

Mr. David Elmore  
Development Control  
Welwyn Hatfield Borough Council  
Campus East  
Welwyn Garden City  
Herts. AL10 6AE

Our Ref:

Your Ref: 6/2020/2248/OUTLINE

16<sup>th</sup> October 2020 (by email)

Dear Mr. Elmore,

**Application No. 6/2020/2248/OUTLINE**

**Outline permission for the erection of up to 100 dwellings, with all matters reserved except access Roundhouse Farm, Land Off of Bullens Green Lane, Colney Heath**

This letter is being written jointly to Welwyn Hatfield Borough Council and St Albans City and District Council in respect of Applications nos. 6/2020/2248/ OUTLINE and 5/2020/1992 respectively.

CPRE Hertfordshire object to this Application for inappropriate residential development in the Green Belt contrary to the National Planning Policy Framework, and the Green Belt and Sustainability policies in both the Welwyn Hatfield District Plan and St Albans Local Plan and the corresponding Submission Local Plans currently subject to Examination in Public.

This site lies in the Metropolitan Green Belt. The boundary between the two councils divides it, with approximately 53% of the site in Welwyn Hatfield and 47% in St Albans and the proposed development straddles that boundary. The documentation submitted to each Council is identical. The layout of the development is such that the applications cannot be determined in isolation, but only by joint co-operation between the Councils. It would be nonsense, for example, if St Albans were to approve the houses in their area, but Welwyn Hatfield were to refuse the houses in theirs and, crucially, the access serving the site.

Because the applicant has submitted applications to both authorities, what is essentially the same application will be considered against two different Local Plans and sets of policies. In our view the proposal is contrary to the Green Belt and sustainability policies of both councils. We urge the Councils to avoid unnecessary and wasteful duplication of resources, and to agree with the applicant that should a full application come forward, one Local Planning Authority acts on behalf of both.

Colney Heath/Bullens Green is a small settlement which is washed over by the Green Belt. The applicant recognises that the proposed development constitutes inappropriate development in the Green Belt and puts forward a number of very special circumstances intended to outweigh the resulting harm.

These essentially fall into four categories:

1. **The site is essentially "captured" Green Belt land contributing little or nothing to the purposes of including land within the Green Belt.**

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This is clearly not a view held by either Local Planning Authority. Both have reviewed the Green Belt in preparation of their emerging local plans. Both have proposed to retain this site in the Green Belt and neither have designated it for development.

Among the purposes of the Green Belt is that to assist in safeguarding the countryside from encroachment. This proposal is to completely develop an open field in the countryside. We are not sure how any encroachment into the countryside, however minimal and constrained, safeguards the countryside from encroachment.

Similarly, there is the purpose of assisting in urban regeneration, by encouraging the recycling of derelict and other urban land. The development of the site would not assist in either.

*R (Lee Valley Regional Park Authority) v Epping Forest DC* [EWCA Civ 404] held that the concept of “openness” means the state of being free from built development, i.e. the absence of buildings. Development of 100 houses will have a significant impact on the openness of the Green Belt. Similarly, *Turner v Secretary of State* [EWCA Civ 466] determined that openness is essentially freedom from development and relates primarily to the quantum and extent of development and its physical effect on the site. As the site is bounded by residential development to the north and east and there is a tree belt to the west approximately 100 metres distant, the applicant considers that development on it will have minimal impact on openness. However, to the south and south-east is open countryside and views from there and Fellowes Lane would be impacted, as would the public rights of way which cross the site (PROWs 023, 044, 048 and 067). From its junction with Tollgate Road until the start of residential development north of this site, Bullens Green Lane is bounded on both sides by open fields, of which this site is one. Consequently, we cannot reconcile the situation on the ground (in line with *Tate v Northumberland County Council* [2018] EWCA Civ 1519) with the view expressed by the applicant.

2. *There is a considerable need for new housing in both authority areas.*

This is undeniably true, and the proposals in each emerging local plan is intended to address that. The resulting figures for housing need have been extensively debated in the on-going examinations in public for both areas. The most recent household projections produced by the Office of National Statistics for both areas indicate that housing need is dropping and government changes to the ‘standard method’ of calculation will alter the figures further. Flowing from this point is the argument that inevitably both Councils will consequently be unable to provide sufficient affordable housing to meet local needs and this development offers 45% affordable housing. This is a matter of significant weight in determining the planning balance and both LPA’s will have to fully consider the implications for both their own and each other’s authorities of the changing figures

The applicant draws attention to both Councils’ inability to demonstrate a 5-year housing land supply. 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 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. 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).

In tandem with this, the applicant considers that under NPPF para. 11, a tilted balance is engaged and that the provisions of footnote 6 does not apply. We do not agree and refer you to the judgement in Monkhill Ltd v SoSCLG [2019] EWHC 1993 (Admin) which clarified in a comprehensive and lucid way the interpretation of NPPF para. 11(d).

3. *The impact of the Coronavirus pandemic on housing delivery.*

This is essentially a speculative point and is presented as an assumption that the impact of coronavirus on housebuilding will exacerbate the ability of the councils to provide affordable housing. Clearly, in the short term, there will be an impact on construction. However, in July 2020, the Affordable Housing Commission put forward proposals to address that issue and, should the Government implement the recommendations in its report (Making Housing Affordable after Covid-19), then the impact would be mitigated. In our view, this is a general argument that is in no way special circumstances for the application or its site and should be afforded little if any weight.

4. *The suitability of the site in sustainability terms.*

It is our opinion that the site is not sustainable in terms of access and modal movement. We are concerned that the Transport Assessment’s determination of the opportunities available for sustainable modes of travel is based on a desk study (para. 7.4) and does not reflect the actual situation on the ground, particularly the claim that there is *“ a selection of services and amenities within the preferred walking and cycling distances in addition to reasonable commuting journey times using public transport.”*

NPPF para 108 requires safe and suitable access for all users and NPPF para 110 requires developments to be located and designed in order to give priority to pedestrian and cycling movements both within and beyond the site, minimising the scope for conflicts between pedestrians, cyclists and vehicles and addressing the needs of those with reduced mobility. The section of Bullen’s Green Lane from which the site access is to be taken, does not currently benefit from the provision of a footway or street lighting. Neither does Fellowes Lane. All three lanes which can be said to give access to the site (Bullens Green, Fellowes and Roestock are narrow, in parts only allowing single car access. Beyond the existing settlement none are suitable for safe pedestrian use or cycling, and certainly unsuitable for the elderly, disabled or children.

In terms of travel distances the applicant cites the maximum walking distance of 2km in the Chartered Institute of Highways and Transportation (CIHT) publication ‘Providing Journeys on Foot’. However,

the CIHT 'acceptable' walking distances are 0.4km to town centres and 1km to schools and workplaces. The 'desirable' distances are half that. (Table 3.3 in Providing Journeys on Foot.) The nearest town centre with significant retail facilities is Hatfield, 3.7 km distant. London Colney is 4.3km distant and St. Albans 7.1 km. The nearest possible, (spaces may not be available), Primary School (Colney Heath JMI) is 1.2km and the nearest Secondary (Nicholas Breakspear) is 3.5km. The nearest railway station, Welham Green is 3.5km, Hatfield station 5.2km, St Albans City Station 7.8km and St Albans Abbey station 9.2km. All of these are beyond the CIHT acceptable distances and significantly beyond the desirable.

It is also claimed that the site is within walking distance of a number of bus stops whose services facilitate regular access to a range of other settlements. (Planning Statement para.5.68). However, as HCC point out, bus services within Colney Heath are very limited. There are 3 routes with only one service in each direction on one day of the week, and the only daily bus route (Metrolink 305) only provides 4 journeys per day. This is not conducive to either commuting, shopping or attending schools. As this development is intended for family housing, it will inevitably be car dependant adding to traffic congestion and hazards on local narrow lanes.

The site is agricultural land currently under cultivation. According to the applicant its agricultural land quality grading is 3a. The glossary to the NPPF defines best and most versatile agricultural land as being land in grades 1, 2 and 3a of the Agricultural Land Classification. NPPF 170 requires planning LPAs to take decisions to protect soils and footnote 53 states that where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality. Within the context of the immediate settlement this would be a significant development, increasing the number of houses by approximately 25% and consequently should not be utilising best and most versatile land.

We urge the Councils to reject this application.

Yours sincerely,

David Irving