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Senior Director
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By e-mail only

Our Ref : JZC/243498.0001
Your Ref :
Date : 5 July 2024

Dear Neil

**Land at Wickham Hall Estate, Bishops Stortford, Uttlesford, CM23 1JG (“Site”)
S62A/2024/0045 (“Application”)**

I have been instructed by our mutual client, Endurance Energy (“EE”) to confirm my advice in connection with representations received in relation to the validity of the Application by East Hertfordshire District Council (“EHDC”).

Background

- 1 The Planning Inspectorate (“PINS”) have previously confirmed by way of a letter dated 26 June 2024 that the Application *“conforms to the statutory requirements and as such is valid”* and provided a validation date of 20 June 2024.
- 2 However, you have provided me with a copy of an email from an officer at EHDC dated 1 July 2024 raising the following two points questioning the validity of the Application:
 - 2.1 That the *“location plan has to include all land required to carry out the development including access up to the public highway. The location plan supplied does not include access up to the highway and only goes up to a Private access road.”*
 - 2.2 That *“part of the site to the bottom right corner is within the boundary of East Herts Council a duplicate application and an additional 50% of the application fee should have been submitted to East Herts Council.”*
- 3 In respect of the second of these two points, I understand that you are clear that no part of the site subject to the Application falls within the administrative area of EHDC. You have confirmed that you will clarify this in a representation to PINS and this letter does not provide advice on this point.
- 4 On 19 December 2023 EHDC granted planning permission for a solar farm to the west of the Site under application reference 3/21/22601/FUL (“EHDC Permission”).

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Advice

- 5 The procedural guidance for Section 62A authorities in special measures (last updated on 19 June 2024) sets out at paragraph 3.3.1 that a “*valid application is one that complies with the national validation requirements and meets the relevant requirements of the designated LPA’s published local list*”.
- 6 Article 4 of the Town and Country Planning (Section 62A Applications) (Procedure and Consequential Amendments) Order 2013 requires section 62A applications to be accompanied by “*a plan which identifies the land to which the application relates*” and “*such other plans, drawings and information necessary to describe the development, which is the subject of the application*”. This matches provisions in Article 7 of the Town and Country Planning (Development Management Procedure) (England) Order 2015.
- 7 Planning practice guidance requires the following information to be included on a location plan¹:

What information should be included on a location plan?

A location plan should be based on an up-to-date map. The scale should typically be 1:1250 or 1:2500, but wherever possible the plan should be scaled to fit onto A4 or A3 size paper. A location plan should identify sufficient roads and/or buildings on land adjoining the application site to ensure that the exact location of the application site is clear.

The application site should be edged clearly with a red line on the location plan. It should include all land necessary to carry out the proposed development (eg land required for access to the site from a public highway, visibility splays, landscaping, car parking and open areas around buildings). A blue line should be drawn around any other land owned by the applicant, close to or adjoining the application site.

- 8 Uttlesford District Council’s (“UDC”) validation checklist² indicates that plans should identify the highway boundary but does not prescribe that the red line on a location plan should extend to meet/adjoin that boundary.
- 9 EHDC’s validation checklist³ sets out that location plans “*should include all land necessary to carry out the proposed development i.e. land required for access to the site from a public highway, car parking*”.
- 10 Paragraphs 3.4 and 4.11 to 4.13 and Figure 8 of the Transport Statement (May 2024, Revision E) which accompanies the Application sets out that for operational traffic, maintenance vehicles will utilise the existing Wickham Hall access tracks via the Wickham Hall Estate and the Stortford Fields development to the southeast as shown on Figure 8 of that Statement.
- 11 I understand it is EE’s case that no planning permission is required for the use of the existing access tracks as shown on Figure 8 in the Transport Statement as the operational access to the development proposed by the Application as this track is long established and provides operational access to Wickham Hall farm, the Wickham Hall Business Park, café and to a winery development for which permission has been granted permission by UDC

¹ Paragraph: 024 Reference ID: 14-024-20140306

²https://www.uttlesford.gov.uk/media/11354/004-Full-Planning-Validation-Checklist/pdf/004_Full_Planning_Validation_Checklist.pdf?m=1695721243807

³[https://cdn-eastherts.onwebcurl.com/s3fs-public/2023-05/Local%20List%202021%20\(minor%20correction\)%20V2.pdf](https://cdn-eastherts.onwebcurl.com/s3fs-public/2023-05/Local%20List%202021%20(minor%20correction)%20V2.pdf)

(UTT/22/3262/FUL) for which access runs through EHDC. You have confirmed that this proposal does not require any physical development of the operational route shown on Figure 8 outside the district of Uttlesford and neither would this constitute a material change of use of this route. Therefore, no “development”⁴ is proposed in this area and no planning permission is required for this.

- 12 On this basis, this land does not need (and has no precedent) to be included within the red line boundary of the Application and no planning permission is required for this route in order to construct and operate the solar farm proposed in the Application.
- 13 Indeed, we assume this was the view taken by EHDC in approving the EHDC Permission as the Transport Statement for that scheme refers to operational access being from the existing Wickham Hall access and the document “H5234-5PD-TN03 Revised Construction Access Scheme” approved under the EHDC Permission sets out at paragraph 1.6 that operational access for that development will use the existing access via the Wickham Hall Business Park (the route shown on Figure 8 in the Transport Statement accompanying the Application). The red line boundary for the EHDC Permission does not include the existing access via the Wickham Hall Business Park.
- 14 Alternatively or indeed in addition to the point above, the use of the existing access via the Wickham Hall Business Park (i.e. the route shown on Figure 8 in the Transport Statement) is now established and approved as part of the EHDC Permission.
- 15 Either way, it is not clear to me what a planning application for the route shown on Figure 8 in the Transport Statement accompanying the Application would seek. The route is already physically in place and its use is as a vehicular access. There is no “development” arising to authorise through such an application.
- 16 For the reasons above, it is my view that the route shown on Figure 8 in the Transport Statement accompanying the Application is not required to be included within the Application and granted planning permission for the proposed development of the Site pursuant to the Application to be carried out or operated. PINS have not raised this as an issue when validating the Application.
- 17 This route is already physically established and its use is as an access. Further, EHDC did not require this route to form part of the red line boundary when granting the EHDC Permission which specifically uses this route as its operational access and, in any event, the EHDC Permission approves the use of this route as an operational access for the development to be carried out pursuant to the EHDC Permission.

Please do not hesitate to contact me should you wish to discuss.

Yours sincerely



Jamie Childs
For and on behalf of Howes Percival LLP

Direct Dial : 
E-mail : 

⁴ As defined in section 55 of the Town and Country Planning Act 1990