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Standing up for Hertfordshire's countryside

Lilly Ruddock
Planning and Building Control
St. Albans City and District Council
St. Peter's Street
St. Albans
Herts AL1 3JE

Our Ref:

Your Ref:

24th July 2020 (by email)

Dear Ms. Ruddock,

Application No. 5/2020/1262

**Outline application (all matters reserved) Detached dwelling with detached garage and new access
at Land R/O East Lodge, Oaklands Lane, Smallford, St Albans, Hertfordshire**

CPRE Hertfordshire object to this application for inappropriate development in the Green Belt contrary to the National Planning Policy Framework and the Green Belt policies in the current and emerging St Albans Local Plans.

The proposal is for development within the curtilage of East Lodge, with the site for this application being carved out of the current garden. This application is premised on the applicant's belief that the proposal represents limited infill in a village in compliance with paragraph 145e of the NPPF. Consequently no very special circumstances sufficient to outweigh harm through inappropriateness, or other harm to the Green Belt are presented.

As the applicant points out, there is currently no defined settlement boundary for Smallford. That does not mean that any development in the proximity should therefore be considered as part of the village. The case of *Woods vs. Secretary of State* (2015 EWCA Civ 195.) determined the need to assess **on the ground** whether or not the site appears to be part of the village and/or is an infill site.

The settlement of Smallford is essentially linear residential development which, in its entirety, lies along the eastern side of Station Road and Oakland Lane from Wilkins Green Lane in the south to just beyond Pasture View in the north. The west side of Station Road consists of horticultural nurseries and the west of Oaklands Lane is almost entirely open space used as rugby pitches, with only a children's nursery and a vet at its southern end. It is not perceived as part of the settlement. East Drive is a single track lane on the west side of Oakland Lane leading to a small enclave of housing, on the edge of the Oakland College estate, which cannot be seen from Oakland Lane itself because of the hedgerow and tree belt along the west side of the road. East Drive does not appear on the ground to be part of the Smallford settlement. Consequently this site cannot be considered as within a village.

Again, as the applicant points out, 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*

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

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frontage, or the small-scale redevelopment of existing properties within such a frontage.” (e.g. APP/C3620/W/15/3005744 et al). This clearly does not apply in this instance.

Consequently this development would constitute inappropriate development in the Green Belt.

Though presenting no very special circumstances, the applicant does refer to the Council’s inability to demonstrate a five year supply of housing land and that the existing St. Albans Local Plan policies are now out of date.

National Planning Policy Guidance states that inability to demonstrate a 5 year housing land supply is not, in itself, a very special circumstance sufficient to overcome harm to the Green Belt.

It is not the case that in the absence of a 5-year housing land supply Local Plan policies are superseded. This aspect of the NPPF has been the subject of considerable dispute and in 2017 the Supreme Court (in the case of Suffolk Coastal DC v Hopkins Homes Ltd. (2017 UKSC 37)) held that Local Plan policies to protect the countryside from development (such as St Albans Local Plan Policies relating to the Green Belt) are not policies for the supply of housing and therefore are not out of date and should be accorded full weight. In other words, the presumption in favour of the grant of planning permission is not irrefutable and the absence of a five-year supply of housing land will not necessarily be conclusive in favour of the grant of planning permission. (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 Belts).

Plans for residential development within the curtilage of East Lodge have been refused seven times by the Council (Apps. 5/2013/3476, 5/2014/1735, 5/2014/3260, 5/2015/1107, 5/2017/2118, 5/2018/0513 and 5/2018/1813/MIND), all decision notices citing inappropriate development in the Green Belt.

We urge the Council to similarly reject this application.

Yours sincerely,

David Irving