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Our ref: UPS1/1 (MRM/HAL)
Your ref: S23/0055

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By email only: adam.murray@southkesteven.gov.uk
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cc. to Committee Members

Dear Council,

URGENT: FOR PLANNING COMMITTEE MEETING ON 5 DECEMBER 2024

Re: Stamford North Planning Application for up to 1350 residential units and associated development¹

1. We are instructed by Stand Up for Stamford, a group of local residents who object to the above planning application ('our clients').
2. We are instructed on a limited basis to address certain legal and policy issues on behalf of our clients arising from the Committee Report for the Application ('the CR'). This letter is without prejudice to other points our clients might make in any future legal proceedings challenging a grant of permission. Significant and detailed objections have been submitted by Stamford residents including Laura Upson specifically, as well as Sports England. These other submissions demonstrate a number of reasons why the Application should be refused or at least deferred for necessary amendments, with particular emphasis on the potential adverse effects on the local population and use of Borderville Sports Centre from inclusion of the unallocated portion of the site and removal of the existing acoustic bund. However, given the very short time available, we write to make the committee aware of certain crucial points on which we consider the CR fails to adequately advise the committee.

¹ Outline planning application for the erection of up to 1,350 residential units (Use Class C2 and C3); a two-form entry primary school (Use Class F1); local centre (Use Classes E, F2 and public house, wine bar or drinking establishment; drinking establishment with expanded food provision; and hot food takeaway for the sale of hot food where consumption is mostly off premises); road between Ryhall Road and Little Casterton Road; removal of existing noise bund; associated green infrastructure including provision of public open space, landscaping, formal and informal play areas; utilities (including drainage); and associated access, including potential realignment of part of Ryhall Road, ancillary works and structures (All matters reserved) ('the Application') (Ref. S23/0055)

3. As outlined below, the Application involves several clear conflicts with the adopted Development Plan, particularly in relation to the inclusion of the unallocated land around Borderville Sports Centre.
4. **In summary:**
 - a. The Application conflicts with Policy SP4 of the South Kesteven District Council Local Plan and Policy 2 of the Stamford Neighbourhood Plan given its lack of demonstrated local support and the lack of demonstrated need for the additional unallocated area.
 - b. The Application's Environmental Statement lacks key information that would allow assessment of the noise impact of removal of the acoustic bund on neighbouring properties. The applicant is required by The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 to provide such information.
 - c. The existing information provided by the applicant on proposed noise mitigation to account for the removal of the bund is inadequate and lacks necessary detail to demonstrate effectiveness, allowing an unacceptable risk of adverse amenity impact on existing and future residents in conflict with Local Plan Policies EN4 and DE1.
 - d. Our clients support the comments of Sports England that there is an unacceptable risk of replacement pitches of adequate size, quality and location not being provided, in conflict with Para 103 of the National Planning Policy Framework and Local Plan Policy OS1.
 - e. The applicant's assessment of required Open Space provisions has not been carried out in accordance with local policy, and they have therefore not demonstrated that it will be possible to comply with the policy.
 - f. Given the multiple concerns above arising from the current layout, the application should be refused or at minimum deferred and an alternative layout considered.

Principle of Development/Planning Policy

5. The principle of development for the majority of the site is justified by its allocation for housing in South Kesteven District Council's adopted Local Plan. As noted in several places in the CR, this established principle of development does not extend to the unallocated portion around Borderville Sports Centre, including the removal of the acoustic bund (this part of the Application is referred to below as '**the Unallocated Land Proposals**'). The use of this land is a significant cause of community concern about the Application, features heavily in the contents of the 368 objections, is the subject of the objection of statutory consultee Sports England, and as outlined below, conflicts with several policies of the adopted Development Plan.
6. As the Council will be aware, and as the CR records at para 7.1, the Council must make planning decisions in accordance with the adopted Development Plan unless material considerations indicate otherwise (Planning and Compulsory Purchase Act 2004, s.38(6)). The Development Plan here comprises the South Kesteven Local Plan 2011-2036 (**the**

Local Plan') and associated Local Plan documents and the Stamford Neighbourhood Plan 2016-2036 (**the Neighbourhood Plan**).

7. The Unallocated Land Proposals conflict with Local Plan Policy SP4, which applies to development on the edge of settlements and is therefore applicable to the Application. SP4 provides that development on the edge of settlements must:
 - a. *demonstrate clear evidence of substantial support from the local community* through an appropriate, thorough and proportionate pre-application community consultation exercise. Where this cannot be determined, support (or otherwise) should be sought from the Town or Parish Council or Neighbourhood Plan Group or Forum, based upon material planning considerations;*
...
 - e. *in the case of housing development, meet a proven local need for housing and seeks to address a specific targeted need for local market housing;*
...
 - g. *As an exception to criterion a) above, a housing scheme which meets a demonstrable local need for affordable housing will be considered acceptable as a Rural Exception scheme*

The above criteria are described as 'essential' for a scheme to receive support and are conjunctive (aside from criterion g)); i.e. the Application needs to both 'demonstrate clear evidence of substantial support from the local community' and 'meet a proven local need for housing and seeks to address a specific targeted need for local market housing' unless the proposal 'meets a demonstrable local need for affordable housing' in which case the community support criterion may not need to be met. The CR assesses the Unallocated Land Proposals against Policy SP2, but does not mention Policy SP4 or assess the Application against these criteria.

8. If assessed against SP4, the Unallocated Land Proposals would not meet either of the criteria highlighted above based on currently available information.
9. The applicant's Design and Access Statement (p 116) outlines the pre-application public consultation exercise and its results, recording a majority opposed to the scheme after participating in the consultation process (with an overall 29% supportive or very supportive, 17% neutral and 54% concerned or very concerned). The applicant's summary of public concerns specifically highlights the Unallocated Land Proposals:

Removal of the bund. This particular issue received a high amount of feedback from residents whose properties currently back on to the bund and Borderville Sport Centre. There is concern that the removal will reintroduce noise, light and road traffic pollution.

10. It is clear from the above that substantial support from the local community was not demonstrated for the Application as a whole or for the Unallocated Land Proposals. We

note, too, that Stamford Town Council has submitted substantial objections to the Application as a whole, including to the use of this additional land; their support has therefore not been obtained.

11. Where the Council has a demonstrated 5-year Housing Land Supply and the land in question is not included in any allocation, there is no *proven need* for housing that inclusion of this additional land addresses.
12. This additional land therefore falls foul of criteria a) and e) above and conflicts with Policy SP4. Where the principle of development is not established for this additional land and there is a clear conflict with spatial planning policies, the Application should not be granted permission unless material considerations indicate otherwise. The CR does not consider this conflict or identify any material considerations that justify departing from the Development Plan in this case, so any grant of permission following the CR would be open to challenge on this basis.
13. The Neighbourhood Plan contains a similar but more stringent provision relating to 'Development on the Edge of Stamford' (Neighbourhood Plan Policy 2):

Proposals for development on the edge of Stamford will be carefully controlled. Proposals for residential development on the edge of Stamford will be supported where they are compliant with SKDC Policy SP4, and where appropriate, the following criteria:

- a) *It has support from the community and Stamford Town Council through the criteria identified in Appendix 2; ...*

We note that the Development Plan therefore additionally requires development of this kind to have both support from the community and the support of Stamford Town Council.

14. As outlined below, the Unallocated Land Proposals involve further potential conflicts with Local Plan policies on noise and light pollution and loss of privacy (EN4, DE1) and open space (OS1).
15. Despite being suggested in several representations, the applicant has not produced or considered an alternative layout plan involving running the link road along the development's northern edge or assessed the feasibility of this option (or any other alternative option). Given that the Unallocated Land Proposals are the focus of serious concerns for local residents and statutory consultees, the benefits and drawbacks of an alternative layout ought to be modelled and considered alongside the current layout plan. Having not done this, the applicant has not demonstrated that inclusion of the Unallocated Land Proposals is necessary for the development as a whole to proceed. The need for the wider development established by the Local Plan allocation and any other benefit of the development as a whole should not therefore be given weight in relation to the unallocated land.

Noise, Light and Overlooking

16. Local Plan Policy EN4 provides that ‘Development that ... would result in significant air, light, noise, land, water or other environmental pollution or harm to amenity, health well-being or safety will not be permitted. New development proposals should not have an adverse impact on existing operations.’ Similarly, Local Plan Policy DE1 provides that ‘development proposals will be expected to ... Ensure there is no adverse impact on the amenity of neighbouring users in terms of noise, light pollution, loss of privacy and loss of light’.
17. The Unallocated Land Proposals involve an unacceptable risk of increased noise and light pollution for existing residents, high levels of noise and light pollution for new residents, and interference with the current operations of Borderville Sports Centre. This being the case they would conflict with EN4 and DE1.
18. The Application plans lack key information to determine the nature of the risk of harmful amenity impacts.
19. To determine whether a conflict with EN4 and DE1 exists, the Application must be evaluated against the existing baseline of noise and light impacts with the bund in place. To this end, South Kesteven District Council recommended monitoring baseline noise levels in key sensitive locations including in locations either side of the bund.² The primary benefit of the bund is to the housing directly to its south, which it shields from noise and floodlighting from Borderville Sports Centre. It is not possible, therefore, to assess the current effectiveness of the bund without baseline monitoring in the housing to its south.
20. There is a lack of baseline monitoring data covering full use of Borderville Sports Centre. Sports England notes that (emphasis added):

As discussed, both the stadium pitch and AGP [Artificial Grass Pitch] can both be used up to 2230 hours each evening ... The stadium pitch also has use of a PA system. The parameters plan shows housing proposed within 7 metres of the stadium pitch and AGP However, the Noise Assessment Scheme published on the Council’s website does not include data on night time noise levels and the cumulative impact of the use of both the stadium pitch and AGP at the same time up to 2230 hours.

While the Environmental Statement states that monitoring was carried out during one match, data from this monitoring is not available in the Environmental Statement.

² SKDC’s EIA Scoping Opinion recommended that background noise monitoring ‘includes measurement locations immediately south of the Sports Centre – either side of the existing acoustic bund – to assess the effectiveness of the existing noise bund in screening noise generated from the Sports Centre activities from existing residential properties to the south.’

Available monitoring data in the Environmental Statement is therefore not at all adequate to assess the current noise levels arising from use of Borderville Sports Centre.

21. The baseline efficacy of the bund and the baseline noise impact of Borderville sports Centre are relevant considerations that must be taken into account when determining whether the plans comply with local policy. Without this information it is impossible to assess the likely environmental effects of the applicant's proposals, including for the unallocated portion of the Application site, and the extent to which they will conflict with Development Plan policies. Based on current plans it is not possible for the Committee to know whether the Application will be in accordance with the adopted Development Plan and National Planning Policy Framework policies, and the Application should be refused on this basis alone. Permission for removal of the bund is included in the current application and cannot be reviewed at detailed design stage, and it is therefore essential that the Council require necessary information to assess the impact of its removal and sufficient detail and expert assessment to provide assurance that sufficient mitigation can in principle be provided for existing and future residents. To do otherwise would also be contrary to The Town and Country Planning (Environmental Impact Assessment) Regulations 2017.
22. As outlined in more detail in the objections of Laura Upson, features of the proposed noise mitigation plan do not comply with professional guidance, and therefore leave open an unacceptable risk of a residual adverse impact on existing housing. Similarly, plans for mitigation for the proposed new receptors are not yet drawn up. As a matter of common sense, if housing is itself being used as a noise barrier, it appears likely that that housing will experience some significant level of noise. Given that removal of the acoustic bund cannot be reviewed at detailed design stage, the Committee needs sufficient information for assurance at this stage that it is possible in principle to provide adequate mitigation. Leaving design of mitigation methods and assessment of their effectiveness to the detailed design stage is not sufficient either legally or practically where the current noise mitigation is being removed as part of the outline application.
23. Further, there are concerns around overlooking from the new housing intended to provide an acoustic barrier, which will likely need to be taller than the existing housing to provide an effective barrier. Limiting houses along the southern border of the development to 2 or 2.5 storeys is not relevant to the likely overlooking impact, given that they are proposed to be as tall as the 3-storey houses elsewhere in the development at 12m tall, which will be 4-5m taller than the existing houses along the northern edge of Stamford.

Open Space

24. The Unallocated Land Proposals involve loss of 1.57Ha of sports pitch space at Borderville Sports Centre in an area which already suffers from an underprovision of formal sports space, as noted in Chapter 15 of the Environmental Statement. Our clients support the objections of Sports England, who maintain a concern that:

allowing [the replacement pitch provision] to be secured prior to the grant of the first reserved matters approval would not allow an assessment to be made on whether the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location as required by paragraph 103 of the NPPF and that planning permission would already have been approved for their loss.³

Sports England outline further concerns about the difficulty of securing adequate pitch space and concerns about the proposed replacement pitch options. Based on the comments of Sports England, it appears there is an unacceptable risk of replacement pitches of adequate size, quality and location not being provided.

25. Secondly, the applicant has incorrectly assessed the areas of open space they are required to provide based on Development Plan policy, and have not therefore demonstrated that they are able to provide the required areas. Local Plan Policy OS1 provides (emphasis added):

Development proposals will be **assessed against current open space provision. In areas that do not currently meet the standards for open space, the development proposal will be required to make appropriate provision, based upon the standards above.**

26. See also South Kesteven District Council's Infrastructure Delivery Plan 2011-2036 (2011) (updated by the South Kesteven Infrastructure Delivery Paper (2017)), which confirmed that there is an existing shortfall in open space and that where an area is underprovided for open space, a new development will be expected to make up the shortfall as well as providing for prospective new residents.

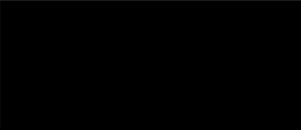
27. The applicant has assessed the required areas of different types of open space based only on the number of new residents introduced by the Application and not against the existing baseline, which in Stamford is underprovision of all kinds of open space apart from allotments, as is noted in Chapter 15 of the Environmental Statement. It is likely that, were required amounts of open space assessed correctly, more open space including formal sports space and other open space would be required. This is relevant to the Application as a whole, but is particularly relevant to the inclusion of the unallocated land and loss of the Borderville sports pitches; it is likely that additional pitch space beyond what has been proposed would in fact need to be provided. This represents another clear conflict with Development Plan Policy and another area where the committee lacks the necessary environmental information to make a determination.

Conclusion

³ See page 167 of the Agenda Pack.

28. In light of the above, we respectfully submit that this application ought to be refused. Any failure to address the points raised in this letter is likely to render the decision legally defective and therefore liable to judicial review.

29. In a more general sense, we would note that there is an opportunity at this stage to make the application far more acceptable to the local community on whose town and homes it will have a significant effect. The applicant has failed to demonstrate a real need for loss of the bund and sports pitches, having apparently given limited consideration to alternative link road layouts. The applicant should be required to demonstrate robust consideration of alternative sitings of the link road that preserve the bund which is, aside from its use as a sound barrier, also a much-valued open space and a buffer area which harbours biodiversity, and preserves the existing pitches of Borderville Sports Centre, which are similarly valued by the local community in the current centralised layout. Our clients maintain that siting the link road north of Borderville Sports Centre would also benefit the Stamford Urban Extension itself as it would then be able to better serve additional development planned for north of the present application site and may have the potential to ease transport concerns (on this point, see also the detailed assessment of the applicant's transport information by Bruce Bamber BSc MA MSc MCIHT of Railton TPC Ltd).



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Environmental, Planning & Public Law

Acoustic Planning in Developments

Some guidance on why acoustic design on housing developments is so important. And how much it costs the local authority when it goes wrong. <https://ukgbc.org/news/noise-matters-why-acoustic-design-of-our-homes-is-important/>

My original report lodged as an objection to Stamford North covers the acoustic situation and links to the relevant documents and specific chapters/policies.

The developer has maintained that tall, staggered houses are their acoustic solution, I am using this research to rebut this.

This information is all from ProPG SD2 report- chapter: Noise and New Development

Main considerations when designing a “barrier block”:

- The block should run along the edge of the site closest to and parallel to the noise source and wrap around the sides of the property to protect the sides.
- The block should preferably be used for non-noise sensitive purposes, such as for parking cars or refuse storage.

Care should be taken to ensure that angled buildings do not reflect sound back into other buildings on a site. Articulated facades and vegetation may help to diffuse reflected noise but will do little to inhibit noise directly from the source.

3.7 Noise barriers, mounds, bunds, screens and fences

A noise barrier is often an effective way to reduce traffic or railway noise.

Where space allows, raised mounds of earth can be effective noise barriers and can be enhanced by placing a low wall or fence on top.

Fencing built on top of mounds can save the space a larger mound might take and reduce the amount of fencing material required.

Solid walls and solid fences with no openings can reduce noise. Noise barriers are most effective at protecting outdoor areas and ground floor levels of buildings. Single-storey dwellings are therefore easier to shield from noise than the upper floors of two-storey dwellings.

From my research, the taller the building, the worse the impact from noise. Three-storey homes are planned pitch-side, which makes their situation worse.

ProPG SD2

*Main considerations when designing a noise barrier (all other things being equal):

- The closer the noise barrier is to the noise source, the more effective the barrier.
- The lower the height of the development, the more effective the barrier.
- The taller the barrier, the greater the noise reduction.
- Barriers are more effective when the site slopes away from the source.
- Wider barriers tend to be more effective – barriers should ideally extend far beyond the ends of the development.
- Any holes or discontinuities in a barrier wall will significantly reduce its noise reduction ability.
- Material used should have a suitable surface density, eg a high performance barrier must have a surface density of at least 20kg/m².*

So, to sum up, removing the bund and simply putting staggered houses in its place will not provide the existing residents with the same or better acoustic protection. And there are two main reasons for this:

1 - the acoustic barrier should be placed as close to the noise source as possible. The further away it is, the less successful it is. The bund will be the road location so the houses will be set back from the pitches much further than the bund currently is.

2 - the houses as acoustic protection doesn't provide the barrier block required to significantly reduce noise. There are gaps between all the houses and their plan is to stagger the line of site between two rows, making the gaps vast and across two rows, both situated further away from the noise source. The existing bund is a barrier block made of dense boulders and covered in acoustic absorbing earth. These houses will bounce the sound around. The bund follows guidance for acoustic protection around sports facilities (by Sports England). These houses do not.

The LPA should be satisfied that any proposal for new housing has followed a good acoustic design process. LPAs should require applicants to demonstrate in an Acoustic Design Statement (see ProPG Section 2) how the acoustic design process was conducted and how the proposed design evolved. Where a number of different designs were considered, applicants should set out the reasons why the favoured design has been selected. For example, where the scheme relies on windows being closed to achieve good internal noise conditions, the Acoustic Design Statement should include or refer to an explanatory statement detailing why this approach has arisen and how the use of layout, orientation, spatial design and non-building envelope mitigation has been used to minimise the need for reliance upon closed windows.

The developer has said that windows will need to remain closed for the new houses. But where are the other masterplans and other considered options that could have given an alternative approach to this one? The original SKDC comments on the ES said they had to

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show more than one masterplan option. They also said they needed to increase the acoustic testing. Neither of these things were done. Why?

I also want it noted that the houses they are proposing are 5m taller than the existing homes. That makes them incredibly dominating when compared with the existing properties and will lead to significant overlooking. 21m is required between back walls for 2-storey homes. But these are the height of 3-storey homes and therefore should have to adhere to the 28m rule instead. 5m taller - imagine the impact of that outside your houses.

Also, the ground level difference pitch-side to house-side is 5m. How is this 5m ground level difference going to be corrected over such a short space?

It is also important to point out that acoustic protection works best when the barrier is closest to the noise source. This option allows the noise to travel to the houses, before bounding between all the gaps through the new and old estates.

A real example of how the noise bounces off the properties, rather than absorbs the sound

<https://www.youtube.com/watch?v=zvDC00GGsNc>

In September 2022, Borderville hosted outdoor music and the impact of the noise was felt far and wide into Stamford. We captured some video to show how the noise from the sports facility was actually louder in the housing developments than on or near the bund. This demonstrates that staggered housing will not achieve the acoustic reduction the developers are suggesting, and that the masonry actually reverberates the noise. We want it noted that these outdoor music events weren't part of the original plan, and the bund wasn't designed to protect us from them. This example is just to show how loud it can be and how you can understand every word said even from streets away when, in the developers opinion, the houses should be protecting us.

Finally, the community was assured that building Borderville wouldn't cause adverse impact and we were given an acoustic bund to protect us. To remove it ten years later to simply make room for more houses would seriously undermine the planning process. If Borderville required an acoustic bund to protect us, why is it OK to expose new homes to the noise and light now, especially given its expansion.

We really hope that common sense prevails on this issue and that seeing the reality of the noise over an acoustic model will help demonstrate our point.

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