

David Elmore
Principal Major Development Officer
Welwyn Hatfield Borough Council
The Campus
Welwyn Garden City
Herts
AL8 6AE

10 Throgmorton Avenue
London
EC2N 2DL

townlegal.com

T: 020 3893 0370

D: 020 3893 0416

E: [REDACTED]

By email

Our ref: AUR001/0001/mg
28 July 2022

Dear Mr Elmore

Land to the north of Bradmore Way, Brookmans Park – 6/2022/1097

We act for Aurora Properties, the applicant in respect of the planning application 6/2022/1097.

On 20 July 2022 the Council published its Report to the Development Management Committee (“DMC”) which is due to take place on 28 July. Our client’s planning application is on the agenda for that meeting, but no prior notice of that fact was given to our client.

In August 2013, our client paid Welwyn Hatfield Borough Council (“WHBC”) the sum of £10,000 plus VAT for pre-application advice in respect of this development proposal, but the Council has not engaged constructively with our client on the application nor sought to have a dialogue to identify, understand and seek to resolve any issues associated with the proposed development.

At the full Council meeting on 26 July the Council formally resolved not to allocate the site known as HS22 (BrP4) in its draft Local Plan which is presently at Examination in Public. This ratified the Council’s longstanding position in respect of HS22 (BrP4). As a consequence, the advice in the Report to DMC at paragraphs 1.14 is now out of date and does not reflect the Council’s position.

The Report to DMC contains seven reasons for the Officer’s recommendation to refuse planning permission. For a large part, the reasons for refusal stated in the Report are neither up to date nor sustainable. Each reason is assessed below:

1. It is accepted that development in the Green Belt is harmful to the Green Belt and should not be approved except in very special circumstances. The Officer Report states that *“No very special circumstances exist to clearly outweigh this harm”*. That is not a fair or reasonable conclusion. Quite clearly, there are very special circumstances which exist, as demonstrated in the application submission. In addition, there are now further very special circumstances arising from the full Council’s resolution on 26 July, namely the decisions (i) not to meet the full objectively assessed housing need in the borough, (ii) not to meet the five-year housing land supply, (iii) not to seek to mitigate the impacts of

Partners: Elizabeth Christie, Mary Cook, Duncan Field, Clare Fielding, Michael Gallimore, Raj Gupta, Meeta Kaur, Simon Ricketts, Patrick Robinson, Louise Samuel

28 July 2022

not meeting the housing need, (iv) not addressing or seeking to remedy the very high affordability ratio in the borough and, in particular, in Brookmans Park and (v) specifically resolving not to allocate any major sites for housing in the large and highly sustainable village Brookmans Park.

2. Policy D1, D2 and RA10 from the Welwyn Hatfield District Plan 2005, the Supplemental Design Guidance 2005, Policy SP9 of the Draft Local Plan and NPPF all require design and character standards to be met. The applicant has provided very detailed illustrative and supporting design information which quite clearly demonstrates that the type, scale, mass and proposed layout of the development is entirely consistent with the existing character of the area. It is, of course, acknowledged that development of a greenfield site would unavoidably alter the character of that land. The statement in Reason 2 that the *“development would severely detract from the character of the site and area”* is unfounded and is not weighed against the containment of the site, its juxtaposition to the existing village and the benefit of providing new homes, including affordable homes, in a highly sustainable location.
3. Our client’s Highway and Traffic consultant has been in dialogue with Hertfordshire County Council regarding highway matters prior to and since the planning application was submitted in May 2022. The only issue raised by HCC Highways with our client’s consultant was a request for tactile paving to be provided at each crossing point between the site, the primary school, the village and the railway station. Our client has agreed to this request. On 6 July 2022, the County Council submitted an objection to WHBC which it had not raised with our client at any time previously. The nub of the objection relates to the period when the traffic survey was undertaken in February 2022. Apparently, the primary school had asked parents and carers to observe an unofficial “walk to school week” which it had not posted on the school’s calendar (the calendar is available on the primary school website). The unreasonable consequence of that situation has been exacerbated by the fact that this information was only brought to our client’s attention after the HCC objection was submitted on 6 July, just one week before the end of the school year and the commencement of the school holiday period. Nevertheless, the traffic information and data which our client has at its disposal can address the HCC objection, although the reason why this highway objection was raised so late in the process, without any prior communication with our client and just one week prior to the school holiday period, does raise serious concern to our client.
4. The Officer Report suggests that insufficient information has been submitted in respect of legally protected species. That is not a fair or accurate statement. Sufficient detailed professional studies have been submitted with the planning application and further information has subsequently been provided in order to address matters raised by Hertfordshire Ecology and Herts & Middlesex Wildlife Trust. On 18 July, Hertfordshire Ecology wrote to WHBC requesting further biodiversity net gain (“BNG”) and survey information. That information has been provided to Hertfordshire Ecology. Hertfordshire Ecology has confirmed; *“Overall, I have no objection to the principle of development at this site. I do not anticipate there to be any significant ecological constraints that would prevent consent being granted, subject to appropriate mitigation, enhancement and BNG measures being implemented – to ensure biodiversity net gain will be achieved from the development. However, to conclude, further information on measurable off-site biodiversity offsetting and securing its delivery is needed prior to determination of this application.”* There are therefore no ecological reasons for refusal of the planning application. Any such matter can be adequately achieved by planning conditions.
5. The Officer Report suggests that insufficient information has been submitted with regard to the impact of the proposal on Water End Swallow Holes SSSI. However, as confirmed by the Council in its email of 21 July 2022, it did receive the additional information it requested on 4 July, but it did not send that

Mr Elmore, Welwyn Hatfield Borough Council

- 3 -

28 July 2022

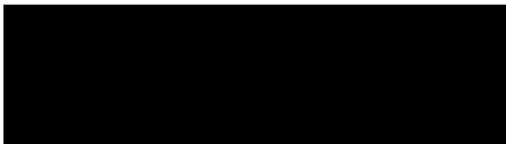
information to Natural England until 21 July. Clearly, our client cannot be held responsible for the Council's failure to pass the relevant information to Natural England.

6. The Officer Report suggests that the application fails to demonstrate that the proposed development will not increase flood risk to the site and elsewhere. All necessary information on this issue has been submitted to WHBC and should be passed to the County Council.
7. Reason 7 for refusal states that the applicant has failed to provide a planning obligation under Section 106. That is entirely due to the fact that WHBC did not provide the S106 requirements until 20 July 2022, less than one week ago. Also, as the Council will be aware, our client has been requesting S106 information from WHBC in respect of its planning application 6/2021/3538 since that planning application was submitted in December 2021. No such information has been provided by the Council. In respect of the subject planning application, the landowner will provide a draft S106 agreement for the requirements and obligations set out in paragraphs 11.108 to 11.122 of the Officer Report.

In view of the above, the Officer Report is considered to be unreasonable and it will lead to very significant and unnecessary costs being incurred through the appeal process. In the light of the very detailed expert reports and information which has been provided in support of this outline planning application, there are no objective or technical reasons to refuse this planning application. We therefore trust, as the Planning Officer, you will reconsider your recommendation prior to the DMC meeting on 28 July 2022.

Please would you acknowledge receipt of this letter and set out what steps the Council proposes to take in order to remedy the errors and omissions in the Officer Report.

Yours sincerely



Michael Gallimore
Partner
Town Legal LLP