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Standing up for Hertfordshire's countryside

Melissa Tyler
Planning and Building Control
North Hertfordshire District Council
Council Offices
Gernon Road
Letchworth Garden City
Herts SG6 3JF

Our Ref:

Your Ref:

22nd April 2020 (by email)

Dear Ms. Tyler,

Application No. 20/00744/OP

Outline planning application for up to 99 residential dwellings (including up to 40% affordable housing), introduction of structural planting and landscaping, informal public open space and children's play area, surface water flood mitigation, vehicular access point via the demolition of an existing property on Echo Hill (all matters to be reserved for later determination save site vehicular access).

On Land Opposite Heath Farm, Briary Lane, Royston, Hertfordshire.

CPRE Hertfordshire continue to object to this speculative proposal for inappropriate residential development in the Rural Area Beyond The Green Belt and outside the settlement boundary of Royston, contrary to the policies in both the current Local Plan No.2 and the Submission Local Plan which is presently subject to Examination in Public.

In essence, the justifications for development put forward by the applicant remain the same as those included with Application No. 18/00747/OP for 120 dwellings which was refused by the Council in 2019. The material differences between the two applications are the reduction in the number of units proposed and the move of vehicular access from Briary Lane to Echo Hill.

We addressed the justifications put forward in our response to the previous application, but make no apology for repeating them again here.

This application is for a substantial residential development on two agricultural fields immediately beyond the southern western edge of the settlement boundary of Royston. That boundary is clearly defined in both the current Local Plan No.2 and the Submission Local Plan. It is for the Local Planning Authority to determine settlement boundaries through the Local Plan process and not by ad-hoc planning applications. The applicant accepts that because the proposed development is located in the open countryside beyond existing settlement limits, it is in conflict with both saved Policy 6 (Rural Areas Beyond the Green Belt) and saved Policy 9 (Royston's Development Limits) of Local Plan No.2, (and, by extension, Policies CGB1 and

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

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CGB2 of the Submission Local Plan). It must also be borne in mind that this is an outline application only. As an outline application its ultimate realisation remains speculative and hence, in determining the planning balance, it cannot be considered as a contribution towards the Council's housing supply at this stage.

Following the principles established in the case of *Woods vs. Secretary of State* (2015 EWCA Civ 195.) which requires the need to assess what the impression of the site is on the ground, from no aspect does the site appear to be part of the settlement. This is adequately evidenced by photographs in the appendices to the landscape and visual appraisal.

A substantial part of the Planning Statement is devoted to the Council's inability to demonstrate a 5 year housing land supply and it asserts that adopted Local Plan No.2 policies can be disregarded. However this aspect of the National Planning Policy Framework has been the subject of considerable dispute and in 2017 the Supreme Court in the case of *Suffolk Coastal DC v Hopkins Homes Ltd.* held that Local Plan policies to protect the countryside from development (such as Local Plan Policies relating to the Rural Area Beyond 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. The existing Local Plan, of course, remains in force until such time as the Submission Local Plan is adopted. Consequently the policies in it can be given due weight and taken into account when considering the planning balance.

Similarly, while it is true to say that Local Plan No. 2 is time-expired and its housing policies and settlement boundaries were not designed to meet development needs beyond 2001, in *Crane v. SoS* (EWHC 425) the court ruling was that "*neither paragraph 49 of the National Planning Policy Framework (2012) nor paragraph 14 prescribes the weight to be given to policies in a plan which is out of date. Neither of those paragraphs of the NPPF says that a development plan whose policies for the supply of housing are out of date should be given no weight.*" and, as mentioned above, case law has held that policies for the protection of the countryside, which Policy 6 of Local Plan No. 2 is, remain in force. That holds equally true for the current iteration of the NPPF.

It is disingenuous of the applicant to claim that because the examination inspector has yet to publish his findings and there remain unresolved objections to the Submission Local Plan, only very limited weight can be attached to its emerging provisions. The Examination in Public is on-going. (The fact that it is currently in abeyance due to the coronavirus pandemic does not alter that position.) There is ample precedent to support the view that an emerging Local Plan which has reached Submission stage should be afforded significant weight.



When determining settlement boundaries it is the responsibility of the Council to determine if and where land should be made available to meet objectively assessed need. That has been done through the Local Plan process which has identified suitable sites in and around Royston to meet that need. This site was not among them. To determine this application, which would alter the settlement boundary, in advance of the outcome of the EIP would be premature.

A substantial part of the site consists of land which is of high agricultural quality. Ironically, almost the entire development takes place on this high grade land, with the lower grade remaining as open space. The National Planning Policy Framework and National Planning Practice Guidance are clear that land of Agricultural Quality Grades 2 and 3a, wherever possible, should not be developed. 33% of the site is Grade 2 and 13% is 3a. However the applicant's consultants question the veracity of the original MAFF survey which determined the quality of the land: *"Our investigation ... suggests this assumption to be false."* This is self-serving and in our view should be disregarded. It remains that the official designation of the land is of high quality on which development should be avoided.

The landform consists of a slope across the site from the southern escarpment to the northern boundary. The lower half of this slope will be developed. Consequently the landform and landscape quality will be irrevocably changed. The applicant maintains that the site is not of high environmental value and that the landscape features will be retained and reinforced through additional planting. Landscape features do not consist of 'planting' alone and there is a difference between ecological and environmental value, which the applicant has confused. The site is on the outskirts of the town, accessed from a bridleway, consists of land which is of high agricultural quality and the development of which would have a negative impact on the openness of the countryside and views from the adjoining Therfield Heath and Hertfordshire Way. Consequently it is of significant environmental value irrespective of its ecological value.

To some extent our concerns regarding Bridleway 13 being used as vehicular access have been removed by the relocation of the access to Echo Hill. However, we note that the applicant still intends it to be the means of access for emergency vehicles. It is difficult to see from the indicative plans in the Design and Access Statement how a fire tender or other emergency vehicle could access the majority of properties on the site from the western side, or how the bridleway, which is unsurfaced, would cope with that use. The criteria for bridleways in relation to development is that they *"must, as a minimum, remain unchanged in terms of width, perceived safety, attractiveness and surfacing."*

While accepting that the indicative plans are only outline, they do raise questions. Because of the change of access, almost all of the estate roads are now running north-south. The proposed housing is located in the north and eastern quadrants of the site. As both the Design and Access Statement and the Landscape Appraisal note, the site rises steeply to the south and *"the gradient of the slope noticeably steepens towards the northern and eastern*



extents of the Site." This means that because the estate roads run across the contours, the bulk of the housing will be located on steep hills which will be difficult to use by the elderly or disabled, despite the Transport Assessment stating that *"The needs of those with mobility impairment are an important component of the detailed design of the development."* and that the layout *"needs to consider all users, so that streets are safe, attractive, accessible and easy to move through."* For pedestrians and cyclists it will be considerably easier to go down hill, out of the site, than it will returning. The situation is exacerbated by exiting on to Echo Hill, which is also of a very steep gradient with a blind bend. (We note that local residents say that it can be impossible to get up it by car in winter conditions.) The Design and Access Statement says that the estate layout *"responds positively to local topography"*, which it clearly does not.

We consider this application to be speculative and unsuitable for the reasons outlined above, and we urge the Council to reject it.

Yours sincerely,

David Irving