



St Paul's Walden Parish Council
19 North Road
Stevenage
Herts SG1 4BD
Tel No: 07503340291
www.stpaulswaldenparishcouncil.org.uk
E-mail: clerk@stpaulswaldenparishcouncil.org.uk

07/07/2016

To John Chapman
Planning Control
NHDC
Gernon Road
Letchworth
Herts

Dear Mr Chapman,

Planning application 15/02555/1 – Land off Bendish Lane, West Whitwell

I am writing on behalf of the Parish Council with regard to the application above. We understand that you are intending to take this application to planning committee on the 21st July 2016 and we urge you to recommend refusal for the following reasons:

1. The applicants rely heavily on the fact that this site should be considered with regard to paragraph 14 of the NPPF due to the lack of a 5 year housing supply. This only applies if specific policies within the NPPF do not indicate that development should be restricted which includes areas likely to flood. This is a site with a known flood risk. We do not consider that sufficient work has been done to demonstrate that this site is appropriate for housing due to the known flood risk. The LLFA have confirmed that a sequential assessment for sites with known surface water was uncommon, but not inappropriate for this site;
2. The potential flood risks on this site are so great that the latest scheme requires provision of a flood basin of over 3,700 cubic metres to be provided on site. This is acknowledged by the Lead Local Flood Authority (LLFA) to be a HIGHLY UNUSUAL solution due to the very unusual nature of the site, ie that the whole valley basin water flows into this site;
3. Whilst we accept that the large basin/pond is designed for a worst case scenario, we do not know how often it will need to be used and, for example, how often it will be half full. Knowing that there is a water flow entering the site that is so great as to require a 3,700 cubic metre pond demonstrates that this is not an appropriate site for housing;
4. The LLFA have not undertaken ANY modelling themselves and are taking the developers work at face value;
5. The LLFA Strategic Flood Risk Assessment (SFRA) is significantly out of date being 8 years old and does not take account of the 2014 flood;

6. The Environment Agency has significant concerns about the potential for damage to the water supply. The Parish Council has grave concerns about the potential impact on the historic water cress beds due to this risk;
7. The Parish Council maintain their objection that the proposed development will be likely to cause harm to the intrinsic character and beauty of the countryside when viewed from the Chiltern Way, a very important walking route. The visual impact of this has not been assessed at all;
8. The planning application is not accompanied by a satisfactory and valid legal undertaking;
9. The identified harm cannot be outweighed by the need for housing in the District.

1. Flood Risk and the NPPF

The application site is identified by the Environment Agency as being at high and medium risk for surface water flooding. This clearly shows a high risk flow route through the site. The EA surface water flood map gives an indicative idea of surface water issues but doesn't go into specific detail for more frequent events. It does however highlight that the site is at risk of flooding. The Council's own SFRA is significantly out of date.

The NPPF is very clear that all sources of flooding should be considered. Paragraph is clear that a sequential approach should be used in areas known to be at risk from any form of flooding. No sequential test has been undertaken.

Paragraph 100 of the NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere. Paragraph 101 states that a sequential approach should be used in areas known to be at risk from **any form of flooding**.

Paragraph 103 goes on to state that:

"103. When determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where, informed by a site-specific flood risk assessment following the Sequential Test"

This site is shown on EA maps to have a high probability of surface water flooding, that is a greater than 1 in 30 chance of flooding. Flooding can be devastating for communities and for this reason it is simply not enough to demonstrate that flood water can be dealt with on site, the NPPF is clear that these sites should be avoided unless development is absolutely necessary. **This test is referred to the sequential test. In not asking for a sequential test the Local Authority is not applying the guidance in the NPPF correctly.** This is the responsibility of the Local Authority and not the Lead Local Flood Authority or the Environment Agency.

Even if it is argued that a sequential test does not need to be undertaken, someone should be considering whether the known flood risks on the site and the highly unusual solution to making this site safe are a good idea. The NPPF still requires consideration of the on-site risks, placing sensitive uses, such as housing, in areas least likely to flood.

In this case the developer seeks to reassure us that flooding may never happen whilst providing a 3,700 cubic metre water holding basin. One of our residents rightly points out that this is larger than the cubic content of an Olympic swimming pool (2,500 cbm).

The LLFA has done no modelling work themselves. We are totally reliant on the Developer providing an engineered solution to a highly unusual site.

The Local Authority should refuse the application on the basis that the applicants have not demonstrated that there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. This should be a district wide study based on the housing market and not restricted to Whitwell. The NPPF requires that a flood risk sequential approach is taken for all sites with an identified flood risk. As this key NPPF test has not been undertaken Paragraph 14 of the NPPF cannot be relied upon.

2. The Lead Local Flood Authority

The Parish Council met with John Rumble of the LLFA on the 7th July 2016. Whilst it was noted that the LLFA do not object to the technical assessment of the proposed drainage strategy it is worth noting that:

- The LLFA stated that whilst a flood risk sequential approach to site selection was more linked to river flooding it was NOT inappropriate for this site;
- The LLFA have not done any modelling of their own, they have taken the applicant's technical work at face value;
- It was acknowledged that this site is highly unusual and that flood models available cannot take account of the bespoke nature of the site;
- The 2014 flood has not been modelled at all and is not included in any baseline studies;
- There has been no consideration of whether the applicant's drainage scheme could work with the existing ground conditions; this has been left for conditions.

3. The Drainage Strategy

The developers have not undertaken a Flood Risk Assessment, they have done only a Drainage Strategy. In seeking to address surface water, the submitted Drainage Strategy identifies that it is not possible to discharge into a public sewer as one is not available.

The LLFA flagged that infiltration is the most sustainable surface water drainage method promoted by National guidance, however infiltration is the only option for this site. There are no surface water drains and the foul sewer is at full capacity and it can't just be sent to the river.

The LLFA have stated that further investigation is likely to be needed at detailed design to show the drainage plans would work. The problem being if infiltration doesn't work or does pose ground stability risks, then there are no other options available for disposal of additional surface water generated by the site so the applicant would not necessarily be able to show no off site impact from flood risk. Therefore the flooding issues are so critical to the scheme that they should be required when considering the principle of the development.

The potential flood risk is so great on this site for surface water flooding that the proposed development of 41 homes requires the creation of two ponds and mechanical pumping. The largest pond or flood basin has a proposed volume of **3,700 cubic metres. This is huge.** A further 1,104 cubic metres is provided in a second pond.

This may be a technical exercise to try to demonstrate that the application is acceptable to the LLFA, but what this demonstrates is that huge amounts of water flow across the site. This demonstrates that, in accordance with the NPPF, sites with this level of flooding should only be permitted for housing if there are absolutely no available alternatives. This work has not been done.

The drainage strategy relies heavily on infiltration rates through the chalk on site. If the ground is saturated the water is likely to sit within the huge ponds for some time, in fact the drainage strategy seeks to slow down the rate of discharge. There is no work to state that the chalk ground is structurally sound for storage of such huge volumes of water. The ground investigation highlights an area of potential subsidence within the site.

Residents of Cresswick report that their house floors are moving and need shoring up due to existing ground conditions and potentially due to the large amounts of water moving below the site.

The Parish Council is concerned with the drainage strategy that is being pursued. The Parish Council have raised these issues previously and do not feel that the Local Authority is addressing these issues. Even if the LLFA believe the applicant's calculations, it falls to the Local Planning Authority to assess whether it is good planning to allow planning permission for huge structural ponds on site, ponds

greater than an Olympic sized swimming pool. The technical assessment of these ponds has simply not been done. We do not know how often they will be full, how safe they will be for residents and school children, how they will be monitored, whether the ground is structurally sound to accommodate these massive structures, what the visual impact of ponds with this volume will be when they are full and when they are empty.

The inclusion of the huge pond as part of the application has been made at a late date. If planning permission was sought for the engineering operation of a 3,700 cubic metre balancing pond alone the Local Authority would seek information at least on traffic and engineering ground movements to create the structure, the adequacy of the engineering solution with regard to geological structure, i.e. is chalk an appropriate material within which to create a heavy pond and the safety of such a structure. None of this work has been undertaken.

We are led to believe that the earth work required will be maintained on site, but we do not want the height of the FFL raised, we want the houses, if granted, to be as low as possible.

In addition, these ponds or basins are only proposed to be used when there is a storm. At all other times they would appear as deep holes in the landscape. There has been no work done to assess the visual impact of the ponds. The sections through the pond suggest that the basins fall at a 1 in 3 slope and have a fall of between 2 and 5 metres. There has been no work on the visual impact of a deep hole in the side of the valley and no work to test construction impact or operational safety for children and residents.

We urge the local authority to refuse the planning application as there is insufficient evidence to support the provision of a huge 3,700 cubic metre pond on site. There is no evidence regarding the visual impact of providing a large hole in the ground, the safety and operation of this hole and insufficient evidence to show that the ground is structurally sound to support the weight of the water when the pond is full.

4. Pollution

The Parish Council would also like maintain their strong objection to the increased risk of pollution in a highly sensitive location for groundwater. The proposed development lies on the principal chalk aquifer. This is an important source of water for the River Mimram, an internationally important chalk river, and for the supply of water to the historically important watercress farm at Nine Wells.

The Environment Agency, whilst seeking the application of many conditions to control any planning permission, states that they have some serious concerns over the use of an underground storage tank for effluent in a ground water source protection zone.

West Whitwell is in a source protection zone 1 for the abstraction at Sansom's watercress farm, meaning there is a travel time of less than 50 days for groundwater beneath the site to enter the abstraction point. If pollutants get into groundwater they could impact on the water quality abstracted at the watercress beds. Thames Water have responded to the developers at West Whitwell (appendix E of the flood risk assessment) to state that there is no capacity in the current main sewer network for disposal of sewage at peak times. The developers have therefore proposed an on-site tank to accommodate 24 hours' worth of sewage (approximately 27 cubic metres) buried in the ground and pumped when the sewer has spare capacity.

No one can guarantee that the tank, which will be in private ownership, will not leak over its lifetime. There is no management and maintenance programme outlined for the tank. If the tank was to leak it would go directly into the groundwater and could end up polluting the abstraction for the watercress beds with live sewage bacteria.

It is also not guaranteed that the tank option still won't lead to additional sewage flooding in Whitwell. There have been several instances of sewers overflowing in the village. It is possible that the sewer network is prone to groundwater ingress during times of high groundwater levels, due to the location of the main sewer in the valley bottom of the River Mimram. If the sewer is at capacity throughout the day and night then there will not be a time of low flows when the pumps can discharge the tanks into the system. The tank only has capacity for 24 hours of storage. This means that when they do pump water from the tank it will lead to the development polluting the environment and sewer flooding to the village. This is a risk not worth taking.

The Parish Council urges the local authority to refuse the planning application as there is a significant risk to ground water and the historic watercress beds even with the application of the Environment Agency's recommended conditions.

5. The Effect of the Development on the Character of the Countryside.

As acknowledged within the Officer's Committee Report for another development in Whitwell it is accepted that Local Plan Policy 6 has a role in protecting the character of the countryside:

"It has a broader planning purpose that being protecting the character of the countryside, which has a degree of consistency with the 12 Core Planning Principles of the NPPF: The fifth bullet point of paragraph 17 'recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it.'"

The Council's Landscape Character Assessment of the Whitwell Valley advises that smaller urban extensions on sites less than 5 hectares would not be entirely appropriate in this character area due to the rural and undeveloped character.

In this case the field upon which the houses are proposed is highly visible from the Chiltern Way a very important walking route around the Chilterns, a designated Area of Outstanding Natural Beauty. There can be no argument that developing this site which is highly visible from the Chiltern Way will not have a significant impact on the intrinsic beauty of the Countryside when viewed from the Chiltern Way. Added to this, there has been no assessment of the visual impact of creating a 1000 cubic metre hole in the side of the valley.



The Parish Council urges the Local Authority to refuse this application as it is inappropriate development that will have a significant harm on the intrinsic character and beauty of the countryside particularly when viewed from the Chiltern Way.

6. Legal Undertaking

In refusing planning application 15/02020/1 the Council found that the planning application was not accompanied by a satisfactory and valid legal agreement. This application is also not accompanied by a satisfactory agreement. The Parish Council has significant concerns regarding the wording of the draft S106 and calls upon the Council to be consistent in its approach and to also refuse this application. If the scheme is to proceed the detailed terms of the S106 need to be understood.

For example, the Parish Council has significant concerns regarding triggers and timing for a lease which has been offered to them on the open space. As drafted the S106 suggests that the process of offering the Parish Council a lease will not be triggered until 80% of the housing is occupied. The Parish Council is then to only be given 6 weeks to complete all paperwork. This is completely unreasonable. Not only is this too short a period of time to complete a lease, the land needs to be available to residents before they move in as it is a key part of the development.

The Parish Council urges the Local Authority to be consistent in its approach and to refuse the application on the basis that the application is not accompanied by a satisfactory and valid legal undertaking.

7. Conclusion

In conclusion the application should be refused for the following reasons:

- 1. The site is identified as one at a high risk of surface flooding. In accordance with the NPPF a sequential approach to site selection has not been undertaken. The NPPF requires that a flood risk sequential approach is taken for all sites with an identified flood risk. As this key NPPF test has not been undertaken Paragraph 14 of the NPPF cannot be relied upon and planning permission should be refused.**
- 2. There is insufficient evidence to support the provision of a 3,700 cubic metre pond on site. As the scheme is totally reliant on this pond the details should be considered at the application stage. There is no evidence regarding the visual impact of providing a huge hole in the ground, the safety and operation of this hole and insufficient evidence to show that the ground is structurally sound to support the weight of the water when the pond is full.**

3. The provision of an underground sewerage tank requiring off peak pumping may provide a significant risk to ground water and the historic watercress beds even with the application of the Environment Agency's recommended conditions;
4. The proposed development of houses together with the combined effect of engineering and earth works to create a 3,700 cubic metre hole in the site will result in significant harm to the intrinsic character and beauty of the countryside particularly when viewed from the public footpath the Chiltern Way. This is not outweighed by the benefits of the proposal and is therefore contrary to advice set out at paragraphs 14 and 134 of the NPPF;
5. The planning application is not accompanied by a satisfactory and valid legal undertaking in the form of a S106 Agreement;
6. The impacts of the development of flood risk, visual impact and encroachment into the countryside are not outweighed by the district wide need for new houses.

We cannot urge you strongly enough that this application should be refused.

Kind regards

Yours sincerely

Clerk to St Paul's Walden Parish Council

