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20^h July 2021

By email only

Updated Comments Re. EBC Consultation on Local Plan Main Modifications

The following documents are attached to this letter and referred to herein:

- (19) 1995 JNCC Biodiversity: The UK Steering Group Report. Volume 2 Action Plans (1995-1999):
Pages 243-245 Ancient and/or Species-Rich Hedgerows a Costed Habitat Action Plan.
- (20) The Environment Act 1995 - PART V
- (21) 2006 JNCC-National Vegetation Classification Users Handbook
- (22) November 2016 (UK BAP Priority Habitat description) Hedgerows - Updated 2011
- (23) Biodiversity Priority Habitats ALLBROOK - As at July 2021
- (24) Priority Habitat - Woodland ALLBROOK - As at July 2021
- (25) Priority Habitat Inventory ALLBROOK - As at July 2021
- (26) Woodland Improvement Area ALLBROOK - As at July 2021
- (27) EBC Planning Application Checklist - Biodiversity Re. DCLG GUIDANCE 2007
- (28) EBC Validation Checklist Amended 25 June 2014

Additional Comments Re. Proposed Main Modifications to the Local Plan (2016-2036)

The following comments are in addition to our comments dated 14.07.2021. The numbering of the attached documents continue from the document numbers indexed and attached to our comments dated 14.07.2021.

A Copy of my emails with Graham Tuck⁽¹²⁾ was attached to our comments dated 14.07.2021. He was asked in those emails if EBC was the developer of all the sites proposed in the EBC's Local Plan. He was also asked if EBC was not the developer of the sites proposed did Deacon Design's Study dated 15.10.2020(ED84) provide the Council with the environmental statement from the developer outlining the relevant expertise and qualifications of the expert. There is no mention of any of these requirements in the Deacon Design report.

Unfortunately, Mr Tuck did not answer either of my questions, which means I have no knowledge of how many of the proposed development sites in EBC's Local Plan are owned by the Council. We can only comment on the Allbrook Settlement Gap Study sites AL1 and AL2. It transpires that EBC is the developer of sites 10 and 10a Pitmore Road, which the Council has for many years intended to demolish to make way for an access road into site AL1, as evidenced by the dilapidated state of properties 10 and 10a.

Mr Tuck has not confirmed where Council owned properties 30-38 Pitmore Road are located. These properties do not exist in Pitmore Road. It is therefore assumed, in the absence of any response from Mr Tuck, that numbers 30-38 is a plot of land which lies between the field AL1 and 28 Pitmore Road and is part of the intended development of AL1. Bungalows 10 and 10a Pitmore Road stand on land which is vital to the Council to enable access into field AL1. However, the Council has now confirmed to the Parish Council that the bungalows will very belatedly be refurbished and brought back into use.

The Council have never disclosed in the Local Plan consultations, or at all, that they were the

developer of the first phase of the proposed Allbrook/Fair Oak link road, which the Inspector deleted from the Local Plan. The Council has by stealth reintroduced phase one of the link road in the proposed main modifications to the Local Plan, which the Council now describes as a relief road for Allbrook Village. The Council's long term objective has always been to open up this proposed "relief" road in the field AL1 as a route via Allbrook Railbridge to Fair Oak and Bishopstoke.

The intended "relief" road, if passed by the Inspector in the Local Plan, will enable the Council to develop Fair Oak and Bishopstoke with impunity as always intended. The Council's wilful waste of Council taxpayers hard earned cash by allowing two very valuable properties, 10 and 10a, to remain empty, and therefore earn no rental or Council tax revenue for the Council, to gradually fall into dilapidation over many years. The Council has embarked on a programme of destruction of the protected habitats of the banks and hard cutting back of the protected hedgerows on top of the banks on both sides of Allbrook Way to make way for the proposed road. It is patently obvious that this work has been carried out to make way for the intended "relief" road and is substantial historic evidence of the Council's predetermination to facilitate the construction of the intended road through 10 and 10a and field AL1.

The Council is wearing two hats in the Local Plan consultations and examination process, one as a developer and one as the Planning Authority. This raises issues of bias, predetermination and failure to provide important information to the public. There is nothing wrong with a public authority developing land they own if they follow the proper procedures set out in legislation and guidelines. The public do not know if EBC will retain ownership of the proposed development land, 10 and 10a Pitmore Road, if it was converted into an access road into site AL1, or whether EBC will sell the site to the developer, Cranbury Estates Limited, subsequent to any approval of the Local Plan and before the access road to site AL1 is constructed.

I have now reconsidered Deacon Design's Settlement Gap Study dated 15.10. 2020(ED84) in light of the above issues. The study used the word "vegetation" 199 times to describe settlement edges and 31 times to describe hedgerows. This is not even credible evidence of what protected features surround fields in Allbrook. Only once is the definition "hedgerows" used to describe protected hedgerows in Allbrook. Page 107 of the Study describes Area G3, - Horse Paddocks to East of Boyatt Lane, as defined by field hedgerows. This is proposed site AL2. The Settlement Gap Study has obviously been designed to ensure protected hedgerows in Allbrook are defined as "vegetation".

The Joint Nature Conservation Committee (JNCC) website publishes extensive advice about protected hedgerows. A copy of the JNCC Users Handbook, National Vegetation Classification, is attached⁽²¹⁾. It lists how to sample and identify protected hedges, banks and verges, which are covered by The Hedgerows Regulations 1997. Deacon Design did not carry out a vegetation survey of the hedges in accordance with the JNCC Guidance or the 1997 Regulations, as updated. Deacon's Study includes photos on pages 3, 100 (which shows the hedgerows at the top of the bank on both sides of Allbrook Way facing the Allbrook Hill roundabout), 101 and 103 (which shows all of the hedgerows on both sides of Allbrook Way/Allbrook Hill roundabout). All these photos showing Allbrook hedgerows are described as vegetation in the Deacon Design Study.

I attach for clarity the following separate MAGIC maps for Allbrook showing the Biodiversity Priority Habitats⁽²³⁾, Woodland Improvement Area⁽²⁴⁾, Priority Habitat – Woodland⁽²⁵⁾ and Priority Habitat Inventory⁽²⁶⁾. These maps clearly identify that the hedgerows surrounding Allbrook Way, sites AL1 and AL2, are listed as Priority Habitat Inventory⁽²⁶⁾ - No main habitat but additional habitat exists (England). This map shows that the hedgerows on the site AL1 are protected right up to the margins of the roundabout at it joins Allbrook Hill. The Woodland Priority Habitat⁽²⁵⁾ shows

the Deciduous Woodland behind the properties at the southern end of Pitmore Road is protected. The Woodland Priority Habitat Network map⁽²³⁾ shows the areas around the fields, sites AL1 and AL2, are high spacial priority protected areas for Allbrook. Not a single reference to the 1997 Regulations and related guidelines for protected hedgerows has been included in any Appraisal or Assessment report submitted for examination of the Local Plan.

EBC were well aware of The Hedgerows Regulations 1997 when preparing evidence for the Local Plan. A copy is attached of EBC's Planning Application Form Checklist - Biodiversity Re. DCLG GUIDANCE dated December 2007⁽²⁷⁾, which the Council issued subsequent to the Regulations coming into force on 01.06.1997. The questions asked in Section 2 - Protected Species, "*Will the proposals affect¹⁰ any areas of mature deciduous woodland, field hedgerows over 1m tall and over 0.5m thick or scrub well-connected to woodland? or hedgerows on or adjacent to the site?*" The Biodiversity Checklist does not mention the 1997 Regulations but the Council's Biodiversity Supplementary Planning Document Adopted December 2009 does mention the Regulations in Index D – Key Legislations and Guidance. Para. 2.5 refers to ancient hedgerows when in fact the Regulations covers all field boundary hedgerows. The Application Checklist and Biodiversity SPD are considerably out of date.

The Council's "*Local List for Validation of Planning Applications Adopted 01.08.2013, updated 25.06.2014*" is published on the Council's website under "*Apply – Planning Application Requirements – 3. Information to accompany the application as specified by the local planning authority on their local list of information requirements.*" The Local List is the 01.08.2013 version, copy attached, which states "*Each of the items on the Council's Local List have been assessed against the principles and criteria stipulated in the Department for Communities and Local Government (DCLG) document Guidance on information requirements and validation (March 2010).*" The 2010 Guidance was withdrawn on 07.03.2014, over seven yeas ago, but the Council is still using it to determine planning applications. The Guidance was replaced with the Planning practice guidance, NPPF and relevant practice guidance updated 24.06.2021, which states:

Para. 44: *Local planning authorities should publish a list of their information requirements for applications for planning permission. These requirements should be kept to the minimum needed to make decisions, and should be reviewed at least every 2 years. Local planning authorities should only request supporting information that is relevant, necessary and material to the application in question.*

The Council's list should also have been updated by 25.06.2016, 25.06.2018 and 25.06.2020 and is therefore over five years out of date in addition to relying upon Guidance which was withdrawn seven years ago. Nevertheless, the Council's Local List, updated 25.06.2014, Local List Items 3 - Biodiversity Survey Reports and 32 - Tree Survey/Arboricultural Impact Assessment/Method Statement, clearly identifies that Biodiversity Surveys and Tree/hedgerow Surveys are required for major developments (over 10 houses). The attached MAGIC maps for Allbrook priority habitat network and species⁽²³⁾⁽²⁴⁾⁽²⁵⁾⁽²⁶⁾ prove that the hedgerows in Allbrook, proposed sites AL1 and AL2, are priority habitat networks. The proposal to develop both these sites should have included all the necessary requirement of The Hedgerows Regulations 1997 and related Guidance.

The outline planning application for Knowle Hill, site AL2, planning reference O/19/86980, contains a biodiversity report by Species Ecological Consultancy dated November 2019. The photos on pages 23, 26, 28, 30, 32, 34, 36 and 46 to 49, 51 to 56, 58 to 66, 73 to 77 and 79 to 81 of the report shows that the entire proposed development site AL2 is surrounded by hedgerows protected by the 1997 Regulations.

The attached MAGIC maps for Allbrook show these hedgerows are afforded considerable protection. In fact these photos adequately demonstrates how Cranbury Estates Limited and EBC are flagrantly breaching the 1997 Regulations by cutting back the hedgerows and banks on both sides of Allbrook Way to facilitate the construction of a road in site AL1. The Council and Cranbury Estates appear to have decided many years ago to try to unlock the proposed sites AL1, which is land locked, and AL2 for development and to construct a road in cutting in the field AL1 to open up Fair Oak and Bishopstoke to intense development.

The Species Ecology report contains considerable detailed analysis of the biodiversity of site AL2. It refers to hedgerows in paras. 1.2; 2.15; 3.7; 3.3; 3.34; 3.36; 3.47 and 4.3. The zone of influence is referred to several times in the report but it is not identified. The zone of influence is identified in the MAGIC map Biodiversity Priority Habitats for ALLBROOK⁽²³⁾ which shows the woodland priority habitat network high spacial priority area for site AL2. Para. 5.1 of the report states the woodland area to the west of the site is not of any great age. Regulation 3 of The Hedgerow Regulations 1997 protects all field boundary hedgerows, irrespective of age.

Hedgerows are briefly referred to on page 39 of the report but the description of the Regulations only relates to “important” hedgerows. The report states that the criteria used to identify whether a hedgerow is one of “importance” is for ecological, historical or landscape reasons. This is correct in respect of “important” hedgerows, which are defined in the Regulations as any hedgerow which is 30 years or older. The hedgerows surrounding fields A1 and A2 are older than 30 years and in any event are protected by the Regulations.

The Conservation of Habitats and Species Regulations 2017, PART 2, Conservation of Natural Habitats and Habitats of Species states:

Nature conservation policy in planning contexts

41.—(1) For the purposes of the relevant provisions, policies relating to the development and use of land or in respect of the conservation of the natural beauty and amenity of the land are to be taken to include policies encouraging the management of features of the landscape of the kinds described in paragraph (3).

- (3) The features of the landscape referred to in paragraph (1) are those which, by virtue of **their linear and continuous structure** (such as rivers with their banks or the **traditional systems of marking field boundaries**) or their function as “stepping stones” (such as ponds or **small woods**), are essential for the migration, dispersal and genetic exchange of wild species.

The Habitats and Species Regulations 2017 supports the requirements of the The Hedgerows Regulations 1997, which also defines hedgerows as continuous lines marking field boundaries.

For all the above reasons, and reasons stated in our comments and attachments dated 14.07.2021, we object to the proposed main modifications to the Local Plan in respect of the proposed developments of Sites AL1 and AL2 on the grounds that the proposals are not legally compliant, deliverable or sound.

Mrs V Richardson

I also object to the proposed Main Modifications to the Local Plan for the additional above stated reasons.

Mr P Richardson