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Local Plan Examination
Hearing Week 6
Matter 11
Representation ID 2473

Land to the East of Bedford Road and West of Old Ramerick Manor Bedford Road Ickleford - LS1 Site

This is a representation made by Richard and Judy Lee and to be considered in conjunction with their email dated the 30/11/2017.

I have been engaged to respond to the above application in my professional capacity as Managing Director of the Aragon Land and Planning Consultancy, based in Bedford. I have over twenty-eight years' experience, having worked in the public sector, consultancy and private industry. I am a Corporate Member of the Royal Town Planning Institute and The Town & Country Planning Association

Introduction:

The LS1 site is set within the open countryside, outside any settlement envelope and is a greenfield site. It is not in fact located in the village of Ickleford, which is 3 miles drive further South. The site is 7 hectares and is located partly in the floodplain. It is coterminous to a Grade II* listed building dating from the 13th century, with many rare features such as an original priests hole. The site consists entirely of high quality Grade 2 agricultural land. The proposal conflicts with local and national planning policy in several important respects:

- Development Plan
 - Rural Areas beyond Green Belt
 - Five-year land Supply
 - Examination Process and Prematurity
- Infrastructure
- Sequential Phasing
- Flood Risk
- Character and Heritage Considerations

Development Plan

The starting point for the consideration of such applications is development plan. This comprises the Adopted North Herts District Local Plan and therefore a general presumption will remain from the plan and the act (s38.6) that the site being the countryside should be protected from residential development. The development plan comprises the North Hertfordshire District Local Plan No. 2 with alterations. Policy 6 is material and advises;

Policy 6: Rural Areas beyond the Green Belt

In Rural Areas beyond the Green Belt, the Council will maintain the existing countryside and villages, and their character. Except in Selected Villages (Policy 7), a development proposal will normally be allowed only if:

i. it is strictly necessary for the needs of agriculture, forestry or any proven need for local community services, provided that:

a. the need cannot practicably be met within a town,

excluded village or selected village, and

b. the proposal positively improves the rural environment;

or

ii. it would meet an identified rural housing need, in compliance with Policy 29; or

iii. it is a single dwelling on a small plot located within the built core of the settlement which will not result in outward expansion of the settlement or have any other adverse impact on the local environment or other policy aims within the Rural Areas; or

iv. it involves a change to the rural economy in terms of Policy 24 or Policy 25.

Policy 6 thus clearly precludes residential development in open rural areas.

The proposed LS1 application site is located outside any defined settlement boundary. It is therefore also contrary to NHLP policy SP2.

The plan is dated and national advice in the National Planning Policy Framework (NPPF) in para 49 comments;

Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.

In this instance, it is clear-cut from the recent updates published on their websites by NHDC and CBC that both Councils appear to have fulfilled their requirements for a 5-year supply of deliverable housing sites. Indeed, the published total figures from both Councils show a surplus of provision. In the case of N. Herts Council,

their total figure for a five-year land supply (5YLS) includes an additional precautionary buffer of 20%, which has been applied in order to reflect their previous record of shortfalls in provision since 2011. NHDC's total figure is therefore a very realistic figure because it already includes a 20% extra margin of safety of additional dwellings.

The North Hertfordshire Local Plan 2011-2031 Housing and Green Belt background paper - Partial Update September 2017 "Housing monitoring and five-year supply" advises in Section 4: Housing trajectory and five-year land supply;

The submitted Plan establishes a phased target of:

- **500 homes per year for the period 2011-2021**
- **1,100 homes per year for the period 2021-2031**

Completions in the most recent monitoring year were above the annual target of 500 homes. However, a precautionary approach has been taken and the five-year supply has been calculated on the assumption that a 20% buffer will be deemed most appropriate having regard to housing delivery in the district since 2011.

This leads to a total five-year housing requirement of 4,151 homes for the period 1 April 2017 – 31 March 2022. By reference to the housing trajectory in Appendix 2, a total projected delivery of 4,412 new homes is anticipated over this period.

This equates to a 5.3 year supply of land for housing.

(Workings summarised in Table 3: Five-year land supply as at 1st April 2017.)

If this total projected figure of 4,412 homes over 5 years then has the 120 dwellings in the LS1 proposal removed, this would still leave a total figure of 4,292, which is more than the necessary requirement of 4,151 dwellings for the period 1 April 2017 – 31 March 2022, even when the margin of the extra 20% precautionary buffer has been taken into account.

The neighbouring Central Bedfordshire Council also demonstrate no shortfall of provision in their 5YLS.

THE CBC Five Year Land Supply Statement for the five-year period commencing 1st October 2017 states that:

This means that over the remaining 17.5 years of the OAN period, an average of 1,580 dwellings will be required per year, or 7,904 over the five-year supply period. When the 5% buffer is added the five-year requirement is 8,300.

The Housing Trajectory shows that over the five-year supply period (01/10/17 – 31/9/22) a total of 9,862 dwellings are considered to have a 'realistic prospect' of being delivered. This is 1,563 dwellings more than is required.

At 1st October 2017 this council can demonstrate 5.94 years supply of deliverable housing sites.

It is clear that in terms of the 5YLS, N Herts District Council have a **5.3 year land supply**, including the necessary precautionary buffer of 20% for having been an "under-deliverer" in previous years, while Central Bedfordshire Council have a **5.94 year land supply**, including the standard 5% buffer, as per the requirements in paragraph 47 of the NPPF. This means that there is no justification for the inclusion of the LS1 site within the draft Local Plan, particularly given that it was a late addition into the Plan. The figures above demonstrate there is no rational basis for the submission of a large planning application on this greenfield site in the open countryside.

In any event, even if the Local Planning Authority did not have a 5-year housing land supply in place, which is clearly not the case here, it does not automatically mean that planning applications such as this are approved. The advice in paragraph 216 continues;

From the day of publication, decision-takers may also give weight to relevant policies in emerging plans according to:

- **the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);**
- **the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and**
- **the degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).**

The plan has not yet been formally adopted and therefore cannot be given full weight. Furthermore, the site has a number of unresolved objections and concerns expressed from the coterminous authority, namely Central Bedfordshire Council. These objections have not been addressed and remain unresolved. It is therefore clear the emerging plan cannot be given full weight.

The advice in paragraph 14, and this is at the heart of the NPPF, is a presumption in favour of suitable development.

For decision making this means;

- **Where the development plan is absent, silent or relevant policies are out of date, granting permission unless:**

**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; or
Specific policies in this Framework indicate development should be restricted.**

The application therefore faces two tests;

- (1) to weigh up the adverse impacts and see if they outweigh the benefits, or
- (2) the application is tested against the policies in the framework.

Accordingly, the application still needs to be assessed as to whether it is sustainable development within the definition of the NPPF.

The LS1 site with 120 dwellings initially, together with the IC3 site of 150 dwellings in Ickleford village, were a late addition into the emerging local plan. The plan and policy have yet to be heard through an examination. Policy LS1 is a matter the Inspector/Examiner has asked to hear evidence on to establish whether the policy is sound. It is therefore premature to determine the application until the Examiners report has been considered. It is a site subject to many fundamental criticisms, not only from a large number of local residents, but also from the various consultee organisations. These serious concerns need to be considered before a planning application of this scale and impact is determined. The Examiner is still asking whether the site is deliverable. He is also asking questions about deliverability and (a) if all the landowners have confirmed deliverability (b) can a safe access be provided and is it (c) deliverable, having regard to the provision of the necessary infrastructure and services, and any environmental or other constraints?

The Consultee report by HCC, dated 10th October 2017, is relevant in the context of the Examiner's evaluation criteria above. This states that:

The viability of the proposed site access is dependent on the speed limit on Bedford Road being lowered to 30 mph. However, the applicant has not provided justification that lowering the speed limit would be consistent with the HCC Speed Management Strategy... the applicant has not demonstrated that safe vehicle access to the site from Bedford Road is achievable.

He then asks about the impact of the development and if it is the most appropriate given the reasonable alternatives.

He raises a concern about the proposals and whether they are consistent with the methodology for identifying settlement boundaries. These hearings are scheduled for 27th February 2018. The allocation though the examination is subject to over 50 objections including a formal objection from Central Bedfordshire Council, together with robust objections from all of the three neighbouring parish councils of Ickleford, Henlow and Lower Stondon.

In the Memorandum of Understanding (MoU) with Central Bedfordshire Council (CBC) and North Herts the document comments;

It is acknowledged that CBC has raised concerns regarding a particular proposed site at Lower Stondon, LS1 (see 'Infrastructure' below) but it is agreed that these are detailed matters of soundness and not a joint strategic issue under the Duty.

The memorandum further adds;

Infrastructure

5.15 Both NHDC and CBC agree that the potential further development of Lower Stondon – including NHDC site LS1 and any future sites identified by CBC - would have cross boundary impacts on services and infrastructure provided within both authorities' administrative areas, particularly in terms of highways and community facilities.

The key point is the soundness issue still needs to be resolved and the Inspector's examination needs to consider and conclude on this point before any application can be determined. To determine any such application in advance would be premature, as it would undermine the whole basis of the examination process and as such would be contrary to the NPPF para 14.

To determine the application in advance of this essential examination process would invalidate the underlying principles of the development plan process.

Infrastructure

A considerable number of representations are concerned¹ about the cumulative impact of this development in conjunction with other developments, allocations and emerging allocations. These relate to other sites granted and also proposed sites within and adjacent to Lower Stondon and Henlow Camp. CBC consider sequentially preferable sites exist instead of this one. This concern has been expressed by Central Bedfordshire Council both in their letter of the 19th October 2017 and their submission to the emerging plan.

¹ See representations to LS1 and objections to planning application

Hendon and Stondon Parish council are also at the forefront of this concern in conjunction with Central Bedfordshire Council. The application does not advise how the schools and facilities in Central Bedfordshire are to be improved to address the consequent service needs from these dwellings. No impact assessment is provided to show what services need to be addressed and how that will take place. It cannot be reasonable for such matters to be debated in isolation of these neighbouring authorities and without some third-party involvement. It is also clear that very little, or no analysis, is provided on the cumulative impact of a number of developments within the Central Bedfordshire Area. For example, the submitted highways reports are silent on these potential sites in and around Lower Stondon and Henlow Camp. The recently granted (subject to S106 agreements) Welbeck application; Land west of Bedford Road (CB/16/05229/OUT) involves the building of 85 new dwellings with an access road opposite the proposed LS1 development. These additional housing numbers need to be assessed to see what implication remains for schools/healthcare etc in the light of this and other permitted developments within the local area impacting on schools, doctors and other transport infrastructure. It is a failure of this application that these are not accounted for in the developer's submitted evidence. This application cannot be properly assessed without this baseline evidence.

These LS1 and Welbeck developments, as well as the several other permitted developments locally, will compete for services such as schools, highways, doctor's surgery and public transport. The CBC local plan is expected to be published in January 2018 showing the preferred allocated sites. Due to the cross-boundary issues this site and contributions for off-site need these considerations to be given careful consideration, preferably through the plan making process. It is for these reasons that the sustainability of the proposal must be seriously questioned because the impacts of this development of 185 dwellings are neither considered or defined. This would result in an adverse impact which would substantially outweigh any benefits and be contrary to the NPPF policies when taken as a whole. This is the required test in para 14 and the application fails at this first hurdle. A number of other planning considerations are material and need to be considered. The emerging plan is now at the examination stage and is material.

Sequential phasing:

The submission version of the Local Plan 2011-2031, which is the latest iteration of the plan, identifies the land in a proposed allocation LS1. This document states;

LS1 Land at Bedford Road 120 homes

- Appropriate junction access arrangements to Bedford Road;**
- Sensitive integration into existing settlement, particularly in terms of design, building orientation and opportunities for cycle and pedestrian access;**
- Sensitive incorporation of Footpaths Ickleford 001 & 002 as green routes through and around the edge of the site;**
- No residential development within Flood Zones 2 or 3;**
- Incorporate ordinary watercourses (and any appropriate measures) and address existing surface water flood risk issues within comprehensive green infrastructure and / or SuDS approach;**
- Development proposals to be informed by site-specific landscape and heritage assessment;**
- Development-free buffer along eastern edge of site to minimise harm to adjacent listed building;**
- Archaeological survey to be completed prior to development.**

Total allocated sites 120 homes

Completions and permissions 4 homes

Total allocated, completed and permitted 124 homes

The plan and policy have no phasing. The allocation of sites should follow a sequential appraisal and the proposed LS1 site should feature at the bottom of such an appraisal of potential sites. The site is greenfield and previously developed land (PDL) should be the priority for development. Notwithstanding the prematurity of the application this site should, if at all, come forward only at the end of the plan period. However, the fundamental planning problems which exist with the application are likely to prevent it coming forward.

The first point to note is that the scheme is for 185 units and thus exceeds the initial allocation by some considerable margin. This high density undermines the sensitive rural edge of the site and the setting of the listed building. The form and layout is not of the required quality to achieve the sensitive integration of the design having regard to the rural setting and the character of the area. The development is a rather standard urban layout without any reference to the local character. It represents an urban form entirely inappropriate for this rural and soft setting. All this demonstrates and points to a design and density that is wholly inappropriate for the application site. The second indent of LS1 is therefore not achieved.

Flood Risk

The development is within the flood zones at the front and rear of the site. Balancing is also within the flood zones. The Environmental Agency (EA) are objecting to the balancing ponds within the Flood risk area. Annexed to this letter are the Floodplain Maps for surface water drainage and river flooding. The balancing ponds are currently shown within flood zone 3. In a flood zone, they would not be effective during a 1 in 100-year event. The Consultee Report from the Drainage Board confirms that the attenuation ponds would have to be moved out of Flood Zone 3 into Zones 1 and 2. In the context of this stipulation, it would seem a safer and better design for the sewage pumping station to also be moved out of zone 3. A consequential impact of any redesign would require a major re consultation exercise and it would not be good practice for this to be carried out within this planning application. The ecology report would need to reconsider and outline the implications of such changes, for example the relocation of the balancing areas. The NPPF (para 109) takes a strong line in minimising impacts on biodiversity.

An objection on Flood Risk grounds is also made by Hertfordshire County Council Landscape and Heritage Assessment. This raises a number of concerns on outfall and drainage calculations. The NPPF requires that developments in areas at risk of flooding should be avoided by directing development away from those areas. The submitted FRA merely relies on the Strategic Flood Risk Assessment and the applicant has not applied a sequential test as required by para 100 of the NPPF.

Then depending on the sequential test it may be necessary to apply an exception test. The stated aim of this process is to steer development away from the areas with the highest risk of flooding. This work has not been completed and therefore the application cannot be deemed to be free from a risk of flooding. The proposal conflicts with the advice in the NPPF, paras 100-103.

No details are provided of any flood resilient or resistant design features.

Character and Heritage Considerations

The proposal therefore fails to comply with the policy ambitions to deliver quality and even fails to be in character. Fundamental objections to the site remain to be considered during the examination process. Therefore, the consideration of the application is premature. It should on first principles be refused on prematurity grounds.

Notwithstanding the prematurity point the proposal does not conform to the original specification for the LS1 site in the N. Herts draft local plan. It is important to note that in trying to cram in 185 dwellings this makes a mockery of the local plan policy seeking 120 units. The high density and lack of design quality reinforces the point that the proposal does not meet the character or quality threshold necessary for the scheme to be considered acceptable.

One of the major reasons the design is inadequate is the failure to recognise the significance of the setting of Old Ramerick Manor. The Manor is grade II* listed, dating initially from the 13th Century with original features such as a priest's hole. In relation to protecting the building and setting of a heritage asset the NPPF, para 132 comments:

132. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Substantial harm to or loss of

a grade II listed building, park or garden should be exceptional. Substantial harm to or loss of designated heritage assets of the highest significance, notably scheduled monuments, protected wreck sites, battlefields, grade I and II* listed buildings, grade I and II* registered parks and gardens, and World Heritage Sites, should be wholly exceptional.

Regrettably the applicants Heritage Assessment does not consider the impact of the layout on this important Heritage Asset. It is a report recycled from a previous submission. It makes many assumptions on the basis of a master plan. The master plan is not in accordance with the layout plan BDWNT-LP-LS-01 and the assessment is flawed and cannot be given any weight.

The development clearly causes some impact to the heritage asset. It is a Grade II* asset, which represents only 10% of historic buildings in England and therefore considerable weight should be attached to its protection. Factors such as the scale of the development, the loss of openness, and the proximity of the development will have an adverse impact on the setting of the Heritage Asset. The proposal will cause substantial harm. In this case the NPPF advises:

133. Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

- **the nature of the heritage asset prevents all reasonable uses of the site; and**
- **no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and**
- **conservation by grant-funding or some form of charitable or public ownership is demonstrably not possible; and**
- **the harm or loss is outweighed by the benefit of bringing the site back into use**

The effect of para 136 is that in line with NPPF criteria the planning permission should be refused. Additionally, Historic England (HE) have commented;

The residential development proposed is located to the west of Old Ramerick Manor, alongside one of the principal approaches to the site. The manor house is a multi-phase building with fabric of interest of various dates, but origins in the thirteenth century and a fine brick built front elevation of the eighteenth. Its architectural and historical interest is reflected in its listing at Grade II*. The manor is a rural building which has clearly enjoyed an open setting through its history. The open rural setting of the building contributes significantly to the appreciation of the listed building, and it is that setting which will be potentially harmed by the proposed development.

As we commented to your authority in our comments on the North Hertfordshire Local Plan: New Sites consultation (our letter dated 18 December 2015) development of this site (then proposed for potentially 141 dwellings) would cause considerable harm to the significance of the listed building and should be resisted. We are particularly concerned to note that the current application, for 185 dwellings, is coming forward before public examination of your local plan.

National policy as set out in the NPPF makes it clear that planning authorities should give appropriate consideration of an assets importance when considering harm to the asset, or its setting (para 132). Development of the sort proposed, which would effectively transform the setting of a rural historic building to a suburban context in a key approach, could represent a harm that could not be easily mitigated or offset. In considering the current application, your authority must be mindful of the high-graded status of Old Ramerick Manor, the II* listing of which puts it within the finest 10% of listed buildings in England. While there might be potential to develop part of the north west side of the current site, which is screened by the embankment of the former Hitchin to Bedford railway line, we are concerned that development of the scale and location of the type currently proposed could not be achieved without an unacceptable harm on the historic environment.

This robust objection from Historic England is of major significance as an objection to this application, given that HE does not object lightly to such applications. Again, they seek a strong preference that the application be considered through the examination process.

The recent case **Steer v SoS** is also pertinent because the decision explained a “setting” (NPPF, Para 67) may go beyond non-visual attributes such as land use or the historic relationship between places.

The layout of the proposed Barratts development demonstrates a total disregard for the setting of the listed building, even to the extent of positioning the highest density, three-storey housing immediately adjacent to the building, rather than on other parts of the site. Furthermore, the site proposes no defensible southern boundary, which will encourage future sprawl development into the open countryside to the south. In this respect, what appears at first glance to be an illogical strategy; of positioning the highest density, three-storey housing immediately adjacent to the Grade II* listed building on the Southern boundary, rather than somewhere else on the site, can be understood in the context of facilitating future development on the open countryside behind Old Ramerick Manor, as the potential next phase of development. In addition, other problems exist with the layout, but the impact of this development on the setting of the listed building is a fundamental and damaging concern which cannot be remedied. The setting of the listed building is a much larger area than has been previously recognised and this, again, has not been addressed in this application. The authority in determining the application must define and then have full regard to the setting of the listed building, taking account of the legal precedents set by the *Steer v SoS* decision.

Conclusions

For the reasons stated above the application is premature, pending the local plan examination of both North Herts and Central Beds Council. Notwithstanding the point on prematurity fundamental problems exist with the balancing ponds, flood risk layout, ecology, design and the heritage considerations. These matters are material to the planning application and fail the advice in the NPPF.

The application fails to demonstrate it is fully cognisant of the infrastructure needs and the coterminous authority CBC are still maintaining a robust formal objection. The conclusion is that the application does not on any criteria provide stated benefits which outweigh the adverse impacts. This must be the case because the application is unable to clarify the benefits. In the absence of any such clarification the applicants case simply cannot be successful.

The proposal is contrary to the development plan and this is common ground.

The applicant may try to rely on the emerging policy LS1 and the subsequent weight to be attached. However, the deficiencies in the application are considerable. The objections to the emerging plan are unresolved and significant, which weakens the weight to be attached to the policy. Therefore, the proposal fails the requirements of para 216 of the NPPF. It is for this reason the balance of weight in the decision-making process cannot tilt towards the emerging policy. Furthermore, the adverse impacts are considerable and the proposal fails to meet the test in para 14 of the NPPF.

In any case, it is premature to determine the application before the Examiners Report has been considered. It is a site subject to many fundamental criticisms, not only from a large number of local residents, but also from the various consultee organisations. These serious concerns need to be properly evaluated before a planning application of this scale and impact can be determined.

It is for these reasons the application must be refused and any other conclusion would be perverse.

Francis Caldwell BA(Hons) M.Phil. MRTPI