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Your ref S62A/2023/0028
Our ref MJH/HOOKWAY 281290.0001
Date 9 January 2024 (reissued 19 February 2024)

Dear Sirs/Mesdames

Planning representation - S62A/2023/0028 Outline application for construction of up to 50 dwellings (Use Class C3) and associated access and bus stops with all matters reserved apart from access ('the Application') RE: Land off Chelmsford Road, Hartford End CM3 1JY

We have been instructed by our client, a local group of residents (12 in number) known as "The Residents of the Original Hartford End" (chaired by a Mr Alan Hookway  to OBJECT to the above-mentioned application. The reasons for our client's objection are set out below.

Procedural Issues

Our client is mindful of the Procedural Guidance for Section 62A Authorities in Special Measures but say that a Hearing must be convened. This is a major application for some 50 dwellings, in a sensitive rural location and outside the development boundary, which should be properly tested by oral representations, questioning and clarification. The planning policy and planning history of the site indicates that the Application should be refused. The Application has attracted a considerable amount of local interest and should be properly debated in public forum.

As such, a Hearing is required to fully and properly test the planning merits of the Application and our client invites the Inspector/Inspectorate to confirm that this is how matters will now proceed. Further, given an issue pertaining to ground levels, the Applicant should be expected to confirm, with sufficient confidence, that plans,

drawings and reports all accurately represent and have regard to the actual level of the Application site and not previous Ordnance Survey/GIS information.

Background/Planning Policy

The Application has to be determined having regard to the Development Plan and any other material considerations. Moreover, it has to be determined in accordance with the Development Plan unless material considerations indicate otherwise. On behalf of our client, we say that when that exercise is undertaken it becomes abundantly clear that the Application should be refused.

The Development Plan in this case comprises the UDC Local Plan 2005 ('the LP') but also the Felsted Neighbourhood Plan 2018-2033 which was "made" on 25 February 2020 ('the NP'). UDC are currently in the process of updating the LP but that process is at any early stage and, our client says, any policies within the emerging plan have little, if any appreciable, weight.

Material considerations include, amongst other things, the National Planning Policy Framework (December 2023) ('the NPPF') and the relevant planning history of the application site (in whole or part). In respect of the NPPF its central aim is to achieve sustainable development – social, economic and environmental – and is/will be an important material consideration in the determination of the Application.

The planning history of the site is a material consideration as is the doctrine of consistency; namely that, absent a material change in circumstances, consistent decision-making represents good decision-making. Part of the Application site has been the subject of three previous applications for outline permission – under references 20/3323/OP, 20/3368/OP and 21/3088/OP ('the Earlier Applications') – all of which for 'ribbon'/infill' development. All of the Earlier Applications have been refused; each time reasons for refusal included conflict with policy S7 of the LP and policies CW1 And HN5 of the NP. Other policy conflict was also identified dependent upon the nature of the specific scheme/development in question.

Moreover, in the Earlier Applications it was found that this site is "*not in a particularly sustainable location relative to local services*" with the reasoned, and reasonable, assessment that "*...it most likely that most trips [to access local services] would be done by [private] motor car*". Indeed, there are extremely limited services (a village shop with a restrict range of goods and a part-time GP surgery) with the net result that people commute for employment and, further, travel for a wider range of goods and services in nearby towns and conurbations. There is no good reason to overturn the assessment undertaken in the Earlier Applications that the Application site has limited sustainability credentials. Moreover, given the proposal is limited to housing – i.e. there is no proposal for a commercial element or employment use – the Application proposes simply to increase demand/strain upon existing services and infrastructure.

The Applicant does refer to development of land to the south and under application reference 16/2149/FUL – however, that application can be readily distinguished as it concerned the redevelopment of previously used/brownfield land (~5350 sqm of industrial buildings), not virgin/greenfield agricultural land as is the case here. Namely, because of the used of previously developed land the principle of residential development of that land to the south was considered acceptable in planning terms – this is not the case with the Application site.

LP policy S7 serves to protect or enhance the character of the countryside. Policy S7 specifies that there will be strict control on new building development in the countryside, which applies outside settlement limits. Permission will only be granted for development that needs to take place there and if its appearance protects or enhances the character of the part of the countryside within which it is set.

LP policy GEN1 concerns securing suitable access for new development. It prescribed five criteria all of which must be met. Summarising, the criteria to be met are that traffic from the development can be accommodated safely, the road network must have enough capacity, design must not compromise road safety (of all users), access must meet the needs of all people (including those with disabilities) and the development encourages movement by means other than private motor car.

LP policy GEN4 strives to ensure “good neighbourliness” in all forms of development, to include the construction phase, and GEN2 secures good design by prescribing various criterion to be met, to include that the development should not have a materially adverse effect on the reasonable occupation and enjoyment of a residential property/residential occupiers. LP policy GEN3 concerns flood protection including the requirement that development should not increase the risk of flooding within the Site but also elsewhere (i.e., not cause problems “downstream” or “downhill” which has not been considered. LP policy GEN7 concerns the conservation of nature; preventing harmful development whilst also striving for the enhancement of biodiversity.

LP policies with a ‘ENV’ designation all concern environment and nature conservation. Whilst the Application site does not contain any heritage assets or is sited within a Conservation Area LP policy ENV2 is engaged for reason of the enlarged site being closer to listed buildings at Camsix Farm and Hartford End Mill. LP policy ENV5 is also engaged for reason that the Application concerns agricultural land.

In terms of the NP, ICH4 does not support development which diminishes openness between Felsted and its neighbouring villages and hamlets (i.e. strives to prevent coalescence) with NP policy CW1 requiring development proposals to protect and enhance the landscape of the character area in which they are situated. Both legislation and the NPPF recognise the importance of neighbourhood plans and their role in defining and shaping the spatial development of that neighbourhood. Further, the NPPG confirms that planning permission should not normally be granted where a planning application conflicts with its policies, unless material considerations indicate otherwise.

Moreover, in the most recent iteration of the NPPF paragraph 14 confirms that the ‘tilted balance’ – i.e. the presumption in favour of granting planning permission for development where there is a shortfall in housing land support and/or relevant local plan policies are out-of-date - may be disengaged in circumstances whereby the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits. Paragraph 14 NPPF is subject to two limitations both of which the NP meets; namely, the NP was made within the last 5 years and it [the NP] did contain policies and allocations to meet an identified housing target.

There are three dimensions to sustainable development identified in the NPPF: economic, social and environmental:

The social role is supporting strong, vibrant and healthy communities by providing a supply of housing required to meet the needs of present and future generations; and creating a high-quality built environment, with accessible local services that reflect the community’s needs and support its health, social and cultural wellbeing.

The economic objective, amongst other things, strives to ensure that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure.

The environmental role seeks to protect and enhance our natural, built and historic environment, using natural resources prudently. The NPPF recognises the intrinsic character and beauty of the countryside as a core planning principle (para 180). To promote sustainable development in rural areas, housing should be located where it will maintain or enhance the vitality of rural settlements (para 83).

Our client's Representations

Our client wishes to make the following representations/outline its concerns as to the Application and set out why, our client says, the Application should (or must) be refused.

Facilities/Sustainability

At Section 8 of the Design and Access Statement the Applicant suggests that “*the Application site is within close proximity to local amenities and transport links*” – this is somewhat optimistic given there is one bus stop and one ‘public amenity’ (niche businesses set in an agricultural setting) within a 15-minute walk. The nearest convenience store is in Felstead, a 45 minute (if not more) walk away along narrow country roads. Residents invariably need to travel to obtain goods to support day-to-day living with it likely, if not inevitable, that journeys to obtain goods and services would be by private motor car.

It appears that no thought has been given to where (or how) resident occupiers of school age will be taught nor how they will (safely) get to their place of education. There is no school within a reasonable walking distance (600m for primary school and 1500m for secondary school, per Essex Design Guide). If there is to be a “school bus” then the nearest bus stop to the south and along a narrow country road is not suitable. The proposal for a new Bus Stop is noted but has its shortcomings (see below).

Further and in any event, the schools that are within the catchment area are all at capacity/oversubscribed and as a ‘windfall’ site there is no express provision within the Essex School Organisation Service’s 10-Year Plan ‘Meeting the demand for school places in Essex’.

The Essex County Council Developers’ Guide to Infrastructure Contributions (revised 2019) confirms that the Application, as a development of 20 or more dwellings, will be assessed for a contribution (para 5.2.2). It is unclear how the required school places will be provided in the vicinity given current constraints. Moreover, the school run is likely, if not certain, to be by private motor car. Such matters “talk to” the sustainability credentials (or lack of) of the Application site.

In addition, the two local GP Practices do not have the capacity for the additional growth in the area which will increase demand upon already constrained services. Residents would struggle to register with nearby GP surgeries. The situation is worse in respect of a chronic shortage of NHS Dentists. Again, such is relevant to the sustainability, and suitability, of this site.

As outlined above, there is an absence of facilities within the vicinity and certainly no facilities required to support day-to-day living within reasonable walking (or cycling) distance. Residents would likely struggle to register with nearby GP surgeries. It is likely, if not inevitable, that journeys to obtain goods and services would be by private motor car.

The Application contains nothing to alleviate concerns over the lack of sustainability nor, indeed, to improve the sustainability credentials of the vicinity. Our client says, as UDC have found before, that the Application site is not a suitable location for new housing, contrary to LP policy S7 but also relevant provisions of the NPPF.

Heritage

The proposed development will have a heritage impact, namely upon the setting of nearby listed buildings, to include Keepers Cottage and the Pump (i.e. urbanise the setting). The proposal erodes medium and long-range views/vistas of relevant heritage assets and serves to detract from them.

Our client thus says that LP policy ENV2 is not complied with.

Flooding

Our client does note that the Application site is within Flood Zone 1 – however, our client’s local knowledge is that this area is liable to flooding with the increase in impermeable surface almost certain to increase that risk. The Application site has a limited gradient and sits at a natural low level (i.e. in the vicinity of an existing water course) – there is a limited/insufficient ‘fall’ to nearby water courses. In terms of those water courses they flood, break their banks, annually and typically more 2 to 4 times a year. Flooding causes Mill lane to be damaged and, on occasion, impassable – there is a danger to health and life from that risk but also the emergency services not being able to pass flooded roads. It is locally known that Mill House has been the subject of insurance claims for flood damage – including one in excess of £100,000. We append to this letter some photos taken 4/5 days after a period of rainfall with the water levels still high.

The phase 1 development to the south regularly floods and this is the case with the Application site as a ploughed, permeable, surface – developing the Application site will increase flood risk to the south and west. Our client thus says that the risk of flooding – to include surface water flooding and water attenuation – is a point that requires further and fuller investigation. The existing surface drainage and water courses already reach maximum capacity and therefore runs a high risk that water will overflow through the gullies and manhole covers of the phase 1 development.

The addition of a further 52 units will only create further strain on the current drainage issues caused by the over stretched water courses. It is therefore foreseeable that significant flooding would affect the existing residents specifically whose garages are all below the site level.

In terms of the documents it is unclear whether the SuDs Water quality and Quality assessment has been completed correctly – for example the figure at 2.4 should be 10,096m² (i.e. 9754 + 342m²) and not simply 342m². Namely the stated figure is out by 9754m² – or a factor of 29.5 times - a considerable amount. Further, it is noted that a gravity system is proposed which, for reason of topography etc – our client does not believe would effectively mitigate the position. In short, the evidence requires proper scrutiny and the proposed solution likewise before compliance with LP policy GEN3 (and relevant policies within the NPPF) can be properly assessed.

Highways

Our client maintains that there is an issue with Highway safety – for the same reasons as given in the Earlier Applications.

The proposed entrance to the Application site is to a meandering, narrow, country road (B1417) set within a 40mph zone but with no footpaths or refuge points for those traveling on foot, by bicycle or on horse. Pedestrians and Dog walkers report that they feel that they “run the gauntlet” of walking down this road which is known to be perilous. Many are discouraged from walking. For those that do “run the gauntlet” they will typically have torches and/or wear high-visibility clothing in the hope of reducing the risk.

It is notable that the Design and Access Statement does not report “CrashMap” data -appended to this letter – which confirms that there has been numerous incidents along the B1417 (4 serious, 14 slight) but pertinently in the vicinity (if not exactly upon) the siting of the proposed access to the Application site.

Our clients say that the proposed access is poorly located given the proximity of Mill Lane, Littley Park Lane and the access to the Old Brewery. Namely, there are already a number of vehicles slowing down to pull in and accelerating to pull out of these entrances – all of which adds to discrepancy in speeds/closing distances and increases risk to highway users in turn. Sight lines are poor given neighbouring boundary treatments (pertinently to the north). It is not clear how the electrical substation has been factored into the plans. The

proposed site access will add a great deal of risk, specifically with regard to the B1417, which could be described as one of the main roads linking Felstead and Chelmsford.

Our client thus says that LP policy GEN1 is not met and the Application should be refused in turn.

Loss of Openness/Countryside and coalescence

The Application site is located within the Countryside to which Policy S7 states “... *Development will only be permitted if its appearance protects or enhances the particular character of the part of the countryside within which it is set or there are special reasons why the development in the form proposed needs to be there.*” As above, this is not a suitable location and there is no special reason why the development in the form proposed does need to be on this site – there are other, vastly more appropriate, locations for an additional 50 dwellings within the District.

The Application is for an urbanising form of development (i.e. a mini ‘housing estate’) which will erode the open agricultural/agrarian grain of the landscape, causing harm to local character and appearance in turn, but also result in the loss of an important green gap within Hartford End which contributes to its rural setting, character and appearance. The Application proposes a form of development which is much higher density than that of the surrounding error and would ‘sit’ as an incongruous form of development in turn. Our client thus says that the proposal conflicts with both the LP policy S7, NP policy CW1 and relevant provisions of the NPPF.

Loss of Arable Land

It is acknowledged that the Application site is ‘only’ 2.42 ha. However, recent global events have impressed the need to ensure food security and prime farming land should be retained wherever possible, with development in the first instance taking place on less fertile soil. In this case, the benefits of the agricultural land on both the character of the village and the surrounding ecosystems cannot be underestimated. Our client therefore does not consider Policy ENV5 to be complied with.

Planning Balance

Whilst our client acknowledges that a planning balance must be undertaken any benefits are limited and short-term. For example, whilst there would likely be a contribution to affordable housing and some (short term) economic benefit during the construction phase and perhaps additional spend within Felstead this is the same with any development. However, as Local Plan and NPPF policy makes clear, the land to be developed must be in the right location and developed in the right way. The Application promotes neither and the benefits are grossly outweighed by the harm which would result.

Conclusion

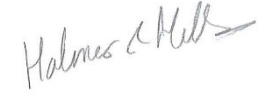
This application should be determined by the Hearing procedure.

Notwithstanding the above, on behalf of our client, we conclude by saying that, for all the above reasons, the development proposed in the Application would not represent sustainable development, be harmful to the character and appearance of the area and, as such, be contrary to planning policy. On a ‘flat balance’ therefore our client says that the Application should be refused for reason of identified policy conflict. Further, and insofar as engaged, the adverse impacts in permitting the Application would significantly and demonstrably outweigh the benefits when assessed against the policies of the NPPF taken as a whole.

The Application should therefore be REFUSED.

On behalf of our client, we thank you for your attention in this matter.

Yours faithfully



HOLMES & HILLS LLP

Photos re River

~Christmas 2023



December 2023/January 2024 (taken 4/5 days of dry weather after a week's rainfall)



CrashMap data

