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NORTH HERTFORDSHIRE DISTRICT COUNCIL

PLANNING CONTROL COMMITTEE

THURSDAY, 9TH FEBRUARY, 2023

SUPPLEMENTARY AGENDA

Please find attached supplementary papers relating to the above meeting, as follows:

Agenda No Item

8. **21/03533/FP LAND WEST OF TUTHILL HOUSE, KELSHALL TOPS, THERFIELD, HERTFORDSHIRE** (Pages 3 - 8)

REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER

Erection of three detached dwellings (1 x 4-bed, 1 x 5-bed and 1 x 6-bed) with associated infrastructure and landscaping.

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Planning Application 21/03533/FP -Response from Therfield Parish Council

This Parish Council has not been consulted regarding changes to the supporting documentation relating to this application since March last year. Nor was it aware that the matter was to be determined by the Planning Control Committee on 9 February 2023, or of the changed basis on which it was now to be considered, until a few days ago. However, having regard to the passage of time since we were last consulted and the changes of circumstances in that time, Therfield Parish Council feel it is appropriate to write to re-confirm our objection to this development. Our objection is based in particular on the following:

1. This site has already been rejected for development on multiple occasions, and the unsuitability and unsustainability of development on this site has been recognised by planning officers and Committee alike. This site was considered for but rejected from inclusion as a development site in the Local Plan. It is outside the development limits of the village in a sensitive position at the top of the ridge, and its development would result in ribbon development of the village along the Kelshall Road, within the 60mph derestricted area. Therfield, like many areas in the district, has been prey to opportunistic developers who were able to take advantage of the fact that NHDC did not have a current Plan. Mr Ellis made his recommendation on the basis of a “tilted balance” which was engaged since NHDC did not have an up-to-date Local Plan and could not show a five-year housing supply, and this proposal offered the benefit of three new houses. Mr Ellis conceded at the Committee meeting in June 2022 that the reduction in the number of houses was in effect the only material difference compared to previous, refused applications, the other benefits of the current application which he identified (eg the possible removal of the concrete apron at the site) having also been a feature of the previous, refused applications. Mr Ellis also conceded that harm that would be caused by the revised scheme in the form of poor pedestrian links and the relative isolation of the site in relation to services as well as harm to nearby designated heritage assets. Eight months on, and we are now in a very different landscape of planning regulation. The “tilted balance” required before the new Plan was adopted is no longer engaged and the presumption in favour of anything which delivered more houses has disappeared. This application, for development in the Rural Area Beyond the Green Belt, now falls to be determined squarely in accordance with Policy CGB1. The proposed scheme does not satisfy any of the criteria for development specified in that policy and is not therefore to be permitted. The benefit – as Mr Ellis saw it – of 3 new homes when NHDC could not demonstrate an adequate 5-year supply has gone now that a Plan which has been adjudged sound has been adopted, and we are left with all the harms he identified. Millions of pounds and thousands of man-hours have been spent developing the new Local Plan. No reasonable authority which has gone to such cost and effort can justify one of its first acts being to ignore the Plan’s clear terms and approve a development which is contrary to its new policies and which will actually cause harm.
2. These proposals do not properly take into account the terms of and surrounding circumstances relating to the existing s106 Agreement, which precludes this development, and the legal limitations on its variation. We continue to object to

any purported release or waiver of these covenants, or any action having functionally the same effect.

3. We object to the fact that the officer's Report fails to deal with protection of the important planting along the south of the site, the protection of which was a condition to the Planning Control Committee's willingness to approve this application at its June 2022 meeting. No such protection is proposed and no reason given as to why not: indeed, this planting is not even mentioned.
4. We object to the way in which the concerns of the Lead Local Flood Authority have been ignored simply because they are not technically a statutory consultee in relation to this application.
5. It has come to the Parish Council's attention since the Planning Control Committee's meeting last June that the sewage treatment plant serving Therfield is inadequate, frequently discharging into waterways causing pollution. The Parish Council has already written to NHDC regarding this and requesting that no new housing permissions be granted until this serious issue has been resolved by the relevant authorities.
6. This is not Previously Developed Land (a brownfield site). Mr Tiffin explained to the applicants very clearly why this was so at the PCC meeting which refused application 20/00117/OP in relation to the same site. Mr Ellis, in his report to the June 2022 PCC meeting, was very careful not to characterise this site as a brownfield site, because it is not. The officer has misdirected herself in her Report to Committee, perhaps misled by the applicants' agent continuing to assert (despite having had the true position explained to him by Mr Tiffin) that this is a brownfield site.

All this being the case, the Parish Council considers that this application must be refused.

Yours sincerely

Linda Laing, Vice Chair, Therfield Parish Council

PS I should perhaps stress – since we have not been consulted or kept up-to-date on developments in relation to this application, and for the additional reasons set out in my other emailed letter to you of today's date – that the above these comments cannot and do not take into account anything which may have become apparent from an up-to-date consultation or any errors in or omissions from your Report save where these were immediately apparent, the Parish Council having not been given the opportunity properly or at all to consider that Report or the revised information and documentation underlying it.

Cc Councillor Bryant, Jeanette Thompson, Ian Fullstone, Anne McDonald, and Nurainatta Katevu

Planning Application – 21/03533/FP – Response from Applicant

Dear Councillor,

I am contacting you on behalf of the applicant of the above agenda item, which relates to Land West Of Tuthill House, Kelshall Tops, Therfield (Ref: 21/03533/FP) and is to be heard at the 9th February Planning Control Committee.

The applicant would be grateful if you would give consideration to this email.

Your officers report explains that this application was previously considered by this Committee on the 23rd June 2022 and Members resolved to grant planning permission in accordance with the Officers recommendation for approval. As part of the resolution, the variation of an existing legal agreement was required and has unfortunately taken longer than expected. Since the last Committee's decision, a new Local Plan has been adopted in November 2022. Therefore, this application is before you again to provide a reassessment of the application having regard to the new Local Plan, before a decision is issued.

Whilst there is a new Local Plan, the policies are broadly similar to the previous Local Plan in their approach to development on this site. It is the applicants case that there are still material considerations that outweigh any conflict with the Local Plan.

Your officers have provided you with an impartial and objective re-assessment of the applicant's proposal against any previously refused applications, the new Local Plan, and the fact that the Council can currently demonstrate an improved 5 year land supply than before. However, your officers maintain that this proposal still overcomes these issues, and that there are 'other material considerations' that justify the grant of planning permission despite a new Local Plan.

We hope that you will take comfort in your officers second recommendation for approval, which has also been the subject of review by the Council's Legal Team Manager and there are no objections from any statutory consultee.

This proposal is an opportunity to create a new and clean chapter in the sites planning history, that creates clear stewardship of the site going forward because it will be occupied by residents of the 3 new homes proposed.

When you reappraise this proposal, we would also ask you to have regard to the following:

- the site is not in agricultural use; it is not unspoilt greenfield land; it is land with a long history of use. It is almost entirely concrete hardstanding and that has been used for storage and parking of HGVs.
- the site currently has an urbanising and industrial character that detracts from the local characteristic of the village and surrounding countryside.
- visually it has an approximate 20m wide concrete access, with high metal security gates across its frontage; and a close boarded barrier along the sites prominent north and east boundary. This is most visible in the street scene and is harmful.

- The proposal for 3 dwellings substantially improves this situation. It will substantially enhance the character of the site and adjoining village and landscape. It will be more in keeping with this edge of village location.
- The concrete hardstanding will be removed. The site access will be narrowed by more than 50% and would be replaced by a field gate. Security fencing is replaced with post and rail fencing, the sites edges will be enhanced with further high-quality soft landscaping in addition to retention of existing boundary planting.
- There is ample room for significant soft landscape planting within and around the application site as demonstrated by landscape strategy that can be conditioned. The proposal does not rely on the retention of landscaping outside of the site, but it is clear that the intention is to retain it, and this is required by a historic permission on the site in any event.
- The design of the 3 dwellings proposed resembles a traditional farm courtyard, with a central farm house and subservient barn/stable buildings. It presents a rural characteristic that integrates with its rural setting, which is a substantial improvement to the current situation and previous designs for a greater number of dwellings.
- The proposal will also result in significant biodiversity net gain, substantially in excess of 10%, through removal of extensive concrete and replacement with a soft landscaped habitat.
- The Home Builders Federation Housing Calculator allows you to calculate the economic benefits from building new homes and identifies this will support the employment of 9 people through the construction process and benefit the village through increased local spending and demand for services.
- Electric vehicle parking, high building efficiency and low energy usage is also a positive feature of the design.
- The proposal will clean the site from any potential past contamination.
- Finally, there are the clear policy benefits from housing provision in this location as recognised by your officers in their report.

Your officers have therefore identified that these benefits, among others, are material and outweigh the conflict with Policy CGB1 of the new Local Plan and any other harm.

Reference has been made to an existing S106 agreement in force on the site. As set out in the officers report, its necessary to amend the S106 as part of this proposal, but only where it relates to the use of the application site and that is because the storage uses will cease once residential development takes place. However, the S106 requirement to ensure the retention of the existing landscaped areas outside of and around the application site will remain in force and in perpetuity.

This has been explained in the legal documents submitted with this application. Again, this is intended to simplify and not complicate matters and it will result in a clean chapter of the planning history.

We therefore urge you to support your officers recommendation.

Thank you.

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