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Chairman and Members of the
Development Control Committee

Your contact: Peter Mannings
Ext: 2173
Date: 13 June 2012

cc. All other recipients of the
Development Control Committee
agenda

Dear Councillor

DEVELOPMENT CONTROL COMMITTEE - 20 JUNE 2012

Please find attached the following reports which were marked "to follow" on the agenda for the above meeting:

- (R) a) 3/11/2209/FP – Demolition of existing farm buildings, conversion and extension of listed barn to form 1 no. dwelling, erection 27no. dwellings and associated development at Pentlows Farm, Braughing for Linden Homes; and b) 3/11/2210/LB – Demolition of existing farm buildings, conversion of listed barn to part dwelling at Pentlows Farm, Braughing for Linden Homes - 'To Follow'_(Pages 247 - 288)

- (T) a) E/12/0154/A - Stationing of a mobile home and the installation of a sewerage tank at Plots 32 – 35 Esbies Estate off Station Road, Sawbridgeworth, CM21 9JY and b) E/12/0155/A - The laying of hard surfacing and the raising of land levels at Plots 26-28 Esbies Estate off Station Road, Sawbridgeworth, CM21 9JY - 'To Follow'_(Pages 289 - 308)

Enforcement.

Please bring these papers with you to the meeting next Wednesday

Yours faithfully

Peter Mannings,

Democratic Services Officer
Peter Mannings@eastherts.gov.uk

MEETING : DEVELOPMENT CONTROL COMMITTEE
VENUE : COUNCIL CHAMBER, WALLFIELDS, HERTFORD
DATE : WEDNESDAY 20 JUNE 2012
TIME : 7.00 PM

Agenda Item 5r

a) 3/11/2209/FP – Demolition of existing farm buildings, conversion and extension of listed barn to form 1no. dwelling, erection 27no. dwellings and associated development at Pentlows Farm, Braughing, SG11 2QR for Linden Homes.

b) 3/11/2210/LB – Demolition of existing farm buildings, conversion of listed barn to part dwelling at Pentlows Farm, Braughing, SG11 2QR for Linden Homes.

Date of Receipt: (a)30.12.2011
(b)30.12.2011

Type: (a) Full – Major
(b) Listed Building Consent

Parish: BRAUGHING

Ward: BRAUGHING

RECOMMENDATION

That, subject to the applicant entering into a S106 agreement requiring the following matters (including slight amendments to those set out in appendix A);

- The provision of 10 affordable dwellings comprising of 4no. 3 bed houses, 4no. 2 bed flats and 2no. 1 bed flats; (mix of 70% affordable rented and 30% shared ownership)
- A financial contribution of £49,475 towards middle education, £52,770 towards secondary education, £4,272 towards childcare, £1,481 towards youth and £4,771 towards libraries;
- A financial contribution of £31,625 to promote sustainable transport measures;
- A financial contribution of £8000 towards securing a Traffic Regulation Order;
- A financial contribution of £7841 towards Children and Young People play and £7500 towards Community centres and village halls;
- 15% of the dwellings shall be constructed to 'Lifetime Homes' standard;
- The setting up of a management company charged with the future maintenance arrangements for private access roads, landscaped areas within the developed part of the site (and, if required, the balancing pond)
- The transfer of the land to the west of the part of the site to be developed (identified as the meadow land) at no cost to the Council or the organisation to which it is transferred to
 - as a first option the Parish Council with responsibility for all maintenance liabilities including the balancing pond;
 - as a second option the Parish Council with responsibility for all maintenance liabilities excluding that for the balancing pond which would be maintained by a separate management organisation (which can be that referred to above dealing with responsibilities within the developed part of the site or a separate one);

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- as a third option to a management company with responsibility for all maintenance liabilities including the balancing pond (which can be that referred to above dealing with responsibilities within the developed part of the site or a separate one);
- The provision of fire hydrants;

(a) planning permission be **GRANTED** subject to the conditions set out in appendix A (with the amendment to proposed condition 18 to refer to the Bat Mitigation Method Statement (June 2012)).

_____ (220911FP.MP)

b) Listed building consent be **GRANTED** subject to the conditions set out in appendix A.

_____ (221011LB.MP)

1.0 Background

1.1 Members will recall that these applications were reported to the Development Control Committee on 23 May 2012. In considering LPA reference 3/11/2209/FP, Members felt that, before a decision was made on the application that additional information was required in respect of a number of matters which centered on those below:-

- Details of the land transfer of the meadow land to the west of the part of the application site to be developed between the applicant and the Parish Council;
- Clarification as to future maintenance of the meadow land and the balancing pond;
- Further information on construction traffic movements associated with the implementation of the development;
- Further potential to improve the design of the buildings following the concerns of the Conservation Officer and Hertfordshire Constabulary;
- An indication of materials of construction of the development and potential for a simplified palette of landscaping to address the Parish Councils concerns and comments from the Landscape Officer;
- The potential to re-site the balancing pond further to the north of the site – away from the boundary with the Church;
- Loss of trees (sycamores) within the site;
- Wildlife issues relating to protected species;
- Access route within the site;
- Land contamination and archaeological matters;

3/11/2209/FP and 3/11/2210/LB

- 1.2 The previous Officers report to the Development Control Committee on 23 May 2012 is attached at appendix A. This sets out the main planning considerations relating to the application. This report will provide an update on the above areas where Members felt that additional information was required.

2.0 Further Consultation Responses

- 2.1 Further to the preparation of the Officers committee report as attached at appendix A, the following consultation responses have been received:-

- 2.2 The Councils Solicitor has commented that reference to 30% intermediate affordable housing in the committee report should instead refer to shared ownership.

The Councils Solicitor has also commented that there is insufficient information relating to the transfer of land between the developer and the Parish Council and further information in respect of this matter, including how the land will be used and maintenance contributions, should be submitted in order for the S106 to be properly drafted.

The Councils Solicitor has also commented that further information relating to the maintenance costs associated with the balancing pond, future landscaped areas and private access road should be submitted in order for the S106 to be properly drafted.

- 2.3 The Historic Environment Unit comments that the pasture land to the west of the application site contains heritage assets of archaeological and historic interest. On part of the level ground on the site are some slight earthworks that form a rectangular platform which is probably the site of a former building which, since it does not appear on any earlier maps, is likely to be of early post medieval or earlier date.

The construction of the balancing pond will destroy most, if not all, of this 'house platform' and probably also a proportion of the field boundary/probable Roman Road.

The position of the proposed development is such that it should be regarded as likely to have an impact on heritage assets for which provision should be made via an archaeological condition. All areas of the development that will be subject to excavation, re-grading or other landscaping works that will have an impact should be subject to archaeological evaluation via 'strip, map and record' method.

- 2.4 The Councils Landscape Officer has commented that the general layout allows for gardens of reasonable proportion for the sizes of plots. The amenity open space on the western side of the development together with balancing pond is a welcome landscape feature of the development. The internal arrangement of open space is at risk of appearing overly car dominated – comprising mostly of access road and parking provision with not much soft landscaping potential, although the generous open space provision compensates in full for this. Given that the frontage to dwellings or “street scene” is to comprise mostly of hard surface, particular care must be taken when considering both soft and hard landscape design details.

The Landscape Officer recommends that hard and soft landscaping be agreed through the provision of a planning condition.

- 2.5 The Herts Biological Records Centre (HBRC) comment on the latest submissions from a third party in respect of a bat survey undertaken in 2010 by Jones and Sons Environmental Science Ltd. (JSES)

HBRC comment that the *recent* records of rare bats from the site are valid and important – it is however accepted that the survey as submitted by the applicant for this application did not record any bat activity from the barn in question and it is understood reasonable survey effort was used. However, given the bat's known ecology of moving roost sites over a large area and, given the existing condition of the buildings concerned (ie they are in reasonable condition and are still extant) - it is not unreasonable to treat the building as a roost site for barbastelle (a protected bat species).

In the current circumstances a further bat survey may not record barbastelle if they are not present when the survey is undertaken and it is not reasonable to prolong this aspect further than necessary to wait until they are. However, on the understanding that the JSES report provides good evidence and sufficient information to inform the proposals, HBRC consider that a Method Statement, prepared on the basis of this information submitted by JSES, should be sufficient to enable the LPA to apply the three Habitat Regulation tests and demonstrate how the bat roost can be accommodated in a satisfactory manner. This should be provided before the application is determined to enable the LPA to comply with the legislation.

A licence from Natural England will be required, although HBRC see no reason why this should not be issued. HBRC accept that the circumstances of barbastelle using a barn are unusual but that this is the bat's choice. On this basis HBRC cannot see why the existing roost site cannot be accommodated in the appropriate manner as normal, consistent with similar roost site locations elsewhere. The species are known from a few other

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locations in this part of east Herts and where roosts are recorded it would be expected that appropriate effort is made to retain such sites if affected by development proposals.

3.0 Additional Parish Council Representations

- 3.1 Braughing Parish Council has indicated that it is disappointed that, in transferring the land to the west of the development to the Parish Council, the applicant is making no financial contribution to outdoor sports facilities. In addition, the Parish Council notes that the relocation of the balancing pond (through plan amendments) has reduced its ability to extend the churchyard. The Parish Council is also concerned that full contributions towards Children and Young People are not being met.

4.0 Additional Third Party Representations

- 4.1 A copy of a letter from a local resident to the local MP has been received. This is in objection to the proposals. The concerns raised are set out in paragraph 5.0 of appendix A.

5.0 Considerations

Land transfer and maintenance

- 5.1 The applicant has confirmed that the intention is for the meadow land (the land between the western edge of the part of the site to be developed and the River Quinn) to be conveyed to the Parish Council. The land to be conveyed would include the balancing pond, including all maintenance liabilities. The applicant has commented that this has been previously discussed and agreed to by the Parish Council.
- 5.2 The applicant has further commented that, should that position not be agreeable to the Parish Council, then a management company would be established to maintain the land and the balancing pond. This would be an expansion of the responsibilities for such a set up as a management company will be required in any event to maintain the land within the part of the site to be developed which does not fall within proposed residential curtilages.
- 5.3 Officers are of the view that the arrangements are sufficiently secure to enable the proposals to proceed. If there remains any uncertainty on the part of the Parish Council as to its willingness to take on the land and the associated responsibilities then it can clearly refuse to do so and alternative arrangements will need to be put in place by the developer. These will be ensured through the legal agreement. These arrangements are now

clarified and set out at the head of this report. They have been discussed with the Councils Solicitor and overcome the concerns raised with regard to the requirements set out in the 23 May report.

Balancing pond

- 5.4 The applicant has commented that the location of the balancing pond is determined by the areas of flood risk within the site. The Environment Agency would not allow a balancing pond to be located within the flood risk areas which surround and extend from the River Quinn to the west of the site. In addition, to the north of the currently proposed location of the balancing pond, the land is steeper and a more significant engineering operation (in terms of retaining features, changes to land levels etc) would likely be required to install it. The currently proposed location of the balancing pond would not require such significant engineering operations and would allow it to be sited with a less intrusive impact within the landscape.
- 5.5 Officers understand that the Parish Council wish to see the balancing pond moved further to the north of the site to enable the expansion of the churchyard. It would appear that, in its currently proposed location there remains scope for churchyard expansion. In any event, at this stage and in the absence of any firm proposals by the Parish Council to implement such a use here, it would seem inappropriate to give such a concern other than limited weight in the decision making process for this application.
- 5.6 In accordance with the above considerations and those set out in appendix A, the siting of the balancing pond is considered to be acceptable.

Construction vehicular movements

- 5.7 Members have previously raised concern that there is a lack of information relating to the vehicular movements associated with construction on the site. Officers understand that Members concerns relate to the historic and constrained layout of roads within and leading to the village.
- 5.8 In considering this matter, Members will be mindful that the application site is designated for housing in the Local Plan. As such, the principle of housing, and as a result the traffic associated with the construction on it must be seen as a frustrating but temporary harmful impact.
- 5.9 Members will note that, within the previous Officers Committee Report as attached as appendix A, Officers recommended a planning condition requiring the provision of a construction method statement (condition 6). Such a statement would require further details relating to methods for

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accessing the site, parking of vehicles of site operatives and visitors, wheel washing facilities, storage of plant and materials associated with the development and measures to control emission of dust and dirt associated during construction.

- 5.10 The provision of such a condition is normal practice for the Council in considering planning applications of this scale and nature. A planning condition enables the Council to consider the detailed arrangements relating to the impact of construction once the acceptability of it in principle has been determined. There seems no reason that this usual approach to this matter should not prevail in this case.
- 5.11 The applicant has however provided further information in respect of this matter. It is envisaged that the development will involve around 35-50 vehicle movements per day which are likely to be spread out during the course of the day. The applicant proposes to avoid crossing at the ford within Braughing, but to use the B1368 onto Ford Street, through The Street to the application site.
- 5.12 The applicant confirms that the construction route will be well defined to contractors and sufficient parking will be made available within the site. The applicant also sets out that internal site roads would be constructed first which can then be used for delivery purposes. In addition, a road sweeping regime will be operated to reduce the deposition of mud onto the highway.
- 5.13 In the light of this information, Officers remain of the view that any further requirements can be acceptably controlled, in so far as the planning powers allow, through the implementation of the condition. Whilst the frustrating impact of construction disruption and intrusion is acknowledged, it would be inappropriate to assign this other than minor weight in the decision making on a planning proposal.

Wildlife Issues - Bats

- 5.14 Subsequent to the deferral of the matter from the last committee meeting a bat survey, undertaken on behalf of a previous prospective purchaser of the site, has been forwarded to Officers. Whilst the applicant's survey recorded no roosting at the site, the previous survey indicates the presence of 3 roosting bats of nationally rare and protected species.
- 5.15 Given this additional information and on the basis of further advice from HBRC, the applicant was requested to reassess any steps that should be taken in order to mitigate the impact of the proposed development.

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- 5.16 The applicants consultant has resurveyed the site and comments that, as none of the building proposed to be demolished were considered suitable for hibernating bats, demolition of these buildings can be undertaken during the winter months without further ecological surveys or supervision. If however the works are to take place between the spring and summer months, in which case the buildings could potentially be used for roosting, a further bat survey should be undertaken to determine the presence or absence of any bats. If any bats are recorded, a licence will be required from Natural England.
- 5.17 The applicants consultant also comments further on the use of lighting during the demolition and construction phases and post construction. Additional detail is also provided in relation to the open fronted 'cart lodge' styled garages which can be designed sympathetically to provide foraging and feeding perch opportunities for bats.
- 5.18 In response to this additional information, HBRC indicate that it is believed to be sufficient to provide appropriate guidance in relation to bats at the site and to proceed with the determination of the application. It is noted that a license would be required by Natural England for the removal of a bat roost and the Local Planning Authority is also required to apply the three derogation tests in accordance with the Habitat Regulations April 2010.
- 5.19 These tests are set out below. They must be seen in the wider context of the provision of development in the district. They are as follows: first, the proposal must be for imperative reasons of overriding public interest or for public health and safety. The proposal being considered by Members is for an allocated housing site which is designated within the Local Plan. In addition and, as noted in appendix A, the barns are in a poor state of repair and their removal would be a visual improvement to the surroundings and Conservation Area. In accordance with those considerations, Officers therefore consider that the proposed development is of sufficient merit to meet this first test.
- 5.20 Secondly, there must be no satisfactory alternative. As indicated above, the tests can be considered in the wider context. Members will be aware of the position of the Council in relation to the provision of housing development across the district. The Councils Annual Monitoring Report indicates that land supply is below the level that is advocated by the government in the National Planning Policy Framework. Land supply levels already take into account the potential for windfall unallocated sites to come forward. Land supply in the future is to be addressed through the formulation of the Councils District Plan but, in advance of that, satisfactory alternatives that are preferable both in relation to wildlife impact and in relation to all other relevant impacts and considerations are not known to be

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available. Officers therefore consider that the second test is met.

- 5.21 Thirdly, the favourable conservation status of the species must be maintained. As set out above, the applicant has provided information with regard to measures which could be required to be implemented through a planning condition to mitigate against the impact on the protected species. On that basis it is considered that the conservation status of the species would not be adversely affected by this development.
- 5.22 Officers recommend that planning condition 18 as set out in appendix A, is amended to refer to the latest Bat Mitigation Method Statement as submitted by the applicant in June 2012.
- 5.23 Accordingly, the proposals have been considered in relation to the three derogation tests as is required in the Conservation of Habitat and Species Regulations 2010.
- 5.24 With regard to the impact on grass snakes, which Members raised as a concern at the 23 May Committee Meeting, the comments from HBRC set out in appendix A will be noted. Grass Snakes are not a European protected species and the level of protection afforded to them is not as significant as that afforded to bats. However, as recommended by HBRC it is considered that any impact on grass snakes within the site can be adequately mitigated through the provision of planning condition 17, as set out in appendix A.

Financial contributions

- 5.25 Officers note the concerns of the Parish Council with respect to the contributions relating to outdoor sports facilities and children and young people. Paragraph 7.48 of appendix A however sets out that there is no identified deficiency in the village for outdoor sports provision and a contribution relating to this is not therefore justified.
- 5.26 With regards to contributions relating to children and young people; Members will note that the contributions now secured, of £7841 for Children and Young People, addresses the Parish Councils concerns. The applicant is also agreeable to make this contribution.

Other matters

- 5.27 Officers note that Members sought additional attention be given to the detailed design of some of the proposed houses, following the concerns of the Conservation Officer and Hertfordshire Constabulary. The applicant has not, at the time of writing this report, provided further information in respect

of this. However, Members will note the comments set out in the previous report at appendix A. Despite the lack of further changes, the proposals are considered to be acceptable in terms of their design and the relationship with the surroundings. With regard to the acceptability of the development in terms of crime prevention, Officers are of the opinion that the concern expressed in relation to parking at plots 1-6 and 10 is potentially misplaced.

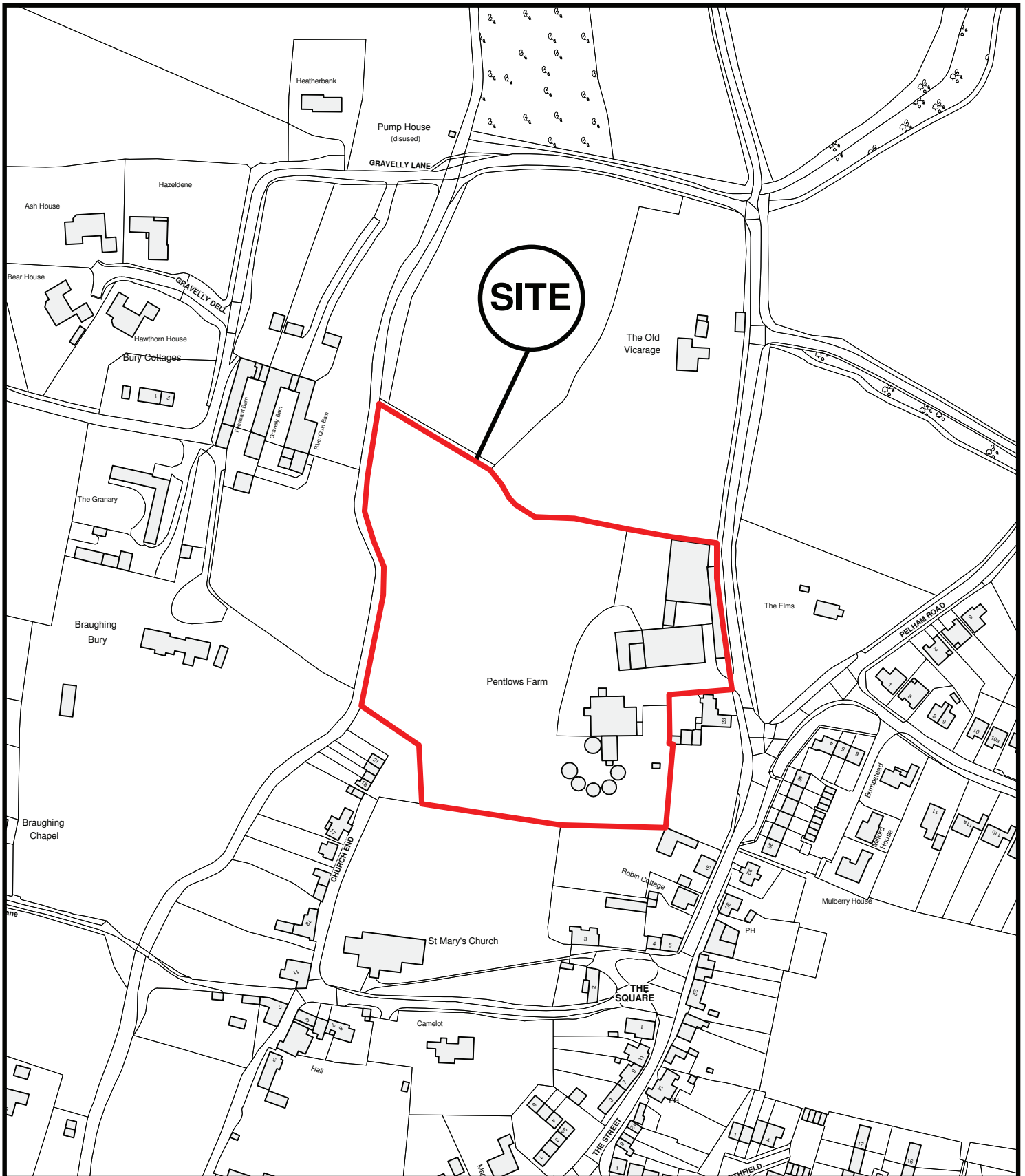
Plots 1-6 comprise the main habitable spaces over two floors – therefore there are kitchens and living spaces at first floor which overlook the parking spaces.

- 5.28 With regards to the loss of trees – particularly the existing sycamore trees on the western edge of site, Officers note that the Landscape Officer makes no reference to the loss of these trees. It is considered that whilst that they do play some part in obscuring the existing development from views to the west, they are not felt to be a unduly valuable landscape feature in their own right and will be adequately replaced through the proposed landscaping which forms part of the development proposals. The provision of specific soft landscaping which is appropriate to the setting can, in Officers opinion be adequately dealt with through the provision of a planning condition.
- 5.29 Officers note that Members also sought further information in respect of materials of construction. With regard to materials, the applicant has indicated that a mixture of brick, render and weather boarding is proposed for walls. Roofs will constitute clay tiles or slate. These are an appropriate approach to the use of materials given the location of the site and the character of the surroundings. This also is a matter which, in Officers opinion, can be adequately dealt with through a planning condition.
- 5.30 Some concern was raised by Members in respect of the access between the northern and southern part of the site. From the site layout plans submitted with the application, Members will note that, although a vehicular access is not proposed between the northern and southern parts of the site, a pedestrian/cycle access is proposed. This is considered to give acceptable and appropriate levels of permeability and access throughout the site.
- 5.31 With regard to the concerns raised in respect of land decontamination and archaeological matters, as with the matter of construction vehicle access above, these are matters that are commonly dealt with through the implementation of conditions. There is no indication that the circumstances of this site are unusual in respect of these matters and as a result, it is considered that this conventional approach can be applied here.

6.0 Conclusion

- 6.1 Taking into account all the above matters and those set out in the previous report included at appendix A, the development as proposed in these applications is considered to be acceptable. Members previous concerns with a lack of information relating to the land transfer and maintenance of the meadow land and balancing pond has been clarified and it is understood that this will be offered to the Parish Council. The Parish Council is not obliged to accept this offer and, if it decides not to do so, alternative arrangements will need to be implemented.
- 6.2 Further information has been submitted to the Council in respect of construction vehicle routing and parking and materials of construction which are considered to be acceptable. Further information in respect of landscaping, archaeology and land decontamination are not necessary at this stage and are able to be adequately dealt with through the provision of planning conditions.
- 6.3 Furthermore, in respect of the impact on protected species – bats, it is considered that, subject to appropriate mitigation, the proposed development will not lead to significant harm to protected species.
- 6.4 Subject to the signing of the S106 agreement and the provision of the suggested planning conditions, Officers therefore recommend that planning permission is granted.

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Address: Pentlows Farm, Braughing, Hertfordshire
Reference: 3/11/2209/FP & 3/11/2210/LB
Scale: 1:2500
O.S Sheet: TL3925
Date of Print: 27 April 2012

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Appendix A

a) 3/11/2209/FP – Demolition of existing farm buildings, conversion and extension of listed barn to form 1no. dwelling, erection 27no. dwellings and associated development at Pentlows Farm, Braughing, SG11 2QR for Linden Homes.

b) 3/11/2210/LB – Demolition of existing farm buildings, conversion of listed barn to part dwelling at Pentlows Farm, Braughing, SG11 2QR for Linden Homes.

Date of Receipt: (a)30.12.2011
(b)30.12.2011

Type: (a) Full – Major
(b) Listed Building Consent

Parish: BRAUGHING

Ward: BRAUGHING

RECOMMENDATION

That, subject to the applicant entering into a S106 agreement requiring the following matters;

- The provision of 10 affordable dwellings comprising of 4no. 3 bed houses, 4no. 2 bed flats and 2no. 1 bed flats; (mix of 70% affordable rented and 30% intermediate)
- A financial contribution of £49,475 towards middle education, £52,770 towards secondary education, £4,272 towards childcare, £1,481 towards youth and £4,771 towards libraries;
- A financial contribution of £31,625 to promote sustainable transport measures;
- A financial contribution of £8000 towards securing a Traffic Regulation Order;
- A financial contribution of £7000 towards Children and Young People and £7500 towards Community centres and village halls;
- 15% of the dwellings shall be constructed to 'Lifetime Homes' standard;
- Details of land transfer to the Parish Council of land to the west of the development;
- The provision of fire hydrants;
- The future maintenance arrangements for private access roads, landscaped areas and the sustainable drainage system on the site.

(a) planning permission be **GRANTED** in respect of 3/11/2209/FP subject to the following conditions:-

1. Three Year Time Limit (1T121)
2. Levels (2E051)

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3. Samples of materials (2E123)
4. Programme of archeological work (2E02)
5. Refuse disposal facilities (2E243)
6. No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 1. Methods for accessing the site;
 2. The parking of vehicles of site operatives and visitors;
 3. Loading and unloading of plant and materials;
 4. Storage of plant and materials used in constructing the development;
 5. The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 6. Wheel washing facilities;
 7. Measures to control the emission of dust and dirt during construction;
 8. A scheme for recycling/disposing of waste resulting from demolition and construction works.

Reason

To ensure that the construction works and associated activity are acceptable in terms of amenity of the area and highway safety.

7. Construction hours of working - plant and machinery (6N053)
8. No development shall take place until a scheme for the implementation of energy efficiency measures within the development to secure at least 10% of the energy supply of the development from decentralised and renewable or low-carbon sources, shall be submitted to and approved in writing by the Local Planning Authority, and thereafter implemented in accordance with the approved scheme, unless otherwise agreed in writing by the Local Planning Authority.

Reason

To ensure the development assists in reducing climate change

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emissions in accordance with policy ENG1 of the East of England Plan May 2008 and policy SD1 of the East Herts Local Plan Second Review April 2007.

9. The development shall be carried out in accordance with the Flood Risk Assessment (URS Scott Wilson), the Surface Water Attenuation Plan and drawing D137599/SK112 P1 and D137599/SK113 P1 and the mitigation measures detailed within those documents unless otherwise agreed in writing by the Local Planning Authority.

Reason

In the interests of flood risk in accordance with policies ENV19 and ENV21 of the East Herts Local Plan Second Review April 2007 and Planning Policy Statement 25: Development and Flood Risk.

10. No development shall take place until the following components to deal with the risks associated with contamination of the site have been submitted to and approved in writing by the Local Planning Authority:-

- 1) A preliminary risk assessment which has identified: all previous uses; potential contaminants associated with those uses; a conceptual model of the site indicating sources, pathways and receptors; potentially unacceptable risks arising from contamination at the site.
- 2) A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
- 3) The site investigation results and the detailed risk assessment (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
- 4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

The development shall then be carried out in accordance with the approved details.

Reason

In the interests of groundwater protection, in accordance with policy ENV20 of the East Herts Local Plan Second Review April

2007 and Planning Policy Statement 23: Planning and Pollution Control.

11. Prior to first occupation of the development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a long-term monitoring and maintenance plan) for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the Local Planning Authority.

Reason

To ensure the site no longer poses a potential risk to groundwater in accordance with policy ENV20 of the East Herts Local Plan Second Review April 2007 and Planning Policy Statement 23: Planning and Pollution Control.

12. Piling or any other foundation designs using penetrative methods shall not be permitted other than with the written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. If piling is found to be necessary the development shall be carried out in accordance with the approved details.

Reason

In the interests of groundwater protection, in accordance with policy ENV20 of the East Herts Local Plan Second Review April 2007 and Planning Policy Statement 23: Planning and Pollution Control.

13. All existing trees, hedges and hedgerows shall be retained, unless shown on the approved drawings as being removed. All trees, hedges and hedgerows on and immediately adjoining the site shall be protected from damage as a result of works on the site, to the satisfaction of the Local Planning Authority in accordance with relevant British Standards, for the duration of the works on site and until at least five years following contractual practical completion of the approved development. In the event that trees, hedges or hedgerows become damaged or otherwise defective during such period, the Local Planning Authority shall be notified as soon as reasonably practicable and remedial action agreed and implemented. In the event that any tree, hedge or hedgerow dies or is removed without the prior consent of the Local Planning Authority, it shall be replaced as soon as is reasonably practicable and, in any case, by not later than the end of the first available planting season, with trees of such size, species and in such

number and positions as may be agreed with the Authority.

Reason

To ensure the continuity of amenity afforded by existing trees, in accordance with policies ENV2 and ENV11 of the East Herts Local Plan Second Review April 2007.

14. Notwithstanding the details shown on the approved drawings, no development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include a) means of enclosure; b) hard surfacing materials; c) planting plans; d) schedules of plants noting species, planting sizes and proposed numbers/densities and e) a timetable for implementation.

Reason

To ensure the provision of amenity afforded by appropriate landscape design, in accordance with policy ENV2 of the East Herts Local Plan Second Review April 2007.

15. All hard and soft landscape works shall be carried out in accordance with the details approved pursuant to Condition 14. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the local planning authority. Any trees or plants that, within a period of 5 years after planting are removed, die or become damaged or defective shall be replaced with others of the same species, size and number as originally approved unless the local planning authority has given written consent to any variation.

Reason

To ensure the provision, establishment and maintenance of a reasonable standard of landscaping in accordance with the approved designs, in accordance with policy ENV2 of the East Herts Local Plan Second Review April 2007.

16. Prior to the commencement of the development, detailed plans showing the provision of a footway to form a continuous link between the site and the existing footway along The Street shall be submitted to and approved in writing by the Local Planning Authority. The footway shall be implemented in accordance with the approved details prior to the first occupation of any part of the development.

Reason

To ensure that the site is accessible to pedestrians to promote alternative modes of transport to the development.

17. Prior to the commencement of development, a mitigation scheme for the

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capture and translocation of grass snakes shall be submitted to and approved in writing by the Local Planning Authority. The mitigation strategy shall then be undertaken in accordance with the approved details prior to any works commencing on site.

Reason

To ensure the protection of protected species in accordance with policy ENV16 of the East Herts Local Plan Second Review April 2007.

18. Bats (2E41)(insert: Bat Activity Survey, September 2011, Chapter 5)
19. Retention of parking spaces (3V204)
20. Vehicular use of garages (5U10)
21. Approved plans (2E103) - Plan 01; Plan 02; Plan 03; 0040se-01; 10040se-02; 10040se-03; D137599/SK109 P1; D137599/SK110 P1; 739/PL/01C; 739/PL/02C; 739/PL/03C; 739/PL/04A; 739/PL/05B; 739/PL/06B; 739/PL/07A; 739/PL/08B; 739/PL/09A; 739/PL/10A; 739/PL/11; 739/PL/12B; 739/PL/13A; 739/PL/14; 739/PL/15A; 739/PL/16B; 739/PL/20A; 739/PL/21B; 739/PL/22C; DFD/PENT/L1 A

Directives

1. Other Legislation (01OL)
2. Planning Obligation (08PO)
3. Street Naming and Numbering (19SN)
4. Highways Works (05FC2)
5. Under the terms of the Water Resources Act 1991 and the Thames Region Land Drainage Byelaws 1981, prior written consent of the Environment Agency is required for any proposed works or structures in, under, over or within 8 metres of the top of the bank of the River Quin, designated a 'main river'.

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 the 'saved' policies of the East Herts Local Plan Second Review April 2007, and in particular saved policies SD2, HSG3, HSG4, HSG6, GBC3, TR1, TR2, TR7, TR8, TR14, ENV1, ENV2, ENV3, ENV9, ENV11, ENV20, ENV21, OSV1, OSV4, IMP1) and the National Planning Policy Framework. The balance of the considerations having regard to those

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policies is that permission should be granted.

b) Listed building consent be **GRANTED** subject to the following conditions:-

1. Listed building three year time limit (1T141)
2. Listed building (new window)(8L03)
3. Listed building (new doors)(8L04)
4. Listed building (making good)(8L10)

_____ (112209FP.MP)

1.0 Background

- 1.1 The application site is shown on the attached OS extract.
- 1.2 The site lies within the built up area of the category one village of Braughing and is an allocated housing site (reference number 115) as identified in the East Herts Local Plan Second Review April 2007. The site is also located within the Braughing Conservation Area and shares a boundary with Pentlows Farmhouse which is Grade II listed. The farmhouse is however outside of the red outline of the planning application and does not form part of the proposals in this application. On the road frontage next to the existing entrance is a small listed barn which is in a poor state of repair and adjoining this is a three part cowshed with a blank façade of black painted brick which steps to follow the fall in the road.
- 1.3 Within the site there is an unsightly sprawl of silos and large asbestos cement sheds which form part of the collection of buildings which reflect the sites previous agricultural use. The site lies on the eastern side of the River Quinn valley which divides the village. There is in the region of a 5 metre fall between the highest and lowest parts of the land proposed for development, with land sloping westwards towards the River. There are important views of the site from the west of the application site. From the road, on its eastern boundary, the character of the site is defined by the farmhouse, the small barn and the existing black brick cowsheds. There are trees along both the northern and southern boundaries. It is only at its south eastern corner that the site adjoins other residential properties.
- 1.4 The application is for full planning permission for a residential development comprising 27 residential dwellings garaging and other associated development together with the conversion of the listed barn close to the

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entrance into a single dwelling.

- 1.5 During the process of the planning application amended plans have been submitted to the Council following the initial consultation period, discussions with the Parish Council and discussions with Officers. The Council have formally reconsulted on the amended scheme and that amended scheme is now being considered in the current planning application.
- 1.6 The proposals as they now stand are not too dissimilar to those originally proposed. They do however involve the provision of more dwellings on the site and an alternative design to some of the dwellings.
- 1.7 The proposals now before the Council involve the provision of 18 open market dwellings comprising of 4no. 3 bed dwellings, 12no. 4+ dwellings, and 2no. 2 bed dwellings. In addition, 10no. affordable dwellings are proposed which consists of 2no. 1 bed dwellings, 4no. 2 bed dwellings and 4no. 3 bed dwellings.
- 1.8 The red outline of the application site includes not only the residential development which includes the allocated housing site but also the open meadow space to the west of the allocated site. That area sweeps fairly steeply away to the west where the meadow meets the River. The area is open, albeit fairly well obscured from external views by virtue of the landscaping around its edges. During the process of the application, the applicant has, as Officers understand, been in continued dialogue with the Parish Council. The applicant has agreed to transfer the ownership and responsibility for that land to the Parish Council. The land is nevertheless proposed to be left open with the provision of a balancing pond and the provision of soft landscaping and tree planting to the western edge of the development site.

2.0 Site History

- 2.1 The only relevant planning history relating to the site is that a resolution to grant planning permission, subject to the signing of a legal agreement, for the provision of 29 retirement dwellings (including 10 affordable 2 bed units) plus a managers flat, garaging and management facilities was made by Members in October 2007 under LPA reference 3/07/0822/FP.
- 2.2 However, the applicant went into administration and the legal agreement was never signed. Officers reported this to Members on 15 December 2010 and the application was refused planning permission for the following reason:-

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The proposal fails to make adequate provision for affordable housing or adequate financial provision for infrastructure improvements to support the proposed development and mitigate against its impact on the area. It would thereby be contrary to the provisions of policies IMP1 and HSG3 of the East Herts Local Plan Second Review April 2007.

3.0 Consultation Responses

- 3.1 Thames Water comment that, with regards to surface water drainage that it is the responsibility of the developer to make proper provision for drainage to ground, water courses or a suitable sewer. With regards to surface water it is recommended that the developer should ensure that storm flows are attenuated or regulated into the receiving public network through on or off site storage. Where the developer proposes to discharge to a public sewer the prior approval of Thames Water Development services will be required.

Thames Water comment that there are public sewers crossing or close to the site. In order to protect those sewers and ensure that Thames Water have adequate access to those sewers, approval of Thames Water must be sought whether the erection of a building or extension of a building would be over the line or within 3 metres of a public sewer.

- 3.2 Natural England comments that the proposal does not appear to affect any statutory protected sites or landscapes or have significant impacts on the conservation of soils nor is the proposal EIA development.

The protected species survey has identified that bats may be affected by the development proposal and Natural England's standing advice is therefore applicable.

- 3.3 Hertfordshire Constabulary comment that although Braughing is located in a low crime area it is noted that the design and access statement did not mention crime or how the development would address the issue of crime and the fear of crime.

The affordable units are grouped together in the northern portion of the site which is contrary to the Affordable Housing SPD. The parking provision for the flats and plot 10 has poor natural surveillance due to lack of views from active rooms.

- 3.4 The County Historic Environment Unit comment that the site is located within Area of Archaeological Significance No.60. The settlement which lies to the north of the nationally important Iron Age and Roman towns at Braughing has Anglo-Saxon origins and as the centre of the Anglo-Saxon Hundred, and the site of a probable 'minster' church, it was a settlement of

importance.

The existing buildings on the site are predominantly modern and only one C18 building survives, the grade II Listed barn. The site which lies to the north of the parish Church has medieval or even earlier origins. The name 'Pentlow' is documented in the late C13, C14 and C16 and it may have Saxon origins.

To the west of the farmyard lies pasture which is crossed by the line of a former field boundary recorded on the 1820 enclosure map. This boundary is on the probable line of the Roman Road from Braughing to Great Chesterford – recent aerial photographs show that it may be a double-ditched feature and possible is the road itself. A flat level area is also visible which may be the site of a form building platform. Finds of Roman pottery are known from the Old Vicarage to the north and The Elms to the east. Landscaping and drainage plans indicate that associated works such as sewers, re-grading works and the balancing pond will have a considerable impact within the area.

The Archaeologist considers that the proposal development is likely to have an impact on heritage assets with archaeological interest, The Archaeologist recommends that provision is made for further archaeological work, monitoring and mitigation. The Archaeologist considers that such recommendations are necessary and reasonable to properly provide for the likely archaeological implications of the development proposal. A planning condition is thus recommended requiring the implementation of a programme of archaeological work in accordance with a written scheme of investigation.

- 3.5 The Housing Development Manager comments that the scheme involves the provision of 10no. affordable units which is in line with the Affordable Homes Commissioning Brief. The split of affordable units should be 75% rental and 25% shared ownership. The internal layouts appear to show that the properties will be built to lifetime homes standard and there may be wheelchair accessible properties.
- 3.6 The County Council's Development Services team comment that as the application is for 27 residential dwellings it falls above the current threshold where financial contributions are sought to minimise the impact on Hertfordshire County Council Services for the local community. The following contributions are sought:-

Middle Education - £49,475.

Upper Education - £52,770.

Childcare - £4,272.

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Youth - £1,481.

Libraries - £4,771.

- 3.7 Environmental Health advises that any permission granted by the Local Planning Authority should include the planning conditions relating to the following – noise, dust, asbestos, bonfires, contaminated land and refuse disposal facilities.
- 3.8 The Council's Engineers comment that, the site is located outside of the flood zones 2 and 3, although some of the landscaping is within flood zone 3. The site is located away from the overland flow paths as shown on the Environment Agency's surface water flooding maps, although part of the landscaping on the western side of the development is within an inundation zone.

The development seems to consist of a partial increase to the impermeable area with subsequent reduction to the site's permeable area. However the proposals indicate that a substantial above ground SUDs solution as well as rainwater re-use systems will be incorporated into the design which will greatly assist flood risk potential.

The Council's Engineers can adopt SUDs such as the balancing pond through a S106 agreement which involves contributions relating to maintenance.

- 3.9 Hertfordshire County Highways comment that they do not wish to restrict the grant of planning permission. The principle of residential development has previously been considered to be acceptable in the 2007 permission.

During pre-application discussions it was confirmed that there is a need to secure a footway link between the existing footway along the street and the application site. This is not shown on the proposed plans, but the Highways Officer has requested a Grampian planning condition requiring this, which will then be implemented through a S278 agreement with the County Council.

The development is not significant enough to fund service improvements but it is considered to be reasonable to seek second strand financial contributions towards bus stop improvements or other appropriate infrastructure measures to encourage use of the limited rural bus service that serves the village and future residents of the development.

Pre-application consultations with the applicant involved discussions where it was advised that contributions would be based upon the HCC toolkit. Given the types of dwelling proposed the contributions amounts to £31,625.

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The layout of the development has largely been prepared in accordance with the HCC design guide and Manual for Street. The layout of the development allows for appropriate penetration by refuse collection, service and emergency vehicles. Sufficient parking and vehicle turning are allowed for. It is unlikely that internal roads will be considered for adoption as a public highway and it will be necessary for the developer to operate a management company to administer and maintain common areas not taken over by the local authority.

- 3.10 The Herts and Middlesex Wildlife Trust comment that, the bat activity survey indicates that bats are active on the site but that there is no evidence of bats roosting in any of the buildings affected by the development. As such a bat license will not be required to make the development legally compliant.

However, it is recommended that measures be undertaken to replace the loss or damage of the bats habitat and foraging potential through the provision of planning conditions requiring bats boxes.

The reptile survey finds that a small population of grass snakes are present on the site, focussed in the southern and western sections of the site. Reptiles are protected from killing and injury under the Wildlife and Countryside Act 1981 and the proposed development does have the potential to kill or injury to reptiles. Accordingly, a programme of capture and translocation of reptiles to an appropriate site is required through the provision of a planning condition.

- 3.11 Herts Biological Records Centre comment that no evidence of roosting bats was found in any of the buildings and there is therefore no ecological constraint to the development in terms of bats.

However, a small number of grass snakes were recorded on the site and a mitigation strategy will need to be produced to safe-guard this species.

- 3.12 Within the plans initially submitted with the planning application the Environment Agency objected to the application. However, that objection has now been removed and the Environment Agency recommend the provision of planning conditions.

Those conditions relate to the development being carried out in accordance with the Flood Risk Assessment, the surface water attenuation plan and diction drawings, a restriction on the storage of materials within the flood plain, a scheme to deal with decontamination on the site and a verification report setting out such matters of decontamination have been dealt with. The Environment Agency also recommend planning conditions requiring no

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infiltration of surface water drainage and a restriction on foundation designs.

- 3.13 The Conservation Officer recommends that planning permission be granted. The Conservation Officer makes general comments with individual buildings within the site.

With regards to plot 10, the Conservation Officer recommends the provision of an external gable and end chimney stack to the elevation which fronts the road. Such a feature will, in the Conservation Officers opinion improve relationship of this building with the street scene.

With regards to plots 22 and 28, the Conservation Officer raises some concern with the land levels to these plots which create a building with a ground floor which is not flush with the ground but is accessed via steps up and a hand rail, which results in a more urban townscape, rather than the overall design influence of the site.

Turning to plot 27, the proposed proportions, roofscape and front elevation of this building are considered to be in keeping with the traditional design proportion of the site.

Concerns have previously been raised with the applicant with regards to plots 10, 22 and 28 which have not been taken into account within the amendments to the scheme during the process of the application. However, on balance, the design concerns would not have an adverse impact on the scheme as a whole.

4.0 Parish Council Representations

- 4.1 Braughing Parish Council comment that, following the submission of amended plans, no objections are raised.

The Parish Council do however raise concerns over the size and situation of the balancing pond, which is considered to be located in a more dominant area of the green field. This will significantly alter views afforded from Church End and other areas of the village. The balancing pond is located in an area outside of the agreed area of the development and the Parish would prefer that alternative methods of ensuring adequate surface drainage be pursued.

The Parish Council make observations on the planting and landscape scheme associated with the development proposals and comment that the some of the planting is inappropriate to the context of the site and surroundings.

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The Parish Council also refer to the Braughing Design Statement, particularly the Environment section which refers to the preservation of trees, hedgerows, flora and fauna.

5.0 Other Representations

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

5.2 Within the initial consultation process of the plans originally submitted with the planning application, twenty three letters of objection were received which can be summarised as follows:-

- Overdevelopment of the site;
- Impact on pedestrian/highway safety with access;
- Impact of construction vehicles on amenity of village;
- Insufficient levels of parking provision;
- Detrimental impact on character and appearance of Conservation Area;
- No sustainable energy measures;
- Village infrastructure is insufficient for development;
- The housing mix does not properly reflect village housing needs;
- The site is contaminated which has not been properly considered;
- Loss of landscape features, trees, etc;
- Building design is out of keeping with local vernacular;
- Flood protection measures are inadequate;
- Insufficient public consultation pre-application.

5.3 As set out above, amended plans have been received during the process of the application and previous objectors to the scheme and neighbouring properties have been re-consulted. A further 8 letters of objection have been received. The comments received are the same as set out above.

6.0 Policy

6.1 The relevant 'saved' Local Plan policies in this application include the following:-

- SD2 – Settlement Hierarchy
- GBC3 – Appropriate Development in the Rural Area Beyond the Green Belt
- HSG2 – Phased Release of Housing Land
- HSG3 – Affordable Housing

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- HSG4 – Affordable Housing Criteria
- HSG6 – Lifetime Homes
- TR2 – Access to New Developments
- TR7 – Car Parking – Standards
- TR8 – Car Parking – Accessibility Contributions
- ENV1 – Design and Environmental Quality
- ENV2 – Landscaping
- ENV3 – Planning Out Crime – New Development
- ENV9 – Withdrawal of Domestic Permitted Development Rights
- ENV11 – Protection of Existing Hedgerows and Trees
- ENV16 – Protected Species;
- ENV17 – Wildlife Habitats;
- ENV20 – Groundwater Protection
- ENV21 – Surface Water Drainage;
- BH1 – Archaeology and New Development;
- BH3 – Archaeological Conditions and Agreements
- OSV1 – Category 1 Villages
- OSV4 – Housing Allocations – Category 1 Villages
- IMP1 – Planning Conditions and Obligations

6.2 The National Planning Policy Framework is also a material planning consideration in the determination of planning applications.

6.3 It is also relevant that the Council have formally adopted Chapter 12 of the Braughing Design Statement and it forms a Supplementary Planning Document.

7.0 Considerations

7.1 The main planning considerations in respect of this development proposal relate to the following matters:-

- The principle of development;
- Heritage issues, impact on character and appearance;
- Transport, Access and Parking matters;
- Drainage and flood risk;
- Ecological matters;
- Landscaping
- Financial and legal agreements.

The principle of development

7.2 The proposal comprises a Local Plan Housing Land allocation site (policy OSV4 of the Local Plan) and the principle of residential development is

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therefore acceptable. This is a Phase one development site which, as identified in policy HSG2, means that there is no restriction on the release of the land for development.

- 7.3 Some commentators on the planning application have raised concern with the mix of housing. Letters of representation have commented that there is a disproportionate number of large 4+ bedroom dwellings. As set out above, the principle of residential development is acceptable and policy OSV4 has identified that the site is reasonably capable of accommodating 30 dwellings. The site is well located, sustainable and supports the supply of dwellings across the District. Little weight can, in Officers opinion, be given to the concern therefore, that the housing is in the form of large dwellings. It is the physical manifestation of that which must be considered and matters of scale and appearance of the development are dealt with below. In any event, it is important to note that, during the process of the application, the applicant has sought to address such concerns and, one of the larger units on the site has been altered to provide 1no. 2bed dwelling and 1no. 3bed dwelling. Furthermore, an additional 2 bed dwelling has been provided within the site.

Character and appearance of built and historic environment

- 7.4 Policies relating to environment and design issues and built heritage are set out in chapters 8 and 9 of the Local Plan. A high standard of design is expected from all development proposals (policy ENV1). They should be compatible with the structure and layout of the surrounding area, complement the existing pattern of street blocks, relate well to the massing and height of adjacent buildings and the surrounding townscape, incorporate sustainability initiatives, consider the impact of any loss of open land and minimise loss of and damage to important landscape features. Policy ENV2 calls for existing landscape features to be retained and enhanced, also referred to in policy ENV11.
- 7.5 In a Conservation Area, policy BH6 requires that new developments are sympathetic in terms of scale, height, proportion and form. Open spaces and other landscape features materially contributing to the character or appearance of the area should not be affected to the significant detriment of the area. Historically significant features should be retained wherever possible and important views should be respected.
- 7.6 The relevant chapter of the Braughing Parish Plan seeks to encourage development which respects and enhances local character, in proportion with the surroundings and of a density appropriate to the surroundings and location and nature of built form. The Parish Plan seeks to encourage traditional high quality materials and there is an emphasis on ensuring the

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- character of the village is maintained, landscape features are preserved and that buildings are built with sustainable measures.
- 7.7 The Braughing Conservation Area has a diverse but rich built environment which is characterised by the mixture, form and style of buildings. From the more historic parts of the settlement, such as the area around the parish Church and Church End, to the more modern parts of the settlement to the south east around Uplands and Green Lane. The key characteristic is considered to be the organic and historic evolution of the built form which is indicated by the differing form and design of buildings which reflect their era of construction. There is not considered to be one distinct style which reflects the built environment – rather it is a collection of traditional styles and forms which together create a sense of place and distinctiveness. The Conservation Area incorporates not only the built form but the Quinn River valley and the open areas and soft boundary verges and small pockets of amenity land.
- 7.8 The development involves the demolition of the unsightly sprawl of silos and large asbestos cement sheds which form part of the collection of buildings which represent the site's previous agricultural use. The demolition of those buildings is a positive aspect of the development proposal and weight should, in Officers opinion, be attached to the enhancement that the removal of those buildings will have on the character and appearance of this part of the Conservation Area.
- 7.9 Furthermore, it should also be noted that the development involves the reuse of an existing agricultural building which is listed. This building is timber framed with external cladding. The NPPF and policy GBC9 of the Local Plan encourage the retention of rural buildings for reuse. The use of this building for residential purposes will enable a sympathetic reuse of the building which will preserve its historical significance and enable it to be integrated into the broader residential development of the site. The retention of this listed building and its integration into the residential development also weighs in favour of the development proposal, in Officers opinion.
- 7.10 The proposed layout of the site has been determined by the current dimensions and shape of the site, the levels within and adjoining the site and the vehicle access arrangements. Two accesses are proposed off The Street. The southern access is sited to the front of the listed dwelling, Pentlows Farm and the Listed barn, ensuring that those buildings remain prominent and the key feature within the site. Further within, the southern site access road leads directly west to the meadow space. Views of that open amenity space are created through this access. Within and to the south of the site, dwellings front the access road and create a cul-de-sac type arrangement and a 'mews' type relationship. Dwellings would generally

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appear to be reasonably well spaced with opportunities for small pockets of front garden amenity space to help break up the built form.

- 7.11 To the north of the application site is a further access road which leads to the affordable units. It is unfortunate that the access road from the north does not lead to the market houses – although it is considered that no significant harm is caused by this.
- 7.12 Policy OSV4 does indicate that the site is capable of providing in the region of 30 dwellings. There is some slight under provision with this development proposal. However, the layout of the site is considered to be appropriate and the relationship between buildings, the street scene and the general spacing between dwellings is considered to be appropriate and in keeping with the grain and layout of development within the locality. Officers acknowledge the concerns from some parties with regard to the amount of development proposed on the site. However, for the reasons set out above, the development proposal is not considered to be overdevelopment of the site, nor cramped or congested in appearance.
- 7.13 The proposed scale and design of the buildings varies across the site with the provision of detached, semi-detached, terraced dwellinghouses and a small collection of flats to the north of the site. As set out above, the design of buildings within the village varies, from the more contemporary buildings around Uplands and Green Lane to the south east of the village, to the varied and historic core of the village where the evolution and growth of the built form is evident through the differing forms, design and articulation of buildings. The proposed development includes various elements and design features from the surroundings with the provision of a row of traditional terrace dwellings, gable and hip roofs. The overall form, massing and arrangement of dwellings together with the mixed palette of materials including brick, boarding and render are considered to create a collective design of buildings that would appear in keeping with the character and appearance of the surroundings and respect the local distinctiveness of the village and the Conservation Area.
- 7.14 The Conservation Officer's comments in respect of plots numbers 10, 22 and 28 are noted. With regards to plots 22 and 28, whilst it is unfortunate that the ground floor will be accessed by steps, the overall height, scale and mass of this building is considered to be in keeping with the overall architectural theme and design of buildings within the development site. Officers consider that it is unfortunate that a chimney has not been added to the flank elevation of plot 10. However, this is an affordable unit and Officers acknowledge the difficulties with providing chimneys to such dwellings. In light of those considerations, Officers consider that the above mentioned plots are acceptable and in keeping with the development

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proposal as a whole. It is noted that the Conservation Officer recommends approval of planning permission and considers that the deficiencies in the design of the above mentioned plots does not result in an adverse impact on the scheme as a whole.

- 7.15 Having regard to the above considerations the development proposal is considered to accord with the relevant policies of the Local Plan, the NPPF and Chapter 12 of the Braughing Parish Plan.

Landscaping

- 7.16 The levels on the site rise up from the river valley up to the proposed development site. The site is therefore quite visible within the landscape from the west and from Church End. The boundaries of the site, particularly the southern and northern boundary do benefit from a fairly good range of landscape features including some mature trees. The development proposal will result in the loss of a group of sycamore trees which are located to the south west of the existing farm buildings and the loss of those trees is unfortunate as they do provide some screening from Church Lane.
- 7.17 However, the proposed development does include the provision of additional trees and landscape features to the western boundary of the application site. The Parish Council have been critical of some of the species proposed within this landscaping. Nevertheless, Officers are of the opinion that the provision of landscaping to the western boundary of the site will assist in assimilating the development proposal within the site and surroundings. A good quality landscape scheme and maintenance of that landscaping are important in ensuring this, which can be controlled through the provision of a planting condition.
- 7.18 Also within the site is the balancing pond, which is located to the south west of the red outline of the application. This is required for flood risk reasons (which are discussed below) and Officers note that some letters of representation raise concern with such a feature in terms of the impact on the landscape.
- 7.19 Whilst Officers are mindful of such concerns, it is considered that the benefits of the proposed balancing pond, in addressing flood risk concerns and the provision of a sustainable drainage system, and the ecological benefits outweigh any considered impact on the landscape. In Officers opinion, the proposed balancing pond will add to and enhance this part of the Conservation Area and will not result in significant harm to the landscape character of the site or setting.

Highways matters and parking provision

- 7.20 Turning to the level of parking proposed, the Councils adopted standards relate to a 'maximum' provision. Having regard to the number of dwellings and associated number of bedrooms serving those dwellings, there is a maximum requirement for 63.25 parking spaces. The application proposes 71 spaces. Officers are of the opinion that appropriate levels of parking provision are therefore provided for, in accordance with policy TR7.
- 7.21 With regards to access matters, the comments from the Highways Officer are noted. The principle of a residential access into the site has previously been considered to be acceptable within the 2007 planning application – LPA reference 3/07/0822/FP.
- 7.22 The Highways Officer confirms that there is a need to provide a pedestrian link between the site entrance and the existing footway along The Street. The Highways Officer considers that this can be achieved through the provision of a planning condition. In the interests of pedestrian safety and accessibility to the village, such a condition is considered to be necessary and reasonable, in this case.
- 7.23 In accordance with the above considerations and, subject to financial contributions relating to sustainable transport measures and a contribution towards the formation of a Traffic Regulation Order (which are discussed below), Officers are of the opinion that the development is acceptable in terms of access and parking matters.

Neighbour amenity

- 7.24 The main planning considerations in respect of the impact on neighbour amenity relate to Pentlows Farm, The Elms and 15 The Street. Those dwellings are either adjacent to or front onto the site.
- 7.25 Turning to The Elms – the western garden boundary of that property fronts onto The Street and is a distance of 10metres or so from the proposed development. However, the property itself is set further away from the development site at a distance of some 40metres. Having regard to that distance and the orientation of the proposed dwellings officers do not consider that the proposal will result in significant harm to neighbour amenity.
- 7.26 With regards to the impact on Pentlows Farm building, plots 25 and 26 front onto this property whilst plot 24 is side on and plot 28 and 22 rear gardens back onto the garden of that property. However, in all cases, having regard to the relationship, orientation and distances between Pentlows Farm and

the proposed dwellings officers do not consider that significant harm to the amenity of that existing dwelling will be caused in terms of overlooking, overbearing or loss of privacy.

- 7.27 In terms of the impact on No.15 The Street, this property appears to benefit from a sizable outbuilding in the rear garden which, in terms of its siting and relationship with the development site, would seem to act as a screen to the development site. Having regard to that consideration and the distance between the edge of the boundary and the proposed dwellings, officers do not consider that significant harm to the amenity of No.15 The Street will be caused in terms of overlooking, overbearing or loss of privacy.

Flood risk/contaminated land

- 7.28 The Environment Agency have recommended a number of planning conditions relating to decontamination of the site. There is a watercourse to the south of the site and, given the previous uses of the site for agricultural activities, the Council must ensure that the proposed development protects against possible impact on those environments, in accordance with policy SD5 and ENV20. Having regard to the requirements of those policies and, taking into account the comments from the Environment Agency, it is considered reasonable and necessary for planning conditions to be attached to any grant of planning permission in respect of contaminated land. Officers note the concerns with the development in terms of the impact of contaminated land, however they are nevertheless satisfied that the provision of the conditions as recommended by the Environment Agency will address any such concerns.
- 7.29 Turning to matters of flood risk, the site is located to the west of the River Quin, although the meadow space immediately adjacent to the River is located within the flood zone. The applicant sets out in the application that the site is not currently connected to the adopted surface water drainage sewer network but seems to rely on drainage to the adjacent fields or a soakaway.
- 7.30 The proposed development provides for off site attenuation in the form of a pond structure located to the west of the site. The applicant comments that this method has been brought forward with the development proposal as it offers a greater sustainability and amenity benefit and will involve lower construction implications.
- 7.31 The siting of the balancing pond has altered during the process of the application, it is now proposed to be located to the south west of the site. Some commentators on the application site have queried the siting of the balancing pond and the impact of the development in terms of flood risk.

7.32 Having regard to the advice from the Environment Agency, Officers are nevertheless of the opinion that the proposed balancing pond and the submissions made in the flood risk assessment and associated documents are such that the proposed development will not result in significant harm to flood risk, in accordance with policy ENV19 of the Local Plan and the NPPF. The development provides for a sustainable surface water drainage water strategy, in accordance with policy ENV21 of the Local Plan and the NPPF.

Affordable Housing and Lifetime Homes

7.33 Policy HSG4 requires the provision of up to 40% affordable houses for development sites of this scale and nature. Policy HSG4 sets out that the size, type and tenure of affordable housing will be determined by, amongst other things, the availability of public subsidy.

7.34 Initially, the proposed development involved the provision of 26 dwellings on the site. However, during the process of the application amended plans have been received which proposes the provision of a greater number of dwellings on the site – now 28. Those amended plans have been submitted in response to concerns raised by the Parish Council that the development proposal provided a disproportionate number of larger dwellings. The scheme now involves the provision of a total of 28 residential units, however the applicant still proposes the provision of 10 affordable units which represents the provision of 36% affordable units. This is below the maximum required in policy HSG3.

7.35 However, the applicant has demonstrated a willingness to respond to concerns raised by the Parish Council with regards to the size of some of the units on the site. The Councils Housing Team have advised that the provision of 10 affordable units with a tenure mix of 7 social rented and 3 intermediate is acceptable, in this case.

7.36 In accordance with the above considerations, the provision of 10 affordable units with a tenure mix of 70% social rented and 30% intermediate is acceptable.

Financial contributions

7.37 As the application is for 28 residential units, the need for financial contributions is required under the Council's Planning Obligations SPD and the Herts County Council (HCC) Planning Obligations Toolkit. HCC have confirmed that they will require contributions towards primary and secondary education, childcare, youth and library facilities. Those figures

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are set out at the head of this report. The contributions sought are based on the number of units and bedrooms proposed, and the figures are considered necessary and reasonable based on pressures that the development will place on existing infrastructure. The obligations are therefore considered to meet the tests set out in S122 of The Community Infrastructure Levy Regulations (CIL) 2010.

- 7.38 The Highways Officer has advised that, during pre-application discussions the applicant was advised of the need for this scale of development to make a sustainable transport contribution. The Highways Officer uses the HCC toolkit to determine that a contribution of £31,625 is required.
- 7.39 However, within the amended plans received during the process of the application, an additional 3 parking spaces are now proposed and the total number of parking spaces proposed by the amended scheme is 71 spaces. The applicant has sought to provide further parking in response to the concerns raised by the Parish Council that insufficient parking is provided for.
- 7.40 In Officers opinion the provision of 68 parking spaces is acceptable and the provision of 71 spaces is also acceptable and in accordance with policy. However, Officers do not consider that it is reasonable to require the applicant to pay additional contributions above that required for 68 parking spaces when that level is acceptable. Officers therefore recommend a contribution of £31,625 towards sustainable transport measures which is considered to meet the tests as set out in S122 of the Community Infrastructure Levy Regulations (CIL) 2010.
- 7.41 The Highways Officer also recommends a financial contribution of £8,000 towards a TRO (Traffic Regulation Order) to secure changes to the speed limit on the public highway. The Highways Officer sets out that, the money is required to fund the extension of the 30mph speed limit which would have to be done by Traffic Regulation Order. The contribution would cover all fees, consultation and advertising costs as well as implementation. The moving of the speed limit was suggested by the applicant's highway consultant and would bring the northernmost access to within the speed limit and hence ensure that the achievable visibility splays accord with the speed limit requirements. In accordance with the advice from County Highways this contribution is considered to meet the tests as set out in S122 of the Community Infrastructure Levy Regulations (CIL) 2010.
- 7.42 The East Herts Council SPD also requires contributions towards open space provision, children and young people, recycling facilities, community centres and village halls. The Council's PPG17 audit identifies that there are deficiencies in the provision of parks and public gardens and facilities

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for children and young people. It should however be noted that the PPG17 audit is not precise in how it assesses deficiencies in particular locations, such as outlying villages. What must therefore be considered is whether there is a need for such contributions arising from the development now being considered and where such contribution would be focused in order to mitigate against the impact of the development.

- 7.43 The Planning Obligations SPD identifies that, for a development of this scale, that a contribution of £7,841 is applicable in respect of children and young people. Officers have consulted with the Parish Council to establish whether such monies can be used by the Parish. The Parish Council have helpfully responded setting out that the Parish lease land from Upp Hall Estate to provide playground facilities for children and young people. The Committee who help manage that play equipment have advised that there is a need for a 'Birds Nest swing' for older children and children with disabilities and a baby swing. Those structures are indicated to cost £7000.
- 7.44 Having regards to the comments from the Parish Council and, taking into account the requirements of the Planning Obligations SPD and deficiencies in outdoor provision for children and young people, the contribution of £7,000 is considered to meet the tests set out in S122 of The Community Infrastructure Levy Regulations (CIL) 2010.
- 7.45 The Councils Planning Obligations SPD also identifies that a contribution of £7,387 is required for community centres and village halls. Again, the Parish Council have advised that there is a need to refurbish the Green Lane Community Centre at a cost of £2500, repairs are needed to the roof serving the Church End Church Hall, totalling £2500 and various works are required to the Chapel Hall in Green End totalling £2500.
- 7.46 Having regards to the comments from the Parish Council and, taking into account the requirements of the Planning Obligations SPD the contribution of £7,500 towards community centres and village halls is considered to meet the tests set out in S122 of The Community Infrastructure Levy Regulations (CIL) 2010.
- 7.47 The PPG17 audit does identify that there is a deficiency in parks and gardens. However, as noted above, the applicant has agreed to transfer ownership of the meadow space to the Parish Council. That area of land is a significant size and will as Officers understand, be made available for use by the occupiers of the development site and the village community as a whole. In that respect, Officers do not consider that it is reasonable to require additional contributions from the applicant in respect of contributions for parks and gardens.

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- 7.48 In addition, it should be noted that the Planning Obligations SPD sets out contributions towards amenity green space and outdoor sports facilities. The PPG17 audit does not however find there to be deficiencies in those areas and, taking into account the above considerations relating to the exchange of the meadow land to the west of the site it is not considered to be reasonable to require the applicant to make financial contributions in respect of these areas.
- 7.49 With regards to all of the financial contributions set out above, the applicant has confirmed a willingness to meet those costs. However, before fully committing, the applicant has sought further clarification from the County Council with regards to how the above County contributions have been calculated. Accordingly, Officers will update Members at the Committee meeting as to any material changes to the financial contributions put forward as part of this development proposal.

Other matters

- 7.50 The application site is located within an area of archaeological significance. Policies BH1, 2 and 3 of the Local Plan set out the approach in relation to archaeological matters. These set out that appropriate investigation and assessment is required before decisions on proposals that affect areas of archaeological interest can be made.
- 7.51 The County Archaeologist reviews the historical context of the site and surroundings and refers the Council to archaeological finds at nearby sites. In accordance with those considerations the archaeologist considers that further work in respect of archaeological matters is necessary and reasonable. In light of that advice and, having regard to the requirements of policies BH1 and BH3 and the NPPF, Officers consider that it is necessary and reasonable to require further archaeological work which can be agreed through the provision of a planning condition.
- 7.52 With regards to the impact on protected species, the applicant has provided an ecological report which includes information on ecological surveys. That information sets out that there is no evidence of roosting bats in the buildings which are the subject of this planning application. The proposed development will not therefore result in significant impact to those protected species in accordance with Policy ENV16 of the Local Plan.
- 7.53 However, as recognised by the Herts and Middlesex Wildlife Trust and as contained within Natural England's standing advice, it is considered to be appropriate to require measures to enhance the site for bats, which is suggested in the ecological report submitted by the applicant. In this

respect, Officers recommend the provision of a planning condition requiring such measures.

- 7.54 In addition, the ecological report did find the presence of grass snakes. These species are not afforded the same level of protection as bats which are a European protected species. However, they are protected under the Wildlife and Countryside Act 1981. In this respect, Officers recommend the provision of a planning condition requiring a programme of reptile capture and translocation to appropriate receptor sites. In the interest of the protected species and in accordance with policy ENV16, such a planning condition is both necessary and reasonable.
- 7.55 Policy ENG1 of the East of England Regional Plan requires that development proposals should encourage the supply of energy from decentralised, renewable and low carbon energy sources that new development of more than 10 dwellings should secure at least 10% of their energy from decentralised and renewable or low-carbon sources. The applicant has not provided any details in respect of the potential to use sustainable energy resources. However, given the requirements of policy ENG1 of the Regional Plan it is considered to be necessary and reasonable to require this through the provision of a planning condition.
- 7.56 The Parish Council and letters of representation raise concern with the impact of the development during the construction phase and the impact on the local road infrastructure. The site is allocated for housing within the Local Plan and it is inevitable that such an allocation will lead to traffic associated with the development of the site. However, to address the concerns from third parties and, in the interests of amenity and road safety, Officers consider that it is necessary and reasonable to impose a planning condition requiring a construction method statement covering all aspects of the development, and a condition restricting the hours of operation of plant and machinery.
- 7.57 To ensure that the proposed development incorporates appropriate high quality materials and is appropriately sited within the site in relation to surrounding levels it is considered necessary and reasonable for planning conditions to be attached requiring information in respect of levels and the provision of samples of materials. Similarly, with respect to hard/soft landscaping matters, it is considered appropriate to require more detailed information in respect of landscape matters which, in the interests of visual amenity is both reasonable and necessary.

8.0 Conclusion

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the residential development of this site is acceptable. The development is not considered to result in a cramped development or overdevelopment of the site. The proposal takes into account the layout and grain of development within the immediate and wider locality and adopts those characteristics in creating a well thought out, proportioned and balanced scheme which respects local distinctiveness and enhances the character of the Conservation Area. The proposed development is considered to be acceptable in access and parking terms and will not result in a significant impact on highway safety.

- 8.2 Planning Obligations are identified in this report as being necessary to mitigate the impact of the development on local infrastructure and, the provision of affordable housing will meet the local needs and the strategic targets of the Council in providing such levels of accommodation. These are matters which Officers advise are resolved through a S106 agreement in the normal way.
- 8.3 Subject to the signing of that S106 agreement and the provision of the suggested planning conditions, Officers therefore recommend that planning permission is granted.

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Agenda Item 5t

- a) E/12/0154/A - Stationing of a mobile home and the installation of a sewerage tank at Plots 32 – 35 Esbies Estate, off Station Road, Sawbridgeworth, CM21 9JE and,
b) E/12/0155/A - The raising of land levels by the laying of hardcore, rubble and other materials on the site at Plots 26-28 Esbies Estate, off Station Road, Sawbridgeworth, CM21 9JE
-

Ward: SAWBRIDGEWORTH

Parish: SAWBRIDGEWORTH

RECOMMENDATION

- a) That Members note the service of Temporary Stop Notices; in relation to the unauthorised works at the above plots; agree with that action, and authorise any such further steps as may be required to secure compliance with those Notices and require the cessation of any further unauthorised development on these two plots.
- b) That, in addition, the Director of Neighbourhood Services, in consultation with the Director of Internal services, be authorised to issue Stop Notices (having the requirements set out in the boxes in paragraphs 2.3 and 2.8 of this report) and Enforcement Notices requiring the following:-

Plots 26-28

The removal of any hard surfacing material, including hardcore, rubble, and other similar materials from the site and the return of the land to its previous levels.

Plots 32-35

The cessation of the use of the site for the stationing of a residential mobile home; the removal of the mobile home and the removal of any ancillary development associated with it, such as brick skirting or plinth and the underground sewerage system/tank.

and any further steps as may be required to secure the cessation of any further unauthorised development on the sites and the removal of the existing unauthorised uses and development.

Period of compliance

The Temporary Stop Notices took effect immediately; the Stop Notices will come into effect 3 days after service and require immediate compliance; and the Enforcement Notices have a compliance period of 1 month from the date of service.

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Reasons why it is expedient to issue and serve Stop and Enforcement Notices:

Plots 26-28:

1. The site lies within the Metropolitan Green Belt and the unauthorised works represent inappropriate development that is detrimental to the visual amenity and character of the site and the surrounding area. Furthermore, the development would prejudice the satisfactory resolution of the condition of the land and wider area as part of the current enforcement proceedings relating to the estate as a whole. No very special circumstances are apparent in this case that would clearly outweigh the harm caused to the Green Belt and the development is thereby contrary to policy GBC1 of the East Herts Local Plan April 2007 and national guidance given in the National Planning Policy Framework.
2. The site lies within Flood Zone 3b and the development exacerbates the risk of flooding in the area and is thereby contrary to saved policy ENV19 of the East Herts Local Plan Second Review April 2007 and the advice given in the National Planning Policy Framework and associated Technical guidance.

Plots 32-35

1. The site lies within the Metropolitan Green Belt and the use of the land for the stationing of a caravan for residential use represents inappropriate development that is detrimental to the openness, visual amenity and character of the site and the surrounding area. Furthermore, the unauthorised use would prejudice the satisfactory resolution of the condition of the land and wider area as part of the current enforcement proceedings relating to the estate as a whole. No very special circumstances are apparent in this case that would clearly outweigh the harm caused to the Green Belt and the development is contrary to policies GBC1 and HSG10 of the East Herts Local Plan April 2007 and national guidance given in the National Planning Policy Framework.
2. The site lies within Flood Zones 2 and 3a and as such the use of the site for residential purposes is unacceptable from a flood risk perspective and is contrary to saved policy ENV19 of the East Herts Local Plan Second Review April 2007 and the advice given in the National Planning Policy Framework and associated Technical guidance.

(0154/512A.GD)

1.0 Background

- 1.1 The Esbies Estate is identified on the attached Ordnance Survey extract. Some Members will be aware that it has a long and complex planning history, having been used for leisure purposes (weekend/seasonal holiday chalets and caravans) for very many years, with some development having first taken place prior to 1948.
- 1.2 The estate is located within an area of low lying land alongside the River Stort which, together with the river itself, forms a narrow belt of land that separates the town of Sawbridgeworth from the smaller settlement of Lower Sheering. To the east of the estate, on the opposite side of the river, is an industrial and commercial development, some of which is accommodated within former malting buildings. There is also a residential development of flats to the south of those commercial buildings.
- 1.3 To the west of the estate is a residential area comprising a mix of modern semi-detached and terraced dwellings on rising land. To the south there is a further belt of open land.
- 1.4 The estate comprises a central track with plots on either side. The plots vary considerably in size, character and appearance, with some occupied by caravans/mobile homes and some remaining relatively undeveloped. Historically the site was green in character and benefited from a considerable amount of soft landscaping. It was generally used as leisure plots with small chalet buildings occupied during March to September each year. However, in recent years, a significant amount of unauthorised development has occurred, which has eroded the open, landscaped character of the estate. Much hard standing has been laid and many of the plots are now occupied all year round with varying numbers of mobile homes, caravans and sheds.
- 1.5 Although the site was originally divided up into around 46 Plots, these have amalgamated over time to form approximately 19 sites currently, although the precise number and size of plots is subject to change on a frequent basis.
- 1.6 The whole of this site is located within the Metropolitan Green Belt, and within a wedge of land, particularly vulnerable to the impact of development, adjacent to the River Stort. Policy GBC1 of the East Herts Local Plan Second Review April 2007 is therefore relevant in this case.
- 1.7 Some Members will be aware that Enforcement Notices were issued and served on various plots within the estate in July 2010 and these are the subject of current appeals to the Planning Inspectorate and a rather long-

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running public inquiry. The unauthorised works on the estate involve the stationing of numerous mobile homes; the erection of outbuildings; the creation of large areas of hard surfacing; and various changes of use of the land, including permanent residential occupation (contrary to previous conditions relating to seasonal use only) and the parking/storage of commercial vehicles and mobile homes. Some plots are simply overgrown and untidy in appearance.

- 1.8 Members should also be aware that, on several of the plots, the occupiers are claiming Gypsy status and have cited the need for Gypsy and Traveller accommodation in the District as a reason to allow the current unauthorised developments to remain on site. The Council has challenged that Gypsy status however during the recent inquiry proceedings and of course no decision has yet been reached on these matters as the inquiry has yet to finish.
- 1.9 The particular planning history for the plots which are the subject of this report is set out in section 2.0 of this report.
- 1.10 On Thursday 24th May 2012 concerns were raised with the Planning Enforcement team that, despite the on-going enforcement proceedings across the estate, further works were being undertaken on the above plots. During a visit to the site, it was evident that on plots 26-28 hardcore, rubble and other materials were being laid and that the level of the land on this part of the site had been raised as a result. It was also evident that those works were continuing on site. Photographs of this site will be available at the meeting.
- 1.11 A mobile home had been sited on Plots 32-35 and a sewage system installed to include a large tank sunk into the ground. Photographs of this site will be available at the meeting.
- 1.12 In view of the nature of the unauthorised developments taking place; the fact that the site owners/occupiers were all aware of the current enforcement proceedings and the flagrant nature of the breaches, it was considered necessary and expedient to issue Temporary Stop Notices on both plots. This action was carried out with the agreement of the Chairman of the committee and the Council's Legal Manager.
- 1.13 The Notices were issued and served on the same day, the 24th May 2012 and required the following:-

Plots 26-28

To cease any operational development on the land including:-

- the raising of land levels on the site

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- the storage, laying or compacting or regrading of any hardcore, rubble, scalplings, planings or other similar material on the site
- any works to hard surface the site

Plots 32-35

- a) To cease any operational development on the land including:-
 - any further works to facilitate the installation of the mobile home on the site, including the construction of any brick or other form of plinth/skirt around the unit.
 - Any further works to the recently sited sewerage tank and any other works to provide any new tanks or other drainage works, and
- b) To cease the use of the land for the stationing of a mobile home, and
- c) To prevent the bringing onto the site of any further mobile homes or caravans

1.14 It should be noted that the Temporary Stop Notices are valid for 28 days - until the 20th June 2012, when it will be necessary to either take no further action or to serve an Enforcement Notice requiring the removal of the unauthorised developments, together with a Stop Notice requiring no further works on the plots.

1.15 It may be necessary for the Stop and Enforcement Notices referred to in this report to be served prior to the committee meeting (in order to ensure that there is no 'gap' between the effect of the Temporary Stop Notices' and the Stop and Enforcement Notices in which further unauthorised works could be carried out). In those circumstances the agreement of the Chairman will again be sought to issue the new Notices prior to the meeting in consultation with the Legal Manager and Members will then be asked to approve that action retrospectively.

2.0 Planning history and proposed action on each plot

Plots 26, 27 and 28.

2.1 An application in 1963, under reference 3/245-63, for the siting of a caravan on plot 28 was granted permission, subject to a condition limiting the use from April to the end of September only. An application for a Certificate of Lawfulness, under reference 3/03/0795/CL, for the use of a dwelling on the site for permanent residential purposes (again on plot 28) was refused. Two enforcement notices were served on the site in 2010 one requiring the removal of caravans (except the one approved under ref: 3/245-63), vehicles, plant and machinery etc and the other requiring the removal of hard surfacing on the site.

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- 2.2 In summary, therefore, one caravan for seasonal use is permitted on part of the plot but no permission exists for any raising of land levels or hard surfacing works.
- 2.3 During the site visit on the 24th May 2012 it was evident that there were no mobile homes on the site and the land levels had been raised with piles of hardcore and rubble laid across the plot. The Temporary Stop Notice referred to above was issued and served the same day. It should be noted that there is already an extant enforcement notice on this site in respect of hardsurfacing and it would be possible for the Council to issue legal proceedings or take direct action in that respect. However, in view of the significant raising of the land in this case, it is considered expedient to issue a further notice against this additional development.

Proposed action – Plots 26 to 28

Enforcement notice requiring the removal of any hard surfacing materials, including hardcore, rubble, and other similar materials from the site and the return of the land to its previous levels.

Stop Notice requiring the cessation of any operational development on the land to raise land levels by the storage, laying or compacting or regrading of any hardcore, rubble, scalplings, planings or other similar material on the site; and any works to hard surface the site.

Plots 32, 33, 34, and 35

- 2.4 Plot 34 (only) was originally occupied by a chalet bungalow (approved in 1970 for seasonal holiday purposes). A later permission (3/00/2132/FP) for the demolition of the chalet and its replacement with a caravan – again for seasonal use - was granted in 2000, but this permission was apparently never implemented and therefore expired in 2006. The chalet building remained on the site until at least April 2008.
- 2.5 A Certificate of Lawfulness, reference 3/03/0334/CL, for the use of the chalet bungalow as a single dwelling house was granted in regard to plots 32, 33, and 34.
- 2.6 However, in July 2010 two enforcement notices were served on the site (both of which are subject to the current enforcement appeal proceedings). One required the cessation of use of the site for the storage of caravans and the other the erection of lighting columns at the site. The existing hard surfacing on the site was considered to be lawful through the passage of time and no action could be taken against this.
- 2.7 In summary, therefore, no permission exists for any use of these plots for residential purposes, or for the stationing of mobile homes.

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- 2.8 During the site visit on the 24th May 2012, however, Officers noted that a mobile home had been stationed on the land and a sewerage system to include a large underground tank was being installed. The mobile home was not occupied at the time of this site visit although it was clearly being made ready for occupation. Piles of bricks were being placed around the mobile home in preparation for, what appeared to be, the construction of a brick plinth. Persons on the site advised Officers that the site was intended to be occupied for permanent residential purposes for a Gypsy/Traveller family already known to Officers (although Gypsy status is challenged by the Council) and the subject of current enforcement action elsewhere on the estate. A Temporary Stop Notice was issued and served on the same day as set out above. The mobile home remains on site at the time of writing this report although it appears to remain unoccupied.

Proposed action – Plots 32 to 35

Enforcement notice requiring the cessation of the use of the site for the stationing of a residential mobile home; the removal of the mobile home and the removal of any ancillary development associated with it, such as brick skirting or plinth and the underground sewerage system/tank.

Stop Notice requiring the cessation of any further activity to facilitate the installation of the mobile home on site, to include the construction of any brick or other form of plinth/skirt around the unit and any further works to the recently sited sewerage tank and any other works to provide any new tanks or other drainage works; the use of the site for the stationing of a mobile home; the occupation of the mobile home or the bringing onto the site of any further mobile homes or caravans.

3.0 Policy

- 3.1 The relevant 'saved' Local Plan policies in this case are:-

GBC1 – Appropriate Development in the Green Belt.

HSG10 – Accommodation for Gypsies

ENV19 – Development in Areas Liable to Flood

- 3.2 The National Planning Policy Framework (NPPF) and Planning Policy for Traveller Sites (PPTS) are also of relevance in this case.

4.0 Considerations

- 4.1 The whole of the Esbies estate lies within the Metropolitan Green Belt, and the unauthorised development is clearly contrary to Metropolitan Green Belt

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policy as expressed in policy GBC1 of the adopted Local Plan and also within the NPPF. The owners of the various plots on the estate which are subject to current enforcement proceedings have accepted that the use of the land for permanent residential purposes and the provision of hard surfacing/lighting columns, walls etc are all inappropriate development in the Green Belt.

- 4.2 In addition to the harm caused by inappropriateness, other additional harm has been identified and this relates to the impact on visual amenity in the area; the increased risk of flooding as a result of new development and the associated risk to any future occupiers of the estate.
- 4.3 Cumulatively, the unauthorised developments on the estate have resulted in significant harm to the character and appearance of the area and it is for this reason that the Council has sought to remedy the situation with the service of a range of enforcement notices in July 2010. The Council's intention, once the outcome of the current appeals process is known, is to seek a comprehensive and strategic approach to ensure compliance with all the various enforcement notices on the estate in order to achieve a significant overall improvement to its appearance.
- 4.4 In accordance with national and local planning policy, therefore, this further unauthorised development should not be permitted unless there are other material planning considerations which clearly outweigh all this harm, such as to constitute the 'very special circumstances' required to justify the inappropriate development in the Green Belt.
- 4.5 Officers are aware, from the information submitted to the current inquiry and from conversations with the owner/interested party on the site, that the plots the subject of this report are intended to be occupied by persons claiming Gypsy status. It is understood therefore that the same 'need' argument (for Gypsy and Traveller sites regionally, nationally and locally) together with their own personal circumstances will be put forward as 'very special circumstances', in support of this inappropriate development.
- 4.6 However, as with the other cases already before the inquiry, the Council will a) challenge that Gypsy status and b) considers that, in any event, there is no urgent need for Gypsy and Traveller accommodation in the District. Furthermore, the development does not accord with policies of the Development Plan, including the criteria based policy of the Local Plan (HSG10).
- 4.7 The 'need' argument put forward does not therefore outweigh the harm caused to the Green Belt in this case.

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- 4.8 As regard the personal circumstances of the site owners/occupiers, these have been considered during the current appeals process and Officers have clearly set out to the appeal inspector that the Council does not consider that these are sufficient to clearly outweigh the harm caused to the Green Belt in this case. No additional information has been received by officers in relation to these two sites and the current breaches of planning control that would lead them to alter this view.
- 4.9 Based on the evidence submitted to date, Officers do not accept that there are very special circumstances in this case that would clearly outweigh the harm caused to the Green Belt, or justify planning permission being granted contrary to the provisions of the Development Plan and national planning policy guidance given in the National Planning Policy Framework (NPPF) and in *Planning Policy for traveller sites* (March 2012).
- 4.10 Officers have considered whether a temporary planning permission should be granted for the unauthorised works in this case. However, as there is considered to be no immediate need for Gypsy accommodation in the District; that significant harm is caused to the Green Belt; and that there is potential harm to residents from flooding, Officers do not consider that a temporary planning permission would be appropriate in this case.
- 4.11 Accordingly, Officers are satisfied that the enforcement action proposed in this report is proportionate and appropriate in all the circumstances of the case. The human rights of the owners/occupiers of the plots under Article 8 of the European Convention on Human Rights have been considered. However, it should of course be noted that Article 8(2) allows interference by a public authority where the interference accords with the law and is necessary in a democratic society for the wider public interest and for the protection of health

5.0 Conclusion

- 5.1 It is therefore recommended that Members concur with the decision to issue Temporary Stop Notices on the site and further, that they authorise the service of additional Stop Notices and Enforcement Notices as set out within this report.

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- a) E/12/0154/A - Stationing of a mobile home and the installation of a sewerage tank at Plots 32 – 35 Esbies Estate, off Station Road, Sawbridgeworth, CM21 9JE and,
b) E/12/0155/A - The raising of land levels by the laying of hardcore, rubble and other materials on the site at Plots 26-28 Esbies Estate, off Station Road, Sawbridgeworth, CM21 9JE
-

Ward: SAWBRIDGEWORTH

Parish: SAWBRIDGEWORTH

RECOMMENDATION

- a) That Members note the service of Temporary Stop Notices; in relation to the unauthorised works at the above plots; agree with that action, and authorise any such further steps as may be required to secure compliance with those Notices and require the cessation of any further unauthorised development on these two plots.
- b) That, in addition, the Director of Neighbourhood Services, in consultation with the Director of Internal services, be authorised to issue Stop Notices (having the requirements set out in the boxes in paragraphs 2.3 and 2.8 of this report) and Enforcement Notices requiring the following:-

Plots 26-28

The removal of any hard surfacing material, including hardcore, rubble, and other similar materials from the site and the return of the land to its previous levels.

Plots 32-35

The cessation of the use of the site for the stationing of a residential mobile home; the removal of the mobile home and the removal of any ancillary development associated with it, such as brick skirting or plinth and the underground sewerage system/tank.

and any further steps as may be required to secure the cessation of any further unauthorised development on the sites and the removal of the existing unauthorised uses and development.

Period of compliance

The Temporary Stop Notices took effect immediately; the Stop Notices will come into effect 3 days after service and require immediate compliance; and the Enforcement Notices have a compliance period of 1 month from the date of service.

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Reasons why it is expedient to issue and serve Stop and Enforcement Notices:

Plots 26-28:

1. The site lies within the Metropolitan Green Belt and the unauthorised works represent inappropriate development that is detrimental to the visual amenity and character of the site and the surrounding area. Furthermore, the development would prejudice the satisfactory resolution of the condition of the land and wider area as part of the current enforcement proceedings relating to the estate as a whole. No very special circumstances are apparent in this case that would clearly outweigh the harm caused to the Green Belt and the development is thereby contrary to policy GBC1 of the East Herts Local Plan April 2007 and national guidance given in the National Planning Policy Framework.
2. The site lies within Flood Zone 3b and the development exacerbates the risk of flooding in the area and is thereby contrary to saved policy ENV19 of the East Herts Local Plan Second Review April 2007 and the advice given in the National Planning Policy Framework and associated Technical guidance.

Plots 32-35

1. The site lies within the Metropolitan Green Belt and the use of the land for the stationing of a caravan for residential use represents inappropriate development that is detrimental to the openness, visual amenity and character of the site and the surrounding area. Furthermore, the unauthorised use would prejudice the satisfactory resolution of the condition of the land and wider area as part of the current enforcement proceedings relating to the estate as a whole. No very special circumstances are apparent in this case that would clearly outweigh the harm caused to the Green Belt and the development is contrary to policies GBC1 and HSG10 of the East Herts Local Plan April 2007 and national guidance given in the National Planning Policy Framework.
2. The site lies within Flood Zones 2 and 3a and as such the use of the site for residential purposes is unacceptable from a flood risk perspective and is contrary to saved policy ENV19 of the East Herts Local Plan Second Review April 2007 and the advice given in the National Planning Policy Framework and associated Technical guidance.

(0154/512A.GD)

1.0 Background

- 1.1 The Esbies Estate is identified on the attached Ordnance Survey extract. Some Members will be aware that it has a long and complex planning history, having been used for leisure purposes (weekend/seasonal holiday chalets and caravans) for very many years, with some development having first taken place prior to 1948.
- 1.2 The estate is located within an area of low lying land alongside the River Stort which, together with the river itself, forms a narrow belt of land that separates the town of Sawbridgeworth from the smaller settlement of Lower Sheering. To the east of the estate, on the opposite side of the river, is an industrial and commercial development, some of which is accommodated within former malting buildings. There is also a residential development of flats to the south of those commercial buildings.
- 1.3 To the west of the estate is a residential area comprising a mix of modern semi-detached and terraced dwellings on rising land. To the south there is a further belt of open land.
- 1.4 The estate comprises a central track with plots on either side. The plots vary considerably in size, character and appearance, with some occupied by caravans/mobile homes and some remaining relatively undeveloped. Historically the site was green in character and benefited from a considerable amount of soft landscaping. It was generally used as leisure plots with small chalet buildings occupied during March to September each year. However, in recent years, a significant amount of unauthorised development has occurred, which has eroded the open, landscaped character of the estate. Much hard standing has been laid and many of the plots are now occupied all year round with varying numbers of mobile homes, caravans and sheds.
- 1.5 Although the site was originally divided up into around 46 Plots, these have amalgamated over time to form approximately 19 sites currently, although the precise number and size of plots is subject to change on a frequent basis.
- 1.6 The whole of this site is located within the Metropolitan Green Belt, and within a wedge of land, particularly vulnerable to the impact of development, adjacent to the River Stort. Policy GBC1 of the East Herts Local Plan Second Review April 2007 is therefore relevant in this case.
- 1.7 Some Members will be aware that Enforcement Notices were issued and served on various plots within the estate in July 2010 and these are the subject of current appeals to the Planning Inspectorate and a rather long-

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running public inquiry. The unauthorised works on the estate involve the stationing of numerous mobile homes; the erection of outbuildings; the creation of large areas of hard surfacing; and various changes of use of the land, including permanent residential occupation (contrary to previous conditions relating to seasonal use only) and the parking/storage of commercial vehicles and mobile homes. Some plots are simply overgrown and untidy in appearance.

- 1.8 Members should also be aware that, on several of the plots, the occupiers are claiming Gypsy status and have cited the need for Gypsy and Traveller accommodation in the District as a reason to allow the current unauthorised developments to remain on site. The Council has challenged that Gypsy status however during the recent inquiry proceedings and of course no decision has yet been reached on these matters as the inquiry has yet to finish.
- 1.9 The particular planning history for the plots which are the subject of this report is set out in section 2.0 of this report.
- 1.10 On Thursday 24th May 2012 concerns were raised with the Planning Enforcement team that, despite the on-going enforcement proceedings across the estate, further works were being undertaken on the above plots. During a visit to the site, it was evident that on plots 26-28 hardcore, rubble and other materials were being laid and that the level of the land on this part of the site had been raised as a result. It was also evident that those works were continuing on site. Photographs of this site will be available at the meeting.
- 1.11 A mobile home had been sited on Plots 32-35 and a sewage system installed to include a large tank sunk into the ground. Photographs of this site will be available at the meeting.
- 1.12 In view of the nature of the unauthorised developments taking place; the fact that the site owners/occupiers were all aware of the current enforcement proceedings and the flagrant nature of the breaches, it was considered necessary and expedient to issue Temporary Stop Notices on both plots. This action was carried out with the agreement of the Chairman of the committee and the Council's Legal Manager.
- 1.13 The Notices were issued and served on the same day, the 24th May 2012 and required the following:-

Plots 26-28

To cease any operational development on the land including:-

- the raising of land levels on the site

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- the storage, laying or compacting or regrading of any hardcore, rubble, scalplings, planings or other similar material on the site
- any works to hard surface the site

Plots 32-35

- a) To cease any operational development on the land including:-
 - any further works to facilitate the installation of the mobile home on the site, including the construction of any brick or other form of plinth/skirt around the unit.
 - Any further works to the recently sited sewerage tank and any other works to provide any new tanks or other drainage works, and
- b) To cease the use of the land for the stationing of a mobile home, and
- c) To prevent the bringing onto the site of any further mobile homes or caravans

1.14 It should be noted that the Temporary Stop Notices are valid for 28 days - until the 20th June 2012, when it will be necessary to either take no further action or to serve an Enforcement Notice requiring the removal of the unauthorised developments, together with a Stop Notice requiring no further works on the plots.

1.15 It may be necessary for the Stop and Enforcement Notices referred to in this report to be served prior to the committee meeting (in order to ensure that there is no 'gap' between the effect of the Temporary Stop Notices' and the Stop and Enforcement Notices in which further unauthorised works could be carried out). In those circumstances the agreement of the Chairman will again be sought to issue the new Notices prior to the meeting in consultation with the Legal Manager and Members will then be asked to approve that action retrospectively.

2.0 Planning history and proposed action on each plot

Plots 26, 27 and 28.

2.1 An application in 1963, under reference 3/245-63, for the siting of a caravan on plot 28 was granted permission, subject to a condition limiting the use from April to the end of September only. An application for a Certificate of Lawfulness, under reference 3/03/0795/CL, for the use of a dwelling on the site for permanent residential purposes (again on plot 28) was refused. Two enforcement notices were served on the site in 2010 one requiring the removal of caravans (except the one approved under ref: 3/245-63), vehicles, plant and machinery etc and the other requiring the removal of hard surfacing on the site.

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- 2.2 In summary, therefore, one caravan for seasonal use is permitted on part of the plot but no permission exists for any raising of land levels or hard surfacing works.
- 2.3 During the site visit on the 24th May 2012 it was evident that there were no mobile homes on the site and the land levels had been raised with piles of hardcore and rubble laid across the plot. The Temporary Stop Notice referred to above was issued and served the same day. It should be noted that there is already an extant enforcement notice on this site in respect of hardsurfacing and it would be possible for the Council to issue legal proceedings or take direct action in that respect. However, in view of the significant raising of the land in this case, it is considered expedient to issue a further notice against this additional development.

Proposed action – Plots 26 to 28

Enforcement notice requiring the removal of any hard surfacing materials, including hardcore, rubble, and other similar materials from the site and the return of the land to its previous levels.

Stop Notice requiring the cessation of any operational development on the land to raise land levels by the storage, laying or compacting or regrading of any hardcore, rubble, scalplings, planings or other similar material on the site; and any works to hard surface the site.

Plots 32, 33, 34, and 35

- 2.4 Plot 34 (only) was originally occupied by a chalet bungalow (approved in 1970 for seasonal holiday purposes). A later permission (3/00/2132/FP) for the demolition of the chalet and its replacement with a caravan – again for seasonal use - was granted in 2000, but this permission was apparently never implemented and therefore expired in 2006. The chalet building remained on the site until at least April 2008.
- 2.5 A Certificate of Lawfulness, reference 3/03/0334/CL, for the use of the chalet bungalow as a single dwelling house was granted in regard to plots 32, 33, and 34.
- 2.6 However, in July 2010 two enforcement notices were served on the site (both of which are subject to the current enforcement appeal proceedings). One required the cessation of use of the site for the storage of caravans and the other the erection of lighting columns at the site. The existing hard surfacing on the site was considered to be lawful through the passage of time and no action could be taken against this.
- 2.7 In summary, therefore, no permission exists for any use of these plots for residential purposes, or for the stationing of mobile homes.

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- 2.8 During the site visit on the 24th May 2012, however, Officers noted that a mobile home had been stationed on the land and a sewerage system to include a large underground tank was being installed. The mobile home was not occupied at the time of this site visit although it was clearly being made ready for occupation. Piles of bricks were being placed around the mobile home in preparation for, what appeared to be, the construction of a brick plinth. Persons on the site advised Officers that the site was intended to be occupied for permanent residential purposes for a Gypsy/Traveller family already known to Officers (although Gypsy status is challenged by the Council) and the subject of current enforcement action elsewhere on the estate. A Temporary Stop Notice was issued and served on the same day as set out above. The mobile home remains on site at the time of writing this report although it appears to remain unoccupied.

Proposed action – Plots 32 to 35

Enforcement notice requiring the cessation of the use of the site for the stationing of a residential mobile home; the removal of the mobile home and the removal of any ancillary development associated with it, such as brick skirting or plinth and the underground sewerage system/tank.

Stop Notice requiring the cessation of any further activity to facilitate the installation of the mobile home on site, to include the construction of any brick or other form of plinth/skirt around the unit and any further works to the recently sited sewerage tank and any other works to provide any new tanks or other drainage works; the use of the site for the stationing of a mobile home; the occupation of the mobile home or the bringing onto the site of any further mobile homes or caravans.

3.0 Policy

- 3.1 The relevant 'saved' Local Plan policies in this case are:-

GBC1 – Appropriate Development in the Green Belt.

HSG10 – Accommodation for Gypsies

ENV19 – Development in Areas Liable to Flood

- 3.2 The National Planning Policy Framework (NPPF) and Planning Policy for Traveller Sites (PPTS) are also of relevance in this case.

4.0 Considerations

- 4.1 The whole of the Esbies estate lies within the Metropolitan Green Belt, and the unauthorised development is clearly contrary to Metropolitan Green Belt

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policy as expressed in policy GBC1 of the adopted Local Plan and also within the NPPF. The owners of the various plots on the estate which are subject to current enforcement proceedings have accepted that the use of the land for permanent residential purposes and the provision of hard surfacing/lighting columns, walls etc are all inappropriate development in the Green Belt.

- 4.2 In addition to the harm caused by inappropriateness, other additional harm has been identified and this relates to the impact on visual amenity in the area; the increased risk of flooding as a result of new development and the associated risk to any future occupiers of the estate.
- 4.3 Cumulatively, the unauthorised developments on the estate have resulted in significant harm to the character and appearance of the area and it is for this reason that the Council has sought to remedy the situation with the service of a range of enforcement notices in July 2010. The Council's intention, once the outcome of the current appeals process is known, is to seek a comprehensive and strategic approach to ensure compliance with all the various enforcement notices on the estate in order to achieve a significant overall improvement to its appearance.
- 4.4 In accordance with national and local planning policy, therefore, this further unauthorised development should not be permitted unless there are other material planning considerations which clearly outweigh all this harm, such as to constitute the 'very special circumstances' required to justify the inappropriate development in the Green Belt.
- 4.5 Officers are aware, from the information submitted to the current inquiry and from conversations with the owner/interested party on the site, that the plots the subject of this report are intended to be occupied by persons claiming Gypsy status. It is understood therefore that the same 'need' argument (for Gypsy and Traveller sites regionally, nationally and locally) together with their own personal circumstances will be put forward as 'very special circumstances', in support of this inappropriate development.
- 4.6 However, as with the other cases already before the inquiry, the Council will a) challenge that Gypsy status and b) considers that, in any event, there is no urgent need for Gypsy and Traveller accommodation in the District. Furthermore, the development does not accord with policies of the Development Plan, including the criteria based policy of the Local Plan (HSG10).
- 4.7 The 'need' argument put forward does not therefore outweigh the harm caused to the Green Belt in this case.

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- 4.8 As regard the personal circumstances of the site owners/occupiers, these have been considered during the current appeals process and Officers have clearly set out to the appeal inspector that the Council does not consider that these are sufficient to clearly outweigh the harm caused to the Green Belt in this case. No additional information has been received by officers in relation to these two sites and the current breaches of planning control that would lead them to alter this view.
- 4.9 Based on the evidence submitted to date, Officers do not accept that there are very special circumstances in this case that would clearly outweigh the harm caused to the Green Belt, or justify planning permission being granted contrary to the provisions of the Development Plan and national planning policy guidance given in the National Planning Policy Framework (NPPF) and in *Planning Policy for traveller sites* (March 2012).
- 4.10 Officers have considered whether a temporary planning permission should be granted for the unauthorised works in this case. However, as there is considered to be no immediate need for Gypsy accommodation in the District; that significant harm is caused to the Green Belt; and that there is potential harm to residents from flooding, Officers do not consider that a temporary planning permission would be appropriate in this case.
- 4.11 Accordingly, Officers are satisfied that the enforcement action proposed in this report is proportionate and appropriate in all the circumstances of the case. The human rights of the owners/occupiers of the plots under Article 8 of the European Convention on Human Rights have been considered. However, it should of course be noted that Article 8(2) allows interference by a public authority where the interference accords with the law and is necessary in a democratic society for the wider public interest and for the protection of health

5.0 Conclusion

- 5.1 It is therefore recommended that Members concur with the decision to issue Temporary Stop Notices on the site and further, that they authorise the service of additional Stop Notices and Enforcement Notices as set out within this report.

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