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Chairman  
Upwey Society  
Elwell St  
Upwey  
17/11/18

Dear Weymouth & Portland Borough Council

**Ref: WP/18/00832/OUT LAND AT CHESTERFIELD PLACE, WEYMOUTH, DT3 5LY**

The Society wish to lodge their objection to this proposal for the following reasons.

### **1. Local Policy**

The society disagree with the developers consultant and consider this proposal runs counter to the relevant policies, the aims and outcomes of the West Dorset, Weymouth & Portland Local Plan.

#### *UPWEY CONSERVATION AREA*

*3.60 In between these "core" areas can be found small groups of individual buildings separated by countryside, which extends down to Church Street. These "gaps" are an important and integral part of the Upwey Conservation Area and establish its essentially rural character .....*

*The wooded valley slopes and numerous mature trees within the village create an impressive setting for the buildings, and it is important, therefore, that they be retained. Similarly, the open area of fields between Upwey and the Dorchester Road and the open nature of the high scarp face to the north are essential to preserving the individual, rural charm of the valley settlement.*

The area in which the proposed development sits was identified in previous policy as an Important Open Gap. This designation is continued through to current policy.

*3.21 This Gap also serves to provide a link between the open countryside to the west of Dorchester Road and the more enclosed landscape to the east of Dorchester Road. This Gap therefore helps to prevent coalescence of development, provides a link between the developed area and the surrounding countryside and provides the setting for development in this area.*

Finally, and probably most importantly, the society believe that this proposal also meets none of the conditions that are contained in policy SUS2 of the local plan which states:

*iii) Outside defined development boundaries, development will be strictly controlled, having particular regard to the need for the protection of the countryside and environmental constraints, and be restricted to:*

- agriculture, forestry or horticulture or related enterprises such as farm diversification and equestrian development;*
- alterations and extensions to existing buildings in line with their current lawful use, including their subdivision or replacement;*
- new employment, tourism, educational/training, recreational or leisure related development;*
- affordable housing;*
- rural workers' housing;*
- open market housing through the re-use of existing rural buildings;*
- sites for gypsies, travellers and travelling showpeople;*
- the replacement of properties affected by coastal change in a location identified in an approved local development document;*

- *proposals for the generation of renewable energy or other utility infrastructure;*
- *flood defence, land stability and coastal protection schemes;*
- *local facilities appropriate to a rural area or close to an existing settlement;*
- *specific allocations in a development plan document and associated landscape and infrastructure requirements.*

Upwey has a defined development boundary for many very good reasons as contained in previous local plans and carried forward into current policy. While Upwey does not have a neighbourhood development plan it is generally accepted that the development boundary that prevents the infill of the important gap between Dorchester Road and Church Street be retained and adhered to.

## **2. National Policy**

Secondly, the developer's consultant mentions that there is a presumption in favour of sustainable development especially where a 5 year supply of building land is not available. (NPPF 14 ,47 &49). However, the previous supply estimate falls only just short at 4.9 years and the latest amendment to this, due out last July, may well now exceed the target as the recently supported developments are included in the survey. In any case, the application of the paragraph 14 of the NPPF has resulted in a number of court cases, eventually resulting in the Supreme Court ruling of *Suffolk Coastal DC v Hopkins Homes & SSCLG* (2016). This confirms that where a Council does not have a 5-year supply, Paragraph 49 acts as a trigger for applying the tilted balance in paragraph 14 of the NPPF. In applying the tilted balance, any out-of-date of policies are not simply disregarded. So the Council can continue to have regard to its spatial strategy, but it does not carry its full statutory weight. The weight to be given to the affected policies is a matter for planning judgement and will depend on the extent to which relevant policies fall short of providing for the five-year supply of housing land, the action being taken by the local planning authority to address it, or the particular purpose of a restrictive policy – such as the protection of a "green wedge" or of a gap between settlements.

Therefore it is the society's opinion that the, soon to be updated, small shortfall in the Council's 5 year HLS should not, consistent with the decision of the Supreme Court, be used to override the local policy of a defined development boundary protecting an Important Open Gap as laid out in the adopted plans. And of course if, as is possible, there is no shortfall in the HLS, then paragraph 12 of the NPPF should be applied. It says "Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise."

It is also our contention that this development will not contribute in any meaningful way to the Council's sustainable development target but severely harm the ability for policy to protect what is truly important to communities therefore the 'tilted balance' should not be considered or applied.

### 3. Effect of the development on the character of the neighbourhood

One of the reasons why the Society objected to the Miles Gardens extension development was that it felt by ignoring the development boundary in this area in one case would set a precedent that would then be exploited by other developers, this has unfortunately come to fruition with that development being used to support this proposal.



Figure 1 Picture courtesy of Google Maps

One of the main factors behind the appeal being allowed was undoubtedly the Planning Officers support for the proposal, possibly believing that it would not lead to the closing of the gap. This proposal, when taken alongside WP/18/00258/OUT & the Miles Gardens extension currently under development, clearly demonstrates a material attempt by different developers to close this gap and materially change forever the character of the village. If allowed to go forward the combination of these developments as can be seen from Figure 1 would forever close this important open gap.

We hope officers do not repeat this mistake as it will then, in effect, open up what one commenter called "The Heart of Upwey" to complete infill. Something that the Design and Conservation officer has agreed on WP/18/00258/OUT will forever change the character, the charm and the very nature of the village and something which the Council have no mandate to allow.

#### 4. Flooding Risk

The challenge for any developer (or architect) sitting remotely from a site, planning a development on a computer and relying on models is that assumptions are made without any local knowledge. The developer points out that the site is at low risk of flooding, which is correct, but what the developer fails to mention is that this development will severely exacerbate the flood risk for No 22 Church St and likely lead to a worsening of the flooding seen in Church Street most winters. This is known to worry the County Highway Authority, who at the time of writing, have requested an extension to the consultation in order to fully evaluate this risk.

The reason for this is, as the developer correctly points out, that a small stream lies to the South of the proposed site but this 'small stream' is actually an ancient culvert that now regularly floods, damaging a listed building and is subject to ongoing legal action between the property owners and the local authority. This is part of the reason that when the original Miles Gardens development was permitted the developers had to build a large flood pond to mitigate for the loss of natural soil drainage.

The plans for this development propose only a small gravel soakaway marked as "Area for Sustainable Drainage" at the South West corner of the site, woefully inadequate to mitigate the surface water drainage and likely to harm existing properties.



#### 5. Risk to Environment & Property

Unfortunately we do not have access to a structural engineer but the proposed access road and the increased traffic both during and after any construction is likely to cause material damage to the 19<sup>th</sup> Century cottages along Prospect Place. Recent measurements at the nearby Miles Gardens development have shown property vibrations in the same frequency range as a small earthquake, fortunately the nearby properties are relatively modern and the amplitude of the vibrations is significantly lower. What damage this would cause to less robust housing built without foundations should give planning officers cause for concern.

The developers consultant also makes much of the dilapidated buildings on the site but a developer buying some land, not maintaining the properties on that land or caring for the local environment should be not be rewarded with allowing a lucrative development.

## **6. Comment on the Developers proposal**

In section 4.3 the developers consultant states *“the residents of Prospect Place have expressed support for the proposed development and upgrading of the established access road.”* On Monday November 12<sup>th</sup> 2018 a meeting was held in Upwey Old School Village Hall with many of the residents of Prospect Place along with interested villagers. Not one of the residents present, a majority of the total, supported this development and I am sure when officers examine the comments on this proposal they will see that this statement is disingenuous at best.

## **7. Sustainable Development**

The society are acutely aware of the need to sustainable development, within the village, the borough, the County and Country. During the recent consultation on the preferred options for the local plan the society offered to engage with the Authority on identifying and supporting local development opportunities, via a neighbourhood plan if necessary. However the society strongly feel that allowing this development, and others in the ‘Heart of Upwey’ would cause irreparable damage to the character of the village.

The Society, whose volunteers aim to ensure that the village is a lovely environment, to live in and to visit and while our volunteers and members may not always be able to use the correct language with regards to planning policy, what we do have is a strong local understanding and a desire to act in the best interests of all residents, current and future, of the village, the ward and the Borough.

In conclusion, we ask officers and members to refuse this request for permission to develop.

Yours faithfully

Richard Sams on behalf of The Upwey Society.