

The Moorpool Regeneration Group

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Planning Application References:

S/00872/08/FUL / S/00869/08/CAC The Valley Site (Site A), Moorpool Conservation Area
S/00874/08/FUL / S/00870/08/CAC Ravenhurst Road Site (Site C), Moorpool Conservation Area
S/00873/08/FUL / S/00871/08/CAC Wentworth Gate (Site Ei), Moorpool Conservation Area

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Supporting Documentation

- Annex 1 Character Appraisal
- Annex 2 Ecology
- Annex 3 Allotment Association
- Annex 4 Parking
- Annex 5 Open Spaces
- Annex 6 Stakeholders
- Annex 7 Residents' Survey
- Annex 8 Flooding and Surface Water

Reference Documentation

- Bat Mitigation Guide
- Species List (extract from The Countryside and Rights of Way Act 2000)

Dear Sir,

Planning Application References S/00872/08/FUL and S/00869/08/CAC
S/00874/08/FUL and S/00870/08/CAC
S/00873/08/FUL and S/00871/08/CAC

I write on behalf of the Moorpool Regeneration Group (“**MRG**”). The MRG was established by residents of the Moorpool Estate “*to represent as objectively as possible the consensus and or diversity of residents’ views on the regeneration requirements for the Moorpool Estate*”.

I refer to the above planning applications submitted by Grainger Plc (“**Grainger**”) for the development of three sites on the Moor Pool Estate in Harborne. This letter constitutes a formal objection to those applications on behalf of the residents of the Moorpool Estate.

However, before expanding upon the relevant planning considerations and requirements, I feel it appropriate and necessary to respond specifically to the main basis upon which Grainger plc, the Applicant has submitted its applications. Throughout the supporting documentation the Applicant makes reference to its proposals being submitted in order to preserve and enhance areas of the estate which are of poor aesthetic quality and which detract from the special character of the estate. The proposals, it claims, are also submitted in order to provide funding to invest in the Applicant’s stock of tenanted houses and improve the semi derelict garage areas. In reality any tenanted properties that the Applicant does improve are self-funded by an immediate increase in rent and any grants that they may be able to claim. Furthermore such investment only serves to improve the value of the Applicant’s own housing stock, for which it has an active policy of disposal upon any tenancy ending. The proposals will also, it asserts, reduce the problem of anti social behaviour, which occurs as a result of the poor quality of the sites in question.

Given the unique nature of this estate, the issue of enhancing and preserving the area is of fundamental importance. However, the residents feel strongly that the basis of Grainger plc’s applications be placed in its true context. The Valley Site has been under the sole control and ownership of the Applicant since 2001 (Planning Statement Page 1/Para1.6), the Applicant having taken over the former controlling company Bradford Property Trust. The Applicant has conceded that it has failed to maintain garages and forecourts (Planning Statement Page/20/ Para 5.5 & PS/24 para2). Further the Applicant has failed to promote the allotments under its control. The Applicant outlines that the garages detract from the character of the estate, the sites having been subject to persistent vandalism, and that the allotments are generally neglected. (Planning Statement P5 para 2.15). As landlord, the Applicant has taken no steps to prevent this or to maintain or promote the areas, and indeed more lately has obstructed new rentals, and has therefore manipulated a situation, upon which it now proposes to rely under the guise of enhancing and preserving this conservation area. The dereliction of these sites is as a result of the Applicant’s dereliction of its duty as landlord. The residents feel strongly that the Committee be aware of this and has this at the forefront of its mind when applying the relevant policy statements upon the issues which fall to be considered and the fundamental principle of the preservation and enhancement of this unique conservation area.

It is against this background that the residents make the following objections:

1. Character of the Estate

The Moor Pool Estate is both a garden suburb and a Conservation Area. The MRG has prepared an informal thorough character appraisal of the Estate. This is at **Annex 1**.

The residents of the Estate are committed to maintaining the character and ethos of the Estate: in 2006, they opted for a 4(2) Direction, which places further tight restrictions on development.

Paragraph 2.12 of Planning Policy Guidance 15 (Planning and the Historic Environment) (“**PPG15**”) states that planning authorities should “*pay special attention to the desirability of preserving and enhancing the character or appearance*” of a conservation area.

Paragraph 2.14 of PPG15 states that “*the design of new buildings intended to stand alongside historic buildings needs very careful consideration*”, and that new buildings should be “*carefully designed to respect their setting, follow fundamental architectural principles of scale, height, massing and alignment, and use appropriate materials*”.

Paragraphs 4.17 and 4.18 of PPG15 supplement this by stating that new buildings in a conservation area “*should be designed with respect for their context, as part of a larger whole which has well-established character and appearance of its own*” (4.17), and that “*special regard should be had for such matters as scale, height, form, massing, respect for the traditional pattern of frontages, vertical or horizontal emphasis, and detailed design (e.g. the scale and spacing of window openings, and the nature and quality of materials)*” (4.18).

The Birmingham Unitary Development Plan 2005 (the “**UDP**”) echoes the principles of PPG15. Paragraph 3.27 of the UDP states that development proposals in a conservation area “*should preserve or enhance the character or appearance of the area*”, and “*the development should respect the character of the existing architecture, in scale, grouping and materials, and should generally reflect the character and appearance of the area*”.

The special character of the Moor Pool Estate is that it:

- is a garden suburb;
- was designed as a whole paying attention to topographical features;
- deliberately integrates green spacing with housing for reasons of both physical health and psychological wellbeing;
- allows light and air to circulate;
- provides a green outlook from at least one part of every house;
- ensures no house overlooks another;
- is curvilinear in plan; and
- while having a unitary whole also embraces individuality of house design – no two houses are identical.

The twelve new houses proposed for Site A would:

- disrupt the organic fluidity of the original planning: the proposed housing is rectilinear, in contrast to the curvilinear design of the original;
- fill in an open space in the Estate - an Estate designed with deliberate open spaces;
- increase housing density there and in the surrounding area, which already has a higher density of housing compared to the rest of the Estate; and
- result in the new houses overlooking each other, and being overlooked and overlooking the houses on Moor Pool Avenue and Margaret Grove due to their proximity and rectilinear design. This will be compounded by loss of mature trees and lack of mature hedging.

Clearly some of the garages on site A are derelict and unsightly. However, site A has many mature trees. There is lots of potential to develop site A in a manner that is much more in keeping with the character and ethos of the Estate by enhancing the existing environment of greenery, and yet still be responsive to the needs of the community in the 21st century.

None of the proposed housing fits with the character of the Estate. We question how the owners of the new housing would be expected to maintain them as required by the 4(2) Direction, when the housing itself already deviates from this. In particular:

- the proposed houses are all three bedroom family homes - this contravenes the original and existing social ethos of the Estate which aspires to variation of provision of houses/flats for single people to large families;
- the facades are monotonous, repetitive and therefore inappropriate;
- the landscaping of the proposed new housing differs significantly from the characteristic perimeter beech hedges – the use of hedging is less, and beech is not specified;
- the houses lack the subtlety of variance of the original design, and are instead modular; and
- the housing design is inappropriately modern and unimaginative in that it includes large areas of glass (contrast the small panes of the windows of the original design), integral garages dominate the frontages (no other house on the Estate has an integrated garage); and uses modern materials insensitively (what are “visually permeable garage doors”?).

For similar reasons, the smaller developments proposed at sites C and Ei would also be detrimental to the character of the estate.

Given the enhanced conservation status of the surrounding estate, established by the 4(2) direction is it reasonable that there should seemingly be an enclave of uncontrolled housing?

Paragraph 3.25 of the UDP states that “...*the setting of listed buildings will be preserved and enhanced by the exercise of appropriate control over the design of new development in their vicinity, control over the use of adjacent land, and where appropriate, by the preservation of trees and landscape features*”.

Grainger’s proposals would adversely affect the setting of the listed buildings at 124-134 Ravenhurst Road. Currently, the views from the listed flats are entirely green because the garages are low rise and screened by mature hedging and trees. Grainger proposes to remove some of the key mature trees along the access road to site A, and the new housing is taller so will be more visible.

In addition, the view of the listed buildings (see plate 14 of Grainger’s character appraisal and justification statement) would be adversely affected by the removal of trees, the widening of the access road and greater visibility of the new housing.

In short, planning permission should be refused for all three sites on the basis that the proposed housing cuts across the principles of PPG15 and the UDP, and erodes the Estate’s character recognised in its conservation area and garden suburb status.

Grainger make some assertions in the documentation supporting their application for planning permission, and we would like to comment in particular on the following:

- Grainger suggests (at paragraph 5.1.12 of its character appraisal and justifying statement) that their development of site A is in some way a fulfillment of the original designers' plan for that part of the Estate. There is a preliminary plan for a circle of houses on site A, but this included reciprocal open space elsewhere within the Estate. Moreover, this was one of various plans at the time of the original design of the Estate, and in fact site A was instead originally designated a park (in 1908). It was then made into allotments. Garages were erected in 1950s and 1970s to cope with increasing congestion, an attempt to preserve the character of the Estate by minimising on-street parking. This demonstrates that site A was deliberately kept as open space because the benefits of this were felt to confer more value than any additional housing. These proposals are in no way the fulfilment of the original design as Grainger assert/imply.
- Planning Statement dated February 2008. In paragraph 1.7 Grainger acknowledges that the Estate is "one of the most attractive and sought after suburbs of Birmingham". However, this is precisely because it has not been developed with additional infill residential buildings such as Grainger are proposing.
- Grainger comments favourably at paragraph 4.1.13 of its character appraisal and justifying statement on the "grander, more imposing presence" of the fine rear facades of the existing houses on Margaret Grove. They even include a picture of these facades at plate 23 of that statement. This vista will be spoiled by the proposed development of site A.
- Grainger acknowledges that green open space is a valuable characteristic of the Estate, but nevertheless proposes to fell mature trees, remove over 50% of the allotment area on site A, and sacrifice potential park area in favour of private gardens and new buildings.
- Grainger refers to "extensive public consultation" in its documentation, but does not refer to the high level of participation by the Estate's residents, and the fact that the proposals have been strongly opposed by the majority on all occasions.

2. Open Spaces

The planning proposals will result in the loss of open space within the Estate. There is already a significant lack of public open space available to the residents of the Estate, and further loss is neither justified within the application papers, nor indeed sensitive to the clearly expressed wishes of the residents. Having regard to the specific requirements of PPG17 and Chapter 3 of the Birmingham City Council UDP, further loss of open space in an already deficient area should not be permitted.

As stated, there is already a significant lack of open space for the residents of the Estate, in terms of existence, accessibility and quality. This is clearly outlined and evidenced at *para 2 of Annex 5 (Objection from the Recreational Area Focus Group (RAFG) of the Moorpool Regeneration Group)*. The significance of this will be expanded upon further below.

For the Applicant to implement its proposals, residential development will take place upon allotment land, which comes within the remit of open space. In order to develop upon allotment land, the Applicant must establish that there is (i) a lack of demand for the allotment land and/or (ii) that there are exceptional circumstances for development, as proposed, to take place. In view of the prerequisite provisions of UDP chapter 3 and PPG17 neither of these requirements have been established.

Demand:

- The overall area of allotment land upon the estate is presently 2697 m². The proposed development would result in an allotment area of 1440m², thus a loss of open space of 1265 m², (i.e. 47 %) which is conceded by the Applicant. (*Planning Statement P21 para 5.7*) (*PS page9 para3.13 & PS page 20 paras5.2 & 5.4*) The figures relied upon by the Applicant are based upon the current usage to demonstrate “demand”. It is also based upon the consideration of cultivated allotment land only and not the whole area of allotment land. This is contrary to *para 3.62A UDP*. (“*Planning permission will not be granted for the redevelopment of allotments simply because the allotments have fallen out of use or become derelict.*”)
- The Moorpool Allotment Association is able to support a significant demand for the existing allotment space, both cultivated and uncultivated (See Annex 3)
- The recent survey commissioned by the MRG shows that there is in fact a demand for allotments in excess of that quoted by Grainger. (*See Annex 7 MRG Survey results*).
- It is of note that there is an increase in demand nationally for allotments, which exceeds supply.
- The Applicant’s manipulation of the figures by the “re-introduction” of allotment sites and therefore suggesting an increase of 175m² of cultivated allotment land is misleading and incorrect, in supporting its assertion that there is insufficient demand. Moreover, the land, which it proposes to “re-introduce”, falls beyond the boundaries of this application.
- In accordance with the UDP, planning permission will not be granted for the redevelopment of allotments simply because allotments have fallen out of use and become derelict (*Para 3.62*) and accordingly the total area of cultivated and uncultivated, let and un-let land should be taken into account when considering the overall area of allotment land upon the estate and demand.
- The Applicant has not evidenced a lack of demand in a fair and objective manner. Indeed it has failed to disclose any requests for allotments it has received. Both *Annexes 3 & 7* evidence that there is sufficient demand for the existing allotment space, and therefore development as a result of lack of demand is not justified in this case.

Use of Land in the Event of Lack of Demand:

Even if the Applicant were able to evidence lack of demand, the proposals do not meet the requirements of *paras 3.62A and 3.52A UDP Ch3*. “Where it can be demonstrated that the demand for allotments has fallen, consideration will be given to alternative uses for surplus allotments. Such uses will be alternative recreational, nature conservation or horticultural uses, subject to the policy set out in *para 3.52A*.”

- The area of allotments proposed to be developed upon will be replaced by private residential gardens. These are not recreational, nature conservation or horticultural facilities, and do not constitute open space within the meaning of *para 3.48 UDP*.

Exceptional Circumstances:

Para 3.52 UDP is relevant for the consideration of uses for surplus allotments, as referred to above, and to assist the Committee in determining whether exceptional circumstances exist to allow other forms of development upon allotment sites. By virtue of *para 3.52A* “Proposals which would result in the loss of open space will only be permitted in exceptional circumstances. In determining whether exceptional circumstances exist, the City Council will take account of the availability of public open space nearby, its quality, and how well it meets local needs. It is unlikely that developers will be able to demonstrate that exceptional circumstances exist where: (a) existing public open space falls below the standard 2 hectares per 1000 population; and/or (b) there would be a loss of space from the open space network.” (*para 3.52A UDP*) By virtue of *para 3.62A UDP* “If in exceptional circumstances planning permission is granted to other forms of development on part of the site this will be subject to the provision of an appropriate, equivalent, long term recreational community benefit.” (*Para 3.62A*)

- The existing public open space in Harborne is presently only 1.62 hectares, therefore falling below the standard of 2 hectares per 1000 population. Whilst the content of *para 3.53 UDP* is acknowledged, i.e. the possibility of taking into account the cumulative provision for adjacent wards, even having regard to this, the availability of public open space nearby, its quality and how well it meets local needs are insufficient. For example, the two closest areas of public open space are Grove Park and Queens Park (approx 2 miles and 1 mile away respectively). Grove Park does not provide play facilities for children (although it is understood this is being considered) and neither is within easily accessible walking distance as defined in the Birmingham SPD (0.4 miles) Local needs are not met. This point is clearly evidenced and developed at *para 2 Annex 5*.
- Further, PPG17 states, “Where recreational facilities are of a poor quality or under-used (as the Applicant argues is the case here), this should not be taken as necessarily indicating an absence of need in the area.” (*Para 17 PPG17*)
- If the proposals to develop allotment land were allowed there would be a loss of land from the open space network. Moreover, *para 3.53 UDP* further states “every effort will be made to encourage provision of new public open space, incorporating new nature conservation interest where appropriate, in areas of existing deficiency where the opportunity arises.” The Applicant does not propose any additional open space, but proposes further reduction in an already deficient, inadequately served area, with no assurance that there will be no future depletion of allotment land, the Applicant having withdrawn its earlier offer to secure the remaining allotments in perpetuity. (*See Statement of Community Involvement P10 para Community Trust.3 Consultation documentation September 2007*).

- It is submitted therefore that exceptional circumstances are not established. However, in the event that the Committee found there to be exceptional circumstances, the proposals made by the Applicant do not meet the further requirements of *para 3.52A*, i.e. *“Where developers are able to demonstrate that exceptional circumstances exist to justify the release of open space for development, the practice will be to seek an appropriate recreational community benefit of equal value to compensate for the open space loss, that is at least as accessible to current and potential users, and at least equivalent in terms of size, usefulness attractiveness and quality.”* The Applicant’s allotment proposals are not equivalent in terms of size, as they would lead to a loss of 1257m² of open space. Whilst the Applicant purports to improve the attractiveness and quality, by improving a situation of un-cultivated allotments deliberately created by its actions, by offering additional facilities and a payment of £5,000 this would not meet the requirement that this be at least as accessible to current and potential users, given the demand for allotments and open space, as evidenced by *Annexes 3,5 & 7*. Indeed, the proposals would reduce the potential availability to a wider range of the community because of the reduction of area of open space. The “improved” area would only be available to a select few, thus decreasing the level of “community benefit.” The evidence as outlined at *Annex 5, para 1 & Annex 7* clearly indicates that residents have expressed a need for further facility of community benefit, and not further depletion or isolation to a select few.
- *PPG 17* states, *“The recreational quality of open spaces can be eroded by insensitive development or incremental loss of the site. In considering planning applications, either with or adjoining open space, local authorities should weigh any benefits being offered to the community against the loss of open space that will occur. They should seek to ensure that all proposed development takes account of, and is sensitive to the local context.” (para 16 PPG17)* As outlined the “package” being offered by the Applicant will reduce the availability of community benefit, ignoring the benefit to potential users of allotments, and open space and will benefit only its and its shareholders’ profits. The “package” does not take account of and is not sensitive to the local context given the demand for allotments and open space, and the conservation status of the estate. The benefits being offered by the Applicant far from outweighing the loss of open space, cause further detriment to the community, where open space is deficient.
- The benefit created by the construction and sale of residential areas upon open space is to Grainger Plc and its shareholders only. The Applicant has now confirmed that it will not support investment in improving community facilities (*Planning Statement p8 para3.4*)
- The Applicant’s assertion that funds raised by such sales will release money for future estate refurbishment (*Planning Statement p1 para1.9*) (*PS page8 para3.1*) conflicts with its assertion at public consultation that its overriding obligation is to make profit for its shareholders. At *para 1.9 Planning Statement*, the Applicant outlines, *“A significant investment programme is currently being undertaken by Grainger plc involving the refurbishment of tenanted houses and flats throughout the Estate. As well as providing a means of finance for these works, the development proposals will also generate more limited funding towards allotment improvements. Given these proposals and Grainger’s investment programme Moorpool residents will benefit from an improvement in their living environment.”* The Applicant therefore argues a benefit to the community, without any substantiating evidence, apart from a suggestion of £5,000 from the sale of 16 properties. There is no evidence of any benefit to either tenants or the community of the Estate.
- Given the poor state of the spaces upon the estate under The Applicant’s ownership, and its concession of prior total lack of investment, (*Planning Statement p1 paras 1.7 & 1.8*), (*PS page 4 para 2.7*) future investment is unlikely.

Consultation with Local Community to Demonstrate Support for Proposals:

At paras 1.10 & 3.2 of its Planning Statement, the Applicant has asserted that it has made extensive efforts to engage with residents and has adapted its proposals in accordance with the feedback from residents. It is of note that the Applicant has failed to evidence the feedback received from residents following “consultation” meetings. Further, the Applicant outlines at paras 5.2 & 5.3 that whilst it acknowledges that PPG17 requires an open space assessment to justify the loss of open space it has not completed this in view of the “scale” of the loss. The MRG has therefore completed its own detailed assessment, as outlined at Annex 5, and seeks reliance upon this. Furthermore, in view of the content of PPG17, in circumstances such as these, a detailed survey, with supporting evidence and a detailed report of community involvement is required.

- *“The Government expects all local authorities to carry out assessments of needs and audits of open space and sports and recreational facilities in accordance with the paras above.” (para 5 PPG17) Further, “In the absence of a robust and up-to-date assessment by a local authority, an applicant for planning permission may seek to demonstrate through an independent assessment that land or buildings are surplus to requirements. **Developers will need to consult the local community and demonstrate that their proposals are widely supported by them.**” (para 10 PPG17) As stated, whilst the Applicant purports to demonstrate consultation, it has failed to demonstrate that its proposals for loss of open space with no further provision for open space are supported. Indeed the evidence as outlined at Annexes 3, 5 & 7 clearly indicates a lack of support and a desire for the retention and expansion of open space.*

The Lack of a Masterplan:

The Applicant has not submitted a masterplan for its proposals, and has failed to confirm, either at consultation meetings, or within the documentation submitted that it has no future plans to resurrect previously proposed sites. It simply states at para 3.9 of its Planning Statement “*progression of development proposals on a number of sites was dropped.*” There are no assurances that such progression will not be resurrected.

- *Para 3.14B UDP states “To avoid problems of piecemeal and incremental development on very large development sites comprehensive master plans or development briefs should be prepared to aid in the formulation and consideration of individual proposals.”*
- *At Para 1 Annex 3 it is outlined “The BCC supplementary planning document (SPD) on public open space (July 2007) states that it is only mandatory that a play area is included in developments that comprise 20 dwellings or more.” While the proposals on the valley site are for 12 dwellings, there are no guarantees in this submission that further housing will not be proposed at a later date for the adjacent site (Site B), bringing the total number to 20 or more units on what is effectively one area. This example alone makes it clear to us that a piecemeal approach to the supposed regeneration of this important garden suburb, without an accompanying master-plan, is entirely the wrong strategy.*
- *At a previous public meeting the Applicant produced a potential master plan. This has now been withdrawn. However, when asked directly if the present proposals would be the full extent of its development, the Applicant would not confirm this to be the case or give any assurances to relinquish further applications.*
- *The lack of a masterplan is also pertinent to the consideration of the requirements for affordable housing as outlined further below.*

The Applicant's Reliance upon Original Plans:

At *para 2.12 Planning Statement*, the Applicant refers to possible original plans to build upon Site A. This is further alluded to elsewhere within the documentation. It is of overriding significance that such plans were never implemented and indeed Site A, from the very inception of the Estate, was utilised for open space provision (*See para 1 Annex 5*). The provision of this open space was, and remains a feature and contributory factor to the unique quality of this estate.

By virtue of PPS3 "*Design which is inappropriate in its context, or which fails to take the opportunities available for improving the character and quality of an area and the way it functions should not be accepted.*" (*para 12*). The loss of open space and failure to enhance it in a deficient area is inappropriate. Indeed, given the Applicant's policy of selling off tenanted houses, there is a strong presumption that even without further development the need for community open space will continue to increase upon the Estate, as the demography changes.

"Promotion of social inclusion and community cohesion, well planned and maintained open spaces and good quality sports and recreational facilities can play a major part in improving people's sense of well being in the place they live. As a focal point for community activities, they can bring together members of deprived communities and provide opportunities for people for social intervention. (Planning objectives PPG17) It is of note that this policy embraces and supports the original rationale for the provision of open space upon the Estate in 1908 (*Annex 5 para 1*). The needs of the residents and the character of the Estate remain, and the retention and enhancement of open space is vital. The "benefit" of building residential properties, with the proposed "package" for open space provision does not outweigh the loss of open space.

3. Ecology

The planning proposals pose significant disruption to the ecological constitution of the Estate. The objective of PPS 9 is outlined as follows “*to contribute to rural renewal and urban renaissance by enhancing biodiversity in green spaces and among developments so that they are used by wildlife and valued by people, recognising that healthy functional ecosystems can contribute to a better quality of life and people’s sense of well being, and ensuring that developments take account of the role and value of biodiversity in supporting economic diversification and contributing to a high quality environment.*” The key principles of PPS 9 outline, “*In reviewing environmental characteristics, Local Authorities should assess the potential to sustain and enhance those resources. Plan policies and planning decisions should aim to maintain and enhance, restore or add to biodiversity and geological conservation interests.*”

UDP Chapter 3 para 3.37 states, “*The importance of safeguarding and enhancing the natural environment of the city is recognised. This involves both the protection of existing areas of nature conservation importance and measures to improve the diversity and quality of wildlife habitats throughout the city.*”

Para 3.38 states, “*The retention and enhancement of existing tree cover, hedgerows, wildlife habitats and geological features will be supported in order to ensure that the natural heritage of an area is not lost.*”

Para 3.40(e) states, “*Further, it is recognised that the management of a range of landscape features of major importance to wild flora and fauna should be encouraged.*”

The proposed plans will result in the loss of vital habitat for important species of flora and fauna. It is the Applicant’s case, concluding from its ecological survey that “*no feature or habitat has been identified that constrains the principle of achieving housing development within these sites.*” However, this is not accepted and having regard to the matters outlined below there is a high likelihood of significant ecological impact. Further, the plans do not enhance, sustain, restore or add to biodiversity and there are no measures proposed to improve the diversity and quality of wildlife. Moreover, the development will mean the natural heritage of the area will be lost.

There will be a notable impact upon the flora and fauna of the estate, and therefore in order to make an objective and informed decision in accordance with the requirements of PPS9, PPS 9.2 and Chapter 3 UDP, when considering the proposed plans, the Committee requires an appropriate level of information. The Applicant has provided an Ecological Appraisal for this purpose. However, the information contained within that appraisal is superficial, and inadequate, and thus its conclusions misleading and unreliable for the purposes of making a determination.

Para 5.3 of PPS9.2 (Guide to Good Practice) outlines “*In the development control process the onus falls on the applicant to provide enough information to enable the planning authority to assess the impacts on biodiversity and geological conservation. Planning applications must be supported by adequate information. Planning authorities have powers to require further information or in some cases to refuse planning permission due to lack of it.*”

At page 27 PPS9.2 it is stated “*PPS1 expects planning authorities to build up a clear understanding of the make-up, interests and needs of the communities in their areas. What people value in their environment and the issues that are of most concern to a community will be a significant element of the evidence necessary to plan for biodiversity and geological conservation at a local level.*”

Para 4.7 PPS9.2 states “*Local Development Framework arrangements aim to strengthen community involvement. It would be good practice to involve communities in identifying priorities for biodiversity and geological conservation.*”

In response to the planning proposals the residents of the Estate have undertaken their own ecological survey. When comparing this detailed study, completed using local knowledge in addition to officially recorded data, to the Applicant's survey, the discrepancies are palpable. Moreover, there are a number of areas where the Applicant has failed to follow accepted guidelines. These factors cast significant doubt upon the reliability and adequacy of the survey for the purposes of the planning decision process. The following are by way of example:

Examples of Discrepancies:

- **Trees:** In its survey the Applicant noted 14 trees and seven different species. In its survey, the Residents noted 280 trees and 29 different species. It also noted that 58% were medium or large, and that 40 had the benefit of a TPO. It is of note that the Applicant does not mention the issue of the size of the trees and the existence of TPOs. This will be expanded upon below. There is no mention in the Applicant's survey of the trees specifically sited at Site E(i) (See *p4 Annex 2*). By virtue of *PPS9 para 10* "aged or veteran trees found outside ancient woodland are particularly valuable for biodiversity and their loss should be avoided." The retention of trees is further supported by *paras 3.27 and 3.38 UDP*.
- **Birds:** In its survey the Applicant noted 15 species of birds, the Residents' survey noted 47 species of birds including four species from the "red list". It is of note that the Applicant's survey did not note the existence of owls, sparrows, lesser spotted woodpeckers, song thrush or starling, four of these species being red list species.
- **Bats:** In its survey the Applicant noted 1 foraging bat from one dated survey, the Residents noted 7. Bats are a protected species. The methodology will be expanded upon below.
- **Insects and reptiles:** In its survey the Applicant failed to even mention the existence of frogs and toads, which is somewhat surprising given the existence of the Moorpool and other local ponds, and the acknowledgement of the movement of frogs and toads from the pool to the Valley Site provided by traffic signs placed by the Council. The survey noted no impressive concentration of invertebrates. The Residents noted many frogs and toads and an abundance of invertebrates including butterflies, grasshoppers and dragonflies.
- **Newts:** The Applicant did not conduct a newt survey stating that there were no suitable newt breeding ponds within or adjacent to any of the study sites. Once again this is somewhat surprising given the existence of the Moorpool and the number of ponds in residents' gardens, which are adjacent to the proposed sites. The Residents noted 50 newts visible during the breeding season.

The discrepancies between the two surveys are significant to the planning application process. It is of concern that the Applicant did not note many of the red-list species, as these are offered statutory protection by virtue of *s74 of the Countryside and Rights of Way Act 2000*. (CRWA 2000) (see *s74*)

In relation to species protected by *s74 para 12 PPS9* states "Planning authorities should refuse permission where harm to the species or their habitats would result, unless the need for and benefits of the development clearly outweigh them." *Para 11* states "Through policies in plans local authorities should also conserve other important natural habitat types that have been identified in the CRWA 2000 *s74* list as being of principle importance for the conservation of biodiversity in England and identify opportunities to enhance and add to them."

At *para 12 PPS9* "Networks of natural habitats provide a valuable resource. They can link sites of biodiversity importance and provide routes or stepping-stones for the migration, dispersal and genetic exchange of species in the wider environment. Local Authorities should aim to maintain networks by avoiding or repairing the fragmentation and isolation of natural habitats through policies in plans."

The discrepancies in the surveys show that there is evidence of a number of s74-listed species, for which the sites provide not only habitat, but stepping-stones for dispersal and migration. The benefit of the proposed development does not outweigh this significance and indeed would lead to the fragmentation and isolation of the natural habitats of these species. The existence of the discrepancies also highlights the difficulty the Committee will face in establishing that no harm will result to these species if development were allowed. It would seem that there is a high likelihood of possible harm. The methodology used by the Applicant is also of significance to this point, and will be expanded upon below.

Examples of Discrepancies in Methodology:

There are many observations to be made regarding the methodology used in the Applicant's survey. However, we would wish to highlight some of these by way of example:

- **Bats:** Of concern is the bat survey conducted for 2 hours on 18th June 2007, leading to a conclusion that there will be no adverse effects and that mitigation can be offered via the erection of bat boxes and a planning condition. As stated, bats are a protected species, and having regard to the specific guidelines offered to Local Authorities and developers when considering development, the survey conducted is inadequate, the conclusions unreliable and the mitigation proposed flawed. The consequences of this cannot be stressed enough, given the status of bats and the legal sanctions which can flow from damage, disturbance or killing of bats whether intentionally or recklessly. The guidelines to be followed are *English Nature Bat mitigation Guidelines 2004*. Within the guidelines it is confirmed that if legal proceedings were initiated these guidelines may have a bearing upon the definition on reasonable effort. The Applicant has not referred to these guidelines in its survey and we believe that the methodology used by the Applicant does not follow the guidelines.
- *Para 5.1 of the guidelines states, "Without a sound survey that includes an assessment of all available evidence it is difficult to predict the likely impact of development."*
- In its survey, the Applicant has sought to assert the absence of roosting bats at site A, the existence of bats on either site C or E(i) and the existence of breeds of bats other than the pipistrelle on all three sites following one visit on 18th June 2007. *At para 5.3 it is stated "Presence/absence surveys may be further subdivided into surveys designed to detect whether bats are present on a site (and thus trigger a more detailed investigation) and surveys to demonstrate beyond reasonable doubt that bats are not present. Although these may appear to be similar objectives, the effort (sampling intensity) required to demonstrate the negative may be much higher than conventionally accepted to detect the positive."*
- The survey conducted on one date by way of a walk through, using a bat detector, of approximately 30 minutes on each site is inadequate and does not accord with the guidelines. *At para 5.4 "As a minimum the survey should normally cover any land or structures which are proposed for development."* There is no evidence that the garages were examined. *"For phased development the entire site should be surveyed, not just the area of the first phase, and considered as a whole unit when assessing impacts and possible mitigation."* As previously stated, the plans do not include the submission of a masterplan. The guidelines recommend a detailed desk study for existing information of bat roosts within a 5 km area of proposed sites (*para 5.5*), recommending consultation with Local planning authorities, local record centres, County Wildlife Trusts and local bat groups. This should be used as background information only. The Applicant consulted Ecorecord (undated) over a distance of 2km.

- *Para 5.6.1* confirms the most common method of survey as being the inspection of buildings and other structures. Such inspection should be close, undertaken to a high standard, with all parts of the structure being inspected. The inspection should also include enquiries of owners and neighbours for evidence of bat presence/activity/history. By way of example the guidelines outline a method used for inspecting a commuting route for the feeding area of the greater horseshoe bat, recommending two separate evenings each month from May to September. The Applicant has not inspected the buildings proposed for demolition, or made enquiries of residents.
- The guidelines recommend the inspection of trees, there should be “*careful survey, using high quality binoculars*” *para 5.6.2*. “*Confirmation of the presence of bats may be attempted by using bat detectors for an emergence survey, but the nomadic nature of tree-dwelling bats means that the success rate is likely to be very low.*” The use of a bat detector whilst walking through on 18th June 2007 was the Applicant’s main source of evidence.
- The guidelines outline the difficulty, which is often encountered in surveying bats and the importance of doing so adequately in order that their presence is not missed. “*There may be times when females with young do not emerge at all or emerge only briefly. Within roosts, bats will move around according to the temperature and may or may not be visible on any particular visit. Bats also react to disturbance, so a survey the day after a disturbance event may give a misleading picture of roost or usage.*” It is worth noting that there were household renovation and building works being conducted adjacent to the sites when the survey was undertaken.
- Because of the lack of sufficient depth and detail of the survey there is a real concern that the conclusions drawn by the Applicant regarding the presence or absence of bats is flawed with potentially serious consequences. It would seem on that basis that the mitigation measures proposed cannot be relied upon, in view of the poor data collected by an inadequate survey. Even if it were established that there were no roosting bats upon any of the sites more detail is required concerning foraging and commuting routes. “*Although foraging areas and commuting routes are not legally protected, the effects of development proposals on these may be taken into consideration when assessing the impact of the proposal on the maintenance of favourable conservation status.*” (*Para 5.4*)

As outlined above PPS9 confirms the Planning Authority’s power to require further information or refuse applications because of lack of it. The Applicant suggests mitigation measures and planning conditions. “*The High Court has ruled (R. v. Cornwall County Council ex parte Jill Hardy, 22 September 2000) that for developments requiring EIA where there are grounds for believing that protected species may occur, environmental information (primarily survey results) needs to be provided to the Local Planning Authority before determination, and that initial surveys to determine the presence of protected species should not be conditioned. It seems logical that these principles apply more widely to non-EIA developments as well, since the guidance in PPG9 regarding protected species being a material consideration is difficult, if not impossible, to implement where no survey information exists.*” (*Para 6.1*)

- **The Appraisal of Ecological Value:** In its survey the Applicant has alluded to reliance upon the IEEM guidelines for determining ecological value of the sites. At *para 3.21* of the guidelines it is stated “*Consultation, especially with local specialists, can be crucial for identifying less obvious important resources and features.*” Further at *para 3.32* it is stated, “*In assigning value to a species, it is necessary to consider its distribution and status, including a consideration of trends based on available historical records. A non-mobile species can generally be assumed to occur regularly on a site, even after just one recent reliable record. However, records over a longer period, for example five years, may be needed for mobile species. The occurrence of species that are not typical of the habitat from which they have been recorded should be investigated in greater detail. It will be necessary to discuss the period over which data are needed with the relevant country conservation agency if there is a likelihood of there being an impact on a population or group of national or international importance.*” Many of the species noted, which have s74 protection are mobile, e.g. bats, bullfinch. Apart from an undated Ecorecord trawl there

does not appear to be any further consultation or investigation. *Para 3.16* refers to Tree Protection orders “*The ecological value of trees with TPOs should therefore be assessed independently of their designation.*” As stated above, the Applicant’s survey makes no mention of the existence of TPOs upon any of the trees upon the sites.

- Since the preparation and submission of its ecological report, the Applicant has submitted a supplementary report, “*Water Services & Sewer Services Infrastructure Report*” This report appends alternative proposals for underground sewerage works and the possible diversion of drainage from the Valley Site. The overall ecological impact of this further report has therefore not been properly assessed. For example at p28 of that document there is a proposal at site C, that there be a sewer pipe placed well within the canopy of an oak tree, which we believe is subject to a TPO. When examining the proposed plans at p28 of the report, it is apparent that the elevation of the site is such that in order for gravity fed drainage to be provided as indicated on page 2 of the report, there is a high likelihood of substantial damage to the oak tree. This would be caused by the need for substantial excavation work beneath the canopy of the tree that could not be avoided, given the narrow access channel available. This is one such example of the potential ecological consequences, which exist throughout the three sites, which have not been fully investigated due to the late submission of this document.
- **Trees, Insects and Reptiles:** As stated there are a number of discrepancies concerning the existence and number of species surveyed. The results of the Applicant’s survey in relation to trees, insects, other invertebrates, and reptiles were all gathered during two walkover visits of the sites lasting 3 hours in total each time. Given the quantity of flora and fauna and the area covered it is doubtful that such a period would be sufficient to obtain adequate data. For example, the presence of frogs and toads was missed entirely.
- **Birds:** Similarly the bird survey took place on two dates for three hours each time. There was a discrepancy in the species noted, and no further detailed survey once red list species had been noted. This does not accord with the guidance offered by the IEEM, and the sufficiency of detail required by PPS9 and UDP Ch3.
- **Newts:** Notwithstanding the presence of relevant breeding sites for newts and an observation by residents of 50 newts during the breeding period, no survey of their or potential habitat existence was conducted.

The Five Point Approach to Planning Decisions:

The Royal Town Planning Institute Good Practice Guide Five Point Approach (as outlined below) ensures that the aim of preventing harm to biodiversity is adhered to and its use is recommended to Local Authorities in PPS9.2:

1. **Information**—is more information about the site’s biological resource needed? Is more information about the development and its potential effects needed? Is the significance of the effects clear? Is relevant internal or external expertise available?
2. **Avoidance**—have all adverse effects on wildlife species and habitats been avoided wherever possible?
3. **Mitigation**—where adverse effects are unavoidable, have they been or can they be minimised by the use of mitigation measures that can be guaranteed by, for example, conditions or planning obligations?
4. **Compensation**—where, despite mitigation, there will be residual adverse effects that cannot be reduced further, have they been or can they be compensated for by measures aimed at offsetting harm? Can the compensatory measures be guaranteed by conditions or planning obligations?
5. **New benefits**—where there would be no significant harm to wildlife species or habitats, are there opportunities to provide new benefits for wildlife, for example, by habitat creation or enhancement? Can these new benefits be guaranteed by planning obligations?

There is a paucity of information regarding the true ecological position on all three proposed sites, as highlighted in the paragraphs above. Accordingly, it seems difficult to determine the issues of avoidance, mitigation compensation or indeed new benefits, as a result of this deficiency. *PPS9.2 para 1.3* outlines “*The key principles in PPS9 require that planning policies and decisions not only avoid mitigate or compensate for harm, but seek ways to enhance and restore biodiversity and geology.*” Having regard to all of the discrepancies raised and the difficulties with the methodology involved in the Applicant’s survey, it would be potentially significantly harmful to the ecology of the Estate for development to be allowed as proposed. If it were, irreparable significant harm could be likely.

4. Streets Less Pedestrian, Cycle and Vehicle Friendly

Paragraph 29 of Planning Policy Guidance 13 (Transport) (“PPG13”) states:

“Planning can also influence road safety through its control of new development. When thinking about new development, and in adapting existing development, the needs and safety of all in the community should be considered from the outset, and addressed in the Transport Assessment accompanying development proposals, taking account of the importance of good design.”

Paragraph 53 of PPG13 states:

“Local authorities should use their discretion in setting the levels of parking appropriate for small developments so as to reflect local circumstances.”

Annex C of PPG13 states:

“Care must be taken to avoid or minimise the environmental impact of any ...improvements to existing infrastructure; this includes the impacts which may be caused during construction (including the need to transport materials to and from the site, and dispose of spoil). Wherever possible, appropriate measures should be implemented to mitigate the impacts of transport infrastructure.”

Paragraph 6.51A of the UDP states:

“On-street parking presents a multiplicity of problems throughout the City. In local centres, adjoining roads can be overrun by visitor parking, emergency vehicles have problems reaching calls where narrow roads are heavily parked, and verges are disfigured and pedestrians hindered... Where appropriate, new developments that are likely to generate significant amount of on-street parking in residential areas will be required to contribute towards parking management measures.”

Paragraph 6.45 of the UDP states:

“Outside the city centre...pedestrian movement and facilities can also be improved considerably.”

Paragraph 6.43 of the UDP states:

“The City Council is committed to the promotion of safe cycling in the City and recognizes the benefits that can arise from a greater use of bicycles.”

Para 9 PPG13 states:

When preparing development plans and considering planning applications, local authorities should, in accordance with Para 9 of PPG13 “ensure that the needs of disabled people as pedestrians public transport users and motorists are taken into account in the implementation of planning policies and traffic management schemes, and in the design of individual developments.”

Paragraph 3.6.7 of Grainger’s Transport Assessment states that “sufficient replacement parking is provided to ensure there is no worsening of on-street parking in areas of parking stress as a result of these proposals”. This is inaccurate because these proposals are highly likely to lead to more on-street parking not only around the sites of proposed development, but also other parts of the Estate. This is for the following reasons:

- Firstly, the proposals do not offer enough secure substitute parking for the current users of the off-street parking areas that will be replaced by housing. Grainger's assessment of garage usage cannot be relied upon because they are based upon a single spot check under the guise of maintenance, and use unrealistically strict definitions of regular usage to present an underestimate of that usage. Examples of this are on the third page of **Annex 4**.

The MRG's own survey of residents in July 2007 demonstrates that Grainger's figures significantly underestimate usage of the garages for parking vehicles. The results of MRG's survey are at **Annex 7**.

- Secondly, the owners of the sorts of houses that Grainger proposes to build often have more than the 1.5 cars anticipated per property. Grainger's Transport Assessment states an average of 0.94 cars per property for Harborne based on 2001 Census figures. This is misleading: the average for privately owned three bedroom properties would be truly representative of the housing Grainger proposes to build. This average is highly likely to be more than 1.5 cars per property. The overspill will have to go on the street.
- Thirdly, Grainger's proposed priority parking scheme (to the extent we have detail about this) would extend the on-street parking issue from one part of the Estate to another: it does not offer a genuine solution to the issue. We understand the scheme would involve giving notice to everyone who currently rents a garage on site F. Priority may then be given to residents in the currently more congested areas. However, the people who currently use site F garages will have to park on-street, thereby displacing some of the congestion.

Of the congested areas to be given priority parking under Grainger's proposed scheme, Moor Pool Avenue and Margaret Grove abut site A and are near to site C, where altogether Grainger propose to demolish 134 garages. Furthermore, these homes are a 10 to 15 minute walk away from site F. The offer of a garage on site F would not therefore be an equivalent substitute to the existing garaging on site A.

Nor is there any guarantee that the garages on site F would be rented at an acceptable rate. Many of these garages are in any event in bad condition so may not be suitable for parking – Grainger has given no indication that these will be upgraded.

- Fourthly, Grainger's proposals dismiss the fact that 20 garages rented to car users outside of the Estate's boundaries will be forced to park on the street should these garages be lost. The MRG acknowledges that Grainger does not have responsibility for the parking needs of non-residents, but it does have responsibility for the impact of greater on-street parking (a direct result of their proposals to remove garages).
- Finally, the Applicant has ignored the needs of a family with a severely disabled son living next to the site at Wentworth Gate (Site E(i)).

In its Transport Assessment, Grainger has not acknowledged these issues. In fact, as quoted above, it denies there is an issue, and thereby ignores the safety and needs of the residents.

The reality is the Estate's narrow roads are unable to cater for more on-street parking. More detail about this is given throughout **Annex 4**. Passing points and access for emergency and refuse vehicles are already seriously compromised by on-street parking on roads such as Moor Pool Avenue and Margaret Grove. These proposals are likely to make that situation worse.

As regards traffic, Grainger relies on a traffic survey conducted in July 2007 to support its assertion that junction efficiency and traffic flow are not currently problems around the proposed development sites, and would not be worsened by the proposed developments.

This survey should not be relied on: the baseline data is likely to be flawed. July is peak holiday season (particularly if the survey was conducted during school holidays), so traffic flow and congestion at that time will not be representative of normal levels. A more representative survey is likely to show that traffic flow and junction efficiency are already significant issues for residents, and may be worsened by these proposals.

In fact, even more on-street parking and traffic compounding each other will make the surrounding streets less pedestrian, cycle and vehicle friendly. This is a particular concern for elderly residents, those with young children and those who opt for “greener” travel. The proposals therefore cut across the principles of paragraph 29 of PPG13, and paragraphs 6.43, 6.45 and 6.51A of the UDP, and should be rejected.

It is also worth noting that the under use of the existing off-street parking areas is due to the failure since 1996 (by BPT and subsequently Grainger) to maintain those areas. This has led to parts falling in to disrepair. Although some residents would prefer off-street parking (see **Annex 7**), the dilapidated state of the garages and Grainger’s obstructive approach to renting garages results in under use of the off-street parking areas. Grainger seek to rely on this dilapidation and under use as justification for development.

By putting forward a proposal for a priority parking scheme, Grainger is acknowledging that congestion is an issue on parts of the Estate, particularly around site A, where they propose to demolish all existing garages. We query why such a scheme is only suggested in the context of a planning application, and why it should be contingent on permission to build 16 houses and demolish 137 garages?

The solution to parking and congestion issues in the interests of pedestrians, cyclists and road users lies in making the garage areas fit for purpose, not in building houses on them.

5. Flooding

There is a flood risk specifically at Site A (the Valley Site) but which may also be affected by the proposed development of sites C and E(i). The Applicant has not submitted a flood risk assessment (FRA), as part of its planning documentation, to appraise, manage or reduce this risk. We believe that in view of historical and local knowledge concerning flooding that such an assessment is a vital part of this process. This will be expanded upon further below.

PPS 25, page 2 outlines “The aims of planning policy on development and flood risk are to ensure that flood risk is taken into account at all stages in the planning process to avoid inappropriate development in areas at risk of flooding and to direct development away from areas at higher risk.”

Page 4 “Flood risk should be considered alongside other spatial planning issues such as transport, housing, economic growth, natural resources, regeneration, biodiversity, the historic environment and the management of other hazards. Policies should recognize the contribution that avoidance and management of flood risk can make to the development of sustainable communities including improved local amenities and better overall quality of life.”

Para 9 states “Reducing the adverse consequences of flooding the “receptors” (i.e. people, property, infrastructure, habitats and statutory sites) by avoiding inappropriate development in areas at risk of flooding.”

In order to meet these requirements, PPS25 establishes that Local Planning authorities should apply a sequential test to the issue of flooding. Annex D of PPS 25 establishes that the risk based sequential test should be applied at all stages of planning. The “flood zones” are the starting point for the sequential approach.

At D8 PPS25 it is stated “When seeking planning permission for individual developments on sites allocated in development plans through the application of the sequential test, developers need not apply the sequential test but should apply the sequential approach. The plan should specify requirements for flood risk assessment.”

Para 8, page 14 of the Applicant’s Sustainability Planning Statement does not specifically refer to the requirements for flood risk assessment. However, it would seem that the report purports to establish the area as flood zone 1 i.e. less than 1 in 1000 annual probability of river or sea flooding. This is established from the Environment Agency website only. There is no FRA accompanying the document. It appears that the report has been completed to cover all three sites, which has a total area of 1.02 ha.

At table D1 PPS25 it states that the FRA requirements are as follows: “For development proposals on sites comprising one hectare or above the vulnerability to flooding from other sources as well as from river and sea flooding and the potential to increase flood risk elsewhere through the addition of hard surfaces and the effect of the new development on surface water run off should be incorporated in a FRA. This need only be brief unless the factors above, or other local considerations require particular attention.”

Table D1 establishes that for all other Zone categories, an FRA should accompany all development proposals.

Annex E of PPS25 establishes the following:

E2. Any organisation or person proposing a development must consider whether that development will not add to and should where practicable reduce flood risk. The future users of the development must not be placed in danger from flood hazards and should remain safe throughout the lifetime of the plan or proposed development and land use.

E3. At all stages of the planning process, the minimum requirements for flood risk assessments are that they should:

- *be proportionate to the risk and appropriate to the scale, nature and location of the development;*
- *consider the risk of flooding arising from the development in addition to the risk of flooding to the development;*
- *take the impacts of climate change into account (see Annex B);*
- *be undertaken by competent people, as early as possible in the particular planning process, to avoid misplaced effort and raising landowner expectations where land is unsuitable for development;*
- *consider both the potential adverse and beneficial effects of flood risk management infrastructure including raised defences, flow channels, flood storage areas and other artificial features together with the consequences of their failure;*
- *consider the vulnerability of those that could occupy and use the development, taking account of the Sequential and Exception Tests and the vulnerability classification (see AnnexD), including arrangements for safe access;*
- *consider and quantify the different types of flooding (whether from natural and human sources and including joint and cumulative effects) and identify flood risk reduction measures, so that assessments are fit for the purpose of the decisions being made;*
- *consider the effects of a range of flooding events including extreme events on people, property, the natural and historic environment and river and coastal processes;*
- *include the assessment of the remaining (known as 'residual') risk (see Annex G) after risk reduction measures have been taken into account and demonstrate that this is acceptable for the particular development or land use;*
- *consider how the ability of water to soak into the ground may change with development, along with how the proposed layout of development may affect drainage systems; and*
- *be supported by appropriate data and information, including historical information on previous events.*

Having regard to the above requirements, there are a number of issues outstanding:

- As stated, it would seem that the Applicant's report purports to suggest that the area is Zone 1. However, this is based upon information from the EA website only. The EA website does not record or show surface water run off flooding on the maps available, however, this does not mean that this does not happen or exist. Annex 8 shows in detail the historical and recent occurrence of surface water run off flooding which occurs on site A. This is a regular occurrence which happens once or twice per summer to the extent that it is believed that the Environment Agency have placed a flood barrier at one of the houses at the bottom of the Valley Site. (Site A) With this in mind, it is unclear which zone this site falls into. Having regard to the local information contained within Annex 8 a flood risk assessment is a vital part of the planning application process.

- In addition to arguing that Site A is zone 1, the Applicant may argue that because it alone is less than 1 ha in area, there is no requirement for an FRA. However, when considering the requirements outlined at Annex E above, together with the “local considerations” raised by the content of Annex 8, we believe an FRA is vital. Moreover F1 of PPS25 outlines “Flooding results both from sources external to the development site and rain falling onto and around the site. The sustainable management of this rainfall, described as surface water, is an essential element of reducing future flood risk to both the site and its surroundings. Assessment of surface water and drainage will be required as part of a FRA.”
- There should be a detailed FRA to accompany these planning proposals. The risk of flooding is evidenced at Annex 8. Indeed there is unsubstantiated anecdotal evidence that the estate founders’ original plan for housing on the Valley Site were abandoned for this very reason. Without this information it is difficult to show how any risk might be managed or reduced, and it would seem that the proposed development will only serve to exacerbate a very real risk of flooding. Notwithstanding any measures which might be taken within the new development the difficulty is such that flooding is caused at areas beyond the control of this development. The evidence at Annex 8 suggests that the water which runs through the Valley Site comes from other areas. This flooding does not happen because the culvert is blocked but because it is full. Any proposed mitigation measures for run off flooding from new development would not take into account areas beyond the developers’ control which flood into the Valley Site.
- In its supplementary document, “Water Services & Sewer Services Infrastructure Report” the Applicant has appended a letter, dated 26th February 2008 from Severn Trent Water, which, at para 2 states that there would be no objection to the proposals subject to conditions being complied with. Condition 1 appears to impose a requirement that a report akin to an FRA be completed. *Para E8 PPS25 states “At the planning application stage, an appropriate FRA will be required to demonstrate how flood risk from all sources of flooding to the development itself and flood risk to others will be managed now and taking climate change into account. Policies in LDDs should require FRAs to be submitted with planning applications in areas of flood risk identified in the plan.”* Having regard to this, and the prima facie evidence of flood risk outlined at Annex 8, a Flood Risk Assessment should be prepared to inform the decision making process in principle, before any consideration can be given to the imposition of conditions. The overriding objectives of PPS25 are outlined at para 6, these being that there should be an appraisal of risk, which informs how any risk may be managed and then reduced. Without the FRA at the planning application stage it would be difficult for the Committee to be fully informed upon the issue and have potentially serious unknown consequences. In considering the element of management and reduction of risk PPS25 Annex G makes clear that the funding of such work, for example, should be funded by the developer and that it may be necessary to enter into negotiations and impose conditions at this stage. Without the FRA to inform upon this issue amongst many others, raised by the issues of management and reduction, it would seem impossible to cover all aspects of the specific requirements of PPS25. The requirement of an FRA at the application stage is a mandatory requirement and should not of itself be made a condition upon the granting of permission in principle. The unknown consequences would be too grave, having regard to the principles outlined at para E3 above. The issue of the granting of permission in principle would not be fully informed and it would be impossible to consider what, if any, conditions could be imposed to manage and reduce any risk.
- At page 24 of the supplemental report, the Applicant has included a letter to Severn Trent Water, requesting that consideration be given to relaxing the 5m easement requirement at Site A. We have made enquiries of Severn Trent, who have confirmed that such a request is unlikely to be granted, specifically because of the large size (750mm) of the alternative pipes proposed. Severn Trent has informed the Applicant of this refusal, however this correspondence does not appear within the report.

- Annex E makes clear that historical information and appropriate data should be considered, in addition to many other factors, such as climate change, which have not been addressed by the Applicant. At H13 PPS25 it is stated “*Community involvement is an essential element in delivering sustainable development and creating sustainable and safe communities.*”

Birmingham City Council UDP para 3.72 states “*Wherever possible, rainwater should drain into the ground via adequate control devices. However, full consideration must be given to the suitability of the underlying ground to accept the additional ingress of water. In particular, direct drainage into the ground in areas with a known history of high levels of ground water should be avoided.*”

Para 3.74 states “*River and stream corridors (as the Valley Site is) are liable to natural flooding. New development should not encroach onto natural flood plains and obstruction to natural flows should be avoided.*”

Para 34 PPS25 states “*Proposers of development which may add to flood risk should arrange pre application discussions with the LPA and EA and where relevant other bodies such as Internal Drainage boards, sewerage undertakers, highways authorities and reservoir owners and operators. Such discussions should identify the likelihood and possible extent and nature of the flood risk, to assist in scoping the FRA and identify the information that will be required by the LPA to reach a decision on the application when it is submitted.*”

The Residents are concerned about the risk of flooding and have evidenced that concern at Annex 8. There is insufficient information or assessment of the flood risk and the residents would therefore seek a refusal of the applications, given the serious potential consequences.

6. Affordable Housing

The partial proposal and the submission of separate applications without a masterplan may avoid the social housing threshold, which under PPS3 and UDP chapter 5 should be considered by the Committee, and which would be relevant in the event of further plans being submitted. This is particularly relevant having regard to:

- One of the original aims of the Estate was to provide social housing. Until recently the large number of rented properties ensured both a realistic social mix on the Estate and that the Moorpool Estate could serve as a reservoir of housing for important social groups whose salary scales were lagging behind in the current housing market. The selling off of rented property on the Estate is eroding this important social function.
- The current proposal to build less than 25 dwellings, the submission of those proposals without a master plan or assurances of no further development, and to ask that the site applications be considered separately seems to be a deliberate attempt to circumvent the policy requirement. “*The City Council will seek the inclusion of an element of affordable housing on housing developments on sites of 25 dwellings or more or 1 ha or more, or such thresholds as may be set in future Government guidance.*” (Para 5.37B UDP) It is of note that the total area of the three sites is 1.02 ha. As stated, there have been no assurances of the relinquishment of future planning applications on previously referred to sites.
- PPS3 outlines “*For smaller sites, the mix of housing should contribute to the creation of mixed communities having regard to the proportions of households that require market or affordable housing and the existing mix of housing in the locality.*” (para 24 PPS3). As stated the extent of affordable housing has already been reduced upon the Estate by the selling off of former rented properties.

Conclusion

In conclusion, the residents of the Moorpool Estate strongly oppose the planning applications submitted by Grainger plc. There are many sound planning policy bases upon which these objections are made, as outlined above. The overwhelming strength of feeling within the community is, that having regard to those sound bases, there is nothing in the proposals that will serve to enhance or preserve the unique nature of this estate, or in any way benefit a community of which this Applicant has been landlord for a number of years. As previously acknowledged, whilst not strictly a planning issue, it is pertinent that over those years the Applicant has not demonstrated any regard for the character of the estate, allowing dereliction and neglect of the areas under its control. However, the significance of this cannot be stressed enough when considering the whole basis upon which these applications are made.

What is beyond doubt is that the neglected state of areas within the control of the Applicant are unacceptable and do detract from the beauty of this estate. However, for all of the reasons outlined above; character, open spaces, ecology, traffic, flooding to name but a few, the answer is not to bleed the estate of its character in order to optimise the profit share of its private landlord. The Applicant has repeatedly referred to the consultation process and how it has adapted its proposals to meet the expressed desires of residents. It is of note that there is no supporting documentation to substantiate that such desires have been listened to. Furthermore, there has been no anonymity for those residents who reside in tenanted properties and who rely upon the Applicant for the maintenance of their homes. If the Applicant were to listen to the desires of residents, it would be clear that the development desired is not for inappropriate residential development.

The many policy documents which exist and which have been referred to above, exist to allow an objective consideration to be given and where necessary protection provided against inappropriate development. Indeed, within the UDP there is provision for the City Council to add historic landscapes of special local significance to the City's Local List in order to seek to protect their distinctive characteristics (*para 3.29*). Against this background, and having regard to the full extent of the valid objections raised above, the residents urge the Committee to refuse these applications.

If you require clarification on any of the above points, or wish to discuss them, please do not hesitate to contact me.

Yours faithfully,

A handwritten signature in blue ink that reads "Andrew Hackett". The signature is written in a cursive style and is underlined with a single horizontal stroke.

Andrew Hackett B.Sc.
Chair, Moorpool Regeneration Group