Dear Dan

RE: S/0670/17/OL Outline planning application for up to 203 dwellings including affordable housing and land for community provision with access and associated works, open space and landscaping, following the demolition of existing buildings on site. Ida Darwin Hospital, Fulbourn Old Drift, FULBOURN, CB21 5EE

Cambridge Past, Present & Future have reviewed the above referenced application and recommend the application be refused for the following reasons.

The re-development of the Ida Darwin Hospital represents the only major new development proposed in the SCDC submitted 2014 Local Plan that is actually in the Green Belt and where it is not proposed that the site be released from the Green Belt prior to development. As such it raises a number of fundamental issues about its compliance, and the compliance of Policy E/7, on which this planning application is based, with the National Planning Policy Framework, particularly Chapter 9.

These issues were discussed under Matter SC7 at the Examination in Public of the SCDC submitted Local Plan 2014 at the hearing on 28th February, 2017. The Inspector heard the evidence both that the Policy did not accord with the NPPF and the counter argument presented by the Council that it did comply. The Inspector made no determination, saying that the matter would be included in his report on the soundness of the plan. It was recognised at the hearing that the case raises some specific issues relating to Green Belt re-development and the interpretation of the NPPF, which could be of significance beyond the boundaries of South Cambridgeshire.

For the Council now to make a determination on the application would be, in the opinion of CambridgePPF, premature. It would seem irresponsible for the Council to pre-judge the decision of the Inspector when the interpretation of the NPPF is in doubt. Although CambridgePPF supports the principle of giving priority to the re-development of previously developed sites over the development of new Greenfield sites, and indeed has consistently argued this principle at the hearings, we have no other option but to object to this application.

The issue of prematurity was considered by the Council in its approval of the outline planning application for West Cambourne. CambridgePPF’s examination of the Ida Darwin application therefore analyses and compares these arguments regarding prematurity in the West Cambourne case. The circumstances of the two cases are of course very different – West Cambourne concerned the modification of a policy in the submitted plan by increasing the size of the site and the proposed housing projection proposed, whereas the Ida Darwin concerns the more specific circumstances of compliance with the NPPF’s guidance for re-development within the Green Belt. The former clearly lies within the authority of the Council to determine, the latter within the authority of the Planning Inspector. This differentiation is expanded upon below.
Compliance with the NPPF:
The key requirement that lies at the core of the Ida Darwin application is Paragraph 89 of the NPPF. This states that:

“A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this include:

(sixth bullet-point) limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land)whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development”.

It is important to note that in the Inspector’s judgement in the case of Timmins v Gedling Borough Council (Case 220 Court of Appeal, 22nd January 2015), the judgment determined that the list of exceptions in Paras 89 and 90 of the NPPF were not illustrative of the sorts of development that could be seen as inappropriate, but should be seen “as a closed list of appropriate developments”. There is no wriggle-room for reducing the significance of Para 89 in the wider context of a presumption on favour of sustainable development or of enhancements in the beneficial use of Green Belt.

Compliance with Para 89 hinges on two main points – firstly, the impact on the openness of the Green Belt; and secondly, the impact on the purpose of including land within the Green Belt. These will be considered separately.

Impact on the Openness of the Green Belt:
1. The Ida Darwin Hospital site is characterised by ‘landscaped grounds of open parkland with a low density of low buildings, generating a feeling of openness’. It is this ‘feeling of openness’, and the impact of the development on this openness, that must be retained, according to the NPPF, in the re-development.

2. ‘Openness’ is not defined in the NPPF nor in the Planning Practice Guidelines, and there appears to have been no previous determination on the impact of re-development on the openness of Green Belt to provide guidance. This case does therefore comprise a test-case that could be of significance for other Green Belt sites throughout the country.

3. It is accepted that Paragraph 89 cannot be interpreted as meaning that the redevelopment must be an exact like-for-like replacement and some degree of flexibility must be allowed. CambridgePPF recognises that the re-development of a previously built footprint may require a different configuration for a residential area, as stated in Para 8.27 of the Council’s emerging plan. However we do expect the scale and extent of the changes to be constrained by even the most flexible interpretation of Para 89 of the NPPF. Manifestly this is not the case with this application. The substantial change between the current open landscape with scattered single-story buildings in a parkland setting to the higher urban-like density of two or three-storey buildings proposed in the application, stretches the measure of flexibility well beyond the reasonable limits implied by the NPPF. It will totally change the open character of the landscape in this area. There is no doubt that the visual amenity of the site and its line-of-sight view-points from both within and outside the site will be severely compromised.

4. In response, the developer proposes to split the site with the eastern two-thirds to be redeveloped and the western one-third to be retained as open parkland and allotments. This is in accordance with the provision in Clause 2 of Policy E/7 of the Council’s emerging plan that allows for ‘a compensatory enhancement to the openness of the Green Belt in this location’. This implies that the
reduced level of openness over the main portion of the site can be mitigated for by the increased openness of the western third, the ‘green wedge’ – i.e. the overall level of openness is not compromised. However, the NPPF makes no provision for ‘compensatory enhancements’ in the Green Belt, and as shown above, previous legal judgment shows there is little possibility for such manipulation. This issue of compensatory enhancements was discussed at the Matter SC7 hearing, where the Inspector said it would need further consideration. As the main basis for this development hinges on this interpretation, determination by the Council now would clearly be unacceptable.

5. There is no doubt that the removal of the three low buildings at the western end of the site is an enhancement to the Green Belt, but does it ‘compensate’ for the harm to the Green Belt from the much greater development over most of the site? And indeed, is Green Belt ‘offsetting’ permitted under the NPPF? The few cases where offsetting has been recognised arise in cases where new land is proposed for Green Belt status, whereas in this case the enhanced land is already Green Belt. The Ida Darwin situation concerns improvement of Green Belt quality in one locality to compensate for harm in another, and in this context it sets a precedent. It is CambridgePPF’s opinion that the appropriateness of compensatory enhancement depends on the importance of the Green Belt in the locality of the harm, and the quality and scale of the enhancement. Because the Ida Darwin site lies in such a key location on the urban edge, and because the scale of the enhancement is so small, it is in CambridgePPF’s opinion unacceptable in this case.

Impact on the Purposes of the Green Belt:

1. One of the key purposes of the Cambridge Green Belt, as stated in the NPPF and confirmed by the 2015 Review by LDA Design of the Inner Green Belt Boundary, is to prevent settlements from becoming absorbed into the expanding city. With the extent of development along Cambridge Road and the Fulbourn Old Drift, especially with the proposed expansion eastwards of the Peterborough Technology Park, there is a very real risk that the urban area of Cambridge will reach out to Fulbourn in the same way as it has now extended out to Trumpington and Great Shelford. Keeping an adequate separation of open land between Cherry Hinton and Fulbourn is necessary to maintain the separate identity of Fulbourn Village.

2. The ‘green wedge’ proposed for the western third of the site is inadequate to provide this separation. At its narrowest opposite the North-East corner of Capital Park, it will amount to about 120 metres, barely larger that a single football pitch. To suggest that this will meet the Green Belt purpose of preventing merger is unacceptable. The proposal therefore does not accord with the Green Belt purposes as specified in the NPPF, nor with the Council’s own Green Belt policy.

3. The 2015 Inner Green Belt Boundary Review stresses the importance of the Green Belt in this area (Sector 13.2 – Land North of Cambridge Road). It states that:

“this sector plays a key role in the setting of South-East Cambridge…..it also prevents the continued sprawl of Cambridge to the South-East….it plays a key role in the remaining separation between Cambridge and Fulbourn”.

In other words, this sector of Green Belt is of high value in preventing Fulbourn becoming assimilated into an expanding Cambridge and in maintaining the integrity of the village. The Council has rigorously defended the 2015 Review at the Examination of the Local Plan so presumably it accepts the need to protect the Green Belt at this locality.

4. The application proposes a high density residential development located at what currently is the narrowest point of the separation between Fulbourn and Cherry Hinton. Manifestly this is contrary
to the purposes of the Cambridge Green Belt and thus is incompatible with the requirements of Para 89 of the NPPF

Prematurity:

1. The circumstances under which it might be justifiable to refuse planning permission on the grounds of prematurity are considered in the NPPF (para 14, reference ID 21b-014-20140306, revised 06.03.2014). These focus mainly on the matter of how much weight may be given to policies in emerging plans. In circumstances where the proposed development is substantial, and when the emerging plan has been formally submitted, then the emerging plan is a material consideration. Both apply in this case.

2. The argument that prematurity should justify refusal of planning permission applies where it is clear that ‘the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, taking the policies of the NPPF and other material considerations into account’ – NPPF Paragraph 14. This implies that the Council should carry out some form of impact/benefit analysis but this is lacking in the application.

3. It is clear from the analysis presented above that there are reasonable grounds to doubt whether the policies of the NPPF have been taken into account and whether the application, and indeed Policy E/7 of the emerging plan, do conform to the requirements of the NPPF. Clearly it is for the Council to decide the outcome of the impact/benefit analysis in an open and transparent way: what is not the Council’s role is to pre-judge the Inspector’s determination on the soundness of the policy. And the soundness of the policy must be ascertained before the planning application can be determined.

4. The circumstances concerning Prematurity with the planning application for West Cambourne were very different, and do not provide a precedent for this application. The soundness of the Council’s policies was not an issue with the West Cambourne application. That site was the subject of a major modification (a larger area with an uplift in housing) to the policy in the emerging Local Plan but was still in accordance with the plan’s overall sustainable development objectives. It did not raise questions about its conformity with the NPPF: it was a matter of the implementation of a policy rather than the soundness of a policy. As such, it was determined by the Council that the proposed development would not conflict substantially with the emerging plan as a whole so as to undermine its achievement. In the case of the Ida Darwin Hospital, possible conflict with the policies in the Council’s emerging plan is a secondary issue: the primary issue is conflict with the requirements of the Government’s NPPF. If the Council was to make a determination of the planning application it would be exceeding its authority in that it would be pre-judging the soundness of the underlying policy in the emerging plan.

5. To summarise regarding ‘premature applications’, it is the role of the Planning Inspector to determine the soundness of the plan policies before their implementation, including Policy E/7 relating to re-development in the Green Belt: it is the role of the Council to determine whether or not granting permission would undermine the plan-making process by affecting the ability of the Council to implement the policies in the plan. The Inspector determines the soundness of the policy and the Council determines whether the planning application will effectively implement the policy. To pre-judge the Inspector’s determination would be recklessly irresponsible in a situation where the conformity of the policy to the NPPF is questionable.

6. A further issue is the matter of whether a determination now by the Council could have a material effect on the future management of the site. What if the Council gives permission, the work starts, and the Inspector then determines that Policy E/7 is unsound? The soundness of Policy E/7 must first be established before the Council can reasonably grant planning permission - to do otherwise could
expose the Council to legal action. This potential cart-before-the-horse situation would be of less significance were it not for the fact that the site is, in the Council’s own opinion, of high importance for Green Belt purposes on the city fringe, and is likely to create a precedent for other Green Belt redevelopments elsewhere in the country.

Conclusion:
CambridgePPF supports the principle of re-developing brownfield sites, including in the Green Belt, but expects the Council to do so in accordance with the NPPF. There are grounds for questioning whether Policy E/7 of the emerging Local Plan, on which this application is based, does conform. It is for the Council to decide whether or not the application conforms to the emerging Local Plan but it is for the Inspector to decide whether or not the policies of the plan are sound. It would be irresponsible for the Council to pre-judge this determination, and could be highly embarrassing for the Council if permission was to be given only for the policy then to be determined as unsound.

For these reasons, CambridgePPF believes the Council has no alternative but to refuse planning permission.

Kind regards

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Head of Planning and Conservation
*On behalf of the CambridgePPF Planning Committee*