

EAST HERTS COUNCIL

DEVELOPMENT CONTROL COMMITTEE – 1 JULY 2009

REPORT BY HEAD OF PLANNING AND BUILDING CONTROL

6. PLANNING APPEAL IN RELATION TO PROPOSALS FOR THE USE OF LAND AS A PRIVATE GYPSY CARAVAN SITE AT BAYFORD LANE, BAYFORD (APPLICATION 3/08/1100/FP)

WARD(S) AFFECTED: Hertford Rural South

'D' RECOMMENDATION – that (A) Members consider whether (a) a reduction of overall provision made on this site and/or (b) a temporary planning permission would affect the view of the Committee with regard to the acceptability of the proposals put forward for this site.

(B) authority be delegated to the Chairman of the Committee, in consultation with the Local Ward Member and the Head of Planning and Building Control, to further amend the case for the Council and to respond to matters set out in the appellants case in the lead up to and during the forthcoming public inquiry appeal.

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1.0 Purpose/Summary of Report

1.1 This report is to update Members in relation to the above proposals, to enable consideration to be given to the situation if the proposals were to be subject to amendment and following the submission of an appeal in relation to the Councils decision to refuse planning permission.

2.0 Contribution to the Council's Corporate Priorities/Objectives

2.1 **Promoting prosperity and well-being; providing access and opportunities**

*Enhance the quality of life, health and wellbeing of individuals, families and communities, particularly those who are vulnerable.*

**Fit for purpose, services fit for you**

*Deliver customer focused services by maintaining and developing a well managed and publicly accountable organisation.*

## **Caring about what's built and where**

*Care for and improve our natural and built environment.*

## **Shaping now, shaping the future**

*Safeguard and enhance our unique mix of rural and urban communities, ensuring sustainable, economic and social opportunities including the continuation of effective development control and other measures.*

## **Leading the way, working together**

*Deliver responsible community leadership that engages with our partners and the public.*

### 3.0 Background

3.1 Members will recall that this matter was considered at the meeting of the committee of 14 January 2009. Officers recommended that permission should be granted. Members did not agree with this recommendation and permission was refused. The refusal reasons related to the location in the Green Belt (insufficient very special circumstances were considered to have been shown) and the remoteness of the site from services and facilities.

3.2 The appeal in relation to the proposals is to be dealt with by a public inquiry timetabled for 25 and 26 August 2009.

### 4.0 Additional Issues

4.1 The report submitted to the 14 January meeting is attached as an appendix. Members will be aware that the issue of gypsy and traveller accommodation is being considered regionally through the single issue review (SIR) of the Regional Spatial Strategy (RSS). At the time of the 14 January meeting, the report of the panel that was considering the evidence submitted to the Examination in Public of this review had been published. This recommended that the number of pitches required in East Herts district should increase from the previous number of 15 to 20 (to be provided between 2006 and 2011).

4.2 The Secretary of State has now responded to this report and has decided that the number of pitches for East Herts should now be further increased to 25. The Council has objected to this change but the final outcome of the SIR is yet to be known.

- 4.3 Government guidance in relation to planning for gypsy and traveller caravan sites is set out in ODPM Circular 01/2006. This was referred to in the 14 January report. However, in coming to their decision at the time, Members did not give significant consideration to the possibility of:
- reduced provision on the application site;
  - temporary permission.
- 4.4 The guidance in Circular 01/2006 indicates that the possibility of temporary consent and other issues relating to need should be considered by the planning authority in coming to a decision on gypsy accommodation proposals. This report enables those issues to be further considered. They are addressed below:
- 4.5 Reduced provision. The proposals currently anticipate a total of 5 mobile homes and 1 touring caravan at the site. The submitted plan shows three mobile homes on the Bayford Lane (north east) perimeter of the site and two on the opposite side. The location of the touring van would be toward to Lower Hatfield Road boundary. If provision were reduced it is likely that this would result in a reduced overall site area requirement. Members are asked to consider whether such changes would be likely to affect the position the committee would take with regard to the acceptability of the proposals.
- 4.5 Temporary permission. In Circular 01/2006, reference is made to advice regarding the use of conditions. It is noted that a temporary permission may be justified where it is expected that planning circumstances will change in a particular way at the end of the period of the temporary permission. In this case, it is clear that the SIR of the regional plan is progressing and that the level of provision required in East Herts is still subject to some possible change.
- 4.6 In these circumstances a temporary permission on this site could enable the overall level of provision to be reassessed once the outcome of the SIR is finally known. Members are asked to consider whether the possibility of a temporary permission in this case, in the light of the circumstances above, would again affect the view with regard to the acceptability of the proposals.
- 4.7 Members are also asked whether authority can be delegated to the Chairman of the Committee in consultation with the local ward Member and officers to establish the position of the Council in relation to any further issues which may merit further consideration regarding this appeal. This delegation is requested to enable the

Council to respond quickly to any alteration in circumstances during the appeal process.

#### 5.0 Consultation

5.1 No consultation has been carried out with regard to this report. The normal statutory consultations were undertaken prior to the initial determination of the application.

#### 6.0 Legal Implications

6.1 This report is being submitted to ensure that Members have considered all necessary implications of the decision made with regard to the proposals.

#### 7.0 Financial Implications

7.1 Members will be aware that the Council can be claimed to have acted unreasonably if it is unable to show that it has considered fully the implications of decisions it makes with regard to planning proposals. This report seeks to ensure that such processes have taken place and in order to avoid claims of unreasonable behaviour.

#### 8.0 Human Resource Implications

8.1 None

#### 9.0 Risk Management Implications

9.1 Members will be aware that the officers recommendation was that the proposals in this case could be granted planning permission. This report seeks to ensure that further issues in relation to the case are fully assessed. A risk remains that claims will be made that the Council has acted unreasonably notwithstanding the considerations set out in this report.

#### Background Papers

Planning application report on application 3/08/1100/FP, see Appendix A on pages 103 - 113.

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