

The Head of Planning Services
Dorset Council - North Dorset Area
South Walks House
South Walks Road
Dorchester
Dorset DT1 1UZ

BY E-MAIL - mike.garrity@dorsetcouncil.gov.uk

18th February 2021

Your ref: 2/2018/1124/OUT
Our ref: AB/3483

Dear Mr Garrity

Re: Application Ref. 2/2018/1124/OUT - Land north of Crown Road, Marnhull

Further to the recent email from the Council's Lead Project Officer Penny Canning I am writing to express the significant disappointment of the Applicant that the Council has now voiced its intention to determine the application under delegated powers, and to recommend refusal, and also with the Council's handling of the application generally.

We were dismayed to receive a further request for an extension of time from the Council; having regard for the fact that this matter has been with the Council for its determination since 15th August 2018. We had recently granted an extension of time on 15th December 2020 to allow for the written responses following the recent meeting between the two parties to be considered in detail. The Council did not however respond during this timeframe. In particular the request to grant a further extension to enable the application to be refused 'in time' is not in the Applicant's view a reasonable request.

The Council does not appear to have engaged at all with the Landscape Rebuttal prepared by ACLA which was submitted to it on 14th December 2020 in response to the comments of the Council's Landscape Officer which we were made aware of at the time of the Teams Meeting had with the Council on 24th November 2020; moreover we have received no response to the letter of 7th December 2020 setting out our position pursuant to the meeting. There is no technical response from the Council that demonstrates that either submission has been considered or reviewed and we have had no contact from the Council following on from this to discuss the details put

forwards at the time of the meeting in rebuttal to both the Council's concerns with respect to heritage and Landscape Impact or in the written rebuttals submitted thereafter.

The Council also has not made an attempt to grapple with the matter of the Heritage Rebuttals prepared by Cotswold Archaeology further to the initial consultee comment from the Council's Officer. We discussed in detail at the time of our Teams Meeting why the assumptions that have been made are not reasonable and why a number of the points raised by the Council's Officer are simply not justified. The Council has offered no further response following this meeting and has not demonstrated at all that regard has been had for the evidence set out.

Both the Council's Landscape and Conservation Officers now dealing with the matter have been brought in with respect to the determination of this application at a very late stage in the process following several significant stages of revision and additional packages of supporting information having been prepared and submitted to the Council and pursuant to a position where it had been agreed with Officers that the Council's concerns were addressed and the application was being moved positively towards the consideration of the Council's Planning Committee. Following this late change of direction from the Council's Officers, we have rebutted the comments raised as noted above; many of which we consider were unjustified. There have been no further formal comments from the Council's technical officers in response.

It must be recognised that the Council's Policy Officer, in providing an update on the policy position on 2nd November 2020 confirmed that the Council remains without a 5-year housing land supply, which demonstrates that the presumption in favour of sustainable development applies, which is a point reiterated by the results of the Government's Housing Delivery Test for 2020 – the presumption in favour of sustainable development is imposed due to the Council falling short of both metrics. The weight to be attributed to this matter in the planning balance is truly substantial. The Council is not delivering sufficient housing to meet its needs. The Council's Policy Officer confirmed that:

In line with the NPPF, permission should be granted unless the Framework "provides a clear reason for refusing the development" or "any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole."

There will of course be a full range of other matters to consider, including the impact on biodiversity, the historic environment, the landscape, and infrastructure capacity. However, in this case it is unlikely that cumulative impact on its own will be a sufficient constraining factor to justify refusal.

The Council must recognise therefore that in order to justify as refusal here, the impacts must be so substantial to outweigh the significant presumption in favour of sustainable development as a result of the need for housing and the public benefits of the scheme.

Looking at the specifics of the Council's concerns on heritage and landscape grounds:

- The Council consider that there would be less than substantial harm to a Grade II listed building through impact upon its setting arising from the development – there will be no physical impact upon the interest of the building or its physical listed fabric. The Framework makes clear at Paragraph 196 that where a proposal will amount to less than substantial harm to the significance of a heritage asset, that harm should be weighed against the public benefits of the proposal. The weight to be attributed to what amounts to less than substantial harm to a Grade II Heritage asset, and we would advocate at the very lower end of that harm – amounting to a change in its setting but not one that materially changes the way the asset can be read or indeed which has any impact upon its importance or interest, is very clearly outweighed by the substantial weight to be afforded to the public benefit of sustainable housing development and the delivery of new public facilities in the form of a village hall and pre-school building, which the development proposes. The Applicant does not dispute that there will be an impact upon the listed building; it would be unreasonable to suggest otherwise, but the important point is that the impact is so limited that it comprises the lower limits of less than substantial harm which does not justify refusal.
- Having regard for the perceived landscape harm, the Council made reference to the conclusions of the high-level Strategic Landscape and Heritage Study for North Dorset Area undertaken by Land Use Consultants (LUC) dated 2019. The Applicant provided a full response to the LUC document and confirmation of how the landscape scheme, and visual impact assessment submitted in support of the application deal with these matters. The Applicant's Consultant and the Council's Landscape Officer do not disagree on the impacts of the development or where there will be particular sensitivities in views in an unmitigated scenario; the development comprises the loss of green fields to development, there will evidently be an impact; but that is not the test; the relevant consideration is whether there will be harm and to what extent. The greatest perceived impact being in medium distance views, outside of this, the impacts are negligible. Where the parties disagree is on the conclusion of the degree of harm following mitigation, which in ACLA's view through the mitigation proposed the development will give rise to no unacceptable harm. The Applicant has responded to the constraints of the site and it has been arranged in a landscape led manner to develop those areas least sensitive and propose open space where it will be most effective. Even if the Council consider there will be limited harm; perhaps in the early years of the development, this again must be weighed in the planning balance in the frame of the significant presumption in favour of sustainable development.

The Applicant recognises that the Dorset NET Team have indicated that in order to provide their sign off on the Biodiversity Mitigation and Enhancement Plan and the Ecology Report that is before it, it will require the results of Dormouse surveys. The Applicant has made abundantly clear that these surveys have been programmed for the earliest date that they can occur; from April this year. The fact that this matter remained unresolved came again as a surprise to the Applicant following consultation

with the NET team late last year. It was understood that it had been agreed that a worst-case scenario, for mitigation, as submitted by the Applicant, alongside commitment to survey at the appropriate time to inform any reserved matters scheme, would take place. The Council will be well aware that survey work is seasonal – it cannot be undertaken at all times of the year, and thus it is not always feasible for all surveys to occur prior to planning permission being granted. Putting in place an appropriate strategy to carry out further survey work and ensuring that mitigation is provided to account for any protected species is an appropriate means of responding to this situation. Notwithstanding this, the survey work will occur in April and the Council will be provided with this information to confirm that the strategy proposed by the Applicant is sufficient. We do not agree with the Council's position on the need for the survey work now, however we do not object to providing this information as soon as it is possible to do so. We can see no reason why, having regard for the timeframes of this application already, it would not be reasonable for the Council to defer determination to allow this to occur. There is not sufficient justification to refuse permission on grounds of the lower limits of less than substantial harm to a Grade II Listed Building and limited landscape harm. There are no other technical concerns with the development. The Council will be well aware, that if it refuses the application this matter will be addressed in advance of any appeal taking place and it will not be an issue. It is not a matter of whether the Ecology point can be addressed, but simply when – restricted by the timeframe for the survey being undertaken.

This application has been of significant public interest, indicated by the sheer number of third-party representations submitted in relation to the application. The Applicant considers that there would be more than sufficient justification for this matter to be considered by the Planning Committee; irrespective of Officer's recommendation here. It is appreciated however that this is a matter for the Head of Planning to consider in accordance with the Council's scheme of delegation, however this is a major development which would meaningfully contribute towards the Council's housing supply shortfall land where the issues are finely balanced. In the frame of a significant presumption in favour of sustainable development advocated by both the Council's housing supply and delivery positions, there are significant reasons in the public interest why this development should proceed.

There is not in our view sufficient justification to warrant refusal of this application. There is not sufficient harm here to outweigh the presumption in favour of sustainable development and in any event, we do not consider that there is conflict with the Local Development Plan or Framework in this respect. The Applicant has worked tirelessly with the Council in order to make amendments to the scheme in order to address concerns, however the Council has continued to move the goalposts due to the absence of having the right internal consultees available at an early stage in the process and it was a significant frustration that following a clear direction that the application was moving towards a committee determination in a positive manner, new concerns and issues were brought forwards which have dissuaded Officers from their previous position. The Council will be well aware of its dire housing position, and the outcome of recent appeals where the Council has been reticent to see the delivery of much needed housing. It is recognised that there is political sensitivity with the delivery of large development sites; but unfortunately, the Council's housing delivery

performance has put it in a position where sites, such as Land north of Crown Road, Marnhull, which can be sustainably delivered, need to be brought forwards to address this shortfall.

We request that the Council formally consider the content of this letter and provide a formal response in return. The letter has been copied to the relevant parties at the Council and we seek for this to be moved forwards proactively. If there are any queries, please do contact me directly.

Yours sincerely



Adam Bennett BA (Hons)
Town Planning Consultant

Direct email: adam@kppcltd.co.uk
Website: www.kenparkeplanning.com

cc.

Cllr David Walsh - cllrdavid.walsh@dorsetcouncil.gov.uk

Cllr Graham Carr-Jones - cllrgraham.carr-jones@dorsetcouncil.gov.uk

Mr Matt Prosser - chiefexecutive@dorsetcouncil.gov.uk

Mrs Hannah Smith - hannah.smith@dorsetcouncil.gov.uk

Mrs Penny Canning - penny.canning@dorsetcouncil.gov.uk