

A representation regarding Gladman Developments Appeal to the Planning Inspectorate – Wiltshire Council Planning Application No: 18/02373/VAR

Planning Inspectorate Appeal Reference APP/Y3940/W/18/3204107 –

Variation of Condition 22 of 13/05188/OUT relating to the Foundation Investigation Plan

Site Address: Land North of Bath Road, Corsham, Wiltshire, SN13 0QL

Clearly, this has become an extremely technical case in terms of planning 'law', application history, site geology and construction technology. I could not hope to address these technical issues properly so I will defer to those that have done so through their own thorough research and the reports of their technical experts. These are the Pickwick Association (PA) in their submission to the Planning Inspectorate dated 4th September 2018 and PA's experts, GWP Consultants.

I would, however, make the following observation with regard to Gladman Developments' 250-page submission which states, in section 6.2.3, the following: ***"In essence, this is the central point of difference between the Appellant and the Council for the purposes of this appeal."*** That 'difference' is propounded in sections 6.2.1 and 6.2.2 as follows:

6.2.1 The Practice Guidance (PPG) was first published on 6th March 2014 and it expands and provides additional guidance on policies within the Framework.

6.2.2 In respect of the use of conditions, PPG advises (Reference ID: 21a-007-20140306), which is especially pertinent to this appeal:

"When can conditions be used that prevent any development until the requirements of the condition have been met (conditions precedent)? Care should be taken when considering using conditions that prevent any development authorised by the planning permission from beginning until the condition has been complied with. This includes conditions stating that 'no development shall take place until...' or 'prior to any works starting on site...'. Land north of Bath Road, Corsham Appellant Statement of Case Such conditions should only be used where the local planning authority is satisfied that the requirements of the condition (including the timing of compliance) are so fundamental to the development permitted that it would have been otherwise necessary to refuse the whole permission. A condition precedent that does not meet the legal and policy tests may be found to be unlawful by the courts and therefore cannot be enforced by the local planning authority if it is breached. Development carried out without having complied with a condition precedent would be unlawful and may be the subject of enforcement action."

What could be a more "fundamental" condition than to ensure that houses do not suffer vibration and noise from mine workings beneath? Notwithstanding the overarching assertiveness of current planning policy guidelines in favour of 'sustainable development', if Wiltshire Council does not exercise the precautionary principle in such circumstances then they could well be taken to task (or to court), in future, by residents (should this appeal be granted and should anyone be foolish enough to purchase a property above a shallow, working mine) or their representatives.

The local housing picture

It is somewhat galling for Gladman, in para. 1.2.11 of its submission, to blame Wiltshire Council for including the site's figures in its 2018 Housing Land Supply Statement. It is hardly the Council's fault that Gladman has failed to fulfil its commitment to produce a foundation design plan. Indeed, in para. 1.2.6 Gladman states: "...

given the specialist nature of the modelling which has informed the proposed foundation design, sourcing and appointing suitable consultants to enable the Council to discharge Condition 22, has taken an inordinately long period of time". Yes, too much time and it is by no means clear that this modelling will ever be completed.

And this is all so unnecessary. In the Corsham/Pickwick – Rudloe/Hawthorn ‘corridor’ alone, **548 new homes are either already constructed, under construction or planned** (with permission). These are the Redcliffe, Bradford Road site (170 homes under construction); the Bellway, Copenacre site (100 homes under construction); the Bellway ‘Dickens Gate’, Bradford Road site (88 homes due to start construction in October 2018); the ex-RAF Rudloe No. 2 Site, Westwells Road site (180 homes with planning permission) and the ‘Neston Gardens’, Westwells Road site (10 homes, just constructed).

As indicated, the 548 homes of the last paragraph are in the same, west Corsham ‘corridor’ as the subject proposal. But in the Corsham Community Area as a whole, further developments are either underway or planned; these are: the ‘Corsham Rise’, Potley site (64 homes, just built); the ‘Brook Drive’ site (35 homes with permission) and the ‘Sands Quarry’, Westwells site (110 homes, planning application pending).

These developments will more than satisfy the housing requirement for the Corsham Community Area (ref. Appendix 6 of Wiltshire Council’s 2018 Housing Land Supply Statement).

Looking to the future (and reflecting on the past)

In March 1999, the then Department of Environment, Transport and Regions announced a Land Stabilisation Programme, based on the Derelict Land Act 1982. This was designed to deal with abandoned non-coal mine workings which were likely to collapse and threaten life and property. A Bath and North East Somerset Council outline bid for a two-phase stabilisation project for the shallow, abandoned Combe Down mine workings was accepted in August 1999.

A five-year central government-funded project began in late 2005 to stabilise and fill the abandoned Combe Down workings. £154.6 million was granted for the works which total included £22.7m which had already been used for emergency stabilisation work before the approval of the main project. The work was largely complete by November 2009, by which time approximately 600,000 cubic metres of foamed concrete had been used to fill 25 hectares of very shallow limestone mine, making it the largest project of its kind in the world.

Whilst the Pickwick mine workings, below the subject site, are and will be smaller than the Combe Down workings, this is what the future could hold for the subject speculative development.

Conclusion

The subject development is speculative, unnecessary, possibly unsafe (if the precautionary principle is followed) and the appeal should be refused.

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