APPENDIX 2

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Our Ref: LPL 192-040 Objection 02-06-06

Mr Paul Sexton
Case Officer
Planning Department
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South Cambridgeshire Hall
Cambourne Business Park
Cambourne
Cambridgeshire
CB3 6EA

SOUTH CAMBRIDGESHIRE
- 7 JUN 2006
File Ref:
Letter No:

2nd June 2006

Dear Mr Sexton

RE: Kneesworth House Hospital, Bassingbourne-cum-Kneesworth
Application Number S/0706/06/F

1. INSTRUCTIONS

I act on behalf of clients who are concerned to ensure that all such facilities and establishments for psychiatric care and rehabilitation are constructed and operated to recommended standards, in the interests of prospective patients, local residents and fair competition. My clients have particular concerns about this proposed development and have asked me to consider the substance of the application and submit representations as appropriate.

In preparing the comments made within this report I have considered the papers submitted with this application including the planning application form, supporting documentation, provisions of Government Advice, and Development Plan Policy. As this application is a re-submission of a previous proposal (application number S/2362/05/F) of identical form, due consideration has also been given to comments previously made by other statutory bodies, the Officers report to Committee, the reasons for refusal and work undertaken by the applicants in preperation for this re-submission since the application was refused.

The Description of Development for this application is as follows:

> "Erection of New Ward Building to Accommodate 2 Secure Wards, 1 Rehabilitation Unit, Reception and Visitor Centre with New Landscaping, Fencing and 57 New Car Parking Spaces"

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Having considered the above documents, and the nature of the proposal it is considered necessary to object to the application for the reasons detailed in this report.

As you will appreciate the matter of fairness in the determination of planning applications is discussed at [2004] J.P.L. 1316 with particular reference to Aubom Court Ltd v Kingston and St. Andrew Corporation [2004] WLR 62219 and R. (on the applicant of David Rubin) v First Secretary of State, Harrow London Borough Council, 9 February 2004. The circumstances may be such that a party has a legitimate expectation that he will be consulted: R. (on the application of Wainwright) v Richmond-upon- Thames London Borough Council [2001] EWCA Civ 2062. While we have every confidence in the Council's diligence in processing this application I am instructed to evaluate the process against the legal requirements debated in the above cases.

2. EFFECT ON MISINTERPRETING GUIDANCE

In evaluating this application the Council needs to have regard to the desirability of preserving the Listed Building or its setting or any features of special or architectural interest which it possesses, and in so doing needs to evaluate the importance of the building, its intrinsic architectural or historic interest in both local and national terms. It must also evaluate the particular physical features of the building which justify its inclusion on the list. However of particular importance is a detailed evaluation of the buildings setting and its contribution to the local, scene. Where in fact a development will harm the setting, as in this case, then it will be necessary to evaluate the extent to which the proposed building would bring substantial benefits for the community against the harm caused to the listed building and other landscape/countryside designations. This mater was considered in the case Thompson v First Secretary of State and Barnsley Metropolitan Borough Council [2004] EWHC 1492 Admin, a decision of an Inspector was quashed.

3. PLANNING HISTORY – COMMENTS IN RELATION TO THE PREVIOUS APPLICATION

Application Reference: S/2362/05/F - A full application for 'Erection of New Ward Building to Accommodate Two 16 Bed Secure Wards, 8 Bed Rehabilitation Unit, Reception and Visitor Centre with New Landscaping, Fencing and 56 New Car Parking Spaces' was submitted by Partnership In Care Ltd on9th December 2005. This application was placed on the Development and Conservation Control Committee on 1st March 2006 with a recommendation for delegated approval/refusal.

3.1 COMMENTS ON THE OFFICERS REPORT TO COMMITTEE

It is noted that within the planning comment section of the report (a full copy of the Officers' Report has been enclosed at Appendix 1 for reference) the Officer outlines the nature of the pre-application discussion process in relation to this application, and the level of assistance/input received by the applicants from Council Officers. It is understood that the pre-application process is a standard procedure in current development control determination, however these discussions are for guidance only, and should not provide indicative decisions of a proposal. As such concerns are to be raised regarding the level of input and advice provided by Officers on this application, and how much impact or relevance other matters and comments of statutory consultees and third parties would have on the final decision. The report states that:

"During pre-application discussions officers indicated that if a proposal could be put forward with sufficient justification i.e. there was a clear and well established need for the hospital to expand and the impact on both the setting of the adjacent Listed Building and the wider landscape and countryside could be minimised to acceptable levels that officers may be able to give general support. Early schemes showed a building that was in part two storey and too close to the NE footpath to allow for new planting. The single storey approach is now considered by both the Conservation Manager and the Landscape Design Officer to have an acceptable impact subject to appropriate materials and detailing and revisions to the landscape proposals."

The Case Officer outlines their consideration of the responses received from statutory bodies within the planning comment section of the report, however the Officer provides justifications for approving the development, which are of great concern. Particularly in relation to the concerns regarding the visual impact of this development, the need for landscaping amendments, the loss of TPO trees and the impact of the development on Kneesworth House's setting.

The Officer appears to accept conditioning a number of issues which should have been dealt with during the application process more stringently, particularly the matter of materials. Although this matter can be dealt with via a condition, given that this development is to be located within the grounds of a listed building, and within open countryside, it is not considered appropriate to deal with this matter without appropriate input from third parties, as it falls to the principle of the development, and a poor choice and consideration of materials could detrimentally impact on the setting of the Listed Building. This is a similar concern to the comments made within the highway safety section of the report, the matter of appropriate visibility splays to ensure safe and secure use of the access and egress is not considered appropriate to be dealt with as a condition, this information and drawings demonstrating the work to be undertaken should have been completed during the application, or otherwise should have formed a reason for refusal, again due to the significance of this matter upon the acceptability of the development it should not be dealt with via a condition and subsequent approval, particularly given the history of accidents within the area which was highlighted by the Highways engineer.

The overriding material consideration in approving this development centres on the issue of need, however given the level of detail submitted on this matter within the supporting planning statement, it is not considered robust enough to warrant the development of a visually obtrusive development within the grounds of a listed building.

3.2 CONSULTATION RESPONSES ON PREVIOUS APPLICATION

As would be anticipated for a development of this nature, a large number of statutory bodies were consulted on the application, however concern is raised that English Heritage were not given the opportunity to comment on the development, specifically given that the development was proposed within the grounds of a Grade II Listed Building, as well as having grounds of particular local interest, historic value, and of great value and importance as the setting of a Grade II Listed Building – Kneesworth House. It is noted that the Officers have consulted their internal staff from the Conservation Section as well as the Trees and Landscape Officer, and the Landscape

Design Officer, however given the scale of this development and its potential relationship with the Listed Building, it is suggested that English Heritage be given the opportunity to view the development and comment as appropriate, as without their observations it is not considered appropriate to determine the application, particularly as it would result in a departure from the development plan.

Environment Agency – Great concern is raised given that the Environment Agency raised objection to the application as:

> "The proposed development would be at risk of flooding and would increase the risk of flooding to existing property."

It is noted that a flood risk assessment has been produced by the applicants, presumably to overcome this objection, and at the time of writing the Committee Report was awaiting further comment from the Environment Agency as to its acceptability. Comments received were to be presented verbally to the Committee, however there is no reference to these comments within the minutes of the meeting, as such clarification is sought as to whether the Environment Agency withdrew their objections, and whether this flood risk assessment has been re-submitted with the fresh application.

3.3 MEETING MINUTES

Within the Minutes of that meeting it was noted that Members determined to recommend that the application was granted a delegated approval by Officers if the outstanding issues were resolved satisfactorily. The outstanding matters referred to were acceptable revisions to the landscaping proposals, or the awaited comments from Anglian Water. Failing satisfactory resolution of these outstanding matters Officers were authorised to refuse the application. Members also deemed that if the application were to be approved, it was not necessary to refer the application to the Secretary of State, notwithstanding that it was a departure from the Development Plan, having regard to size, impact and nature of development, and expansion of the existing use on the site.

3.4 DECISION NOTICE – Application Number S/2362/05/F

It is clear that not all matters were resolved by the applicants to the satisfaction of the Local Authority as the application was refused by Officers on 6th March 2006 for the following reason:

> **"The proposal fails to demonstrate how existing trees can adequately be safeguarded from the physical impact of the development. The inevitable loss of trees, shown to be retained, some of which are statutorily protected Tree Preservation Orders, will damage the parkland setting of the adjacent Grade II Listed Building, Kneesworth House. As such the proposal is contrary to Policies EN4, EN5 and EN28 of the South Cambridgeshire Local Plan 2004."**

It is noted that an informative note was also added to the refusal notice which stated that:

> "Other matters such as the provision of adequate visibility splays remain unresolved but it is considered that these could be resolved through the

imposition of conditions were the proposal to receive planning permission, they do not therefore form reasons for refusal of this planning application."

As stated previously within the report that the matters which were considered appropriate to deal with via a condition should have formed reasons to justify refusing the applications either on highway safety grounds or through insufficient information being submitted with the application, as all the matters fell to the principle of the development and should be dealt with during the determination process.

4. PROCEDURAL MATTERS – Application Number S/0706/06/F

Planning Application Form: Requirement of Accurate Completion

The local planning authority should see to it, in the public interest, that questions on the application form are answered in sufficient detail to enable the true nature of the proposal to be understood. I am concerned that the applicant has failed to complete the application form with sufficient diligence and the answer to some questions are incomplete or inadequate.

Under s.327A (2) introduced by s.42 of the Planning and Compulsory Purchase Act 2004:

> "The Local Planning Authority must not entertain such an application if it fails to comply with the requirement."

The requirement in this case is the formal manner in which the application must be made and the formal content of any document or other matter which accompanies the application.

There is a concern that the application should not have been registered in the first place. I am concerned that the application as submitted may be technically inchoate.

I would draw particular attention to the following:

Question 2aii – The application form requests the details of the site area or dimensions. It is noted that this section has not been completed by the applicant, and as such would request that the authority contact the applicant to request this information be provided to ensure a full understanding of the context of the site size and the impact that a development of this scale would have on the level of development to open space ratio at the site, and its impact on visual amenity and character of the locale.

Question 2bi – It is noted that the description of development has been slightly amended from the original application to now provide 57 car parking spaces as opposed to 56 spaces. Given that the applicants during the pre-application stage were requesting significantly more spaces and were advised by the authority to reduce that number, as well as the fact that the 56 spaces to be provided already would exceed the Councils standard parking allowance, it is considered that the number of spaces should be reduced to at least retain the number originally proposed, or ideally reduce the number further.

Question 6a – The application form requests that the applicant provide details of the materials to be used in the development including, trade names of materials and colours. It is noted that the applicant advises that:

> Walls – Red Brick with contrast string course – to be agreed with LPA
> Roof (s) – Red Tiles – to be agreed with LPA

It is considered that given that this development is to be located within the grounds of a Listed Building, and that the surrounding area is rural in character the materials to be used in this development are of vital importance as to the acceptability of this development in visual and design terms. As such the information which has already been requested by the Authority within the application form should be provided with the relevant level of detail. There would also be concerns about the form and colour of materials to be used, as if the applicant proposes to use concrete tile, this would be considered detrimental to the character, appearance and setting of the Listed Building and should not be considered acceptable.

It is noted that the applicant proposes to construct the development all in red materials. This expanse of one colour would be considered to be visual obtrusive within this rural location, and would appear incongruous, dominant, and increase the scale and massing of the proposed structure to the detriment of the local area. Officers should not consider it appropriate to deal with this matter via a condition, as third parties and statutory bedsides should be given the opportunity to comment on the materials proposed and their considered acceptability.

Question 6ci and ii: Drainage – Within the application form the applicant advises that the surface water will be discharged to the watercourse, and the foul sewerage will be connected to the existing sewerage system. This is not considered to be an adequate level of detail, particularly without relevant drawings demonstrating the location of the drains etc. There are concerns regarding the validity of these comments as no supporting evidence has been submitted with the application to demonstrate how the development is to be connected to the foul/sewer and mains systems, or that the existing systems can cope with the additional capacity.

As the Authority were still awaiting the consultation response from Anglian Water, (presumably on drainage matters) when taking the last application to Committee, I am unsure as to whether they raised concerns or not, and would seek clarification of this point from the Local Authority. However, regardless of this fact would request that the Authority go back to the applicant and request additional information be submitted to demonstrate the location of the drains, the capacity, and how the development is to be connected.

5. Further Information Required By the Local Planning Authority

The local planning authority may direct an applicant in writing to provide officers with any evidence in respect of the application as is reasonable for them to call for to verify any particulars of information given to them. If the Direction is not complied with, the application is inchoate, and the local planning authority should notify the applicant accordingly and formally request:

- **Arboricultural Report:** It is noted that the applicants have submitted a drawing (337.01.c) outlining the location of existing trees on site and their indicative protection during construction, however, concerns remain that not enough information has been submitted with the application (although it would appear that details have been submitted informally during further pre-application discussions) to justify the removal of trees with allocated TPOs or to demonstrate their protection during construction. I am not satisfied that British Standard 5837 has been complied with in relation to the protection of the existing trees on site during demolition and construction works, in particular where the proposed development incorporates construction of a new access road between two groups of trees protected by TPO's. An Arboricultural Report is also requested in relation to the felling of the two trees which are covered by Tree Protection Orders.

- **Drainage Proposal:** Full details and calculations re drainage proposals are requested in circumstances where this goes to the principle of development.

- **Environmental Impact :** It is contested that the removal of protected trees from the site during the construction of the car park has not been properly addressed or justified. In the event that there is nothing wrong with the trees in question in terms of their health, the council should not agree to their removal just to accommodate the applicant's desires for a car park in this location. The trees should be retained and an alternative car park layout considered. The need for an arboricultural report has already been mentioned.

- **Transport Assessment**: The applicant should provide a Highway Statement to include a speed survey and traffic counts in circumstances where the proposed development incorporates a new access road serving the ward buildings and increase of fifty six car parking spaces; this should be requested in circumstances where the applicant has paid scant regard to their responsibilities under PPG 13 Transport. It is also suggested that a Green Transport Plan is required to ensure the applicant puts into place a sustainable transport proposal (ie; car sharing, cycle parking facilities/showers to encourage cycling etc...)

- **Sunlight, Daylight and Overshadowing:** A sunlight and site layout assessment should be provided by the applicant in conformance with the BS Daylight Code.

- **Building Materials:** This is a detailed application and as such design is for consideration and full details of materials should be provided prior to determination of the application.

- **Full fencing details**: The application refers to the requirement for a 3 metre high security fence. It is noted that a photograph has been submitted with the application to demonstrate the visual appearance of the fencing proposed. It is not considered that the photograph in isolation is adequate to demonstrate the visual appearance of the fencing, as such the applicant should be required to submit additional details including elevational drawings of the fencing in situ with the development, along with full details on the colour and use of materials, particularly given the location of this development with a rural setting and within the grounds of Grade II Listed Building.

Regardless of the lack of information provided by the applicant with reference to the fencing proposed, there is concern regarding the clarity of the needs of the patients who will reside within these additional units, the level of care to be provided, the level of security required and therefore whether the fencing as proposed is adequate for their safety, as the use of the term 'patients primarily requiring low secure accommodation' does not provide the necessary clarity on this matter. The Planning statement at paragraph 4.7 reads as follows:

> "The proposed ward buildings will be used by patients primarily requiring low secure accommodation or rehabilitation facilities and therefore the siting of these wards close to the hospital entrance is, psychologically, aiding the patient's journey towards rehabilitation and independent living."

Should the units be required for medium secure, I am of the understanding that the minimum fence height required at ground floor level for a medium secure unit is 5.2 metres, and as such 3 metres will not satisfy their requirements, and as such further amendments to the proposal would be required either at the current stage or at a later date.

Upon receipt of the additional information requested we reserve the right to add to this submission by way of an Addendum as further information comes to light. We trust that the application will not be determined without the facts having been clearly established and the additional documents requested, provided by the applicant.

6. GOVERNMENT ADVICE

We trust that in the determination of this application that the Council will have due regard to the provisions of the following Planning Policy Guidance Notes and Planning Policy Statements:

PPS1 Delivering Sustainable Development: I would draw particular attention to the following paragraphs:

- ***The Government's Objectives:*** Paragraph 5 states that planning should facilitate and promote sustainable and inclusive patterns of urban and rural development by protecting existing communities and ensuring high quality development through good and inclusive design.

- ***Key Principles:*** Paragraph 13 (iv) states that design which fails to take the opportunities available for improving the character and quality of an area should not be accepted (see paragraphs 33 – 39).

- ***Design:*** Paragraph 34 of PPS1 states that design which is inappropriate in its context or which fails to take the opportunities available for improving the character and quality of an area and the way it functions, should not be accepted.

PPS7 Sustainable Development in Rural Areas: I would draw particular attention to the following paragraphs:

- ***The Government's Objectives***: Paragraph (i) states that planning should raise the quality of life and the environment in rural areas through the promotion of good quality, sustainable development that respects and, where possible, enhances local distinctiveness and the intrinsic qualities of the countryside and continued protection of the open countryside for the benefit of all, and with the highest levels of protection for our most valued landscapes and environmental resources.
- ***Key Principles***: Paragraph (vi) states that all development in rural areas should be well designed and inclusive, in keeping and scale with its location, and sensitive to the character of the countryside and local distinctiveness.
- ***Community Services and facilities***: Paragraph 6 (v) states that Local Planning Authorities should support the provision of small-scale, local facilities to meet community needs outside identified local service centres, particularly where they would benefit those rural residents who would find it difficult to use more distant services.

PPS 7, at paragraph 12, "Design and the character of rural settlements", states (in part)

> "Planning Authorities should ensure that development respects and, where possible, enhances these particular qualities. It should also contribute to a sense of local identity and regional diversity and be of an appropriate design and scale for its location, having regard to the policies on design contained in PPS 1 and supported in "By Design",".

I would contend that the proposal as submitted does not demonstrate or support the principle of good design, is considered to have no local distinctiveness or identity and does not respect, let alone enhance the locality or the character or setting of the Grade II listed Building.

At paragraph 16, under the heading 'Countryside Protection and development in the countryside', it identifies what local planning authorities should do when determining planning applications for development in the countryside, the most referable requirement being to conserve specific features and sites of landscape, wildlife and historic or architectural value. I would suggest that given the detrimental impact this development could have on this historic setting in terms of its local character, distinctiveness and visual amenity, it is imperative that the local planning authority in this case refuse the application, particularly as it would be detrimental to the setting of the listed building (which one could argue is of both historic and architectural value)

PPG13 Transport (2001): Paragraphs 23 through to 26 are concerned with Assessment; paragraph 23 notes that where developments will have significant transport implications, Transport Assessments should be prepared and submitted alongside the relevant planning applications for development. For small schemes, the Transport Assessment should simply outline the transport aspects of the application.

Furthermore, paragraph 24 reads:

> "These assessments enable local planning authorities better to assess the application and provide a basis for discussion on details of the scheme, such as the level of parking, the siting of buildings and entrances, and the need for further measures to improve access arrangements to the site."

It is noted that the applicants have not submitted a Transport Assessment sufficient to satisfy the requirements outlined in PPG13 despite the fact that the site is situated in an unsustainable location.

PPG 15 Planning and the Historic Environment: Given that this development is to be located within the grounds of a Grade II Listed Building – Kneesworth House, PPG15 is of vital importance and relevance in the determination of this application. PPG15 gives advice on how development proposals affecting historic buildings should be dealt with, and advises local planning authorities of their responsibilities in such matters. Specific guidance is given on such matters as applications affecting the setting of Listed Buildings.

Paragraph 2.16 states that:

> "Section 16 and 66 of the Act require authorities considering applications for planning permission or listed building consent for works which affect a listed building to have special regard to certain matters, including the desirability of preserving the setting of the building...Also, the economic viability as well as the character of historic buildings may suffer and they can be robbed of much of their interest, and of the contribution they make to townscape or the countryside, if they become isolated from their surroundings, e.g. by new traffic routes, care parks, or other development."

The question is raised as to how much consideration has been given by the Local Authority on this matter, particularly as the development as proposed is considered to run contrary to the principle of this statement. This concern is exacerbated by the fact there appears to be no reference made to PPG15 within the previous report to Committee, and given not only the building, but also the historic interest of the grounds, there is concern regarding how much consideration has been given to the wide impact of this development on its surroundings and settings.

7. DEVELOPMENT PLAN

South Cambridgeshire Local Plan

It is understood that the referable plan is the South Cambridgeshire District Local Plan 2004 which was adopted 9th February 2004 and became operative on that date.

Policy SE 3 Limited Rural Growth Settlements: The application site is located outside of the village boundary and is therefore subject to consideration as development in the countryside, not development in an existing village.

Policy EM 7: this policy is not considered to be directly referable to the determination of this application as it specifically considers the expansion of existing firms/businesses in villages, and given that this development is to be sited outside of a village, this policy cannot be considered to be usable in support of this application.

Policy EN1 Landscape Character Area: Policy EN1 states that in all planning decisions the District Council will seek to ensure that the local character and distinctiveness of these areas is respected, retained and wherever possible enhanced

and further, that planning permission will not be granted for development which would have an adverse effect on the character and local distinctiveness of these areas.

It is considered that the proposed development does not respect the surrounding character of the area by virtue of the resulting overdevelopment at the site should this application be approved, which would result in a land to development ratio which is considered to be out of keeping with the character and appearance of the surrounding local area. This concern is exacerbated given that the site also located within the East Anglican Chalk Landscape Character Area and Natural Area which is characterised by large open fields and as such this development would be detrimental to the character of the area as a result of increased development in a predominantly open countryside area.

Given the nature of the facility proposed part of the proposal is for the erection of a 3 metre high security fence. This is considered to be visually inappropriate in this countryside location as it would be out of keeping in the locality and, furthermore, such fencing would be detrimental to the setting of the Listed Building.

Historic Landscapes - Paragraph 10.20: Paragraph 10.20 refers to the application site and states that there are man-made landscapes of local value which contribute to the quality of the whole landscape and which in some cases form the setting of Listed Buildings. Any development proposals must ensure that there is no adverse impact on either the grounds themselves or the Listed Buildings whose setting they provide. It is considered that the proposed development would be detrimental to the quality of the area as a result of over-development in a predominantly open countryside area.

Policy EN4- This policy states:

> "The District Council will not grant planning permission for development which would adversely affect or lead to the loss of important areas and features of the historic landscape whether or not they are statutorily designated."

The Councils own adopted policy advises that planning permission should not be granted if it considered to adversely affect or lead to loss of important areas, as such any approval of this application would run completely contrary to the principles of the Authority development plan, and as such if recommended for approval should be forwarded to the Secretary of State as a departure, or advertised as such. Although it is noted from the original meeting minutes that this is not considered necessary. This raises several concerns and would obviously open the Authority up to a challenge on the decision. This is given more importance given that Kneesworth House is specifically referred to within the supporting text for this policy as a landscape of local value.

Policy EN28 Development within the Curtilage or Setting of a Listed Building: Policy EN28 states that:

> "Where it appears that proposals would affect the curtilage or wider setting of a Listed Building, the District Council will require the submission of sufficient illustrative and technical material to allow its impact to be clearly established. The District Council will resist and refuse applications which:
>
> (1) would dominate the Listed Building or its curtilage buildings in scale, form, massing or appearance;

(2) would damage the setting, well-being or attractiveness of a Listed Building;

(3) would harm the visual relationship between the building and its formal or natural landscape surroundings;

(4) would damage archaeological remains of importance unless some exceptional, overriding need can be demonstrated, in which case conditions may be applied to protect particular features or aspects of the building and its surrounding."

It is considered that the applicant has failed to demonstrate an overriding need for approval of the proposed development within the documentation submitted with the application to justify approval of the application, the proposal is also considered to detrimentally affect the setting of the adjacent listed building and as such should be refused by virtue of it being contrary to Policy EN28.

8. FURTHER PLANNING COMMENT

Material Considerations: effect on neighbouring properties

It is commonplace for the local planning authority to take into account the amenity interests of those who live adjacent to the site in question. If the proposal will affect their amenity or the local environment then the local planning authority may, if they consider there to be demonstrable harm, refuse planning permission or grant it subject to conditions alleviating the objection concerned. In this case, the hospital operates 24 hours a day. The proposal for an additional 40no beds in total, will increase the activity and general noise and disturbance to that already experienced on the site. This will be by a mixture of vehicle movements and general activity by persons employed at the site in care/nursing roles dealing with patients on a 24 hour basis.

Principle of Development

The application constitutes an unacceptable development which causes damage to the amenity of nearby properties and the surrounding area. Furthermore, given the importance of obtaining additional statements/information which are currently lacking from this submission (as detailed in Section 2 of this submission) the application is considered to be incomplete. Therefore, given these concerns and the detrimental impact this development would have on the setting of a Grade II Listed Building, planning permission should not be granted.

Car Parking and Congestion

The development of an additional access road and a total of 57 additional car parking spaces will significantly increase the number of cars arriving at and leaving the site each day, increased further by the development of a visitors centre may significantly increase congestion and parking on the site. It is understood that the existing entrance to the car park, adjacent to the workshop, would be closed, however, this will not reduce the number of cars travelling to the site as a result of the proposals, on the contrary, vehicular movements into and out of the site will increase.

There are a total of 57no new car parking spaces proposed overall and the planning statement says that there would be a total of 51.75 new posts created. Clearly not all the

staff would be employed at the same time, there would be shift working and this would mean that there is less need for such a large increase in car parking numbers than proposed.

PPG 13 Transport, suggests that all new developments should place less reliance on the use of the motor car and should promote alternative means of transport, ie; use of public transport, cycling and walking. I see no mention of this in the Planning Statement submitted with the application.

I would expect the applicant to have submitted a Transport Assessment (which they have not done) or at the very least, a Green Transport Plan indicating how the applicants would envisage promoting sustainable transport measures in a development of this size. Furthermore, it would appear that there has been no provision made on site for cycle parking, or staff showering facilities to further promote sustainable travel to work schemes. Without these details submitted at this stage questions must be asked regarding the applicants level of commitment to sustainable forms of travel, and would raise further concerns regarding the future requirement for additional buildings on the site to house cycles or other necessary facilities. These possible future proposals however undesirable would be difficult to refuse given the support for sustainable transport within Government and particularly if permission had already been granted for a building of such uninspired design. Once again this simply cannot be dealt with via a condition as further development on the site, particularly given the designation and historic importance of the site must ensure that impartial third parties should be able to input on further development at the site.

Overdevelopment

The proposal constitutes overdevelopment of the site in a countryside location. Whilst the development is of a single storey design, it has quite a substantial ground coverage in terms of footprint and when seen alongside the 75no car park area, the two elements combined (with linking footpaths and access roads) are considered to be visually detrimental and overdevelopment of this currently, mainly open area of land within the site as a whole.

Design Statement

The design statement suggests that consideration has been given to the proposals relationship to the public footpath, adjacent open fields, protected woodland, rehabilitation bungalows, the driveway and the listed building. It is my contention that the proposals would be detrimental to the setting of the listed building and are visually inappropriate in this countryside location.

The proposals are of a totally inappropriate design and have no architectural relationship with the design of the listed building. The design of the proposed building can only be described as "bland", "uninteresting", "featureless" and out of character with the locality in which they are proposed, and as such the proposal would be contrary to the provisions of policy EN 28 of the local plan.

The landscape assessment comments on the design of the building at paragraph 6.5, and states:

"... that the shape of the building will ensure that elevational views are broken up and articulated in a manner which will resemble a building cluster rather than one large unit."

This is not considered to provide an appropriate consideration of the impact the scale of this development would have on the visual character of the area, and as such cannot considered as any other than nonsensical. The South elevation is over 90 metres in width, the East and West views are almost 100 metres in width, and the north elevation, whilst only 75 metres wide, is seen against the backdrop of the rest of the building and obviously looks far wider than 75 metres. There is no other description for this scale of development other than overly substantial, and will certainly not appear 'as a building cluster as opposed to one large unit, as clearly the building will still be seen as one regardless of the design details used to try and reduce that fact, it is undeniably too large in mass and scale to justify approval.

The proposed security fence be it 3 metres or 5.2 metres in height, is of great importance visually in this locality. This is clearly an important issue and one that only gets a very brief and cursory mention in the planning statement and design statement. The visual significance that this fencing would have on the appearance of this development should be considered in greater detail, and due to its height and density will be visually dominant on any of the elevations proposed, and particularly within an area characterised by open settings.

As the proposal quite clearly affects the setting of a listed building, it is somewhat odd and substantially concerning that the design statement does not once mention, the guidance contained within **PPG 15, Planning and the Historic Environment**. In particular, paragraph 2.16 where it deals with "The setting of Listed Buildings". This states quite clearly that authorities considering applications for planning permission which affect a listed building, must have special regard to certain matters including the desirability of preserving the setting of the building. This advice continues to state the following:

"The setting is often an essential part of the buildings character, especially if a garden or grounds have been laid out to complement its design or function." The advice further continues to note that such buildings can be robbed of their character, interest and of the contribution they make to the countryside, if they become isolated from their surroundings, for example, by new traffic routes, car parks or other development. The proposals clearly do affect the listed building by virtue of inappropriate design, affect on the landscape/gardens and further access roads and car parking.

The current open nature of the land between Kneesworth House and the bungalows, contributes to the buildings special setting and the proposals would clearly infill all that open area, such that there would be no discernable "break" between the main buildings. Whilst the grounds are not listed on the English Heritage Register of Historic Parks and Gardens, they are nevertheless of great local importance and this is noted at paragraph 10.20 of the local plan. This notes that the land is of local value and contributes to the quality of landscape forming the setting of the listed building.

The proposal in terms of its impact on the setting of the listed building, is clearly at odds with the advice given in PPG 15 and should therefore also be refused permission as being contrary to that advice, as well as the provisions of local plan policy EN 28.

Landscape Statement

It is noted that there is already good tree coverage on the site as a whole at present. However, as there is quite substantial new tree/landscaping proposed, this is clearly considered necessary by the applicants as the proposals would have such an unacceptable impact on the landscape, that substantial tree planting can assist in further screening the development from the open countryside and thus provide an attempt at justifying the minimal impact this development would have on the appearance on the surrounding area. This can only be felt to have been required as without the additional screening it must be accepted that the proposal would be visually detrimental in this countryside setting and in relation to the setting of the listed building. Hiding a proposed development with a substantial amount of tree planting does not make the development proposal acceptable, particularly when it will result in the loss of trees that are currently subject of a Tree Preservation Order.

It is noted that Policy EN 4 of the Local Plan refers to Historic Landscapes and as previously mentioned, the grounds of Kneesworth House are mentioned in the supporting text to the policy. This clearly indicates the importance of the grounds in the local context, and supports the need for the protection and enhancement.

The area where the proposed wards and rehabilitation unit are proposed is arguably one of the most open areas of the entire site. As such, this creates the open nature of this part of the application site and provides clear delineation and separation between the existing buildings. The proposal would lead to buildings "filling in" this open space and additional tree planting would be planted to attempt to hide this unacceptable development. The tree planting in this area would seem alien in its isolation given that the majority of other trees within the site appear to be located in clusters. This isolation and unusual character of the planting would be further highlight as it would be in an area of existing openness across this part of the site, let alone when seen as an attempt at screening inappropriately designed buildings.

Design

The proposed development is out of keeping with the surrounding area which is dominantly open countryside. The applicant has not given sufficient consideration to the provisions of PPS1 and more specifically PPG 15. It is noted that the Officer who dealt with the original application within their report to Committee highlighted the comments of the Conservation Manager who considered that the use of a modern design within this setting provided a clear contrast between the old and the new. It is accepted that on occasions this principle can be considered acceptable, although you would wish to see some recognition and respect for the setting of the proposal and surrounding developments. However, given the incongruous nature of the proposal as submitted, it is considered that the design is inappropriate in its context and fails to take advantage of the opportunities available for improving the character and quality of the area. As such the proposed development is contrary to the provisions of PPS1 and PPG 15 and should be refused as the proposal constitutes overdevelopment of the site.

It is considered that the poor relationship between the proposed and existing buildings would be detrimental to the character of the area and to the setting of the Listed Building.

Noise

General disturbances causing loss of amenity, typically from vehicles visiting or leaving the premises, or from machinery, is material; the fact that the noise will not amount to a statutory nuisance is not pivotal. It was held in Persimmon Homes (North Wales) Ltd v Secretary of State for the Environment, Transport and Regions [2001] JPL 999 that the levels of noise from commercial premises, especially at night, would result in gross disturbance and harm to reasonable enjoyment by the residents of the homes proposed.

It is considered that the increased lighting and noise created in association with the proposed development will have an adverse impact upon the amenity of the patients which are in the process of rehabilitation.

Proposal Itself Offers Poor Amenity

A quite distinct situation arises where the proposal itself offers poor amenity to the intended occupants, such as lack of sunlight, over-crowded residential development generally, lack of amenity space, susceptible to noise, and so forth. Given the form of the development and its considered positioning on site these matters are all felt to be of grave concern, as clearly the welfare, security and respect for patients must be of the utmost importance, but unfortunately given the complicated form of this development sunlight, space, amenity and daylight all appear to be sacrificed for the provision of bed spaces and facilities.

As mentioned earlier in this objection, the scheme relies on substantial new tree and hedge planting in quite close proximity to the proposed new building, this would also affect the occupants in due course, in terms of loss of, or lack of appropriate levels of sunlight and daylight, with the inevitable future requests to remove trees which feature so highly in the landscape justification for the development now at application stage.

Precedent

The erection of the new building in the countryside would set a precedent for further development at the site which would undoubtedly be detrimental to the character of the countryside and detrimentally affect the setting of the Listed Building.

9. CONSULTATION PERIOD

We feel it necessary to raise comment upon the consultation process for this application. We have previously made objections on this proposal, during the consideration of the original application, and as such requested to be kept appraised of progress either on an appeal or with any re-submitted applications. However, as a matter of caution we have been making enquiries with your authority since the refusal of the last application regarding any appeals to ensure that we are able to submit comments as and when required. It was as a matter of coincidence that when we once again contacted your authority a couple of weeks ago regarding any new matters arising with the application that we were informed that another application had been submitted and that the

consultation period was coming to a close. It is considered as a matter of fairness that we should have been provided with the opportunity to comment. It is noted within the text 'Planning Law, Practice and Precedents', at paragraph 3.51G it supports the principle of expectation for consultation and it states:

> "Both the applicant himself and third parties are usually interested in being heard before committee. The aspect of fairness in the determination of planning applications at [2004] J.P.L. 1316 with particular reference to Auborn **Court Ltd v Kingston and St. Andrew Corporation** [2004] WLR 62219 and **R. (on the applicant of David Rubin) v First Secretary of State**, Harrow London Borough Council, 9 February 2004. The circumstances may be such that a party has a legitimate expectation that he will be consulted. **R. (on the application of Wainwright) v Richmond-upon-Thames London** Borough Council [2001] EWCA Civ 2062."

We were clearly disappointed at not being able to submit comments with the application, however a Member of your staff advised that your error at our lack of consultation had been noted and that a letter providing us with 21 days to comment would be sent out immediately, which it was and allows us to submit comments by 8th June 2006.

We were asked to submit our comments to the Authority as soon as possible, however there has been a delay I the process as we required copies of a full set of papers, which took a short period to provide, and hence a further delay in our comments being submitted. It was also noted whilst going through the papers that a drawing had been omitted from the set, once again further contact was made with the Authority to request a copy of that drawing, and to confirm that the receipt for the other copying was in the post. However, there was to be further delay as it would appear that we had been under charged for the copying and no further copying would be done without the receipt of further payment. I an grateful for he Member of staff I spoke to who understood our frustration at these errors, and did in fact send the drawing, trusting that the further payment would be sent, which it was the same day. All of these errors in process raise concerns about the Authority's processing of this application, and whether other similar errors have been made with regards to consulting other interested parties, who should be able to submit further comment should they wish.

In processing this applicairon we were not only omitted from the opportunity to submit comments during the original consultation period, but that our consultation period is due to expire the day after the application is due to go before the Committee, as after further discussions with the Authority it has transpired that the application will be going before Members to provide a recommendation on Wednesday 7th June.

After discussing this process with a Member of the Planning Department it would appear that this is standard practice in the Authority, to provide as much information to Members as possible for the Committee Meeting for them to give Officers a recommendation of how to determine the application, it will then be for Officers to consider the additional responses and to decide whether the comments have already been considered by Committee, or whether the additional comments are material enough to warrant taking the application back to Committee. I consider this to be unacceptable. If an application has been considered to be necessary to warrant a determination by Members it must be of vital importance that all the information is available or them to reach a decision, as what may be considered immaterial by one individual may make a significant influence

on the voting of a Member. It was held in R. (on the application of Carlton-Conway) v Harrow LBC (reversing judgement at first instance),[1] that in the circumstances the planning officer acted beyond his powers in not referring the matter to the planning committee s.101(1) of the Local Government Act 1972 considered. Although this case relates more specifically to the decision level of an application the principles must surely stand in a case such as the one under consideration in this application, whereby Officers determine the information that is to be forwarded to the Committee.

Given our concern over ensuring that our comments are given the full consideration that is required by the Authority we have felt to be placed under further pressure to ensure that our representations have been submitted earlier than required to ensure that the Members of the Committee are given the opportunity to view and consider our comments. It is legitimate for those of parties who are consulted to be of the understanding that their comments should be presented to the Committee. Once again when making reference to the text Planning Law, Practice and Precedents, at it advises at paragraph 3.51A:

> "Where a party is invited to make representations, there is a legitimate expectation of the party of the party making those representations that they will be fairly and properly reported to Committee. In **R. v Rochdale MBC**,[1] a decision of the local planning authority was quashed, based on the above principles."

Given the validity of our concerns upon the processing of this application Officers and Members should be advised that at the very least they are opening themselves up to a valid compliant to the Local Government Ombudsman, or alternatively (and as demonstrated within the above cases) a challenge to the High Court on the decision.

Failure to take account of relevant matters

The decision-maker ought to take into account a matter which might cause him to reach a different conclusion from that which he would reach if he did not take it into account. Where statute obliges the decision-maker to take a matter into account, it is a matter of law whether or not it was done. *Bolton Metropolitan District Council v. Secretary of State for the Environment (1991) J.P.L 241.* This report details those matters which the Council have failed to deal with adequately and failings in the applications.

10. CONCLUSIONS

In view of the above we trust that the application will be refused outright or alternatively that the additional information sought, be provided by the applicant and that residents be given further opportunity to comment as necessary.

It is suggested that the proposal is contrary to guidance contained in PPS 1, PPS 7, PPG 15 and PPG 13 and policies EN 1,3,4,5 and EN 28 of the adopted local plan.

Please telephone me to confirm receipt of this Objection and to discuss the time frame for determination of this application.