



BIRCHAM DYSON BELL

Mr Derek Macnab
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Epping Forest District Council
Civic Offices
High Street
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Your Ref

Our Ref
MXC/166699.0001

Date
27 October 2017

BY POST AND EMAIL

Dear Sir

Epping Forest District Council Draft Local Plan - Proposed Housing Allocations Sites - Land to the rear of The Grange, Chigwell

We are solicitors acting for Mr Stuart Isaacs.

Mr Isaacs is the freehold owner of an undeveloped site in High Road, Chigwell to the rear and north east of a property known as The Grange, which is where Mr Isaacs lives. The site is known as site SR-0435 for the purposes of the Council's assessment of potential residential sites carried out in relation to the forthcoming local plan.

Mr Isaacs has approached us because he does not consider that the Council is taking seriously his concerns, repeatedly raised with Council officers and members, that the site should not have been rejected as suitable for housing allocation in the forthcoming plan.

He reserves his right to take such legal action as necessary and at whatever the stage of the process he may, to ensure that the assessment is fully reviewed with an open mind. Any such legal action, whether directed at the plan itself upon adoption, under section 113 of the Planning and Compulsory Purchase Act 2004 or by way of a judicial review outside section 113 in respect of documents feeding into the plan itself, or in respect of decisions related thereto, would be founded upon a conviction that the rejection of the site was incorrect and that the Council has behaved unreasonably in failing to re-assess it. Mr Isaacs would contend in any proceedings that the grounds given for rejecting the site were unsound in some important respects, particularly as other sites in the area that are less satisfactory have not been rejected. This is elaborated upon below.

Our client has lived in Chigwell for many years and operates a business there. He is very knowledgeable about the local area and he feels a profound sense of injustice in the way that his site has been treated. His discontent has been exacerbated by a failure on the part of Council officers and members to be willing to properly re-assess the site. He has found it very difficult to get responses from the Council

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BIRCHAM DYSON BELL

and having done so has only been met with general assurances that all is in order or been provided with an account of the site selection process as it was applied (wrongly he contends) to his site.

The responses that he and his planning consultants (dha planning) has received from the Council have not been satisfactory because our client wants the Council to re-assess his site afresh. Unfortunately the Council has not shown itself as willing to do this, despite the flaws in the original assessment exercise as explained below and which have been pointed out to the Council on various occasions.

Mr Isaacs is not content with being told that the assessment process was robust and he does not accept it was. He does not require an explanation of the process pursuant to which the site was rejected because he considers the process was flawed as regards his site. We understand that Mr Isaacs and his planning consultants eventually managed to secure a meeting with Council officers to discuss his concerns in December 2016, but they heard nothing following the meeting and their hope and expectation that the matter was being addressed was in the event misplaced. In short, Mr Isaacs believes that he is being fobbed off.

We note that the Council is currently considering for allocation 23 sites in Chigwell (along with many other sites throughout the district) of which 8 are further assessments where site boundaries have been changed. This exercise, therefore, presents an appropriate opportunity to re-assess our client's site to ensure that the most appropriate ones are carried forwards.

The wrongful rejection of site SR-0435

Our client's site is one of many appearing in Arup's 2016 overview of their assessment of residential sites (Appendix B1). This document shows that the site did not proceed to stage 3 of the process. We appreciate that the assessment exercise across the district was a major undertaking such was the number of sites involved. We also appreciate that site assessment cannot be a wholly scientific process and that opinion plays its part. However, it is entirely possible that some sites were wrongly sifted out and hence re-assessment is appropriate in some cases. We have read about the site selection methodology that was used. We understand that it involved various processes including working groups involving officers and members. Please may we have details of which officers and members attended any workshops relevant to site allocations in Chigwell, when they were held and for how long they lasted. Please treat this as a freedom of information request.

Mr Isaacs instructed planning consultants, dha planning, ("DHA") to write in detail to the Council explaining his and their concerns about the assessment that Arup had carried out. DHA did so on 2 December 2016 and a copy of their letter is attached. We understand that although the above mentioned meeting took place after this letter was sent, the Council has not responded to it. The next thing Mr Isaacs heard about the draft local plan was that the Council had issued a list of new and amended sites to be assessed and that his site is not on it. DHA wrote again to the Council about site SR-0435 on 3 August 2017. They received no response. DHA wrote again on 31 August 2017 in the same terms. These letters explained in some detail that the site selection process had not been carried out in a consistent or robust manner as regards the site in question. A response was eventually received from Alison Blom-Cooper of the District Council's planning policy team on 19 September 2017. Ms Blom-Cooper's letter was in essence a fuller explanation of the assessment that had already been carried out. Accordingly it took matters no further forward, much to our client's frustration. Mr Isaacs has himself written to the Council to set out his concerns on a number of occasions but has only been met with



BIRCHAM DYSON BELL

general assurances (that he does not accept) to the effect that the assessment work carried out by Arup was in order.

DHA's letter of 2 December 2016 comments upon the Arup assessment on a point by point basis and so we have not, in this letter, undertaken the same exercise. However three of the grounds for rejection (i.e. where the site scored negatively) in particular call for re-assessment. They are as follows:

1. **Level of Harm to Green Belt (assessment criterion 2.1):** As DHA's letter of 2 December 2016 explains, the site is bordered by two large developments and otherwise surrounded by residential development. This does not suggest that the level of harm that would be caused to the green belt were the site to be developed would be "very high". To the contrary.
2. **Settlement Boundary (assessment criterion 4.1):** The Arup assessment states that "*Majority of site is greenfield land that is neither within nor adjacent to a settlement*". This point was repeated by Ms Blom-Cooper in an email dated 26 July 2017 to Mr Isaacs, when he raised it with her. However the site is adjacent to (indeed abuts) a settlement as can be seen from the photograph with the Arup assessment and from photograph 1 (attached) taken by Mr Isaacs from his site.
3. **Access to site (assessment criterion 6.4):** The site has excellent access because it abuts Grange Farm Lane on its south western flank. This is a public highway and is shown in photograph 2 (attached) also taken by Mr Isaacs, showing the entrance from this road to the settlement abutting his land. Creating a suitable access into the site would therefore be a straightforward matter. Yet the site was scored negatively on this aspect. We cannot see why, particularly as the site on the other side of the same road (site SR-0601), now being developed, scored positively on this criterion. The hoardings in relation to this site, on Grange Farm Lane, are shown in photograph 3 (attached). This photograph also shows, on the left hand side, one of two existing accesses into Mr Isaacs' site.

We also understand that two of the sites in Chigwell that have been carried forward for prospective allocation as residential development sites in the local plan are no longer suitable for development. It is our understanding that site SR-0433, which is more or less opposite Mr Isaacs' site and is the site of the former Beis Shammai School, has been sold to a religious body which intends to develop it as a religious institution and not for housing. We also understand that large scale residential development at site SR-0601 is likely to be hindered due to a gas pipe running under the site. This was recognised in the Arup assessment under criterion 6.2a which states that pipelines pose a major constraint to development, would be difficult to overcome and affect a large part of the site. These two allocated sites together account for the provision of 59 new homes according to policy P7 (Chigwell) of the draft local plan.

The plan attached (adapted from a similar plan in the consultation draft local plan) shows the location of these sites relative to Mr Isaacs' site (SR-0435, the outline of which has been added in red) and each other. The building work that can be seen in photograph 1, being adjacent to our client's site, is the site referenced EPF/1862/15 and coloured in orange on that plan.

Accordingly, in addition to the issue of the wrongful rejection of site SR-0435, there is a need to identify additional sites for housing in Chigwell and our client's land is an ideal option given its location, access and that it adjoins an existing settlement.



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The position in relation to the above matters demonstrates that the proper course is now for the Council to undertake a proper and full re-assessment of this site. We ask for the Council's confirmation that it will forthwith undertake this exercise. Our client is willing to provide any further information needed to facilitate this work and to meet the relevant Council officers and its consultant team if that would in any way assist. He is willing for his site to be developed and it is very well placed to make a valuable contribution to the housing need in the district.

In view of the erroneous rejection of the site and the considerable difficulties that our client has had in trying to get the council to address the matter we ask for a reply within 14 days.

We look forward to hearing from you.

Yours faithfully

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