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25 March 2019

Dear Mr Hyde,

Town and County Planning Act 1990 (as amended)

Proposal: Erection of 16 dwellings and associated works

At: Land west of Fowlmere Road, Heydon

Thank you for your pre-application enquiry which we received on 04 July 2017. I met with your colleagues Ben Ward and Glen Richardson and the architect for the scheme on 26th July. My response is set out below.

Relevant Planning History:

S/0385/80/O – outline planning application for erection of one dwelling – withdrawn.

Planning Constraints: The site is located outside of the village framework and is therefore classified as open countryside. The site is adjacent to the conservation area, the boundary of which abuts the eastern boundary of the site. Ash Cottage, a grade II listed building, is located to the north east of the site. There is a pond located relatively centrally within the site although the entirety of the site is located within flood zone 1.

Weight to be attributed to current relevant LDF policies

The Council accepts that it cannot currently demonstrate a five year housing land supply in the district as required by the NPPF, having a 4.1 year supply using the methodology identified by the Inspector in the Waterbeach appeals in 2014. This shortfall is based on an objectively assessed housing need of 19,500 homes for the period 2011 to 2031 (as identified in the Strategic Housing Market Assessment 2013 and updated by the latest update undertaken for the Council in November 2016 as part of the evidence responding to the Local Plan Inspectors' preliminary conclusions) and latest assessment of housing delivery (in the housing trajectory March 2017). In these circumstances any adopted or emerging policy which can be considered to restrict the supply of housing land is considered 'out of date' in respect of paragraph 49 of the NPPF.

Unless circumstances change, those conclusions should inform, in particular, the Council's approach to paragraph 49 of the NPPF, which states that adopted policies "for the supply of housing" cannot be considered up to date where there is not a five year housing land supply. The affected policies which, on the basis of the legal interpretation of "policies for the supply of housing" which applied at the time of the Waterbeach decision were: Core Strategy DPD policies ST/2 and ST/5 and Development Control Policies DPD policy DP/7 (relating to village frameworks and indicative limits on the scale of development in

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villages). The Inspector did not have to consider policies ST/6 and ST/7 but as a logical consequence of the decision these should also be considered policies “for the supply of housing”.

Further guidance as to which policies should be considered as ‘relevant policies for the supply of housing’ emerged from a recent Court of Appeal decision (*Richborough v Cheshire East and Suffolk Coastal DC v Hopkins Homes*). The Court defined ‘relevant policies for the supply of housing’ widely and held that the term was not to be restricted ‘merely policies in the Development Plan that provide positively for the delivery of new housing in terms of numbers and distribution or the allocation of sites,’ but also to include, ‘plan policies whose effect is to influence the supply of housing by restricting the locations where new housing may be developed.’ Therefore all policies in the adopted Development Plan which have the potential to restrict or affect housing supply may be considered out of date in respect of the NPPF.

The decision of the Court of Appeal tended to confirm the approach taken by the inspector who determined the Waterbeach appeal. As such, as a result of the decision of the Court of Appeal, policies including policy ST/6 of the Core Strategy and policies DP/1 (a) and DP/7 of the Development Control Policies DPD fell to be considered as “relevant policies for the supply of housing” for the purposes of the NPPF para 49 and therefore out of date.

However, the decision of the Court of Appeal has since been overturned by the Supreme Court in its judgement dated 10 May 2017. The principal consequence of the decision of the Supreme Court is to narrow the range of policies which fall to be considered as “relevant policies for the supply of housing” for the purposes of the NPPF. The term “relevant policies for the supply of housing” has been held by the Supreme Court to be limited to “housing supply policies” rather than more being interpreted more broadly so as to include any policies which “affect” the supply of housing, as was held in substance by the Court of Appeal.

The effect of the Supreme Court’s judgement is that policies ST/6, DP/1(a) and DP/7 are no longer to be considered as “relevant policies for the supply of housing”. They are therefore not “out of date” by reason of paragraph 49 of the NPPF. None of these adopted policies are “housing supply policies” nor are they policies by which “acceptable housing sites are to be identified”. Rather, together, these policies seek to direct development to sustainable locations. The various dimensions of sustainable development are set out in the NPPF at para 7. It is considered that policies ST/6, DP/1(a) and DP/7 and their objectives, both individually and collectively, of securing locational sustainability, accord with and furthers the social and environmental dimensions of sustainable development, and therefore accord with the Framework.

However, given the Council cannot demonstrate a five year supply of housing land, its policies remain out of date “albeit housing supply policies” do not now include policies ST/6, DP/1(a) and DP/7. As such, and in accordance with the decision of the Supreme Court, para 14 of the NPPF is engaged and planning permission for housing should be granted, inter alia “unless any adverse impact of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole ...”

This means that even if policies are considered to be up to date, the absence of a demonstrable five year housing land supply cannot simply be put to one side. Any conflict with adopted policies ST/6, DP/1(a) and, DP/7 is still capable of giving rise to an adverse effect which significantly and demonstrably outweighs the benefit in terms of housing delivery of the proposed development in terms of a residential-led development cannot simply be put to one side. The NPPF places very considerable weight on the need to boost the supply of housing, particularly affordable housing, particularly in the absence of a five year housing land supply. As such, although any conflict with adopted policies ST/6, DP/1(a) and, DP/7 is still capable, in principle, of giving rise to an adverse effect which significantly and demonstrably outweighs the benefit of the proposed development, any such conflict needs to be weighed against the importance of increasing the delivery of housing, particularly in the absence currently of a five year housing land supply.

A balancing exercise therefore needs to be carried out. As part of that balance in the absence of a five year housing land supply, considerable weight and importance should be attached to the benefits a proposal brings in terms of the delivery of new homes (including affordable homes). It is only when the conflict with other development plan policies – including where engaged policies ST/6, DP/1(a) and DP/7 which seek to direct development to the most sustainable locations – is so great in the context of a particular application such as to significantly and demonstrably outweigh” the benefit in terms of the delivery of new homes that planning permission should be refused.

Development in Infill Villages (the current status of Heydon) is limited in policy ST/7 of the Core Strategy to schemes of up to an indicative maximum of 2 dwellings on infill plots or up to 8 dwellings on brownfield sites (not relevant here as the site does not constitute previously developed land). Heydon would retain Infill Village status in the emerging Local Plan, in which policy S/11. It is acknowledged that only limited weight can be given to the current LDF policy due to the lack of a five year supply of housing land (even though that policy is considered now not to be a housing supply policy and is therefore not ‘out of date’) and the emerging Local Plan is at an advanced stage but is not likely to be adopted before the end of 2017.

Broad principle:

The site in question is located outside of the Heydon settlement boundary. A development will therefore need to clearly satisfy the social, environmental and economic strands of the definition of sustainable development as set out in the NPPF. Heydon has very limited facilities. It is possible to travel by bus to and from Royston at commuting times, although the services throughout the day are very limited during the week and at weekends to Royston and Cambridge. The village has a pub and a monthly mobile library service but no other services or facilities. The village only has a community orchard in terms of recreation space, with no equipped or informal areas of space for play/sports use. Overall therefore, the village has extremely limited facilities and therefore residents of the development would be required to make trips out of the village to access even basic facilities. Given the limited frequency of the public transport service, the majority of these journeys would be required to be undertaken by private car. Whilst it is the case that existing residents face the same situation, the proposal would increase the number of trips from the village and this weighs against the environmental sustainability of the development.

The lack of services and facilities within the village is my fundamental concern about development in this location. As I explained when we met, we have recently had an appeal dismissed in Guilden Morden, where the lack of facilities and the need to travel to meet day to day needs and access to employment were factors which the Inspector considered resulted in a level of harm that outweighed the benefits of the proposals. Whilst that scheme was larger, the number of services and facilities in Guilden Morden is also greater than in Heydon – for example, that village has a primary school, a village hall and a recreation ground.

One way of enhancing the social sustainability of the scheme would be to provide more than 40% of the units on site as affordable dwellings i.e. an amount over the policy compliant minimum. This would still not in my opinion be enough to allow a 16 unit scheme in this location to meet the definition of sustainable development due to the environmental harm arising from the number of trips generated and the impact of such a development on the setting of the conservation area (discussed below.) My view would be that 8 units, which is the number of units considered acceptable on brownfield land under the adopted policy, may be acceptable as an argument could be made that the social benefit of additional affordable units could equal out the fact that this is not a brownfield site when conducting the planning balance.

Impact on character/setting of conservation area

The other key issue that we discussed when we met is the impact of the development on the setting of the adjacent conservation area and listed building. I have spoken to the conservation officer since we met and it is considered that the site could be developed for residential use, but the number of units would need to be reduced. The reason for this is that there would be some harm arising from the development of a 'backland' plot when set against the prevailing character of single depth, low density development which is the prevailing character of the conservation area. The increase in levels up to the site from the access point would to a degree accentuate this although the extent of this harm is considered to be reduced below a significant level by the presence of the development on High Close, the properties of which sit at a higher level than the main road.

Nevertheless, the low density of development within the conservation area is emphasised by the gaps between buildings and this affords opportunities for views of the site. Whilst these may be glimpsing views and to some degree screened by mature planting during summer months, development that is perceptible behind the main frontage would be detrimental to the prevailing linear, single depth plot characteristics of the conservation area. My view is therefore that greater separation distances should be retained between the plots. I also expressed some concern when we met about the cramped appearance of the plots at the southern end of the development. The prevailing character of the surrounding properties is long rear gardens. This character should be reflected in any proposed development of this site which would mean one row of properties on the western side of the access road. There would be scope to pull this road eastwards to allow the rear gardens of the properties to be longer than indicatively shown, which would be important in retaining the integrity and effectiveness of the landscape planting on the western boundary as a landscape feature defining the edge of the site with the open countryside beyond.

Given that the prevailing character of the area is dwellings within spacious plots, I consider that creating terraces of development would not be acceptable in this location. Whilst additional semi-detached units would allow more space to be retained between plots, given the sustainability concerns regarding the limited services and facilities within the village, the combination of this and the conservation area impact lead me to conclude that the number of units should be reduced.

In relation to the scale of the buildings, whilst this is a detailed matter, parameters for this will have to be set out in the Heritage Statement, Design and Access Statement and Landscape Visual Impact Assessment (LVIA) as part of the assessment relating to the impact of the scheme on the character of the surrounding area. Given the sensitive village edge location and the need to retain the prominence of the rural edges, my view is the maximum height of the development should be 1.5 storeys to ensure that the setting of the adjacent conservation area and listed building and the rural character of the surrounding landscape are preserved.

At the outline application stage we will need parameter plans showing density 'zones' across the site (this should show individual plots to demonstrate that the number proposed can achieve the required separation distances even though the layout is only indicative at this stage. Structural landscaping details and height parameters (there is a local need for bungalows so inclusion of this house type and their indicative location will need to be considered) should also be included on the parameter plans. The Council is currently consulting on amending the local validation list to require this information as part of a valid outline application. If amended therefore, this information will be required to make an application valid, in addition to the items on the list at the end of this letter.

Residential amenity

In terms of the relationship between plots, separation distances should be 25 metres between elevations with windows facing each other and where blank gables face the habitable room windows of adjacent properties, the separation distance should be a minimum of 12 metre (both required by the adopted Design Guide). The

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gardens of properties should be a minimum of 50 square metres for properties below 3 bedrooms in size and 80 square metres for larger properties (quoting the 'rural' size criteria in the Design Guide due to the village edge location). In relation to flats (should any be proposed), a communal area comprising 25 square metres of open space per flat is required, in addition to private space for each of the ground floor level flats.

Sustainability/renewable energy/drainage

A Sustainability Statement would need to be submitted as part of a planning application addressing the above issue, the links to be provided to cycleways and footpaths, public transport etc. As a major development, provision should be made for a minimum of 10% of the energy needs of the development being supplied from renewable sources, over and above the minimum requirements in the building regulations. South facing roof slopes do not feature in the proposed layout south solar panels may not meet this requirement but would be an obvious starting point. An alternative might be ground source heat pumps.

A Health Impact Assessment should be submitted with the planning application (this is a validation requirement for all schemes of 20 dwellings or more).

Sustainable Urban Drainage needs to be considered as part of the development. The drainage ditch along the north western boundary of the site would need to be remain unobstructed and have the capacity to deal with the volume of surface water discharged into that watercourse (if that is to be the point of discharge). An attenuation basin could be incorporated within the public open space and soakaways provided within the curtilage of the properties. Details of how surface water would be a managed must be submitted as part of the planning application and shown in detail on the layout plans. The management of the SUD's within the development needs to be considered and a management plan would form part of the section 106 agreement.

Housing mix

As indicate above, I would suggest proposing a level of affordable housing above the 40% on site minimum required by adopted policy, the mix of which should be based on the identified local need. In relation to the market housing, the emerging policy, which is being given weight in determining applications, at least 30% of the market provision should be 1 or 2 bed properties, 30% 3 bed and 30% 4 or more, with a margin of 10% to distribute flexibly across the scheme.

The development should meet the 'building for life' as well as 'lifetime homes' standards and these guidelines should be used to inform the layout of the plots, parking areas, open space etc. across the scheme.

Flood Risk

The site is located in flood zone 1. A Flood Risk Assessment and sustainable drainage strategy will need to be submitted with the outline planning application to demonstrate that, as a minimum, the development would not result in surface water run off rates exceeding the existing greenfield level. The County Council as Lead Local Flood Risk Authority and the Environment Agency will be consulted at the application stage and will need to be satisfied of the proposals as the statutory consultees in this regard. Anglian Water will also need to be satisfied that the means of foul water drainage is appropriate.

Highway safety:

I have not consulted the Local Highway Authority on the proposals. It was indicated at our meeting that the County Council had seen the indicative plan and had not raised any concerns. Once you have had the opportunity to consider a revised quantum and layout, I would suggest speaking to Jon Finney or Victoria

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Keppey at Cambridgeshire County Council, prior to the submission of an application to seek their views on the proposal. A Transport Assessment/Statement will need to be submitted with a planning application, assessing the number of trips generated by the scheme and the impact of this increase on the safety of the highway network. A Travel Plan should also be submitted

Open Space:

Policy SF/11 (Open Space Standards) of the Development Control Policies DPD states that the minimum standard for outdoor play space and informal open is as follows: 2.8 hectares per 1,000 people, comprising:

1. Outdoor Sport – 1.6 hectares per 1,000 people
2. Children's Playspace – 0.8 hectares per 1,000 people
3. Informal Open Space – 0.4 hectares per 1,000 people

These figures should be used as a guideline to inform the amount of open space provided within the development.

I recognise that the provision of public open space would be of wider benefit given the lack of such facilities in Heydon. It was mentioned when we met that the landowner may be willing to provide further facilities on land owned elsewhere within the village. Given the size of the scheme, there may be issues with CIL compliance if this were to extend to a village hall, as I indicated when we met. One option to look at would be the provision of an equipped area of play – which would be a benefit over and above the policy compliant situation as a LEAP is only required for developments of over 50 units.

Trees/biodiversity/archaeology/contaminated land:

There are no Tree Preservation Orders on the site. A Tree survey will be required in support of a planning application and indicative details of landscaping should be provided at the outline stage, even if this is one of the reserved matters (given the sensitive landscape, this will give an idea of how the development would be assimilated into the countryside and how the visual 'buffer' will be enhanced). A biodiversity survey will also be required and mitigation measures recommended within the survey should be incorporated into the design of the scheme. Biodiversity enhancements should be demonstrable as a result of developing the site, as encouraged by the NPPF.

Archaeological and contaminated land assessments will also be required as part of an application as the proposal is a major development on agricultural land.

Section 106 agreement:

Given the size of the proposed development, contributions will be required to off site infrastructure provision, off site open space (depending on the extent of provision within the development). Contributions towards education provision will depend upon the capacity of the existing provision that serves Heydon (Fowlmere Primary and Melbourn Village College respectively.) The CIL regulations require contributions to be based on the cost of the necessary infrastructure requirements of the development as opposed to pooled contributions. This means that the Country Council (Education Authority) will be consulted at the application stage and if an extension to one of the schools is required as a result of the anticipated population growth then the cost of that infrastructure would be levied through the section 106 agreement. Evidence would also need to be available that there is space within the affected sites that the necessary extensions or modifications can actually be achieved on those sites affected to meet the additional capacity requirements and suitable alternatives sought if this is not the case. Contributions to improve cycleways and wider related infrastructure may also be required and the Highway Authority will be consulted to ascertain any deficit in provision. Opportunities for improvement of existing recreation space within Heydon should also be considered and this is something that I would advise speaking to the Parish Council about.

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Community involvement:

A Statement of Community Involvement will need to be submitted in support of the application, which should detail engagement with the Parish Council, local Councillors and members of the public. Evidence that feedback from public consultation events etc and discussions with the Parish Council have helped to inform the scheme should be included within the statement. A specific issue that you may wish to address in this would be support for the retention of the allotments

Time limits to implement:

In the case of residential schemes that are being submitted on the lack of housing land basis, the Council will need some form of commitment that the housing would be provided as quickly as possible (i.e. that the site will be delivered to contribute to the deficit in the 5 year land supply). Confirmation that your client owns or has an option on the land, along with confirmation that your client would have a builder available for the works, would help with accelerating the process.

If an outline planning application is to be submitted, given that reserved matters approval would have to follow this, the normal time period to implement would be 5 years to commence development and this would not address the council's housing shortage in the short term. Therefore, it would be necessary to reduce the amount of time that you would have to start on site. It would be useful if you could confirm how quickly you think you could start work on site if all necessary applications are approved. This would help us to come to a consensus on the wording of time limit conditions.

Conclusion:

The principle of development rests on the case provided that the scheme represents sustainable development and can be delivered to a timescale which contributes to a reduction in the Council's current 5 year housing land supply deficit.

I have highlighted the key concerns relating to the current proposals. A reduction in the number of units and improvements to the layout must be made, given the lack of facilities in Heydon and the close proximity of the conservation area and listed building. In addition, a greater level of on site affordable housing should be provided than the 40% policy compliant minimum, in order to increase the social sustainability of the development when weighing the benefits against the disbenefits of the proposals. Provision of a LEAP on land within the control of the applicant would be another way of enhancing the social sustainability of the scheme. I still have my doubts however as to whether a scheme with these changes could meet the definition of sustainable development however, given the extremely limited nature of services and facilities in Heydon and the limited opportunities to use public transport to access the services and facilities in larger settlements, which will be required to meet even basic day to day needs. The maximum size of development that may be acceptable is 8 in my view, if the level of affordable provision on site is at least 50%.

Ecology, contaminated land, archaeology and health impact will all need to be the subject of assessments submitted in support of a planning application. I have also covered issues relating to the section 106 requirements in the main section of my response.

If you have any further questions, please contact me on the details at the top of this letter.

Yours sincerely,


Principal Planning Officer

Development Control

Disclaimer:

- The above advice is given for purposes relating to the Town and Country Planning Acts and for no other Council function
- The advice is given without reference to statutory or other consultees, except where stated. The comments of such consultees may affect the advice given
- The advice is given on the basis of the information that you have supplied. The Local Planning Authority will not be responsible for any errors resulting from inaccuracies in that information
- The Local Planning Authority is required to perform within government targets with respect to processing planning applications. You are therefore advised to conclude your pre-application discussions before submitting a planning application
- The advice given may subsequently be affected by external factors (e.g. new government guidance, local appeal decisions) which could result in a different view being subsequently put forward
- Planning policies are periodically reviewed and updated. The advice given relates to the policy framework at the time the advice was given
- The Local Planning Authority seeks to provide the best advice possible on any enquiry received. However, the advice given does not bind the authority to any particular decision on any planning application that may subsequently be submitted which will be the subject of the publicity and consultation.
- **Appendix 1 - List of information required to validate an application (to be read in conjunction with the main body of this letter)**

Document	Required
Affordable Housing Statement	YES
Application Form – Full Planning Permission	YES
Agricultural Dwellings	
Air Quality Assessment	YES
Biodiversity Survey and Report	YES
Daylight / Sunlight Assessment	
Design and Access Statement	YES
Drawings – Location Plan, Block Plan, Roofplan, Floor Plans,Elevations,	YES
Flood Risk Assessment	YES
Foul Sewage and Utilities Assessment	YES
Heritage Statement (including Historical, Archaeological features and Scheduled Ancient Monuments)	YES
Land Contamination Assessment	YES
Landscaping Details	YES
Lighting Assessment	

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Document	Required
Noise Assessment	YES
Open Space Assessment	
Details of Parking Provision	YES
Landscape Visual Impact Assessment	YES
Planning Obligation(s) / Draft Heads of Terms	YES
Planning Statement (including a section on open space provision and Statement of Community Involvement)	YES
Renewable Energy Statement	YES
Structural Survey	
Sustainability Statement and Health Impact Assessment	YES
Telecommunication Development - Supplementary Information	
Town Centre Uses - Evidence to Accompany Applications	
Transport Assessment	YES
Travel Plan	YES
Tree Survey / Arboricultural Survey	YES
Ventilation / Extraction Statement	
Waste Design Guide Toolkit	YES
Waste Management Audit	YES
Water Conservation Audit and Strategy	YES