

BY EMAIL

Holly Dutton
Inquiries and Major Casework Team
The Planning Inspectorate
Temple Quay House
2 The Square
Bristol
BS1 6PN

PINS ref: APP/B1930/W/22/3313110
LPA ref: 5/2022/0927

9th March 2023

Dear Ms Dutton,

TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)
SECTION 78 PLANNING APPEAL – DESCRIPTION OF DEVELOPMENT

We are writing to you on behalf of Alban Developments Limited and Alban Peter Pearson, CALA Homes (Chiltern) Ltd and Redington Capital Ltd ("the Appellants"), regarding their appeal against St Albans City & District Council's ("the Council") refusal of full planning permission (ref: 5/2022/0927) for the development at Land south of Chiswell Green Lane in Chiswell Green ("Appeal Site").

The proposed development which is the subject of this Appeal is currently described as follows:

"Outline application (access sought) for the demolition of existing structures and construction of up to 391 dwellings (Use Class C3); the provision of land for a new 2FE Primary School, open space provision and associated landscaping, internal roads, parking, footpaths, cycleways, drainage, utilities and service infrastructure and new access arrangements".

Post submission of the appeal, the Appellants have been positively engaging with the local education authority, Hertfordshire County Council (the "Education Authority"), with respect to the drafting of the Section 106 Legal Agreement. As part of these discussions, the Education Authority has noted that a potential scenario in terms of delivering a primary school on site is that it initially brings forward a 1FE primary school and then applies to expand this in the future by a further form of entry when the demand for pupil places increases. Therefore, the Education Authority would welcome the flexibility to phase delivery of the school, and not be constrained by reference to a fixed 2FE Primary School in the Description of Development.

Furthermore, through its Appeal Statement, the Education Authority has identified that there is a significant shortfall in Special Education Needs & Disabilities (SEND) places. Whilst the Education Authority is currently developing proposals to provide new places for children with Severe Learning Difficulties (SLD), one component of SEND, it does not have a clear strategy for accommodating the need for additional Profound Neurological Impairment (PNI) places, a different component of SEND. Therefore, in consultation with the Education Authority, the Appellants have suggested the introduction of greater flexibility into the obligations within the Section 106 agreement so to allow for a broader range of options for education provision on the appeal site. This would mean that the Education Authority could continue to bring forward a new mainstream Primary School or, if it concludes that the demand for primary places generated by the proposed development would

best be met by expanding existing schools, then it could utilise the land for a much-needed SEND school. Or it could choose to bring forward a combination of the two.

To facilitate this change, we respectfully request an amendment to the description of development so that it reads as follows (words deleted have been struck through):

“Outline application (access sought) for the demolition of existing structures and construction of up to 391 dwellings (Use Class C3); the provision of land for a new ~~2FE Primary~~ School, open space provision and associated landscaping, internal roads, parking, footpaths, cycleways, drainage, utilities and service infrastructure and new access arrangements”.

To avoid any confusion, we would also propose the substitution of the parameters plan with the plan attached to this letter. The only change to the plan is to the label: this currently reads “land for a new primary school (up to 2fe)”. As amended that label reads: “land for a new school”. There is no other change.

Having regard to Paragraph M.2.2 of the Procedural Guide for Appeals in England (March 2021) and case law (in particular **R. (Holborn Studios) v Hackney LBC** [2018] PTSR 997) we consider that this amendment is permissible and acceptable. In particular:

- (1) The amendment does not change the substance of the proposal. If planning permission is granted, it will be in substance the same as that which was applied for by the Appellants. The proposed use of the land for a school does not change and there is no change to the size of the land set aside for a school. The change simply provides the Education Authority with greater flexibility as to the type of school that it can bring forward on that land. The parameters of the school land are unchanged.
- (2) This amendment does not side step the rights of any parties. There is no conceivable prejudice, particularly in circumstances where the detail of the school and its precise form will inevitably be (and always would have been) the subject of further consultation by the local planning authority following the grant of outline permission (if the appeal is allowed). There is no change to the parameters of the built form which the outline permission would authorise. It is fanciful that any of the statutory or public consultation responses received would be affected by the deleted words in the description of the school, or that anyone who did not object now would wish to do so.

We raise this amendment now so that the Inspector and other parties are able to consider it before the Case Management Conference.

Yours sincerely,



James Delafield MRTPI
Associate Partner
james.delafield@carterjonas.co.uk



Justin Kenworthy MRTPI
Planning Director
justin.kenworthy@bartonwillmore.com

Enc. Land Use Parameter Plan (REDC01-MCB-ZZ-ZZ-DR-A-0223-D5-P5)

cc. George Burgess, St Albans City and District Council
Brian Parker, MRP Planning
KCG Campaign Team