

**RE : BUGLE NURSERIES, SHEPPERTON TW17 8SN**

**APP/Z3635/W/23/3325635**

**OPENING SUBMISSIONS ON BEHALF OF SPELTHORNE BOROUGH COUNCIL**

1. The appeal scheme for up to 80 dwellings (50% secured as affordable housing through a s106 planning obligation) in the Green Belt is one which would cause substantial harm to the Green Belt.
2. The approach taken by the appellant under-states the harm that would result, and over-states the range and weight of benefits to be considered against that harm.
3. It is a matter of common ground that the site can and should accommodate some residential development as recognised by :
  - i. An extant planning consent for up to 31 dwellings on the site ;
  - ii. A draft allocation in the now-paused new Local Plan.
4. However, that does not mean anything goes.
5. The proposed scheme has to be considered on its own merits and in the circumstances prevailing at the time of determination.
6. The scheme granted consent by Inspector Hunter in July 2021 was almost entirely on previously-developed land (in contrast to the alternative scheme which was rejected):

*[...] I find that neither proposal would be located entirely on previously developed land. Although, in this respect, the amount of development to be provided on non-previously developed land as part of Appeal B, would be limited to the strip of land required to provide a widened access<sup>1</sup>.*

7. The 'new' proposed development extends from a scheme almost entirely confined to previously developed land, to a scheme which seeks to develop a large swathe of non-previously developed land. Of the up to 80 dwellings proposed, 56 would be on non-previously developed land.
8. The Framework directs that development which is inappropriate is by definition harmful<sup>2</sup>, such harm to be given substantial weight<sup>3</sup>. The Framework further directs that the construction of new dwellings in the Green Belt is to be regarded as inappropriate unless one of a series of prescribed exceptions applies. The appellant seeks to rely on the exception at paragraph 149g). This attempt should fail on two fronts :
  - i. The proposal would cause substantial harm to the openness of the Green Belt ;
  - ii. The proposal does not amount to the redevelopment of previously developed land, extending development well beyond this. It is adventurous (to put in kindly) and misguided of the appellant to argue that the 149g) exception can be utilised in respect of an entire development where only part of the proposed development is on previously developed land.
9. Therefore the proposed development falls outside the paragraph 149g) exception.

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<sup>1</sup> DL20

<sup>2</sup> Paragraph 147

<sup>3</sup> Paragraph 150

10. The proposal amounts to inappropriate development.

11. The harm to the Green Belt would not merely arise in the definitional sense. The proposal would harm the openness of the Green Belt, considered both in a visual and a spatial context. The visual harm to openness would be apparent principally from Upper Halliford Road and from the local PROW (FP19), and from Halliford Close. The spatial harm is demonstrated by the substantial increase in footprint, floor area and volume of development compared both to the existing situation and the permitted scheme. Furthermore, the proposed development would conflict with three of the five Green Belt purposes : to check the unrestricted sprawl of large built-up areas, to prevent neighbouring towns from merging into one another, and to assist in safeguarding the countryside from encroachment, and this conflict is a harm to be weighed within the paragraph 148 balance.

12. The appellant also advances a case for very special circumstances.

13. In the ensuing balance required by paragraph 148 of the Framework, harm to the Green Belt should be accompanied in the weighing scales by any other harm resulting from the proposal. In this case, SBC rely on further harms, reflected in Reasons for Refusal 2 and 3 :

- i. The proposed housing mix, which conflicts with development plan policy, notwithstanding an imaginative construction that the appellant attempts to apply to policy HO4. Although the appellant looks to draw support from emerging policy, that carries limited weight at this stage but in any event the proposed mix does not comply with it. SBC do not accept that mix can be addressed through a condition or left to reserved matters.
- ii. The impact on the amenity of neighbouring residents, in conflict with Policy EN1 :

- (a) SBC consider that there is insufficient evidence to fully assess this impact because although height would be limited by condition<sup>4</sup> (and width/depth fixed by the proposed layout details) the detail beyond this remains relevant to the consideration of amenity impacts ;
- (b) The objection arises in respect of the residents of Halliford Close ;
- (c) Notwithstanding the incomplete information, the overlooking objection can be addressed by conditions which have the effect of ensuring that the accommodation would be confined to two storeys (the latest version of proposed Condition 22 following the Inspector's helpful observations would prohibit accommodation in the roof or windows/openings in the roof) together with proposed Condition 19 in respect of permitted development rights (and together with condition 21) ;
- (d) The remaining issue is outlook ;
- (e) In the event that overlooking is addressed through the proposed conditions, the remaining outlook objection as the only remaining amenity objection and in the context of a reduced maximum height of 8.7m would continue to weigh against the proposal in the balancing exercise, albeit with a reduced level of weight.

14. These "other harms" (mix and outlook) do not attract a level of weight which approaches the weight to be given to Green Belt matters, but they nonetheless contribute to the overall balance.

15. Planning is always about balance and the harm has to be weighed against other considerations, in order to determine whether these other considerations collectively clearly outweigh the harm.

16. SBC through Mr Hughes take an entirely realistic and balanced approach to the scope and weighting of these other considerations :

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<sup>4</sup> The appellant now proposes a maximum height of 8.7m ridge height rather than 9.5m as was their position until the week before the opening of the Inquiry

- i. Substantial weight to the provision of housing (including affordable housing) in circumstances where SBC are unable to demonstrate a 5 year Housing Land Supply<sup>5</sup>, did not perform well in the Housing Delivery Test, have under-delivered against affordable housing targets, and have paused the emerging local plan ;
- ii. Moderate weight to removing a “bad neighbour”, to the sustainability of the location, and to economic benefits<sup>6</sup> ;
- iii. Limited to moderate weight to the provision of public access to open space ;
- iv. Limited weight to the draft allocation for the site.

17. An argument raised by the appellant that local opinion in support of the proposal should be given significant weight in the balance is without any merit. Even if the claim to such support was accurate, it is not a factor that should be given any weight and in any event would effectively double-count other matters properly relied upon as benefits of the scheme.

18. Whilst there are (as with any scheme for the provision of housing) matters that weigh in favour of the proposal, these do not clearly outweigh the harm to the Green Belt and other harms.

19. The application of the Framework’s Green Belt policies provide a clear reason for refusal, such that the so-called tilted balance is disengaged. Applying the statutory test for determination provided by s38(6) PCPA, the proposal is in conflict with the development plan, and with the Framework’s policies for the protection of the Green Belt. The conflict is not outweighed by material considerations supporting a grant of planning permission.

20. It will be respectfully submitted that the appeal should fail.

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<sup>5</sup> The agreed bracket being 2.79 years on the appellant’s case and for the purposes of this appeal 3.52 years on SBC’s case

<sup>6</sup> Mr Hughes wrote in his PoE that the weight to economic benefits should be limited, however he has reviewed his position following receipt of the appellant’s rebuttal evidence and will say that he is content to agree the appellant’s position of moderate weight

Ed Grant

28<sup>th</sup> November 2023

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