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Ms K Brindley
Policy, Planning and Transportation
Halton Borough Council
Municipal Building
Kingsway
Widnes
WA8 7QF

5 September 2023

Dear Ms Brindley,

Your Reference: 22/00423/OUTEIA

Site Address: Land at Hale Gate Road, Halebank

Proposed Hybrid Planning Application comprising: Full planning permission for the construction of the primary access points, primary internal link road and site enabling works including site levelling and Outline planning permission with all matters reserved except for access, for the construction of up to 500 residential dwellings (Use Class C3), later living units (C2), a new primary school, a local centre (use class E) and associated infrastructure and open space

We act on behalf of Hale Bank Parish Council (HBPC) and refer to the above referenced hybrid planning application for which the applicant has recently submitted further information.

In inviting comments on the application, Halton Borough Council, as Local Planning Authority (LPA) has indicated that it regards the Application as not in accordance with the development plan (Halton Delivery and Allocations Local Plan (DALP)).

This is also the view of HBPC. Our letters of representation submitted on 17 October 2022 and 9 June 2023 noted that the proposed development would be inconsistent with development plan policy in several respects. As there have been no substantive changes to the proposals, the substance of HBPC's previous objections is maintained. We therefore remain of the view that the application proposal is not in accordance with DALP Policies RD1, C1, HC10, GB1, HE1, HE4 and HE5.

The purpose of this letter is to focus on the primary areas in which the proposed development conflicts with the development plan in HBPC's view. Principally, the application proposal fails to comply with the development plan because residential development is proposed on Site EDU3 which the DALP requires to be reserved for education purposes (under Policy HC10); a School is proposed on Site W24

which the DALP allocates for housing (under Policy RD1); and school facilities are proposed on land within the Green Belt (contrary to Policy GB1). In addition, no compensating measures to enhance the surviving Green Belt are incorporated within the proposals (contrary to Policy RD1).

Background

The application site overlaps to a significant extent with two sites which are allocated for development in the DALP. The first is a site allocated for residential development under Policy RD1 (Site W24). The allocated site extends to 23.06 hectares in all, of which the application site encompasses circa 20 hectares.

The three hectares omitted from the application site primarily consists of land on the Hale Gate Road frontage which is not in the applicant's control. Our previous representations have highlighted that the omission of allocated land from the application site means that the proposed access arrangements do not cater to all areas of the allocated site. Thus, the application proposals do not guarantee accessibility to all of the allocated site, resulting in conflict with DALP Policy C1 and undermining the principle of comprehensive development.

The second site allocated for development is EDU3, which is allocated for education purposes (primary school) under DALP Policy HC10. The application area includes the whole of Site EDU3, albeit on the basis that it would be developed for access and housing rather than education. To redress this departure, the applicant proposes to relocate the primary school site within the wider allocation but in so doing proposes that approximately 50% of the required need for a school (equivalent to approximately 2 hectares) is located in the Green Belt, beyond the development/settlement boundary set by Site W24.

The application is in hybrid form. It seeks full planning permission for primary access points, an internal link road and enabling works, and outline planning permission for 500 dwellings, 100 later living units, a primary school, associated infrastructure and open space. The submitted Parameters Plan indicates the intention is that the school buildings would be within the allocated land, whilst its curtilage including associated playground or fields would be in the Green Belt.

The Applicant's Planning Statement and subsequent correspondence describe 'playing fields' as not inappropriate development for Green Belt purposes. The Design and Access (DAS) submitted with the application intimates that the decision to site the primary school in the proposed location rather than within allocated site EDU3 was taken, in part, to allow more open space within the areas to be developed for housing. However, neither of these assertions are informed by a detailed layout for the school and its external areas, or for the housing and associated open space. Moreover, as this part of the application is submitted in outline, issues such as the siting of school buildings and the precise location of playing fields or playground is not for consideration.

Decision Making

An LPA is under a statutory duty to determine a planning application in accordance with the development plan unless material considerations indicate otherwise (Planning and Compulsory Purchase Act 2004, Section 38(6)).

In this case, the DALP is the most relevant component of the development plan. It was adopted on 2 March 2022 and therefore found recently to be legally compliant, consistent with national planning policy and otherwise sound.

As already stated, the DALP contains two relevant policies, RD1 and HC10, which make site-specific allocations. There is no policy link or interdependency between RD1 and HC10. The two allocations are separately notated on the Policies Map, which also shows both allocated sites washed over by the notation for a 'Strategic Housing Location' also referred to by Policy RD1.

Policy RD1 lists 'Strategic Housing Locations' and 'Residential Allocations'. The 'Strategic Housing Location' designation is also found in Policy CS(R)3 in which such locations are identified as one of several sources of new housing provision. There is no other particular policy significance to the term 'strategic' which is used mainly to distinguish the various locations intended to accommodate larger amounts of new housing from more modest residential allocations.

Of greater significance is that certain strategic locations, having been removed from the Green Belt are subject to the requirement under Policy RD1 to, 'provide appropriate mitigation for the loss of Green Belt land in line with NPPF requirements'. The supporting text does not elaborate. However, NPPF ¶142 indicates that where land is removed from the Green Belt, plans should set out ways in which the impact of removing land from the Green Belt can be offset through compensatory improvements to the environmental quality and accessibility of remaining Green Belt land.

Policy RD1 contemplates that the proposed housing on Site W24 will be delivered within the Plan period (i.e. by 2037). However, Policy HC10 is expressed in different language. It states that site EDU3, "will be allocated for education purposes to meet the needs of the residents of Halton" but only, "should that need be identified over the plan period." The supporting text in ¶ 11.52 states that the site, "is reserved in case the school age population in Halebank increases sufficiently to warrant additional local educational provision".

The subtext to RD1 confirms in ¶ 9.4 that, "It should be noted that whilst an allocation establishes the principle of a particular land use, sites will still have to be subject to a detailed planning application. Planning applications on allocated sites will be assessed against the policies in this document, any saved development plan policies and other material planning considerations."

The purpose of the allocation of EDU3 is not therefore to meet needs specifically attributable to the housing development intended on the adjoining housing development (Site W24), but rather to address the educational needs arising in the surrounding area as a whole. Although described as an allocation, the effect of the policy is therefore to reserve the site for educational purposes on the basis that it may only be required for development later in the Plan period or beyond.

The function of the educational allocation (or reserve) in catering for needs arising in the surrounding area as a whole has implications for the locational choice behind the allocation. In this instance, the site identified in the DALP is accessible via existing pedestrian, vehicular and bus routes. Whereas the proposed siting of the school is contrary to the objective that it be accessible to the surrounding area as a whole as it is embedded within a housing estate which does not exist.

The Proposals

The application site omits parts of Site W24 and includes all of Site EDU3 together with some adjoining agricultural land designated within the Green Belt. The total site area is 22.8 hectares, which is a smaller area than Site W24. On a reduced site area the applicant proposes more intensive development up to 500 dwellings, 200 later living units, a local centre and a Primary School compared to a notional capacity of 484 dwellings in the DALP.

Since only access and enabling works are to be determined in detail, the precise development management implications of the amount of development now envisaged are not known. For these reasons, certain assumptions have been made for EIA purposes. However, and as a consequence of the pursuit of a higher density development, a feature of the application proposal is that it envisages and explicit departure from the approach of the DALP by proposing housing on Site EDU3, with the intended education provision relocated to the western edge of site W24, overlapping into adjacent Green Belt land.

The justification for the siting decision given in the DAS is that locating the school's facilities (excluding buildings) in the adjoining Green Belt allows the "*potential to maximise the proposed green space and lower average development densities*". The suggestion from this Statement is that it has not been possible to accommodate the quantum of development proposed within the parts of the allocated site controlled by the applicant. In addition, there is no detailed layout to indicate the proposed level of open space. In fact, the submitted parameters plan indicates very that the proposed level of open space provision is deficient to meet the requirements of DALP Policy RD4 and HE5.

The DAS describes the proposed school site as "*located centrally within the site*" in order to, "*maximise accessibility for new residents via non-vehicular modes of travel.*" The Planning Statement (but not the DAS) suggests that there may be place making advantages by moving the school away from a main road or educational benefits arising from locating the school on the edge of the development adjoining the open countryside.

There is no evidence in support of these claims and no analysis to demonstrate that the chosen layout has taken into account the intended purpose of the allocation in HC10, which is to cater for the educational needs of Halton residents in the Halebank area. That is to say that the purpose of the educational allocation is not merely to cater exclusively to new residents who may eventually occupy the housing intended for Site W24.

It is assumed that the location chosen through the local plan process, embodied in Policy HC10 and by the site identified as EDU3 reflected an assessment by the LPA of how to meet those wider educational needs. The allocation of Site EDU3 was not controversial at the Local Plan Examination. The applivsnt

did not seek to contest the location and the DALP was found to be sound on the basis inter alia of Policy HC10 and the Site EDU3 allocation.

To develop housing on Site EDU3 conflicts with the allocation and reservation of the site for education purposes. That part of the application is not in accordance with the development plan. There are no material considerations to outweigh the development plan, and none have been identified by the applicant in accordance with Section 38(6) of the Act.

Similarly, there is no planning policy basis to justify the proposed relocation of the school into the allocated housing area, W24. Policy RD1 does not refer to the development of facilities such as schools as an adjunct to any of the housing allocations and the fact that sites allocated for education purposes under Policy HC10 indicates that the allocations in Policy RD1 are not to be construed inter alia for facilities such as schools. Therefore, that element of the application proposal is also inconsistent with the development plan.

In addition, the applicant does not control all of the land within allocated sites W24 and EDU3. The analysis in the DAS demonstrates that there is conflict between the residential and non-residential elements of the application proposal. As a result, the proposals 'decant' part of the development into adjacent unallocated land in the open countryside.

The 'decanted' element of the proposal would be located in the Green Belt, where there is a presumption against inappropriate development. The Planning Statement suggests that this part of the development would not be inappropriate because it consists of the school's outdoor play facilities. NPPF ¶150e) indicates that material changes of use of land such as for outdoor sport and recreation will not be inappropriate, "*providing they preserve... openness and do not conflict with the purposes of including land [in the Green Belt].*"

The notations on the Parameters Plan submitted with the application indicates that development proposed in the Green Belt will include "Education Use (use class F1(a)); playing fields and landscaped areas, excluding buildings; and Green Infrastructure including open space, access and associated infrastructure".

There is no evidence that this form of development would satisfy the test of NPPF ¶150e). School facilities are not identified as a Green Belt exception in national planning policy and as the curtilage of a school building the resulted area would constitute previously developed land. There has been no assessment of the characteristics of the proposal and how it would impact upon openness and the purposes of including land in the Green Belt. As noted, not all the details of the proposed development are known in this case because all detailed matters except for access are reserved for subsequent approval.

The indications are that the specification for any new school facilities to serve Halebank will not be known for some time. This is the rationale for the 'reserve' approach in DALP Policy HC10. Considerations relevant to consideration for openness could include playing surfaces, lighting and perimeter fencing which all have the potential to impact upon openness.

In the absence of evidence to demonstrate that openness would be preserved, the proposed incursion into the Green Belt must be regarded as inappropriate development. Very special circumstances would need to exist in order to overcome the presumption against inappropriate development that would then apply. There has been no attempt by way of planning justification to identify the existence of very special circumstances.

The Planning Statement does refer to a series of environmental benefits, which include planting to the western edge of the site to provide ecological enhancements and form a defensible boundary with the Green Belt. However, rather than specific benefits to the proposal, these are necessary requirements for the proposals to comply with DALP Policies including RD4, HE1, HE4, HE5 and GR1.

In addition, it is noted that there is an apparent commitment on the part of the landowner to provide compensatory improvements to land remaining in the Green Belt. However, there is no information as regards the detail. Policy RD1 indicates that development on sites including W24 will need to provide appropriate mitigation for the loss of Green Belt land in line with NPPF requirements. Given that no measures are proposed, that would also conflict with the relevant policies of the DALP.

Conclusion

The application must be determined in accordance with the development plan, unless material considerations indicate otherwise.

The application conflicts with the development plan in several respects. In particular, the application proposes residential development on Site EDU3 which the Plan requires to be reserved for Education purposes; a school on site W24 which the Plan allocates for housing; and school facilities on land located in the Green Belt. It would also appear that there are no compensating measures to enhance the surviving Green Belt land.

In the absence of material considerations to outweigh the identified conflict with the development plan, we remain of the view that planning permission ought not be granted for the application proposal as it stands. Any contrary decision made by the LPA would potentially be open to legal challenge.

Yours sincerely,

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cc. Hale Bank Parish Council