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Mr Nick Eveleigh
Chief Executive
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Our Ref: ZA51855

29 November 2018

Dear Mr Eveleigh,

Planning Application 18/01476/FUL | Change of use of land to Gypsy & Traveller Site and provision of 9 pitches, site office and associated infrastructure | Land East Of Drakes Lane Industrial Estate, Drakes Lane, Little Waltham, Chelmsford

It has been brought to my attention that on Tuesday 4 December 2018 the Council's Planning Committee will be considered the above referenced planning application. Despite making a number of representations to the Council on this application I was disappointed to have not received notification of the Committee meeting.

However, I have reviewed the report and the officer recommendation for approval. The content of the report and the recommendation is both disappointing and flawed. It does not address the concerns which have been raised and it is astonishing that the Council is recommending for approval a site which contravenes national and local planning policies. I would urge the members of the Planning Committee to refuse this planning application and would be grateful if the content of this letter and the content of my previous correspondence could be made available on the evening for them to consider.

As my letter of 18 September 2018 illustrates, this planning application contradicts existing Core Strategy Policy DC34. This Policy lists four clear tests which need to be met for a site to be approved and this site fails three of them. My letter highlights that public transport is not readily available and that shops, schools and medical facilities are also not present in the vicinity of the site. Moreover, by virtue of its distance from services and the fact it is isolated, the site is also unacceptable in terms of living conditions. It also harms the character and appearance of the area as there is no site like this one in this area. Indeed, this is an industrial area and there are no other residential dwellings in the immediate proximity and vicinity of the site.

Likewise, the application fails to satisfy the criteria of emerging Policy HO3 within the draft Local Plan currently being considered by a Planning Inspector. I will comment further on the relevance of the emerging policy and the weight which should be applied to it. However, should the Planning Committee be minded to afford the emerging policy a

high degree of weight then it is important to highlight the fact that this application contravenes the emerging policy.

Policy HO3 contains a full list of criteria which must be met for a planning application to be successful. This includes the need for there to be "adequate community services and facilities within reasonable travelling distance"; that there is "no significant adverse impact on the intrinsic character and beauty of the countryside"; and that "the site provides a suitable living environment for the proposed residents and there is no significant adverse impact on the amenity of nearby residents." The same reasons and evidence base demonstrating that the application contravenes Policy DC34 apply in demonstrating the incompatibility of this application with Policy HO3.

Furthermore, and of particular importance, is the fact that this planning application contravenes national planning policy. As the Council is currently in-between Local Plans with a new Plan not yet adopted and an existing Plan having Policies which are vulnerable to being deemed to be out of date, the importance and weight to be attributed to national planning policy is particularly important. Indeed, in the Focused Review of the Core Strategy 2013, the Council stipulates that in advance of a new Local Plan being adopted the Council "will use the National Planning Policy for Traveller Sites and the National Planning Policy Framework as material considerations in the determination of planning applications for Traveller accommodation."

Consequently, it is important for the members of the Planning Committee to be fully aware of these policies when making a decision on this planning application. In particular, I would draw the attention of the members of the Planning Committee to the following provisions in the updated national 'Planning Policy for Traveller Sites' document:

Paragraph 4.j states that sites for Travellers should provide "suitable accommodation from which travellers can access education, health, welfare and employment infrastructure"

As referenced already, the proposed site does not satisfy those criteria and my letter of 18 September 2018 provides more evidence, including the distances to schools and health facilities exceed two miles and the poor public transport links.

Furthermore, paragraph 25 stipulates that Councils should "very strictly limit traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan"; and paragraph 26.d states that Traveller sites should be determined in a way that avoids "the impression...that a site and its occupants are deliberately isolated from the rest of the community."

It is clear from the application being considered that it does not satisfy these national planning policy criteria as the site is isolated and is away from existing settlements.

The Council has sought to justify this approach by referencing the establishment of the North East Chelmsford Garden Community. However, that development is not guaranteed as it is still being considered through the Local Plan process. Moreover, while the development of this Traveller site could be undertaken and complete within one or two years of receiving planning consent, work on the Garden Community may not

begin until the mid-2020s with the full range of services and facilities not being in place until the 2030s. Furthermore, the site is still around one mile from the projected boundary of the Garden Village.

Therefore, the case advocated by the applicant and by the Council that the Garden Community addresses the deficiencies with this planning application is false and misleading.

In essence, the Council would not grant planning permission for a development of nine houses or nine flats on this site as it would be unsuitable, unsustainable and inappropriate. It should not, therefore, grant permission for this proposed Traveller site.

My letter of 18 September 2018 covers these points in more detail and I trust that members of the Planning Committee will consider its contents in full and the grounds provided to refuse this application.

With reference to the report to the Planning Committee, I am concerned to see that throughout the report the Council is making optimistic assumptions about the draft Local Plan currently undergoing inspection, the level of weight which is being applied to emerging Policy HO3 and the weight being applied to the assumption that the North East Chelmsford Garden Community will be approved, developed and established.

As previously referenced, the Council makes assumptions about the Garden Community to support this planning application. However, I would contend that the weight to which the Council has attached to the Garden Community is unreasonable and excessively high.

The case in favour is presented by the Council as such. In a letter to me dated 26 July 2018 from the Council's Chief Executive, it was stated in relation to the sustainability of the site that:

"...there are 3,000 new homes proposed less than one mile to the south of the [Drakes Lane] site as part of the North East Chelmsford Garden Village proposals contained within the Local Plan which will include new community services and facilities. This includes new schools, GP services, sports and recreation facilities and improved public transport links to the area."

Paragraph 8.33 of the planning officers report states that:

"The proposal would have a minor negative impact in sustainability terms in the short term but would be improved in the longer term, with the advent of the proposed Garden Community."

This statement is repeated in paragraph 11.4:

"The application would have a minor negative effect in sustainability terms in the short term, but this would be improved in the longer term with the proposed North East Chelmsford Garden Community."

However, it is clear from the draft Local Plan that the Garden Community could be many years away from contributing services and facilities to this and surrounding areas. Page 145 of the draft Local Plan states that: "7.209 The development is expected to be delivered between 2022/23 and 2035/36".

The draft Local Plan also does not contain any information about the phasing of the new services and facilities in the Garden Community. Therefore, in making a recommendation to approve the Drakes Lane site, the Council is relying on the expectation that, in the event that the draft Local Plan proposals are approved, at some point in the future between the mid 2020s and mid 2030s and located at least one mile away from Drake Lane with no guarantee of suitable access between Drakes Lane and the Garden Village, there may be some facilities and services available.

Given the risks involved in delivery of the Garden Village, it would be wholly inappropriate for the Council to rely on this future development to provide services and facilities for the proposed Traveller site at Drakes Lane. Indeed, it is unclear how the Council has reached this conclusion and whether it has taken legal advice on this approach.

Moreover, despite the Council relying on the future Garden Community as a ground to approve the application, paragraph 8.31 of the officer report advises that the facilities and services at the Garden Community are not designed for people who would live in Drakes Lane. It states that: "8.31 The Drakes Lane site is not currently served by the services and facilities proposed as part of the new North-East Chelmsford Garden Community."

This comment contradicts other statements made.

Therefore, not only is the Council wrong in relation to this planning application to rely on the possible future presence of a new Garden Village, such a Garden Village is not being designed to provide facilities and services for Drakes Lane.

Consequently, the case given by the Council in support of the Garden Village stands significantly undermined.

Moreover, also in respect of the emerging draft Local Plan, I am concerned that the Council has placed unreasonably high levels of weight on the relevant policies in the draft Local Plan, including Policy HO3 and Policy Travellers Site GT1.

In support of the Council's recommendation, the officer report has made a number of favourable references to the emerging draft policies. Paragraph 7.1 of the officer report, under '7. Main Issues', states that "the acceptability of the proposal, when considered against national planning policy and the location criteria in Policy HO3 of the Draft Chelmsford Local Plan" is one of the three main issues of concern.

Paragraph 8.88 states:

"Having regard to the immediate and evidenced need for Gypsy and Traveller pitches, the testing and discounting of reasonable alternative sites and the proximity of Drakes Lane

within a future area of change, Site Allocation GT1 is not considered illogical or unsound. Taking these factors into account, it is officer's position that the Gypsy and Traveller site can come forward ahead of the wider development in North-East Chelmsford, much of which has already been granted planning permission and is currently under construction."

Paragraph 8.21 of the report then goes on to reference paragraph 48 of the National Planning Policy Framework (NPPF) to seek to justify placing a greater degree of weight on the emerging Local Plan policies. It is important to note that paragraph 48 of the NPPF contains three tests by which the weight of emerging Local Plans can be considered. The first is the stage of preparation of the Local Plan; the second is the extent to which there are unresolved objections to the relevant policies; and the third is the degree of consistency of the relevant draft policies with the NPPF.

In paragraph 8.21 of the officer report, it is stated that the Plan is at an advanced stage due to the examination in public taking place now. That may be the case. However, it is still subject to the assessment of the Planning Inspector who will determine whether these draft policies are sound; and the Council's comments on the two other tests are dubious.

On the "unresolved objections" test the Council officer has stated that: "The specific changes suggested by objectors to the Local Plan in relation to the policy are limited and the Council can justify its position in not taking on board the proposed changes."

However, those objections are substantive and the Council's policies will be tested and challenged during the inspection. As the Council has only put forward one site in the draft Local Plan for Travellers those objecting are questioning the process and way in which the Council has reached this conclusion and determined the suitability of this location. As such, those objections are significant and are unresolved and consequently the Council cannot dismiss them as being "limited." Consequently, the unresolved objections to the relevant draft Local Plan policies are significant and this therefore prevents the Council and planning decision-makers from applying significant weight to the emerging plan. Therefore, no weight should be applied to the emerging and draft policies HO3 and GT1.

In relation to the test of consistency with the NPPF, the Council officer has stated that "The adopted Development Plan pre-dates both the Government's National Planning Policy as contained within the PPTS and NPPF; therefore it is appropriate to give greater weight to Policy HO3 of the Draft Chelmsford Local Plan." However, just because the Council's currently adopted Development Plan policy pre-dates the PPTS and NPPF, it does not automatically follow that it is inconsistent with it and out of date; and nor does it automatically follow that emerging draft Local Plan policy should be given "greater weight."

The officer report provides no further explanation as to why "greater weight" should be applied to the emerging draft Policy HO3 and only concludes in paragraph 8.23 of the officer report that the existing Policy DC34 may not be up to date because it states that "two 10 pitch Gypsy and traveller sites are required, which is now not the case" due to more recent evidence. Given that allocations are a minimum level the fact that the existing policy may exceed the number needed derived from recent evidence does not automatically make it out of date: the policy is about more than just the number and the

policy can still be interpreted within the context of new numbers from recent evidence.

It is unclear whether the Council has sought any legal advice to justify its position and conclusions on the degree of weight and importance to apply to the emerging draft Local Plan. Given the complexities of these matters and the assumptions the Council has made, it would have been prudent for such advice to have been sought.

Nevertheless, based on the facts of the Local Plan process, the conclusions reached in the officer report on the weight to be attributed to the emerging draft Local Plan policies are flawed and perverse. This is an unjustifiable attempt by the Council to try to validate the designation of this site under draft Policy GT1 to secure planning consent for this application.

Consequently, it is wrong for the Council to list the acceptability of the application in relation to the emerging draft Local Plan policy as being a main issue (paragraph 7 of the officer report). However if it does, then for the aforementioned reasons, the application still fails to satisfy the requirements of Policy HO3. It also fails to satisfy current Policy DC34. Moreover, if it is deemed to be the case that the Council does not have an up to date relevant policy, then the fallback position is to apply the national Planning Policy for Traveller Sites, where once again, this planning application for Drakes Lane fails to comply with its tests and its criteria.

Whether measured against current local policies emerging local policies or the relevant national planning policies, this planning application is unacceptable and I would strongly urge members of the Planning Committee to refuse it.

Yours sincerely,

*With my good wishes
Priti Patel*

Rt Hon Priti Patel MP
Member of Parliament for Witham