

Bishop's Stortford Civic Federation

Registered Charity Number R264557

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Development Management
East Herts District Council
Wallfields
Pegs Lane
Hertford SG13 8EQ

Attn: Ms Jill Shingler

Sent by email

Dear Ms Shingler,

[REDACTED]
Pig Lane, Thorley
Bishop's Stortford
Herts CM22 [REDACTED]

24 March 2023

3/23/0248/VAR: Variation of condition 4 (Servicing and Delivery Plan) of planning permission: 3/22/0510/REM - Amending the wording of condition 4 to allow HGVs to travel to and from the South via all A class roads which link to the site.

I am writing on behalf of the Bishop's Stortford Civic Federation (BSCF) to object to the above application by Wrenbridge to further vary Condition 4 of the application 3/22/0510/REM. The condition was first granted consent on 25 August 2022 and is now subject to an appeal lodged on 13 February 2023 in parallel with this application.

Condition 4 is a Service and Delivery Plan designed to prevent an estimated 208 HGV movements per day generated by the consented development using any route other than St James's Way west to gain access to/from the A120 and M11. The variation of the wording of the condition to include a ban on HGVs travelling south on the A1184 through Sawbridgeworth was proposed, agreed and added to the wording of the condition by Development Management Committee (DMC) members at the DMC meeting that recommended consent for the 3/22/0510/REM application.

The applicant's grounds for revising the condition are that it does not now meet the six tests for a planning condition set out in para. 56 of the NPPF and wishes to revert to the original wording of the condition before it was amended by the DMC members. The applicant's submissions include Counsel's Opinion that if the variation is not approved - and Wrenbridge appeals - "*it will be difficult for the Council to satisfy the Inspector that Condition 4 is necessary (the first of the six tests); and it might also be difficult for the Council to satisfy the Inspector that Condition 4 is "reasonable in all other respects" (the sixth of the six tests).*"

BSCF believes that, despite the threat of an appeal, the LPA should maintain the amended wording of Condition 4 because the revision was, and remains, both 'necessary' and 'reasonable' to avoid planning harm to Sawbridgeworth and Spellbrook. Also, you should consider extending the condition to include Herts Highways' (HH) recommendation to extend the ban to all commercial vehicles over 3.5 tonnes in their response to the application dated 20 February 2023.

Our grounds for objection to this variation are:



1. The revised Condition 4 is 'necessary' to avoid planning harm to Sawbridgeworth

The applicant's Planning Statement (PS) says that precluding HGVs from using 'A'-classified roads when travelling south from, or north to the site was not the original intention of the condition but rather to ensure HGVs did not rat run through Bishop's Stortford to get to the A10 or M11. Their Counsel's opinion is that it is clear from documents such as the Officer's Report (OR) to the DMC that the concern was to avoid HGVs travelling through Bishop's Stortford to the site and that the revised condition goes beyond what is 'necessary' to avoid this and therefore "*beyond what is required to avoid the identified "planning harm"*".

In fact, the planning harm which was identified in the over 350 objections to the Reserved Matters (REM) application focused on the impact of the estimated 208 daily HGV movements – including those detailed in BSCF's objection and presented by us to the DMC. These clearly included the impact on Sawbridgeworth and is again demonstrated by the current total of 222 further public comments on this variation - all of which are objections and almost all from Sawbridgeworth residents and their representatives. Regardless of what was agreed on the scope of Condition 4 in the OR, the community's concern was not limited to avoiding HGVs travelling through Bishop's Stortford. In this case therefore it was the action of the DMC – by recognising the community's concern; identifying this gap in the original condition; and proposing the revised wording to extend the restriction to the A1184 through Sawbridgeworth - which was 'necessary' to avoid the planning harm.

2. The revised Condition 4 is 'reasonable' to avoid planning harm to Sawbridgeworth

The Counsel's Opinion also advises that "it might [our emphasis] also be difficult for the Council to satisfy the Inspector that Condition 4 is 'reasonable' in all other respects" as required by the NPPF. This is mainly based on the view that it is "at least arguably unreasonable" to prohibit HGVs from using the alternative A-road route to/from the south, through Spellbrook and Sawbridgeworth, "having regard to the status of the route and the number of HGV movements that the scheme will generate" – implying that 208 movements per day (40% of which are in the evening and night-time) will have limited planning harm.

BSCF and the many other objectors believe that it is therefore reasonable to consider the planning harm to Sawbridgeworth and Spellbrook including:

- **Impacts on air quality:** The Sawbridgeworth AQMA extends through the town on the A1184, less than 2 miles from the Wrenbridge site and is currently under review due to deteriorating air quality levels. The PS claims that air quality is not a reserved matter and was considered by the original hybrid application (3/18/2253/OUT) in 2018 – but acknowledging that this was based on the site being an office based 'business park' rather than an industrial estate generating nearly three times as many HGV's. In fact, the applicant's own air quality assessment – presented again with this application - assessed the impact on the AQMAs at Hockerill Junction and London Road, Sawbridgeworth and "demonstrated 'Moderate Adverse' impacts". It was noted that some mitigating measures "*might be required and should be agreed through Section 106 conditions*" ... "*to offset traffic related impacts upon the existing AQMAs*". Again, the DMC recommended that air quality



impacts should be mitigated by extending the Condition 4 HGV ban to the A1184 through Sawbridgeworth.

- **Safety and air quality impacts on schools:** We have noted before that air quality and road safety impacts of industrial and distribution centres on the health of school children has been of growing concern in recent planning decisions. Three primary schools and a major secondary school are located in Sawbridgeworth and Spellbrook fronting onto or close to the A1184 and, in Sawbridgeworth, in the AQMA.
- **Impact of HGV's on resident amenity:** BSCF's objection to the original REM application highlighted the number of HGV movements trebling from 66 to 208 movements per day, one-third (68) of which are projected to be in the evening or night-time. These are more likely to use routes other than the lengthy A1184 - A120 by-pass to reach the M11 junctions 8 and 7A. The analysis showed most movements to and from the site will be via St James's Way east dividing nearly equally north through Thorley Street and south to Sawbridgeworth. BSCF believes that the impact on this road network in this location would be 'severe', as defined in para 111 of the NPPF 2021, and will not comply with Policy TP1 of the now adopted Bishop's Stortford Neighbourhood Plan. The routeing provisions of Condition 4 as recommended to the DMC in the OR were intended to mitigate the impact on resident amenity in Bishop's Stortford. The DMC therefore recommended that it would be reasonable that the same planning harm should be mitigated by extending the Condition 4 HGV ban to the A1184 through Spellbrook and Sawbridgeworth.

3. An HGV ban is a reasonable way to mitigate the identified planning harm

The PS claims that, because the A1184 forms part of the Primary Road Network (PRN), the primary function of which is to carry goods and people between population centres, *"an unnecessary restriction will ultimately be unsustainable and place burdensome time financial costs onto occupier and the units less attractive commercially."* They add that the NPPF emphasises that planning decisions should recognise the needs of different sectors for *"suitably accessible locations"* and this is *"precisely the type of location this form of development should be located"*.

BSCF and other objectors have consistently argued that this location, some six miles from the motorway and trunk road network, is wholly unsustainable for industrial and distribution activities compared with the original hybrid consent as a business park location. This is, in part, recognised by the applicant's support for an HGV ban through Bishop's Stortford. The LPA has to weigh the overall balance of planning harms and we believe it was reasonable for the DMC to require Condition 4 to extend the HGV ban to include mitigating the same harm to Sawbridgeworth and Spellbrook.

A more effective, alternative measure to mitigate HGV movement impacts such as these on the A1184 would be to seek a Traffic Regulation Order (TRO) which imposes vehicle weight and/or width limits through town centres and other sensitive areas such as AQMAs and school environs. These are being recommended for consideration by local authorities in these circumstances (see HCL Briefing Paper 6013 on the use of TROs). Indeed, one is in place at the Hockerill junction in Bishop's Stortford. In Sawbridgeworth and Spellbrook, the increasing demand for access to the new M11 J7A



southbound to the M25 and London justifies TRO restrictions all commercial traffic except local deliveries – not just that generated by the Wrenbridge site - and would be easier to enforce.

However, if the LPA is minded to approve this variation in Condition 4, removing the DMC's mitigation initiative – and, potentially, irrespective of the outcome of this application - we believe that a TRO should be pursued by the relevant local and highway authorities.

4. The restriction on HGVs should be extended to all commercial vehicles over 3.5 tonnes

We note that since the submission of the application and the supporting Transport Note dated 8 February 2023 there has been a further significant exchange of comments and responses between Wrenbridge's traffic consultants and HH. HH's comments on 20 February recommend approval of the variation to remove the revised wording of Condition 4 – despite agreeing it at the DMC – but now recommends that the remaining ban on HGVs (over 7.5 tonnes) through Thorley and Bishop's Stortford should be extended to lighter lorries and large vans (over 3.5 tonnes).

On 10 March, Wrenbridge's traffic consultants posted a response accepting HH's revised wording of the Condition but rejecting the proposal for extending the scope of the commercial vehicle ban to 3.5 tonnes.

BSCF notes that while a further HH response is reported as being submitted on 10 March it is not posted yet. We therefore reserve the right to comment further on this when it becomes available. However, BSCF has already objected to the REM application that, by generating more than 200 HGV movements per day plus a potentially higher number of associated lighter commercial vehicle movements, a development in this location would have an unsustainable impact on Bishop's Stortford, Thorley and Sawbridgeworth. We would therefore support the inclusion of an extended 3.5 tonne ban as part of Condition 4, as currently recommended by HH, and its extension to include the A1184 through Spellbrook and Sawbridgeworth.

Conclusion and Recommendation

BSCF believes it was both 'necessary' and 'reasonable' for DMC members to add this wording to the Condition 4 to extend the mitigation of the above identified planning harms. We therefore object to the above application by Wrenbridge to further vary Condition 4 of the application 3/22/0510/REM and recommend that the application is refused. If the Condition is amended we recommend that this is limited to the inclusion of an extended 3.5 tonne ban in the condition as currently recommended by Herts Highways.

Yours sincerely

Colin Arnott
Committee Member
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