

3/14/1583/FP – Erection of 22 houses including 13 open market and 9 shared ownership together with a new access to Dane O’Coys Road at Land adjoining Hoggetts End, Dane O’Coys Road, Bishop’s Stortford, for Grange Builders LLP and others

Date of Receipt: 28.08.2014

Type: Full – Major

Parish: BISHOP’S STORTFORD

Ward: BISHOP’S STORTFORD – MEADS

RECOMMENDATION:

That, subject to the applicant or successor in title entering into a legal obligation with the Council and Herts County Council pursuant to Section 106 of the Town and Country Planning Act 1990 that will secure the matters set out in the report to the 7 January 2015 meeting of this Committee (**Essential Reference Paper ‘A’**) that planning permission can be **GRANTED** subject also to the conditions set out in the previous report and the additional conditions set out in this supplementary report.

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1.0 Introduction

1.1 Members will recall that this matter was considered at the 7 January 2015 meeting of the Committee. However, a decision was deferred to enable further consideration to be given to the relevance of any policies in the Bishop’s Stortford Neighbourhood Plan for Silverleys and Meads (NP) and the weight to be assigned to them. Members also asked that further consideration be given to the possible installation of bollards to prevent vehicular access along the unadopted and privately owned part of Dane O’Coy’s Road that fronts the site to the east of the proposed access.

1.2 The report that was submitted to the previous meeting is appended to this report as **Essential Reference Paper ‘A’**. The late representation summary submitted to that meeting is appended as **Essential Reference Paper ‘B’**. These documents give Members the appropriate background to this matter and the summary of representations.

2.0 Policy: Silverleys and Meads Neighbourhood Plan

2.1 The report to the previous Committee meeting indicated that the Neighbourhood Plan (NP) had not yet been approved by a referendum and that limited weight could be attributed to it. A report to the Executive meeting of 3 Feb 2015 now recommends that a referendum be organized for 19 March 2015.

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- 2.2 With regard to the weight to be applied at this stage, there is currently no clear advice. The NPPF states that a neighbourhood plan attains the same legal status as the Local Plan once it has been agreed at referendum and is made (brought into legal force) by the local planning authority. With regard to emerging plans the NPPF advises that an emerging neighbourhood plan may be a material consideration. With regard to the weight to be given to emerging plans factors such as the stage of preparation, the extent to which there are unresolved objections and the degree of consistency between the policies in the emerging plan and the NPPF have to be taken into account.
- 2.3 In the case of the Silverleys and Meads NP the objections received by the Council through the final round of consultation were few. These have been taken into account by the independent examiner in examining the plan. Whilst the examiner has recommended some modifications to the plan he has concluded that, subject to these, it can proceed to referendum and that the plan has had regard to national policies and advice contained in guidance issued by the Secretary of State. Given this position it is considered that, despite the remaining uncertainty regarding the referendum, weight can be given to the policies in the emerging plan.
- 2.4 The applicants have undertaken an assessment of the proposals in the NP considered against the examiner's recommended version of relevant policies. The relevant policies are in respect of housing and transport matters. Set out below is the officers' summary, taking into account the applicants' assessment.
- 2.5 *HDP1 Residential Development and Redevelopment* is supportive of housing development "as long as it is found to be meeting the findings of the latest Strategic Housing Market Assessment" (SHMA). The policy also requires that residential development proposals beyond the existing edge of the built-up area should be designed to incorporate the principles of Garden Cities. The relevance of the SHMA is considered in relation to policy HDP4 below. Garden City principles, which have helped shape the detailed plans for the Western Neighbourhood of Bishop's Stortford North (BSN), are not directly applicable to the development at Hoggetts End, which is designed to be compatible with its immediate surroundings, and reflect its current urban periphery location.
- 2.6 *HDP2 Setting and character of buildings, streets and spaces* is supportive of developments that can demonstrate high quality and empathy with their setting. Relevant policy criteria that the development is considered to meet are:

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- materials in keeping with the predominant existing character in the neighbourhood plan area of pitched tiled roofs and brick;
- buildings, streets and spaces relate well to their location and surroundings, particularly in prominent areas, such as above the Stort Valley and close to Ash Grove and Hoggate's Wood; and
- the routes of existing roads and lanes are kept to provide continuity with the history and morphology of the local area, for example Dane O'Coys Road.

2.7 A key feature of this location is the well treed frontage to the unmade section of Dane O'Coys Road and Whitehall Lane which is protected by a TPO. This creates a rural character which the proposal seeks to retain. This track is lower than the site and views of the development are therefore minimal. Although upgrading would be made to the lanes that surround the site, their essentially rural character will be maintained. The proposals have not been scored against Buildings for Life assessments as required by the policy.

2.8 *HDP3 Design Standards* states that applications for development will be required to meet all of the following criteria unless they include a clear justification for not meeting the standard on the basis of specific circumstances or viability. The Hoggetts End development meets the criteria as follows:

- exceeds the guidelines on internal space set out in good practice guidance prepared by the Royal Institute of British Architects (RIBA) in its 2011 publication *The Case for Space: The Size of England's New Homes*, or any guidance which explicitly supersedes it;
- should achieve the lighting standard as described in the Secured by Design publication *Lighting Against Crime*, although in order to avoid light pollution and help retain the rural character it is likely that lighting will be restricted to low level bollards (condition 15);
- could achieve a 'green' for criteria 12 of the *Building for Life 12* code that deals with external storage and amenity space;
- will achieve Part 2 Secured by Design accreditation for the affordable housing because it is an RSL requirement, and meet the standard for the market housing by, for example, the use of in-plot CCTV (see condition 12 and directive 12);

2.9 The requirement that the development "meets the Government target for new buildings to be carbon neutral, ideally ahead of the proposed date (currently 2016)" is not practical, and the Government has withdrawn the target. Nevertheless it is proposed that the development

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will meet high standards in terms of energy and will be compliant with the Building Regulations, which the Government proposes will exclusively set the standards in the future.

- 2.10 *HDP4 Dwelling Mix Strategy* Where there is a net gain of fifteen or more homes, developers are required by the NP to submit a Dwellings Mix Strategy. The strategy must clearly demonstrate how the proposed development addresses the “objectively identified needs within Bishop’s Stortford”. The Inspector made no changes to this policy, but the applicants point out that the Council does not distinguish Bishop’s Stortford from the rest of East Herts in its SHMA, the latest version of which (March 2013) the applicants relied upon. They have followed existing East Herts policy in providing 40% affordable housing, and have agreed to meet the 75:25 rented:shared ownership policy if the Committee does not agree the proposal for all shared-ownership plus £500k funding.
- 2.11 With regard to the mix of properties proposed the 13 open market dwellings comprise 3 x 4 beds and the remaining 5 bed (or more). The affordable dwellings are 3 bed (9 units). The relative percentages are (open market) 4 bed: 23%, 5 bed: 77%, (affordable) 3 bed: 100%. The applicants assessment of the mix set out in the SHMA is as follows: (open market) 4 bed: 24%, 5 bed: 5%, (affordable – shared ownership) 3 bed: 25%.
- 2.12 Clearly the proposed mix is at some difference with the SHMA indications. However, it is not considered appropriate to assess the development delivered by the site in isolation – but in association with the wider Bishop’s Stortford North area. Given the volume builders involved there, and the confirmation of the current mix provided as part of phase 1, it is clear that overall delivery will be much more favorably aligned with the SHMA indications.
- 2.13 This policy also sets out that, other than in exceptional circumstances, affordable housing would be provided on site. It sets out that exceptional circumstances would principally relate to circumstances where on site provision would clearly compromise the deliverability of the scheme. In this case, no clear compromise to deliverability has been advanced and this policy clearly favours the full provision of affordable housing on site.
- 2.14 *HDP5 Adaptable housing* requires 20% of the homes to be built to Lifetime Homes standard. The Local Plan policy requirement is for 15%. The applicants have agreed to 20% and it is recommended a condition is imposed to that effect:-

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The development shall not be commenced before details have been submitted to and approved by the LPA to show how 20% of the proposed dwellings will be built in accordance with the Lifetime Homes standard, and subsequently the homes will be built to that standard.

Reason: To provide a proportion of homes that are able to relatively easily meet the changing space and access needs of the occupants over time.

- 2.15 *TP4 Walkable neighbourhoods.* The site is too small for the concept of “Walkable Neighbourhoods” to apply, and in this location it has to be accepted that the walking distances to shops and community facilities are currently greater than Dept. of Transport recommendations. However, in due course shops and services will be readily accessible in the BSN, accessed via an existing public footpath FP2 close to the site. The proposals include some welcome improvements for pedestrians and cyclists in the immediate vicinity of the site.
- 2.16 *TP5 Pedestrian and cycle routes.* Again, the development is too small to put in place new routes and connections other than the welcome improvements that are proposed close to the site itself
- 2.17 *TP6 Bus services.* The applicants adequately describe the existing services available on Rye Street, and the new service to BSN that will be available in due course.
- 2.18 *TP8 Cycle parking.* This policy requirement is met for both the market and affordable housing.
- 2.19 *TP9 Residential parking.* The policy refers to the maximum parking standards in the Council’s Local Plan and SPD. That is 2.25 spaces for the 3 bed affordable housing properties and 3 spaces for the 4+ bed properties. These standards are met in relation to the open market properties, each to be provided with a double garage and two additional parking spaces. For the shared ownership properties 2 spaces are to be provided to each. It is not considered that this provision deviates materially from the policy requirement – where in further justification for the deviation is required. The applicant acknowledges that, prior to wider development at BSN, the availability of public transport is not particularly good and that car ownership levels are likely to be correspondingly high.
- 2.20 Also to be considered is the status of the Local Plan provision figures to which the NP parking standards relate. Members will know that the use of maximum standards is now discouraged. However, new standards

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have yet to be defined based on an assessment of local circumstances. Given this current position, it is considered that the shortfall (overall of 2.25 spaces for the affordable units) is acceptable.

- 2.21 With regard to its layout the provision is considered to be good, including the parking courts for the affordable housing which are close by the properties and are overlooked by them.

3.0 Dane O'Coys Road: Access Restriction

- 3.1 In respect of this matter, the applicants have submitted an account of the original disposal of the Whitehall Estate that was in parcels, with all the new owners having a right of way over the estate roads. In many cases they were later adopted as public highway maintainable at public expense. However, the part of Dane O'Coys Road between the junction with Whitehall Road and Whitehall Lane is not public highway and is not adopted.
- 3.2 The pre-application consultation revealed support amongst residents for the proposal to make up the surface as far as the access to the new development but to prevent vehicular access beyond by erecting bollards. This is because the road is unsuitable for motor vehicles, being heavily rutted and uneven and unsuspecting drivers are sometimes seen to be in difficulty in using it. On the other hand, it is a route for pedestrians, and with some improvement, for cyclists.
- 3.3 The objection from the owners of a site at the corner of Dane O'Coys Road and Whitehall Lane who benefit from the right of way prevents the installation of bollards. Demountable bollards could be erected but each of those with a right of way would require a key, which brings complications. The applicants therefore propose that they erect signs at each end of the unmade road warning that it is private and unsuitable for motor vehicles, together with a sign at the exit of the new road into the development discouraging left turns into the unmade road. They are also willing to make up a strip along the road wide enough to enable pedestrians and cyclists to use it in relative comfort, but positioned such that it does not encourage motor vehicles. In the circumstances, this is considered to be a sensible compromise, and it would be appropriate for the Committee to impose a condition to that effect:-

Before the occupation of any of the market homes, details shall be submitted to and approved by the local planning authority of:

a) signs to be erected on private land to discourage vehicles from using Dane O'Coys Road between the access to the development and

Whitehall Lane; and

b) A path on Dane O'Coys Road between the access to the development and Whitehall Lane suitable for use by pedestrians and cyclists only.

The approved signs shall be erected and the path shall be completed prior to the occupation of the fifth market dwelling

Reason: In the interests of the convenience and safety of users of the road and of the connecting public highways.

- 3.4 The applicants have further stated that none of the purchasers of their property will be given a right of way over the unmade section of road. Lastly it is noted that the Council has some control over the use of Dane O'Coys Road as it is in such a poor state of repair that engineering works would have to be undertaken to provide a surface suitable for motor vehicles, and this would require planning permission.

4.0 Conclusion

- 4.1 Further assessment, and indeed progress to a referendum in relation to the NP, indicates that the policies in it can be afforded weight. Given that, an assessment of these proposals against these policies has been set out above. It is necessary then for the decision maker to consider the relevant policies and assign weight to the proposals according to their compatibility with these policies. Officers view is that, whilst not all of the requirements of the policies are met in full, the proposals represent a form of sustainable development that can be supported.
- 4.2 In respect of the access arrangements, it is considered that the proposals, that seek to minimise usage of the section of Dane O'Coys Road to the east of the site access, represent an acceptable approach to addressing this matter given the scale of the development proposals.
- 4.3 In summary, the recommendation remains that planning permission can be granted subject to the completion of a legal agreement and the conditions set out in the 7 January 2014 Committee report (**Essential Reference Paper 'A'**) and the additional conditions set out in this supplementary report. It remains necessary for Members to consider the matter of the provision of affordable housing wholly on site, or both on site and, in combination with a financial contribution, elsewhere.