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Dear Ms Briggs

20/00630/FUM - Land south of Brick Lane, Mepal

I am instructed in relation this matter and have had sight of the various correspondence between yourself and Edward Clarke at PlanSurv.

The Site and the Application

As I understand it, application 20/00630/FUM at the site South and West of the Bungalow, Brick Lane, Mepal, Cambridgeshire ("the Site") for the erection of 55 dwellings, new access, estate roads, driveways, parking areas, open space, external lighting, substation and associated infrastructure ("the Development") was submitted on 19th May and validated by East Cambs District Council ("the Council").

The Site fell within the Parish of Sutton (and is therefore part of the 30 May Sutton Neighbourhood Plan Area) but is on the settlement boundary of Mepal and now falls within the Parish of Mepal itself. There is no Mepal Neighbourhood Plan.

The Site is within East Cambridgeshire and within the Local Plan Area for the extant adopted East Cambridgeshire Local Plan 2015. The Site falls outside of the Development Envelope in the 2015 Local Plan and otherwise does not appear to be bound by any site specific policies in either the Sutton NP or the Local Plan (either as Sutton or Mepal).

The Site was promoted through the call for sites and all subsequent rounds of the previous Local Plan Review. The emerging Local Plan, (now withdrawn following Examination in Public by the Secretary of State appointed inspector), included the Site as an emerging allocation MEP.H1 with an indicative capacity of 50 dwellings.

Legal/Policy position

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Section 38(6) of The Planning and Compulsory Purchase Act 2004 requires that decisions on planning applications be made in accordance with the adopted Development Plan unless material considerations indicate otherwise.

PlanSurv and the applicant have already provided a compelling case as to why planning permission should be granted for this site and particularly in the context of paragraph 11 of NPPF.

As I understand the Council's position, the case cannot be made regarding it being a rural exception site as the Sutton Neighbourhood Plan is silent on that point and the site, despite not being located in the Parish of Sutton, is still bound by the Sutton Neighbourhood Plan.

The Sutton Neighbourhood plan states (my emphasis):

8.1 The adopted Local Plan identifies the strategy for the location of growth in the district for the period up to 2031. It plans for most growth to take place in Ely, Soham and Littleport but also plans for some growth at Sutton. The document states that 173 new homes would be built in the village between 2013 and 2031, averaging just under 10 a year. There were 32 new homes completed in the parish between 2013 and 2017. At 1 April 2017 there were permissions for a further 11 homes.

8.3 The Local Plan defines a Development Envelope for the village, within which there is a presumption in favour of new residential development. During the course of the preparation of this Neighbourhood Plan a review of the Development Envelope was undertaken. In the light of the allocations being made in this Neighbourhood Plan, the Development Boundary has been amended to include land north of Mill Field that was granted planning permission for housing in September 2017 and which is allocated for development in this Plan.

8.10 The withdrawn Local Plan Review allocated a site at Brick Lane, Mepal for residential development. The site currently falls within the Sutton parish boundary but, with the withdrawal of the Local Plan Review from examination, the proposed site allocation fell away and, given that it adjoins the built-up area of Mepal, this Neighbourhood Plan does not allocate it.

Policy NP3 – Sutton Development Envelope

The Sutton Development Envelope is defined on the Proposals Map. Sustainable development proposals within the Envelope will be supported in principle subject to being of an appropriate scale and not having an unacceptable impact on:

- i) the amenity of residents;*
- ii) the historic and natural environment;*
- iii) the provision of services and facilities; and*
- iv) the highway network.*

Land outside the Development Envelope is defined as countryside where development will normally only be allowed for agriculture, horticulture, forestry, outdoor recreation and other uses which can demonstrate a need to be located in the countryside.

It is therefore clear that the Sutton NP *does not* prevent this scheme from coming forward.

Local Plan Policy

Policy HOU 4 (exception sites) states as follows (again my emphasis):

Affordable housing development on exception sites can make an important contribution to meeting local housing needs, and schemes may be permitted on sites outside settlement boundaries where:

- There is an identified local need which cannot be met on available sites within the development*

envelope (including allocation sites), or sites which are part of community-led development.

- *The site is well related to a village which offers a range of services and facilities, and there is good accessibility by foot/cycle to those facilities.*
- *No significant harm would be caused to the character or setting of the settlement and the surrounding countryside.*
- *The scale of the scheme is appropriate to the location and to the level of identified local affordable housing need.*
- *The scheme incorporates a range of dwelling sizes, types and tenures appropriate to the identified local need; and*
- *The affordable housing provided is made available to people in local housing need at an affordable cost for the life of the property.*

An element of open market housing will only be acceptable where there is insufficient grant available, and it is demonstrated through financial appraisal that the open market housing is essential to enable delivery of the site for primarily affordable housing, and does not significantly increase the land value above that which would be payable if sufficient grant were available to provide 100% affordable housing.

As stated in the Accompanying Statement to the application, the proposal meets the criteria set out in Policy HOU 4 and seeks to address both the settlement's requirements for affordable housing as well as addressing some of the requirement for the district as a whole, thus:

- There is an identified local need – There is a need for 11 affordable dwellings within the village of Mepal with a further 83 households expressing an interest in living in Mepal, as recorded on the East Cambridgeshire Housing Register, as such the proposal will meet the local needs of Mepal as well as part of the need identified in the wider district.
- The site is well related to a village – The site is located adjacent to the settlement boundary of Mepal and formed a previously emerging allocation for housing in the recently withdrawn plan. The site is bounded on all sides by roads and forms a natural extension of the village with Brick Lane forming the northern boundary with residential properties on the opposite side of the road. Future residents will be able to walk into the village to access facilities via the existing public footpaths. It should be noted that the changes to the parish boundary has brought the site within the Mepal parish boundary from the neighbouring parish of Sutton.
- No significant harm would be caused to the character or setting of the settlement and the surrounding countryside – The site forms the southern approach to the village and while its development will alter the appearance of the village the careful design, including the location of the open space towards the Sutton Road and the retention, where possible, for the existing screening vegetation, will ensure that the verdant entrance to Mepal is maintained. While the site is, for the purposes of planning, part of the open countryside it is an isolated field on the edge of the village cut off from the wider agricultural landscape by the A142 and the Sutton Road, therefore, it represents a logical extension of the village and its development represents no harm to the character of the village or that of the surrounding countryside.
- The scale of the scheme is appropriate to the location and to the level of identified local affordable housing need – While the proposal will address the identified need within the village for 11 affordable dwellings and is of a similar size to the previously emerging allocation the 55 affordable dwellings is in excess of the Mepal requirement. It should be noted, however, that of the 530 households on the housing register in East Cambridgeshire 83 have expressed a desire to live in Mepal. The proposal, therefore, seeks to address both the local and part of the wider district requirement for affordable dwellings.
- The scheme incorporates a range of dwelling sizes, types and tenures appropriate to the identified local need – The mix of dwellings and tenures is summarised above and is a product of discussions with Kim Langley, housing enabling officer at East Cambridgeshire District Council.
- The affordable housing provided is made available to people in local housing need at an affordable cost for the life of the property – The proposal is accompanied by draft Heads of Terms,

which will form the basis of the planning obligation under Section 106 of the Act to secure the affordable nature of the properties, set out stair casing arrangements for the shared ownership units as well as the basis for the affordable rents.

In the context of Paragraph 11(c), the Development would accord with the Sutton NP element of the Development Plan perhaps save for the last sentence of Policy NP3. But, that refers to development *outside the Development Envelope [...] will normally only be allowed for agriculture, horticulture, forestry, outdoor recreation and other uses which can demonstrate a need to be located in the countryside.* i.e. “normally” only being allowed, rather than always. It does not state development for other uses will never be allowed and that is quite deliberate. It is silent on Rural Exception sites, as is the rest of the NP. If one were argue that there is not an up to date development plan, or an up to date plan policy on rural exception sites, then it is Paragraph 11(d) which is more relevant than Paragraph 11(c) then to me there is no doubt that the case would be made under 11(d).

However, the fact is there *is* a relevant Development Plan Policy on Rural Exception Sites, and that is Policy HOU4. As above, the Development is in accordance with HOU4. It appears that the Council is not disputing that, but is rather concluding that there is a conflict between HOU4 and NP3. Presumably the Council would therefore be making a case that paragraph 30 of the NPPF is relevant, and that *“Once a neighbourhood plan has been brought into force, the policies it contains take precedence over existing non-strategic policies in a local plan covering the neighbourhood area, where they are in conflict; unless they are superseded by strategic or non-strategic policies that are adopted subsequently”*.

I would argue strongly that this is not the case. Firstly, a policy on Rural Exception Sites is a Strategic Policy, as per the NPPF and in line with the Council’s strategic objectives outlined in Chapter 2 of the Local Plan. Secondly, in any event, even if it is not a strategic policy, the wording of NP3 does not bring it into conflict as the wording in NP3 is not an absolute prohibition on development outside of the Settlement Boundary (Development Envelope) and silence on Rural Exception Sites does not therefore create a conflict. Thirdly, that the point of having a Rural Exceptions Policy is that it is an *exception* to other housing policies in the Development Plan. That is its very purpose.

Rural Exception Policies in the NPPF

Mepal Parish Council have argued that the proposal does not (or arguably might not) comply with Paragraph 71 or 77 of the NPPF. As they put it, the criteria under Para 71 for an Entry Level Site are not met, and Para 77 for a Rural Exception Site might not be met. If NPPF 11(c) is the relevant section, then as set out above, it is Local Plan Policy HOU4 which is relevant and has been met. If it is 11(d) of the NPPF, then paragraph 77 of the NPPF then needs to be considered when assessing whether the adverse impacts of granting permission would *significantly and demonstrably outweigh the benefits* , when assessed against the policies in the NPPF *taken as a whole*.

Paragraph 77 states (my emphasis):

In rural areas, planning policies and decisions should be responsive to local circumstances and support housing developments that reflect local needs. Local planning authorities should support opportunities to bring forward rural exception sites that will provide affordable housing to meet identified local needs, and consider whether allowing some market housing on these sites would help to facilitate this.

As set out above, *there is a need for 11 affordable dwellings within the village of Mepal with a further 83 households expressing an interest in living in Mepal, as recorded on the East Cambridgeshire Housing Register, as such the proposal will meet the local needs of Mepal as well as part of the need identified in the wider district.*

Conclusion

The Applicant has made a compelling case for the grant of planning permission for the Development on a site which was allocated in the (now withdrawn) emerging Local Plan. It is not in significant conflict with current Development Plan policies, including Local Plan Policy HOU4 and Sutton Neighbourhood Plan policy NP3. Whether one assesses the development in the context of an up-to-date development plan, or not, the Development should be granted planning permission on the basis of *inter alia* conformity with HOU4 and/or NPPF 77.

There is not a conflict between policies NP3 and HOU4 by virtue of the drafting of both of these policies and the absence of a site specific policy in the Sutton Neighbourhood Plan or absence of a Rural Exception site policy generally is not a ground for refusing this application.

My firm view is that a strong case has been made by the applicants for the Development in this location the application is in accordance with local and national policy and on balance permission should therefore be granted.

Should you have any queries please do contact me.

Yours sincerely



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For and on behalf of Birketts LLP

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