

3/09/0101/OP - Residential development of 11 houses at Allotment Gardens, Ermine Street, Buntingford SG9 9AZ for Buntingford Relief in Need Charity

Date of Receipt: 22.01.2009

Type: Outline

Parish: BUNTINGFORD

Ward: BUNTINGFORD

Reason for report: Major application.

RECOMMENDATION

That subject to the applicants entering into a legal obligation pursuant to S106 of the Town and Country Planning Act 1990 to cover the following matters:-

1. The provision of replacement allotment gardens on the Allocated Housing Site known as Site 68 - Land east of Bowling Green Lane which shall be established and made available for use prior to commencement of construction of the new dwellings. Thereafter such land to remain as allotment gardens.
2. The provision of financial contributions of £625 per 1 bed residential unit, £750 per 2 bed unit, £1125 per 3 bed unit, and £1500 per 4+ bed units towards sustainable transport measures in the vicinity of the site;
3. The completion of an agreement under s.278 of the Highways Act 1980 to ensure the satisfactory completion of the associated off site road improvements including: the construction of the junction, visibility splay, footway along the frontage, and a Traffic Regulation Order to extend the 30mph speed limit in the vicinity.
4. The provision of library contributions, in accordance with the current HCC Contributions Table.
5. The provision of Upper Education contributions, in accordance with the current HCC Contributions Table.
6. The provision of Youth and Childcare infrastructure contributions, in accordance with the current HCC Contributions Table.
7. The provision of parks and public spaces and provision for children and young people contributions, in accordance with the standard charges in East Herts Council's Planning Obligations Supplementary Planning Document October 2008.

3/09/0101/OP

8. The provision of fire hydrants.
9. The provision of 15% of the dwellings to be built to 'Lifetime Homes' standards.

The Director of Neighbourhood Services be authorised to **GRANT** outline permission subject to the following conditions:

1. Outline permission time limit (1T03)
2. Outline – submission of details (2E01)
3. Programme of archaeological work (2E02)
4. Construction parking and storage (3V22)
5. Wheel washing facilities (3V25)
6. Contaminated Land survey and remediation (2E332)
7. The outline permission hereby granted is limited solely to the amount of development proposed within the submitted application (11 residential units).

Reason: In order to control any consequent need for affordable housing provision arising from an increase in the number of units on the site in accordance with policies HSG3 and HSG4 of the East Herts Local Plan Second Review April 2007.

Directives

1. Planning Obligation (08PO)

Summary of Reasons for Decision

The proposal has been considered with regard to the policies of the Development Plan (East of England Plan May 2008, Hertfordshire County Structure Plan, Minerals Local Plan, Waste Local Plan and East Herts Local Plan Second Review April 2007), and in particular policies SD2, HSG1, HSG6, TR2, TR7, ENV1, ENV2, ENV3, ENV11, ENV25, BH1, BH2, BH3, LRC1, LRC2, BUN1 and IMP1. The balance of the considerations having regard to those policies and other material considerations is that permission should be granted.

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3/09/0101/OP

1.0 Background

- 1.1 The application site is located at the northern end of Buntingford, within the development boundary for the town, as shown on the attached OS extract. The site is roughly L shaped and is some 0.325 hectares in size.
- 1.2 To the north of the application site are some houses and commercial units within the Park Farm industrial estate. To the south are residential properties; to the west, allotment gardens and to the east, residential properties and open fields. The site itself is allocated within the Local Plan under policy LRC1 as an existing recreation area and contains allotment gardens. Trees and established hedgerows bound the site. A public footpath is located directly adjacent to the southern boundary of the site.
- 1.3 The current application seeks outline planning permission for the erection of 11 dwellings on the site, which equates to a residential density of 34 dwellings per hectare. All detailed matters relating to layout; scale; appearance; access and landscaping are reserved for later consideration. Plans have however been submitted which show the amount of development proposed and the proposed site plan which indicates that the access to the site would be from Ermine Street.
- 1.4 The application submitted includes a supporting Planning Statement and a Tree Survey.

2.0 Site History

- 2.1 There is no planning history relating to the site itself. However, 'Land to the East of Bowling Green Lane (Site 68)' located to the west of the allotment gardens (and shown on the attached OS extract) has been designated for Phase 1 housing development in accordance with Policy BUN1 of the Local Plan. This land is within the same ownership as the application site.

3.0 Consultation Responses

- 3.1 The County Archaeologist advises that the site is close to several Areas of Archaeological Significance and its development is likely to impact on significant archaeological remains. It is therefore advised that a condition should be included on any planning permission requiring the implementation of a programme of archaeological work.

3/09/0101/OP

- 3.2 The County Development Unit advises that consideration should be given to the Hertfordshire County Council Waste Local Plan 1999 specifically in relation to waste minimisation, the re-use of waste and recycled materials and conditions should be included to ensure its objectives are met.
- 3.3 Hertfordshire County Council's Property Section advises that the proposal falls within the thresholds whereby financial contributions are sought to minimise the impact of the development on Hertfordshire County Council services for the local community. Contributions towards education, childcare, youth and libraries are sought as is fire hydrant provision.
- 3.4 Thames Water does not object to the proposal however advises that it is the responsibility of the developer to make proper provision for drainage to ground, water courses or a suitable sewer.
- 3.5 County Highways does not object to the proposed development. It advises that, subject to conditions regarding the provision of an appropriate access and junction works, visibility splays, details of hardsurfacing, cycle parking facilities, wheel washing facilities on site storage of materials and the construction of a 2 metre wide footway along Ermine Street the principle of residential development is acceptable in a highway context. Visibility, appropriate for the speed of vehicles on the public highway can be achieved and appropriate vehicle turning and parking can be achieved. In addition it is requested that a legal agreement be required to ensure the construction of the junction and footway improvements; a financial contribution towards the promotion of sustainable transport measures, which will be dependent on unit sizes.
- 3.6 Hertfordshire Constabulary comments that the general design and location does not present any particular problems however there is concern regarding the adjacent public footpath which is overgrown and unlit. This could potentially become a 'crime driver'. It is therefore suggested that the existing bushes be trimmed, lighting columns installed and the boundary between the path and new development fenced off.
- 3.7 East Herts Environmental Health Team advises that there are no objections to the proposal subject to conditions regarding construction hours of working and the investigation of any soil contamination being included.
- 3.8 East Herts Planning Policy Team advises that "subject to an assessment by the Case Officer... there is no in-principle policy objection to this application, provided that the applicant can fulfill an acceptable legal agreement ensuring that a) the replacement allotments on Site 68 itself are provided;

3/09/0101/OP

b) a guarantee that the owner of Site 68 will not progress with its development, and c) that the replacement allotments are established prior to commencement of development.”

4.0 Town Council Representations

4.1 Buntingford Town Council objects to the proposal on the grounds of overdevelopment.

5.0 Other Representations

5.1 The applications have been advertised by way of press notice, site notice and neighbour notification.

5.2 Two letters of representation have been received which make the following comments:

- The site should be no larger than the site originally allocated in the Local Plan for housing;
- The overall quantity of allotment land should not be reduced;
- There is a need for bungalows rather than 2 storey family homes in the town;
- The existing established hedgerow should be retained;
- This part of Ermine Street has a 60mph speed limit;
- The development could potentially result in overlooking to no. 5 Ermine Street.

6.0 Policy

6.1 The Policies of the adopted East Herts Local Plan that are most relevant to the consideration of this application are as follows:

SD2	Settlement Hierarchy
HSG1	Assessment of sites not allocated in this Plan
HSG6	Lifetime Homes
TR2	Access to New Developments
TR7	Car Parking- Standards
ENV1	Design and Environmental Quality
ENV2	Landscaping
ENV3	Planning Out Crime- New Development
ENV11	Protecting of Existing Hedgerows and Trees
ENV25	Noise Sensitive Development
BH1	Archaeology & New Development
BH2	Archaeological Evaluations and Assessments
BH3	Archaeological Conditions and Agreements

3/09/0101/OP

LRC1	Sports and Recreation Facilities
LRC3	Recreational Requirements in Residential Developments
BUN1	Housing Allocations- Buntingford
IMP1	Planning Conditions and Obligations

7.0 Considerations

- 7.1 This application seeks outline permission for residential development on the site with all detailed matters being reserved. The main issue for consideration is therefore whether the principle of residential development on the site is acceptable. When considering the principle of development consideration needs to be given to the loss of the existing use, the traffic implications of residential development on the surrounding highway network, the impact development is likely to have on the existing landscaping and any other relevant detailed considerations.

Principle of development

- 7.2 The application site is located within Buntingford where in accordance with Policy SD2 there is no objection in principle to development. The allotment gardens are however designated as sport and recreation facilities under Policy LRC1 of the Local Plan and therefore permission will only be granted for their redevelopment if suitable alternative facilities are provided on site or in the locality which are at least equivalent in terms of quantity, quality and accessibility to the ones that would be lost.
- 7.3 As outlined in Section 2 above, land to the west of the existing allotment gardens known as Site 68 - Land East of Bowling Green Lane - has been allocated in the Local Plan as a Phase 1 Housing Allocation Site. The applicant advises that upon exploring the legal and technical issues associated with developing this allocated site it was discovered that the part of Bowling Green Lane leading up to the southern boundary of the site was not adopted highway. The site's road frontage is immediately in front of Freman College and is in the ownership of Hertfordshire County Council. Freman College has expressed opposition on safety grounds to an access at this point and as there are no pre-existing rights of access over this land its development is precluded. Consideration has therefore been given to finding an alternative site for housing development in the locality.
- 7.4 In terms of delivery, Planning Policy Statement 3 Housing (PPS3) states that allocated sites should be *available, suitable and achievable* - that is that there is a reasonable prospect that housing will be delivered on the site. In circumstances where it can be shown that housing is not deliverable on an allocated site the Council may consider granting planning permission on an alternative site in lieu of an allocated site. This would be subject to the

3/09/0101/OP

alternative site itself being suitable for housing development in terms of its location and access and ensuring that no loss of amenity to neighbouring occupiers would occur.

- 7.5 From the information submitted I am satisfied that there is not a reasonable prospect that housing would be delivered on Site 68 and therefore the current proposal to relocate the housing development to the part of the adjacent allotment gardens which fronts onto Ermine Street would be a reasonable proposition to ensure that development takes place given the constraints on the allocated site.
- 7.6 The applicant has advised that they would be willing to enter into a legal agreement to provide replacement allotment gardens on Site 68 which is equal in area to the application site; is easily accessible; and was formally allotment gardens and therefore is capable of being reverted back. I am therefore satisfied that suitable alternative facilities can be provided on Site 68 which are at least equivalent in terms of quantity, quality and accessibility to the ones that would be lost, as required by Policy LRC1 of the Local Plan. The principle of residential development on the site is therefore considered to be acceptable.

Traffic Implications

- 7.7 The application was accompanied by a Transport Assessment which concluded that there would be a low level of vehicular traffic generation from the development and the proposal could therefore be accommodated by the existing road network without detriment to existing highway users.
- 7.8 County Highways has also advised that, in highways terms, the principle of residential development is acceptable and that an appropriate vehicular access can be achieved onto Ermine Street.
- 7.9 The site is well located in terms of access to local facilities and there are adequate public transport links nearby. Officers therefore consider that the amount of traffic likely to be generated by the proposed development would not adversely impact on the surrounding highway network and in this respect the proposal is acceptable.

Landscape

- 7.10 With regards to any impact that the proposal would have on the existing landscaping on the site, it is acknowledged that any development will impact upon its visual appearance and there will be a need to remove a number of trees to provide an adequate vehicular access. I am satisfied, however, that a layout can be achieved which ensures the retention of the majority of the

trees which are located along the boundaries of the site. In addition I consider that replacement planting can be provided to adequately compensate for any loss.

Other Considerations

- 7.11 The application is located close to several Areas of Archaeological Significance. In accordance with the advice from the County Historic Environment Unit, I consider that a condition requiring the implementation of a programme of archaeological work is both reasonable and necessary in this case to provide properly for the likely archaeological implications of the development.
- 7.12 The comments from Hertfordshire Constabulary are noted. However, on the basis that the public footpath is not within the site, there are no known existing problems with crime along it, and the residential development would not directly contribute to an increase in crime, I consider that it would not be reasonable to require the applicant to implement the works suggested. Other crime reducing measures proposed should be incorporated into the detailed design of the scheme.
- 7.13 The site is located in close proximity to Park Farm industrial Estate and consideration should be given to the acceptability of permitting a residential use in this location. Information from the applicant indicates that, apart from a motorcycle restoration business, all of the units on the adjoining estate are in a B1: Business Use (light industrial rather than general) and the Environmental Health unit has not raised any concerns regarding this issue. I am therefore satisfied that the current activities undertaken at the industrial estate would not result in any undue harm on the residential amenities of future residents. A Class B1 use which can include light industrial, research and development, or office use is, by definition, a use that can be carried out within a residential area, in close proximity to dwellings, without causing any undue harm to residential amenity.
- 7.14 As regards matters relating to off-site highway works and financial contributions towards sustainable transport and those provisions requested from the County Planning Obligations Unit, I consider that the suggested contributions are an appropriate request and do not go beyond the tests of what is fairly and reasonably related in scale and kind to the proposed development, which Circulars 11/1995 'Conditions' and 05/2005 'Planning Obligations' state is a material consideration.
- 7.15 In addition, the Council's PPG17 Audit and Assessment has identified a shortfall in both parks and public gardens and provision for children and young people in Buntingford. I therefore also consider it appropriate for the

3/09/0101/OP

Council to seek financial contributions towards these two types of open space to ensure that there is adequate provision to mitigate against the impact of the development.

- 7.16 With regards to the provision of Lifetime Homes, in line with Policy HSG6 of the Local Plan, it is considered appropriate and reasonable to require 15% of the new dwellings to be built to 'Lifetime Homes' standards.
- 7.17 The provision of 11 units on the site would fall below the threshold for requiring the provision of affordable housing in accordance with policies HSG 3 and 4 of the Local Plan. Such provision would, however, be required if the later reserved matters application were to provide for 15 or more dwellings. Whilst it is not normally considered reasonable to restrict the number of dwellings by condition within an outline application, Officers consider that, where an increase in numbers might result in a requirement for affordable housing provision, such a condition is both necessary and reasonable. This is because the issue of affordable housing (were it to be required) would need to be controlled via a s.106 obligation at this outline stage. It could not form part of a later reserved matters application (as that only seeks permission for specific matters such as layout and access for example). Were the reserved matters application to propose 15 or more dwellings there is a risk that the Council would be unable to require any affordable housing provision. In these circumstances, it is considered appropriate and reasonable to impose a condition on the outline permission restricting the amount of development solely to that proposed within the application – i.e. to 11 units.

8.0 Conclusion

- 8.1 Having regard to the above considerations, it is considered that the principle of a residential development of 11 dwellings on this site is acceptable. It is therefore recommended that subject to conditions and to the applicant entering into a Section 106 obligation with the Council, outline planning permission should be granted.