

**Standing up for Hertfordshire's countryside**

Head of Planning and Building Control  
North Hertfordshire District Council  
Council Offices  
Gernon Road  
Letchworth Garden City  
Herts SG6 3JF  
(FAO Melissa Tyler)

Our Ref:

Your Ref:

20 April 2018 (by email)

Dear Ms. Tyler,

**Application No. 18/00747/OP**

**Outline planning application for the erection of up to 120 dwellings with public open space, landscaping and sustainable drainage system (SuDS) and vehicular access point from Briary Lane. All matters reserved except for means of main site access:**  
**Land Opposite Heath Farm, Briary Lane, Royston, Hertfordshire.**

CPRE Hertfordshire objects to this speculative application for inappropriate residential development in the Rural Area Beyond the Green Belt and outside the settlement boundary of Royston, contrary to the policies in both the current Local Plan No.2 and the Submission Local Plan which is presently subject to Examination in Public.

Before proceeding to comment in detail on this application, it must be considered in tandem with Application No. 18/00587/OP concerning development of land at the junction of Briary Lane and Sun Hill. That application is being considered by your colleague Richard Tiffin. The reason that the two are interlinked is because the access to the site of this application has to cross the land subject to the other. However, the land at the junction of Briary Lane and Sun Hill is designated Common Land and the ability to develop it has been challenged. That led to a Public Inquiry earlier this year into the status of the land, the findings of which have not yet been made public. Until they are it would be premature to determine either application. Should the Inspector determine that the land is, and remains Common Land, neither development is feasible.

This application is for a substantial residential development on two agricultural fields immediately beyond the southern western edge of the settlement boundary of Royston. That boundary is clearly defined in both the current Local Plan No.2 and the Submission Local Plan. It is cavalier of the applicant to claim in the Planning Statement that *"There is nothing within planning policy or law that makes it wrong in principle to breach settlement boundaries to accommodate sustainable development."* It is for the Local Planning Authority to determine settlement boundaries through the Local Plan process and not by ad-hoc planning applications. If the applicant's assertion was extended to every application it would make settlement boundaries meaningless.

The applicant accepts that because the proposed development is located in the open countryside beyond existing settlement limits, it is in conflict with both saved Policy 6 (Rural Areas Beyond the Green Belt) and saved Policy 9 (Royston's Development Limits) of Local Plan No.2, (and, by extension, Policies CGB1 and CGB2 of the Submission Local Plan) but believes that material considerations exist to justify a departure from the Plan. They set these out in section 6.17 of the Planning Statement.

1: The Local Plan is time-expired and its housing policies and counterpart settlement boundaries were not designed to meet development needs beyond 2001.

That is true, but in *Crane v. SoS* (EWHC 425) the court ruling was that “*neither paragraph 49 of the National Planning Policy Framework nor paragraph 14 prescribes the weight to be given to policies in a plan which is out of date. Neither of those paragraphs of the NPPF says that a development plan whose policies for the supply of housing are out of date should be given no weight.*” Equally case law has held that policies for the protection of the countryside, which Policy 6 of Local Plan 2 is, remain in force.

2: Saved Local Plan policies for the supply of housing are also out-of-date given the Council's failure to provide a robust deliverable five-year supply of housing land and its historic under performance in respect of the delivery of housing.

A substantial part of the Planning Statement is devoted to the Council's inability to demonstrate a 5 year housing land supply and asserts that adopted Local Plan No.2 policies can be disregarded. However this aspect of the NPPF has been the subject of considerable dispute and in 2017 the Supreme Court (in the case of *Suffolk Coastal DC v Hopkins Homes Ltd.* (2017 UKSC 37)) held that Local Plan policies to protect the countryside from development (such as Local Plan Policies relating to the Rural Area Beyond The Green Belt) are not policies for the supply of housing and therefore are not out of date and should be accorded full weight. In other words the presumption in favour of the grant of planning permission in NPPF paragraph 14 is not irrefutable and the absence of a five-year supply of housing land will not necessarily be conclusive in favour of the grant of planning permission. The existing Local Plan, of course, remains in force until such time as the Submission Local Plan is adopted. Consequently the policies in it can be given due weight and taken into account when considering the balance implicit in NPPF 14.

This is an outline application only. As an outline application its ultimate realisation remains speculative and hence, in determining the planning balance, it cannot be considered as a contribution towards the Council's housing supply at this stage.

3: Under the current Local Plan, the site lies in the open countryside adjoining the settlement boundary of Royston. If the settlement boundary of Royston were to remain intact or no open countryside was developed, insufficient land would be available to meet the objectively assessed needs of North Hertfordshire (i.e. those policies are restrictive of development.)

It is the responsibility of the Council to determine if and where land should be made available to meet objectively assessed need. That has been done through the Local Plan process which has identified sites in and around Royston to meet that need. This site was not among them.

4: The application is submitted in advance of the adoption of the Council's new Local Plan, but the examination inspector is yet to publish his findings and there remain unresolved objections. Only very limited weight can be attached to its emerging provisions.

This statement is disingenuous. There are, indeed unresolved objections, but they do not affect the weight which can be given to proposed policies which are not subject to objection. The policies to protect the countryside and the environment fall into that category. There is ample precedent to support the view that an emerging Local Plan which has reached Submission stage should be afforded significant weight.

5: The site is suitable for residential development in terms of location and characteristics and it is not of high environmental value.

This is arguable. There is a difference between ecological and environmental value, which the applicant has confused. The site is on the outskirts of the town, accessed from a bridleway, consists of land which is of high agricultural quality and the development of which would have a negative impact on the openness of the countryside and views from the adjoining Therfield Heath and Hertfordshire Way. Consequently it is of significant environmental value irrespective of its ecological value.

6: The landscape features of the site will be retained and reinforced through significant additional planting to retain a suitable landscape edge and setting.

There is similar confusion here. Landscape features do not consist of 'planting' alone. The landform consists of a slope across the site from the escarpment to the south. The lower half of this slope will be developed. Consequently the landform and landscape quality will be irrevocably changed.

7: The provision of 40% affordable housing, without subsidy, is a significant benefit in circumstances where the Council is not delivering sufficient affordable homes to meet pressing needs.

This is self-evident, but equally true of all of the more suitable sites which the Council has identified and included in the Submission Local Plan.

We mentioned above that the site consists of land which is of high agricultural quality. The National Planning Policy Framework and National Planning Practice Guidance are clear that land of Agricultural Quality Grades 2 and 3a, wherever possible, should not be developed. 46% of the site is Grade 2 and 3a, most of this best and most versatile land being Grade 2. However the applicant is of the view that as *"a large proportion of the District constitutes*

*high quality agricultural land ... the loss of BMV land here does not preclude development at the application site and should be afforded only limited weight in the planning balance.*" They also question the veracity of the original MAFF survey which determined the quality of the land: *"This land has previously been graded by MAFF survey during the 1990s as grades 2 and subgrade 3a. ... Our investigation (and that of the previous detailed soil survey) suggests this assumption to be false."* Both of these statements are self-serving and in our view should be disregarded. It remains that the designation of the land is of high quality on which development should be avoided.

We also have particular concerns regarding Bridleway13, which it is proposed will become the only vehicular access to the site. Bridleway 13 is a public Right of Way. For most of its length it is part of the Hertfordshire Way and, on its approach to Therfield Heath, the ancient route of Icknield Way. As such it is of significant value. The stretch along the western boundary of this site forms the route from Hertfordshire Way down into Royston itself. The proposal is to provide a 5.5m carriageway with a 1.8m footway along the entire length between the Sun Hill junction and the site, complete with speed bumps. In effect this will remove the bridleway designation and replace what is currently an unmade country lane with a full-blown local distributor road. Hertfordshire County Council's criteria for Rights of Way state that *"Where a RoW passes through or is within a site and either remains unaltered or is diverted as a result of a development, the amenity value of the RoW must, as a minimum, remain unchanged in terms of width, perceived safety, attractiveness and surfacing."* None of those criteria would be met by this proposal.

We consider this application to be speculative and unsuitable for the reasons outlined above, and we urge the Council to reject it.

Yours Sincerely,



David Irving.