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Standing up for Hertfordshire's countryside

Mrs. Elizabeth Aston  
Development Control  
Welwyn Hatfield Borough Council  
Campus East  
Welwyn Garden City  
Herts. AL10 6AE

Our Ref:

Your Ref:

17<sup>th</sup> April 2020 (by email)

Dear Mrs. Aston,

**Application No. 6/2020/0714/MAJ**

**Erection of 7 x 4-bed detached dwellings with associated detached garages, parking and amenity areas following demolition of all existing buildings and structures. Change of use of eastern section of land to paddock and alterations to existing access road.**  
**On Land North Of Oakleigh Farm, Codicote Road, Welwyn.**

This letter is being written jointly to North Hertfordshire District Council and Welwyn Hatfield Borough Council in respect of Applications nos. 20/00598/FP and 6/2020/0714/MAJ respectively.

This site lies in the Metropolitan Green Belt. The boundary between the two councils divides it, with approximately one third of the site in North Herts and two thirds in Welwyn Hatfield and the proposed development straddles that boundary. The layout of the development is such that the applications cannot be determined in isolation, but only by joint co-operation between the Councils. The documentation submitted to each Council is identical.

In preparation for submitting this application for residential development, the applicant sought certificates of lawful development for the existing mixed uses on the site. According to the Planning Statement, the two authorities took different views, with North Herts granting approval for those buildings within their jurisdiction and Welwyn Council taking the view that they considered the whole area one planning unit and refusing the application. Clearly this is not a situation which can be sustained and, until it is resolved, these applications cannot be determined.

The bulk of the Planning Statement is taken up with explanations of the various activities undertaken in each of the buildings on the site. This clearly demonstrates that the site, in its totality, is one of mixed use. The determination of the planning unit in such a situation is clear, first established in the case of *Burdle v. Secretary of State for the Environment*, namely that the planning unit "*will comprise the entire unit of occupation even though the occupier*

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*carries on a variety of activities and it is not possible to say that one is incidental or ancillary to another. This is well settled in the case of a composite use where the component activities fluctuate in their intensity from time to time but the different activities are not confined within separate and physically distinct areas of land.”* Consequently, in our view, Welwyn Hatfield are correct in considering the whole area to be one planning unit.

Probably acting on the position taken by North Herts, the applicant appears to consider that the site is previously developed land, development is appropriate under para. 145(g) of the National Planning Policy Framework and so presents no planning case. In determining the planning balance, it will therefore be necessary for both Councils to agree the quantum of lawful uses on the whole site, and whether or not the proposed development represents a greater spatial and visual impact on the openness of the Green Belt.

Because the applicant has submitted applications to both authorities, what is essentially the same application will be considered against two different Local Plans and sets of policies. We urge the Councils to resolve the issue of lawful use of the current site and, to avoid unnecessary and wasteful duplication of resources, to agree with the applicant that one Local Planning Authority acts on behalf of both.

Yours sincerely,

David Irving

cc Andrew Hunter, North Herts District Council