



FRIENDS OF BUTTS CLOSE

Friends of Butts Close
c/o Lavender House
71 Bedford Road
Hitchin, SG5 2TU
buttsclose@gmail.com
2nd December 2016

The Commons Team
The Planning Inspectorate
3F Temple Quay House
2 The Square
Temple Quay
Bristol, BS1 6PN
commonlandcasework@pins.gsi.gov.uk

Dear Sir or Madam,

OBJECTIONS

OBJECTIONS TO APPLICATION BY NORTH HERTFORDSHIRE DISTRICT COUNCIL TO THE PLANNING INSPECTORATE FOR CONSENT UNDER SECTION 38 OF THE COMMONS ACT 2006 TO BUILD A TARMAC ROAD ON COMMON LAND OF BUTTS CLOSE, BEDFORD ROAD, HITCHIN, HERTS, SG5 1HA

Summary of Objections

Friends of Butts Close object to this application for consent on the grounds of:

- absence of evidenced need for the proposed development
- absence of consideration of any alternatives by the applicant
- the negative impact upon the public enjoyment of the common
- the negative impact upon biodiversity and wildlife
- the removal of an area of land from common use
- the negative outcome for the wider community by virtue of the investment of public capital required and consequential opportunity cost

Background

1.1 Butts Close is a site of 11 acres near the centre of this ancient market town, much of which has been common land for centuries, with the earliest reference to it in 1466. Its nature and qualities are summarised in detail in the Butts Close Greenspace Action Plan (GAP) 2016-

2021¹. This notes that the Close sits at the centre of a Conservation Area². It states that it is a very public site, with high levels of use by the local community. It is described as an *open landscape ...[which] automatically creates a welcoming feeling* (para 3.1).

- 1.2 The objectives of this Action Plan include:
 - 1.2.1 to provide clear and welcoming access into and throughout the site
 - 1.2.2 to ensure that visitors to Butts Close feel safe and are able to enjoy the site at all times
 - 1.2.3 to protect and enhance the biodiversity and heritage of the site.
- 1.3 The *Friends of Butts Close* (FoBC) constitutes a local community group of residents of Hitchin with a particular interest in this area. Responsibility for Butts Close management lies with the Applicant, North Herts District Council (NHDC). The Council has recognised the contribution that FoBC makes to the management and protection of the site, and has used FoBC for consultation regarding matters that are of common interest, including the Greenspace Action Plan.
- 1.4 We were therefore aggrieved to be advised by Officers of the application, only after its formal submission to the Inspectorate. The guidelines for applications for consent make it clear that best practice is to follow the recommendations of 'A Common Purpose' (Defra 2012), which include carrying out informal discussions with all stakeholders prior to the formal submission of an application. These recommendations were not followed in this matter.

Grounds for Objection

Lack of Evidence of Need

- 2.1 The Applicant states *that the current parking provision at Hitchin Swim Centre Car Park no longer meets the needs of customers using Butts Close, Hitchin Swimming Centre and Archers Health and Fitness Club*. There is no presentation of evidence to support this statement. The website of the Swim Centre and Archers Club states:

Our Main Car Park has 80 Pay & Display car parking spaces. Parking costs £1 for three hours parking, £1 refundable off the price of a Swim from reception on presentation of a Car Park Voucher. Our Overflow Car Park is situated at Hitchin Town Football Club, 200 yards from our main Car Park & is free of charge.

THE GREENER WAY

Although Hitchin doesn't have any cycle ways, cycling is permitted from Fishponds Road down Elmside Walk to our Main reception where we have 16 Cycle racks for securing bicycles.

- 2.2 Pressure on parking can come in the summer months when the outdoor pool is opened. However, NHDC Officers have authorised the use of Butts Close itself as a temporary overspill car park for limited times, such as on the August 2016 Bank Holiday period.

¹ appended by NHDC to the application to the Planning Inspectorate

² See http://www.north-herts.gov.uk/sites/northherts-cms/files/butts_close_hitchin_character_statement.pdf

- 2.3 Appendix 1 details an examination of the site of the proposed works. This identified that the space available for the proposed car park is 950m², and that the maximum number of car spaces that could be achieved thereon would be 37. The access road itself will require 400m² of common land to be sacrificed.

Absence of Presentation of Alternatives

- 3.1 Paragraph 4.3 of the Defra Common Land Consents Policy emphasises that the Secretary of State will wish to know what alternatives have been considered to the proposal. The applicant has made no reference to any alternatives that have been considered.
- 3.2 There are in fact a number of alternatives to the proposal.
- 3.3 The provision of 16 cycle racks noted at 2.1 above evidences the commitment by the management of the Swim Centre and Archers to supporting a healthier transport solution than the private car. However this is not incentivised, whereas car parking is provided free of charge. There is ample space for the provision of more than double this number of cycle racks, which if used would reduce the need for a 37-space car park by half.
- 3.4 The existing car park is accessible for anyone, whether or not they are using the sports facilities for which the car park was originally intended. Hitchin town centre car parks charge £3 for three hours of parking, whereas at the swim centre car park charges are only £1. But members of Archers do not pay, and have a windscreen parking disc. They have unrestricted use of the car park and can park all day whether or not they are attending the fitness centre. A method of restricting its use to customers would reduce pressure on parking space and obviate the need for an additional car park.
- 3.5 Another method of restricting the number of people who use this car park but do not use the swimming or fitness facilities would be to increase the charge for three hours of parking from £1 to £3, to match the charge in the other car parks in the town centre. The full sum could be reimbursed to users of the pool, thereby causing no financial hardship to these customers.
- 3.6 The application states that the additional parking will offer greater opportunities for access to Butts Close, as well as to the Hitchin Swim Centre and Archers Health & Fitness Club. However, NHDC's Lairage multi-storey car park is only a 135m walk to Butts Close. It has a capacity of 295 spaces, 11 spaces for disabled drivers, and also two EV charging points. The Lairage car park is generally underused.
- 3.7 None of these alternatives have been considered in the application.

Work on Commons under Section 38

- 4.1 Paragraph 5.7 of the Defra Common Land Consents Policy emphasises that s.38 confers additional protection on common land. Subsequent paragraphs 5.8 – 5.16 set out policies regarding these protections.

Reduction of the enjoyment of the land

- 4.2 As noted above, Butts Close has high levels of public use. It is traversed by a central path which is the passage across the land that most residents and visitors use. It has been there 'for ever'. It is safe. Parents push buggies along it, children run, jump or scoot along it. There are benches along the path to sit on, to rest, and to enjoy its welcoming space. Walking from north to south one may enjoy the peace and tranquillity of the grassed land, with the traffic on Bedford Road only a distant distraction, some 200m away. In the opposite direction, a walker's eye is again drawn to the quiet, open nature of the Close, with Fishponds Road only at the distant north boundary. The whole of the east boundary of the Close is free of any moving traffic.
- 4.3 This would no longer be the case if the access road is built. It is not just the reduction in common land by 400m² and its increasing urbanisation that will affect the enjoyment of the land. The imposition of traffic moving up and down a road that is directly parallel and adjacent to the pedestrian path at its north end and only 20m away at its southern extremity, will significantly impair the views and the overall quality of the Close as an open space.
- 4.4 It is further noted that the application only seeks consent for a tarmac road. There is no mention of a fence or post and rail. Without any separation there will be a decrease in safety; parents will need to be much more vigilant, and their enjoyment of the peace and ease of the Close will thereby be diminished.
- 4.5 Consent for a fence is not included in the application.
- 4.6 The discussion with the on site manager (see Appendix 1 below) has clarified that both the access road and the car park would need to be floodlit from dusk until 10pm for reasons of safety and of security. The site manager also advised that lighting would also be required along the southern edge of the perimeter fence of the complex, as that will be used for pedestrian access to and from the entrance to the Archers Fitness Centre. Lighting will result in another element detracting from the natural and tranquil qualities of the Close.
- 4.7 Consent for lighting is not included in the application.
- 4.8 As a result of this development the Close would take on an increasingly industrial quality, and lead to a significant reduction in the enjoyment of the land by the public.

Impact upon Biodiversity

- 5.1 Currently there is no traffic on Butts Close other than the occasional service vehicle, and short term use such as a visiting funfair. In contrast, the planned development would result in constant traffic flows from 7am to 10pm seven days a week and floodlighting from dusk until 10pm on the access road, on the car park, and on the pedestrian access route on the edge of the southern perimeter of the site, as noted at 4.6 above. This will have significant negative effects upon the wildlife that inhabits the grass and scrub margins of the fitness

centre³. It will also affect the nocturnal habits of bats which are known⁴ to forage in the grassed areas and to roost in the several old trees which are both within the site perimeter and adjacent to it.

- 5.2 Protecting and enhancing biodiversity is a key objective of the Greenspace Action Plan, and this proposal clearly undermines the Council’s own policy.

Absence of underlying public benefit and poor value for the community

- 6.1 The application is for consent to a new access road to a proposed new car park, but the need for and numbers of additional parking spaces is not evidenced, and no consideration of any alternatives have been presented by the applicant. Appendix 2 summarises some of the financial issues; the development would require significant capital investment of public money, would not provide any net public benefit and does not demonstrate best value for the community.

Conclusion

- 7.1 Friends of Butts Close strongly object to this application by the District Council, on the grounds detailed above.
- 7.2 There is an absence of evidenced need for the proposed development.
- 7.3 There is no consideration of any alternatives to the proposal by the applicant.
- 7.4 Contrary to the assertions made in the application we consider that the proposal will indeed have significant negative impact upon public enjoyment of the common.
- 7.5 The proposal will have a significant negative impact upon the biodiversity and wildlife of the common.
- 7.6 400m² of land will be removed from common use to provide access to just 950m² of car park space.
- 7.7 There will be a negative outcome for the wider community by virtue of the investment of public capital required and the consequential opportunity cost.

Ellie Clarke (signed).....(Address).....
Stuart Howarth (signed).....(Address).....
John Keene (signed).....(Address).....
Helen Reason (signed).....(Address).....
Tony Riley (signed).....(Address).....

The Steering Group, Friends of Butts Close

³ These margins protect species such as hedgehogs – identified there recently by colleagues.
⁴ Their presence is also confirmed by colleagues.

Appendix 1

Examination of the Site pertaining to the Application

- A1.1 The application includes a plan showing the proposed car park with 80 parking spaces. This ground plan is however out of date. A refurbishment programme⁵ for the Archers Fitness Centre was completed in 2014, which included fitness/dance studios that are housed in an extension that occupies part of the area where the proposed car park is to be set. This significantly reduced the available footprint for the car park.
- A1.2 A print of the Google Earth map below shows the building work for the extension housing the dance/fitness studios in progress, to the west (viz. to the left) of the building labelled Archers Health & Fitness Club, and within the area designated for the proposed new car park. In the image, the white scar running north-south down Butts Close to the west (left) of the complex is a temporary roadway built by NHDC's contractors to accommodate the traffic of plant used to build the extension. This is broadly in the position of the proposed access road. This has now been re-grassed and returned to common land use.
- A1.3 In order to confirm the size of the revised space, a visit⁶ was made with the site manager on 22.11.16. Careful measurements were made of the space that would be available for the proposed car park. The site manager advised that there was also a requirement for a new internal security fence. On the plan that accompanied the application to the Inspectorate this is shown along the curved northern edge of the shaded car park area. He also advised that it would be necessary to retain the paved area surrounding the dance/fitness studios as it is an emergency fire escape route. Both features reduce the number of achievable car parking spaces. An up to date revised plan appears below with the above features added. The car parking spaces that are lost as a result are marked. The indicative maximum number of spaces that could be achieved is thereby reduced to 37.
- A1.4 On site measurement of the proposed car park space resulted in a superficial area of 950m². The application to the Inspectorate (section D1-9) states that the area that the works (viz. the access road) will occupy will be 400m². Thus, 400m² of common land will be sacrificed to enable access to a car park of just 37 places and which is little more than twice the area of the common land to be lost.
- A1.5 The visit with the site manager also clarified that in order to ensure pedestrian safety there would need to be a fence along the western edge of the access road and the central traverse pathway on the Close, given the proximity of the latter to the access roadway.
- A1.6 It was also clarified that for reasons of both safety and security there would need to be lighting on the car park, on the access road, and on the pedestrian walkway inside the southern perimeter fence which would lead to and from the car park and the entrances to the Fitness Centre and the Swimming Centre.

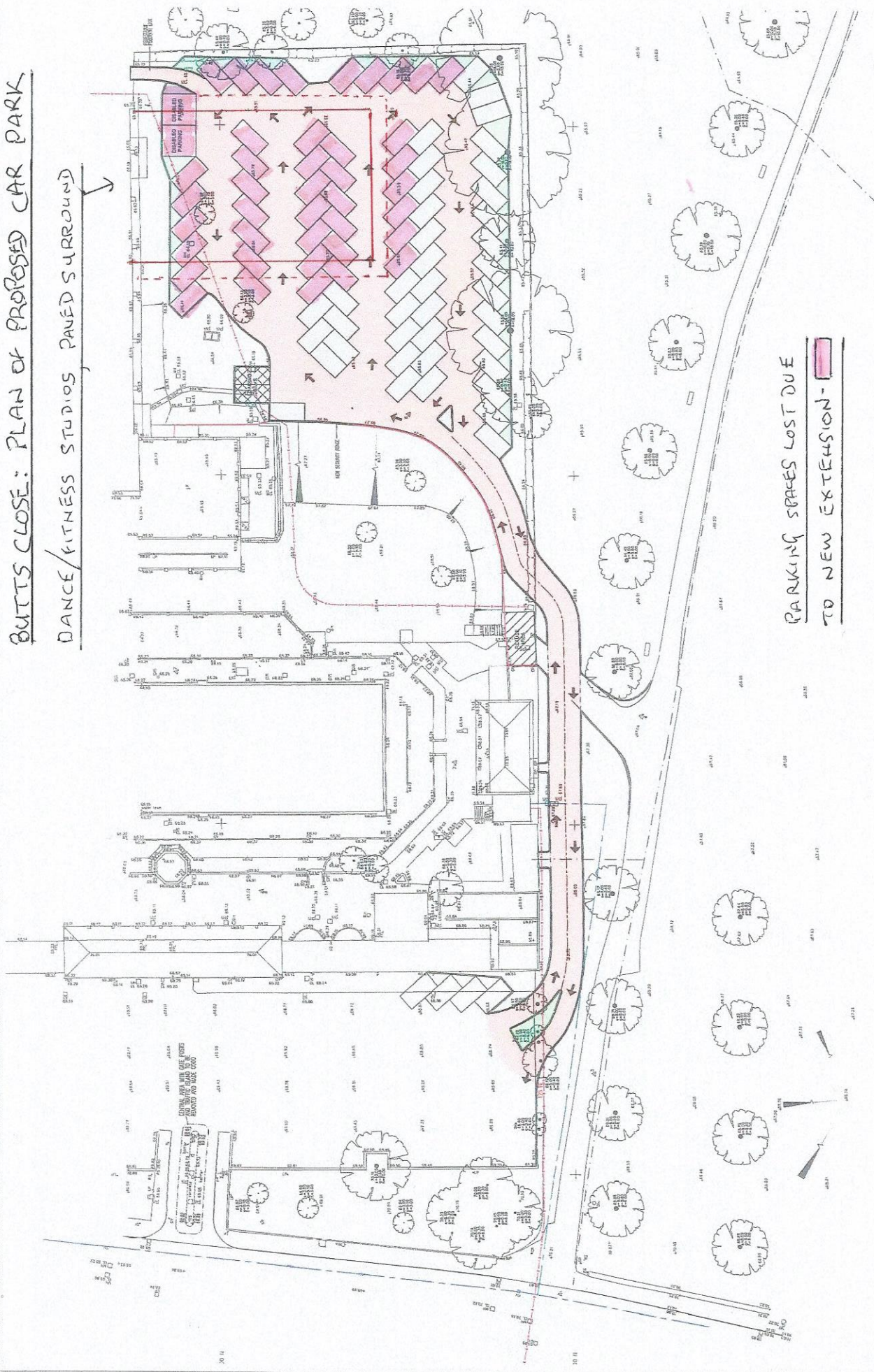
⁵ Accessed 20/11/16 at <http://web.north-herts.gov.uk/aksnherts/users/public/admin/kab12.pl?cmte=CAB&meet=21&arc=71>

⁶ By the lead author, TR.



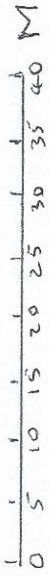
BUTTS CLOSE: PLAN OF PROPOSED CAR PARK

DANCE/FITNESS STUDIOS, PAVED SURROUND



PARKING SPACES LOST DUE

TO NEW EXTENSION -



REVISION
23.11.16
FOBC.

A		B		C		D	
Rev	Date	Rev	Date	Rev	Date	Rev	Date
1		2		3		4	

NOTES:
1. ALL DIMENSIONS ARE IN METERS.
2. THE DRAWING IS TO BE USED FOR INFORMATION ONLY AND NOT FOR CONSTRUCTION.
3. CONSULT THE ARCHITECT FOR ANY CHANGES.

Appendix 2

Best Value for the Community

- A2.1 It may be noted that whereas the swimming centre is a service without any competition within Hitchin, the Archers Health & Fitness Club operates within a commercial environment, with a number of other competing facilities in the town¹. The opening up of the proposed new car park might be seen as part of an 'invest to save' project for the Council's fitness business, and this is indeed made clear in the Report to NHDC Cabinet 31.07.12². The proposed development of the dance/fitness studios together with the new car park and the access road was presented to Cabinet as an opportunity to make savings in the long term on net management costs for the Council, by increasing Archers' market share of the fitness sector in Hitchin.
- A2.2 This is however a mature market, and while this proposal might have brought increased share and value to the Council's fitness business, it may be argued that it would bring no net benefit to the community.
- A2.3 Further, the current challenging matter of NHDC finances brings a new context to these proposals. Officers have recently recommended significant savings from the Greenspace Capital budgets in the order of £715,000, as set out in a Report³ to Cabinet 22.11.16. The additional expenditure on the access road and on the new car park therefore appears difficult to justify. Construction costs for the access road and for the car park were estimated at £342,000 (including fees at 11%) in the Report to Cabinet 31.7.12, albeit for a 55 place car park. Construction tender price inflation estimates 2012-2016⁴ would bring this figure up to an approximate £425,500.
- A2.4 This would imply considerable opportunity cost and does not demonstrate best value.

¹ The site manager counts seven as competitors in the fitness business.

² See <http://web.north-herts.gov.uk/aksnherts/users/public/admin/kab12.pl?cmte=CAB&meet=21&arc=71>

³ See <http://web.north-herts.gov.uk/aksnherts/users/public/admin/kab14.pl?operation=SUBMIT&meet=100&cmte=CAB&grpId=public&arc=71>

⁴ From Spon's Price Books, <http://www.pricebooks.co.uk/assets/downloads/spon/2016UPD1.pdf>