NO Chq

Mr & Mrs D. Shewan
2 The Dell
Royston
Herts
SG8 9BJ

N.H.D.C.
16 APR 2018

23/03/2018

Dear Mr Ellis

Outline Application : Outline application (all matters other than layout reserved) for residential development, comprising eight dwellings. Renewal of Application as Approved under Ref: 14/02341/1
Land East Of Briary Lane And South Of Sun Hill, Sun Hill, Royston, Hertfordshire.

The application described above was recently received by NHDC and you said that you would be interested to know if we have views, either for or against the proposal, which you would like the Council to consider before it makes a decision on the application.

We cannot understand why very few have been contacted for comment on the renewal application and the usual public notice has not yet been placed into the local press. I presented our opposition case to NHDC when outline planning permission was granted three years ago but have not received any notification of the renewal application - why? Because of this oversight we have also contacted the Open Spaces Society and Natural England both of whom now object to the initial application because relevant details had not been given to them by the applicant resulting in a number of changes to the original proposals given.

When this planning application was first proposed in 2014 I made detailed comment of the reasons we OPPOSE the application and I also gave a short presentation to the Council on 25/5/2015. Our arguments against the proposal are still pertinent and I enclose a copy.

In the intervening period many things have changed and new information has been gathered. Much of this information strenghtens our OPPOSITION and gives the Council good reason for dismissing the renewal.

NHDC have no jurisdiction over Common Land although the planning department can say if the land, once deregistered, is suitable for development. As yet, after three years, this section of Common Land has not been deregistered. A recent Public Inquiry was conducted by PINS and a final decision is yet to be made. The applicant has interpreted the Law - an Act of Parliament, Deed and Conveyance, in their favour but others, including your own legal team in 2015, hold a different interpretation. In 2015 Richard Tiffin stated in his report that "Although not strictly a planning issue, the Act of Parliament requires the Trustees of the Charity to maintain the land in perpetuity. By disposal of this land the Conservators are in breach of the Act".

Plans submitted for 8 houses on the application site are misleading, since it is increasingly unlikely that these will will ever be built. Therfield Regulation Trust are in negotiation with a land agent, Gladmans who wish to build a new road along Bridleway 13 to provide access into a speculative development of 120 houses on Heath Farm. There is a precedent for not allowing the construction of a road on the neighbouring Bridleway 14; this could also apply to Bridleway 13. In *Shepherd v Secretary of State for the Environment* (1998), the Court of Appeal held that permitted development rights for the construction of a means of access did not apply when the means of access was to be constructed along a public right of way. Any such development would therefore have to go through the full planning approval process. There are precedents which suggest that motor traffic would be an illegal nuisance if it used a substantial portion of a pre-existing bridleway and that motor vehicles crossing over a bridleway should give way to the public using the

bridleway. As mentioned in earlier presentations, Briary lane is the only route into a much larger estate, it is effectively a single lane road and already the effects of overuse are being felt. A recent incident caused Briary Lane to be closed between 9.00am and 5.00pm stranding many residents who were unable to use their cars for most of the working day. The construction of additional homes, all having to share the only means of access by road, would have an obvious detrimental impact on the neighbourhood.

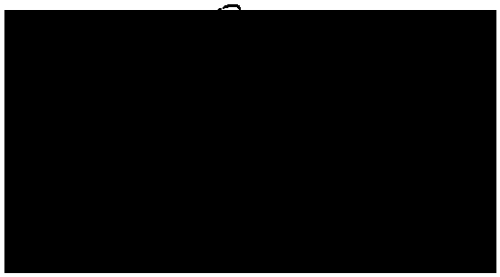
The real objective of Therfield Regulation Trust is to be able to sell protected land with planning permission to a Developer for the greatest financial return. To do this the Trust/Conservators are breaking their agreement with Church Commissioners who, although they still hold all mineral rights on Therfield Heath, have never been consulted. The development site is part of Therfield Heath, this has now been confirmed by the Church Commissioners and is shown on a map provided in the original Conveyance when Conservators bought the Common to be held in trust for the peppercorn sum of £250. The value of this land with planning permission is currently estimated at approximately £1.5 million.

Both Government and Hertfordshire County Council are promoting the protection of heathland. The Hertfordshire Strategic Green Infrastructure Plan is designed to protect and restore existing chalk grassland, to enhance & conserve the chalk scarp & grassland landscape character to the north of the County and beyond. Additionally the RSPB are presently conducting a "Lost Heathlands Appeal" asking for support and protection of heathland habitats to protect threatened wildlife by establishing 'new heathland homes'.

We are of the opinion that if deregistration and planning permission is allowed to proceed it will set a dangerous precedent which will jeopardise not only the future of Therfield Heath but all common land around the country. Financial gain is not an appropriate reason for disposing of Common Land and we believe the current proposed 8 house development outlined once again in the 'Renewal of Application' is a deception. The provision of exclusive elite sports facilities for a private club is not part of the Trusts charity aims and the projected income from the hire of these facilities is based on unsubstantiated data.

It is in the national interest that our Open Space and Common Land should be protected and consequently the application to renew the current outline planning permission should be rejected.

Don & Sue Shewan



Attachments:
1. Presentation to NH

NORTH HERTFORDSHIRE DISTRICT COUNCIL
Simon Ellis, Development & Conservation Manager
North Hertfordshire District Council, PO Box 10163, Nottingham, NG6 6DH
Telephone: (01462) 474000
Text Phone: (01462) 474800
DX 324201 Nottingham 59

N.H.D.C.
16 APR 2018

Presentation to North Herts District Council

Planning Application Reference 14/02341/1
28 May 2015 at 19:30pm
in Council Chamber, Council Offices, Gernon Rd, Letchworth SG6 3JF

- My name is Don Shewan, I have been a resident of The Dell for the past 30 years, am chairman of the Royston Wildlife Group and co-author of a book on the importance of open spaces within the built environment. Prince Philip, endorsing this view, agreed to write the Foreword.
I also represent the views of neighbours and residents who object to the sale of Common Land.

- I have distributed my revised presentation in advance to provide councillors sufficient time to view the additional points we wish you to consider. We are aware that discussions had taken place in advance of an earlier timetabled planning meeting and the call for a further ecological and mitigation report. Some of our views have been included in Richard Tiffin's report whilst others have not. Some recommendations in Richard's report contradict those outlined in the Hertfordshire Plan.

- The main points we wish to highlight (additional to those presented earlier) are:

1. **We believe the sale of this plot of land is illegal.**
The current Act of Parliament prohibits the sale or exchange of Common Land on Therfield Heath that lies near to or adjoins the town of Royston. Legal information received since earlier report. *(Appendix 1)*

2. **Conservators agreed to hold Trust Property in perpetuity.**
The Church Commissioners, agreed by the Conservators, decreed that the Common land would be used exclusively for charitable purposes and for public access. The regulations state that the Trustees shall not be capable of alteration of the terms in any way. *(see Appendix 2)*

3. **Open Spaces Society**
Brian Cowling and Nicola Hogson from the OSS are concerned about the loss of Common Land. There is confusion between NHDC recomendations and the aim, set out in the Hertfordshire Plan, to protect and prevent further loss or damage to chalk grasslands.

4. **Exchange of land.**
Terms of the present Act of Parliament state that "for the purpose of obtaining a recreation ground adjacent to the village of Therfield" the Conservators are able to exchange land, provided that it is not near to or adjoining Royston. Any heath land chosen for such an exchange must have the same or greater amenity value.

5. **A lack of consultation with residents.**
Elected Conservators act on behalf of the peoples of Therfield and Royston and their primary aim is to conserve and manage the Common Land. The elected Conservators have not consulted their public. In fact they have stated that they have no intention of doing so.

6. **Charity Commission.**
The CC web site gives annual financial returns for the Therfield Heath charity, demonstrating that considerable profits are made each year. Sale of land for housing development or funding individual sports club activities was never included in terms agreed with the Church Commissioners. The Conservators already meet their commitment to encourage sporting activities on the Heath.

The Conservators claimed that they had been given permission to develop the plot of land





The Air Ambulance helicopter emergency service - Briary Lane, Sun Hill 2013.

by the CC. A letter to MP Oliver Heald from CC shows this not to be the case. CC explain that they were approached by the Conservators' solicitor and advised that CC are only a regulatory body. CC explain that Conservators, as managers of the registered charity, do have the necessary power to manage the charitable property subject to the terms of the Deed and the Law.

7. **Loss of valued public amenity space.**
The proposed development site is heathland surrounded by trees and is used on a daily basis. Contrary to the Conservators statement, it is and has been part of Therfield Heath since the Crown gave it to the Church and is the only section that falls within the Royston boundary. SSSI status is irrelevant because the Act of Parliament protecting all of Therfield Heath was made half a century before SSSI's were recognised.

Trees have already been removed from the Sun Hill site by the Conservators. No survey of the sites use has been conducted, nor has a comparison between this play area and others within the town. The site is used every day of the year by dog walkers and is a popular meeting place for walkers. For more than 30 years children have been able to play safely on this site within sight of their parents. To reach the nearest alternative play area in Royston children would need to cross busy main roads. Before HCC stopped funding maintenance on the site, local cubs and scout groups used it as a base for their outdoor activities. It is illogical for the Conservators to argue that maintaining the site is too expensive and then state they wish to purchase a large area of woodland. The proposed site, because it is flat, has been used by the Air Ambulance helicopter service to enable rapid access, close to the centre of town, for the emergency response unit.

8. **Royston Town Council.**
The Town Council objected to housing development, wish to keep the open space and agreed to reinstate, possibly improve, the play area.

9. **Eric Pickles.**
Former Government Minister for Communities and Local Government, stated that England's most valuable countryside will be shielded from development. When asked to intervene in the sale of this land, a representative from his department said that they would wait until/if an appeal was made.

10. **Inappropriate land chosen for exchange.**
Woodland rather than heath land has been chosen. The site is approximately a mile from Royston and has been used by the public for generations. The amenity value is neither new




Woodland selected for exchange showing recent management.

nor an improvement as required by the Trust. Common Land will be sold and no new land will be provided for the public.

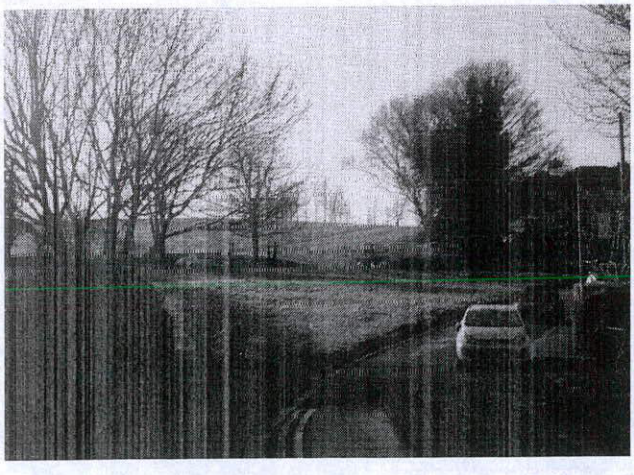
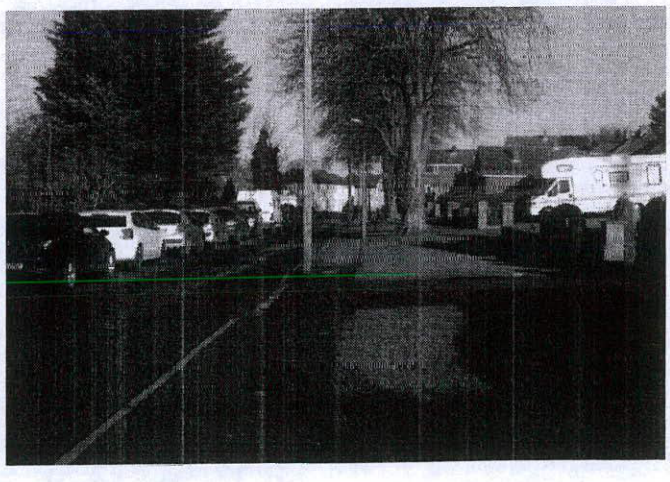
The wood, once owned by Grey's Farm, leads to the Herts & Middx Wildlife Trust owned Fox Covert. HMWT objected to the Conservators' proposals to develop the two sites. Work clearing and removing timber within the wood intended for exchange has recently taken place by the present owners.

11. Areas of Great Landscape Value, Biodiversity and environmental impact

New housing on the proposed site does not feature on any local or district development plan.

The site is within a protected conservation area. Sun Hill is a beautiful natural amphitheatre; the road names describe the area, *i.e.* Sun Hill, Echo Hill, Briary Lane etc. The original town planners highlighted this well known natural feature in their original road layout adding grass verges and horse chestnut trees leading the eye onto the hill. Proposed development on this plot would destroy the vista by building on almost half of the hill and enclosing the road. *(Appendix 3 - AGLV's and Hertfordshire Biodiversity Plan)*. No consideration has been given to Landscape Value or to HCC's aim of protecting chalk grassland.

Green space is a limited and precious resource. Overdevelopment should be avoided otherwise we invite future social problems. Chalk Grassland together with its flora and fauna, should be protected and better management of the trees should be encouraged. We have offered photographic evidence of the abundant wildlife using the site and not mentioned in

Sun Hill - views to the Heath and towards town centre.

either the planning report or the revised Ecological Appraisal. Residents' photographs include lizard, slow worm and hedgehog although these are reported as being absent in the Ecology report. Barn owls, Tawny owls, Red Kite and Buzzard regularly use the site which has several species of butterfly and moth together with their host plants. The recent Ecological Appraisal, undertaken on behalf of The Conservators, states that it *"must be viewed as a snap shot in time and therefore* ***not*** *be viewed as definitive"*. 30 years' observations by local residents would highlight the report's deficiencies, although professionally presented.

12. Traffic.

Briary Lane is the only road access into the area. It is often congested with cars parked on one side. Sun Hill, at this point is narrow and, again has cars parked on one side most of the time. Emergency and Utility vehicles will have even more problems with access. Where will builders' traffic park - they have been refused permission on the Heath? Introducing more single and double Yellow Lines will only create further problems with parking elsewhere. Residents are already paving over their front gardens. Storm water coming off the hill, no longer able to soak away, will run off and cause flooding in the town centre. This has already happened.

Bridlepath 13 runs from the top of Briary Lane alongside one edge of the proposed development plot. The Planning Officer refers to this as an access road (6.1-10). When was this designated as a road? Will there also be a need to de-register bridlepath 13?

13. Proposed design of houses on the plot.

Overdevelopment of the plot is intended by the Conservators to maximise profit not compliment the local area. Driveways on several houses will be directly onto Bridlepath 13. The inclusion of a car park on the bridlepath and in front of these houses will inevitably create conflict. Trees on three sides of the plot shade the area for most of the day and any new owner would soon request their removal. These trees currently provide shelter and privacy, they do not have preservation orders to prevent their removal.

Topographic problems have already been highlighted in Richard Tiffins report, although the loss of light to houses opposite, already below pavement level, has not.



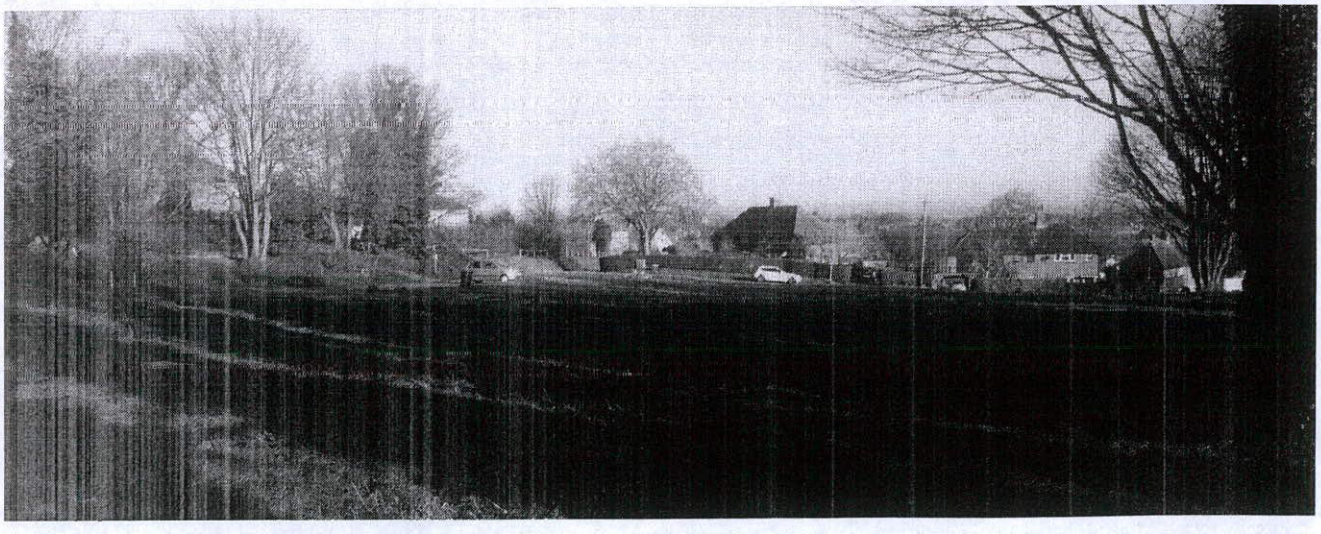
Houses in Sun Hill are below the level of the pavement



Numbers 57, 59 and ? Sun Hill will be the most affected

In conclusion, Royston has met its obligation for new housing development with more development planned in the next few years. Open Space within the town is rapidly disappearing. We suggest that Therfield Heath Conservators honour the Trust placed with them. North Herts District Council should neither agree to, nor encourage, the illegal sale of Common Land, and by enforcing the Act of Parliament, prevent the loss of valued landscape whilst supporting HCC's Biodiversity initiative. NHDC should avoid the temptation to use this proposed development to enable Royston Town Council to fund a new road along bridleway 13 to their expensive white elephant cemetery project at the inappropriate Wicker Hall site. Unproductive woodland leading to Fox Covert could be sold to to Herts & Middx Wildlife Trust and finally, Government and sports charities could be approached by Sports Clubs seeking funding shortfalls for planned projects.

Don Shewan



Shaded area surrounded by trees will concern new owners.

SUPPLIED FOR THE PUBLIC SERVICE

N.H.D.C.
16 APR 2018

CHAPTER clix.

An Act to confirm a Provisional Order for the Regulation of Therfield Heath and Greens, situated in the parish of Therfield, in the county of Hertford, in pursuance of a report from the Land Commissioners for England. A.D. 1888

[7th August 1888.]

WHEREAS the Land Commissioners for England did, in pursuance of the Inclosure Acts, 1845–1878, issue, in the year one thousand eight hundred and eighty-eight, the Provisional Order of regulation set forth in the schedule hereto, and in a special report certified that it was expedient that the same should be confirmed by Parliament: 8 & 9 Vict. c. 118. &c.

And whereas a Committee of the House of Commons, to which the same Provisional Order was referred, recommended that the same should be confirmed without modification:

And whereas the said regulation cannot be proceeded with without the previous authority of Parliament:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Order in Schedule confirmed.

1. The Provisional Order of regulation set forth in the schedule to this Act is hereby confirmed.

Provision for recreation ground for Therfield.

2. The Land Commissioners are hereby empowered to sanction the sale or exchange of portions of Therfield Heath, or of the whole or any part of the Greens, except such portion of the Heath as lies near to or adjoins the town of Royston, not exceeding in the whole twenty-five acres, for the purpose of obtaining a recreation ground adjacent to the village of Therfield. Such sale or exchange and the purchase of land with the proceeds of sale may be made either by the valuer or by the Conservators in the matter of the

A.D. 1888.

regulation with such sanction as aforesaid. In the case of a sale the purchase money shall be paid to the Commissioners, whose receipt shall be a valid discharge for the same, and the common land sold shall be conveyed by the Commissioners. Any land purchased for a recreation ground shall be vested or conveyed in, to, or in trust for the Conservators, as the Commissioners may direct, and the conveyance shall be sealed by the Commissioners. In the case of an exchange prior to the award of regulation the exchange shall be made by the award. In the case of an exchange subsequent to the award the same shall be by deed to be executed by the Conservators and the persons having power to dispose of the land to be acquired for a recreation ground, and sealed by the Commissioners. The land acquired for a recreation ground shall be vested in the Conservators and be under their management and control and subject to their byelaws for the prevention of or protection from nuisances, and for keeping order. The award of regulation, or such deed of exchange or conveyance, when sealed by the Commissioners as aforesaid, shall be conclusive evidence that the provisions of this section have been duly complied with.

Short title.

3. This Act may be cited as the Commons Regulation (Therfield) Provisional Order Confirmation Act, 1888.

Appendix 2

Charity Commission Web site for the Therfield Heath Charity

TO HOLD THE TRUST PROPERTY IN PERPETUITY IN ACCORDANCE WITH THE DIRECTIONS OF THE CONSERVATORS (AS DEFINED IN THE TRUST DEED) FOR SUCH EXCLUSIVELY CHARITABLE PURPOSES FOR PUBLIC ACCESS TO THE COMMON OF THERFIELD HEATH AND GREENS AND PUBLIC RECREATION THEREON AS ARE SET OUT IN THE COMMON REGULATION (THEREFIELD) PROVISIONAL ORDER CONFIRMATION ACT 1888 AND FOR SUCH OTHER CHARITABLE PURPOSES ANALOGOUS THERETO AND CONSISTENT THEREWITH (WHICH PURPOSES SHALL NOT BE CAPABLE OF ALTERATION IN ANY WAY BYT BE CAPABLE OF ALTERATION IN ANY WAY BY THE TRUSTEES) INCLUDING USE OF PART OF THE SAID LAND BY STORTFORD (1944) RIFLE CLUB REGISTERED UNDER SECTION 4 OF THE CHARITIES ACT 1960 UNDER NUMBER 270795 OR ANY OTHER CHARITABLE BODY WITH SIMILAR OBJECTS REGISTERED AS A CHARITY AS AFORESAID AND SUBJECT THERETO TO APPLY ANY INCOME THEREFROM AND ANY MONIES ARISING FROM ANY LEASE MORTGAGE OR CHARGE THEREOF FOR SUCH SIMILAR CHARITABLE PURPOSES AS THE TRUSTEES MAY IN THEIR ABSOLUTE DISCRETION (BUT SUBJECT TO ANY DIRECTIONS OF THE CONSERVATORS) FROM TIME TO TIME DETERMINE.

Appendix 3

AGLV's & Biodiversity

Areas of Great Landscape Value (AGLV's)

Identified in Local Plans as areas of high landscape quality with strong and distinctive characteristics which make them particularly sensitive to development.

Within AGLVs the primary objective is conservation and enhancement of their landscape quality and individual character.

Sun Hill is a nationally known landscape feature, a beautiful natural amphitheatre. This would be cut in half if housing development on the plot at Sun Hill/Briary Lane is allowed.

A Biodiversity Action Plan for Hertfordshire

Ten year targets

To protect and prevent further loss or damage to important chalk grasslands.

To manage all remaining unimproved chalk grassland sites to ensure they retain their full wildlife interest.

To have begun restoration of at least 150 ha of chalk grassland from scrub and semi-improved grassland in three core areas. (including Therfield Heath)

To have begun large-scale creation of at least 100 ha of new grassland consisting of locally appropriate species across the three core areas. (including Therfield Heath)