

APPEAL
BY
SALTER PROPERTY INVESTMENTS LTD

**LAND NORTH OF SPRUCE CLOSE AND EAST OF CELIA
CRESCENT, EXETER**

REBUTTAL PROOF OF EVIDENCE

OF

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1. Scope and Purpose

- 1.1 This rebuttal proof of evidence has been prepared in response to evidence submitted to the Inquiry on behalf of the Rule 6 Party, Exeter Green Spaces Group (EGG).
- 1.2 The particular focus is on the following matters:
- The evidence of Reverend Stephen Hanna in relation to the existing open space to the north of Spruce Close and south of the Appeal site.
 - The evidence of Dr Gillian Baker in relation to walking distances and times to local facilities.

2. Open Space North of Spruce Close

- 2.1 In Section 4 of his Proof of Evidence Reverend Hanna sets out the importance to the local community of the existing open space between the southern boundary of the Appeal site and existing residential properties fronting onto Spruce Close. Notwithstanding the realignment of the proposed access road across the existing area to reduce its impact on the space, concerns remain relating to the utility of the residual area.
- 2.2 In Section 5 of his evidence, Reverend Hanna undertakes an assessment of the proposed compensatory public open space and concludes that it will not provide the same recreational, community and amenity value. His conclusions are drawn on the basis that the proposed New Valley Park to the north of the Appeal site is to provide the replacement public open space to compensate for the area lost to the proposed access road. However, that is not the case since the compensatory provision comprised within the Appeal proposals is on land within the Appeal site that is immediately adjacent to the existing open space to the north of Spruce Close, and which considerably exceeds the area of that which will be lost to the access road.
- 2.3 It is significant that Reverend Hanna's assessment is silent on the compensatory provisions made within the Appeal site immediately adjacent to the existing public open space to the north of Spruce Close. The New Valley Park is not proposed as compensation for the loss of public open space to the access road, but to provide accessible green infrastructure that will be 'additional' to the compensatory provisions made within the Appeal site itself.
- 2.4 The existing and proposed areas of public open space are illustrated on the drawing (right). The land shaded in brown is the existing area of public open space, whilst that shaded in pink is the additional area that will be provided within the Appeal site and which will be contiguous with the existing area of public open space. The land outlined in blue is that which will be lost to the access road.



2.5 The existing and proposed areas are as set out in Schedule 2.1 below.

Schedule 2.1: Public Open Space North of Spruce Close – Pre- and Post-Development

Area	Shading	Quantum (m ²)
Total Existing	Brown + Blue	8,016
Loss to Access Road	Blue	-481
Gain within Appeal site	Pink	+ 3,616
Total Post Development	Brown + Pink	11,151
Total Post Development – West of Access Road	Brown + Pink	8,422
Net Loss / Gain	Pink - Blue	+ 3,135

2.6 As is confirmed by the details in the Schedule, there will be a net increase in the quantum of public open space immediately to the north of Spruce Close of 3,135m² post-development, an increase of over 39%. Moreover, the resultant area to the west of the access road where the existing area is at its deepest and therefore considered to be the most useable, will be 8,422m², and therefore equate to 105% of the total area of public open space that is currently available to the north of Spruce Close. The area of uninterrupted open space to the west of the access road alone, where it is most useable due its depth, will therefore exceed the total area of the existing open space post-development.

2.7 In the light of the foregoing it is considered that there will be both quantitative and qualitative enhancements of the public open space provisions immediately to the north of Spruce Close post-development. The locational and topographical disadvantages alleged by Reverend Hanna do not arise since the replacement provision is directly contiguous with the existing public open space, and not to the north of the Appeal site as contended.

2.8 As is set out in the Appellants' main evidence, the provisions adjacent to the southern boundary of the Appeal site were enhanced post-submission of the application in response to the comments of the Council's Public and Green Spaces Officer¹. Following the revisions, the Council's Public and Green Spaces Officer confirmed that the updated arrangements maintained a much more usable area with similar levels of play potential to the existing

¹ Roche, PoE, paras. 7.61-7.63

space, with the creation of a new POS within the application area adjacent to the retained green space meaning that the POS looked to have a similar area to the existing². On this basis she withdrew her objection. As outlined above, the addition of the new POS within the Appeal site adjacent to the exiting POS will result in a new area to the west of the access road alone that exceeds the total area of the existing POS.

- 2.9 Following the incorporation of a LEAP adjacent to the northern boundary of the Appeal site, the issues raised by the Public and Green Spaces Officer were fully resolved. Conflict with Policy ELPFR L3 is not alleged by the Council in either its refusal reason or their evidence to this Appeal.
- 2.10 The on-site provision of a LEAP and LAP will benefit not only the future community on the Appeal site, but the existing resident community to whom it will be accessible. This will further enhance the open space assets that are available to the wider local community.
- 2.11 It follows from the above that the proposals for the New Valley Park exceed the requirements to which the proposed development give rise, and are wholly in the nature of an additional community benefit. It is common ground between the Appellants and EGG that there are currently no legal rights of public access to either the Appeal site or the land comprising the proposed New Valley Park³. It therefore follows that, to confer such rights to access land which is evidently valued by the community but current use of which is unauthorised and tantamount to trespass, is reasonably construed as a significant community benefit.

² Ibid, para. 7.63

³ SoCG between Appellants and EGG, para. 1.5

3. Walking Distances and Times to Local Facilities

3.1 In her Proof of Evidence relating to Locational Sustainability, Dr Baker contests the estimated walking times set out in the Agreed SoCG (Transport) between the Appellants and Devon County Council⁴. She purports to have recalculated the journeys utilising a walking speed of 1.31m/sec (2.9 mph) that is understood to be taken from an academic research study conducted in New Zealand.

3.2 The walking times set out in the SoCG (Transport)⁵ are based on an average walking speed of 1.4m/s (3 mph). The legitimacy of this figure is found in professional guidance published by The Institution of Highways and Transportation, and which advises as follows in relation to 'acceptable walking distances':

An average walking speed of 1.4 m/s can be assumed, which equates to approximately 400 metres in five minutes or three miles per hour.⁶

3.3 This guidance is widely used by transport professionals for computing walking times and distances, and is a generally accepted metric for use in transport assessments. It is endorsed by other guidance, in particular Manual for Streets which equates 10 minutes walking distance with 800 metres⁷.

3.4 It is germane that the difference between the Appellants and EGG in terms of assumed average walking speeds is small at just 0.1 mph. It is therefore surprising that the computed differences between the parties in terms of the walk times to the identified facilities seem disproportionately greater⁸.

3.5 The walk times set out in Table 3.1 in the SoCG (Transport) are based upon walk times identified by Google Maps Route Planner. The algorithm assumes a walk time of 3 mph, and also identifies slopes / gradients similarly to the platform used by EGG.

⁴ Dr Baker, PoE, paras. 5.4-5.5

⁵ CD-ID5

⁶ The Institution of Highways and Transportation, Guidelines for Providing for Journeys on Foot, 2000

⁷ Department for Transport, Manual for Streets, 2007, para. 4.4.1

⁸ Dr Baker, PoE, Table 5.5.1

3.6 When subject to scrutiny, it is evident that, whilst the walk times in the SoCG (Transport) reflect the average walking speed (of 1.4m/s) that the parties to it have assumed, and which is consistent with the professional guidance outlined above, the alternatives provided by Dr Hanna do not reflect journey times calibrated using 1.31 metres/second as suggested in her PoE⁹. Without exception, the walking speeds reflected in the walk distances and times set out in Table 5.5.1 of Dr Baker's Proof of Evidence considerably underscore the metric that she purports to use, and compute to a maximum of 1 metre/second. This accounts in significant part for the time differences to the respective facilities set out in Table 5.5.1 of Dr Baker's evidence.

3.7 The discrepancies are set out in Schedule 3.1 below. The distances are taken from Table 5.5.1 in Dr Baker's Proof of Evidence, and the walking speeds to which they compute are based on the journey times also set out in that table. The adjusted time comparison recalibrates Dr Baker's walking times to reflect a walking speed of 1.31m/s which she purports to use in her assessment. As will be clear from the Schedule, following recalibration, the discrepancies in journey times between the parties are much reduced. The residual discrepancies are largely accounted for by the differences in journey distances, those used by Dr Baker in every instance exceeding those agreed between the Appellants and the Highway Authority, and by a margin of between 5% and 26%.

Schedule 3.1: Walk Time Analysis

Facility	Distance (metres)		Speed (m/sec)		Time Comparison (Adjusted) ¹	
	Appts	EGG	Appts	EGG	Appts	EGG
St James School	650	802	1.5	0.95	7	10
Northbrook Swimming Pool	760	816	1.4	0.91	9	10
Willowbrook School	800	1010	1.5	0.94	9	13
Spar	1000	1092	1.4	1	12	14
GP Practice	1500	1642	1.4	1	18	21
Morrisons	1600	1747	1.4	1	19	22
Polsloe Bridge Station	1900	2003	1.4	1	22	25

¹EGG walk times recalibrated based on walking speed of 1.31m/s

⁹ Dr Baker, PoE, para. 5.5

- 3.8 Based on the above analysis it is the Appellants' submission that Dr Baker's contention that the Appellants have underestimated the walking times to local facilities, is not supported by the evidence. When subject to scrutiny, it is evident that Dr Baker's time calculations are based on unjustifiably low walking speeds (max. 1m/s), which neither reflects the speed that she purports to use (1.31m/s) nor that which is deemed appropriate in relevant professional guidance. In addition, her journey times are inflated by walking distances that, in every instance, exceed those agreed between the Appellants and the Highway Authority, and in some instances by a margin in excess of 25%.
- 3.9 It is pertinent to note Dr Baker's recorded data from an actual journey between Morrisons and the Appeal site¹⁰. The total distance for that trip is recorded as 1500 metres. That endorses the agreed figure in the SoCG (Transport) of 1600 metres¹¹ (given that the starting point was 100 metres from the store) and is significantly below the higher figure of 1,747 metres contended by Dr Baker¹². Perhaps even more significant is that the actual recorded journey time (of a person carrying half a week's shopping for two adults) was 19 minutes, 40 seconds. This is again in close alignment with the agreed time of 19 minutes set out in the SoCG (Transport), and a long way short of the 28 minutes contended by Dr Baker in Table 5.5.1 of her Proof of Evidence. It also equates to a walking speed of 1.3 metres per second, compared with EGG's computation in Table 5.5.1, which equates to just 1 metre per second.
- 3.10 The foregoing evidence from an actual shopping trip therefore corroborates the agreed position in the SoCG (Transport), and endorses the Appellants' view that the alternative journey times set out by Dr Baker are based on inflated distances and suppressed walking speeds that are not faithful to the walking speed that she purports to form the basis of her reassessment. As such, it is the Appellants' submission that her evidence on this matter must be treated with caution.
- 3.11 Whilst Dr Baker seeks to rely on the conclusions of the Inspector in relation to the Pennsylvania Road Appeal, it is important to construe the Inspector's comments that she cites in their wider context, which was the Inspector's finding that the proposals would not

¹⁰ Ibid, p.12, para. 6.4, Figure 6.4.1

¹¹ CD_ID5_SoCG (Transport), p.3, Table 3.1

¹² Dr Baker, PoE, p.7, Table 5.1.1

provide safe pedestrian access from the site¹³. Moreover, in the circumstances of that case, neither ECC nor the Highway Authority construed the site to be in a sustainable location. It is therefore not only a different site in a different location, but also gave rise to very different accessibility circumstances and concerns.

3.12 The accessibility of the current Appeal site is properly considered on its merits in the context of the evidence to this Inquiry. That includes the common ground between the Appellants and both ECC and the Highway Authority that the current site is in a sustainable location in relation to local facilities and public transport services¹⁴.

3.13 Finally, in relation to Dr Baker's evidence concerning Bus Services, her comments are made in relation to the service as it currently exists. The extension of the service more widely through the existing development will, as stated by the Stagecoach, increase 'substantially' the 'convenience' of access to the bus network for the immediate vicinity, allowing the service operator 'to serve not only the site, but Pinwood Meadow Drive, and existing development to the west of the site further uphill than the current terminus', meaning that 'convenient access to the service is assured for many more people'¹⁵. As confirmed by Stagecoach, this will provide existing and new residents with 'real choice' as to how they travel, which is consistent with the salient test in the NPPF to provide a 'genuine choice' of transport modes¹⁶. The Appeal proposals will deliver that 'genuine choice' for existing and future residents.

¹³ CD-A14_Appeal ref. 3265253, para. 101

¹⁴ CD-ID4_SoCG (General), paras. 6.2 and 6.16; CD-ID5_SoCG (Transport), para. 3.3.2

¹⁵ Roche, PoE, para. 7.38

¹⁶ NPPF, para. 105

4. Conclusion

- 4.1 For the reasons outlined above it is concluded that the value and utility of the existing open space to the north of Spruce Close and south of the Appeal site will be protected and enhanced through the additional contiguous provisions that are included in the Appeal site. It will result in an uninterrupted area to the west of the access road that exceeds the total area of the existing open space, and will also deliver a significant additional area to the east of the proposed access road. Compensatory provisions of more than equivalent amount and value are therefore made in situ, with additional provisions, including a LAP and a LEAP, being made elsewhere within the Appeal site.
- 4.2 The New Valley Park proposals are in addition to the on-site provisions which are sufficient to meet the requirements of the development, and should accordingly be construed as a significant community benefit since they will deliver substantial additional green infrastructure which is not currently available to the local community, and therefore 'capable' of delivering such benefits.
- 4.3 The Appellants therefore reject Reverend Hanna's contention that the proposals will result in the diminution of the value of the existing green space to the north of Spruce Close and south of the Appeal site, or that the benefit of the proposed New Valley Park has been overstated.
- 4.4 The Appellants also reject Dr Baker's contention that the walking times set out in the agreed SoCG (Transport) are inaccurate. They are based on an accepted metric, which is not dissimilar to that which Dr Baker purports to use for the purposes of her own analysis. However, when subject to scrutiny, Dr Baker's alternative analysis deploys walking speeds that are considerably below the metric which she purports to use, and applies these suppressed speeds to inflated walking distances, the combined effect of which is to exacerbate the differences between herself and the Appellants. However, the acid test of the data from an actual shopping trip corroborates the veracity of the agreed position in Table 3.1 of the SoCG (Transport), and conflicts with Dr Baker's own analysis set out in Table 5.5.1 of her Proof of Evidence.

- 4.5 The circumstances are materially different from the Pennsylvania Road Appeal, where the Inspector found that the proposals would not provide safe pedestrian access from the site, and neither ECC nor the Highway Authority considered the site to be in an accessible location. The current Appeal site is in a different location, with different accessibility credentials, and the evidence to this Appeal is that it is in a sustainable location in relation to local facilities and public transport nodes, and that, through the enhancements to public transport services proposed, both existing and future residents will be provided with a 'genuine choice' of transport modes.

