

LAND AT UPNOR ROAD, UPPER UPNOR

---

OPENING STATEMENT ON BEHALF OF  
MEDWAY COUNCIL

---

1. That there is a significant need for housing in Medway is not in dispute. It is a factor that the Council had at the forefront of its mind when considering this application, as it does in relation to all applications for residential development.
2. But the degree of housing need in Medway cannot obscure the substantial harm that this proposal would cause to a landscape which is as an acknowledged by all parties to be “valued” within the meaning of the NPPF.<sup>1</sup>
3. The Appeal Site and its surroundings constitute an integral part of the Hogmarsh Valley Area of Local Landscape Importance (“ALLI”): a designation which reflects not only landscape importance - in terms of its character and visual amenity - but also the important functions the landscape performs.
4. In particular, the ALLI “forms a green buffer” between, amongst others, the settlements of Frinsbury, Wainscot and Upper Upnor; “provides an attractive green backdrop for the built-up areas”; and “provides an attractive setting for a major gateway within the borough – the Medway Towns Northern Relief Road”<sup>2</sup>.
5. The Appeal Site – which occupies an elevated, prominent location, and which has an undeveloped, attractive character – makes a significant contribution to each these functions.<sup>3</sup>
6. The landscape harm caused by the proposal would be multifaceted and irrevocable.
7. The essentially rural character of local area would be eroded by the readily visible and locally prominent incursion of built development onto the Appeal Site. The

---

<sup>1</sup> Main SoCG, para 1.5

<sup>2</sup> BNE34, supporting text

<sup>3</sup> Etchells, para 4.3.3

Medway Character Landscape Assessment (“MLCA”) highlights the threat of such an erosion<sup>4</sup>, and specially highlights the need to “*protect...wooded and open farmed ridges and slopes...from intrusive development*”<sup>5</sup>. The “farmstead typology” of the proposed buildings and the incorporation of areas of open space within the proposal would not negate the harmful alteration in the character of the local area that this development would bring about.

8. The visual amenity of the area would be also considerably diminished. The adverse visual effects would be particularly pronounced for walkers on the various public rights of way in the vicinity of the site, who are sensitive receptors; users of Upnor Road, which is acknowledged by the Appellant’s witness to have an “*intimate character, sense of seclusion and rurality*”<sup>6</sup>; as well as residents of Castle Street, and Tower Hill House. This visual harm cannot be ignored because, in views from the west, a row of houses on Castle Street are currently visible.
9. And the functions of the ALLI would be undermined by the proposal. A sizeable – and given its elevated location, prominent – portion of the “*green buffer*” between Wainscott and Upper Upnor would be lost. The “*attractive green backdrop*” which the Appeal Site and woodland beyond currently provides in views from the west and northwest would be significantly compromised. And the “*attractive setting*” of Medway’s major gateway would be diminished.
10. These harms, together with the consequential breaches of development plan and national policies, justify the refusal of planning permission for the proposal. Taken together they demonstrate, unequivocally, that this is the wrong development, in the wrong place, at the wrong time to meet Medway’s acknowledged housing need.<sup>7</sup>
11. Nor should the Inspector assume that the harms caused by this proposal are the necessary corollary of meeting Medway’s housing needs.
12. The Council is facing up to the challenge of meeting its housing needs.

---

<sup>4</sup> MLCA, p12

<sup>5</sup> MLCA, p63

<sup>6</sup> Chard, para 5.8

<sup>7</sup> Cf. NPPF, para 8(a) which requires “*sufficient land of the right types is available in the right places and at the right time...*”

13. In the development management context this has meant granting a large number of permissions for sustainable residential development on unallocated sites outside of current development boundaries. This has included granting some permissions for development within ALLIs – where the development in question would neither significantly alter the character, nor undermine the functioning, of the valued landscape.
14. Notwithstanding the inevitable lag between grants of permissions and the provision of actual houses of the ground, the Council’s positive approach to these applications has garnered real results: the number of dwellings completed in 2019/20 (1,130) was the highest ever number of residential completions since Medway became a Unitary Authority in 1998. And the number of units under construction last year was even higher (1,629).<sup>8</sup>
15. However, the most fundamental way in which the Council is facing up to the challenge of meeting its housing needs is through its emerging Local Plan.
16. In 2018 the Council consulted on a Regulation 18 Plan which promoted “Four Development Scenarios” each of which would provide *in excess* of the entire housing need required in Medway until 2037. None of the scenarios included any contribution from the Appeal Site, which had been assessed by the Council to be unsuitable in its Strategic Land Availability Assessment (SLAA).
17. The Council will shortly publish its Regulation 19 Plan and submit it to the Secretary of State for examination. It is through the plan-led process that the Council will meet its housing needs in full. The emerging plan was provided a significant boost – and the Council’s vision for future development of its area was vindicated – when in November 2019 the Government announced an award of £170m through the Housing Infrastructure Fund (HIF) for infrastructure improvements to enable delivery of the Local Plan. The Council’s planning for the expenditure of the HIF funding is well underway, as is evidenced in the latest consultation on the subject earlier this year.<sup>9</sup>
18. Turning back to this proposal, the Government objective of significantly boosting the supply of housing is, of course, an important part of national planning policy. But as

---

<sup>8</sup> Canavan, 6.22 to 6.23

<sup>9</sup> Medway “New Routes to Good Growth” (January 2021) [CD5.5]

the inspector in the *Gladman* case - whose decision was upheld first by both the High Court, and Court of Appeal - remarked: "*it is not the be all and end all*".<sup>10</sup> It is to be balanced against other priorities of national policy, including the requirement to protect and enhance valued landscapes.<sup>11</sup>

19. In this case the substantial harm that would be caused to the landscape character, the visual amenity and the functioning of the valued landscape - and the consequential breaches of development plan and national policy - significantly and demonstrably outweigh the benefits of the proposal, including the delivery of market and affordable housing, the provision of a nursery and biodiversity enhancements.

20. For all these reasons, which will be more fully addressed in the Council's evidence and articulated in its closing submissions, the appeal should be dismissed.

**ROBERT WILLIAMS**

**Cornerstone Barristers**

**28<sup>th</sup> September 2021**

---

<sup>10</sup> **CD6.10** *Gladman Developments Limited v Secretary of State for Housing Communities and Local Government* [2021] EWCA Civ 104 (para 17 of Judgment)

<sup>11</sup> NPPF, Para 174(a)