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Standing up for Hertfordshire's countryside

Appeals against refusal of planning permission:

Land south of Chiswell Green Lane

APP/B1930/W/22/3313110

Land north of Chiswell Green Lane

APP/B1930/W/22/3312277

Chiswell Green, St Albans

Statement on behalf of CPRE Hertfordshire – the Countryside Charity

My name is Chris Berry. I am a Member of the Royal Town Planning Institute, hold a Bachelor of Arts with Honours degree in Geography from the University of London and a post-graduate Diploma in Town and Country Planning from the University of Newcastle-upon-Tyne.

I have practised in both the public and private sectors for over 45 years and been employed by a wide range of organisations including local government, development corporations, planning consultancies and development agencies. Latterly I have acted as interim Chief Planning Officer and Assistant Director for a number of London and Hertfordshire Boroughs and am presently employed as Planning Manager for CPRE Hertfordshire – the Countryside Charity.

CPRE Hertfordshire acts to protect countryside in Hertfordshire and is active in supporting local organisations and communities to protect open spaces and rural activity from inappropriate development and environmental degradation. I am making this statement on behalf of CPRE Hertfordshire as an interested party and it includes contributions from members with specialist knowledge in environmental areas which they would like to bring to the attention of the inquiry.

BACKGROUND TO THE APPEALS

The two appeals which are the subjects of this inquiry into the refusal of planning permission by St Albans City and District Council (SACD) are for two substantial residential development proposals totalling 721 dwellings. This will expand the number of houses in the settlement of Chiswell Green by approximately 50%, adding circa 1,700 more people and well over 1,000 more cars.

The relevant development plan is the St Albans District Local Plan Review. The emerging Local Plan has not progressed as originally intended, and the reasons for its abandonment are of limited relevance to these applications. Accordingly we believe that little weight should be given to the policies or site allocations in the emerging Local Plan.

CPRE Hertfordshire supports fully the countryside concerns and evidence of both the Council and the community group Keep Chiswell Green with regard to the reasons for refusal of these applications. This statement relates mainly to strategic planning concerns, the changing context for both local planning and the determination of major development proposals in designated protected areas such as the Green Belt, and concerns expressed by members of CPRE Hertfordshire regarding countryside issues.

GREEN BELT DESIGNATION

Both sites lie wholly within the London Metropolitan Green Belt to which the Government accords increasing importance, as I will note later. Once Green Belt is defined, Local Planning Authorities should plan positively to retain and enhance its landscapes, visual amenity and biodiversity.

CPRE Hertfordshire agrees with the Council that the proposals are inappropriate development and would result in substantial spatial and visual harm to the Green Belt and its openness. In addition to safeguarding the countryside from encroachment and the impact on the openness of the Green Belt, CPRE Hertfordshire notes the damaging impacts on other purposes of the Green Belt as noted in the National Planning Policy Framework (NPPF), including expansion into land which provides important spaces between existing settlements, and preventing urban sprawl.

In our view, very special circumstances have not been demonstrated to clearly outweigh the considerable and substantive harm which would be caused by the development of up to 721 houses in the Green Belt. This includes the loss of nearly 26 hectares of open agricultural land, a significant proportion of which is designated as Best and Most Versatile land (17.9 ha.), and we believe that the purported benefits of the scheme taken together do not clearly outweigh the harm which will be caused.

NPPF PRESENT POSITION

CPRE Hertfordshire draws attention to Paragraph 11 of the existing National Planning Policy Framework (NPPF) which states:

For decision-taking this means:

.....

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*

Para 11 d) i. clearly applies in this case as the areas identified as being of importance are confirmed to be Green Belt in footnote 7. The large scale of the proposed loss of Green Belt is a significant factor notwithstanding recent planning decisions, and provides a clear reason for refusal of these applications.

NPPF Paragraph 140 refers to exceptional circumstances in relation to changes in the Green Belt which should be made only as part of the Local Plan process. In this respect, given the present status of the emerging St Albans District Local Plan, the land concerned remains in the Green Belt.

NPPF PROSPECTUS AND AMENDMENTS

The Government has restated its commitment to the Green Belt, most recently in the Statement in the House of Commons by the Secretary of State for Levelling Up, Housing and Communities on 6th December 2022 which noted “It will be up to local authorities, working with their communities, to determine how many homes can actually be built, taking into account what should be protected in each area—be that our precious Green Belt or national parks” (Hansard: Planning System and Levelling Up Bill: Community Control. 6.12.22).

Following this written ministerial statement on 6th December 2022, the Secretary of State published on 22nd December an open consultation document *Levelling-up and Regeneration Bill: reforms to national planning policy*. This included a “Prospectus” for possible changes to the NPPF on which public consultation was completed on 2nd March 2023, and it is clear that the context for local plans should become more flexible and take account of local circumstances and conditions.

The Prospectus indicates that there will be changes in housing targets to reflect local conditions, amongst other changes, and a greater push towards maximising the use of brownfield sites. It would be inappropriate to quote reasons related to housing land supply as outweighing the substantive harm to the openness and permanence of the Green Belt when such changes to policy in this area are being actively considered.

This is indicated in the following Government Prospectus statement:

“Through a change to the Framework’s chapter on protecting Green Belt land, we propose to make clear that local planning authorities are not required to review and alter Green belt boundaries if this would be the only way of meeting (housing) need in full (although authorities would still have the ability to review and alter Green belt boundaries if they wish, if they can demonstrate that exceptional circumstances exist). This change would remove any ambiguity about whether authorities are expected to review the Green Belt, which is something which has caused confusion and often protracted debate during the preparation of some plans.”

Further proposed amendments to the NPPF include the requirement that housing needs forecasts would be based on the latest 2021 Census figures and that housing needs figures would be “advisory” not “mandatory”, and these changes would be made soon. It is therefore in our view appropriate to suggest that consideration should be given the issue of prematurity, particularly in the light of potentially amended paragraph 49 of the NPPF, which is suggested as follows:

“.....arguments that an application is premature are unlikely to justify a refusal of planning permission other than in the limited circumstances where both:

- (a) the development proposed is so substantial, or its cumulative effect would so significant, that to grant planning permission would undermine the planning process by predetermining decisions about the scale, location, or phasing of new development that are central to an emerging plan; and*
- (b) the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.”*

We believe that both these circumstances apply in these cases.

DEVELOPING GOVERNMENT POSITION

The Government continues to reiterate its position on the Green Belt and the Prime Minister responded to a parliamentary question by Sir Mike Penning, MP for the neighbouring constituency of Hemel Hempstead, on 25th January 2023, as follows:

“He is also right to say that this Government will always protect our precious green spaces. The recent changes in our planning reforms will ensure that we can protect the green belt everywhere.”

The magnitude of the proposed development and the present status of the emerging St Albans District Local Plan would both suggest that the proposed NPPF amendments should apply in this case. It is clear that the Government’s intention is to retain the Green Belt in its present form, and the constant attempts to undermine these protections for residential developments are in danger of bringing the planning system into disrepute.

Preparation of the St Albans District Local Plan is continuing and a programme has been published and the reasons for the abandonment of the previous Local Plan are not directly relevant to the specific circumstances of the subjects of this appeal. It is thus appropriate in our view for the present emerging Local Plan to take account of the recent experience of neighbouring local planning authorities where many of the issues affecting future development are similar.

NEIGHBOURING LOCAL PLANS RELEVANCE

Recent Regulation 18 public consultations on the emerging Local Plans for three neighbouring local planning authorities in 2021 and 2022 received record-breaking numbers of responses, overwhelmingly rejecting the allocation of Green Belt sites for housing. The preparation of Local Plans for Hertsmere, Three Rivers and Dacorum Councils have been paused to enable further review and consideration of policies and proposals.

As the St Albans District Local Plan preparation continues it is entirely reasonable in our view to anticipate that a similar level of local community concern regarding the allocation of Green Belt sites for future development will be expressed during public consultation at the

Regulation 18 stage. As a responsible local planning authority St Albans City and District Council will wish rightly that its Local Plan reflects local community concerns and aspirations, as required by the NPPF, and particularly in the light of its anticipated amendments, as noted previously.

CUMULATIVE IMPACT

These concerns are magnified considerably by the sheer number of applications that are being made for development in the Green Belt in this area, and in fact the whole of southern Hertfordshire. Evidence provided by the developer's consultants for the southern application notes nine recent decisions relating to consents for development on the Green Belt and we believe this supports our position that the Green Belt is under severe threat

The Green Belt has also been severely degraded north of Chiswell Green and in the surrounding area by unauthorised and effectively illegal developments, including the former Butterfly World and adjacent sites. This poses significant pressure on the local authority in terms of planning enforcement where resources are severely limited and this means that non-compliance with planning requirements continues to the major detriment of the countryside in this area.

A review by CPRE Hertfordshire notes that a total of 36 planning applications for volume residential development on unallocated sites in the Green Belt have been made in Hertfordshire since 1st January 2022, mainly in the southern half of the County, and this excludes applications for commercial uses. This amounts to a full-throated challenge to Green Belt designation and the planning decisions of democratically elected local authorities.

We would further suggest that consents for either of these two applications would result in further proposals on Green Belt which has already been degraded. This jeopardises a major intention of legislation which seeks to enhance as well as maintain the Green Belt; an aspiration which is widely ignored.

LANDSCAPE CHARACTER

Turning to the specific proposals before this inquiry, a key characteristic of the designated open land affected is the quality of the rural landscape. The harm arising from the proposed development to landscape and visual impact is substantial and should weigh heavily against any purported benefits. CPRE Hertfordshire supports the representations made by Mr Griffiths in response to both original applications in this respect (ref Inquiry documents CD6.2 and CD6.3).

AGRICULTURAL LAND

Both appellants claim that the loss of agricultural land to development is insignificant or acceptable. However, the loss of 17.9 hectares of Grade 3a land represents just over 68% of

the total agricultural land in the two sites and we believe this constitutes a significant loss of productive land.

ECOLOGICAL ASSESSMENTS

We support the description by the Herts & Middlesex Wildlife Trust that the botanical survey for the northern site has been described as “not fit for purpose at any stage of the planning process”. Despite finding that “the trees and hedgerow habitats have high potential for breeding birds”, no breeding bird survey appears to have been carried out, nor adequate bat surveys using best practice methods including echo-location equipment and including trees and hedgerows as well as buildings.

The potential of parts of the site to support invertebrates, especially the trees and hedgerows, appears to have been completely ignored. Given paragraph 179 of the NPPF it would appear that the ecological survey is negligent in not using best practice methods to establish the presence of priority species on the site.

The Preliminary Ecological Appraisal for the southern site was carried out on 15th September 2021. This is too late to survey breeding birds using best practice methods, as most species have completed their breeding activity for the year. Specific breeding bird species which may be present on the site include skylark, linnet and yellowhammer: there is no consideration of the potential impacts of the proposed development on such species or on invertebrates.

BIODIVERSITY NET GAIN

On the southern site there is a calculated net loss of -29.39% for habitat units. It is proposed to achieve a net gain of 10% by off-site provision of habitat units in conjunction with St Albans City and District Council, at an as yet unspecified location. In any case such net gain will soon be mandatory through environmental legislation so should not be regarded as in any way exceptional.

It follows that delivery of biodiversity net gain should not be regarded as a very special circumstance since such gains are already an aim of the planning process as set out in para 179 of the NPPF. Off-site biodiversity net gain which results in a loss of biodiversity at the proposal site should not be seen as satisfactory as this means that people lose access to nature, with the gain possibly being located at a distance.

On the northern site calculations of biodiversity net gain have been deferred until the reserved matters stage. Since it is not known at this stage what such gain on the site will be, if any, it is premature to regard this as a significant benefit in the planning balance.

AFFORDABLE HOUSING

The provision of affordable housing is cited as a contribution to the very special circumstances promoted by both appellants but particularly in the northern application. The House of Commons Library Research Briefing (March 2022) on Affordable Housing notes that there is “no agreed definition of affordable housing” and neither the NPPF nor Planning Practice Guidance indicate price level information.

A recent simple illustrative analysis of average house prices and average household incomes in the County by a CPRE Hertfordshire member indicates the present inability of market housing to address in any meaningful way the demand for housing by average earning households in both St Albans and indeed Hertfordshire as a whole. Given that the definition of affordable housing has become effectively irrelevant with regard to house purchase by an average earning household in Hertfordshire, it is inappropriate to promote affordable housing as providing justification for use of the Green Belt for this purpose.

Whilst accepting that a proportion of households may find ways of affording the slightly reduced “affordable housing” prices offered, this is a general factor relating to housing provision. It is not appropriate to use proportions of “affordable housing” as supporting the case for very special circumstances which should be related to specific local conditions.

With regard to the application for north of Chiswell Green Lane great play is made of the provision of housing for ‘key workers’ and alleged Council indifference to the need for this provision, against which no evidence is provided. CPREH believes this inference is unwarranted and the suggestion of a discount of up to a third of market rates for housing is both misleading and irrelevant.

SOCIAL INFRASTRUCTURE

CPRE Hertfordshire supports the concerns of Keep Chiswell Green with regard to the impact of the proposed development on the social infrastructure of a currently predominantly rural area. The character of Chiswell Green as a semi-rural residential village will be severely affected by this huge proposal – 721 dwellings with circa 1,730 more people and 1,000 more cars - with attendant problems of air quality, traffic generation and impact on social and community services. Community services and facilities of all kinds are already under pressure and new adequate provision is difficult to achieve within a reasonable timescale.

TRANSPORT AND ACCESS

Related is the impact of the proposed development on the local road network, including specific implications for Chiswell Green where significant congestion is now common-place. The very significant level of local community concern in this area is demonstrated by the responses to the planning applications on highways grounds and CPRE Hertfordshire notes and supports the extensive evidence which will be provided to this inquiry by Keep Chiswell Green in this respect.

VERY SPECIAL CIRCUMSTANCES

In summary, CPRE Hertfordshire accepts that if very special circumstances are demonstrated to clearly outweigh the harms caused to the Green Belt then planning permission may be granted. We submit that, apart from factors relating to housing land supply, where we have raised significant concerns, most of the other benefits proposed relate to provision that should be normally expected of any significant planning application in any location.

Consequently, they do not provide any very special circumstances or conditions demonstrated by these locations, and so the weighting accorded to them should be reduced. This means that the totality of benefits proposed do not clearly outweigh the harm caused to the Green Belt in this location and we ask that these appeals be dismissed.

CB

April 2023