

Appendix 1

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20th November 2017

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By email

LPA Ref: B/15/00649

Dear Mr Elvin,

Planning Committee (22nd November 2017) - Objection to application proposal of 100 new build dwellings and conversion of existing buildings to 22 dwellings at Stafford Park, Liston, CO10 7HU

Liston Residents Association strongly object to the above development, and I would be grateful if the Planning Committee are able to take the following issues into account in agreeing a response to Braintree DC.

The applicant justifies the proposal for two key reasons, neither of which we consider should carry significant weight:

- **Five Year Housing Land Supply** – the proposals do not comply with Local Plan allocations, or emerging allocations and the site is in an unsustainable location (as confirmed by two Local Plan Inspectors). The site is unsustainable and planning permission should therefore be refused in accordance with the National Planning Policy Framework (Paragraphs 49 and 14).
- **Site Remediation / ‘Enabling Development’** – it is inequitable that the applicant expects the planning system to effectively fund site remediation costs where current legislation seeks the polluter, or failing this the current landowner to fund site clean-up. Attached is a Legal Opinion from Andrew Parkinson of Landmark Chambers which sets out the legal issues relating to the ‘polluter pays principal’.

These objections are outlined in more detail below.

Lack of Five Year Housing Land Supply

To successfully bring forward a site based on five year housing land supply arguments, it is necessary to meet the ‘presumption in favour of sustainable development’ as set out in Paragraph 49 and 14 of the National Planning Policy Framework (NPPF). Both Paragraphs 14 and 49 of the NPPF make clear that housing applications should be considered in the context of the “*presumption in favour of sustainable development*”. Paragraph 14 of the NPPF states that if Local Plans policies are out of date planning permission should be granted unless (our emphasis):

“any adverse impact 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”

Stafford Park is in our view highly unsustainable, and any of lack of five year housing land should not therefore be given any significant weight in making a decision.

Of particular note the Braintree District Council Core Strategy Inspector stated in his report (40.3.2) regarding Stafford Park (our emphasis):

“... though part of the site is brownfield it performs poorly against criteria for the development of previously developed land set out in PPG3. The site, in fact, is not in a sustainable location for large scale housing such as that proposed. Though the proposed allocation would partly contribute to the government’s commitment to the re-use of previously developed land it would be unsatisfactory in relation to the government’s desire to concentrate housing provision mainly within or adjacent to urban areas.”

and the Babergh Local Plan (Alteration no. 2) Inspector stated in his report of November 2005 (Paragraph 4.91 and 4.92) in respect of the landfill area (our emphasis):

“... The site, which is remote from the village, and with a poor vehicular access, includes an extensive range of unused industrial buildings with established use.

It seems to me that some of the objections raised have been resolved in that the Council has agreed to delete the allocation of the site for employment use under Policy EM02a. This accords with the approach taken by Braintree District Council in its recent Deposit Draft Local Plan and the recommendations of the Inspector.”

These sustainability considerations by two separate Local Plan Inspectors are key, and have not been addressed by the applicant. The site is clearly in an unsustainable location, as it does not provide easy access to local services or facilities.

Furthermore the following issues impact significantly on sustainability:

- Cottee Transport consultants have detailed why the application proposals do not meet highway standards and are unacceptable in highway planning terms
- the site has flooding issues
- there remains outstanding objections on the ecology impacts from the Essex Field Club; and
- the proposal would not meet the required quantum of off-site affordable housing provision as the applicant asserts development is financially unviable.

Enabling Development

Subject to very limited exemptions the Environmental Protection Act 1990 puts legal and financial responsibility for remediation of land which is contaminated on either the party who caused, or knowingly permitted the pollution, or the current owner (ie. the Polluter Pays Principal).

Andrew Parkinson of Landmark Chambers sets out in a Legal Opinion (enclosed) detailed consideration of the ‘polluter pays principal’, and how the LPA should assess the proposed development.

In our view it is wholly inequitable that the public are being effectively asked to fund site remediation via the planning system, when the law requires the site polluter’s or current owners to fund site remediation, subject to limited exemptions. The applicants were fully aware of their obligations to address remediation when they purchased the site.

Conclusions

The site is clearly unsustainable (as confirmed by two separate Local Plan Inspectors), both in terms of its location being remote from local services and facilities, and in the nature of development (highway, flooding, and ecological issues especially). Five year housing land supply arguments made by the applicant are in our view contrary to provisions at Paragraph 14 of the NPPF, and do not provide justification for development.

The 'polluter pays principal' places a legal requirement on either the original polluter, or current landowner. It is inequitable that the public are effectively being asked to fund site remediation, given the 'polluter pays principal'. Attached is Legal Opinion from Andrew Parkinson of Landmark Chambers which sets this out in detail.

If I can provide further details, or you would like to discuss this, please do not hesitate to contact me.

Kind regards.

Yours sincerely,



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