



**Delivered by Hand**

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**Our Ref:** MR/jp/10.008  
**Date:** 12th April 2010

Dear Mr Turnbull

**Planning Application Reference CH/2010/0293/OA  
The Grange (former Holy Cross Convent), Gold Hill East, Chalfont St Peter**

I am instructed by Chalfont St Peter Parish Council in respect of the outline planning application with matters of access only to be considered in detail at this stage, the redevelopment of the site to provide a mixed use comprising up to 232 dwellings (Use Class C3); a residential Care Home for 74 Bedrooms and up to 3,370 square metres (Use Class C2); Community facilities up to 1,100 square metres (Use Class D1); together with open space, landscaping and car parking; served from new and altered vehicle accesses from Gold Hill East, and Grange Road, and a new pedestrian access off Market Place, and with associated off-site highway works.

I have visited the application site, reviewed the wider area, assessed the submitted application documents and undertaken a planning policy assessment. I have also had regard to the Village Design Statement which is highly material to these proposals. Comprising a locally prepared democratic document the subject of public consultation.

On the basis of the work I have undertaken I now formally submit representations on behalf of Chalfont St Peter Parish Council, which comprise a holding submission until such time as further representations are prepared, the details of which are set out below.

In the interests of clarity, I can confirm that Chalfont St Peter Parish Council adopts a position of **strong objection** to these proposals. I set out below the basis upon which this strong objection is founded. The conclusion I have reached, having regard to Section 38 (6) of the 2004 Act and all other material considerations, is that these proposals are unacceptable for a range of reasons which both individually and cumulatively are of sufficient weight to warrant the refusal of this proposal.

**Planning Policy**

The starting point for the determination of this planning application, in accordance with Section 38 (6) of the 2004 Act is the Development Plan. The Development Plan is formed by the Chiltern District Local Plan and the South East Plan.

The applicants seek to justify their proposals principally on the basis of emerging policy and associated evidence base, and indicate that the Local Plan in particular is now out of date and carries limited weight in the decision making process such that the protectionist policies therein which resist development on this site should be disregarded.

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I acknowledge that other material considerations must be taken into account in the determination of the planning application, but the weight to be attributed to other material considerations, including emerging policy and associated evidence base must be considered in the context of PPS12, Creating Strong Safe and Prosperous Communities through Local Spatial Planning, and PPS1 Delivering Sustainable Development.

Paragraph 18 of PPS1 states:

***"Planning applications should continue to be considered in the light of current policies, however, account can also be taken of policies in emerging DPD's. The weight to be attached to such policies depends on the stage of preparation or review, increasing at successive stages reached"***

In this instance the Core Strategy is at a relatively early stage. It is yet to be the subject of Submission consultation and is a significant way off subsequent Examination and Adoption. The Allocations DPD is at an even earlier stage of preparation. This is an important aspect given the provisions of PPS1 paragraph 18 which makes clear:

***"Where a DPD has been submitted for examination but no representations have been made in respect of relevant policies, then considerable weight may be attached to those policies because of the strong possibility that they will be adopted. The converse may apply if there have been representations which oppose the policy"***.

It can be seen therefore, in respect of the emerging Local Development Framework, that little or no weight can be attributed to draft policies, since they are some way off from being adopted, and cannot be relied upon given that they are the subject of objection and there is no possibility, let alone strong possibility as required by PPS1, that they will be adopted in their current form. This is particularly the case in this instance firstly given the inadequate consultation undertaken to date in relation to the Core Strategy and secondly in view of the strong objections being prepared on behalf of the Parish Council in relation to the Draft Core Strategy presently out for consultation/

I note that the applicant's submissions make no reference to PPS12 nor PPS1 in respect of the weight to be attributed to emerging policies in the context of the Statutory Development Plan comprised by the Regional Spatial Strategy and Adopted Local Plan. This is surprising given the commentary provided within these documents in respect of emerging policy. Instead, the applicants rely upon the Government Office for the South East letter dated 24<sup>th</sup> September 2007 which seeks to save policies from the Local Plan.

The applicants Planning Statement quotes directly from the Government Office for the South East's letter, but omits a key aspect of that correspondence which is perhaps not surprising given its harm to the applicant's case. The penultimate paragraph on the first page of the Government Office for the South East's letter makes clear that the extension of saved policies listed in the Direction does not indicate that the Secretary of State would endorse the policies if presented to her as new policy, but then goes on to state, omitted by the applicants, that it is intended to ensure continuity in a plan led system and a stable planning framework locally, and in particular, a continual supply of land for development.

The Government Office for the South East make clear therefore that the approach to development must continue to be in accordance with the plan led system, and there is nothing within the Government Office for the South East's letter which indicates that the plan led system should disregard the Statutory Development Plan and the saved policies therein. If that were the intention of the Government Office then there would be little point in saving policies from Local Plans since the Government Office would simply refer the Council and, in turn, applicants for development, to emerging policies and associated evidence base.

This issue is raised as fundamental to the determination of the planning application on the basis that the Local Plan not only does not support residential development on the application site, but contains within it strong and well founded policies which seek to resist any development at all on large parts of the application site.

There are a raft of local policies which are applicable to these complex mixed use proposals, but in my view the three key policies upon which the principles of development revolve are H3, R2 and R10.

The applicant's contend that the proposals meet Policy H3 since this supports residential development in the urban area. Although referenced in the Planning Statement, the applicants pay little regard to the final line of Policy H3 which is critical to an examination of compliance, since this states the proposals will only be acceptable subject to there being no conflict with any other policy in the Local Plan. As I set out below this is plainly not the case.

The applicant's contend that the proposals accord with Policy R10 of the Local Plan. This is a negatively worded policy which states that development will not be permitted where it results in the loss of other amenity space not open to the general public if it would result in either loss as a whole or in part of any area of amenity open space or would be seriously detrimental to the established character of the amenity open space.

The presumption is therefore that proposals such as those submitted resulting in part or total loss of amenity open space should be refused.

The applicant's seek to rely upon Local Plan paragraph 10.29 in support of the proposals, stating that the intention of the policy is to protect only those areas of amenity open space which are visible from public vantage points. In my view this is a flawed approach. The intention of the policy is explicit in seeking to protect all areas of amenity open land whether visible to the public nor not.

In any event, supporting paragraph 10.30 makes clear that as with public amenity open space and common land, significant contrasts in character are evident from one site to the next and high amenity value may stem from the presence of trees or from the open character of a particular area of land. The paragraph goes on to state that each amenity open space has a high environmental quality emanating from its particular features. At no point in Policy R10 or the supporting text are the particular features of this amenity open land expressed as relating only to those areas visible from public vantage points.

The importance of this assessment is best set out by reference to supporting paragraph 10.31 which states:

***"In recognition of the significant amenity value of these open spaces to the local communities in which they are located, the Council will aim to safeguard them against inappropriate development and to conserve their character".***

It cannot be the case that partial, or in this case, total loss of amenity open land through high density mixed use development will conserve their character.

In these terms the case advanced by the applicant's in respect of Policy R10 is not considered to be compelling and it is the case that Policy R10 is breached by the proposals.

In any event, Policy R10 is supported by Policy R2 of the Local Plan. This relates to the loss of existing sports facilities throughout the district and states that development which would result in the loss of any existing sports facility to a non-sports use will be refused unless either, the applicant demonstrates to the satisfaction of the Council that there is no continuing community need for the facility and it is not possible to use the facility for other sports, or alternative provision of at least an equivalent size, suitability and convenience, as defined in Policy R1 is made.

Setting aside these fundamental policy objections, the proposals also breach Policy CSF2. This policy protects community services and facilities for their own sake, and included within the uses caught by the policy are education, health, utilities, cultural, and entertainment uses. This policy does not allow any development which results in the loss of the community service or facility unless a replacement building/or land can be provided in an equally convenient location that would comply with other policies of the plan, or it can be demonstrated to the satisfaction of the Council that the facilities are no longer required for its existing use for any other community use in the built-up area which it is located.

Neither of these criteria have been met by the proposals. The applicants contend, by reference to viability, that the existing school could not continue to operate. However, the applicants have not made any assessment of alternative schooling on the site, nor have they assessed the opportunity for any other alternative community service or facility to be located on the site.

The loss of the existing facilities, and lack of any assessment as to why replacement building and/or land can be provided in an equally convenient location or that the site cannot be put to any other community service or facility is sufficient justification to warrant refusing a planning application.

Having assessed the key policy issues relating to these proposals, I now turn my attention to a number of detailed matters which in and of themselves are compelling grounds for refusing the planning application.

#### ***Loss of Amenity Open Space***

I have set out above the key policies within the Local Plan which relate to the protection of amenity open space.

The applicants seek to mount an argument that the very fact that the amenity open space is in private ownership and thus does not benefit the local community justifies a relaxed approach to its loss. This approach is not founded within any policy documents. Firstly, PPG17 makes clear that the protection of open spaces relates equally to land within private ownership and not in secured community use as it does to land in public ownership that is in secure public use. Secondly, the Local Plan policies have been specifically prepared in order to deal both with the loss of open space in public use and the loss of open space in private use.

Setting aside this strong policy objections in respect of the Local Plan in terms of the loss of open space, there are two key policy documents which are also of materiality to the proposals with regard to this issue.

Firstly, PPG17 states that it is a function of local governance that local planning authorities should undertake audits of existing open space, sports and recreational facilities, the use made of existing facilities, access in terms of location and costs and opportunities for new open space and facilities both in terms of quantitative and qualitative elements. Such audits of quality will be particularly important as they will allow local authorities to identify potential for increased use through better design, management and maintenance.

Paragraph 10 of PPG17 goes further, stating that existing open space, sports and recreation buildings and land should not be built on unless an assessment has been undertaken which has clearly shown the open space or the buildings and land to be surplus to requirements, including consideration of all the functions that open space can perform.

The applicants have not referenced any up to date open space audit that the Council have produced, and in the context of Paragraph 10 of PPG17 the obligation is therefore upon the applicants to produce their own audit to justify the loss of open space.

This has not been produced in support of the planning application which indicates that firstly the planning application is lacking key documentation and should therefore be invalidated by the Council, but in any event in the absence of any such audit the planning application cannot be supported.

Furthermore, Sport England have produced a Planning Policy Statement entitled a Sporting Future for Playing Fields of England. Policy P1 deals specifically with the loss of playing pitches and sets out five policy tests against which proposals must be considered and, if Sport England are to be supportive of the proposals, at least one of the five tests must be met.

The applicants have failed to consider the proposals against the five tests. For the purposes of this objection, I have undertaken an assessment as follows:

- E1 – the proposals conflict with this test since carefully quantified and documented assessment of current and future needs has not demonstrated that there is an excess of playing field provision in the catchment.
- E2 – this test has not been complied with since the proposed development is not ancillary to the principle use of the site as a playing field or playing fields, and affects the quantity and quality of pitches and their use.
- E3 – the proposals involve the total loss of land not only laid out to playing pitches, but also land capable of forming or forming part of a playing pitch.
- E4 – the playing fields which will be lost as a result of the proposed development, together with the areas of land that are capable of being used for playing fields, are not being replaced by a playing field or playing fields of an equivalent or better quality and of equivalent or greater quantity in a suitable location and subject to equivalent or better management arrangements.
- E5 – the proposals do not relate to an indoor or outdoor sports facility the provision of which would be of sufficient benefit to the development of sport as to outweigh the detriment caused by the loss of the playing fields and associated land capable of being used for playing fields.

The Sport England tests are therefore wholly in conflict with the proposals in the absence of any assessment undertaken or mitigation put forward.

The applicants make reference in the Planning Statement to the availability of playing pitches in the locality. This however does not amount to a robust PPG17 audit of open spaces.

Moreover, Sport England require as part of their assessment a team generation exercise to be undertaken, the basis of which is found on Sport England's website, which takes account of both current and future demands for playing pitches. This work has not been undertaken by the applicant's which is a further failing of the proposals in the context of loss of playing pitches.

This is an important consideration given the applicants reliance upon the emerging Local Development Framework which seeks to direct 400 new dwellings to Chalfont St Peter comprising open market and care home units. It is inappropriate, therefore, to consider the current demands for playing pitches in the locality, instead it is wholly justified to consider future demands for team generation and thus playing fields in the locality.

All of these aspects point to an unsubstantiated planning application in the context of the loss of playing fields and open space generally.

### **Transportation**

It is noted that a Transport Statement has been submitted as part of the planning application.

It is interesting to note that this work has been submitted in advance of a full conclusion at pre-application stage to transportation matters.

It is understood that the County Council are yet to comment upon the Transport Assessment. I have grave concerns in relation to the work undertaken but await the County Council's response before formally lodging in full objections in this regard.

It is however important to state at this stage that I have very grave concerns over transportation issues. Lower Road, highly important to these proposals, cannot achieve the requisite forward visibility splays prescribed by Manual for Streets. There is therefore a need to narrow the vehicular carriageway to improve visibility which is an arrangement which will cause significant detriment to the safety and free flow of traffic locally.

The very fact that the access off Gold Hill is limited to the care home only serves to demonstrate the sensitive nature of the local highway network both in terms of capacity and carriageway width and design. This is perhaps not surprising given that the Village Survey identifies that 75% of people use their car to get to and from work, which creates significant congestion and safety issues locally. The lack of any rail or light public transport system, and limited bus services in the locality, compounds the situation.

These are matters that will be expanded upon in due course.

### **Education**

This aspect of the proposals is fundamentally flawed for a number of reasons.

The applicants approach to education demands is to offer a contribution to be secured by way of a Section 106 agreement towards improved facilities in Chalfont St Peter.

There is overwhelming public support for the village primary school, known as The Church of England International School, to be re-located to the application site. This fact is supported by the Village Survey in which 75% of respondents were in favour; and by the applicants' Planning Statement which confirmed that utilising the application site for a school was the preferred use by respondents. The existing school is over-subscribed, and has inadequate facilities - no playing field, kitchens converted to classrooms, etc. It follows that building a new school with all necessary facilities at the application site and utilising the existing site for housing makes best use of both areas of land.

The same logic applies equally to the village infant school, known as The County Infant School. Again this school has insufficient facilities for a growing population and should be removed to the application site, thereby providing land for new housing. If both land exchanges were to be implemented, the village would be provided with a modern educational facility, catering for the needs of all seven to 11 year olds and with room for further expansion. The two parcels of land thereby created, both of which are in residential areas, would be utilised to accommodate new housing.

Whilst in theory contributions towards education could accord with policy, in this instance the practical reality is that this will not be the case. This is on the basis that there is no room at the existing primary school site to accommodate any more facilities and indeed the existing facilities have already been compromised in order to maximise classroom space.

This is also the case with to regard the community college which already operates from temporary classrooms and with children being taught in shifts due to the oversubscribed nature of the school.

Secondly, there is overwhelming support for the existing primary school to be relocated to the application site. This was borne out in the village survey, where 75% of respondents were in favour of a school swap, and further supported by the applicants who make clear in their Planning Statement that the pre-application consultation, such as it was, noted that utilising the application site for a school was a preferred use by respondents.

This issue has a direct link to Policy CSF2 and makes clear that alternative community facilities on the site would be feasible, carries substantial local support both in terms of the village survey undertaken by the Parish Council and the consultation undertaken directly by the applicants, and indicates that alternative community uses on the site have not been thoroughly tested such that my contentions set out above that the proposals conflict with Policy CSF2 are confirmed.

Furthermore, it is noted that the County Council are currently reviewing how schools are organised in the area. Given the very significant issues in relation to overpopulation of the local schools, it is entirely premature to consider a planning application which seeks to remove a school and develop land capable of being used for a school in advance of the County Council review process.

This is particularly the case given that the County Council's letter dated 5<sup>th</sup> February 2010 makes clear that an integral element of the schooling review would be consideration of the views of key Stakeholders of which the Parish Council, other local bodies, and village residents form part.

### **Heritage**

The application site, as acknowledged by the applicants, immediately adjoins a Conservation Area.

There is a duty to preserve the character and appearance of the Conservation Area and its setting as part of the assessment of these proposals.

In the wider context of heritage, all of the trees on the site are the subject of a Tree Preservation Order. This is as a result of the high amenity value of the trees.

92 trees are proposed to be removed from the application site in order to facilitate this high density, mixed use proposal. The applicants seek to justify this by indicating that tree loss comprises only 17% of the overall tree coverage. The facts of the case, however, are that 92 high amenity value protected trees would be lost if this proposal were to go ahead, to the detriment of the trees individually, the trees in terms of group value, the Conservation Area setting, and the wider area of Chalfont St Peter.

This is an important consideration in the context of the very recently published PPS5, Planning for the Historic Environment.

A fundamental change in emphasis in PPS5 compared with the now superseded PPG15 is a consideration of heritage in its widest sense.

The Government's objectives for planning and the historic environment are now to recognise that intelligently managed change may sometimes be necessary if heritage assets are to be maintained for the long term; local planning authorities should require an applicant to provide a description of the significance of the heritage assets affected and the contribution of their setting to that significance; applicants for development should provide information together with an assessment of the impact of the proposal; and crucially, there should be a presumption in favour of the conservation of designated heritage assets.

In this instance the applicants have not provided any description of the significance of the heritage assets on and near the application site affected by the development, nor the contribution of their setting to that significance. Furthermore, the applicants have provided no information with regard to the impact of the proposals on the heritage assets and their setting locally.

This is a significant failing of the proposals having regard to the most up to date Government guidance available on such matters.

This is particularly important in the context of the Convent building which is the subject of a current request for statutory listing with English Heritage, in addition to further heritage protection being considered for the Grange site in terms of archaeology the results of which should be determined in advance of the consideration of this planning application.

### **Wildlife**

The site is a significant ecological resource and represents a vital corridor for wildlife in the existing urban fabric of the village. Gerald Eve suggest that even with the proposed development in place this wildlife corridor can be maintained but this is clearly not credible as the intensity of development and the resulting high levels of human activity will certainly have a detrimental effect on any remaining wildlife. The loss of trees, habitat and open spaces to development cannot possibly result in maintenance of the wildlife resource.

The Parish Council is in possession of a letter from the local Badger Group confirming an occupied badgers sett on the Dower House (the woods that are between the site and the conservation area on Gold Hill) Currently unused setts are on the Grange site itself but the badgers move round the site and records show that these other sites have been occupied in recent years. The Badgers Group regard the site as occupied by Badgers. The Council should not progress the planning application until such time as these important matters relating to fauna and flora are addressed.

### **Next Steps**

This letter comprises Chalfont St Peter Parish Council's **strong objection** to the application proposals. The objection is founded upon material planning considerations and the starting point for the objections is the assessment of the proposals against the provisions of the development plan, having regard to Section 38 (6) of the 2004 Act.

Chalfont St Peter Parish formally requests that no determination be made on the current planning application until the content of this holding strong objection letter has been assessed by Officers of the Council, and Chalfont St Peter Parish Council have had the ability to submit further representations which will comprise:

- A review of the Transport Assessment and the County Council's response thereto;
- A fully detailed Policy Assessment Report expanding upon the details set out above;
- The ability for Chalfont St Peter Parish Council to engage with the Council, Sport England, Buckinghamshire County Council and the applicants in a more thorough and constructive approach in order to discuss in further detail the strong objections set out above.

I would be grateful if you could confirm receipt of this correspondence and provide me with dates and times for a meeting to be convened with yourself, Sport England and Buckinghamshire County Council to review matters further.

I will undertake to provide the additional written submissions in respect of the policy issues within fourteen days of this letter, and will attend to the highway issues within five days of receiving the County Council's response as highway authority.

I look forward to hearing from you.

Yours sincerely

**CERDA PLANNING LIMITED**



**Michael Robson**  
Director