

Mr Peter Stacey  
Turley Associates Ltd  
10 Queen Square  
Bristol  
BS1 4NT

Our Ref: APP/P0240/A/09/2110667

10 June 2010

Dear Mr Stacey

**TOWN AND COUNTRY PLANNING ACT 1990 (SECTION 78)  
APPEAL BY J S BLOOR (NORTHAMPTON) LTD  
APPLICATION REF: SB/09/00163/OUT  
LAND AT STOKE ROAD, LEIGHTON LINSLADE**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Christine Thorby MRTPI, IHBC who held a public local inquiry on 19 January 2010 into your client's appeal under Section 78 of the Town and Country Planning Act 1990 against the decision of Central Bedfordshire Council to refuse outline planning permission for residential development of up to 199 dwellings, strategic open space, children's play areas and ancillary car parking, landscaping and engineering works, on land at Stoke Road, Leighton Linlade, in accordance with application number SB/09/00163/OUT, dated 13 March 2009.

2. On 3 September 2009 the appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because the appeal relates to proposals for significant development in the Green Belt.

3. The Inspector, whose report is enclosed with this letter, recommended that the appeal be dismissed and planning permission refused. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions and with her recommendation. All paragraph references, unless otherwise stated, refer to the Inspector's report (IR).

**Policy Considerations**

4. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan comprises the East of England Plan (EoEP); the Milton Keynes and South Midlands Sub-Regional Strategy (MKSMSRS); the Bedfordshire and Luton Structure Plan 2011; and, the South Bedfordshire Local Plan Review (Jan 2004). The Secretary of State considers that the development plan policies most relevant to the appeal are those set out by the Inspector at IR13-20.

5. Other material considerations include, Planning Policy Statement (PPS) 1: *Delivering Sustainable Development*, Planning Policy Guidance Note (PPG) 2: *Green Belts*, PPS3: *Housing*, PPS7: *Sustainable Development in Rural Areas*, Circular 11/95: *Use of Conditions in Planning Permission*, Circular 05/2005: *Planning Obligations*, and those documents listed at IR22.

6. The emerging Luton and South Bedfordshire Core Strategy is a material consideration, but as it is at an early stage in its progress towards adoption the Secretary of State affords it limited weight.

7. The Secretary of State has also taken into account the draft document entitled *New Policy Document for Planning Obligations*, issued for consultation on 25 March 2010, and the consultation draft *Planning Policy Statement: Planning for a Natural and Healthy Environment*, issued on 9 March 2010. However, as these documents are still at consultation stage and may be subject to change, he affords them little weight.

8. In reaching his decision the Secretary of State has taken into account as a material consideration his letter of 27 May 2010 in which he stated "*I am writing to you today to highlight our commitment in the coalition agreements where we very clearly set out our intention to rapidly abolish Regional Strategies and return decision making powers on housing and planning to local councils. Consequently, decisions on housing supply (including the provision of travellers sites) will rest with Local Planning Authorities without the framework of regional numbers and plans. I will make a formal announcement on this matter soon. However, I expect Local Planning Authorities and the Planning Inspectorate to have regard to this letter as a material planning consideration in any decisions they are currently taking.*" Consequently, notwithstanding that the East of England Plan and MKSMSRS currently constitute part of the development plan, the Secretary of State affords them less weight in determining this appeal than he would have done prior to the publication of his letter. However, he does not consider it necessary to refer back to parties on the implications of this change of weight before reaching his decision as he would anyway have refused planning permission for this proposal (even had, for example, the EoEP housing targets been afforded their former weight) on the grounds that very special circumstances have not been demonstrated and that the proposal is not in line with the development plan - his reasons for doing so being set out in this letter.

### **Main Issues**

9. The Secretary of State agrees with those preliminary matters set out in IR130. He also agrees that the main considerations are those set out in IR131.

### **Whether the proposal would be inappropriate development in the Green Belt and the effect on the openness of the Green Belt**

10. The Secretary of State agrees with the Inspector at IR132 that the proposed development does not fall within the definition of appropriate development set out in PPG2. In line with PPG2, he attaches substantial weight to the harm to the Green Belt through inappropriateness. Like the Inspector, the Secretary of State considers that the proposal would extend the built up area, would encroach into the open countryside, form

urban sprawl and reduce the openness of the site. He considers that this harm to the Green Belt carries significant weight against the proposal (IR133).

11. The Secretary of State has gone on to consider whether there are other material considerations of sufficient weight to clearly outweigh the harm by virtue of inappropriateness and other harm, and which constitute very special circumstances sufficient to justify development in the Green Belt

#### Effect on the character and appearance of the area

12. The Secretary of State agrees with the Inspector that the proposal would fail to comply with the aims of PPS7 and of development plan policies which seek to maintain the countryside as an important natural resource and to protect its local character. He also agrees that the damage to the landscape would weigh considerably against the proposal (IR140).

#### Impacts of sewage treatment works on future residents

13. The Secretary of State agrees with the Inspector's reasoning and conclusions regarding the impact of sewage treatment works (STW) on future residents as set out in IR141-147. He agrees that the evidence of no harm from odour to future residents is not convincing and that there could be a risk of regular and unacceptable odour annoyance to such an extent that it would detract from the future residents' living conditions (IR145). He shares the Inspector's view that in this respect the proposal conflicts with national and development plan policies which seek high quality residential environments and protection of residents' amenities, and that this carries some weight against it (IR145), albeit he notes that odour control methods could be employed in the future, if, for example, the STW were expanded or upgraded (IR147).

#### Impacts of proposal on living conditions of those living nearby

14. The Secretary of State agrees with the Inspector's reasoning and conclusions on the impact of the proposal on the living conditions of those living nearby, as set out in IR148-149. He agrees that there would be no immediate loss of outlook or privacy to the occupiers of nearby houses (IR148) and that residential amenity would be protected (IR149).

#### Housing supply

15. The Secretary of State agrees with the Inspector's reasoning and conclusions on whether the proposal would assist in meeting national housing policy objectives, having regard to the supply of housing as set out in IR150-156. He agrees that the proposed housing provision, including affordable housing provision, would contribute to housing targets in an area identified for housing growth where there is a shortfall and this is a material consideration in favour of the appeal proposals (IR156). The weight he affords to this matter is tempered by the fact that he affords less weight to the housing figures set out in the EoEP than formerly. However, even had the EoEP housing targets been afforded their former weight he does not consider that the contribution this proposal would make to meeting those targets would be of sufficient weight to demonstrate very special circumstances, either alone or in conjunction with those other factors which weight in favour of the proposal.

### Provision of strategic open space

16. The Secretary of State agrees with the Inspector's reasoning and conclusions on the provision of strategic open space, as set out in IR157-159. He agrees that the appeal proposal would improve access to the countryside and contribute towards improving surrounding public open space, in accordance with national and development plan policies (IR157). However, he also agrees that the weight in favour of the proposal to be given to this aspect of the scheme is limited given that the whole site already contributes to Green Infrastructure provision without the necessity for it to be open to the public (IR159).

### Other matters

17. The Secretary of State concurs with the Inspector's view, for the reasons she gives, that there would be no harm arising from the proposal as regards archaeological and ecological matters, rights of way and transport and traffic (IR160-163).

### Conditions and planning obligation

18. The Secretary of State has considered the proposed conditions in the light of the Inspector's comments at IR114-119 and national policy as set out in Circular 11/95. He considers that the proposed conditions as amended by the Inspector comply with the policy tests in that circular. However he does not consider that they overcome the reasons for dismissing the appeal.

19. A signed and dated unilateral obligation was submitted during the inquiry. The Secretary of State has considered the obligation and national policy as set out in Circular 05/2005. He agrees with the Inspector's conclusions on the various provisions of the obligation (IR121-129). Following the close of the inquiry, the Community Infrastructure Levy Regulations (CIL) came into force (on 6 April 2010) and are a material consideration. They introduced, amongst other things, three statutory tests which planning obligations must meet, and which apply to determinations made on or after 6 April 2010. The Secretary of State considers that the provisions in the obligation which the Inspector has identified as not meeting the tests in the Circular 05/2005 also fail, for the reasons given, to meet the statutory tests set out in CIL. Accordingly, those parts of the obligation which do not meet the tests in the Circular have not been afforded any weight, and the other parts that do meet the test do not carry sufficient weight to overcome the reasons for refusal.

### Overall conclusion

20. The Secretary of State agrees with the Inspector's conclusions as set out in IR164-170. Having weighed up all the material considerations, he concludes that the benefits of the proposal, in the shape of the provision and enhancement of strategic public open space and a contribution towards housing supply, including much needed affordable housing, do not clearly outweigh the harm to the Green Belt by virtue of inappropriateness and other harms and that very special circumstances to justify development in the Green Belt do not exist. He considers that the proposal conflicts with the development plan and that there are no material considerations of sufficient weight which would justify allowing the appeal.

## **Formal Decision**

21. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby dismisses your client's appeal and refuses outline planning permission for residential development of up to 199 dwellings, strategic open space, children's play areas and ancillary car parking, landscaping and engineering works, on land at Stoke Road, Leighton Linlade, in accordance with application number SB/09/00163/OUT, dated 13 March 2009.

## **Right to challenge the decision**

22. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court.

23. A copy of this letter has been sent to Central Bedfordshire Council and all parties who appeared at the inquiry.

Yours sincerely,

Michael Taylor  
Authorised by the Secretary of State to sign in that behalf