

Your Ref: 24/02108/OUT

Lynn Parker
Shropshire Council
The Shirehall
Abbey Foregate
Shrewsbury
SY2 6ND

Nicola Gooch
Partner
Direct Dial: 0370 1500 100
Nicola.gooch@irwinmitchell.com

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BY EMAIL ONLY: lynn.parker@shropshire.gov.uk

Dear Ms Parker

LETTER OF OBJECTION – PATSHULL ROAD, ALBRIGHTON, SHROPSHIRE (THE “SITE”)

We write on behalf of Albrighton Village Action Group (our “Client”) in relation to planning application 24/02108/OUT (the “Application”) submitted to Shropshire Council (the “Council”). The Application is an outline application to include access for a mixed-use development comprising of up to 800 no dwellings, a care home of up to 80 units, a secondary school and local centre with associated access, infrastructure, landscaping and drainage (the “Development”).

In summary, our Client objects to the Application and submits that it should be refused as a departure from the Local Plan. Our Client objects on the following grounds:

- there is no demonstrated “need” for development of the Site. It is not allocated in the Local Plan and the Council has a five-year housing supply;
- the Development would result in unjustifiable harm to the Green Belt and the landscape character of the Site;
- the Development would result in unjustifiable harm to the setting of designated heritage assets and two conservation areas;
- the Application does not satisfactorily address a number of important factors, including the loss of agricultural land, biodiversity net gain requirements, and the impact the Development would have on highways and local community infrastructure.

☎ 0370 1500 100 💻 irwinmitchell.com

📍 One St Peter’s Square, Manchester, M2 3AF

Relevant planning policy

Section 70(2) of the Town and Country Planning Act 1990 (as amended) and Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) requires that a planning application be determined in accordance with the local development plan unless material considerations indicate otherwise. From our review of the Application, there are no strong material considerations that have been identified or highlighted that would suggest the local development plan should be departed from.

In this context, the local development plan is the Council's Core Strategy Development Plan Document adopted on 24 February 2011 (the "Core Strategy") and the Council's Site Allocations and Management of Development Plan adopted 17 December 2017 (the "SAMDev Plan") (jointly called the "Local Plan"). The Application is also subject to the Council's Five-Year Housing Land Supply Statement published in March 2024 (the "Five Year Plan") and the policies contained in the National Planning Policy Framework (the "NPPF").

As officers will be well aware; the Council as decision-maker is required to consider the Application in accordance with the plans and policies that we have listed above. If a decision is made on the Application and there is a justiciable error this would give rise to a claim for judicial review of the Council's decision, and we will advise our Client accordingly in such circumstances.

Development on an unallocated site

As set out above, the Council's decision is to be guided by the Local Plan, including the SAMDev Plan which identifies appropriate and sufficient housing sites for development to meet the needs of the area. The Site has not been allocated within the SAMDev Plan for development. Further, although acknowledging the Local Plan Review cannot be given full weight in the decision-making process, the Site has also not been allocated as a development site as part of the Local Plan Review and [the Planning Inspectorate has confirmed](#) no further change in housing numbers will be required for the Local Plan Review

To inform the making of the Local Plan, the Council prepare a Strategic Land Availability Assessment ("SLAA"). The Council's latest SLAA, in 2018, considered the Site and concluded that it had no potential for residential use. This serves in stark contrast to other, more suitable and sustainable, locations around Albrighton, which have been safeguarded for potential Green-Belt release in the future. This lack of designation is important, particularly in the light of the Council's decision to safeguard land to the north of the Site for potential future development as part of the Council's Stage 2 Green Belt Study.

The NPPF states the planning system should be "genuinely plan-led". If approved, it could not be said the Application reflects this statement in the NPPF or the requirements of the Local Plan. Its approval would set a precedent for unsustainable, unallocated development within the area and would undermine the Council's decision to safeguard the land to the north of the Site.

The lack of evidenced "need" for the Development

As set out above, the SAMDev Plan is informed by the Council's Five-Year Plan. For the three preceding years, housing delivery in Shropshire has exceeded the required amount, achieving 152% of the national housing delivery test target. The Application does not provide any evidence suggesting that Shropshire is not meeting their delivery targets for housing and therefore paragraph 11d of the NPPF is not engaged, which allows for a mechanism in which permissions can be granted when there are no relevant development plan policies in place.

The relevant development plan policies are in place here and at no point is it suggested there is a need for a development of such scale in this location. This further supports the above assertion that approval of the Application would not be "plan-led" in accordance with local and national planning policy.

Harm to the Green Belt

Contact Details

The Site is located within the Green Belt and releasing it would lead to a significant level of encroachment on the countryside and a weakening of the neighbouring areas of Green Belt land without sufficient justification.

Paragraph 142 of the NPPF states that the “*fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence*”. This is supported by policy CS5 of the Core Strategy which states “*New development will be strictly controlled in accordance with national planning policies protecting the countryside and the Green Belt*”. It is our Client’s contention that the Application would result in urban sprawl and harm to the local Green Belt.

Paragraph 152 of the NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. As set out above, the Application does not represent “appropriate development” as it is not in accordance with the Local Plan policies or needs. It therefore represents “inappropriate development” and as such should not be approved unless an exception or very special circumstances are applicable. Paragraph 154 of the NPPF lists seven types of development that are not considered inappropriate in the Green Belt.

The Development of 800 houses on Green Belt land clearly does not meet any of those exceptions. Nor does it meet the requirements of the additional exceptions in paragraph 155 that may be acceptable, providing the proposal preserves the openness of the land, which this proposal does not.

As such, the Application should be refused, unless “very special circumstances” can be found. These must be considered in accordance with paragraph 153 of the NPPF, which confirms that the finding of very special circumstances is a high bar that is not to be taken lightly. Paragraph 153 states that *substantial weight* is to be given to the potential harm to the Green Belt and “*Very special circumstances*” will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations”.

The Applicant’s Planning Statement devotes an entire chapter (chapter 7) to the ‘principle of development & very special circumstances’, however, it is far from convincing. The Applicant begins by conflating the test of ‘exceptional circumstances’ which applies to release of green belt land through the local plan process, with the more stringent requirement for the developer to establish ‘very special circumstances’ to justify inappropriate development in the Green Belt. It then goes on to cite a wide range of planning appeal decisions before turning to the ‘very special circumstances’ relied on to justify the proposed development.

There is very little that can be gained from reviewing the planning appeal decisions referred to by the Applicant without much greater investigation into the specific facts surrounding those specific applications. As the Hon Mr Justice Holgate stated in para 160 of his recent decision in *Vistry Homes v SoS Levelling Up, Housing and Communities and St Albans City DC* [2024] EWHC 2088 (Admin):

“160. During the hearing we saw how little help can be gained from looking at the decisions of Inspectors on other planning appeals. Usually there is insufficient information to help determine true comparability. Understandably, weights are not expressed in numerical terms. Inspectors will vary as to the term used and their scale of values may differ, Moreover, as the Fairfax Inspector pointed out, decisions letters often do not explain why a particular weighting was adopted”.

Whilst the weight to be attributed to any proposed very special circumstances is a matter for the Council, it is important to note that many of them are generic – applying to any housing development in Shropshire, or indeed the country as a whole. In this respect, it is worth bearing in mind the following guidance from paragraphs 128 to 131 of Holgate’s decision in *Vistry*:

“128. It is well-established that benefits or other material considerations do not have to be unique to qualify as very special circumstances. But I accept the submission of Mr. Robert Williams for the Secretary of State that when deciding how much weight to give to a benefit, a decision-maker may take into account the fact that the type of economic benefit relied upon would arise in any housing development or, in a similar way, any employment development. HBC made that very point in para. 108 of their closing submissions, which was not contested in Fairfax’s closing submissions.

Contact Details

129. *Against that background, there is no legal reason why the Inspector was not entitled to take into account as a factor reducing the weight to be given to the economic benefits, the fact that the scheme was fundamentally contrary to local and national policy and the aim of the plan-led system to deliver sustainable development (DL 96). There is no legal requirement for the decision-maker to be satisfied that (or to consider whether) those benefits could be achieved elsewhere in compliance with those policies before he can take into account conflict with those policies on the issue of weight. For example, an Inspector does not have to be able to identify likely alternative policy-compliant scenarios or sites (see by analogy Trusthouse Forte Limited v Secretary of State for the Environment (1987) 63 P & CR 293). We are dealing in this case with benefits of a type which can be delivered by development in general.*

130. *The Inspector was also entitled to judge that where a local plan is out-of-date, and even where some development will inevitably need to take place on Green Belt land, issues of where such development should take place, and concomitant economic benefits realised, are matters for the local plan. It is not necessary for a decision-maker to be able to invoke the policy on prematurity in paras. 49 to 50 of the NPPF in order to be able to make a planning judgment of that kind (DL 96 and DL 97) lawfully.*

131. *I also accept the submissions of Mr. Wayne Beglan for HBC. He referred to the emphasis in the NPPF upon the plan-led system for the delivery of inter alia economic priorities as well as meeting housing needs (paras. 11, 15 and 47). There is no reason why an Inspector cannot give greater weight to benefits achieved in accordance with the plan-led system and lesser weight to those which are not. That does not involve impermissible double-counting with the weighing of harm resulting from the development, such as harm to the Green Belt or to the landscape.”*

Detrimental landscape character impact

Although the Application only seeks permission for an outline permission and thus does not provide detail on the appearance and landscaping, it is clear that the scale of the Development will be vast. Therefore, some assertions about the impact the Development will have on the landscape and character of the area can be made at this stage.

The impact is important for a number of reasons, including compliance with policy MD2 of the SAMDev Plan which provides landscape character is a feature that should be protected if it forms part of the context and character of the area, and policy MD8 which seeks to prevent adverse impacts on landscape character caused by infrastructure provision. Therefore, it must be determined if the Site provides landscape character and, if so, if the Development would protect this.

As part of the Local Plan review, the Council produced a Landscape and Visual Sensitivity Study. Parcel C of this study covers the Site and described the landscape as being “*characterised by arable and pastoral fields with a large network of roads*”, within a rural location of moderate strength and condition, and as an “*unvaried landscape of regular and irregular, small to medium scale arable and pastoral fields*”.

This clearly demonstrates the Site has a rural landscape character and, as such, the Application should seek to protect this character. However, the Development is of such a scale that this would not be possible and harm would be caused to the landscape character as a result.

This also further reiterates the above points concerning the Site not being allocated for development. It is clear that the evidence supporting the Local Plan does not suggest it is suitable or appropriate for development.

Harm to heritage assets and conservation areas

The Site is located in the immediate vicinity of a number of listed heritage assets; namely: Old Cottage (Grade II listed); Old Farmhouse and Malthouse Attached to Rear (Grade II listed), and Lea Hall (Grade II listed) and its attached barn (also Grade II listed). The Site is also in close proximity to two designated Conservation Areas; Boningale Conservation Area and Albrighton Conservation Area.

Contact Details

As per sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, when considering applications which affect a listed buildings or its setting, or a conservation area, special regard shall be had to preserving the architectural or historic interest / the character or appearance of the area. The NPPF expands on this at paragraph 199 and provides that great weight must be given to an asset's conservation irrespective of whether the harm would be total loss of the asset, substantial, or less than substantial.

This is confirmed in *Bedford Borough Council v Secretary of State for Communities and Local Government, Nuon UK Ltd* [2013] EWHC 473 (Admin), where the court stated that “a decision maker, having found harm to a heritage asset, must give that harm considerable importance and weight”.

These requirements have been transcribed into the Local Plan, for example, policy MD13 states “Shropshire's heritage assets will be protected, conserved, sympathetically enhanced and restored by: 1. Ensuring that wherever possible, proposals avoid harm or loss of significance to designated or non-designated heritage assets, including their settings.” (emphasis added)

Currently, all of the listed properties mentioned above are in rural settings. It cannot be said the Development would preserve or enhance the character of these historic assets. Indeed, it would act to significantly urbanise a setting, which is currently rural and open in character. Thus, in accordance with paragraph 207 of the NPPF, permission should be refused unless it can be demonstrated the harm would be outweighed by substantial public benefits. This requirement is mirrored at policy MD13 of the Local Plan.

While our Client acknowledges there would be some economic benefits to the Development, it is our contention that these do not outweigh the significant weight that must be afforded to the harm the Development would cause, especially when considered in combination with the aforementioned points on the lack of need for the development and non-allocation of the Site.

The Heritage Impact Assessment submitted with the Application does not further rebut the above. While we would assert the Application does not satisfactorily assess the importance of the character of the area, it concludes there would be a change in character for some of the Site and that some harm would be caused to the Boningale Conservation Area. The Assessment does not consider the Albrighton Conservation Area, this is a clear weakness in the heritage assessment. Given the location of the Development and its proximity to the Albrighton Conservation Area, a robust analysis of the proposed Development's potential impact on that conservation area needs to be undertaken.

We firmly believe the Development would lead to harm to the setting of heritage assets and the local conservation areas. Even if the harm was only to be considered “less than substantial”, this still must be given great weight in the planning balance.

Loss of high-quality agricultural land

Policy CS6 of the Local Plan provides that sustainable places will be achieved by “ensuring that all development ... makes the most effective use of land and safeguards natural resources including high quality agricultural land, geology, minerals, air, soil and water... Proposals resulting in the loss of existing facilities, services and amenities will be resisted unless provision is made for equivalent or improved provision, or it can be clearly demonstrated that the existing facility, service or amenity is not viable over the long term”.

The Local Plan does not provide a definition for “high quality agricultural land” but the Glossary to the NPPF defines the Best and Most Versatile (“BMV”) Agricultural Land as that in grades 1, 2 and 3a of the Agricultural Land Classification.

The Development would result in the loss of, it is believed, roughly 48 ha of land including BMV Agricultural Land. This clearly contradicts the above Policy CS6, as the most effective use of such land should be ensured. The loss of it should only be permitted, in accordance with local policy, if similar provision can be provided or it is demonstrated the facility is unviable. Also, note, it is not possible based on the Application to precisely ascertain the scale of the loss as the size of the Site varies between documents. For example, the application form states 48 ha whereas the ecological appraisal report states 63 ha.

Contact Details

This discrepancy along with the fact the Application does not detail how the Site is currently farmed mean the necessary assessment cannot be conducted,, particularly not to the level required to dispense with the need to safeguard the land. As such, the Application does not meet the requirements of the Local Plan in this regard.

Further, despite the lack of detail provided in the Application, our Client is aware the farm has been given an award by the Crop Production Magazine for the 2022 UK Climate Champion, which again stresses the quality of the agricultural land that would be lost.

Highway matters

Paragraph 104 of the NPPF states “*Transport issues should be considered from the earliest stages of plan-making and development proposals*”. As such, at outline permission stage, we would expect the transport issues associated with the Development to be satisfactorily addressed in the Application.

In addition, Planning Policy Guidance ‘Travel Plans, Transport Assessment and Statements’ provides that planning statements should be tailored to address particular local circumstances.

The Site is located in a rural area, with much of the traffic being agricultural vehicles including heavy farm machinery. As is often typical of rural settings, many of the roads are narrow and it can already be an issue on a number of routes around Albrighton when needing to pass agricultural vehicles. Thus, the scale and setting of the Development means it would require highway upgrades in the surrounding area.

The Transport Assessment submitted with the Application is lacking and does not address the rural nature of the surrounding area. As an example of the ways in which the Transport Assessment is insufficient, Cross Road borders the Site and is a narrow road with no footpaths. Activity along this road would undoubtedly increase as a result of the Development. However, the Application appears to suggest Cross Road would be used for pedestrians crossing the Site despite there being no clear mention of upgrades that would be required in order for this to be a safe route.

The Transport Assessment is therefore incorrect to conclude there are no insurmountable highways and transport related reasons to object to the Application. A sufficient assessment has not been carried out for such a conclusion to be reached at this stage, despite the fact it should be carried out at the earliest stage possible in accordance with the NPPF.

Lack of consideration for local infrastructure

Considering the scale of the proposed Development, the impacts of local infrastructure must be carefully assessed. For ease, it is reiterated here that the Application seeks development of 800 dwellings, an 80-bed care home, a local centre and a secondary school.

Paragraph 97 of the NPPF states that “*To provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:*

- a) plan positively for the provision and use of shared spaces, community facilities (such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments;*
- b) take into account and support the delivery of local strategies to improve health, social and cultural well-being for all sections of the community;*
- c) guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community’s ability to meet its day-to-day needs;*
- d) ensure that established shops, facilities and services are able to develop and modernise, and are retained for the benefit of the community; and*
- e) ensure an integrated approach to considering the location of housing, economic uses and community facilities and services.”*

Contact Details

The Application cannot be approved in accordance with the above. This, again, accords with the fact the Site has not been allocated for development, especially of this scale, and so the plan requirements and infrastructure are not in place to support such growth.

For example, the Application's Design and Access Statement highlights that Albrighton Primary School is located close to the Site. However, this school has a capacity for 315 pupils, is currently over-subscribed and would be the only primary school accessible from the Site. 'Pupil yields' [calculated by the Department for Education](#) estimate a minimum of 200 additional primary school places would be required for a development of 800 houses. However, the Application does not seek to address this severe lack of provision.

Alternatively, it looks to seek permission for a secondary school. The above mentioned 'pupil yields' provides 104 spaces would be needed at secondary schools for 800 houses. The local secondary school to the Site is Idsall and is an established, well performing school that is prepared to meet the needs of necessary local expansion. This demonstrates the lack for foresight and planning in the Application concerning local infrastructure and could pose a risk to the financial stability and educational standards of the existing local secondary provision.

Further to the above, Paragraphs 91 and 92 of the NPPF require a sequential test to be applied to all applications for town centre uses that are neither in an existing centre nor in accordance with an up-to-date plan, directing them first to town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.

Paragraph 94 of the NPPF also directs that applications for retail and leisure development outside town centres, which are not in accordance with an up-to-date plan require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500m² of gross floorspace).

This should include assessment of:

- a) the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and
- b) the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment

Developments which fail the sequential test or are likely to have an adverse impact on a town centre, should be refused.

This requirement is reflected in policy MD10b of the Local Plan, which requires impact assessments to be prepared for any applications that propose new retail units outside of a defined town centre, or more than 300m from a locally recognised high street or village centre, which are not in accordance with the area's settlement strategy and have a gross floorspace over 200m². The local centre proposed as part of the Development would be over 10,000m², but no details of it are provided as part of the Application. While it is accepted the Application currently only seeks outline permission, due to the scale of the Application and impact on local services, it is vital to the principle of the Development that more is understood about what the local centre may include and whether it would support the Development and/or detract from the local shopping areas.

Biodiversity considerations

Following introduction of Schedule 7A into the Town and Country Planning Act 1990 in February 2024, applicants are now required to provide details of how 10% biodiversity net gain will be achieved (ideally on-site but, if not possible, off-site or via biodiversity credits).

Despite the Application seeking outline permission, it is vital to factor in such considerations at this stage as failure to do so could result in the Application ultimately not being able to achieve sufficient biodiversity net gain at the reserved matters stage.

The scale of the development and the fact it is on agricultural land suggests there will be a significant biodiversity impact and so off-setting and BNG should have been considered at the earliest possible stage.

Contact Details

We would, as a minimum, expect a draft biodiversity net gain calculation to have been conducted to ensure viability of the scheme.

Conclusion

We have set out in detail numerous reasons why the Application should not be granted, including highlighting why it departs from local and national planning policy. In light of these reasons, our Client urges the Council to refuse the Application.

Yours faithfully

IRWIN MITCHELL LLP