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Standing up for Hertfordshire's countryside

James Langsmead
Development Control
East Hertfordshire District Council
Wallfields
Pegs Lane
Hertford
SG13 8EQ

Our Ref:

Your Ref:

20th March 2020 (by email)

Dear Mr. Langsmead,

Application No 3/20/0344/FUL
Erection of 18 new family dwellings (9 semi-detached/terraced; and 9 detached) and 46 parking spaces at Railway Meadow, London Road, Spellbrook, Hertfordshire

CPRE object to the proposed intensification of development on this Green Belt site outside the settlement boundary of Spellbrook.

In 2016 the Council granted approval for seven dwellings on this site, forming a terrace along the A1184 frontage, which matches the rest of the development pattern from Spellbrook Lane northwards (3/16/2331/FUL). The remainder of the site was retained as open land containing landscape features and a pond.

The applicant argues that that approval effectively designated that whole site as a limited infill site and the present application seeks to maximise the development potential of the whole site. In our view, the development of the remainder of the site constitutes inappropriate development.

The character of development along this section of the A1184 is of a series of terraces interspersed with commercial sites. There are no culs-de-sac of the type proposed here, and no detached properties set well back from the road, also as proposed here. We note that in its pre-submission guidance, the Council expressed the view that *"a row of semi-detached houses on the site frontage could be considered as limited infill notwithstanding the site's location outside the village boundary. The acceptability of the row of detached houses behind is not so apparent."* The creation of a cul-de-sac of detached properties and a further three detached houses beyond that would be incongruous in this location.

While the applicant assumes the entire site can be considered as limited infill and as such development is not inappropriate under the provisions of the National Planning Policy

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Chairman: Richard Bullen

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Framework para. 145(e), there is no definition of 'limited infilling' within the NPPF. However, there are now sufficient appeal decisions which have created a generally accepted definition of infilling, which is described as "*the development of a small gap in an otherwise continuous built-up frontage, or the small-scale redevelopment of existing properties within such a frontage.*" (e.g. APP/C3620/W/15/3005744). That does not extend to developing the back-land as an enclave of detached houses. The terrace along the road frontage is limited development, the maximisation of development on the rest of the site is not.

To an extent the applicant seems to recognise this without overtly saying so. In the Planning Statement they say at para. 6.37, that the three detached houses beyond the cul-de-sac "*are felt to be in accordance with the NPPF exception for development in the greenbelt by way of their exceptional architectural design.*" In other words, they require justification by way of 'very special circumstances', which implies that they are inappropriate development in the Green Belt, which we believe they are.

The 'very special circumstance' presented is that the three detached 'eco homes' are of a unique design character (planning statement paras. 6.1.17, 6.2.8 and 6.3.7). However there is no demonstration that the proposed houses are fundamentally different from other 'eco homes'. Planning appeals have held that such houses have been around for a long time now and cannot be considered innovative. "*Genuine and significant innovation is unlikely to occur so frequently as to lead to more than a very small number of exceptions.*" (e.g. APP/N0410/A/14/2220241 para, 10.)

Similarly there seems to be a recognition that the proposed development will have an impact on the openness of the Green Belt. "*There will be no significant loss of the visual aspect of 'openness' of the Greenbelt as the site is well hidden and visually enclosed on all sides by high hedges and trees which are to be retained in full.*" (Planning Statement para. 6.1.13) which again appears to be a justification for breaching the requirements of NPPF para. 144 that inappropriate development should be refused unless there are very special circumstances to outweigh the harm to the openness and purposes of the Green Belt.

Timmins v. Gedling Borough Council (EWHC 654) held that "*any construction harms openness quite irrespective of its impact in terms of its obtrusiveness or its aesthetic attractions or qualities*". The recent Supreme Court judgement in Samuel Smith Old Brewery (Tadcaster) and others v North Yorkshire County Council held that "*in the individual circumstances of a particular case, there are likely to be visual as well as spatial effects of the openness of the Green Belt, and, if so, whether those effects are likely to be harmful or benign, will be for the decision-maker to judge. But the need for those judgments to be exercised is, in my view, inherent in the policy. ... In my view, therefore, when the development under consideration ... is likely to have visual effects within the Green Belt, the policy implicitly requires the decision-*

maker to consider how those visual effects bear on the question of whether the development would “preserve the openness of the Green Belt”.

The applicant also makes the argument that the Council cannot demonstrate a five year housing supply. (Planning Statement para. 6.1.5). The courts have held that in that case the NPPF does not prescribe the weight which can be given to Local Plan policies which are not for housing supply. Consequently the policies for protection of the Green Belt (in this instance GBR1) can be given due weight and taken into account when considering the planning balance. (Crane v. SoS (EWHC 425)).

Local Plan Policy HOU3 requires that developments of over 15 dwellings should contain 40% Affordable Housing. Consequently there should be a provision of 7 affordable units. The applicant offers 2. This is totally inadequate.

We also have concerns arising from the Noise Assessment study which indicates that the properties on the site will experience high levels of noise pollution even after the construction of an impervious 2.4 m high acoustic barrier along the entire A1184 frontage (which will, in itself, introduce an incongruous element into the streetscape.) BS 8233:2014 states that, *“it is desirable that the external noise level does not exceed 50 dB LAeq,T, with an upper guideline value of 55 dB LAeq,T which would be acceptable in noisier environments.”* Even with the acoustic barrier all of the proposed properties will experience levels above this at various times of the day. (Table 5.1 of the Noise Assessment). Even with stringent building specifications, the assessment concludes that *“for the worst affected habitable rooms, however, opening windows would result in the internal criteria being exceeded.”* This is unacceptable.

We urge the Council to reject this application.

Yours sincerely,

David Irving