

MAJOR Representation.



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By Email to: ldf@reigate-banstead.gov.uk

FAO The Secretary of State Planning Inspector
c/o LDF Team
R&B Borough Council (Policy)
Town Hall
Castlefield Road
Reigate RH2 0SH

21 February 2018

Dear Sir/Madam,

**Development Management Plan Regulation 19 consultation
Urban Open Space Assessment and Review, (October 2017) on Amberley, Bolters Lane, (site 20)**

I RESPECTFULLY REQUEST THAT THE INSPECTOR TAKES INTO CONSIDERATION MY PREVIOUS "REPS REG 18 ON UOS REVIEW Oct 2016" (Please see Item 2) TOGETHER WITH THIS REP OF THE REG 19.

1. I object to the unorthodox and predetermined methodology the Council has drafted, assessed and reviewed the **Amberley site (20)** at Bolters Lane, Banstead, SM7 2AD, within the Urban Open Space Assessment and Review (October 2017) document.
2. For factual information a brief history of the Amberley site is attached. (Please see Item 1)
3. We understand that this DMP Regulation 19 report represents an update to the Urban Open Space report published alongside the Regulation 18 DMP consultation document and supersedes that report and takes into account comments that were raised through the Regulation 18 consultation.
4. I was hoping that my comments stated in my representation Regulation 18 DMP "**Reps_ Reg 18_ on U O S Review by LGP 07 10 2016**" (Please see Item 2.) would have been considered and taken into account, before the Council finalises the UOS review of the DMP, in defining the three principles of the Amberley site designation.
 - 4.1 Unfortunately, much of the factual evidence given in my representation Regulation 18 DMP does **not** appear to have been taken into account in preparing the Regulation 19 DMP. In fact the Council seems to have simply carried forward its previous designation, which was based on misunderstanding of a multiple of factors, and then devised the criteria for the policy to support, what I believe to be, their **predetermined decision**.

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5. The **predetermined** wrong decision is very clear within the previous characterisation survey form No 148 of Reg18. Last Page, (Please see [Item 4](#)) **Part 6: Supplementary Information:**
Q: "Was the site referred to in the Banstead Federation of Residents Associations reports on open space? If so insert comment:. The Council said: "Yes" – mentioned but not discussed or assessed in any detail – simply falls under conclusion that should all be retained.
 - 5.1 In fact, **Banstead Village Residents Association comments were:** *"If it becomes essential to identify an area for development, first consideration should be given to the **UOL at the foot of Bolters Lane**? All other Green Belt areas in Banstead Village Ward should be preserved from development at all costs."* ([Please see Item 5](#))
 - 5.2 It is clear that the Council refers to both sites, the [Wildlife Field](#) and [Amberley](#) as **"should all"** be retained? **This predetermination is incorrect and unfairly compromises Amberley.** The Council assessed two sites with entirely different typology, **"Amberley"** a Private Residential site and the **"Wildlife Field"** a Natural Conservation site, drafted, assessed and reviewed together on the same form by the name as **"Open land, Bolters Lane, Banstead"**. The Council consequently did **NOT positively prepare** the document.
 - 5.3 Unfortunately none of the multi-discipline Council's personnel have even noticed and/or presumably checked to ensure the accuracy of the statements, thus the criteria **were fundamentally flawed**. I cannot stress enough that Amberley and the Wildlife Field are two completely separate sites and am glad to see that the Council clearly agree with my view such that, now, they are referred to separately.
- 6 Enquiring with the Council's Planning Policy Team at the first sight of the Regulation 19 UOS and in reference to paragraph (3.19) and paragraph (3.21) we obtained the subsequent Assessment for the Amberley site (20) ([Please see Item 6](#))
 - 6.1 In reference to paragraph (3.19) and paragraph (3.21) of the **Urban Open Space Assessment and Review (October 2017)** document, the site of **Amberley, Bolters Lane (site 20)** was subsequently assessed for the second time, merely due to the undisputed factual evidences given in my representation in the original Regulation 18 assessment. Those evidences are, under (**Observations and points for correction in the, "on-site characterisation survey" form**) starting in numerical [point 9](#) and following in [pages 10 to 15](#) of the ("**Reps_ Reg 18_ on U O S Review by LGP 07 10 2016" Item 2**).

- 7 A number of observations and points for correction in my representation **Regulation 18**, regarding wrong and incorrect statements of the Council, were not even taken into account and they were copied unchanged into the new **Urban Open Space Review, Regulation 19**, e.g. Paragraphs **2.14, 2.15 and Reg 18 in 4.13 now Reg 19 in 4.12**. Please see pages 6, 7, 8 and 9 under **Observations and points for correction on the Urban Open Review document**, of the above **(Item 2)** attachment.
- 7.1 To reiterate and summarise, I object to the Council's manufactured untrue statements in paragraphs 2.14 and 2.15 which, were carried forward unchanged from Regulation 18 into Regulation 19, despite the same comments in my representation in October 2016.
- 7.2 In paragraph 2.14, that the appeal decision **(2009)** refers to **the land in question** is the 15 meter rectangular entirely separate property to the south and adjoining to Bolters Corner, hence the **"proposal for the expansion of a car park at the adjoining nursing home"**. That is the **appeal on the subject land and NOT the Amberley site**. Why victimising Amberley in the said paragraph 2.14?
- 7.3 In paragraph 2.15, although the appeal **(2008)** refers to Amberley, the Council's statement, **"an application to extend the adjoining nursing home"** is untrue and misleading and had nothing to do with an extension of the Nursing Home. What the Council was trying to say is **factually untrue**. As far as the Council's **time disorientated** statement that the Inspector **"agreed with the view of the Inspector at a previous appeal"** then this too is **factually untrue**. The Inspector couldn't agree with the Inspector at a previous appeal as in paragraph 2.14 above as there was only ever one appeal on Amberley (in 2008). The later appeal in 2009 was not Amberley's appeal and to suggest that it was is **factually untrue** and continues to be misleading to anybody reading that statement as my representations **have not been taken into account**.
- 7.4 In paragraph **Reg 18 in 4.13 now Reg 19 in 4.12** the Amberley (site 20) continues to be specifically named and singled out as an example of a **larger site** under Principle 2. Why are other sites not reported in this direct manner even if they are **a much larger, or double the size** of Amberley, for example a site only 170 yards to the south of Amberley the **Banstead Hall Fields (site 21)**? **This is singling out Amberley yet again?**

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- 8 Although the Amberley site was re-assessed as per attached **(Item 6)** it was again found to be **unduly rushed, superficially done and incomplete**, unfortunately, no comments were made under **Part 6 "Consultation responses"**, of the re-assessed survey form. After all what was the point of clarifying all those Council's incorrect statements in my previous representations, and then the Council have not even commented in the new **"on-site characterisation survey"** form? The acceptance of failing to correctly complete the form and the apology given by the Council's Officer is a clear indication in an email exchanged with the lately appointed Council's Planning Policy Development Officer, **(Please see Item 6a)** I quote:


From: [Steven Heywood](#)

Date: 15/12/2017 11:56:45

To: 


Cc: [Catherine Rose](#); [Philip James](#)

Subject: RE: Urban Open Space Assessment and Review (October 2017)

In terms of your point about your representation to the Reg 18 consultation – I must **apologise on this front**, while I did read and take note of your consultation, I **failed to copy over my notes on this into the relevant section of the assessment form**. The following paragraph should have been added to that section: "The owner of the site objected to the proposed designation of the site as UOS. The arguments against designation included: that the site performs no public amenity function; that the site is not visible from public vantage points; that the site should be assessed as low priority for principles two and three; that the site has been unfairly assessed in combination with the adjacent site 31, Banstead Wildlife Field; and claims of various inaccuracies by council officers and government Inspectors across a range of documents and appeals. The landowner also noted that the extent of the site had been slightly misidentified, with the northern boundary shifted too far to the north – it should not go as far as the nursing home building." **(Please see Item 6a)** were further comments in BLUE were added to the email item by  for clarification)

- 9 The new stated reasons for progress and designation **have clearly reduced**, in regards to **Amberley site**, as clearly shown in the highlights and the comments in **BLUE** by , on the attached re-assessed form of the Amberley site, **(Please see Item 7)** but the Assessment Principles **remained the same and were carried forward** in Regulation 19 as it was in Reg. 18.

9.1 Under the circumstances, I will reiterate that the Council carried forward the previous unchanged wrong principles, i.e. **"Principle 1: LOW, Principle 2: HIGH, Principle 3: MEDIUM"** which were based on misunderstanding of the facts and then devised the criteria for the policy to support that **predetermined decision**.

- 10 The big difference from the previous assessment **(Item 4)** which was prepared in a combined survey form, with the nearby (NSN) Banstead Wildlife field site, to the subsequent assessment **(Item 6)**, where the Amberley site was assessed on its **OWN**, clearly shows the need for a change in the preparation of the Urban Open Space Review, Regulation 19, in regards to the three Principles and re-designation of the **Amberley site (20)**.
- 11 I will expand on my observations and comments as in the attachment: **(Item 7)**. **Amberley 2017 Re-assessed by R&B with  comments)**

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- 12 **In Part 1, General Description and Screening: (Please see Item 7)**
- 12.1 The Council appears to refer to **two parts** of the Amberley site, in parallel to the title covenants of the 1995 transfer from Surrey County Council to the present owner.
- 12.1.1 The subject land or Open Space “**The Garden**” which is affected by the title covenant No: 1 of the First Schedule **(Please see both Item 7a.)**and;
- 12.1.2 The **House residential property with the immediate curtilage** adjoining the subject land or Open Space, affected by the title covenant No: 2. **(Please see both Item 7a.)**
- 12.2 These **legal covenant constraints** on Amberley are in **two parts** and appear to be in the R&B Council’s minds for a long time and some communications in the past appear more explicit now. **(Please see Item 7b.)**
- 13 That reference by the Council raises a big question, of how does the Council assess and apply the **Legal constraints** in regard to the principle criteria, on a site?
- 13.1 On that note the site at **Wellesford Close (site BV14)** according to the Council’s research in SHLAA 2016 is found to have **legal constraints with covenants** on the land restricting use to public open space. Evidently this site is **deleted** from the UOS Reg 19?
- 13.2 On the same tone **the Amberley (site BV4)** made progress in overcoming legal constraints in agreement to modify the covenants to allow development on the site, but yet its designation remains unchanged? **(Please see Item 8)**
- 13.3 In view of the **General Description and Screening** as above, the removal of the **Wellesford Close** from the UOS list appears to have occurred despite previously stated legal constraints. The legal covenants that apply to that part of **Amberley, of the dwelling house and associated garden land (Lot 2), (Please see both Item 7a.)**, indicates that the Council should **NOT include** it in the **Urban Open Space designation at all. It does not fulfil any of the definition and principles of the UOS?**
- 14 **In Part 2: Open Space Review Principles: (Please see Item 7)**
- 14.1 **Principle 1:** The Council’s present criteria for the site is correctly assessed as **LOW**, but with **PPG17’s criteria** on Permitted Level of Access then, if we are considering the reality of the rating, then it can only be at the **lowest level of the “LOW”** criteria.
- 14.2 **Principle 2:** The Council stated: “Open space provides relief from the built up area and contributes to the character of the area **but there is only limited viewing from the roadside.”**
 Despite the Inspector’s and the Council’s re-assessment comments that **the Amberley site is restricted and has limited visibility from the roadside by the public**, the Council has shown no intention of changing what was **predetermined** in Reg, 18 on **principle 2** for Amberley when they continue to assess it as **HIGH**?
 In Question, “Site viewed from **public vantage points**” The Council said: “Yes”. Again the site **has restricted and limited view for the public and passers-by**, due to the wall and screening all along the roadside.
Public vantage points are positions or places that allows one a wide or favourable view of a scene.
There are Private Vantage Points when you enter the site.
 Under the above circumstances, taking into account these clearly stated restricted views then surely the Amberley site should be assessed as **LOW/MEDIUM.**
- 14.3 **Principle 3:** Previously, when assessed with the **Wildlife field (NC&NGS) site**, Amberley was assessed as **MEDIUM**. Now, with the re-assessment of **Amberley site** on its **OWN**, as corrected, with **ALL** the Council’s answers as **NO** but only one reference to the TPOs on the southern boundary and without the **Wildlife field(NC&NGS) site**, as in Reg 18, **Amberley** should surely be assessed as **LOW?**

- 15 In Part 3: There were NO further comments by the Council. (Please see [Item 7](#))
- 16 Parts 4 and 5: NOT on the form provided by the Council?
- 17 In Part 6: NO comments by the Council? (Please see [Item 7](#)) Reference in No 8 above too.

Inconsistency within the DMP Reg. 19, Urban Open Space Assessment and Review

18 Land at Wellesford Close in Banstead. (P /08/01922/OUT) A substantial residential development previously rejected by R&B Council for visual amenity reasons; would result in partial loss of woodland; regards to protected species.

(APP/L3625/A/09/2106564) An appeal was dismissed on this site and the Inspector supported its designation as Urban Open Land. He Said: *"In my judgement, the appeal site represents an area of particularly high amenity value which can be appreciated from several vantage points. Overall, I consider that the appeal site makes a significant contribution to the visual amenity of the area."* At the site visit I observed that deer were grazing on the land; Public footpaths run along two sides of the appeal site;

18.1 The above site at Wellesford Close was found by the Council and the Inspector to meet the characteristics of Open Land/Space, and they have implied by their comments HIGH values under Principle 2 and HIGH values under Principle 3 and the Inspector noticed deer grazing on the land and possible public access/footpaths. I have noted that the site is also adjoined at the full length of the west and south sides to an Area of Great Landscape Value and the Metropolitan Green Belt. Despite of all that, the site is no longer considered by the Council now, to meet the characteristics of Open Space?

18.2 The site is deleted or shown "do not retain" in the U O S October 2017? (Please see [Item 9](#))

18.3 Comparing the Amberley site to Wellesford Close site above, and considering that Wellesford was deleted from the Regulation 19 Urban Open Spaces Review, the Amberley site with LOWER values in principles should also be deleted or de-designated.

18.4 The Amberley site, has NO public access values under Principle 1: LOW/ZERO; has only restricted and limited public views indicating values in point 14.2 under Principle 2: LOW/MEDIUM; and not an (NGS) site with clear values under Principle 3: LOW as indicated in point 14. 3. In view of the subsequent assessment, the Council DID NOT consider those changes into their recommendations for Amberley? (Please see [Item 9](#))

18.5 The Council clearly made unfair assessments during the Reg 18 on sites in the area of Banstead. i.e. An UOL site namely "Banstead Hall Playing Fields", was wrongly included in the BAN 2 of the "Small areas around the Horseshoe" suggested and promoted by the Council as a site for development. In Reg 19 the Council is making changes/corrections, assuming to some objections and "Banstead Hall Playing Fields site is retained as UOS and not developable. In the case of the Amberley site, no changes are made, despite the many unjustified assessments and statements the Council have made on Amberley site in Reg 18. In fact many of those unfair and factually untrue assessments were copied and just carried forward into Reg 19? It is questionable and unsound.

18.6 This inconsistency BETWEEN SITES within the DMP Reg 19 is unfair, unacceptable and unsound.

19 In all fairness the Amberley site should be de-designated and will not be a loss to the surrounding green area due to the existence of the huge Open Green Belt in the North and the big Open Spaces to the South which extends all the way to the end of Bolters Lane.

19.1 As a matter of truth and what one can experience with the surrounding area of Bolters Lane, Urban Open Spaces, Green Belt and other publicly accessible open land is considered to be far from scarce in the vicinity of the Banstead area if the Amberley site is de-designated.

20 As part of the "Assessment process", an **Open Space, Sport & Recreation Assessment 2017 (OSR) Update**, was undertaken by the Council of the adopted "PPG17, Open Space, Sport and Recreation Assessment 2011". The methodology used by the Council to **prepare the 2017** update report was again in line with **PPG17**, the **companion guide to PPG17** and Sport's England Guidance, hence to include assessments and apply Needs and Opportunities Guides for **Indoor and Outdoor Sports Facilities**, including Amenity Green space with **maps** identifying the said sites.

The Council defines Green Space in 7.1 of the OSR 2017 as:

*Amenity Green space includes spaces open to **free and spontaneous use by the public**, but neither laid out nor managed for a specific function such as a park, playing field or managed as natural or semi-natural habitat. These areas of open space are of a varied size and share the following characteristics:*

- *Unlikely to be physically demarcated by walls or fences* **Secluded by ALL sides**
- *Predominantly lain down to (mown) grass* **Private garden**
- *Unlikely to have identifiable entrance points (unlike parks)* **One private gated entrance**
- *They may have shrub and tree planting and occasionally formal planted flower beds* **None**
- *They may occasionally have other recreational facilities and fixtures (such as play equipment or ball courts)* **Has NONE of those facilities**

20.1 The Council now included the Amberley site in the **OSR 2017** but unfortunately none of the above definitions apply? This again is another kind of **predetermination as in the UOS Review that simply falls under conclusion that should all be retained, which incorrectly and unfairly compromises Amberley.**

20.2 My views were considered before and were taken into account and used to evolve the adopted documents of the Council's adopted "**Core Strategy**" and the "**PPG17, Open Space, Sport and Recreation Assessment 2011-2012**". It is clearly shown in the 2011 Assessment at that time, the Amberley site **was NOT included or mentioned** in the protected sites of the assessed typologies and it shouldn't be included now. (Please see **Item 10**).

20.3 Without any doubt the Council's Officer who prepared the maps "**Figure 74 Amenity Greenspace**" intended to keep the Amberley site out, **as of correctness**, hence the Amberley site is **NOT** shown on the map? ☺ (Please see **Item 11**) Is this a mistake or a **sound truth** that the Amberley site **shouldn't be included**?

20.4 The **Amberley site** has **none** of the above Green Space definitions. It is **NOT** used by the Public; it is **Not** a **Park** or a **Playing field**; it is **NOT** or managed as natural or semi-natural habitat. It is **NOT** a **Common Land** or a **Village Green**. (Please see **Item 12**)

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21 Another point of how the Council treated the Amberley site in a **predetermined and unfair** way is the preparation of the **HELAA January 2018** document for the DMP.
Although the HELAA details for the Amberley site was submitted by me twice in January 2017, the Amberley site was not included in the December HELAA document.
After several communications starting on 02/01/2018, the HELAA document was updated on 10/01/2018 including the Amberley site. **Surely this couldn't be another mistake?** 😊

21.1 As mentioned in 5.2 above, the Council assessed two sites with entirely different typology, "**Amberley**" a Private Residential site and the "**Wildlife Field**" a Natural Conservation site on a combined form "**Open land, Bolters Lane, Banstead**". Apart from the Amberley site is **penalised and severely compromised unfairly** the Council concluded that the suitability of the Amberley site is to be amended from "**Potentially Suitable for development**" in previous SHLAA's reports to "**Not Suitable**" as set out in table 8 in page 21 of the Council's document "**SHLAA 2016 Addendum FINAL Main Report**" and in the HELAA 2018 document (**Please see Item 13**). **That amendment is unfair and unjust.**

22 Amberley was designated as urban open land during the 1991 review of the local Plan.

23 In the last **23 years** under the private ownership of the present  Banstead resident, the site was transformed from a derelict and an eyesore area, to the present pleasant area.

24 After 27 years now while Amberley was only providing **limited and restricted public visual amenities and some overlooking views for the few**, it is only as of right, that the Council should **de-designate the Amberley site.**

25 The Amberley site in such a sustainable position could be providing needed housing for the increasing older population of the Borough or providing affordable housing to meet the much needed roof over the heads of our youngsters as per our Government's recommendations.

I respectfully ask the Inspector to consider my representation together with my previous Reg. 18 and I could supply any other clarifications if needed, thank you.

Yours truly

