



## **Fradley and Streethay Parish Council**

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**Chairman of the Council: Cllr Simon Roberts**  
**Clerk to the Council: Mrs Clare Orme**

Date: 2 March 2022

To: Helen Sherratt  
Lichfield District Council  
District Council House  
Frog Lane Lichfield  
Staffordshire  
WS13 6YZ

### **APPL REF: 22/00106/FULM - Full planning application for a residential development (109 units) with associated works and public open space, and access from Horner Avenue and Ward Close REPRESENTATIONS BY FRADLEY PARISH COUNCIL**

**1<sup>ST</sup> MARCH 2022**

#### **Introduction**

1. These representations have been prepared by Fradley Parish Council in response to planning application 22/00196/FULM (land off Horner Avenue). The Parish Council hereby OBJECTS to this application for the reasons given below.

#### **Location of development**

2. The application site is outside the settlement boundary of Fradley. Core Policy 1 of the Lichfield District Local Plan states that the housing requirement of at least 10,030 will be delivered "within the most sustainable settlements". The settlement boundary reflects the strategic development allocations that, along with completions and sites in the planning pipeline, will account for Fradley's contribution towards the district housing requirement. This reflects Fradley's position in the settlement hierarchy which is a function of the infrastructure in the village and its ability to support growth. The emerging Local Plan Review proposes to allocate further strategic housing sites to support growth over the period to 2040. It also does not propose to change the settlement boundary with respect to this site.
3. The applicant relies on the interpretation of Local Plan Allocations DPD Policy EMP1 and further argues that the consideration of 5-year housing supply is therefore irrelevant. However, the first policy principle that must be applied is the location of development outside the settlement boundary. Whilst allocated for employment use, this consideration must weigh heavily against an application that does not seek to contend that there is a shortfall against the five-year housing supply. The ability of a housing scheme to meet a shortfall in housing provision would be considered to have social sustainability benefits, so the absence of a shortfall means this

consideration cannot weigh in its favour. By contrast, the loss of needed employment land represents economically unsustainable development.

4. In this regard, the development cannot be considered to represent sustainable development, as identified paragraph 11 of the NPPF. The development plan must be read as a whole, rather than taking into consideration a single policy (EMP1) to the exclusion of all other policies and considerations of sustainable development.

### **Loss of employment land**

5. Notwithstanding the fundamental principle outlined above, it is necessary to address the designation of the entire application site within an Existing Employment Area. The Planning Statement correctly lays out the test of an application proposing uses other than B-class employment (from Local Plan Allocations DPD Policy EMP1). However, the Parish Council does not consider that the tests in Policy EMP1 have been applied correctly. The final clause in Policy EMP1 states that:

*"Such development proposals would also be supported if it can be demonstrated that the continued use of a site, or its development for employment for employment uses causes/or would lead to site-specific, environmental problems, such as noise, pollution of traffic generation, recognising the environmental benefits to be gained by redeveloping these sites for non-employment generating uses."*

6. The applicant considers that this clause is triggered because the only possible means of access to the application site is via Horner Avenue and Ward Close. In its disregard of the previous clause in Policy EMP1 (which seeks to establish viability of employment activity) it fails to consider reasonable alternative access points. The starting point must be the fact that because the site has been allocated, it has been established that employment uses in this location adjacent to existing residential uses are acceptable. Therefore, the sole issue put forward by the applicant is that it is only possible to access the site through these residential areas. However, access could easily be provided through the existing operational employment areas.
7. For such access to be provided, there must be a willing landowner. In this regard, the neighbouring land is under the ownership of Legal and General (L&G). Fradley Parish Council has engaged with L&G and can confirm two fundamental points:
  - a. L&G would, subject to the price and legal matters being resolved, potentially be interested in delivering employment uses from this land. Access could be provided from its land, thereby eliminating the need for any form of access via Horner Avenue or Ward Close.
  - b. In respect of the proposed development in this application, as far as we are aware, L&G has not been approached by the applicant to determine whether access could be provided to the site through their land.
8. It is considered that the applicant, in seeking to apply the final clause of Policy EMP1, has failed to demonstrate reasonable alternatives in two respects:
  - a. Whether there is interest in delivering employment uses on an employment allocation.
  - b. How access can be provided without creating additional loss of amenity for the residents of Horner Avenue, Ward Close and the surrounding roads.

9. Fradley Parish Council considers that it would be perverse to apply the final clause of Policy EMP1 without considering the policy as a whole and without any requirement for the applicant to demonstrate whether reasonable alternatives (for access) have been explored. To fail to apply this policy appropriately serves to sterilise what the District Council considers to be an important part of delivering its strategic objective of sustainable employment growth over the plan period (and, by virtue of its proposed retention, over the period of the current local plan review to 2040). Local Plan Core Policy 1 states, *"The Spatial Strategy in relation to employment aims to promote greater opportunities for high value employment within the District, including higher wage opportunities in growth sectors related to business, education and research. Part of the strategy is to provide a balanced portfolio of employment land able to accommodate higher value employment opportunities serving both Lichfield and Burntwood and support for investment and redevelopment of older, well located, existing employment sites."* You can't do that if you are losing employment sites in well-established employment locations.

### **Open space provision**

10. In the Planning Statement, the applicant calculates the open space provision required, as per Policy HSC1 of the Local Plan. There are several points to note from this which are as follows:

#### ***Open space included in the scheme***

11. The Parish Council has concerns regarding what open space is provided as part of the scheme. Paragraph 3.83 of the Planning Statement states:
- "The reduction of the development to 109 dwellings (as proposed in this planning application resubmission), means the public open space is policy compliant, without the need to bring into use, with these proposals, the open space that was supposed to be delivered through historic planning permission 01/01256/OUT (for 80 dwellings), approved on 24th September 2002, but never was."*
12. First, it is clear that the requirement to deliver public open space as part of the historic planning permission 01/01256/OUT (and required by the accompanying Section 106 agreement) was not carried out. That is a matter for enforcement by the District Council. But the fact that this hasn't occurred should not make this land available for open space provision related to a different site.
13. Nevertheless, if paragraph 3.83 of the Planning Statement is to be believed this is not an issue because this land is not contributing towards the open space requirement. Yet a number of submission documents show landscaping of this land, not least the six documents pertaining to the landscape strategy ('Jsl3588-rps-xx-ex-dr-l-9001\_p09\_fradley\_landscape 01.pdf', then numbered sequentially to 06.pdf). It is unclear why this is the case and whether this land is contributing.
14. The second point is that paragraph 3.85 of the Planning Statement states, "However, in this case, some 14,776m<sup>2</sup> (1.48ha) can be dealt with on-site (in the form of the bund and attention basins)". The bund referred to is on the land that is supposedly not required to meet the open space requirements.

#### ***Open space provision against requirements***

15. A large proportion of the natural and semi-natural greenspace is accounted for by the proposed attenuation basins. Whilst this could be included under the definition of such space (the Lichfield Open Space Assessment 2016 defines natural and semi natural greenspaces as having "...a primary purpose of wildlife conservation and biodiversity. This type of open space includes woodlands, urban forestry, scrubland, grasslands (e.g., downlands, commons and meadows), wetlands, open and running water, nature reserves and wastelands."), it cannot be in lieu of usable space. If this is removed from the calculation of the space provided (included at paragraph 3.84 of the Planning Statement), the total on-site provision would be only 8,057m<sup>2</sup>. This represents an average of 32m<sup>2</sup> of open space per person when the requirement is 232.7m<sup>2</sup> per person plus allotment provision. Whilst development can make contributions to off-site provision, Policy HSC1 of the Local Plan states that the District Council will support appropriate proposals that improve the quantity, quality and accessibility of green spaces. The Parish Council is of the opinion that an appropriately designed scheme on a site of this scale could do that. However, it chooses simply to make a contribution to what is an as-yet unidentified green space project which may or may not benefit the community of Fradley. If all development did this, there would be very limited amounts of green space in developments and instead, everyone would travel to the green space provided off site. Given that much of this travel is likely to be undertaken by car, this is not a sustainable approach.

### **Allotments**

16. Against the obligation to meet the requirement for allotments, the proposals make no provision. Moreover, paragraph 3.85 of the Planning Statement simply notes with a throwaway comment that, "We do not believe there to be an identified local need for allotments." Policy HSC1, in requiring "evidence of local demand" for allotments is not clear where the burden lies in establishing demand. Fradley currently has no allotments. In this regard it is not possible to determine whether there is a waiting list at an existing allotment facility. Policy Frad1 of the Local Plan which identifies the strategy for Fradley states that, "*Allotments should also be included as part of the green infrastructure and should be located so as to be accessible by all parts of the community.*" The Fradley Neighbourhood Plan identifies the lack of allotment provision as an issue and includes an action to engage with landowners of possible sites where allotments can be delivered.
17. A site such as this, close to the existing community, would be ideal for allotment provision. The Parish Council were not consulted about this by the applicant. No effort has been made to determine whether there is an existing need which, in a community completely lacking allotment provision, there inevitably will be (not least due to the significant increased interest in growing as a result of Covid lockdowns). It has also failed to reflect that the application site could accommodate the need arising from the growth of 150m<sup>2</sup> of allotment space. This could be on the open space proposed for the far east of the site which, by virtue of its location well away from the heart of the development and adjacent to a major trunk road (the A38), is unlikely to represent an attractive space that people will want to visit for general leisure. At very least allotment provision in this location, whilst far from ideal due to the pollution and noise from the A38, will provide an active use for this space.
18. The proposed play facilities are poorly located with little thought for the users, namely young children. The road layout means that only a very small number of houses will be able to access the play facility without having to cross the road. Whilst the road is proposed to have a 20mph speed limit, its design as a straight throughfare will inevitably lead to speeding, which will increase the

danger to children. The presence of a large employment site directly adjacent to the site creates the opportunity to route the road around the back of the houses, so moving them further from the employment uses. That would have enabled the heart of the development to be more resident and pedestrian friendly. These proposals do not represent good quality or inclusive design.

19. The lack of nearby housing means that natural surveillance of the play area will be limited, representing a missed opportunity to enhance the safety of children.

### ***Tree cover***

20. The Lichfield Trees, Landscaping and Development SPD requires that a development site provide 20% canopy cover when trees mature. The plans show very limited tree planting which will get nowhere near reaching this minimum threshold.
21. The approach to open space in this application is to squeeze as much as possible out of what little space it is prepared to provide and to do so in a way that results in a poorly designed layout. Overall, the public open space provision fails to be inclusive in design or of high quality and as such is in conflict with the requirements of Policy BE1 of the Local Plan Strategy and the Sustainable Design SPD. One of the reasons for refusal of the 2020 planning application (ref: 20/01178/FULM) was that "The proposed provision of public open space within the development is inadequate and would fail to provide appropriate inclusive, useable outdoor space given the location of the SUDs attenuation basins and the presence of existing land bunds which would be retained as part of the development." It is considered that this application has failed to address this adequately and should therefore be refused on the same basis.

### **Biodiversity net gain**

22. Given the confirmation in the Planning Statement that the adjacent open space which was intended to be part of the 2001 permission is excluded from the overall open space provision for the site, it is difficult to believe the calculations that the site will comfortably exceed the requirement for a minimum 10% net biodiversity gain. Other than private gardens (and it is unclear as to whether the applicant will fully landscape and plant these in order that they will contribute towards this biodiversity net gain), the site provides two small areas of open space, a play area (which, in order to meet safety requirements for play areas, is not likely to be green) and attenuation basins. As noted above, the planting strategy is limited when it comes to tree cover.
23. Whilst the Parish Council does not present evidence to demonstrate that the submitted calculations (as presented in Appendix 2 of the Ecological Assessment) are incorrect, it asks that the planning authority closely interrogates this data and the statement at paragraph 5.2.36 of the Ecological Assessment that, "...the exercise demonstrates a considerable biodiversity net gain at the site". Given the limited amount of open space provided at the site, coupled with the low level of tree cover, it is difficult to believe that this can be the case. If it were, then almost all residential schemes would have met these requirements over the years and there would be no need for biodiversity net gain to have been included in the Environment Act in the first place.

### **Highways**

24. In addition to the reasons for objection above, the Parish Council also objects to the planning application on highways grounds. The detail informing this objection is contained in the

accompanying report by IPaD entitled 'Review of Highways Access Proposals under Planning Application ref: 22/00106/FULM' (dated 25<sup>th</sup> February 2022). The conclusions of this report state:

*"...the applicant has provided no further justification or grounds that would satisfy concerns related to FSPC lifting its present objection to the scheme and considers that whilst there has been some change to key aspects of the site development proposals, the principles and detail set out in reference to the vehicular and nonvehicular access to the site remain intrinsically the same as under the previous planning application (ref: 20/01178/FULM)."*

25. The Parish Council requests that the IPaD report is taken into consideration when considering highways matters. (report attached)
26. The Parish Council requests that the email correspondence from Fradley and Streethay Parish Council to the Developer is taken into consideration when considering the lack of public consultation in relation to this application. (See appendix 1)
27. The Parish Council requests that the photographs are taken into account, which were taken on 3 March 2022 at approx. 5pm. (See appendix 2)

## Appendix 1

### Extract of email below:

Re: Land At Fradley - 20/01178/FUL  
From: clerk@fandspc.org <clerk@fandspc.org>  
Sent: Thu, 11 Nov, 2021 at 09:23  
To: Matt Gallagher, Alex Carlin, Philip Rawle  
Cc: Simon Roberts, Glen Bown

Dear Mr Gallagher, Mr Carlin and Mr Phil Rawle,

It is with great disappointment that we hear that you are now unwilling to speak with us. The Parish Council is always happy to engage with developers and you will know that we have gone to great lengths to be as helpful as possible to you in the past. You will note that you were furnished with a copy of the Council's 'Protocol and Guidance on Meetings with Developers' policy on 25 October 2021, which clearly sets out how the Parish Council will go about deciding how to conduct itself should requests for meetings from developers be received. This policy was strictly followed, and an extraordinary meeting was held especially to consider your request, incurring expense for the Parish Council and costing time for Councillors. You will remember that this is not the first time that you have put forward a proposal which has generated work for the Council, only for the proposition to be withdrawn in an untimely fashion.

You will have been able to access the agenda on our website which was published in advance and links were also published on local social media. The agenda clearly stated that two motions were to be considered - one was to determine if the Council was to agree to your meeting request and the second to decide whether such a meeting should be held in public according to our policy. You provided us with no reason that demonstrated to us that it was not in the public interest to hold the meeting with you with the public present. You provided the Council with scant information about the nature of the meeting and certainly not enough for us to meet a threshold where a private meeting could have been justified. Both motions were passed. Your casual and informal approach to communications has often made it hard for Councillors to fully understand your intentions; it would be wise for you to communicate with the Council in writing in future so that misunderstandings cannot occur.

During the Extraordinary Meeting on 8 November 2021, representations were made by members of the public, who were a part of a local resident's group who were very keen for the meeting to be held in public. Given the impact your proposals would have on them, their views held some sway. Members of the Council were also very clear that a public meeting would be desirable so that all parties could hear at first-hand what was being said and so that the chances of misinformation and rumours being disseminated could be reduced. You will recall how falsehoods quickly spread after news of your initial intentions regarding Horner Avenue became apparent. It is very much in everyone's interest that all dealings are conducted in an open and transparent fashion as I am sure you will agree. That is the purpose of our 'Protocol and Guidance on Meetings with Developers' policy.

We can fully understand why you might find a public meeting daunting, especially given the widespread public opposition to the previous proposal and what will be for many an unwelcome appeal. All of our meetings are strongly chaired and the role of members of

the public can be determined in advance. We have well-rehearsed procedures to ensure that all those in attendance behave well and that any unwelcome interventions are swiftly and decisively dealt with. We do not envisage the public playing an active part in the meeting nor being given the opportunity to ask you questions unless you invite them to do so. Although it would be desirable to allow them to contribute, this is entirely negotiable should you wish to avoid giving them the opportunity to engage with you directly for whatever reason.

In your telephone calls and in your few emails you gave no indication that you wished to speak to the Council in regard to its role as a landowner. You will recall that you previously began a process with us to attempt to acquire rights over a piece of land that would have given construction vehicles access to your proposed development site, On 24 August 2020, you withdrew from that process without warning and stated your intention instead to build houses where the access was to be from Common Lane. Wanting to speak to us as landowners is therefore a puzzling and surprising development.

You will be aware that the Council at its meeting on 21 January 2021, resolved not to allow its land to be used to facilitate the Horner Avenue development as it felt it was not in the interests of residents. Obviously, the Council will give full consideration to your new application and revise or affirm its position accordingly. As you are aware the Council's 'Land Disposal or Land Acquisition' policy must be adhered to should an approach be made by any party to acquire land owned by the Council or for the Council to acquire land itself. You should acquaint yourself fully with the policy which can be found on our website should you intend to put forward a further proposal. The Council found your attitude to the process lacking in substance when you last proposed acquiring land and your reluctance to answer its questions consistently and, in the detail, required, made it more arduous than necessary for both parties. It is very important that the previous approach to the negotiations is not repeated.

Given your experience in dealing with Parish Councils you will be aware that the Chair has no more power to make decisions than that of any other Councillor unless specific delegated authority has been granted by the full Council. Such authority has not been granted and therefore one to one discussion with the Chair on this matter are inappropriate. Please do not telephone him again for this purpose, furthermore all communications should go via the Clerk and to avoid confusion be in writing.

It would be most regrettable if you denied the Parish Council the opportunity to hear about your plans and we urge you to reconsider so that Councillors and members of the public can hear of your proposals first-hand.

Many thanks and kindest regards

Clare

Clare Orme  
Parish Clerk/RFO  
Fradley & Streethay Parish Council  
Marketing Suite Office, Wellington Crescent, Fradley Park, Lichfield WS13 8RZ  
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## Appendix 2

Photographs taken on 3 March 2022 at approx. 5pm.



