



The countryside charity  
Hertfordshire

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**Standing up for Hertfordshire's countryside**

Andrew Parrish  
Planning and Development  
Dacorum Borough Council  
Civic Centre  
Marlowe  
Hemel Hempstead  
Hertfordshire HP1 1HH

Our Ref:

Your Ref: 20/01370/MFA

8<sup>th</sup> July 2020 (by email)

Dear Mr. Parrish,

Application No. 20/01370/MFA  
Construction of 16 apartments with landscaping.  
Bank Mill, Berkhamsted, Hertfordshire

CPRE Hertfordshire object to this proposal for development in the Green Belt and within the Berkhamsted Conservation Area, which is contrary to policies in the National Planning Policy Framework, The Dacorum Core Strategy, 2006 – 2031 and the emerging Dacorum Local Plan.

Despite the address above, this site is not in Bank Mill. It is the northern bank of the Grand Union Canal beyond the eastern boundary of the Heron Place development.

The site sits entirely in the Green Belt which forms the buffer between Berkhamsted and Hemel Hempstead and, in accordance with Green Belt Purposes, prevents the coalescence of those two settlements. It is not, as the Applicant maintains, a 'satellite piece of land'. In this location the Green Belt extends across this site and up to the A4251 and then wraps round the eastern boundary of the town. Rather than being a satellite, the site forms an integral part of the urban fringe of the Green Belt. Its development would constitute encroachment into the countryside, in effect resulting in ribbon development along the bank of the Grand Union Canal.

The site is sensitive given the potential impact of development on the Conservation Area and, as it is located at the periphery of the town, the council has previously stated, in the preparatory documents for the emerging Local Plan, that such sites have limited accessibility to services and facilities.

Except for possibly the affordable housing element (which can't, however, be separated from the rest of the development), the proposal does not meet the exceptions in NPPF para. 145 and is hence inappropriate development in the Green Belt. NPPF para.143 holds that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. At present the site contains no development. Lee Valley Regional Park Authority v Epping Forest District Council [2016]EWCA Civ 404 held that: "[any] construction harms openness quite irrespective of its impact in terms of its obtrusiveness or its aesthetic attractions or qualities."

**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



That point was endorsed by the Supreme Court in *Samuel Smith Old Brewery (Tadcaster) and others v North Yorkshire County Council* [2020] UKSC 3.

In the Applicant's view the site is "a visually impoverished piece of land." Neither the NPPF nor National Planning Practice Guidance require designated areas to be of high landscape quality or even particularly attractive. It is not the quality of Green Belt land which is protected but the function it fulfils. Some areas designated as Green Belt are of distinctly poor environmental and visual quality but fulfil Green Belt purposes. To give planning weight to the condition of land when determining new development applications would only be to incentivize the blighting of land in the Green Belt. Notwithstanding the above the site has a perfectly green, pleasant aspect that enhances the Canal setting and this part of the countryside.

The site sits within the Berkhamsted Conservation Area. The Grand Union Canal is a heritage asset, as are the two Grade II listed buildings which sit on its southern bank in close proximity to this site. As Historic England's Historic Environment Good Practice Advice Planning Note 3 points out "Setting is the surroundings in which an asset is experienced, and may therefore be more extensive than its curtilage. All heritage assets have a setting, irrespective of the form in which they survive and whether they are designated or not." Consequently this site forms part of the setting of these heritage assets.

While recognising that the canal is an important element in the history of the town, and a valuable visual feature, the Applicant considers that the site has "no distinguishing features, except that it provides a bank for the canal" (Planning Statement para. 2). This completely misses the point that its banks are an intrinsic part of the setting of the canal and that the main contributor to the character between the two settlements is the open banks on either side of the waterway.

NPPF para 192(c) requires the local planning authority to take account of the desirability of new development to make a positive contribution to local character and distinctiveness. As mentioned, this site forms part of the bank of the Grand Union Canal. From Fishery Road in Hemel Hempstead to Bank Mill in Berkhamsted the character of the canal setting is one of open land on either side of the waterway, interspersed with widely separated occasional buildings, mostly of rendered and painted or timber clad elevations. As the Berkhamsted Conservation Area Character Statement puts it: "the canal's presence ... has provided consistency over the years and, without requiring extensive regeneration, it has led to classic scenes being preserved unaltered." (para. 6.114).

In 2008 the small stretch of canal edge closest to Bank Mill was redeveloped to introduce 24 brick faced flats, the development which the Applicant chooses to call Heron Place Phase 1 (implying that this development is Heron Place Phase 2). In terms of visual quality and design these flats introduced an incongruous element into the experience of the canal towpath, contrary to the applicant's assertion that it "does not have a visually disruptive impact on the existing environment". (DaS para. 3.12)

In planning terms Heron Place and this site are not directly comparable. Heron Place is not in the Green Belt and was built on previously developed land (the former Rose Cottage), within the settlement boundary. It is proposed that the development of this site as phase 2 would transform the site from an 'unused piece of environmentally damaged back-land' into an extension of phase 1, which

would improve the environment. (PS para. 5) In our view the opposite would happen. We do not see how a view of 40 flats would enhance the experience of people walking by on the tow path on the opposite bank. (PS para. 3)

Though the Planning Statement does not formally set out very special circumstances sufficient to outweigh the inappropriateness of the development and other harm to the Green Belt, as required by the NPPF, a number of points are made which may be intended to fulfil that purpose.

(1) The site makes no contribution to any of the attributes of the Green Belt.

This point we have covered above. The site fulfils the Green Belt purposes relating to checking sprawl, preventing neighbouring towns merging and the safeguarding of the countryside from encroachment.

(2) Contributing to local housing need.

This is a material consideration but *Crane v. SoS* (EWHC 425). *Hunston Properties Ltd* EWCA Civ 1610 held that “the weight to be given to such a housing shortfall (and whether it constituted ‘very special circumstances’ for the purposes of the NPPF ) is a matter of planning judgment. The weight to be attached to the shortfall may, as a matter of planning judgment, be reduced where a shortfall is inevitable due to a district being subject to policies which restrict development” (such as Green Belt policies). It must also be noted that the most recent household projections for Hertfordshire, issued by The Government’s Office for National Statistics on 29 June 2020, indicate a significant 13% reduction when compared to the 2014 based projections. This will impact on the Council’s current assessments of housing need which are refer to 2012 based projections.

(3) The integrity of the Green Belt has been compromised by the West Coast mainline.

The presence of the railway does not compromise the Green Belt. If that was true then almost all Green Belts would be compromised. The west coast mainline does not cut off the Green Belt, it goes through it. The Applicant makes repeated reference to the adverse impact of noise from the passage of trains on the enjoyment of the canal and towpath and that the construction of the flats would act as an acoustic barrier. Given that the railway follows the line of the canal for its entire length from Hemel Hempstead to Berkhamsted and beyond, following that logic it would therefore make sense to build flats along the whole canal bank, which is clearly nonsense. The applicant expresses surprise that Council documents relating to the canal do not mention the noise intrusion. Perhaps that is because the intermittent noise is not considered significant. Unfortunately, although referred to, there is no noise assessment accompanying the application included with the documents posted on-line to demonstrate the particular problem with this site.

(4) The site is an acknowledged environmental nuisance of significant proportions which will continue to harm the environment.

There is no evidence presented to support this remark. It is the Applicant’s opinion. We note that the Preliminary Ecological Survey reports that the site demonstrates numerous signs of small mammal activity on the site; an ideal location for grass snakes; is a ‘perfect hibernacula’ for reptiles and may be



supporting an otter population. That is fulfilling an important environmental function which would be damaged by development.

In determining the planning balance we do not consider that these points outweigh the harm caused.

The applicant believes that the Council should determine this application in advance of the completion of the Council's Green Belt review and before determination of the emerging Local Plan. NPPF Paragraph 136, states that Green Belt boundaries should only be altered where exceptional circumstances are "fully evidenced and justified" and such alterations should be carried out through the Local Plan process. While recognising the applicant's frustration, we agree that fundamental strategic planning should be undertaken through the local plan process, not ad hoc speculative applications. The Local Development Scheme was approved in April 2020. Given the impact that the proposals will have on the Green Belt, approval would have an effect on the Local Plan process by predetermining decisions about the scale, location and phasing of new development in the Green Belt that are central to an emerging plan, and NPPF para. 49 on prematurity may be engaged.

For the reasons outlined above, we do not consider that the planning balance is in favour of this development and we urge the Council to refuse it.

Yours sincerely,

David Irving