



HEGNPG

Supporting our Community

Hunsdon Eastwick and Gilston Neighbourhood Plan Group

Channoeks Farm

Gilston

CM202RL

<https://hegnp.org.uk/>

24th March 2023

Planning Casework Unit
Department for Levelling up, Housing & Communities
23 Stephenson Street
Birmingham
B2 4BH

By email: pcu@levellingup.gov.uk and Post

Dear Sir/Madam,

Request for call-in pursuant to S77 of the Town and Country Planning Act 1990

East Hertfordshire District Council (“the Council”)

**Major Outline Planning Applications Ref No 3/19/1045/OUT (“Gilston Villages 1-6”)
and Ref No 3/19/2124/OUT (“Gilston Village 7”)**

This letter has been prepared by the Hunsdon, Eastwick and Gilston Neighbourhood Plan Group (HEGNPG) with the authority of the Hunsdon and Eastwick & Gilston Parish Councils and the support of the local community. The Group was constituted in 2016 and led the preparation of the award winning Gilston Area Neighbourhood Plan (GANP) which was made in July 2021.

The HEGNPG and the Parish Councils request that the above-referenced applications be called in and considered together for determination by the Secretary of State pursuant to S77 of the Town and Country Planning Act 1990. The applications are in respect of the delivery of a total of 10,000 homes in former Green Belt land north of Harlow comprising 8,500 homes

(Application 3/19/1045/OUT) and 1,500 homes (Application 3/19/2124/OUT), following the allocation of the site under Policy GA1 in the East Hertfordshire Council's District Plan (2018).

Each application has been the subject of a separate resolution to grant planning permission by East Hertfordshire District Council's Development Management Committee on 28 February 2023 and 23 March 2023 respectively. As they are part of a single development and single land allocation in the Development Plan, we believe they should have been considered together, and should now be called-in and scrutinised as a comprehensive development. For the reasons set out in this letter, we therefore request as a matter of urgency that a Holding Direction is made under Article 31(1) of the Development Management Procedure Order 2015 to enable proper consideration of this call-in request.

The HEGNPG has sought to engage proactively with the developers and the local planning authority since the site was allocated for development and, more specifically, since these applications were first submitted to ensure that the proposed development meets the objectives enshrined in national and local planning policies. Regrettably, our efforts have proved unsuccessful, and we now see this call-in request as the last opportunity to ensure this strategically important development and associated infrastructure delivery takes place in an acceptable way, as put forward by the Council and developers at the Local Plan Examination in Public.

Background to the request

In December 2022, the Secretary of State wrote to MPs and Council Leaders setting out very clear expectations for future development and housing development stating:

"Planning should be about delivering enough of the right homes in the right places and will do that by promoting development that is beautiful, that comes with the right infrastructure, that is done democratically with local communities rather than to them, that protects and improves our environment, and that leaves us with better neighbourhoods than before."

The HEGNPG is well attuned to, and probably ahead of, this Ministerial call to action: we have been working tirelessly since 2017 in trying to secure a high-quality development appropriate to the local area and remain firmly committed to this. This has involved making extensive contributions to the Gilston Area Concept Development Framework which formed the basis of a Statement of Common Ground between the developers and the Council (November 2017). Between 2019 and 2021 we enshrined the same vision and principles for development in the adopted Gilston Area Neighbourhood Plan (GANP) which has the widespread support of the local community and is now a formal part of the statutory development plan. The GANP won two Planning Awards and one Landscape Institute Award in 2021, winning national recognition as a model for delivering large scale development.

The community hoped the GANP would assist the development process by clarifying the nature of local character and infrastructure expectations and help to secure 'exceptional quality' by providing very clear guidance on what this means in the local area.

The Secretary of State himself in 2021 highlighted the good work of our community and Neighbourhood Plan in his response in the House to an oral question from Hertford and Stortford MP Julie Marson, by saying: *"It is thanks to the work of organisations like the Hunsdon, Eastwick and Gilston Neighbourhood Plan Group that we involve local communities in making these uniquely sensitive decisions... And we want to ensure that the voice of local people is integrated more effectively into planning decisions"* (video clip: <https://vimeo.com/809110262>).

We have never sought to delay or impede progress of the project; we only want to hold developers and the local planning authority to their promises made at, and since, the Examination in Public of the District Plan and subsequently, and so preserve the original concepts advanced by the developers and supported by East Herts and the local community. We believe that these have been set aside in the planning applications and that the proposed development is no longer in accordance with adopted policies in the Local Plan and Neighbourhood Plan. We are bitterly disappointed that the local planning authority has resolved to approve the current proposals without first seeking further modifications and safeguards to deliver on these objectives and the promises made to the local community. We are now extremely concerned about the irreversible damage which will result if they are allowed to proceed without further scrutiny. We are also very aware that Localism is failing in Gilston as years of relentless constructive effort and national awards for neighbourhood planning have resulted in no influence whatsoever on the quality of future development. This was surely not the intention behind promoting Neighbourhood Plans under the Localism Act 2011.

Nationally significant issues arise from these applications and we believe there is sufficient reason for the Secretary of State to use his call-in powers. We would urge him to take a close look at this case and consider it a test case for the policies and direction that the DLUHC is currently pursuing.

In making this request, the HEGNPG has paid full regard to the published guidance on the call-in process and believes this case raises significant concerns under each of the matters identified as possible reasons for the use of call-in powers by the Secretary of State:

- It conflicts with national policies on important matters.
- It has a significant long-term impact on economic growth and meeting housing needs across a wider area than a single local authority.
- It could have significant effects beyond their immediate boundary.
- It could give rise to substantial cross-boundary or national controversy; or
- It raises significant architectural and urban design issues.

Our concerns are presented under each of these principal headings.

Conflict with national policies on important matters

We consider that the applications are in conflict with the requirements of the NPPF, contrary to the Localism Act and ignore the Secretary of State's guidance on the important matters set out below, and this, alone, is sufficient basis for the use of his call-in powers:

- **Contrary to the Localism Act and Secretary of State's guidance** – by substantially ignoring the adopted Gilston Area Neighbourhood Plan and its policies: the Neighbourhood Plan was never referenced by the applicants in the planning applications and wholly inadequate weight was given to it by the local planning authority in their assessment of the planning applications.

As our MP Julie Marson suggested in the ministerial question in the House of Commons, the Gilston Area “*provides a live case study for future planning reform*” (2021 video clip referenced above). If a Neighbourhood Plan which won three awards and a community praised for their positive approach can be ignored in this way, how can any community have confidence in the Secretary of State's statement that “*Neighbourhood Plans should be considered the best form of community action – and protection*” (Dec 2022 letter to MPs). The approach to development currently being advocated by the Secretary of State has been called into question by the events at Gilston.

- **Key aspects of the NPPF have been ignored or paid lip-service** – the applicants and Local Planning Authority have failed to give appropriate weight to the Neighbourhood Plan. They have not assessed the proposals against the Plan's very detailed and clear policies for quality development, and they have not considered Chapter 12 Achieving Well Designed Places and para 132 in particular, which states: “*Early discussion between applicants, the local planning authority and local community about the design and style of emerging schemes is important for clarifying expectations and reconciling local and commercial interests. Applicants should work closely with those affected by their proposals to evolve designs that take account of the views of the community.*” While a number of meetings with the HEGNPG have taken place, there is no evidence at all that the policies of the Neighbourhood Plan or the concerns of the community, clearly set out in letters of representations, were ever meaningfully considered by the applicants. For the V7 application the most recent Statement of Community Involvement is dated December 2020, when the scheme had a different promoter and was substantially different. For the V1-6 the most recent is dated April 2019!
- **Conflict with the Development Plan** - Paragraph 12 of the NPPF clearly states that where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. The Officer's Report accompanying the V1-6 application states in various sections that “*compromises*” on the requirements of the policies (in particular, affordable housing, quality of housing development, heritage, environmental issues and neighbourhood plan key policies) are required to approve the scheme. For example, Policy GA1 of the District Plan requires the creation of ‘*separate and distinctive villages*’ which the Council has acknowledged will not be the case and the current proposals totally ignore Neighbourhood Plan Policy EX1 which requires the mitigation of impacts of the development on existing communities.

In addition:

- The Government's support for Garden Cities and the Garden City Principles which underpin the Harlow and Gilston Garden Town, and that are requirements of the District Plan and Neighbourhood Plan, are no longer referenced either by the applicants or the Local Planning Authority.
- The views of the local community have been given very limited weight in the decision making process: our two Parish Councils were given just 12 minutes to express their concerns to the Development Management Committee at a meeting which lasted over 6 hours. Additionally, even the members of the Council's Development Management Committee complained, as we did, of the limited time permitted to study the Officer's reports and papers for the hearing of the applications. (Indeed a 300 page document was extensively amended and republished, under 24 hours before the Planning Committee meeting).
- Our requests for amendments and additional controls to be applied to the Outline Planning Application which were made in formal representations were not considered (not even to be rejected).
- The Secretary of State's guidance and recommendations (particularly in relation to increasing local community involvement) issued as letters in December 2022 were completely ignored.

Significant long-term impact on economic growth and meeting housing needs across a wider area than a single local authority

When the land at Gilston was released from the Green Belt and allocated for development well exceeding the assessed housing needs to 2033 (District Plan period), this was justified by the opportunity for a single comprehensive sustainable development built on Garden City principles which would deliver outstanding benefits in terms of housing and infrastructure. The applications fail to deliver on this, and this in itself is a sufficient basis for both applications being called in:

- **Reduced levels of affordable housing, little more than half the policy requirement** – the argument for delivery at this scale rests on the benefits that can be secured, particularly affordable housing. Accepting a reduction in the level of affordable housing from 40% to 23% as the local authority has done in this case, sets a very dangerous precedent for other strategic developments of this nature. Furthermore, Council Officers have accepted a revised mix of affordable housing that is, in their words, "far from ideal".
- **Impact of the loss of affordable homes not explained** – the area has high levels of need for affordable housing. As a result of the reduction in affordable housing across the two applications, there will be a loss of nearly 1,700 affordable homes and there has been no assessment of the implications of this. In proportion, the reduction in affordable housing for rent is even higher. It is not clear where the needs for affordable homes will be met within the district or the Garden Town (5 local authorities and 2 counties). The impact of this

change will be felt beyond the wider Garden Town and the District: it will have implications for social inclusion, retention of young people and for attracting key workers to the area.

- **Uncertainty over necessary infrastructure delivery** – the two separate applications share a single S106 and infrastructure delivery contributions. This was proposed as a way to have ‘comprehensive development’. In reality, now the impacts created by one developer need to be mitigated by the other, with no certainty that the necessary mitigation and infrastructure will ever be delivered if the two developments go out of sync (or if one doesn’t proceed). Heads of Terms for the S106 Agreements presented to the Development Management Committee left many matters yet to be agreed but nonetheless outline planning permission has been granted with negotiations on important financial aspects yet to be concluded and these key issues delegated to Officers despite Committee Members requesting Councillor involvement in the later stages. This arrangement exposes the Council to huge financial risks or infrastructure deficits should any of the two developers default on their commitments or fail to meet the Council’s expectations in the unfinished negotiations. Delegation to officers creates a democratic deficit in the plans, and the community will also be at risk if infrastructure delivery is delayed or fails to materialise.
- **Taxpayer’s money used to enable roads and reduce affordable housing** - £172m of HIG funding has prompted the escalation of requirements for road building, not just to enable housing delivery – but essentially to build a Harlow By-Pass without any proper scrutiny. The direct result of this (as clearly stated in the applicants’ viability assessment and in the case officer’s report) has been the prior approval of out-of-proportion and environmentally damaging roads costing much more than the funding provided. This is the root cause of the large reduction in affordable housing and delayed social infrastructure delivery. This is contrary to the stated policy objectives of promoting sustainable development and low carbon transport (including that 60% of journeys should be by sustainable modes) and the impacts of this choice will be far reaching. In fact the Council were warned that determining the Highways applications in advance of the outline applications, prioritised strategic Highways objectives not required by the development and as a direct consequence has reduced the amount of affordable housing provided; one of the key points used to justify the green belt release at the Examination in Public.

Substantial effects beyond their immediate boundary

The applications give rise to substantial negative effects beyond their immediate boundaries, impacting local communities and the people of Harlow. The NHS expects impacts on their acute services for a much wider area:

- **The planning applications have been determined as separate developments but form part of one development allocation** - they should have properly been considered by the local planning authority as one. This has resulted in uncertainty about the phasing of development and the proposed mechanisms for delivering key infrastructure which is required to serve both developments. This will impact schools and healthcare provision in the wider area, where there is already a deficit in provision.

- **The S106 Heads of Terms confirm there will be limited contributions or infrastructure offsets for the existing settlements outside the application boundaries** - The scale of the development will have a significant impact on these settlements and the local community in terms of accessibility, community services, amenity, privacy and disturbance. Existing communities will suffer competition for access to education, social services and healthcare for 5-10 years at least and will be cut off from any bus service which may be provided. The current proposals fail to address this. The applicants have failed to respond to community concerns about local impacts and have not demonstrated where and how impacts on existing settlements and East Herts residents will be mitigated as part of an overall and comprehensive scheme. The local planning authority appear to have allowed the applicants to do this and have ignored our very legitimate requests for clarification, thereby failing to act in the best interests of the area and its communities.

In addition:

- The two application sites form part of the wider Harlow and Gilston Garden Town (HGGT) but there is limited reference to the HGGT Vision, Transport Strategy and Design Guide and how the development will be properly integrated. The impacts of road construction and pressures on medical and other services will be painfully felt by residents of Harlow.
- The NHS has raised serious concerns about the impact of the proposed development on primary care services in the area and made it clear that there will be a lack of hospital care to meet the needs of the growing population without further investment. It is highly irresponsible to allow the development to progress unless a viable solution can be found and appropriate investment in acute and primary care and general healthcare has been secured.

Substantial cross-boundary and national controversy

The application gives rise to substantial cross-boundary and national controversy, and this is sufficient basis for calling-in the application.

- **The applications from part of the wider Harlow and Gilston Garden Town** - which crosses local authority and county boundaries and its impacts will be felt in the wider area. They cannot therefore be considered in isolation.
- **The exceptional circumstances which justified the release of such a large tract of Green Belt land have been substantially eroded** - by changes to the planning applications and the significant reduction in affordable housing which was originally promised. This is of relevance to the national controversy regarding protection of the Green Belt. The priorities that led to the site allocation in the Local Plan and discussed extensively at the Examination in Public five years ago have fundamentally changed. There would now be a stronger presumption against the release of land from the Green Belt and housing targets would be required to take into account local constraints and concerns. There would be far greater consideration of the impact of the new Eastern Crossing on the floodplain of the Stort Valley and sustainable transport targets would require stronger evidence of

deliverability. This is a long-term project which will extend well beyond the current Local Plan timeframe and it is therefore imperative that the planning applications are considered within the framework of future acceptability and policy compliance to ensure that development at Gilston does not become outdated before it even commences.

Significant architectural and urban design issues

When the HEGNPG resolved to prepare the first Neighbourhood Plan entirely focused on new large scale development, the aim was to give added strength to the vision for quality development respectful of local character and to provide guidance on architectural and urban design issues. Both applications ignore the Neighbourhood Plan policies and guidance on this matter and have adopted an alternative (out of character) design approach. Just this in itself would constitute a sufficient basis for calling-in both applications:

- **The shared vision of HGGT, EHC, developers and community plans and guidance have been abandoned** – the Gilston Area Neighbourhood Plan sets in policy the same vision statement underpinning the developers' Concept Development Framework, which has been endorsed by the Council following a rigorous public examination. The GANP also embraces the HGGT Vision Document and gives it the weight of policy. All parties agreed that development at Gilston should be landscape-led and take the form of distinctive garden villages with meaningful landscape separation (District Policy GA1, GANP Policies AG1, AG4 and AG6). The GANP goes on to explain what is intended as villages and as 'local character', with a detailed Appendix that describes the meaning of 'landscape-led' and the key components of what makes a village. The developers have been aware of these policies and approaches since the Examination in Public of the GANP in November 2020. The GANP was eventually made in 2021 giving the applicants adequate time to respond. And yet the proposals are now described by the developers and planning officers as 'urban neighbourhoods', with development boundaries (euphemistically called Village Development Boundaries) separated by 'green buffers' as narrow as 30m: in practice just a little more than the minimum distance for privacy (20m) and less than the size of a typical playground and never justified as sufficiently 'meaningful separation'. The green infrastructure network has become the repository of everything that does not fit within the development boundary and the landscape-led approach is not even mentioned. This is contrary to policy and contrary to all the commitments made that gave the community the confidence to engage with the principle of this large development.
- **Approved design documents ignoring local context and unaccompanied by any justification** - Both applicants submitted a revised Strategic Design Guide in August 2022 in support of their planning applications to demonstrate their commitment to quality design. This Guide is entirely silent on local character and makes no reference to GANP policy AG6 (on the ingredients of locally inspired character) and on the related Appendix 'Defining Local Character' which was adopted a whole year before. In addition, the Parameter Plans (which form part of the planning applications) propose heights of 5-6 floors giving license for tall buildings in wide areas of the plan which will not be compatible to local character, and the Viability Assessment quotes densities of 60 dwellings per hectare: approximately

double the highest densities of Harlow and Bishop Stortford, which are towns and not villages. There is no evidence or analysis that justifies these proposals. The Strategic Design Guide offers no clue as to how development at this height and density without any landscape buffers could be considered to be a Garden Village of Distinctive and Locally Inspired Character (GANP Policy AG6). We would prefer to see an approach that better reflects the character of the area and reduces the overall footprint of the settlement to increase the landscape buffers between the villages in line with GANP Policy AG6, with options for density collaboratively developed in partnership with the community. This is a similar concept to that of 'gentle density' advocated by Office for Place.

In addition:

- The developers have made no effective use of the Quality Review Panel, ignoring their recommendations and not presenting their revised proposals for further advice and assurance.
- No effort has been made to consider in landscape and urban design terms the whole of Harlow and the HGGT vision, which describes both how design and landscape can create an integrated but locally different area. The proposals now appear to imply a uniform and faceless extension to the urban area of Harlow.
- Strategic Design Coding is proposed by the Government as a responsibility of local authorities and an opportunity to 'co-design' the character of a development. This is a commitment made by the Secretary of State and clearly highlighted in his letters to Council Leaders of Dec 2022. Design Coding should happen early on and have an overarching role to embed quality since the onset of development. This is not what is proposed here: the developers will prepare individual village Design Codes and submit them as supporting documents in future planning applications. Without further controls in place, these are likely to have no overarching approach, no provision for co-design and probably no requirement for statutory consultation.

Conclusion

This letter sets out just some of the many compelling grounds that, taken together or separately, meet the criteria for calling-in these applications.

Given the government's commitment to improving the quality and beauty of new development, this is surely a case that warrants closer examination and scrutiny before the applications are approved given the significant impacts the proposed development would have across a wide area of East Hertfordshire and west Essex. It raises so many issues of national importance and should be a test case for delivering quality developments at scale, especially on Green Belt sites. Done well, it could be a model for future planning reform across the country, a laboratory for national changes that both deliver new homes and meet community needs. Done poorly, it could consign another generation of planning reform to history without progress.

The community feels that, having committed to this allocation in the District Plan, the Council is now seeking to deliver development at all costs regardless of quality or impacts and without taking into account the changing planning aspirations the DLUHC is aiming for. As a consequence, the Council is not applying the level of scrutiny that a project of this size and complexity demands.

The local planning authority's approach to considering the applications separately (two separate reports, different case officers and different committee meetings) both accompanied by an uncertain and incomplete arrangement of intertwined infrastructure delivery and cross-contributions for essential facilities is highly risky, especially given the challenges in enforcing timely S106 commitments.

We believe that the Gilston Area has the potential to become an exemplar development of outstanding quality but we are fearful of the consequences if the development proceeds in accordance with the proposals which the local planning authority has resolved to approve. Given the issues of national significance which this case raises, we urge the Secretary of State to give careful consideration to our request to call in the applications for his own determination to ensure these matters can be fully addressed and, in the meantime, issue an immediate Holding Direction in respect of both planning applications.

Yours faithfully,

A handwritten signature in blue ink, appearing to read 'Anthony Bickmore', with a horizontal line underneath the name.

Anthony Bickmore
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