

CHPC Statement

I am Chartered Surveyor with almost 40 years of UK wide commercial property experience for property advisers, large occupiers such as BT and Scottish Water with the last 15 as an interim consultant mainly in local authorities.

CHPC Cllr for 6 years and Chair for 4, Chair NPSG all that time. Attended almost every Planning Policy Committee since the Local Plan restarted in 2103

I wish to cover briefly the following topics

Unlawful use of the site

(13 No. Certificate of Lawfulness (existing) Valid From 30/12/2020 and the Lease user clauses prevent applying for planning permission)

Previously Developed Land

Public Consultations response

Outline consent only

Drinking water supply contamination risk

Flooding

Contaminated Land on site

Tilted Balance & Para 11 d ii

Unlawful use of the site and Previously Developed Land

In the appellants case at 4.35 The Case Officer appears to have come to the view that the existing uses are unlawful the lay person would concur and could theoretically be removed.

At 4.36 The Appellant sought to establish a Certificate of Lawful Existing Use or Development (CLEUD) in October 2018 (Ref: 5/2018/2006). **If appellant was so confident why is it now only being consulted on?**

4.38 The site has been in a continuous storage and distribution use dating back to before the establishment of the modern planning system, a position the Council accepts.

In many instances in their submission the appellant refers to over 80 years of use.

The Town and Country Planning Act 1947 came into effect on 1 July 1948 established that planning permission was required for land development – over 70 years ago;

The question is most asked in my part of the Parish where permitted development rights were withdrawn on former hospital sites is permission is needed for a shed or for the smallest extension subject to Green Belt policies

It seems invidious that because planning permission has not been sought for the majority of uses for over 70 years how is the land PDL in planning terms – as has been said to me surely its illegal, unlawful or unauthorised.

To local residents it appears that if the appeal is allowed it would **encourage landowners and occupiers not to obtain planning permission and then hope there is lack of enforcement so they can break the law and gain a huge financial windfall over the medium term by claiming PDL.**

They are very concerned because we have other instances we are aware of in the Parish

In 4.45 the aerial imagery at Appendix O highlights the extent of unauthorised uses.

The planning history of the appeal site is summarised and it appears no permission or certificates have been granted for industrial uses at the appeal site.

In the 13 No. Certificate of Lawful Existing Use or Development (CLEUD) Valid From 30/12/2020 all leases contain **User clauses prevent applying for planning permission.**

It is something I have never known in f commercial property work UK wide

It appears to residents to have been a deliberate landowner policy of non-compliance to create Previously Developed Land.

Perhaps Mr Churchill could advise on the prevalence of this clause in the properties managed by Crater Jonas' UK wide property management team such as the over 500 leases managed for Hertfordshire County Council.

Consultations

There have been a number with the Parish Council NPSG on 26 September 2018
NPSG and Public Consultations July and October 2019

Residents say to me their views appear to have been ignored entirely as there are no outputs from any of these apart from an email in 2018 when we were told the landowner would take note of the Parish Council views. Residents feel the approach has been less than honest with them and some have said disrespectful and insincere. They have also asked if any notes were taken at the lunch at the Three Horseshoes on 05 July 2019 with the District Councillor.

Outline consent only

The Parish Council is very worried **this is an outline consent only** meaning there is no guarantee of delivery – the social housing is likely to be just a promise where viability is used to reduce the proportion of genuinely affordable housing.

Drinking water supply contamination risk

Additionally, residents have concerns that this unsustainable development will have on local demand for drinking water accentuating the issue caused by the bromate plume just to the north east of Smallford and the associated contamination risk.

Flooding to the surrounding area already exists and the scheme will exacerbate this as there is insufficient mitigation measures to the drainage and there will be additional run off

As the area has significant landfill areas there is risk of irremediable **ground contamination within the site and from others in close proximity**

My only question is to the Landmark barristers. Do they agree with Zach Simons' post on 21 January 2021 that in 9 cases out of 10, you will never get anywhere remotely close to a "*tilted balance*" in Green Belt authorities as a consequence of their failing of the HDT.

Finally the tilted balance, Para 11 d ii and Gladman & the Secretary of States barrister's well-reasoned case summary. I will leave the experts to debate this point.

Due to the above we trust the appeal will not be supported and permission is not granted.

Thank You

Peter Cook