

Standing up for Hertfordshire's countryside

Mr. M. Peacock  
Development Control  
Welwyn Hatfield Council  
Campus East  
Welwyn Garden City  
Hertfordshire  
AL8 6AE

Our Ref:

Your Ref:

7<sup>th</sup> October 2016 (by email)

Dear Mr. Peacock,

Application No. S6/2015/1342/PP

Outline planning application for residential development of up to 121 dwellings, associated infrastructure and a change of use from agricultural land to an extension of the King George V playing field. All matters reserved except for new vehicular access to serve the site, the provision of surface water discharge points and the levels of development platforms on Land to the north east of King George V Playing Fields, Northaw Road East, Cuffley, Hertfordshire EN6 4RD

Further to our letter of 29 July 2015 concerning the lack of very special circumstances to justify this development in the Green Belt, CPRE Hertfordshire have now considered the "Case For Very Special Circumstances" belatedly submitted by the applicant on 15 September 2016. This supplement to the Planning Statement concludes with a list of 14 items.

It is the role of the Council to assess the balance of the case for very special circumstances against the harm to the openness of the Green Belt and other harm. It is clear from paragraph 88 of the National Planning Policy Framework that the harm must be "clearly outweighed" by countervailing considerations. To be "clearly outweighed" it is not enough simply to show that the harm and the countervailing considerations are in balance this is neutralising but not outweighing and certainly not "clearly" outweighing." In our view the items put forward by the applicant do not meet that test.

To take them in turn:

- I. The Council's recognition that "exceptional circumstances" exist to release land from the Green Belt.
- II. Cuffley's identification as a large village where sites for new homes will be allocated around the settlement, all of which is currently in the Green Belt.

and

III. The Council's conclusion that the Application Site could be released without unacceptable harm to Green Belt purposes.

The Council's opinion that there are exceptional circumstances to justify the release of land from the Green Belt is challengeable and has yet to be tested at the Examination of the emerging Local Plan. It is not sufficient for the Council simply to state that exceptional circumstances exist; these must be explicit and demonstrable and, if being cited by an applicant, as they are in this case, site specific. Development of site HS28 (Cuf6) would result in ribbon development along Northaw Road East which would be contrary to the purposes of maintaining the Green Belt, resulting in unacceptable harm.

IV. The allocation in the draft Local Plan of the land to the north east of the King George V playing fields for housing and its delivery within the first 10 years of the plan period (between 2013 - 2023).

V. The indication in the Local Plan's Housing Trajectory that there will be dwelling completions on this site from 2019/20 which is achievable but only if planning permission is granted prior to the adoption of the Local Plan.

and

VI. The emerging planning policy framework, and the evidence on which it is based, clearly constitutes important and relevant material considerations in the 'Very Special Circumstances' balance and which the Council should take into account when determining the application.

Again IV and V are aspects of the draft Local Plan which have yet to be tested through the Plan Examination. The applicant is correct in stating that the Council should take these points into consideration in weighing the planning balance in this case, but they should not be conclusive in determining the case for overturning Green Belt Policies. They do not of themselves constitute 'very special circumstances.' The emerging Local Plan is not in force and may not be found sound. Until it is the site remains Green Belt. The fact that a particular site happens to be suitable for housing development cannot constitute an exceptional circumstance justifying an alteration of the Green Belt. As the Court found in *Gallagher Estates v. Solihull* : " It is not arguable that the mere process of preparing a new local plan could itself be regarded as an exceptional circumstance justifying an alteration to a Green Belt boundary."

VII. The lack of a 5 year supply of housing; a material consideration which in conjunction with other factors represent 'Very Special Circumstances'.

Nor is the lack of a 5 year supply of housing a 'very special circumstance', whether taken in conjunction with other factors or not. The Applicant refers to ministerial statements. We refer you to the case of *Richborough Estates v Cheshire East Borough Council and Secretary of State for Communities and Local Government* (case reference [2016] EWCA Civ 168) in

which the Court stated that the policies referred to in footnote 9 to paragraph 14 of the NPPF (which includes Green Belt policies), “*will continue to be relevant even where the development plan is absent, silent or relevant policies are out-of-date*”. The cases of Crane vs. SSCLG and Tewkesbury BC vs. SSCLG also reach the same conclusion. We also draw attention to the ministerial letter dated 7 June 2016 from Brandon Lewis MP (a copy of which was forwarded to your Council in August) which similarly covered this point. Consequently this application has to be considered under the Council’s existing policies in relation to the Green Belt and the NPPF, with which it is in conflict.

VIII. *The Parish Council’s stated intention to include an outline development brief for the site within the emerging Neighbourhood Plan; details of which have been the subject of regular discussions with the Neighbourhood Plan Group and others in accordance with the objectives for development within Cuffley, as set out in the draft Local Plan.*

The Parish’s Council’s stated intentions were contained in the March 2016 edition of the Parish Newsletter. The Neighbourhood Plan for Cuffley does not, as yet, exist. Whatever may or may not be in it has still to be subject to public consultation and the plan formally “made” before it can be given full weight.

IX. *The significant contribution which the proposed development will make to the provision of affordable housing within Cuffley and the creation of a more mixed and balanced community.*

The provision of affordable housing is not a ‘very special circumstance’. All housing developments of the size proposed are required to provide a quantum of affordable housing. This is not exceptional.

X. *An area of land which is to be given to the local community to enable the extension of the existing playing fields and a financial contribution towards the provision of an artificial turf pitch thereon.*

XI. *Improving the recreational use of the King George V playing fields and enhancing access to the countryside through improvements to Hertfordshire Way and the introduction of permissive paths around the adjacent land controlled by the Applicant.*

XII. *The provision of a safe and convenient pedestrian and cycle route across the development linking the playing fields and the primary school via South Drive.*

XIII. *Widening the entrance to the King George V playing fields to enable two vehicles to pass thereby improving public safety.*

and

XIV. Facilitating the implementation of the Parish Council's proposals, as supported by the County Council, for public realm improvements along Station Road.

The factors considered above individually do not represent Very Special Circumstances and are the types of proposal which one would formerly have expected to see in a Section 106 agreement.

The question for the Council is whether collectively those factors combine with sufficient weight to represent the very special circumstances that would overcome the harm to the Green Belt as set out in the NPPF. Clearly that is not the case here.

Yours sincerely,

A black rectangular redaction box covering the signature of David Irving.

David Irving