

Mr Christopher Dale
Assistant Director – Planning
Welwyn Hatfield District Council

27 May 2022

[REDACTED]

Dear Mr Dale,

Welwyn Hatfield Local Plan Review – sites HS29 and HS30

1. We write to you on behalf of our client, [REDACTED]. The purpose of this letter is to address:
- (a) Correspondence regarding removal of high harm sites from the Green Belt, and to confirm the status of sites HS29 and HS30;
 - (b) The changing policy framework and economic conditions and the effect on housing need; and
 - (c) The relevance of the changing economic and policy position on the planning application for 14 dwellings at Wells Farm (reference 6/2020/3451/MAJ) ("**Wells Farm Application**").

Removal of high harm sites from the Green Belt

Recent correspondence

2. We refer to the recent correspondence:
- (a) Letter from Mr Grant Shapps MP to the Council dated 27 February 2022 ("**February Letter**"); and
 - (b) The response from the Inspector to the February Letter dated 12 May 2022 ("**Inspector's Letter**").

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3. In the February Letter, Mr Shapps MP expresses concerns about the Inspector:¹

"encouraging [the Council] to breach the Government's clear policy intention by suggesting [the Council] construct housing on land which would result in 'high harm' being done to the Green Belt."

4. In response, the Inspector says:²

"The only site that I have found to be sound and whose potential development was individually considered to result in high harm, when assessed as a part of your stage 3 Green Belt study, was HS22." [our emphasis]

5. It is imperative to recognise that there are two additional sites whose removal from the Green Belt was assessed as high harm under the stage 3 Green Belt Study ("**Stage 3 Study**"),³ which the Inspector has subsequently found to be sound. These sites are HS29 and HS30. The Inspector's statement above suggests that he has sought to distinguish these sites by looking at them "individually", as HS29 and HS30 were assessed as part of a bigger parcel in the Stage 3 Study (the "**P87 Parcel**").⁴ However, the Stage 3 Study contemplates the release of the whole or part of the P87 Parcel. In particular, the "release scenario" and corresponding "harm rating" (being high harm in this case) in the Stage 3 Study is based on:⁵

"Release of the parcel as a whole, or in part (including Stage 2 parcels Cuf4, Cuf5, Cuf7, Cuf10 and Cuf12, and Local Plan allocations HS29 and HS30)." [our emphasis]

6. Therefore, the release scenario does contemplate the release of HS29 and HS30 individually and this is assessed as having a high harm effect on the Green Belt.
7. This warrants clarification. A reader, on review of the Inspector's Letter may assume that HS22 is the only site rated as high harm which the Inspector has recommended for removal, when this is not the case. HS29 and HS30's removal has been both assessed individually and as part of the P87 Parcel as a whole, as high harm. Despite this assessment, the Inspector has recommended these sites as being sound for allocation.

¹ EX284B – letter from RT Hon Grant Shapps MP to Leader of Welwyn Hatfield Council dated 27 February 2022 at page 2.

² EX 286 - Inspector's Letter at [3].

³ EX 99A – Welwyn Hatfield Green Belt Study Stage 3 Final Report (March 2019) at page 60.

⁴ The larger parcel in the Stage 3 Study which included HS29 and HS30 is P87.

⁵ EX 99A – Welwyn Hatfield Green Belt Study Stage 3 Final Report (March 2019) at page 60.

Given the late stage of examination of the Local Plan, and the confusion this could cause we believe that it is essential for the Council to seek for the Inspector to issue an amended letter to correct the incorrect statement in the first letter.

Status of HS29 and HS30 under the Local Plan under examination

8. It is also important to reiterate that while it is the Inspector's view that the removal of HS29 and HS30 can be considered sound when mitigation is employed (despite the high harm rating in the Stage 3 Study), the treatment of these sites under the Local Plan remains under contention.
9. Firstly, the Inspector's view does not accord with the Stage 3 Study regarding the suitability of mitigation to warrant the removal of HS29 and HS30. The Inspector's view is that a landscape strip could create a defensible boundary to justify the removal of HS29 and HS30:⁶

"The land slopes to the north and a landscaped strip along that boundary accompanied by appropriate earthworks, if carefully designed, could create a defensible boundary to screen the sites from the wider countryside GB."

10. However, the Stage 3 Study had already considered similar mitigation. The Stage 3 Study says:⁷

"The parcel is open and rural in character and strongly distinct from Cuffley which slopes down eastwards from the parcel edge. Its release would also reduce the perceived separation between the Tier 1 settlements of Cheshunt to the east and Potters Bar to the southwest as well as the perceived separation between the inset settlement of Cuffley to the east and Potters Bar to the west. A new Green Belt boundary within or bordering the parcel would be weaker than the current ridge crest inset boundary."
[our emphasis]

11. The Stage 3 Study had therefore already considered a boundary within the parcel and considered that this would be weaker than the current ridge inset boundary. Notwithstanding this analysis it is the Inspector's opinion that an appropriate boundary could be provided within the P87 Parcel. In any event, while it is the Inspector's view that if HS29 and HS30 were removed from the Green Belt, a defensible boundary could be created to shield the remaining Green Belt area from development, any such

⁶ EX 212 - Inspector's preliminary conclusions and advice at [124].

⁷ EX 99B – Welwyn Hatfield Green Belt Study Appendices (March 2019) at page 393.

boundary would invariably compromise the essential characteristics of the Green Belt area at present being "its openness and permanence".⁸

12. Further, although it is the Inspector's opinion that HS29 and HS30 can be removed from the Green Belt, this view is not shared by the Council. At the full Council meeting of 27 January 2022, the Council voted that HS29 and HS30 (similar to HS22 which is mentioned in the Inspector's Letter) should not be removed from the Green Belt as exceptional circumstances do not exist (as required by the 2012 NPPF).⁹ In light of this, and as HS29 and HS30 are not addressed in the Inspector's Letter, it is crucial to understand that:
- (a) HS22 is not the only high harm site that the Inspector has recommended as sound - HS29 and HS30 are also in this category; and
 - (b) the Council's view is that the removal of HS29 and HS30 from the Green Belt is not justified in any event.

Economic and political outlook

13. The Inspector's suggested removal of HS29 and HS30 from the Green Belt is necessary to achieve his recommended objectively assessed housing need ("OAN") of 15,200 houses.¹⁰ As has recently been set out by the Minister for Housing (November 2021) it is important to remember that the formula for housing need is a starting point, not an end point. It is for local authorities, working with the Planning Inspectorate to determine the right number of homes based on the constraints and ambitions they may have.¹¹ The Council's OAN of 13,279 does not require the removal of HS29 and HS30 from the Green Belt.¹²
14. The Council will be fully informed of the economic concern facing the UK at present and how the Inspector's OAN sits against this. Increasing inflation, Brexit, the war in Ukraine, unprecedented energy prices, Covid recovery and recession fears are all painting a poor economic picture. We would note that the Inspector's number of 15,200 is based on the "Household projections for England: 2018 based" ("**2018**

⁸ NPPF (2012) at [79].

⁹ EX282A – Housing Supply Note – Schedule of Sites

¹⁰ EX283 – Letter from the Inspector date 16 February 2022 at [10].

¹¹ The Minister for Housing, Christopher Pincher, Hertfordshire Green Belt: National Planning Policy, Volume 704 debated on Tuesday 23 November 2021.

¹² EX282A – Site Selection January 2022.

Projections").¹³ The 2018 Projections explicitly say that "projections do not factor in the effect of Covid-19 or attempt to predict the impact of political circumstances".¹⁴

15. Forecasting to show what the actual housing needs will be in this economic climate is uncertain. Alteration of Green Belt boundaries require exceptional circumstances – in particular, the Local Authority is required to take account of the need to promote sustainable patterns of development.¹⁵ It is unreasonable to justify the removal of high harm sites without a proper consideration of whether the OAN remains robust and whether the adverse market signals need to be taken into account in any decision.
16. As noted in the Council's letter to the Inspector dated 31 January 2022 "once land is removed from the Green Belt it cannot be put back even if there is a change in methodology relating to the calculation of housing need". Our client supports this statement and would add that it also applies where there is a change in the housing need itself.
17. It would seem unsound and irrational to facilitate the irrevocable removal of high harm sites from the Green Belt to cater for what is likely to be an inflated housing need that, given current market signals, may not come to fruition.
18. Recent policy intention also does not support the removal of high harm sites from the Green Belt. In particular, the Levelling Up and Regeneration Bill acts to enhance protections of the Green Belt through the following:¹⁶
 - (a) A removal of the requirement for authorities to maintain a rolling five - year supply of deliverable housing where a plan is up to date, to prevent opportunistic incursions into the Green Belt through "planning by appeal".
 - (b) Empowering Councils to make better use of brownfield land and protecting precious Green Belt land.

¹³ Letter from the Inspector "Reconsideration of the Plan's Full Objectively Assessed Housing Need in the context of the 2018-based household projections", dated June 2021.

¹⁴<https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/populationprojections/bulletins/householdprojectionsforengland/2018based>

¹⁵ NPPF (2012) at [83].

¹⁶ <https://www.gov.uk/government/publications/levelling-up-and-regeneration-further-information/levelling-up-and-regeneration-further-information>; <https://www.gov.uk/government/news/new-bill-to-level-up-the-nation>

- (c) A commitment to maintaining existing Green Belt protections and pursuing options to make the Green Belt even greener.
19. Given the direction of travel for Government policy on the Green Belt, it would be contrary to the signalled intention of the Government for HS29 and HS30 to be removed from the Green Belt.

Wells Farm Application

20. The comments above are pertinent to the Wells Farm Application presently before the Council for 14 dwellings in HS30. We have submitted two letters of objection on behalf of our client relating to this, dated 16 February and 4 March 2022.
21. The Wells Farm Application will need to either show that:
- (a) The application will *"not have a greater impact on the openness of the Green Belt than the existing development"* (if it is determined that the application does involve redevelopment of previously developed land ("**PDL**"); or
- (b) That "very special circumstances" exist (if the land is not PDL).
22. When considering that the removal of HS29 and HS30 from the Green Belt is classified as being "high harm", it follows that development on HS30 will have a greater impact on the openness of the Green Belt than the existing development. We reiterate our previous concerns regarding the proposed uplift in scale, bulk and massing, in combination with the associated new domestic activity at the site, which would result in a significant harmful impact on the openness of the Green Belt, both within the site itself and the site's wider contribution to the Green Belt purposes.
23. Further, the Wells Farm Application states that:¹⁷
- "The implementation of the scheme proposed through this application secures early contribution towards pressing housing requirements without prejudicing the realisation of the remainder of the draft allocation for site HS30."*
24. In our view, this statement highlights exactly why the Wells Farm Application is unsuitable - it does not contribute to sustainable outcomes and, in any case the "pressing housing need" remains uncertain in these times of economic instability. It cannot be

¹⁷ Planning statement for Wells Farm Application at 6.79.

said that this situation (where such housing need may not eventuate), warrants "very special circumstances".

25. We therefore seek that the Wells Farm Application is refused.
26. We would be grateful if you could please confirm safe receipt of this letter.

Yours faithfully



Clifford Chance LLP

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