

Rebuttal of Proof of Evidence in respect of :-

Appeal ref: APP/W1905/W/22/3300254

Local Authority Planning Application ref: 07/19/0200/F

Site Address: Fairmead, 90 Cuffley Hill, Goffs Oak, Hertfordshire EN7 5EX.

Prepared by Jennifer Thompson BSc, MSc, MRTPI on 16th September 2022

1. INTRODUCTION

1.1 This Rebuttal Proof of Evidence has been prepared in response to the evidence provided by Liz Fitzgerald of Barker Parry prepared August 2022.

2. HOUSING SUPPLY & PLANNING BALANCE

2.1 Paragraph 6.6 to 6.34 of Ms Fitzgerald's Proof of Evidence discusses Housing Supply. My colleague Camille Rantz McDonald will be addressing matters raised in respect of the Housing Delivery Test and 5 year Supply of Deliverable Housing. I will be providing evidence in regard to Planning Balance as per my Proof of Evidence.

2.2 In this regard it is important to recall whilst the titled balance is engaged due to a failure to achieve the requirements of the Housing Delivery Test as per paragraph 11.d) of the NPPF, this represents a material consideration. The starting point for decision making is always the Local Development Plan, in this case Adopted June 2020, which has statutory priority (s. 38(6) of the PCPA 2004).

2.3 Therefore, as Ms Camille Rantz McDonald will demonstrate, the Local Authority consider the plan adopted and site allocations contained within will achieve a 5 year supply.

2.4 Notwithstanding the 5 year supply, para 11d) and the tilted balance is engaged due to the failure to deliver enough homes in the preceding 3 years and accordingly the Inspector must consider the harms and benefits in this context. It is my opinion that the harm significantly and demonstratively outweighs the benefits. Should the housing supply be diminished below the 5 year plus buffer threshold within the Inquiry debate, then the weight attributed to the harms arising would, I acknowledge be reduced further still dependant on the degree of shortcoming.

2.5 In this regard we can agree with para 6.34 that the relevant test is paragraph 11.d) ii) whether the adverse impacts would significantly and demonstrably outweigh the benefits of the proposals when assessed against the relevant development plan and framework policies.

3. LOCAL PLAN ALLOCATION

3.1 Paragraphs 6.41 to 6.44 outline the Appellant's promotional involvement as part of the local plan and pre-application enquiries with the Council. These details have now been incorporated into the Core Documents for the Inspector to review in the miscellaneous sections. Paragraph 6.42 states that the Appellant made representations 'regarding the scale of development proposed and efficient use of land.....' but what is not made clear is that these discussions were supported by a layout and detail similar to that now before the Inspector. Despite the availability of this information the Inspector at

Examination declined to uplift the numerical allocation for the site and instead provided clarification that this figure was 'indicative' and 'neither a minimum nor maximum'. This clarification is detailed in full in para 6.44 of Ms Fitzgerald's Proof of Evidence. It is my opinion that the clarification was intended to provide flexibility for the site moving forwards, but that flexibility was not intended to be as generous as to reflect the quantum of development being considered in this Appeal (which more than doubles the indicative figure for the relevant part of the allocation).

4 S106

4.1 The Appellant is contesting all but the following contributions;

- Sustainable transport
- Youth services
- Waste services
- Library contribution
- Fire and Rescue contribution

4.2 The Proof of Evidence from Liz Fitzgerald suggests repeatedly that the contributions are not CiL compliant. This is not the case and will be demonstrated through the Council's CiL Compliance Statement.

4.3 The contributions sought are based upon the Council's Infrastructure Delivery Plan which is available online and based on robust and importantly local evidence.

4.4 The Inspector should be made aware that the obligations now in dispute were agreed prior to recommendation to Committee and were based upon obligations obtained on application 07/19/0835/F a site also within Goffs Oak. Application 07/19/0835/F was also submitted by the Appellant, Countryside. Application 07/19/0835/F was considered around the same time to the proposals now being considered by the Inspector. The contributions sought at that time have been agreed in full on this other site and construction is underway, thus it is unclear why the same approach to contributions is being disputed on this site.

4.5 Paragraphs 7.37 to 7.39 of the Ms Fitzgerald's Proof of Evidence seeks to dispute an Air Quality contribution and suggests this was sought by the Borough. This request is not contained within the Committee report nor requested prior to the Committee. It is therefore unclear why this contribution is in dispute and the Borough is satisfied it did not make such a request, thus this will be removed from Borough requests made in the S106 provided to the Inspector.

4.6 Paragraphs 7.35 and 7.36 of Ms Fitzgerald's Proof of Evidence dispute the Strategic Transport contribution. This was agreed with Officers in lieu of conditions securing off site works to provide bus stops (repositioned), dropped kerbs and pedestrian crossing as identified in the consultation responses. The Appellant sought to have this provision made by way of a Sustainability Contribution in lieu of it being made a conditional requirement. Accordingly, this was accepted by the Council as set out in the email chain enclosed within Appendix 1. This will be explored in more detail in the CiL Compliance schedule, but it appears necessary, directly related to the development and reasonable to request these works be funded. In the absence of being able to secure these works the proposals represent a hazard to highway users and pedestrians.

- 4.7 Paragraphs 7.44 to 7.47 discuss recreational contributions, the Council has reviewed the points made by Ms Fitzgerald and has on reflection removed this request from the draft S106.
- 4.8 Paragraphs 7.48 to 7.54 dispute the Borough Council's monitoring fee. The County's monitoring fee is incorrectly stated as £500.00 in paragraph 7.48, this is stated as £1,360.00 at the time of preparation of this rebuttal.

Jenny Thompson

Subject: FW: Cuffley Hill [Filed 25 Jan 2022 15:18]

From: Peter Quaille <peter.quaille@broxbourne.gov.uk>

Sent: 24 January 2022 17:35

To: Liz Fitzgerald <liz@barkerparry.co.uk>

Cc: Katie Smith <Katie.Smith@broxbourne.gov.uk>

Subject: RE: Cuffley Hill [Filed 25 Jan 2022 15:18]

Hello Liz

I have been back through the highways issues, including tracking the same matters in respect of the CG Edwards site. There was no condition imposed at 104 Cuffley Hill relating to off-site works but a sustainable transport contribution was secured which was proportionate to the sum now sought by HCC at Rosemead. On reflection it makes sense to mirror the method adopted on the adjoining site and use the significant obligation payments to deliver the pedestrian/bus stop improvements which are not related to your clients' new site access. I will report to Members accordingly tomorrow evening.

Regards

Peter Quaille

From: Liz Fitzgerald <liz@barkerparry.co.uk>

Sent: 21 January 2022 17:18

To: Peter Quaille <peter.quaille@broxbourne.gov.uk>

Cc: Katie Smith <Katie.Smith@broxbourne.gov.uk>

Subject: RE: Cuffley Hill

Dear Peter,

I have raised the bus stops on a number of occasions and conflict with CG Edwards and did query the crossing with you when the highway comments came in.

The report also references a right hand turn lane which is simply not proposed by us or required by HCC. I have spoken to our highways consultant the to include a pedestrian refuge and crossing point will require a widening of the road width and therefore re-alignment of the payment on the northern side of the road to accommodate it, but moreover, it is not about space, what is the necessity associated with 58 dwellings. A right hand turn lane, would wipe most of it out and potentially affect the pavement areas further towards the east due to the tapering required.

The most logical approach would be for the sustainable transport contribution to be made, as with CG Edwards scheme, and pooled to deliver the bus stops, dropped kerbs and pedestrian crossing, as they are after all directly associated with both developments.

Kind Regards

Liz Fitzgerald

Director



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From: Peter Quaile <peter.quaile@broxbourne.gov.uk>
Sent: 21 January 2022 16:44
To: Liz Fitzgerald <liz@barkerparry.co.uk>
Cc: Katie Smith <Katie.Smith@broxbourne.gov.uk>
Subject: RE: Cuffley Hill

Hello Liz

Thanks for the email and enclosures.

I will report the sustainability information to committee on Tuesday.

With regard to the highway matters, I was not aware until now that there may be dispute about the works involved, in particular the turning lane. I agree that if Chase New Homes are installing the pedestrian upgrades we would not want to double-up. It appears to me that there is room for a pedestrian refuge and space/opportunity for crossing just to the east of the site where the two bus stops are at present, without any impact on soft landscaping but I will try to speak to HCC Highways on Monday.

Regards and keep well,

Peter Quaile

From: Liz Fitzgerald <liz@barkerparry.co.uk>
Sent: 21 January 2022 16:02
To: Peter Quaile <peter.quaile@broxbourne.gov.uk>
Cc: Katie Smith <Katie.Smith@broxbourne.gov.uk>
Subject: Cuffley Hill

Dear Peter,

I hope you are well and ready for the weekend.

Please see attached sustainability statement that I wasn't aware of. It shows an average 4% CO2 saving and 17% energy reduction as a result of the design of the dwellings following the fabric first approach, delivering over the requirements of Part L.

Just looking at the highways comments, I had hoped that a discussion could have occurred before the assumptions were put into a committee report, but we are where we are.

Unfortunately there is not sufficient road width to deliver a right hand turn lane on Cuffley Hill, nor has this ever been proposed or requested by the LHA. A pedestrian crossing on its own is tight and in our opinion is excessive to provide access to a bus stop for 58 dwellings. The inclusion of these elements would require a significant removal of the green verge in front of the lay-by and almost all of the retained trees in these areas. There is no highway justification for a right hand turn lane, the access works as demonstrated within the TS, without it. This site differs from the Goffs Lane site in that there is significant development on both sides of the road at Goffs Lane and therefore conflict may arise.

Further proposed condition 18 is seeking delivery of a scheme of works already committed to by CG Edwards, this is duplication and therefore unnecessary given the advance stage of their site.

If you could possibly revert back to me on these points it would be appreciated.

Kind Regards

Liz Fitzgerald

Director



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