

Land North of Bradmore Way,
Brookmans Park

PINS Reference: APP/C1940/W/22/3307844

LPA Reference: 6/2022/1097/ OUTLINE

Closing Statement on behalf of the Combined Objectors Group

Introduction

1. In opening, we said:

The Combined Objectors alongside the Parish Council represent truly local interests and strongly oppose this application for permission in principle for 125 dwellings, a care facility for up to 60 bedrooms and a scout hut. The proposal will harm the character of the area, undermine the visual landscape, introduce large amounts of traffic onto unsuitable and narrow roads and will, most significantly of all, encroach on the green belt.

None of the evidence you have heard through this inquiry has undermined our case. It has, however, demonstrated that the appellant have seriously over-sold their case.

2. As the Local Authority helpfully made clear in its opening, this is not the place or the time to make submissions on green belt policy—the democratically elected government has made it clear that the Green Belt should be permanently open and inappropriate¹ development should only be allowed where there are *very special* circumstances which will only exist if the benefits of a scheme *clearly* outweigh the impacts. All sides agree this is an exceptionally high bar and the high court reminds us that this is not a quasi-mathematical exercise but an overall assessment of whether the circumstances *truly* constitute very special circumstances so that development may be permitted notwithstanding the importance of the Green Belt.²
3. Relying heavily on the Colney Heath case, the Appellant seeks to rely on a combination of factors (rather than identifying one unique consideration such as national security) in

¹ All sides agree that this is inappropriate development

² *Sefton MBC v Secretary of State For Housing, Communities, And Local Government* [2021] EWHC 1082 (Admin)

which they argue amount to *very special* circumstances—in their case all the stars align. The evidence demonstrates that is not the case.

The Context – The emerging plan and the direction of the NPPF

The Local Plan Process

4. I start with an obvious but necessary point: this is not Colney Heath. The situation is different regarding the process of the Local Plan and the situation is different regarding the physical characteristics of the site. In that case, there were two authorities both with a chronic shortage of housing, but critically there was no prospect of adoption of a local plan in the near future. That is not the case here.
5. Regardless, each case must be assessed on its own merits. The Local Authority has gone through to main modifications, the plan has in effect been found sound. The appellants alleges this is all charade rather than the considered view of a democratically elected council who has been properly and robustly advised of the consequences of failing to adopt a plan.
6. It is no secret that the Local Authority finds the trade-offs between allocating sites and protecting the Green Belt difficult and in many cases unpalatable. However, it has confronted reality, made difficult choices and is effectively one stop away from adoption. This is the way these tough choices should be made—through the democratic process.
7. Adoption of the Local Plan will result in *all* need being met in Brookman's Park through the allocation of the site [HS22(BRP4)] West of the railway station. That is not in dispute. Accordingly, once the plan is adopted this site will in effect be superfluous regarding meeting local housing need. In that context, a scheme of this size and this location will undermine the plan-making process by directly contradicting the selection of appropriate sites made by the democratically elected and accountable council.
8. The appellant may be disappointed that their site was not allocated, but the democratically elected local council opted for another. There were over approximately 500 objections to this site with complaints coming from much further than merely Bradmore Way and Peplin's Way. It is wholly improper to attempt to frustrate that process, by pushing ahead with a scheme on the speculative basis that a robustly advised local authority will abandon the plan despite the prospect of a wave of further windfall applications. That is what the appellant is inviting you to do.

9. In addition, you have the benefit of Mr Griffith's *fifty* years of planning experience when he argues that the plan must be adopted and will be adopted. Therefore, on the balance of probabilities, you are invited to find that the plan will be adopted in the near term.
10. This is an archetype example of premature consideration which frustrates the plan led system and this weighs heavily against permission. Accordingly, a major star in the appellant's case is badly out of alignment.

Review of the NPPF

11. A further material consideration provided by the Government is the clear indication of travel contained in the proposed revisions to the NPPF and the written ministerial statement. Specifically, there will be explicit recognition that Green Belt boundaries are not expected to give to ameliorate housing need. The appellant (and others) may disagree with that judgment but it is for the democratically elected government to make.
12. Moreover, the changes emphasise the protection to be afforded to adopted plans and remove the requirement to demonstrate an ongoing five year housing land supply where a plan is less than five years old.
13. It is in this context, that the appellant is inviting the inquiry to consent to inappropriate development on the Green Belt and undermine the principle of plan led development.

The Purported Benefits

14. The Appellant took much inquiry time laying out the benefits of this scheme—much of which is not in dispute. Given the absence of disagreement, we deal with this briefly. However, we do emphasise that these disagreements though slight, are material in a case such as this where the appellant is relying on an accumulation of disparate factors to outweigh the harm to the greenbelt. Accordingly, these purported benefits need to be accurately assessed and calibrated to inform that balancing exercise.
15. Overall, the Combined Objectors gratefully adopt the carefully calibrated and considered views of Mr Elmore of the Local Authority where disagreement remains.
16. Market homes are required and affordable homes especially; that is why Mr Griffiths accepted that these should, respectively, attract substantial weight and very substantial weight in the planning balance. Given the clear steer from Government that unmet housing needs are unlikely by themselves to justify inappropriate development, we are at a loss as to why the appellant seeks to argue that market homes, which are unlikely to

have any material impact on the chronic shortage of affordable homes in the borough, should attract the same weight as affordable homes. This consideration can only attract substantial weight at most.³

17. A Care Home is welcome, but for the reasons advanced by Mr Cannon in cross-examination the demand is not as strong and the supply is not as tight as the appellant suggests. Moreover, as Mr Newton Taylor acknowledged during cross-examination it is “really useful” to have a care home in close proximity to a hospital and this care home will not have a hospital within 5 miles.
18. The scout hut can only attract minor weight given the absence of evidence demonstrating need.⁴ The biodiverse net gain of 15% likewise can only attract moderate weight at most given that it is barely over the statutory minimum. There are short term economic benefits arising from construction and additional activity in Brookman’s park but for the reasons explained by Mr Elmore that can only attract very minor weight.⁵
19. We share the Local Authorities concern that the Appellant has dressed up the absence of harm as a benefit. For example, even though the Statement of Common Ground on Highways states that pedestrian enhancements are required, Mr Gray describes these as a benefit. This double counting and dressing up of the absence of harms as a benefit are discussed in greater detail in Mr Elmore’s proof⁶ and do not require repeating.
20. Put simply, an appellant should not be ‘rewarded’ for doing the bare minimum to address a scheme’s inevitable impacts and that is what the Appellant is inviting you to do.
21. The Appellant’s strained attempts to find benefits where none exists is most clearly exposed when Mr Gray describes the evidential consideration of the site during Local Plan process as a ‘benefit’—it is not exactly clear how the future residents will experience this benefit, but Mr Gray nevertheless feels confident that this consideration in the local plan will have a lasting impact. This reveals that the determination of the Appellant to ‘sell’ their scheme has led them to deploy points with no logical basis and should lead the inspector to weigh such bare assertions against the careful and considered conclusions of Mr Elmore.

³ It may be useful for the Inspector to consider what weight would be given to a scheme that had more than 50% (or even 100%) affordable homes and what weight that would attract.

⁴ Mr Elmore points to nine other scout groups in nearby villages and settlements [Proof at paragraph 6.79]

⁵ Mr Elmore’s proof at paragraphs 6.94 to 6.95.

⁶ Paragraphs 6.85 to 6.91 and paragraphs 6.96 to 6.98.

22. Thus, the benefits are in fact relatively few in number—affordable homes, car dependent market homes, a handful of plots for self-build, a care home not in the ideal location, minor biodiverse net gain, a scout hut for which there is no evidenced need and consequent economic activity. Only one of those attracts very substantial weight. When the benefits of the appellant’s case are exposed and examined it becomes clear why the appellant felt it necessary to resort to double-counting and dressing up the absence of harm as a benefit as well as artificially minimising the impacts of the scheme.

Impacts

23. The impacts of this scheme are severe and legion:

- a. Undermining the principle of plan-led development.
- b. Harm to landscape character.
- c. Harm to visual receptors.
- d. Impact on highways
- e. Loss of agricultural land
- f. Definitional green belt harm, both in terms of spatial openness and visual openness. At least three Green Belt purposes are undermined.

Principle of Plan-Led Development

24. As was *eventually* conceded by Mr Gray and Mr Young, this development finds no support in the adopted plan (e.g. the saved policies) and it finds no support in the soon to be adopted plan. I therefore start with an obvious point: this is not an example of plan led development and as Mr Gray accepted in cross-examination—that is a material consideration.

25. Legitimate criticisms can be made of the Local Authority for the time taken to prepare and produce a plan—but that does not mean that they should be perpetually punished when they are confronting the necessary trade-offs. We are reminded in the NPPF at paragraph 15, that development is meant to be *genuinely* plan led. Development contrary to the plan erodes trust in and undermines the plan led system. Accordingly, a direct impact of this scheme is a further erosion of the plan led system and this weighs heavily against permission.

26. As Mr Griffiths stated, that where a plan is on the cusp of adoption, a departure from that plan is an impact that attracts at least substantial weight in your consideration.

Harm to landscape character.

27. I will not repeat Mr Cannon's criticisms of Mr Flatman's evidence, except to say that the Combined Objectors Group agree that there has patently been a failure to consider all of the character receptors. That, coupled with the unsustainable conclusions, leads to the inevitable result that Mr Browne's methodical and considered opinions should be adopted.

28. The appellant's case appears to rest on two unsustainable propositions:

- a. That the homes, golf course and partially shielded railway line have a 'strongly' or 'harsh' urbanising edge.
- b. That the site is enclosed to a sufficient degree.

29. Dealing very briefly with the degree of containment. The site is not substantially enclosed:

- a. It is visible from the railway line and not only in the bleak mid-winter as Mr Young suggested.
- b. The site is visible from Bradmore Way
- c. The site is visible from the rear windows of the homes on Peplin's way and the side windows from homes on Bradmore Way
- d. The site is visible from the Golf Course.
- e. There is a substantial gap in the North of the site between the edge of Peplin's Wood and the edge of the golf course.

30. Thus any assessment of enclosure must take into account the simple fact that the site can be seen from all four directions. On that basis, the appellant has patently oversold its case that the land is 'substantially' enclosed.

31. Turning to the suggestion that the site is 'strongly' influenced by an urbanising influence. Or as Mr Flatman's argued in cross-examination, this is an archetype of urbanising influence. This is simply not sustainable:

- a. There are no urbanising features on the land itself—it is an agricultural field. Mr Griffith’s photographs demonstrate that it has a rich and rustic character particularly at harvest time.
 - b. Mr Flatman accepted in cross-examination that there are no urbanising features to the North.
 - c. To the East we have a golf course; it shouldn’t be necessary to make this obvious point but the appellant argues that this is an archetype example of man-made development. The golf course is predominately grass and includes a large number of natural features. Moreover, it retains landscaping characteristics of its history. This is not urban edge.
 - d. To the West we have a partially obscured railway line. As Mr Flatman accepted in cross-examination, railways are common in the countryside. Moreover, this railway line is partially obscured by the finger of Peplin’s wood and obscured by being placed on an embankment. Mr Flatman argued that the sound of the railway line was somehow ‘incessant’ despite providing no phonological evidence. Any visit to the site will reveal that the railway line though well-used is predominately audible from the western side and is not ‘incessant’ or constant but provides a perfectly common soundscape for the countryside. It does not drown out the other sounds of nature, sounds such as bird song emerging from Peplin’s wood and the wider countryside.
 - e. The appellant’s case truly rests on convincing you that the houses on the southern edge obliterate the rustic character of the site. First, any site visit will reveal that once you are a few metres onto the site, you will have in excess of 270° view of nature. Second, the homes sink into the wider landscape (see figure 1 below) and are partially off-set by mature tree lines and the stream. There are no industrial warehouses, car-parks or shops in view—just homes and gardens but the appellant says this is a strongly/harsh urbanising edge. That is not credible.
32. The true picture regarding character is this. This is a rustic field where ancient woodland and agriculture co-exist cheek by jowl. It is fully consistent with the character assessment area and exhibits many of the key characteristics.
33. The development will obliterate that precious character, will do nothing to support and protect the character area and replace a working farm in harmony with nature with a

large sprawling car dependent housing estate. The development would appear false and therefore at odds with the landscape character of the immediate locality. The harm to character will be substantial and attracts similarly substantial weight as required under paragraph 174 which requires decision makers to respect the intrinsic beauty of the countryside.

Harm to visual receptors

34. This can be dealt with briefly in addition to what Mr Cannon has said:
- a. The appellant argues that the Golf course is a low sensitivity receptor on the basis that it is the location of sport; however, applying common sense and Mr Brown's exhaustive study of similar cases—golf is not a frantic sport and part of the joy is being outside and appreciating nature. This at least a moderate sensitive sight.
 - b. The open and welcoming views from homes along Bradmore Way and Peplin's Way will be lost. The appellant argues that these should attract less weight since the upper rooms are bedrooms. However, in a post-covid world where individuals study, work and play from multi-generational homes more frequently means rooms are not just used for sleeping and their sensitivity increases.
 - c. As Mr Griffith's explained the view from the railway line should attract weight—the view of the site having left Brookman's Park heading north is a reminder that we are in the countryside and the settlements are distinct and separate—we are far away from the sprawling urban mess of London. That is why this view, whilst brief, is so important. The view reminds the passenger that London is behind them and that they are firmly in the countryside.
35. All of these important views will be lost and this is a further weighty reason to refuse permission and dismiss this appeal.

Impact on the Highway

36. This application was initially refused on the basis the development would have an unacceptable impact on the highway network. The highway network is exceptionally sensitive in this location. All the traffic for Peplin's Way and Bradmore Way is funnelled through Bradmore way. There are acute pressures arising from the school run where a large number of vehicles need to arrive and depart simultaneously. The sensitivity of the site is readily evident from the decision of the refuse authorities to only collect waste

exceptionally early in the morning to avoid being trapped or held up. Moreover, the school dare not let coaches use Bradmore way at any point during the day given the obvious constraints. Instead the children have to walk from the village centre to the school.

37. Based on the evidence presented by the appellant, the inquiry cannot be satisfied that the addition of further vehicles through this scheme will not exacerbate severe congestion, not result in unacceptable highway safety impacts and will encourage or facilitate sustainable transport modes.
38. With regards to the transport survey and assessment underpinning the appellant's conclusions are highly questionable. Specifically,
 - a. The survey is only of one day—as Mr Young repeatedly emphasised, a much longer period is required to assess typical background conditions. This is not a robust evidence base.
 - b. The video survey did not include Peplin's Way which is critical to the effective operation of the informal one-way system and the location of much of pupils being dropped off and collected.
 - c. The survey and assessment proceed on the false premise regarding the width of critical roads. They have not been measured accurately and are narrow at critical points. Specifically, the section of Bradmore Way that all cars from the site, parents on the school run and supermarket deliveries must pass through is only 4.87m. Given the increasing size of the typical vehicle, these measurements matter and the survey and analysis therefore do not provide a robust assessment of the future traffic impacts.
 - d. The September survey does *not* assess the capacity of the Southern junction between Peplin's Way and Bradmore Way.⁷ Given that this junction is critical to the effective operation of the informal one-way system, its omission is a serious defect.
 - e. The survey does not assess the prospect of commuters parking on the new site and how that may impact on the wider highway network.

⁷ By the Chinese Red restaurant.

- f. The survey does not factor in the sustainability of the one-way loop once the additional properties have been constructed. The transport assessment reported that 75% of residents did not adapt to the one way loop.
- g. Whilst the fire service has been consulted, there is no consultation of the ambulance service (in light of provision of a care home, this is a significant omission).

This is not a robust evidence base.

39. With regards to the scheme itself, it does not encourage or facilitate sustainable transport. No attempt has been made to introduce a bus for example since it is obvious that no bus could get down Bradmore Way. The only means the appellant employs to get new residents out of their car is travel packs but for the reasons advanced by Mr Griffith's travel packs are of extremely limited impact. The scheme is exceptionally heavily car dependent. It has more parking spaces than are required. The Transport Assessment notes that 329 residential parking spaces are proposed for this development. This proposed level of parking exceeds the guidelines set out in Welwyn Hatfield District Plan Guide SPD 2004. This ratio of parking (2.63 spaces per dwelling) is excessive and will create a car dominant development which is plainly not conducive to encouraging active travel and public transport usage.
40. Mr Young argued during the round table that generous car parking provision was necessary to stop residents parking on the street, therefore confirming that this will be a heavily car dependent scheme and that attempts to dislodge residents out of their cars are rarely successful.
41. With regards to the use of Bradmore Way to access the development, the Hertfordshire Highway Design Guide 3rd edition is clear that there is a general presumption that not more than 300 dwellings should be served from a single point of access to the wider road network and that any road has a width of 5.5m. Hertfordshire County Council (HCC) guidelines are prepared by HCC following consultation with all ten district councils and are based on the car types, ownership and traffic models that are characteristic of Hertfordshire. This development far exceeds that limit on roads that are far too narrow. The appellants argue that these values are mere guidance, but what is the point of having guidelines if they are ignored every time they are inconvenient for a developer.
42. The most alarming feature of this proposal is the introduction of further cars where there is already evidence of distressed parking. The inquiry will recall Dr Broe's evidence of

cars frequently mounting kerbs and parking in exceptionally close proximity. It is only by good fortune that a rushed parent has not swerved onto the road while a pupil was walking, running or scooting to school. Given the acute traffic pressures during the school-run, the risk of conflict is obvious. This must be a weighty consideration in the planning balance since the consequences of a collision are potentially catastrophic.

43. The road network is sensitive at specific times, it quite simply lacks capacity for construction traffic without snarling up. The inquiry will recall residents' evidence regarding the impact that a single large vehicle can have on the highway network. Given that construction will result in multiple and large deliveries at all times of day, this issue cannot be dealt with by condition and will have a wholly unacceptable impact on the highway network.
44. The sensitivity of the network means that the introduction of further traffic will have a wholly unacceptable impact for the access of emergency vehicles. The risks arising from an ambulance or fire engine being unable to locate the site, school or existing homes are obvious. This is particularly relevant in this case since it includes a Care Home which is not located in reasonable proximity to a hospital.
45. The appellant seeks to paint local residents as inconsiderate at best and selfish at worst when they are described as putting 'inconvenience' to their commute ahead of other considerations. That completely mischaracterises the residents' position. The impact of the scheme will render their streets effectively unviable during both the morning and afternoon peak.
46. The developer could have proffered a car-free scheme, but instead it has chased the market resulting in a scheme that will render the highway network unviable and unsafe. Regardless, the evidence presented by the appellant is not robust. This weighs heavily against allowing this appeal.

Loss of Agricultural Land

47. If the appeal is allowed this will result in the loss of viable agricultural land and this weighs against the proposal. The development would lead to the fragmentation and probable loss of a wider farming enterprise.

Harm to the Green Belt

48. This is inappropriate development on the Green Belt—that weighs substantially against the scheme. However, once the extent of the harm is considered, that weight only increases.
49. Plainly, there will be a loss of spatial openness.
50. In addition, there will be a loss of visual openness from Bradmore Way, the homes of Peplin’s Way, the railway line and the golf course.
51. At least three Green Belt purposes will be frustrated:
 - a. There will be serious and irreversible encroachment into the countryside.
 - b. Urban Sprawl will not be kept in check. As Mr Griffiths explained, the grasping hand of London extends along movement corridors and this will be a further example of London’s inexorable desire for growth bleeding into the countryside. The suggestion that merely because this is North of Brookman’s Park it is not an example of London spreading misses the fundamental point about urban growth that it does not occur in concentric circles but in fits, spurts and pockets—one field at a time.
 - c. Settlements will merge. The Appellant’s self-serving evidence takes a point along the Southern finger of Welham Green to misleadingly argue that the development will not result in any amalgamation. We measure from the densely built up area of Welham Green and demonstrate in unchallenged measurements that there will be coalescence. The Appellant goes so far to describe our approach as flawed but without citing any guidance or practice to support its criticisms. It is a submission in the abstract. Like so much in planning, assessment of coalescence requires a healthy dose of common sense and in this case a large number of homes will be closer to other homes and thus the gap between them will be narrowed. We therefore invite you to use your professional judgment to find that the settlements will coalesce as a result of this development and this undermines a further green belt purpose. Moreover, this development could very easily be a stepping stone to further development in the direction of Bell Bar and Welham Green.
52. Overall, therefore, the Green Belt will be harmed both in terms of visual and spatial openness and at least three of the Green Belt purposes will be undermined. In the

context, that the Green Belt is meant to be permanently open, this much attract maximum weight in the planning balance to which I now turn.

The Planning Balance

53. The inquiry must ask itself a simple question, do very special circumstances exist to justify development on the Green Belt notwithstanding the clear policy steer that it is to be permanently open. The impacts are severe and legion: undermining the principle of development, harm to character and visual receptors, unacceptable impacts on the highway, loss of a viable agricultural land and inexcusable and multiple harms to the Green Belt. Not only does this development run counter to the principle of the permanence of the Green Belt, but it would also run counter to the core planning principle of recognising the intrinsic character and beauty of the countryside and to designing developments which add to the overall quality of an area.
54. Looking overall at the planning considerations and the limited benefits (only affordable housing attracts very substantial weight), the Appellant has painfully oversold their case and comes nowhere near to demonstrating that the benefits warrant departure from a democratically accountable plan led system and erosion of the permanent Green Belt.
55. Had the appellant brought forward a truly exceptional scheme (i.e. one which was car free, 100% affordable homes or replete with community facilities or Carbon neutral) the balance may be far more finely balanced. However, the reason for the appellant's failure is obvious. Their car dependent and dull scheme is not very special—it is ordinary.
56. Accordingly, this appeal should be dismissed.

Joseph Thomas
Landmark Chambers
2 March 2023