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Standing up for Hertfordshire's countryside

Susie Defoe
Development Control
East Hertfordshire District Council
Wallfields
Pegs Lane
Hertford
SG13 8EQ

Our Ref:

Your Ref:

3rd April 2020 (by email)

Dear Ms. Defoe,

Application No 3/20/0278/FUL
Erection of a single self-build bungalow and basement, with associated landscaping and
creation of 2 off street car parking spaces.
On Land opposite 23 Tatlers Lane Aston End Hertfordshire SG2 7HL

CPRE object to this proposal for self-build residential development in the Green Belt. As stated in the Planning Statement, this is a resubmission of application 3/18/2107/FUL, which was refused by the Council.

In the intervening period the Applicant has noted a recent appeal decision regarding self build and, rightly, now draws the Council's attention to Section 2A of The Self Build and Custom Housebuilding Act 2015, for the Council to "*give suitable development permission in respect of enough serviced plots of land to meet the demand for self-build and custom housebuilding in the authority's area.*" The Council will have to take this into account when determining the planning balance, but it is not the only criterion affecting this application.

The Council's policy on Self-Build and Custom-Build are set out in Policy HOU8 in the East Herts District Plan 2018. The Plan states at para. 14.9.1 that "*Self-Build or Custom Build housing is housing built or commissioned by individuals ... to be occupied by themselves as their sole or main residence.*" That appears not to be the case here. In the documentation accompanying Application 3/18/2017/FUL the applicant was clear that "*our objective is to rebuild our home [no. 23] and create an independent bungalow for my mother.*" In other words the proposed bungalow is not going to be occupied by the applicant either as their sole or main residence, but is a separate property for another family member. Nor is it clear if the applicant has registered with the Council as a self-builder or not. The Council will have to satisfy itself that this proposal constitutes genuine self build as defined in the Development Plan.

CPRE is working nationally and locally for a beautiful and living countryside

CPRE Hertfordshire is a Charitable Incorporated Organisation

President: Sir Simon Bowes Lyon, KCVO
Chairman: Richard Bullen

Registered Charity 1162419



There are a number of points in the application documentation which also raise issues:

The Applicant appears to confuse Aston and Aston End, which are two separate settlements. The references to Aston are not relevant. Aston End is a Group 3 village. There are also references to the site abutting the boundary with Stevenage, which it does not.

Policy VILL3 allows for limited infill development within Group 3 villages provided that the site has been identified in a neighbourhood plan. This site has not been so identified. It is arguable whether or not the site can be considered as within the village. It is, as the applicant acknowledges, beyond the village settlement boundary. In fact it is some distance from the village itself. The properties along the stretch of Tatlers Lane in which the site is located are, in effect, a ribbon development from no. 15 to no. 39 separated from Aston End itself by the Green Belt of which this site is a part. In the case of *Woods vs. Secretary of State* (2015 EWCA Civ 195.), which is cited by the applicant, the court determined the need to assess what the impression of the site is **on the ground**. On the ground it appears as continuous with the adjoining wooded area and, as such, an extension of the field beyond. In the case of *R (Tate) v. Northumberland County Council* [2018] EWCA Civ 1519 the Court of Appeal confirmed that *"the question of whether a particular proposed development is to be regarded as 'limited infilling' in a village for the purposes of the policy (in the NPPF) will always be essentially a question of fact and planning judgment for the planning decision-maker. There is no definition of 'infilling' or 'limited infilling' in the NPPF, nor any guidance there, to assist that exercise of planning judgment. It is left to the decision-maker to form a view, in the light of the specific facts"*.

There are repeated references in the Planning Statement and in the Application Form to the site being pastureland. The Application form says that its current use is as 'undeveloped pasture land' and its last use as 'no previous use'. This is not correct. Until 2017 the use of the site was an orchard. (Google Earth image capture from 2012 shows the trees in blossom). It is designated as a Habitat of Principal Importance under the Natural Environment and Rural Communities Act 2006. All but three of the twelve old- variety apple trees were felled shortly before the submission of application 3/18/2017/FUL.

The site is within the Green Belt. Para 11b (i) of the National Planning Policy Framework is clear that *"the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for restricting the overall scale, type or distribution of development in the plan area."* Footnote 6 clarifies that this includes Green Belt assets. Consequently, in determining the planning balance, the Council must give significant weight to National and Local Green Belt policies.

Para 5.5 of the Planning Statement says that *"It should also be noted that whilst the site is within the Green Belt, it is on the periphery of the Green Belt Boundary and the erection of the*



single dwelling would not significantly impact the openness of the Green Belt.” There is now substantial case law relating to the question of ‘openness’, perhaps most succinctly expressed in Timmins v. Gedling Borough Council [2014] EWHC 654 (Admin) i.e. : “[any] construction harms openness quite irrespective of its impact in terms of its obtrusiveness or its aesthetic attractions or qualities.”

The proposed bungalow does not, as the applicant asserts, and as District Plan Policies DES4 and VILL3 require, reflect and promote local distinctiveness. It is completely out of character with the surrounding development. The design shows a building with a flat ‘green’ roof and a pitched array of solar panels. The other buildings in the vicinity are a mixture of traditional single and 2-storey buildings with pitched roofs.

In determining the planning balance the Council will have to assess the harm caused to the openness and other harm to the Green Belt against the provisions of Section 2A of The Self-Build and Custom Housebuilding Act 2015, assuming that the Council has accepted that the proposal is Self-build.

We urge the Council to reject this application, but should the Council be minded to approve, we would expect it to apply a condition requiring a Unilateral Undertaking to give decision-makers confidence that the development will be delivered for Self-Build housing and not for market housing.

Yours sincerely,

David Irving