



Mr Robert Cook,  
The Planning Inspectorate  
Room 3/02 Temple Quay House  
2 The Square  
Bristol BS1 6PN

June 3rd 2013

Dear Mr Cook,

**APP/A1530/A/13/2195924**

**Appeal by Bunting and Sons, London Road, Great Horkesley CO6 4AJ**

#### **1 Introduction:**

The Stour Valley Action Group (SVAG) was formed in 2001 at the time of the first Application for Horkesley Park. SVAG has a wide membership of about 700 people in the area, across the Country and internationally. Our objections to the Stour Valley Visitor Centre at Horkesley Park (Horkesley Park), Planning Application 120965, which is the subject of the current Appeal are dealt with in full in our various documents identified below which were sent to Colchester Borough Council (CBC) during the course of consultation on the Application. Copies of these are attached for ease of reference.

- 1. July 26<sup>th</sup> 2012** - Response to Application 120965 including detailed report on planning policy issues from Pomery Planning Consultants acting for SVAG on Planning Policy considerations.
- 2. July 31<sup>st</sup> 2012** - Supplementary Response with report from Visitor Attraction Consultants.
- 3. September 25<sup>th</sup> 2012** – Letter from Pomery Planning Consultants acting for SVAG relating to policy issues raised by the Applicant.
- 4. October 3<sup>rd</sup> 2012** – Response to issues raised by the Applicant.
- 5. January 25 2013** – E-mail from Mrs Patricia Ramsay, SVAG Committee Member, concerning Chinese Gardens.
- 6. January 28<sup>th</sup> 2013** – Letter from Mr J Eddis, SVAG member, concerning viability.
- 7. February 7<sup>th</sup> 2013** – Response to CBC letter of 17<sup>th</sup> January inviting further written comment on the Application. This includes Counsel opinion, a further paper from Pomery Planning Consultants on policy issues and a review of viability issues.
- 8. February 12<sup>th</sup> 2013** – E-mail from Georgina Harding, SVAG Committee member, concerning research on availability of Constable Paintings.
- 9. February 13<sup>th</sup> 2013** – Letter concerning deficiencies in Sykes Leisure Projects report.
- 10. February 18<sup>th</sup> 2013** – Response to Britton McGrath report dated 12<sup>th</sup> February 2013.
- 11. February 24<sup>th</sup> 2013** – Document to Councillors summarising reasons for objection.

Our chief reason for objection to Horkesley Park is that it would cause irreparable harm to the Dedham Vale Area of Outstanding Natural Beauty, destroying its peace and tranquillity, and the naturalness for which the area is internationally famous. Landscape Design Associates, one of the Appellant's own consultants, support the peace and tranquillity arguments against Horkesley Park and state in a document prepared for the Countryside Commission in 1997 about the Dedham Vale:

*“ it is the absence of public awareness and pressure that has preserved much of the charm of the Vale, contributing to its timeless, quiet and undiscovered character.”*

The AONB is the jewel in the crown of the Colchester Borough and Babergh District and must not be put at risk for the sake of commercial gain and the very doubtful generation of a limited number of new jobs. Colchester Borough Council’s consultants. Britton McGrath Associates point out that it would generate only 50-60 jobs compared with the 170 claimed by the Appellant and even these would be subject to very stringent conditions being applied as pointed out in their fifth report. We contend that, if the Appeal were to be upheld, it would set a precedent for inappropriate development in and adjacent to AONB’s across the Country. This is surely not the intention of the Government as enshrined in the NPPF.

The potential harm to the AONB from the increased visitor numbers and the associated traffic on local roads is not outweighed by any benefits that might accrue and no reliable evidence has been presented to support this. We contend that Horkesley Park does not meet the tests for sustainable development required by the NPPF and is crucially not deliverable. We comment further on deliverability in our Document to Councillors of February 24<sup>th</sup> and in our comments on Additional Grounds 13 and 14 below.

In view of the overwhelming rejection by the Colchester Borough Council Planning Committee by a 10 to 4 majority and the comprehensive reasons given for rejection given in the Notice of Planning Decision dated 28<sup>th</sup> March 2013, we believe that the Appeal must be rejected by the Inspector appointed and that this decision should be upheld by the Secretary of State.

## **2 Summary of objections:**

We presented our objections to the proposals in our document to Councillors dated February 24<sup>th</sup> 2013. We would ask the Inspector to review this document in full but, subject to some minor changes resulting from the Planning Committee hearing, the summary of these objections are as follows:

### **Summary of objections:**

- **It is contrary to planning policy at National and Local levels on many grounds.**

**Specifically it is contrary to the protections given to the AONB at National and Local levels. It is contrary to the policies of the NPPF that promote sustainable development. Para 16.16.28 of the Colchester Borough Council’s Planning Officer’s Report to the Planning Committee confirms that it is not in accordance with CBC’s own development plan (para 16.16.28).**

- **Crucially, the scheme is not deliverable as proposed.**
- **According to Britton McGrath in their report of 12<sup>th</sup> February 2013, it would only attract 150,000 visitors per annum at the very most.**
- **It is almost certainly not be viable as a business even at these reduced visitor numbers.**
- **According to the Council’s own consultant, Britton McGrath Associates, it would only deliver 50-60 jobs compared with the 170 jobs forecast by the applicant.**
- **There is no proven need for it. All its elements (except the Chinese Garden) are available in the East of England.**
- **It is not sustainable. 96% of journeys will be by private car or coach.**

- The applicant has not met any of the vital pre-conditions set out by Britton McGrath in their fifth report.
- No genuine Constables have been secured.
- Funding for the Chinese Garden had not been secured at the time of the Planning Committee hearing.
- No details have been given of the necessary buildings in the AONB associated with the Chinese Garden.
- The Suffolk Punches would not be a significant 'draw'.
- There is no link between the Constable Experience, The Chinese Garden and the Suffolk Punches.
- Britton McGrath recommends independent market research amongst potential customers which has not been done.
- There will be harm to the setting of the Grade I Listed Church of All Saints.
- There are serious concerns about the use of the s106 agreement to delegate many decisions to officers without proper scrutiny.
- The applicant has a regrettable history of retrospective applications for activities on the London Road site.
- The level of informed opposition is firmly against Horkesley Park.

### **3 Grounds for Appeal:**

In the Grounds for Appeal (the Grounds) dated 4th March 2013 our comments are as follows:

#### **Preamble:**

The statement made in the preamble to the Grounds that the Council did not refuse planning permission as being contrary to the Development Plan, National Planning Policy Framework or any other policy is not supported by the Notice of Planning decision (the Notice) where the opening statement is that:

*“the Council has determined that this application is not in accordance with the development plan (the Core Strategy Adopted December 2008 (CS) and the Development Policies Adopted December 2010 (DP)).”*

#### **Ground 1:**

Ground 1 relates to Policy issues.

To state that the application proposals are in accordance with policy is clearly incorrect. As stated above, the Notice states that the proposals are not in accordance with the Development Plan, the NPPF and other material Planning Policy. The areas of conflict are identified in detail in the Notice and it is stated to be contrary to SD1, CE1, TA1, TA4, ENV1, ENV2, DP1, DP9, DP10, DP17, DP19, DP22, NPPF 115, NPPF 116. It is also contrary to the adopted Dedham Vale AONB and Stour Valley Management Plan policies SP2, SP5, SP7, EtA2, EtA3, EtA4, EtA5, TaT1, and TaT5.

Paragraph 16.16.28 of the officer's document presented to the Planning Committee states that:

*“ in your officer's opinion therefore Horkesley Park is overall not in accordance with the development plan.”*

The application proposals are not in accordance with policy in many respects.

### **Ground 2:**

Ground 2 relates to the need for rural tourism.

This is not a Ground for Appeal in itself and simply presents an unsubstantiated need for rural tourism in the Stour Valley, Dedham Vale and East of England. We have refuted the question of need in our documents above and the issue has also been examined in detail by Nathaniel Lichfield and Partners (NLP) in their report of 9<sup>th</sup> November 2012. Paragraph 3.32 of the conclusion to this NLP report states:

*“ There are many other attractions that provide similar types of facilities with those proposed at Horkesley Park. In our view none of the proposed elements of Horkesley Park in isolation or combined as whole have sufficient draw to suggest it will be a tourist attraction of regional significance.”*

The supposed benefits that the Appellant extols in this Ground are matters of opinion and not fact.

### **Ground 3:**

Ground 3 relates to viability.

The statement made relating to viability in this Ground is not correct. Britton McGrath, as Consultants for CBC, did **not** confirm that the Appellants Business Plan as submitted would be viable. On the contrary, they said that it would lose money at the rate of £1,799,000 per annum. Only at very much reduced visitor numbers and applying very specific conditions did they say that some form of development on the site might be viable. This would not be in the form of the Application as submitted and would, in our view, have to be the subject of a separate Application.

### **Ground 4:**

Ground 4 relates to the proposal not being a major development in the AONB.

We are not aware that the Council Officers have confirmed that the proposals were **not** a major development in the countryside and that it was in a sustainable location as claimed in this Ground. The Notice confirms that it is contrary CE1 and DP9 which therefore implies that it is considered to be a major development in the countryside. The Notice states that the development is located in an unsustainable location due to its heavy reliance on access by private car. The Vectos report makes it clear that the application is unsustainable from the point of view of access by sustainable transport and that it would rely on access by private car for at least 82% of its visitors.

The Appellant offers no evidence to support their contention in this Ground that the application proposals will enhance the countryside and the AONB. The Notice makes it clear that the contrary is true in stating that:

*“The intensity of proposed uses at and within the vicinity of the site, including human and associated vehicular movement and activity, would result in an alien and contextually*

*incompatible development that is considered incapable of assimilation with the intrinsic character and beauty of the AONB and the wider countryside.”*

We entirely support this statement in the Notice.

**Ground 5:**

Ground 5 relates to Highways and traffic issues.

Essex and Suffolk Highways did not raise objection to the Application but only subject to very specific requirements from Essex Highways in particular. The conditions imposed by Essex Highways in terms of the provision of regular, subsidised and (in some cases) free, transport would probably impose an unacceptable financial burden on an otherwise marginal or loss-making business. The question of impact of traffic approaching the site using satellite navigation devices (as is now common practice) was raised at the Planning Committee hearing. It was confirmed by Essex Highways that the potential impact of access using SATNAV devices had not been considered. We remain concerned that the impact of additional traffic from the 316,000 visitors per annum on minor roads has not been properly addressed.

**Ground 6:**

Ground 6 relates to ‘operational harm to the AONB’.

It is not clear what is meant by ‘operational harm’. The Councillor for Dedham on the Planning Committee pointed out the fact that the Flatford Mill Centre (as one of the main honeypots in the Dedham Vale) is already seeking to control visitor numbers due to pressure on the facilities. Additional visitors from Horkesley Park would only serve to exacerbate this situation. We contend that the additional traffic on minor roads and through villages such as Nayland would cause operational harm.

**Ground 7:**

Ground 7 relates to adverse harm to the AONB.

As written this is not a Ground in itself but merely a statement of intent by the Appellant. We trust that no new evidence will be allowed by the Inspector (as indicated in this Ground), that was not available at the time of consideration of the application by CBC.

**Additional Ground 1:**

Additional Ground 1 is essentially a repeat of Ground 1 above regarding compliance with policy.

To claim that the proposals are in accordance with the relevant policies of the Development Plan is manifestly untrue as stated in our comment on the preamble and Ground 1 above.

**Additional Ground 2:**

Additional Ground 2 deals with CBC’s obligations in respect of para 215 of the NPPF.

We would contend that the Colchester Development Plan has a high degree of consistency with the NPPF and therefore should be given great weight. The lack of compliance of the Application with the Development Plan is reason enough for it to be refused. We would support the fact that CBC has properly assessed its obligations under the provisions of paragraph 215 of the NPPF.

**Additional Ground 3:**

The proposals are clearly not in accordance with the Development Plan.

**Additional Ground 4:**

Additional Ground 4 deals with sustainable tourism in the countryside.

The proposals do not represent sustainable tourism in that they are at least 82% reliant on access by private car. There is also serious doubt about their economic sustainability. CBC has made it clear that it does not reflect the character of the countryside as quoted in our comments on Ground 4 above.

**Additional Ground 5:**

Additional Ground 5 deals with traffic issues.

Comments in respect of traffic are given in Ground 5 above.

With regard to car parking, the 720 spaces to be provided is vastly in excess of the number required under DP19 which would only require 483 based on the planned floor area of 9650 sqm. This excess suggests some longer term plan for the site beyond that envisaged by the current application.

**Additional Ground 6:**

Additional Ground 6 claims that the scheme is not large scale.

The proposed scheme is considered to be large scale and unsustainable as stated in our comments on Ground 4 above.

No market survey has been carried out by the Appellant to establish the needs of tourists in the region, therefore the statement in this Additional Ground 6 that the development is to 'meet the needs of tourists in the region' cannot be substantiated.

**Additional Ground 7:**

Additional Ground 7 deals with the Travel Plan.

As stated in Ground 5 above, the Travel Plan proposed would probably render the project even less viable and therefore even more undeliverable than it is a present. CBC has made it clear that it is not a sustainable location, contrary to the claim in this Additional Ground.

**Additional Ground 8:**

Additional Ground 8 deals with the level of activity associated with proposed development.

The Appellant's claim in this Additional Ground is not supported by the CBC. The quotation from the Notice given in Ground 4 above makes it clear that CBC consider that the development would be inappropriate based on their judgement, which we entirely support.

**Additional Ground 9:**

Additional Ground 9 deals with the proportion of the development within the AONB.

The claim that the development 'is largely outwith the AONB' is manifestly wrong. Over 75% of the site lies within the AONB.

There will be new buildings within the AONB for which no details have yet been provided. These will be associated with the Chinese Garden. We do not yet know the details of the Chinese Garden but Mrs Ramsay, in her e-mail of 25<sup>th</sup> January 2013, says that '*often the classical (Chinese) garden will contain a two storey pavilion at one of its edges*'. We understand that the

Chinese Garden is to be located at the north end of the Chantry Garden where it will **not** be protected by the walls of the existing garden (see Additional Ground 11 below). There is therefore the potential of an entirely alien building surrounded by new, alien walls being located in a prominent position in the AONB.

**Additional Ground 10:**

This Additional Ground deals with the impact of visitors on the AONB.

The Council have given their reasons for refusal based on policy as identified in Ground 1 above. In the Notice they have stated that:

*“The visitor numbers and traffic associated with the proposed operation including park-wide and special events would have an adverse impact on the AONB by reason of the uncharacteristic intensity of human leisure activity within this farmland landscape.”*

We contend that the judgement of the Council regarding the impact on the countryside and the lack of compliance with policy are sufficient reasons to reject this Additional Ground.

**Additional Ground 11:**

This Additional Ground deals with the Chinese Garden.

We have commented on the Chinese Garden in Additional Ground 9 above. We are not aware of any agreement between the Appellant and the Council concerning details of the Chinese Garden not being required during the Application stage. Any such agreement, if it exists, is highly regrettable in view of the potential adverse impact on the AONB of new buildings that might be associated with the Chinese Garden. New information that has not previously been available to the General Public should not be allowed at the Inquiry.

We are also of the view that the Chinese Garden in itself goes against the very essence of the AONB and could well introduce alien plant species which could cause damage to the AONB.

**Additional Ground 12:**

This Additional Ground avers that the development would enhance the AONB and improve the countryside.

Our comments in respect of Additional Ground 10 above apply.

**Additional Ground 13:**

Additional Ground 13 claims that the benefits of the proposals are significant and in themselves are sufficient material considerations to warrant the granting of planning permission.

Any benefits that might accrue would only accrue if the proposal were to be deliverable. From the Britton McGrath reports, it is clearly not deliverable as originally proposed. Britton McGrath contend that the 316,250 visitors per annum submitted by the appellant will not be achieved, revenue from all sources is grossly exaggerated and that the resulting generation of 180 Full Time Equivalent (FTE) jobs is completely unrealistic. They state that the attraction would lose money at the rate of £1,799,000 per annum as proposed. They contend that 50-60 jobs and 150,000 visitors per annum are the maximum that could be achieved and that this might just be viable. This would of course a completely different application and the numbers would be insufficient to ‘deliver’ Horkesley Park as proposed.

We have demonstrated in our Response of July 26<sup>th</sup> 2012 and other documents listed above that the Tourism Evaluation Report, which must underpin the redacted Business Plan, uses assumptions that are seriously flawed in terms of the potential visitor market and penetration

rates applied. Our conclusion that potential visitor numbers would be about 150,000 per annum, are supported by Britton McGrath, Nathaniel Lichfield and Partners and Visitor Attraction Consultants.

This Additional Ground 13 must therefore be set to one side.

**Additional Ground 14:**

Additional Ground 14 deals with the question of viability and sustainability. The Additional Ground only quotes part of the Notice which states in full that :

*“The Council considers that the harm resulting from the breaches of development plan and other planning policy would be such that planning permission should be refused. For that harm to be justified to any degree and the development considered sustainable, it would be essential that the benefits claimed should be shown to be capable of viable and sustainable delivery. It is in this context that the Council has considered that the viability and financial sustainability of the proposals is a material planning consideration though its conclusions on these matters do not amount of themselves to a further reason for refusal. It has not been demonstrated to the Council’s satisfaction that the proposed development is commercially viable and sustainable.”  
(our additional emphasis)*

The Council is clearly not satisfied that the proposals are either financially sustainable or viable – most certainly not at the original level of visitor numbers and income from all sources predicted by the Appellant. The possible benefits are not deliverable and therefore they do not outweigh the harm from breaches in policy. This must surely be sufficient reason for refusal of the Appeal in itself. The public has not had the ability to see the Appellant’s Business Plan but the conclusions of the Consultants, who have seen it, make it quite clear that the project is not viable and is therefore not deliverable.

**Additional Ground 15:**

This Additional Ground relates to the Section 106 Agreement.

We are concerned that a large number of issues that might otherwise be the subject of public scrutiny through the planning process are to be delegated to LPA once the S106 is in place. We trust that the Inspectorate will consider this when the final S106 Agreement is available

**4 Reservation of Rights:**

In view of the erratic nature of the Grounds of Appeal, we reserve the right to make further comments after the Statement of Case and Proofs of Evidence are submitted in accordance with the Inquiry programme.

**5 Conclusion:**

In our view, the Grounds and Additional Grounds for Appeal have little or no merit for the reasons set out above. The reasons given for rejection of the Application as set out in the Notice are robust and we trust that the Inspector will reject the Appeal.

Yours sincerely

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