

**Mr G Stephens
Marrons Planning**

SCREENING OPINION

THE TOWN AND COUNTRY PLANNING (ENVIRONMENTAL IMPACT ASSESSMENT) (ENGLAND & WALES) REGULATIONS 2017

**Application No. : SCR/2018/0456
Registered on : 15/02/2018**

Re Site at : Land off Tamworth Road

Description of Development: EIA SCREENING OPINION- Residential development for up to 550 dwellings with associated access, parking, landscaping, public open space and associated infrastructure on land between Tamworth Road and Fivefield Road

Applicant : Bellway Homes

This proposal falls within Schedule 2 of the above Regulations (an 'Urban Development Project') & therefore the City Council is charged to assess (a "screening opinion") whether the above development is likely to have significant effects on the environment such that the application should be accompanied by an Environmental Impact Assessment in the form set out in Part I & II of Schedule 4 to those Regulations

This screening opinion has been undertaken in accordance with the selection criteria set out in Schedule 3 to the Regulations.

SENSITIVE AREA

The site is not a Sensitive Area as defined by Regulation 2(1).

CHARACTERISTICS OF DEVELOPMENT

The proposal is to develop agricultural land for up to 550 dwellings with associated public open space, landscaping and infrastructure.

LOCATION OF DEVELOPMENT

The site is located north-west of Coventry City and is part of the Kerseley Sustainable Urban Extension as allocated within the Coventry Local Plan adopted in December 2017.

ASSESSMENT

This letter is supported by a 'Screening Opinion Checklist' which details the specific issues surrounding development within this location. The checklist concludes that an Environmental Impact Assessment is **REQUIRED**, by virtue of the cumulative impact of the development itself and the wider Sustainable Urban Extension (SUE).

The case of Commercial Estates Group Ltd V SSCLG (2014) EWHC 3089 has been brought to attention to help with making an assessment. In this case the local authority had identified land which it considered suitable for an urban expansion. Draft core strategy documents proposed constructing 4,500 houses as part of the project. The Local Authority's screening opinion indicated that it was not an EIA development; the Secretary of State concurred with this opinion; a rival developer challenged this position in High Court. The High Court refused permission to challenge the decision.

In the Commercial Estates case, Judge Stuart-Smith J noted the following: "European Guidance described cumulative impact as being impacts that result from incremental changes caused by other past, present or reasonably foreseeable action together with the project". Reference at paragraph 24 of the judgement should also be noted. "The test to be applied on screening is well established; in Loader v SSCLG (Loader) (2012) what emerges in the test to be applied is the project likely to have significant effects on the environment.....the commission guidance recognises the value of the national guidance and planning authorities have a degree of freedom in appraising whether or not a particular project must be made subject to an assessment."

Reference was also made in the Commercial Estates Case to the case of Hockley V Essex CC. It is important to make reference to the following from the Judgement, "a precautionary approach informed the screening process, but it involved what was essentially a fact finding exercise and where the questions of "likelihood' and "significance" were concerned, the exercise of judgement. Those were tasks for the decision maker (the Local Planning Authority) (LPA)) subject to supervision by the Court on normal public law principles. The screening exercise had been informed by material which was sufficient to enable the assessment to be made and the main potential effects on the environment were identified. The opinion itself was logical, the right questions had been asked, the relevant criteria used and a reasoned analysis produced. These conclusions were within the range of reasonable planning judgement and it was therefore beyond the courts power to intervene in the resulting planning decision.

In light of the above, it is considered that as part of this request for a screening opinion the LPA should consider potential cumulative effects of the propose development in relation to the wider site allocation.

By way of background, planning permission has been granted for up to 800 dwellings under reference OUT/2014/2282. Initially a development of up to 400 dwellings was proposed on the site relating to OUT/2014/2282 and a screening direction was provided by the Secretary of State dated 18th April 2012, which considered that the development did not require an EIA. At the time, the Kerseley SUE had not been allocated and therefore there was no reasonably foreseeable development proposals coming forward within the local area which was predominantly designated Green Belt.

Following the adoption of the Coventry Local Plan in December 2017, the Kerseley SUE has been adopted as a land allocation for residential led development for up to 3100 dwellings. Although the SUE is recognised as having various land owners there is a real likelihood of development coming forward within the land allocation within the plan period.

Notwithstanding the decision made under OUT/2014/2282 and the associated screening direction from the Secretary of State, each case must be assessed on its own merits. Having regard to the criteria in Schedule 3 of the 2017 Regulations, the proposal **is** considered to have significant effects to the environment by virtue of factors of its nature, size and location to warrant an EIA.

CONCLUSION

Under delegated powers it is determined that an Environmental Impact Assessment is **REQUIRED** for the above development.

Decision Date : 20/03/2018



Head of Planning & Regulation