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1 November 2019

Dear Sir

Welwyn Hatfield Local Plan Examination – Consultation on additional documents

1. We act for Mr Cyril Shack of [REDACTED]
2. Mr Shack made representations on both the draft Welwyn Hatfield Local Plan ("**draft Local Plan**") pursuant to regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012, and the Welwyn Hatfield Borough Council's ("**Council**") Call for Sites 2019 as it relates to Promoted Sites Cuf 17, 17a and 17b.
3. By way of an email from the Programme Officer dated 6 October 2019, Mr Shack was invited to comment on a number of additional documents submitted to the Examination including:
 - (a) EX156 – Welwyn Hatfield Landscape Sensitivity Assessment, dated July 2019 ("**LUC Landscape Sensitivity Assessment**");
 - (b) EX160 – Development of Evidence for Welwyn Hatfield Local Plan: Green Gap Assessment, dated August 2019 ("**LUC Green Gap Assessment**"),

(together the "**LUC Assessments**").
4. This letter responds to that request for comment on the LUC Assessments.

The LUC Assessments

5. We refer to our letter to Mr Colin Haigh, Head of Planning at Welwyn Hatfield Borough Council ("**Council**") dated 1 October 2019 and copied to the Planning Inspector which

set out our client's initial submissions in respect of the LUC Assessments. We do not repeat those submissions here.

6. Since that letter, however, we have had the opportunity to consider the further landscape sensitivity assessment undertaken by The Landscape Agency in respect of the land north-east of Nyn Park, Welwyn Hatfield (i.e. Cuf17, 17a and 17b and herein referred to as the "**Study Area**") dated September 2019 ("**Landscape Agency Assessment**") and submitted to the Examination (enclosed). The Landscape Agency is of course a highly experienced, highly respected firm of landscape architects and urban designers.
7. We strongly endorse the findings of the Landscape Agency Assessment, all of which support our previous submissions in respect of the Study Area. In particular, we draw attention to the following conclusions at page 37 of that report:
 - (a) The Study Area forms an important part of the local landscape character of the wider landscape. The cultural, ecological and visual sensitivities of the Study Area combine to categorise the area as highly sensitive to development.
 - (b) The Study Area is viewed as equally valuable in terms of landscape quality when compared to adjacent rural land between the two settlements of Cuffley and Northaw.
 - (c) The Study Area is therefore no less sensitive [than the adjacent rural land] and should be viewed as highly sensitive to change as a result of potential development.
8. These conclusions mirror the findings of the Landscape and Visual Appraisal undertaken of the Study Area by Re-form Landscape Architecture ("**Re-form Assessment**") (enclosed), another highly respected firm of landscape architects. This assessment was commissioned by an affected resident and submitted in support of a submission on the Council's Call for Sites 2019. Like the Landscape Agency Assessment, the Re-form Assessment found the condition of the landscape within the Study Area to be good, and the sensitivity high due to its openness, condition and value. This openness and quality of the Study Area is demonstrated in the cover photo to the Landscape Agency Assessment which was taken of the Study Area from the public footpath, the Hertfordshire Way on Thorntons Farm land looking up to The Ridgeway. The Re-form Assessment recognised that this existing landscape had very little capacity to accept change without causing demonstrable harm to its intrinsic character, an effect that would be both permanent and irreversible.

9. These recent assessments are consistent with the Council's own Green Belt Study Stage 3 dated March 2019 which found that release of the whole of Northaw Common Parkland from the Green Belt would cause high harm to the Green Belt and the Landscape Character Assessment of April 2005 which recognised the whole of the Northaw Common Parkland as an area of distinct landscape character.
10. In light of these assessments, it is clear that the moderate sensitivity rating applied to the Study Area by the LUC Landscape Sensitivity Assessment is entirely inappropriate, particularly when considered within the context of the whole of the Northaw Common Parkland. The Landscape Agency Assessment confirms that there are no differences in landscape characteristics, or cultural, ecological or visual sensitivities of the Study Area to the rest of Northaw Common Parkland to justify a lower sensitivity rating. Rather, this lower sensitivity rating is completely at odds with the high sensitivity rating applied elsewhere across the Northaw Common Parkland including to the rural land directly south of the Study Area (see the enclosed excerpt from the LUC Landscape Sensitivity Assessment of Landscape Character Area 53: Northaw Common Parkland).

Council has not demonstrated "exceptional circumstances" to justify release of the Study Area for development

11. Notwithstanding the further LUC Assessments, the Council has still not satisfied the legal and planning requirements to justify release of the Study Area from the Green Belt for development. In this respect, we refer to our original submissions on the Council's Call for Sites 2019.
12. As detailed in our earlier submissions, the National Planning Policy Framework ("NPPF") provides that once established, Green Belt boundaries should only be altered where "*exceptional circumstances are fully evidenced and justified...*". It is not simply the case that the Council can direct each village to take their "fair share" of the housing need as Mr Colin Haigh suggests in his letter of 8 July 2019 to Mr Charles Walker OBE MP. Before concluding that exceptional circumstances exist, the Council is required to demonstrate that it has examined fully all other reasonable options for meeting the identified need for development. For the reasons detailed in our previous submissions, it is clear that the Council has failed to do. The further LUC Assessments do not aid in this respect.
13. In any event, even if the Council were able to fully evidence and justify "exceptional circumstances" to justify the release of Green Belt land for development, the NPPF recognises that in such circumstances, development plans should give first consideration to land which has been previously-developed and/or is well-served by public transport. The Study Area is clearly neither. Nor is the Study Area adjacent or

even close to existing urban areas such that development at the Study Area would be sympathetic to existing settlement patterns. In fact, the location of the Study Area in relation to a number of "absolute constraints" (as showing on the attached image) suggests that release of this land would be substantially more inappropriate than land elsewhere within the Northaw Common Parkland and the wider Green Belt. The "absolute constraints" identified include the Great Wood SSSI, various ancient woodlands, and a number of local wildlife sites all in close proximity to the Study Area. The Landscape Agency Assessment further clarifies that the Study Area, unlike much of the rest of the Northaw Common Parkland, lies directly within the Great Wood SSSI's Impact Risk Zone meaning that development at this land has already been identified as posing a risk to the protected area.

14. Despite the additional work being undertaken by and on behalf of the Council, including to update its evidence base as it relates to housing need, the Council is yet to demonstrate "exceptional circumstances" to justify release of the Study Area from the Green Belt for development. We therefore reiterate our submissions made in respect of the Call for Sites 2019 that any release of the Study Area from the Green Belt and/or its inclusion in the draft Local Plan for housing developments would be entirely contrary to the NPPF, the existing Welwyn Hatfield Local Plan and the emerging strategic policies of the draft Local Plan as they relate to ensuring sustainable development, protecting the Green Belt, and protecting against adverse effects from development on matters such as traffic, climate change, air quality, and soil, water and noise pollution.
15. Should the Council, despite all of the evidence before it, seek to promote the Study Area as an alternative site for housing development within its draft Local Plan, we will strongly contest this, and the soundness of the draft Local Plan, during the hearing sessions set down for February and March 2020.

Yours sincerely

Clifford Chance LLP

Enclosures:

- i. Landscape Agency Assessment dated September 2019.
- ii. Re-form Assessment dated June 2019.
- iii. Excerpt from the LUC Landscape Sensitivity Assessment, Landscape Character Area 53: Northaw Common Parkland.