Debenhams, High Street/Thames Street, Staines'. The appeal scheme proposes demolition of the former Debenhams Store and its redevelopment to provide 226 Build-to-Rent dwellings (Use Class C3) and commercial units (Use Class E) together with car and cycle parking, hard and soft landscaping, amenity space and other associated infrastructure and works. The proposals involve two tall buildings linked together by a double height single storey plinth, which will, on any view provide a landmark on a key road junction at the Western end of the High Street, at its junction with Clarence Street and Thames Street.
2. The former Debenhams store closed in 2021, as a result of structural financial issues with its parent company's operations. It is however, one of very many casualties of the decline in the department store as an integral part of the British High Street, and Debenhams is one of a number of national brands that once dominated this part of the retail market. Unsurprisingly therefore as a very large purpose built 1960s department store it has proven impossible to find a similar occupier to Debenhams. The market evidence underpinning the viability evidence is to the effect that there is no prospect of such tenant emerging to take a building of this kind.
3. After a period of complete vacancy, at present, most of the building remains vacant save for the ground floor, which has been recently let on a short-term basis by Home Essential and Furniture (a low-cost local retailer selling second hand furniture, mattresses, bed furnishings and the household items). The use resembles nothing more than a market stall 'selling cheap items,'¹

¹ CD11.21 Appellant Planning PoE Appendix 3

whose rent does no more than cover some of the Appellant's holding costs of the building. There is no demand for this unit from regional or national retailers.²

4. However, on the positive side, is that the issue between the parties is not the retention of the former Debenham's building but rather whether the quality of what is proposed to replace it is of a sufficiently good quality to warrant the grant of permission. It is agreed by the parties that the site constitutes previously developed land within an urban area in a highly sustainable location in Staines Town Centre, and that any redevelopment should make efficient use of land consistent with national policy³. The draft Local Plan allocation makes it clear that the principle of a mixed-use redevelopment, comprising retail and residential, on the site is acceptable. The draft allocation does not propose the retention of the existing building, but rather its redevelopment for approximately 150 dwellings and 500 sqm of retail space⁴.
5. Nonetheless, the Appellant has still considered the ability to convert the existing building for residential, the Conversion Feasibility and Viability Study⁵ illustrates that the options considered achieve a substantial negative land value. As such, the existing building cannot be viably converted for residential purposes. Façade retention is not proposed by any party.
6. Should the appeal be dismissed the future of the building is likely to be bleak. It will potentially have some level of retail at ground floor and a possibility of a leisure use at 1st floor level with the rest of the building remaining vacant. It is assumed that it will need to be mothballed.
7. In contrast, should the planning permission be granted, the scheme would bring significant benefits through creation of 226 new households, generating demand for local shops and services, within a high quality contextually appropriate new building.
8. It would generate additional short-term expenditure and create construction and supply chain jobs. During the construction period the additional economic output of the site could be £38.5m.
9. Resident expenditure could potentially generate up to £6m in available retail and leisure expenditure related to town centre uses per annum.
10. It would support operational jobs related to the management and maintenance of the building, as well as retail.

² CD11.21 Appellant Planning PoE Appendix 3

³ NPPF para 125(c)

⁴ CD11.9 SOCG para 4.17-4.18

⁵ CD11.3

11. The site would result in an additional 226 households living within the town centre and adding to its economy and vibrancy.
12. The proposal would deliver much needed new homes to address the agreed immediate deficit, 22% of which would be affordable.
13. It would improve the residential environment by delivering high-quality residential scheme and replace and enhance the existing bus stop facilities on Thames Street.
14. It would include £70 000 contribution towards improvements to open space at the Memorial Gardens. Its landscape proposals on the amenity space would allow for the creation of new and enhanced habitats.
15. The proposal would incorporate a variety of energy reducing measures and take fabric first approach. All of the car parking spaces would be served by electric vehicle charging points.
16. There remain only two reasons for refusal. The first one relates to alleged harm to designated and non-designated heritage assets (claimed conflict with EN5 and EN6 of the Core Strategy). The second one – to the character and appearance of the area (claimed conflict with EN1 and EN9 of the Core Strategy).
17. In so far as the third reason is concerned – the one relating to affordable housing provision, it is now overcome⁶. The parties have agreed that a provision of 50no. (22%) units is the maximum that can be viably sought from the development. The affordable housing will be delivered as Private Affordable (Discount Market) Rent with the level of discount being 20%. In accordance with the requirements of the emerging policy, the scheme will be subject to a Late Stage Review Mechanism – the purpose of which will be to capture, for the community, a share in any improvement in the viability of development which may occur over the lifetime of the project. The Late Stage Review Mechanism along with the agreed affordable mix and tenure will be set out within the section 106 agreement.
18. In view of the agreed position, the proposals are now in accordance with the policy HO3 (affordable housing) of the Core Strategy.
19. The context for the consideration of this appeal is that the Council is in immediate need of additional housing, which the proposed scheme can deliver. The Appellant is confident that it would deliver the units within the 5-year period.

⁶ CD11.10 SOCG Affordable Housing & Viability

20. The Council agrees that it is unable to demonstrate a five-year supply of deliverable housing in accordance with the Framework. Whilst the precise shortfall is not agreed, it is agreed that the deliverable supply is within the range of 2.78 to 3.52 years. The inspector is invited to determine the appeal having regard to that range within the context of the current Framework⁷, & the parties do not consider that it is necessary to resolve exactly whereabouts in that range the deficit falls – since either way it is palpably significant. Thus, the Council assesses the benefits of the scheme in this regard should attract significant weight & the Appellant’s assessment of substantial weight to the benefit of providing 226 new homes.
21. The Council’s latest housing delivery test result is a meagre 69%⁸.
22. Given the lack of 5YHLS and in view of the poor HDT result, the presumption in favour of sustainable development applies⁹.
23. Unless the presumption is displaced – the Inspector should be disposed to allow the appeal.
24. It is the Appellant’s firm submission that the presumption is most certainly not disengaged by reason of any claimed harms to the heritage assets.
25. The Inspector will hear from the Appellant’s heritage witness Ms Stoten. In summary, she concludes that the harms, as alleged by the Council to a number of heritage assets, are misconceived.
26. In respect of the site itself – the Inspector will note that Historic England declined to accede to the Council’s request to list the building for reasons explicitly relating to the relatively low historic and architectural interest of the building. Subsequently, the Council resolved to locally list the building and then purported to extend the Conservation Area to include the site.
27. That extension has been quashed by the court¹⁰, the judicial review brought by the Appellant having succeeded on three out of four grounds. As such, the site remains outside of the Conservation Area, but within its setting.
28. As to the Council’s consideration of the significance of the current building, the Council’s heritage witness – Dr Barker-Mills, goes as far as to briefly note the biography of the building’s architect – George Coles, thereby, seemingly emphasising the significance of the building. He

⁷ CD11.12 SOCG Housing Land Supply para 1.6

⁸ CD11.12 SOCG Housing Land Supply para 1.3

⁹ NPPF para 11(d) and footnote 8 of the Framework

¹⁰ CD8.2

makes a reference to the building being George Coles' 'one of, if not his last, works'¹¹. Being a late work of even a talented artist is not of itself an accolade as anyone who has had to study the later works of Wordsworth can attest.

29. The Inspector will hear the evidence and come to her own views on the matters of heritage.
30. It is hoped that she will be assisted by Ms Stoten's pragmatic and fair analysis of the position – in particular, describing the significance of the current building equating to a non-designated asset of low significance on the scale of significance for non-designated heritage assets. Whilst by a named and known architect, Coles, the neo-Georgian design of the building does not fit within his far more celebrated corpus of work.
31. The Inspector will hear Ms Stoten's analysis in respect of the proposed development's impact on the heritage significance of the Conservation Area and the designated/non-designated heritage assets in the vicinity.
32. Overall, the Council's heritage case is inconsistent and crucially seems to fail to consider the permitted Masonic Hall development as part of the baseline assessment¹² even though it is under construction. Furthermore, it contradicts the Council's previously adopted position in respect of the Masonic Hall development¹³.
33. Inspector will hear evidence from the Appellant in respect of compliance with the relevant policies and the Framework, however, at this juncture, it is convenient to note that policies EN5 and EN6 are out of date and inconsistent with NPPF. Furthermore, there is no conflict with the policy PS3 (Heritage, Conservation and Landscape) of the emerging Local Plan even though the policy is also inconsistent with the Framework.
34. The Inspector will hear urban design/townscape evidence from Mr Pullan for the Appellant.
35. The context for her consideration is that the site is positioned within an area of change with taller buildings in the surrounding area forming the obvious part of the emerging context.
36. Whilst the current predominant building height in the immediate vicinity of the site range from 1-6 storeys, the adjacent recently permitted scheme at the former Masonic Hall (2021) provides obvious context for taller, higher density development at 13-15 storeys, within the immediate vicinity of the appeal site.

¹¹ CD11.22 SBC PoE Heritage

¹² CD11.26 Appellant Rebuttal PoE Heritage para 3.1

¹³ CD11.26 Appellant Rebuttal PoE Heritage para 3.5

37. In addition, there is a number of developments nearby, which have already been approved, constructed and are under construction for proposals up to 13 storeys. These include former Majestic House Site, 17-51 London Road (known as Eden Grove) site and Renshaw Estate¹⁴.
38. The Council has confirmed that it raises no in principle objection to replacement buildings on the appeal site being taller than neighbouring buildings¹⁵. It has also accepted that the appeal site is at a prominent town centre corner and that the former Debenhams building has a 'landmark' status¹⁶. And yet the proposed scheme is effectively criticised for being too prominent. The Council's heritage witness refers to the development as 'inescapable', and 'demanding attention'¹⁷. Surely those are obvious characteristics of a landmark building in a key location?
39. And the appeal scheme has been consciously designed to be a landmark building.
40. The proposal has the characteristics of a landmark building not least because it replaces the current landmark building. Indeed, the proposal before the Inspector are the product of several reviews, developed with and amended to reflect the key landmark features of the existing store.
41. With the existing tall buildings that are/will be prominent landmarks within the town centre, it will positively contribute towards the legibility, vibrancy, and urban density of the town centre 'signposting' the heart of the centre and the High Street¹⁸.
42. It is crucial to note that, whilst the appeal site would present a noticeable difference in height, scale, and massing – it is not an incongruous one within the wider townscape.
43. The recently permitted Masonic Hall and Elmsleigh Road site inevitably provides context to the appeal site. It is not only immediately adjacent to the site but is also of comparable height, form, and design. The appeal proposals will form part a logical extension to an emerging cluster of tall buildings in a logical and positive manner.
44. When considering the Masonic Hall scheme at the appeal in 2021, Inspector Worden, allowing the appeal, had noted that the scheme which he said would 'undoubtedly draw the eye', would not appear as out of context in a town centre townscape consisting of a collection of large buildings of various style and form¹⁹.

¹⁴ CD11.21 Appellant PoE Planning Appendix 1

¹⁵ CD11.9 SOCG para 4.48

¹⁶ CD6.2 Officer Report 30 March 2022 para 3.5(a)(i)

¹⁷ CD11.22 SBC PoE Heritage para 9.14

¹⁸ CD11.15 PoE Appellant Urban Design para 2.15

¹⁹ CD 8.22 Masonic Hall Appeal decision para 23

45. There are also other tall buildings, such as those located in Charter Square, which, contrary to the Council's assertion, provide appropriate context for assessing the townscape impact of the scheme (in line with the observations made by Inspector Warden at the Masonic Hall appeal²⁰).
46. It is hoped that the Masonic Hall appeal documents would assist the Inspector by providing her with a reference point for scrutinising the Council's somewhat inconsistent position, including in relation to the views expressed at the previous appeal by the Council's urban design/planning witness – Mr Hughes²¹.
47. Overall, Mr Pullan's evidence will demonstrate that there is no conflict with the relevant policies (EN1 and EN9). It will also show that within the context of the guidance of the NDG and NMDC, and with reference to the relevant policy, it is an attractive scheme of the form, scale, and mass of the two buildings being distinctive but similar to those approved at the adjacent former Masonic Hall and Elmsleigh Road site.
48. Similarly, the Inspector will hear evidence in relation to there being no conflict with the policy PS2 (Designing Places and Spaces) of the emerging Local Plan.
49. In relation to policy SP1 of the Emerging Local Plan (which sets out that recognising its size, location and significant opportunity for further regeneration, Staines-upon-Thames will be a key focus for housing, employment, and retail development in the Borough) – the guidance for how the town grows sustainably will be provided within the new Staines Development Framework ('SDF') to deliver development to meet need.
50. The Inspector will hear from the Appellant's planning witness – Mr West, in relation to the draft SDF (and therefore the height and density limits within, applying to 5-6 storeys buildings etc.) which, whilst having unclear evidence base, and problematic policy status, is being used as a 'throttle upon making efficient use of land in the manner envisaged by the national policy'²².
51. The appeal proposals comply with the quantum of residential and retail spaces sought within Allocation ST4/019 (Former Debenhams Site, High Street).
52. It is firmly submitted that the appeal proposals accord with the policies of the Development Plan, when read as a whole. Notwithstanding this, it is recognised that there are harms to arise.

²⁰ CD8.22 Masonic Hall Appeal decision para 33

²¹ CD11.27 Appellant Rebuttal PoE Urban Design para 1.30-1.35

²² CD11.21 PoE Appellant Planning para 8.84

53. Any adverse impacts of allowing the appeal would not significantly and demonstrably outweigh the benefits and comes nowhere close to displacing the presumption in favour of sustainable development.
54. Overall, the issues are narrow and clear – the grant of a planning permission would assist with the delivery of much needed housing. The development would provide numerous benefits which are not demonstrably outweighed by any adverse impacts the Council seeks to argue.
55. The inspector will in due course be invited to allow the appeal.

Paul G Tucker KC
Arevik Jackson
1 May 2023

Kings Chambers
Manchester, Leeds, Birmingham