

**COUNCILLOR FAWTHROP'S COMMENTS IN REGARD TO ITEM 4.13 – 10
WOOD RIDE, PETTS WOOD**

Mr Chairman

The application before you tonight for 10 Wood Ride falls within both the Chislehurst Road Conservation Area and the Petts Wood Area of Special Residential Character (ASRC), which was designed and built on the Garden Suburb principle.

Before I commence on a detailed response I'd like to draw to your attention to some inaccuracies within the report. The first being that no reference is made to the ASRC anywhere within the report. The planning history also fails to report the withdrawn application 16/03728 which is substantially the same application that is before you tonight. This means that the plans are also subject to saved UDP policy H10 and the draft policy 44 of our new Local Development Plan. The Inspector when dismissing the last application at appeal did not address this issue of the difference between the ASRC description (which is the most recent contribution) and the older ASRC area map. Just to highlight that being in a conservation area does not exclude a property from also falling within the ASRC. The Conservation Area was also listed as part of the ASRC in the old description, for what it is worth.

The inspector also failed to address both the issues of density and the overall impact of the proposals on the Conservation area, the Inspector was silent on the impact of the basement. The view of officers that just because something cannot be seen means that it does not cause harm is refuted in the Supreme Court case of Secretary of State vs Welwyn Hatfield Borough Council [2010] EWCA Civ 26 [2011] UKSC 15.

When looking at these types of cases it is important to refer to the House of Lords in the case of South Lakeland District Council vs Secretary of State [1992] 1 All ER 573 refers to both the character and appearance not being harmed.

But more recently in Barnwell Manor Wind Energy Ltd v East Northamptonshire District Council and Others [2014] EWCA Civ 137 in rejecting this appeal, the Court held that in enacting section 66(1) of the Listed buildings Act 1990 Parliament intended that the desirability of preserving settings of listed buildings should not simply be give careful consideration by the decision maker for the purpose of deciding whether there would be some harm, but should be given considerable importance and weight when the decision maker carries out the balancing exercise. In this case we are talking about the character of the area as well as the appearance. To argue that the character of the area is not harmed when something is being introduced into the area which does not exist anywhere else in the Conservation Area, would seem to be in conflict with this case law. In the most recent appeal at this site, the Inspector whilst rejecting the appeal, failed to address

this very important case, taking into account the higher test set out of giving the harm “considerable importance and weight” when balancing the issues. In this case the Court of Appeal also held that the Inspector had also erred when applying the reasonable observer test to appreciate the difference between form and function of the changes, as the principle basis for determining whether substantial harm would be caused to a heritage asset.

The report writers have not taken into account the context of this setting and that is that the application before us today is in a Conservation Area and the context of that is the setting which I would argue is also within the Petts Wood ASRC, but even if that is not accepted at a higher level, then it has to be accepted that the ASRC adjoins the heritage asset and as such the rules applicable to the ASRC must be taken into consideration. I attach a copy for the minutes of the current ASRC description.

The current UDP Appendix 1 paragraph 1.2 makes it quite clear that new developments

- (i) **Will be resisted if they erode the quality and character of the ASRC, in respect of the ASRC description.**
- (ii) **Residential density shall accord with that in the area**
- (iii) **Spatial standards of new development (plot, width, garden depth and plot ratio shall accord with the general pattern in the area.**

These are just some of the guidelines that I have identified that this application breaches.

The fact is that the Petts Wood ASRC is one of only two similar areas in London the other being Hampstead Garden Suburb, which are of such an important quality that development cannot be a free for all. There are many examples of inspectors looking at the ASRC and recognising its importance, I have provided these examples when this application last appeared at a planning sub-committee and in referring to this application I would also refer and ask for those minutes to be included as part of this application. The examples were

- 1) in the same Conservation Area at 267 Chislehurst Road, and this points out that even if something can't be seen it can still do harm to the Character of the area.
- 2) The Conservation Area of the Chenies which was dismissed which demonstrates that an application can be a cramped overdevelopment of the site and harmful to spatial standards.
- 3) An application also in Wood Ride to demonstrate that inspectors uphold the areas character nearby.
- 4) The final appeal relates to an end plot in Ladywood Avenue which is by the same applicant to demonstrate that this is no ordinary householder appeal but something

more commercial and systematic. The appeal again demonstrates that the spatial character and standards are very important.

One thing is clear, when the plots were established in Petts Wood it was for family housing with generous plot sizes and gardens as well as garages. By introducing basement development into the Conservation Area and ASRC this application completely undermines the notion of the Garden Suburb. The Garden Suburb does not have basements. This so severely erodes the Conservation Area and ASRC as to cause considerable and irreversible harm for current and future occupiers of the site and area.

The application increases the density out of all proportion to the plot size. It is also likely to cause considerable harm to the Noel Rees designed building in the Conservation Area (a heritage asset) and during any construction the adjoining occupiers would have an unacceptable deterioration in their Residential amenity.

Finally Madam Chairman I'd like to propose the following grounds for refusal.

- 1) The application is contrary to policy H10 Appendix 1 paragraph 1.2(i) in that the development erodes the individual quality and character of the ASRC in that it introduces basement developments into the both the Conservation Area and ASRC when none currently exist, severely eroding the nature and Character of the area.
- 2) The application is contrary to policy BE11 in that it does not respect or compliment the layout scale, form and materials of existing buildings and spaces, nor does it respect and incorporate the design, existing landscape or other features that contribute to the Character, appearance or historic value of the Chislehurst Road Conservation Area in that there are no basements existing with the conservation area.
- 3) The density exceeds that in the surrounding area in breach of policy H7 table 4.2 and H10 Appendix 1 paragraph 1.2 (ii) residential density shall accord with that existing in the area
- 4) The proposal by reason of the introduction of a basement, represents a harmful destruction of a heritage asset as set out in *Barnwell Manor Wind Energy Ltd v East Northamptonshire District Council and Others* [2014] EWCA Civ 137 contrary to policy BE11, H8 and H9 of the Unitary Development Plan.
- 5) The Application would be seriously detrimental to the history, architecture and character of the Chislehurst Road Conservation Area.