

Date: 17 June 2022
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Ms Richardson
The Clerk
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Dear Ms Richardson

Concern with development at Land at Wingate Lane, Long Sutton, Hook (also known as Big Meadow)

I refer to the letter dated 31 May 2022 from your Chairman, Mr Goodbourn, to the Chairman of Planning Committee (Cllr Quarterman). Cllr Quarterman has asked me to provide you with a response on the enforcement investigation and I hope the information below will assist to fully explain the situation.

This is a complicated site, and the investigations have been ongoing for some time, so I have set out in this letter a detailed response to update you where we are.

Background

Planning permission (reference 15/00424/FUL) was granted on 17 June 2016 for the erection of 5 dwellings with carport/store, access road and landscaping, change of use of agricultural field to public open space and associated landscaping.

The planning permission was granted subject to 21 planning conditions and a legal agreement under Section 106 of the Town and Country Planning Act.

The legal agreement related to planning obligations in respect of the provision of the Public Open Space (POS), Private Open Space and Buffer Land (POS/BL), the provision of a financial contribution for the provision of affordable homes and terms and conditions relating to a land transfer. These obligations are binding on any successor in title.

The planning conditions, in brief terms, addressed the following issues:

1. Period for commencement of the development.
2. Submission/agreement of details and samples of all external materials.
3. Submission/agreement of bin store details.
4. Submission/agreement of existing/proposed levels.
5. Submission/agreement of revised tree protection details.
6. Submission/agreement of a scheme of supervision of tree protection.
7. Submission/agreement of an ecological management plan.

8. Submission/agreement of archaeological assessment/mitigation details.
9. Submission/agreement of land contamination assessment.
10. Submission/agreement of a details surface and foul drainage strategy.
11. Submission/agreement of a Construction method Statement.
12. Submission of details of capacity at Robert Mays School and agreement.
13. Submission of details of scheme in relation to Fleet Leisure Centre and agreement.
14. Implementation of highway works prior to occupation (agreed with Hampshire County Council through S278 agreement).
15. Submission/agreement of details relating to sustainable transport initiatives.
16. Submission/agreement of landscape details for hard and soft landscaping.
17. Carry out landscaping in accordance with approved scheme – protected for 5 years after approved completion.
18. Make access/parking/turning available prior to occupation of dwellings.
19. Control of working hours.
20. Removal of permitted development rights – Class A and E.
21. List of approved plans.

Conditions 2, 3, 4 and 8 were submitted via 15/00424/CON – a split decision was issued as Condition 8 was partly satisfied but was subsequently completely satisfied.

A non-material minor amendment was approved in respect of Conditions 2, 7, 10, 12, 13, 15 and 16 via 15/00424/NMMA. Variation of Condition 7 was not agreed.

Details of Conditions 5, 6, 7, 9, 10, 11, 12 and 16 were submitted via 18/02293/CON. The conditions were discharged excepting Conditions 6 (in part), 10 and 16.

Details of Conditions 13 and 15 were discharged through application 18/02371/CON. Details of Conditions 4, 10 and 16 were discharged through 18/02869/CON.

Details were submitted and considered acceptable in relation to Clauses 12.1 and 13.1 of the S106 legal agreement via 19/00079/CON.

Further details were submitted and considered acceptable in relation to Condition 11 (CMS) via 19/01383/CON.

An amendment to the approved landscaping for the public open space was agreed as acceptable through 20/01824/NMMA.

The development commenced within the period for commencement, and currently three of the properties are occupied.

Planning Local Enforcement Plan

Hart District Council adopted its Planning Local Enforcement Plan in January 2016. A copy of the Plan is on our website. Section 8 of the Local Enforcement Plan sets out the Council's approach to investigating allegations of breaches in planning control, and Section 10 and 11 set out our approach to planning enforcement and what actions we might take.

Policy PE1(d) states: “In considering whether it is expedient to start enforcement action, the Council will take account of the policies in the current local plan and all other material considerations, including the emerging Local Plan, and will assess whether the breach of planning control unacceptably affects public amenity or causes harm to land or buildings which ought to be protected in the public interest.”

I would also highlight that formal action is normally a last resort. Paragraph 11.3 sets out an approach to negotiated solutions “we will try to negotiate a satisfactory solution within 12 weeks of the start of an enforcement investigation wherever possible. This approach achieves a suitable outcome and avoids the time and cost of serving notices, fighting appeals and possibly taking the offenders to court. If building works or an unauthorised use is considered to be unacceptable, the developer will be given a realistic deadline by which to remove the building/cease the use. If this deadline is not met, then formal enforcement action will be taken. Clear timescales for compliance will be given to the landowner and other interested parties at all stages.”

Matters of concern

In your letter you set out that:

The key concern is that the Landscape Management Plan has not been adhered to with material effects of this causing significant and ongoing distress to residents adjacent to the site. Issues include:

- Entirely incomplete/no landscaping leaving the site as resembling a battlefield (a term I do not use lightly) inclusive of deep holes, high mounds of excess earth and rubble, and overgrown vegetation. The site is unusable as a public open space;
- During heavy rain excessive flooding occurs into adjacent properties from clay deposits due to poorly executed land drainage;
- Over a period of many months, residents have lived in an unacceptable environment with the stench and disease risk of an ineffective sewerage system located on the site; and
- In turn, we offer a strong opinion that the development fails to meet building control requirements from a planning, soil levels and, of course, sewerage aspect. (We are told by Sylvia O’Connor that HDC commissioned their own soil level inspection and subsequent report back in December 2021).

Linked to the preceding, there are also related issues which include:

- On completion of the development including the landscaped area excluding the 5 properties (as noted above to be a public open space) is to be transferred to the Parish Council for its use by the village and upkeep. Clearly under current circumstances if the landscaping is not completed in accordance with the planning approval, as the Parish Council, we are legally entitled to refuse ownership. In turn, Hart DC will, as I understand it, be required to take on the financial and resource liability of maintaining the site; and

- Finally, clear breach, occupation of 3 of the 5 houses triggers the payment by ME Land of Section 106 monies under the planning approval which we understand has not been paid.

The current situation in regard to Hart District Council investigations / actions

As referred to earlier in this letter, the Parish Council and neighbours have raised concerns with surface water flooding with us over a period of time. Consequently, we commissioned a survey of the land to investigate the surface levels. Following the survey work we have found no significant variation to the approved site levels; however, minor differences have been identified due to the current condition of the land which is not uniform and features ruts and piles of clay/mud.

Officers are currently considering whether a further survey should be undertaken, however, it appears no recent land movements have taken place to indicate significant variation with the previously recorded levels.

The key issue to bring to your attention is that whilst we fully appreciate your concerns, the obligation to undertake the landscaping of the Public Open Space land is not effectively engaged until after the final or 5th property at the site has been occupied.

I can see from Zoopla that there are 2 properties still for sale, and you identified in your letter, there are only three properties currently occupied. Therefore, there is no breach of the obligation to undertake or implement the landscaping of the area.

In terms of the obligation to pay a commuted sum in lieu of affordable housing at the site, this matter is being pursued at present by our finance team as a bad debt.

We fully appreciate that currently the condition of the land is incomplete. Whilst Officers have held discussions concerning potential for taking action, we are advised by our legal colleagues that until the relevant triggers in the obligation are met, such action would not be appropriate or effective.

We are therefore continuing to monitor conditions at the site. We will keep the Parish Council up to date on any change in circumstance, however at the present time despite significant investigation, we have not identified a breach of planning control.

I can confirm that the failure to make the appropriate financial contribution in relation to the affordable homes provision is being pursued by our finance team.

Yours sincerely



Mark Jaggard
Head of Place

cc Cllr Richard Quarterman