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Standing up for Hertfordshire's countryside

Elspeth Palmer
Planning and Development
Dacorum Borough Council
Civic Centre
Marlowe
Hemel Hempstead
Hertfordshire HP1 1HH

Our Ref:

Your Ref:

2nd October 2020 (by email)

Dear Ms. Palmer,

Application No. 20/02711/FUL
Construction of Nine Dwellings and upgrading existing access.
Land Adjacent No 8 Red Lion Lane, Bridens Camp,
Hemel Hempstead, Hertfordshire HP2 6EY

CPRE Hertfordshire have concerns regarding this proposal for development in the Chilterns Area of Outstanding Natural Beauty and the Rural Area Beyond the Green Belt.

This site lies in the Rural Area Beyond the Green Belt, which is an area of development restraint covered by Dacorum Core Strategy Policy CS7, which allows small-scale development on previously developed sites in the Rural Area provided that it has no significant impact on the character and appearance of the countryside.

The applicant claims this site to be previously developed land (Planning Statement para.3.1). The Planning Statement cites the judgement in Dartford B.C. vs. Secretary of State [C1/2016/1664]. That judgement held that private residential gardens are not excluded from the definition of previously developed land, whether or not they are in a built-up area. However in para. 2.2 of the Planning Statement it says that *"The site was originally used as gardens for the pub cottages, which were then sold off separately, having their own gardens on the other side of the access road. It was then sporadically used for parking by those cottages before reverting to scrub and most recently as a service yard while Thames Water were working within the area."* In other words, the garden use of the land, if it was anything other than an occasional activity, ceased and the site was allowed to revert to scrub. No Certificate of Lawfulness has been applied for or approved for a residential use.

The court also pointed out (para. 15 of the judgement) *"the definition of previously developed land, in the context of the present case, takes as its starting point that the proposed development is within the curtilage of an existing permanent structure"* and referred to the NPPF glossary, which excludes from the definition of previously developed land *"land that was previously-developed but where the remains of the permanent structure or fixed surface*

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

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structure have blended into the landscape in the process of time.” The Dacorum Core Strategy glossary defines previously developed land as “*Land which is or was occupied by a permanent structure (excluding agricultural land or forestry buildings)*”. This site does not lie within the curtilage of an existing permanent structure. Under neither of those definitions can this site be construed as previously developed land.

It is also claimed that the site was considered in the Strategic Housing Land Availability Assessment 2016, to be available, deliverable and achievable. The SHLAA is only an advisory document prepared to inform the emerging Local Plan. This site has not yet been carried forward to that plan and may never be. It was not included in the Site Allocations Development Plan Document (DPD) adopted in July 2017. Consequently this point can only be afforded very limited weight.

The applicant refers to the Council’s inability to demonstrate a 5-year housing land supply. NPPF para. 11 and Footnote 7 makes it clear that policies are to be treated as out of date where a local authority cannot demonstrate a 5 year housing land supply or meet the Housing Delivery Test. However, this site also sits within the Chilterns Area of Outstanding Natural Beauty. The interpretation of NPPF para. 11 has been clarified in a comprehensive and lucid way following the judgement in *Monkhill Ltd v SoSCLG* [2019] EWHC 1993 (Admin). If sub-section (i) of para. 11d is satisfied, the presumption in favour of sustainable development ceases to apply. Sub-section (i) refers to policies within the Framework that protect areas or assets of particular importance, including AONBs.

Section 15 of the NPPF includes the protection of the AONB. Development is unacceptable unless exceptional circumstances exist and where it can be demonstrated that the development is in the public interest.

NPPF Paragraph 172 sets out what should be assessed when considering applications in AONBs:

- (a) The need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy.
- (b) The cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way.
- (c) Any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.

On (a) the contribution of 9 dwellings to the local economy is small and the impact of refusing it will be limited.

On (b) There is no demonstration of the applicant having considered development outside the AONB, or the costs which may be incurred by that.



On (c) any development in the AONB is detrimental. In considering the proposal in the context of the AONB, the Final Report of the Landscapes Review of National Parks and AONBs commissioned by the Government and published in September 2019, the point is made that the Chilterns AONB is of such significance that the report recommends that it is re-designated as a National Park (pages 119-121). In discussing the Chilterns AONB the report notes that *“In the south east of England, in particular, the pressure of development is immense and may only get greater. Some national landscapes, the Chilterns for instance, risk changing very fast as a result and mostly not for the better. We shouldn’t just accept this as sadly unavoidable.”*

In terms of sustainability, Bridens Camp is a small hamlet with no immediately accessible social, education or retail facilities. The nearest settlement is Great Gaddesden, 2.8km away and the nearest significant facilities in Hemel Hempstead 4.5km distant. This development is for family housing. Red Lion Lane is an unrestricted rural lane with no footways or street lighting and hence unsuitable for pedestrians and cyclists. Para. 32 of the NPPF requires that ‘decisions should take account of whether safe and suitable access to the site can be achieved for all people.’ Consequently the development will be car dependent.

We urge the Council to reject this application.

Yours sincerely,

David Irving