



**MEETING** : DEVELOPMENT CONTROL COMMITTEE  
**VENUE** : COUNCIL CHAMBER, WALLFIELDS, HERTFORD  
**DATE** : WEDNESDAY 1 FEBRUARY 2012  
**TIME** : 7.00 PM

**PLEASE NOTE TIME AND VENUE**

**MEMBERS OF THE COMMITTEE**

Councillor W Ashley (Chairman).

Councillors M Alexander, S Bull, A Burlton, Mrs R Cheswright, J Demonti, G Jones, G Lawrence, M Newman, S Rutland-Barsby (Vice-Chairman), J Taylor and B Wrangles.

**Substitutes**

Conservative Group: Councillors D Andrews, E Bedford and T Page.

Liberal Democrat Group:

Independent Group: Councillor E Buckmaster.

*(Note: Substitution arrangements must be notified by the absent Member to Democratic Services 24 hours before the meeting).*

**CONTACT OFFICER: PETER MANNINGS**  
**01279 502174**

## PERSONAL AND PREJUDICIAL INTERESTS

1. A Member with a personal interest in any business of the Council who attends a meeting of the Authority at which the business is considered must, with certain specified exemptions (see section 5 below), disclose to that meeting the existence and nature of that interest prior to the commencement of it being considered or when the interest becomes apparent.
2. Members should decide whether or not they have a personal interest in any matter under discussion at a meeting. If a Member decides they have a personal interest then they must also consider whether that personal interest is also prejudicial.
3. A personal interest is either an interest, as prescribed, that you must register under relevant regulations or it is an interest that is not registrable but where the well-being or financial position of you, members of your family, or people with whom you have a close association, is likely to be affected by the business of the Council more than it would affect the majority of inhabitants of the ward(s) affected by the decision.
4. Members with personal interests, having declared the nature of that personal interest, can remain in the meeting, speak and vote on the matter unless the personal interest is also a prejudicial interest.
5. An exemption to declaring a personal interest applies when the interest arises solely from a Member's membership of or position of general control or management on:
  - any other body to which they have been appointed or nominated by the authority
  - any other body exercising functions of a public nature (e.g. another local authority)

In these exceptional cases, provided a Member does not have a prejudicial interest, they only need to declare their interest if they speak. If a Member does not want to speak to the meeting, they may still vote on the matter without making a declaration.

6. A personal interest will also be a prejudicial interest in a matter if all of the following conditions are met:
  - the matter does not fall within one of the exempt categories of decisions
  - the matter affects your financial interests or relates to a licensing or regulatory matter
  - a member of the public, who knows the relevant facts, would reasonably think your personal interest is so significant that it is likely to prejudice your judgement of the public interest.
  
7. Exempt categories of decisions are:
  - setting council tax
  - any ceremonial honour given to Members
  - an allowance, payment or indemnity for Members
  - statutory sick pay
  - school meals or school transport and travelling expenses: if you are a parent or guardian of a child in full-time education or you are a parent governor, unless it relates particularly to the school your child attends
  - housing; if you hold a tenancy or lease with the Council, as long as the matter does not relate to your particular tenancy or lease.
  
8. If you have a prejudicial interest in a matter being discussed at a meeting, you must declare that interest and its nature as soon as the interest becomes apparent to you.
  
9. If you have declared a personal and prejudicial interest, you must leave the room, unless members of the public are allowed to make representations, give evidence or answer questions about the matter, by statutory right or otherwise. If that is the case, you can also attend the meeting for that purpose. However, you must immediately leave the room once you have finished or when the meeting decides that you have finished (if that is earlier). You cannot remain in the public gallery to observe proceedings.

## AGENDA

### 1. Apologies

To receive apologies for absence.

### 2. Chairman's Announcements

### 3. Declarations of Interest

### 4. Minutes (Pages 7 - 24).

To confirm the Minutes of the meeting of the Committee held on Wednesday 4 January 2012.

### 5. Planning Applications and Unauthorised Development for Consideration by the Committee (Pages 25 - 28).

(A) 3/11/2041/FO - Variation of condition 29 of planning reference 3/07/2531/FP to agree a proposed minor material change to the buildings approved - variation to plots 8, 13, 14, 15, 16, 17 and 18 at Seven Acres, 49 Upper Green Road and 54 and 56 Upper Green Road, Tewin for Taylor Wimpey North London\_(Pages 29 - 38).

Recommended for Approval.

(B) 3/11/2032/SV - Modification of S106 agreement to planning permission 3/07/1569/OP in respect of clauses 3.4.4.1 and 3.4.4.2 within Schedule 3 - Affordable Housing at Land at Leventhorpe School for Leach Homes\_(Pages 39 - 46).

Variation of a S106 Legal Agreement – Recommended for Approval.

(C) 3/11/1559/FP - Erection of replacement dwelling as amendment to previous planning approval Ref: 3/07/1789/FP at The Manor House, Aspenden Road, Westmill, Buntingford, Herts , SG9 9LA for Mr and Mrs D Catherall\_(Pages 47 - 56).

Recommended for Approval.

- (D) 3/11/2031/SV - Modification to Annexe B, Schedule 3 of the S106 agreement relating to LPA reference 3/08/0840/FP - to amend the tenure mix of Affordable Housing to 50% rental units and 50% intermediate housing, at Land off Tylers Close, Buntingford for Leach Homes\_(Pages 57 - 62).

Variation of a S106 Legal Agreement – Recommended for Refusal.

- (E) 3/11/2046/SV - Modification of S106 agreement to planning permission 3/08/0840/FP in respect of clauses 3.1 and 3.2 within Schedule 3 - Affordable Housing at Land off Tylers Close, Buntingford for Leach Homes\_(Pages 63 - 70).

Variation of a S106 Legal Agreement – Recommended for Approval.

- (F) 3/11/1387/FP - Extensions to brick built 1960's building and erection of new dwelling to the rear with associated access and landscaping at Great Hormead Village Hall, Great Hormead, Buntingford, SG9 0NR for Hormead Village Hall Management Committee\_(Pages 71 - 116).

Recommended for Approval.

- (G) 3/11/1635/FP - Change of Use from garage units to furniture recycling scheme at Hoe Lane Garages, Hoe Lane, Ware, SG12 9LS for Riversmead Housing Association\_(Pages 117 - 126).

Recommended for Approval.

- (H) 3/11/1511/FP - Change of use of land to a private Gypsy and Traveller caravan site comprising 3 no. mobile homes, 2 no. touring caravans, associated hardstanding and installation of septic tank (part retrospective) at Land north of The Old Coach Road, Birch Green, Hertford SG14 2LP for Messrs Thomas and Miley Cash (Pages 127 - 144).

Recommended for Refusal.

- (I) 3/11/2019/FP - Two storey side extension at Wheatfields, Kettle Green Road, Much Hadham, SG10 6AF for Mr C Sullivan\_(Pages 145 - 152).

Recommended for Approval.

- (J) 3/11/2057/FP - Detached open cart lodge at Elm Side, Horseshoe Lane, Great Hornead, SG9 0NQ for Mr White\_(Pages 153 - 160).

Recommended for Approval.

6. Items for Reporting and Noting (Pages 161 - 172).

(A) Appeals against refusal of Planning Permission/ non-determination.

(B) Planning Appeals Lodged.

(C) Planning Appeals: Inquiry and Informal Hearing Dates.

(D) Planning Statistics (To Follow).

7. Urgent Business

To consider such other business as, in the opinion of the Chairman of the meeting, is of sufficient urgency to warrant consideration and is not likely to involve the disclosure of exempt information.

MINUTES OF A MEETING OF THE  
DEVELOPMENT CONTROL COMMITTEE  
HELD IN THE COUNCIL CHAMBER,  
WALLFIELDS, HERTFORD ON  
WEDNESDAY 4 JANUARY 2012, AT 7.00  
PM

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PRESENT: Councillor W Ashley (Chairman).  
Councillors M Alexander, S Bull, A Burlton,  
Mrs R Cheswright, J Demonti, G Jones,  
G Lawrence, M Newman, S Rutland-Barsby  
and J Taylor.

ALSO PRESENT:

Councillors D Andrews, P Moore, P Ruffles  
and G Williamson.

OFFICERS IN ATTENDANCE:

Glyn Day	- Principal Planning Enforcement Officer
Simon Drinkwater	- Director of Neighbourhood Services
Peter Mannings	- Democratic Services Assistant
Kevin Steptoe	- Head of Planning and Building Control
Alison Young	- Development Control Manager

517 APOLOGY

An apology for absence was submitted on behalf of  
Councillor B Wrangles.

518 CHAIRMAN'S ANNOUNCEMENTS

The Chairman welcomed the press and public to the meeting and those who were watching the live webcast.

The Chairman thanked the Head of Planning and Building Control for a very useful training session on Parking Standards and Section 106 agreements.

519 DECLARATIONS OF INTEREST

Councillor S Rutland-Barsby declared a personal interest in application 3/11/1713/FP, in that she had been a customer of Holts, Marsh Lane, Stanstead Abbots.

520 MINUTES

RESOLVED – that the Minutes of the meeting held on 7 December 2011 be confirmed as a correct record and signed by the Chairman.

521 3/11/1801/FP – ERECTION OF 2 NO. 4 BEDROOM HOUSES AND 1 NO. 2 BEDROOM AFFORDABLE HOME TOGETHER WITH ACCESS AND PARKING AT LAND ADJACENT TO HOME FARM, CHAPEL LANE, LITTLE HADHAM, SG11 2AB FOR CROFT GROUP LTD

Mr Mark Goddard addressed the Committee in opposition to the application. Mr Harvey Fairbrass spoke for the application.

The Director of Neighbourhood Services recommended that, in respect of application 3/11/1801/FP, planning permission be refused for the reasons now detailed.

Councillors S Bull and J Demonti both expressed support for this application on the basis of the affordable housing provision and the potential benefits for young people.

Councillor M Newman referred to comments from a resident in reference to an enforcement notice from 2007,



which seemed to imply that the adjoining land was outside the village and within the rural area beyond the Green Belt.

The Director stressed that this enforcement action had related to a piece of land that Officers felt was outside the village boundary. Members had supported that view when approving enforcement action at that time. The Committee now had to take a view on whether this application site was within the boundary of the village.

Councillor Mrs R Cheswright commented that the proposed development would result in a detrimental impact on neighbouring residential properties in terms of overlooking. She sympathised with the views of the objectors in that the proposed mix of housing types was not what was required by the village.

The Director referred to the comments of the Council's engineer in relation to flooding in that the site was located in flood zone 1, which was the area that was least likely to flood. There had been some concerns in relation to the possible introduction of hard standing around the site.

Members were reminded that there were no defined boundaries in relation to the village so the Committee must take a view on whether the site was within the village boundary. The Director advised that, due to the break in development between the former agricultural buildings and nearby development, the site was not within the village boundary. The Committee was reminded that Members could make a judgement on this issue. Officers remained of the view that an acceptable relationship could be achieved between the site and nearby residential dwellings.

Councillor J Taylor proposed and Councillor M Alexander seconded, a motion that the Committee accept the Officer's recommendation as detailed in the report now submitted.

After being put to the meeting and a vote taken, this motion was declared CARRIED.

The Committee supported the recommendation of the Director of Neighbourhood Services as now submitted.

RESOLVED – that in respect of application 3/11/1801/FP, planning permission be refused for the reasons detailed in the report now submitted.

522 3/11/1765/OP – ERECTION OF 2NO 3 BED DWELLINGS AT BIRCH FARM KENNELS, WHITE STUBBS LANE, EN10 7QA FOR MR. M. FERRARO

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Mr David Williams addressed the application in support of the application.

The Director of Neighbourhood Services recommended that, in respect of application 3/11/1765/OP, planning permission be refused for the reasons now detailed.

Councillor S Bull stated that this application should be approved as granting this scheme would ensure the area would be cleaned up as the site was currently in a poor state. He commented that there were special circumstances for approving this application.

Councillor J Taylor commented that a precedent had already been set when 4 larger houses had been approved on an adjacent site. She stated that the proposed modest houses would be very useful and she felt she was able to go against her principles of building in the green belt and support this application.

Councillor M Newman commented that the previous site, that was the subject of an application last year, did already have tightly packed derelict buildings before the site was developed. He stated that this site was predominantly open and had only one or two buildings in need of demolition. He stressed that this site was very much green, where as the previous site referred to by

Councillor Taylor had been a Brownfield site.

In response to a query from Councillor S Rutland-Barsby, the Director reminded Members that this was an outline application and the only matters for consideration were access and layout. Issues such as the scale and appearance were reserved matters but Members could attach conditions to limit the size of the proposed dwellings, in accordance with the design and access statement.

The Director advised that Officers were of the view that there were fewer buildings on the site than had been mentioned by the applicant in the design and access statement submitted as part of the application.

In response to a comment from Councillor Taylor, the Director stressed that the Councillor was quite correct in that the tidying up of the site was not a pre-requisite for approving an application in a green belt location. The Director reminded Members of the need for very special circumstances as reasons why this application should be approved in a clear green belt location.

Members were also reminded that each application must be considered on its merits and the issue of a precedent was not a special circumstance that could be applied. The Director stated that a cluster of developments could occur in this location and urged caution in that the Council's green belt policy would be in a precarious position if this application was approved.

Councillor S Bull proposed and Councillor J Taylor seconded, a motion that application 3/11/1765/OP be approved on the grounds that the impact on the openness of the site would be broadly neutral in comparison to the existing extent of built form, if not redeveloped, the condition of the site would continue to deteriorate, the development would not contribute to the merging of neighbouring settlements, the site constituted previously developed land and was therefore suitable for

redevelopment and that the removal of the existing commercial use would result in a reduction in traffic along White Stubbs Lane.

After being put to the meeting and a vote taken, this motion was declared LOST.

After being put to the meeting and a vote taken, the Committee supported the recommendation of the Director of Neighbourhood Services as now submitted.

RESOLVED – that in respect of application 3/11/1765/OP, planning permission be refused for the reasons detailed in the report now submitted.

523 3/11/1713/FP – RAISE ROOF OF OUTBUILDING TO ACCOMMODATE NEW INCINERATOR INSTALLATION AT HOLTS, MARSH LANE, STANSTEAD ABBOTTS, WARE, HERTFORDSHIRE, SG12 8HL FOR MR D HOLT

The Director of Neighbourhood Services recommended that, in respect of application 3/11/1713/FP, planning permission be granted subject to the conditions detailed in the report now submitted.

Councillor G Williamson, as the local ward Member, addressed the Committee in support of the application. He stated that the application was for a modest development that offended no one and would help a long established business to develop in Stanstead Abbots.

Councillor Williamson stated that the Parish Council supported the application and he urged the Committee to support the Officer's recommendation.

The Committee supported the recommendation of the Director of Neighbourhood Services as now submitted.

RESOLVED – that in respect of application 3/11/1713/FP, planning permission be granted subject to the conditions detailed in the report now

submitted.

- 524 3/11/1636/FP – CHANGE OF USE FROM STAFF ROOM AND REST ROOM TO TWO FLATS FOR SHORT-STAY OCCUPATION BY GUESTS AT PARADISE WILDLIFE PARK, WHITE STUBBS LANE, BAYFORD, BROXBOURNE, HERTS, EN10 7QA FOR MR PETER SAMPSON

The Director of Neighbourhood Services recommended that, in respect of application 3/11/1636/FP, planning permission be granted subject to the conditions detailed in the report now submitted.

After being put to the meeting and a vote taken, the Committee supported the recommendation of the Director of Neighbourhood Services as now submitted.

RESOLVED – that in respect of application 3/11/1636/FP, planning permission be granted subject to the conditions detailed in the report now submitted.

- 525 3/11/1943/FP – DEMOLITION OF EXISTING STAGE AND OUTDOOR AUDITORIUM AND ERECTION OF NEW STAGE, CHANGING AREAS AND PUBLIC SEATING AREAS AT PARADISE WILDLIFE PARK, WHITE STUBBS LANE, BAYFORD, BROXBOURNE, HERTS, EN10 7QA FOR MR PETER SAMPSON

The Director of Neighbourhood Services recommended that, in respect of application 3/11/1943/FP, planning permission be granted subject to the conditions detailed in the report now submitted.

After being put to the meeting and a vote taken, the Committee supported the recommendation of the Director of Neighbourhood Services as now submitted.

RESOLVED – that in respect of application 3/11/1943/FP, planning permission be granted subject to the conditions detailed in the report now

submitted.

526 3/11/1918/FP – RETENTION OF SINGLE-STOREY BUILDINGS OVER SAND PIT, PLAY AREA AND RIDE AREA AT PARADISE WILDLIFE PARK, WHITE STUBBS LANE, BAYFORD, BROXBOURNE, HERTS, EN10 7QA FOR MR PETER SAMPSON

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The Director of Neighbourhood Services recommended that, in respect of application 3/11/1918/FP, planning permission be granted subject to the conditions detailed in the report now submitted.

After being put to the meeting and a vote taken, the Committee supported the recommendation of the Director of Neighbourhood Services as now submitted.

RESOLVED – that in respect of application 3/11/1918/FP, planning permission be granted subject to the conditions detailed in the report now submitted.

527 3/11/1786/FP – CONSTRUCTION OF A PRE-FABRICATED GREEN KIOSK TO HOUSE WATER TREATMENT PLANT AND UPGRADING OF AN EXISTING GREEN KIOSK BUILDING TO ENSURE THE SECURITY OF THE BOREHOLE HOUSED WITHIN AT HARE STREET PUMPING STATION, WORSTEAD ROAD, HARE STREET, SG9 0EE FOR VEOLIA WATER CENTRAL LTD

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Mr Andrew Jeskins addressed the Committee in support of the application.

The Director of Neighbourhood Services recommended that, in respect of application 3/11/1786/FP, planning permission be granted subject to the conditions detailed in the report now submitted.

Councillor S Bull stated that Hormead Parish Council had commented that the pumping station was in a very attractive part of the parish and had requested that

fencing sympathetic to the surrounding rural environment be provided to minimise its impact. He queried whether this request could be applied to this application.

The Director confirmed the presence of existing chain link fencing on the site. Members were advised that Officers considered that the existing chain link security fencing was an appropriate and acceptable use in the rural area.

In response to a further query from Councillor Bull, the Director stressed that the Parish Council had not stated what type of fencing would be preferred. Members were advised that Officers felt it was inappropriate to attach any conditions to the recommendation in relation to the style of fencing on the site.

After being put to the meeting and a vote taken, the Committee supported the recommendation of the Director of Neighbourhood Services as now submitted.

RESOLVED – that in respect of application 3/11/1786/FP, planning permission be granted subject to the conditions detailed in the report now submitted.

528 3/11/1621/FP – REPLACEMENT AGRICULTURAL DWELLING AT WYDBURY FARM, WYDDIAL ROAD, WYDDIAL, SG9 0DQ FOR MR NOY

Mr Bill Bampton addressed the Committee in support of the application.

The Director of Neighbourhood Services recommended that, in respect of application 3/11/1621/FP, planning permission be granted subject to the conditions detailed in the report now submitted.

After being put to the meeting and a vote taken, the Committee supported the recommendation of the Director of Neighbourhood Services as now submitted.

RESOLVED – that in respect of application 3/11/1621/FP, planning permission be granted subject to the conditions detailed in the report now submitted.

529 3/11/1793/FP – CHANGE OF USE FROM B1 (LIGHT INDUSTRIAL) TO MIXED USE B1/A1 (LIGHT INDUSTRIAL/RETAIL) AT UNIT 9B, GREAT NORTHERN WORKS, HARTHAM LANE, HERTFORD, SG14 1BW FOR MR S DANN

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The Director of Neighbourhood Services recommended that, in respect of application 3/11/1793/FP, planning permission be granted subject to the conditions detailed in the report now submitted.

Councillor M Alexander was supportive of the application as a building was being brought back into use, employment would be created and green travel would be promoted as the application encouraged the use of bicycles.

Councillor S Rutland-Barsby sought and was given clarification that the smaller area outlined in the plan was for the 3 parking spaces allocated to Unit 9B, Great Northern Works, Hartham Lane, Hertford.

The Committee supported the recommendation of the Director of Neighbourhood Services as now submitted.

RESOLVED – that in respect of application 3/11/1793/FP, planning permission be granted subject to the conditions detailed in the report now submitted.

530 3/11/1900/FP – ERECTION OF NEW SELF CONTAINED GARDEN ROOM AND EXTENSION TO UTILITY ROOM OF MAIN DWELLING AT 49 MAZE GREEN ROAD, BISHOP'S STORTFORD, CM23 2PG FOR MR S COOK

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The Director of Neighbourhood Services recommended



that, in respect of application 3/11/1900/FP, planning permission be granted subject to the conditions detailed in the report now submitted.

The Committee supported the recommendation of the Director of Neighbourhood Services as now submitted.

RESOLVED – that in respect of application 3/11/1900/FP, planning permission be granted subject to the conditions detailed in the report now submitted.

531 3/11/1929/FP – TWO STOREY SIDE EXTENSION, FRONT PORCH AND REAR CONSERVATORY AT 1 GROVE COTTAGES, GINNS ROAD, STOCKING PELHAM, SG9 0JA FOR MISS CORNELIUS

The Director of Neighbourhood Services recommended that, in respect of application 3/11/1929/FP, planning permission be granted subject to the conditions detailed in the report now submitted.

After being put to the meeting and a vote taken, the Committee supported the recommendation of the Director of Neighbourhood Services as now submitted.

RESOLVED – that in respect of application 3/11/1929/FP, planning permission be granted subject to the conditions detailed in the report now submitted.

532 3/11/1759/FP – ERECTION OF SINGLE STOREY AND TWO STOREY EXTENSIONS AT 254, HERTINGFORDBURY ROAD, HERTFORD, HERTFORDSHIRE, SG14 2LG FOR DIARMID MACKENZIE

Mr Andrew Gibbon addressed the Committee in support of the application.

The Director of Neighbourhood Services recommended that, in respect of application 3/11/1759/FP, planning

permission be granted subject to the conditions detailed in the report now submitted.

The Director advised that condition 3 of his recommendation did not require the house to be rendered. Officers had considered such a condition but had been of the view that this was not reasonable or necessary. Members were advised that condition 3 stipulated that details of the external materials of construction of the proposed extensions and external treatment should be submitted to and approved in writing by the local planning authority.

Councillor Mrs R Cheswright described the proposed development as mildly exciting, new and innovative and she was in favour of the application being approved. Members agreed that condition 3 be amended so that the applicant was not obliged to provide details of the external treatment of the existing house.

After being put to the meeting and a vote taken, the Committee supported the recommendation of the Director of Neighbourhood Services as now detailed.

RESOLVED – that in respect of application 3/11/1759/FP, planning permission be granted subject to the following conditions:

1. Time limit (1T121)
2. Approved plans (2E102; 002/B, 011/A, 013/A, 014/B, 015/A, 016/A, 017/B, 018/B, 019/B, 020/B, 022, 101, 102, 254HR\_S(A), 254HR\_GA, 254HR\_EA and 254HR\_1)
3. Notwithstanding the details shown on the approved plans, no development shall commence on site until details of the external materials of construction of the extensions hereby permitted, have been submitted to and approved in writing by the local planning

authority. The development shall be carried out in accordance with those approved details.

Reason: To achieve a consistent appearance between the original house and proposed extensions appropriate to the character of the Hertingfordbury conservation area and in keeping with policies BH5 and BH6 of the East Herts Local Plan Second Review April 2007 and national Planning Policy Statement 5 – Planning for the Historic Environment

4. Tree retention and protection (4P053)
5. Hedge retention and protection (4P063)

Directive:

1. Other legislation (01OL1)

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 policies ENV1, ENV2, ENV5, ENV6, ENV11, GBC1, BH5, BH6 and Planning Policy Guidance 2 – Green Belts and Planning Policy Statement 5 – Planning for the Historic Environment. The balance of the considerations having regard to those policies is that permission should be granted.

533      3/11/1828/FP – SINGLE STOREY REAR EXTENSION AT CLAPGATE COTTAGE, CLAPGATE, ALBURY, SG11 2JN FOR MR G RUSSELL

The Director of Neighbourhood Services recommended

that, in respect of application 3/11/1828/FP, planning permission be granted subject to the conditions detailed in the report now submitted.

After being put to the meeting and a vote taken, the Committee supported the recommendation of the Director of Neighbourhood Services as now submitted.

RESOLVED – that in respect of application 3/11/1828/FP, planning permission be granted subject to the conditions detailed in the report now submitted.

534 3/11/1892/FP – PROPOSED TWO STOREY AND SINGLE STOREY REAR EXTENSION AT ROSE COTTAGE, ELBOW LANE, HERTFORD HEATH, HERTFORD, SG13 7PZ FOR MR AND MRS N BROOKING

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The Director of Neighbourhood Services recommended that, in respect of application 3/11/1892/FP, planning permission be granted subject to the conditions detailed in the report now submitted.

The Committee Chairman, speaking as the local ward Member, stated that he was supportive of the Officer's recommendation. He urged the Committee to approve the application.

After being put to the meeting and a vote taken, the Committee supported the recommendation of the Director of Neighbourhood Services as now submitted.

RESOLVED – that in respect of application 3/11/1892/FP, planning permission be granted subject to the conditions detailed in the report now submitted.

535 E/11/0273/B – UNAUTHORISED ATTACHMENT AND  
DISPLAY OF ADVERTISEMENTS AT PREZZO, 17-21 FORE  
STREET, HERTFORD, HERTS. SG14 1DH

The Director of Neighbourhood Services recommended that, in respect of the site relating to E/11/0273/B, enforcement action be authorised on the basis now detailed.

After being put to the meeting and a vote taken, the Committee accepted the Director's recommendation for enforcement action to be authorised in respect of the site relating to E/11/0273/B on the basis now detailed.

RESOLVED – that in respect of E/11/0273/B, the Director of Neighbourhood Services, in conjunction with the Director of Internal Services, be authorised to take enforcement action on the basis now detailed.

536 E/11/0278/B – UNAUTHORISED WORKS FOR THE  
ALTERATION OF A GRADE II LISTED BUILDING BY THE  
REMOVAL OF ARCHITECTURAL/HISTORICAL ROOF  
TIMBERS AND INSERTION OF A DORMER WINDOW  
WITHOUT LISTED BUILDING CONSENT OR PLANNING  
PERMISSION AT 31 FORE STREET, HERTFORD, SG14  
1DJ

The Director of Neighbourhood Services recommended that, in respect of the site relating to E/11/0278/B, legal proceedings and enforcement action be authorised on the basis now detailed.

Councillor S Rutland-Barsby stated that the Committee should support the Director's recommendations as there had been a flagrant disregard for the required listed building consent.

After being put to the meeting and a vote taken, the Committee accepted the Director's recommendations for

legal proceedings and enforcement action to be authorised in respect of the site relating to E/11/0278/B on the basis now detailed.

RESOLVED – that in respect of E/11/0278/B, the Director of Neighbourhood Services, in conjunction with the Director of Internal Services, be authorised to commence legal proceedings and take enforcement action on the basis now detailed.

537 E/10/0353/A – THE UNAUTHORISED INSTALLATION OF EXTRACTION/HEAT RECYCLING PLANT/MACHINERY IN ASSOCIATION WITH LAUNDRY EQUIPMENT AND AIR CONDITIONING EQUIPMENT AT SUDS LAUNDERETTE AT 12 LONDON ROAD, BISHOP'S STORTFORD, CM23 5ND

The Director of Neighbourhood Services recommended that, in respect of the site relating to E/10/0353/A, enforcement action be authorised on the basis now detailed.

After being put to the meeting and a vote taken, the Committee accepted the Director's recommendation for enforcement action to be authorised in respect of the site relating to E/10/0353/A on the basis now detailed.

RESOLVED – that in respect of E/10/0353/A, the Director of Neighbourhood Services, in conjunction with the Director of Internal Services, be authorised to take enforcement action on the basis now detailed.

538 ITEMS FOR REPORTING AND NOTING

RESOLVED – that the following reports be noted:

(A) Appeals against refusal of planning permission / non determination;

(B) Planning Appeals lodged;

(C) Planning Appeals: Inquiry and Informal Hearing dates; and

(D) Planning Statistics.

The meeting closed at 8.05 pm

Chairman .....

Date .....

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## EAST HERTS COUNCIL

### DEVELOPMENT CONTROL COMMITTEE – 1 FEBRUARY 2012

#### REPORT BY DIRECTOR OF NEIGHBOURHOOD SERVICES

#### 5. PLANNING APPLICATIONS AND UNAUTHORISED DEVELOPMENT FOR CONSIDERATION BY THE COMMITTEE

WARD(S) AFFECTED: As identified separately for each application and unauthorised development matter.

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#### **Purpose/Summary of Report**

- To enable planning and related applications and unauthorised development matters to be considered and determined by the Committee, as appropriate, or as set out for each agenda item.

<b><u>RECOMMENDATION FOR DECISION:</u></b>	
<b>(A)</b>	<b>A recommendation is set out separately for each application and unauthorised development matter.</b>

#### 1.0 Display of Plans

1.1 Plans for consideration at this meeting will be displayed outside the Council Chamber from 5.00 pm on the day of the meeting. An Officer will be present from 6.30 pm to advise on plans if required. A selection of plans will be displayed electronically at the meeting. Members are reminded that those displayed do not constitute the full range of plans submitted for each matter and they should ensure they inspect those displayed outside the room prior to the meeting.

#### 2.0 Implications/Consultations

2.1 Information on any corporate issues and consultation associated with this report can be found within Essential Reference Paper 'A'.

#### Background Papers

The papers which comprise each application/ unauthorised development file. In addition, the East of England Plan, Hertfordshire County Council's Minerals and Waste documents, the East Hertfordshire Local

Plan and, where appropriate, the saved policies from the Hertfordshire County Structure Plan, comprise background papers where the provisions of the Development Plan are material planning issues.

Contact Officers: Kevin Steptoe – Head of Planning and Building Control, Extn: 1407.  
Alison Young – Development Control Manager, Extn: 1553.

ESSENTIAL REFERENCE PAPER 'A'  
AGENDA ITEM 5

<p>Contribution to the Council's Corporate Priorities/ Objectives</p>	<p><b>Promoting prosperity and well-being; providing access and opportunities</b> <i>Enhance the quality of life, health and wellbeing of individuals, families and communities, particularly those who are vulnerable.</i></p> <p><b>Caring about what's built and where</b> <i>Care for and improve our natural and built environment.</i></p> <p><b>Shaping now, shaping the future</b> <i>Safeguard and enhance our unique mix of rural and urban communities, ensuring sustainable, economic and social opportunities including the continuation of effective development control and other measures.</i></p> <p><b>Leading the way, working together</b> <i>Deliver responsible community leadership that engages with our partners and the public.</i></p>
<p>Consultation:</p>	<p>As set out separately in relation to each matter.</p>
<p>Legal:</p>	<p>As set out separately in relation to each matter if any are appropriate.</p>
<p>Financial:</p>	<p>As set out separately in relation to each matter if any are appropriate.</p>
<p>Human Resource:</p>	<p>As set out separately in relation to each matter if any are appropriate.</p>
<p>Risk Management:</p>	<p>As set out separately in relation to each matter if any are appropriate.</p>

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**5a 3/11/2041/FO - Variation of condition 29 of planning reference 3/07/2531/FP to agree a proposed minor material change to the buildings approved – variation to plots 8, 13, 14, 15, 16, 17 and 18 at Seven Acres, 49 Upper Green Road and 54 and 56 Upper Green Road, Tewin for Taylor Wimpey North London**

---

**Date of Receipt:** 24.11.2011

**Type:** Full - Major

**Parish:** TEWIN

**Ward:** HERTFORD – RURAL NORTH  
HERTFORD – RURAL SOUTH

### **RECOMMENDATION:**

That, subject to a deed of variation in respect of the original S106 agreement dated 3<sup>rd</sup> March 2011 to ensure that its requirements are properly related to this proposal, planning permission be **GRANTED** subject to the following conditions:

1. The development to which this permission relates shall be begun by 03-Mar-2014

**Reason:** To comply with the requirements of Section 91 of the Town and Country Planning Act 1990.

2. Programme of archaeological work (2E02)
3. Levels (2E05)
4. Boundary Walls and fences (2E07)
5. Sample of materials (2E12)
6. No further windows (2E17)
7. Withdrawal of P.D – Part 1 Class A (2E20)
8. Withdrawal of P.D - Part 1, Class B (2E23)
9. Refuse Disposal facilities (2E24)
10. Lighting Details (2E27)
11. Hard surfacing (3V21)

### 3/11/2041/FO

12. Construction parking and storage (3V22)
13. Provision and retention of parking spaces (3V23)
14. Tree retention and protection (4P05)
15. Hedge retention and protection (4P06)
16. Landscape Design Proposals (4P12)
17. Landscape works implementation (4P13)
18. Landscape maintenance (4P17)
19. Vehicular use of garage (5U10) – Insert ‘the garage at Unit 18 only’
20. Construction hours of working- plant and machinery (6N07)
21. Prior to the commencement of development further details showing proposals for adequate surface water drainage shall be submitted to and approved in writing by the local planning authority. Once agreed they shall be implemented as such and be available for use prior to the first occupation of any dwellings on the site.

Reason: To avoid the risk of surface water flooding and in accordance with Policy ENV21 of the East Herts Local Plan.

22. Prior to commencement of the development, detailed drawings of all highway works shall be submitted to and approved in writing by the Highway Authority.

Reason: To ensure that the highway is constructed to the Highway Authority’s specification.

23. Prior to the first occupation or use of the development, all access/egress works serving the development as shown in principle drawings referenced 301B and 302 B shall be constructed, completed and thereafter maintained to the satisfaction of the Local Planning Authority.

Reason: To ensure that the access is constructed in accordance with the Highway Authority’s specification in the interests of highway safety.

24. Concurrent with the construction of the accesses, visibility splays of 2.4m x 90m shall be provided and thereafter maintained in perpetuity in each direction within which there shall be no obstruction to visibility between

### 3/11/2041/FO

600mm and 2 m above the carriageway level.

Reason: To provide adequate visibility for drivers entering or leaving the site in the interests of highway safety.

25. Prior to the first occupation or use of the development hereby permitted the access roads, and parking areas as shown on the approved plans shall be provided and maintained thereafter for such use.

Reason: To ensure the development makes adequate provision for the off-street parking and maneuvering of vehicles likely to be associated with its use.

26. Prior to the first occupation or use of the development hereby permitted the new footpath adjacent to Upper Green Road shown on the approved plans shall be provided as a public right of way and maintained thereafter.

Reason: To maintain accessibility for all.

27. All existing accesses to the site not shown on the approved plans shall be permanently closed to the satisfaction of the Highway Authority.

Reason: In the interest of highway safety and to avoid inconvenience to highway users.

28. Prior to the commencement of development hereby approved details of on-site mechanical wheel cleaning facilities shall be submitted to, and approved in writing by, the local planning authority. The approved facilities shall be provided prior to the commencement of the development and shall be maintained in working order and available for use throughout the duration of works in connection with site preparation and construction. The mechanical wheel washing facilities shall be used on all vehicles leaving the site.

Reason: In order to minimise the amount of mud, soil and other materials origination from the site being deposited on the highway, and in the interests of highway safety and visual amenity.

29. The development hereby approved shall be carried out in accordance with the following approved plans:- 1, 300, 303C, 304/2, 401, 402, 404A, 405, 501201/01, 501201-A-100, 501201-A-101, 501201-A-102, 501201-A-103, 501201-A-104, 501201-A-105, 501201-A-106 and 501201-A-107.

Reason: To ensure the development is carried out in accordance with

## 3/11/2041/FO

the approved plans, drawings and specifications.

### Directives:

1. Other Legislation (010L)
2. Ownership (020W)
3. There are public sewers crossing the site, and no building works will be permitted within 3 metres of the sewers without Thames Waters approval. Should a building over diversion application form, or other information relating to Thames Water assets be required, you are advised to contact Thames Water Developer Services on 0845 850 2777.

### 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 policies SD1, SD2, HSG1, HSG3, HSG4, HSG7, TR1, TR2, TR3, TR7, TR14, TR20, ENV1, ENV2, ENV3, ENV4, ENV9, ENV11, ENV16, ENV21, LRC3 and OSV1 and PPS5. The balance of the considerations having regard to those policies and lpa 3/07/2531/FP is that permission should be granted.

Please note that under new regulation 11D of the Town and Country Planning (fees for applications and deemed applications) (amendment) (England) Regulations 2008, a fee is chargeable of £85 per request (or £25 where the related permission was for extending or altering a dwelling house) for the discharge and/or confirmation of compliance with a condition. To avoid any unnecessary cost we would recommend that you submit all the required information for discharge of conditions in one application as the fee is payable per request.

\_\_\_\_\_(204111OP.LP)

### **1.0 Background:**

- 1.1 The application site is shown on the attached OS extract. The site is generally flat but slopes up gradually northwards. The site is bounded by residential properties to the east and south boundaries and Upper Green to the north. Footpath 15 runs along the south west boundary linking the village in the south with the playing fields on Upper Green. The site contains some established trees and is partly covered by a group Tree



## **3/11/2041/FO**

Preservation Order.

### **2.0 Site History:**

- 2.1 Planning permission was granted under lpa 3/07/2531/FP for the erection of 18no. dwellings including 7no. affordable units, associated parking and cycle store facilities, the formation of new road junctions and internal roads, together with landscaping and associated works, subject to financial contributions for: £16,250 for Sustainable Transport Schemes, £6,560 for Youth and Childcare and £3,672 for Libraries. The legal agreement also secured 5 fires hydrants and the provision of 7 affordable dwellings.
- 2.2 Development on site has not commenced. This application proposes to vary the approved plans condition (Condition 29) of permission 3/07/2531/FP, and seeks to make a number of changes to plots 8, 13, 14, 15, 16 and 17.

### **3.0 Consultation Responses:**

- 3.1 No consultation responses have been received.

### **4.0 Parish Council Representations:**

- 4.1 Tewin Parish Council has made no comments.

### **5.0 Other Representations:**

- 5.1 The applications have been advertised by way of press notice, site notice and neighbour notification.
- 5.2 No letters of representation have been received.

### **6.0 Policy:**

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

SD1	Making Development More Sustainable
SD2	Settlement Hierarchy
HSG1	Assessment of Sites not Allocated in this Plan
HSG3	Affordable housing
HSG4	Affordable housing Criteria
HSG7	Replacement Dwellings and Infill Housing Development

### 3/11/2041/FO

TR1	Traffic Reduction ion New Developments
TR2	Access to New Developments
TR3	Transport Assessments
TR7	Car Parking - Standards
TR20	Development Generating Traffic on Rural Roads
ENV1	Design and Environmental Quality
ENV2	Landscaping
ENV3	Planning Out Crime – New Development
ENV4	Access for Disabled People
ENV9	Withdrawal of Domestic Permitted Development Rights
ENV11	Protection of Existing Hedgerows and Trees
ENV16	Protect Species
ENV21	Surface Water Drainage
LRC3	Recreational Requirements in New Residential Developments
OSV1	Category 1 Villages

6.2 In addition, the following National policy guidance is relevant:-

Planning Policy Statement 5: Planning for the Historic Environment.

### **7.0 Considerations:**

7.1 The principle of the development has already been accepted with the grant of application 3/07/2531/FP subject to conditions and a legal agreement. There is a need to repeat those same conditions here and to ensure that the legal agreement is amended to refer to this application. Other than that, the proposal is substantially the same as previously approved.

7.2 The application seeks to make changes to seven of the plots as follows:

- Plot 8 – Garage width reduced
- Plot 13 – Swap ground floor rear window and door. Internal alterations
- Plot 14 - Garage width reduced, rooflight to front elevation reduced in size, swap ground floor rear window and door, door and window removed from side elevation
- Plot 15 – Design type swapped with Plot 17, swap ground floor rear window and door. Internal alterations
- Plot 16 - Garage width reduced, rooflight to front elevation reduced in size, swap ground floor rear window and door, door and window removed from side elevation. Add boarding to front elevation
- Plot 17 – Design type swapped with Plot 15. Internal alterations. Door in side elevation in place of window, rear windows increased in size,

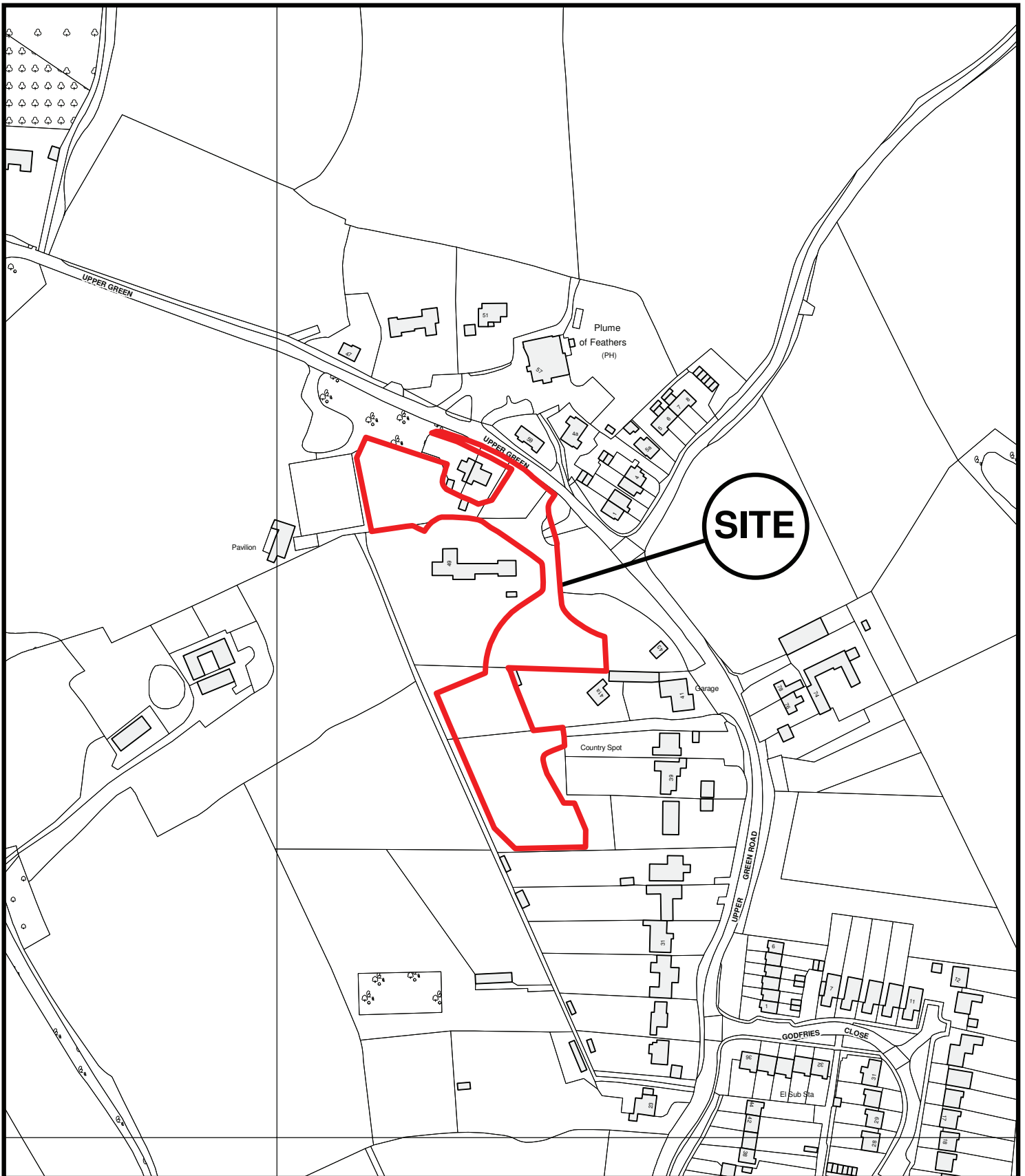
removal one rooflight to rear elevation

- 7.3 Government guidance on *Greater Flexibility for Planning Permissions* (DCLG, 2009) states that “a minor material amendment is one whose scale and nature results in a development which is not substantially different from the one which has been approved.” In this case the resulting development will not be *substantially* different in scale or nature and the proposal is therefore considered to be acceptable as a minor material amendment.
- 7.4 The changes to swap house types on two of the plots would still result in a high quality layout of development. The other changes to the fenestration are minor and would not, in Officers view, compromise the high quality design of the development.
- 7.5 Furthermore, the changes will not have any further implications for neighbour amenity, parking, access or landscaping.

## **8.0 Conclusion:**

- 8.1 The amendments to the layout and design of the development would still ensure a development of high quality layout and design that would have no further implications for neighbouring amenity or highway matters. Accordingly it is recommended that planning permission be granted for the variation of condition 29. Conditions are recommended to be repeated from 3/07/2531/FP, with the three year time limit amended to the previous approval date and subject to a variation of the previous legal agreement.

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**East Herts Council**  
Wallfields  
Pegs Lane  
Hertford  
SG13 8EQ  
Tel: 01279 655261

**Address: Seven Acres, 49 Upper Green Road And, 54 & 56, Upper  
Green Road, Tewin, Herts**

**Reference: 3/11/2041/FO**

**Scale: 1:2500**

**O.S Sheet: TL2715**

**Date of Print: 16 January 2012**

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**5b 3/11/2032/SV - Modification of S106 agreement to planning permission 3/07/1569/OP in respect of clauses 3.4.4.1 and 3.4.4.2 within Schedule 3 - Affordable Housing at Land at Leventhorpe School for Leach Homes**

**Date of Receipt:** 22.11.2011

**Type:** Variation of S106 – Major

**Parish:** SAWBRIDGEWORTH

**Ward:** SAWBRIDGEWORTH

**RECOMMENDATION:**

That Members agree, in principle, to the variation of the S106 legal agreement and delegate authority to the Director of Neighbourhood Services in consultation with the Director of Internal Services, to agree the detailed wording of the variation.

\_\_\_\_\_ (203211SV.EA)

**1.0 Background:**

- 1.1 The application site is shown on the attached OS extract, and is located on the north-western edge of the settlement of Sawbridgeworth, to the south of Leventhorpe School. The site has an area of 1.67 hectares and is bounded to the south by a public footpath, and partly by the residential properties in Walnut Tree Avenue, and the pitches of Sawbridgeworth Town Football Club. To the west and north of the site are the playing fields and buildings of Leventhorpe School. The site is accessed from Cambridge Road.
- 1.2 Outline planning permission (ref. 3/07/1569/OP) was granted subject to a Section 106 (S106) agreement in November 2008 for the residential development of the site. Reserved matters approval was given in June 2011 (ref. 3/11/0571/RP) for a residential development of 55 dwellings with parking and related works including new site access from Cambridge Road.
- 1.3 This application seeks permission to vary the wording of the S106 agreement which was attached to the grant of outline planning permission (ref. 3/07/1569/OP) in respect of affordable housing. The signed S106 agreement states:
- Not to suffer nor permit the Occupation of more than sixty percent (60%) (rounded up or down to the nearest whole number) of the Free Market Dwellings until the Affordable Dwellings have been constructed and completed in accordance with Annex A and Clause 3.4.3. hereto.

- Not to suffer nor permit the Occupation of more than sixty percent (60%) (rounded up or down to the nearest whole number) of the Free Market Dwellings until free from financial charges the Affordable Dwellings have been Transferred to an RSL together with all necessary rights privileges and easements and all mains services reasonably available and in accordance with and subject always to Annex C hereto.

1.4 This application seeks permission to modify those clauses of the S106 in the following way:

- Not to suffer or permit the occupation of more than 30% of the free market dwellings(s) until Affordable Housing Land has been transferred to an RSL and the building contract for the construction of the Affordable Housing has been signed by both the Owner (Leach Homes) and the RSL. The building contract shall be determine the type, location and delivery timeframes for the affordable housing recognising the requirements of the relevant annexes to this agreement.

1.5 The applicant, in their submissions with the application, states that their reason for requesting the modification of the wording of the S106 is to provide them with more flexibility for the construction sequence to operate whilst maintaining an agreed delivery process for the affordable housing. Currently they will be unable to allow occupation of more than 20 private dwellings until the affordable housing is complete and transferred to the Registered Social Landlord (RSL). They state that on this site the affordable housing is positioned in two areas and the current wording of the S106 means that they would need to operate in the two separate locations on the site which is impractical, particularly in current times when construction is completed within grouped phases to avoid exposure to potentially damaging market conditions. They go on to state that the proposed wording therefore offers a compromise whereby they will only occupy 30% (10 dwellings) of the private units at the stage when the land is transferred to the RSL and the Contract signed, rather than all units complete. The contract will then agree the details in respect of the delivery timeframes for the affordable housing. The developer states that this will then allow them to proceed in a more logical sequence and gives more flexibility to proceed with the construction of private units whilst still imposing occupancy triggers within the contract with the RSL that ensures they deliver the affordable housing within a timely fashion.



## **3/11/2032/SV**

### **2.0 Site History:**

- 2.1 Outline planning permission for the residential development of the site (ref. 3/07/1569/OP) was granted subject to a S106 agreement in November 2008 (the application also involved a new school sports hall, classroom building, all weather pitch, replacement tennis courts, extended hard play area, car parking and access works).
- 2.2 In 2009 a reserved matters application (ref. 3/09/0425/RP) for the residential development of 65 dwellings with parking and related works including new site access was refused by the Council, and this application was also dismissed on appeal.
- 2.3 Reserved matters approval was given in June 2011 (ref. 3/11/0571/RP) for a residential development of 55 dwellings with parking and related works including new site access from Cambridge Road.

### **3.0 Consultation Responses:**

- 3.1 The Council's Housing Manager has commented that they have no objection in principle to a variation on this matter but would wish to see amendments to the detailed wording prior to agreement.

### **4.0 Town Council Representations:**

- 4.1 Sawbridgeworth Town Council has no objection to the application.

### **5.0 Other Representations:**

- 5.1 The application has been advertised by way of press notice, site notice and neighbour notification.
- 5.2 No letters of representation have been received.

### **6.0 Policy:**

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

HSG3	Affordable Housing
HSG 4	Affordable Housing Criteria
IMP1	Planning Conditions and Obligations

- 6.2 The Council's 'Affordable Housing and Lifetime Homes SPD' is also of

relevance.

**7.0 Considerations:**

- 7.1 The determining issue in relation to the consideration of this application is whether the proposed amendment to the wording of the S106 agreement is acceptable in principle.
- 7.2 It is important in this case for Members to note that this application makes no change to the number of affordable units to be provided on the site. The change only relates to when and how the affordable housing is provided to the RSL. Specifically in this case it would mean that no more than 10 free market dwellings could be occupied before the Affordable Housing Land is transferred to the RSL and a contract made to agree the timing of the construction of those units. Currently the S106 requires that no more than 20 free market dwellings can be occupied until the Affordable Dwellings have been constructed and transferred to the RSL.
- 7.3 Officers have noted the reasons set out by the applicant for the proposed change to the wording of the S106, and in principle Officers have no objection to the proposed changes. The development would still provide 40% affordable housing which would be in accordance with the Council's policies in that respect. Whilst it is acknowledged that the proposed changes to the wording may result in a slight delay in the provision of all of the affordable housing on the site, a contract would be signed by both the Developer and the RSL which would specify the timescale for construction of the units.
- 7.4 The Council's Legal Team has commented (via the Housing Manager) on the proposed changes to the wording of the S106, and whilst they have no objection in principle to the changes to the wording, they are concerned with the specific wording proposed by the applicant. In particular they appear to be concerned with the detailed wording in relation to the contract which is required to be agreed between the applicant and the RSL.
- 7.5 Members will be aware that when a resolution is given to grant planning permission subject to a S106 agreement the Committee report will only contain the heads of terms for the S106 which provides a brief outline of the requirement. Detailed wording is not provided at this stage and is discussed and agreed during the drafting of the agreement. In Officer's opinion this situation is no different, and the detailed wording of the amendment to the S106 can be agreed once a resolution has been given by Members that, in principle, it is acceptable to change the wording of the S106. It would then be for the Council's Legal Team, in consultation

with Officer's in Development Control and Housing to agree suitable detailed wording with the Developer. Officers are therefore satisfied that sufficient safeguards exist to ensure that all parties (specifically Development Control, Housing and Legal) are given the opportunity to consider and comment on the changes to the detailed wording of the S106.

## **8.0 Conclusion:**

- 8.1 This application proposes to alter the wording of the agreed S106 and, in accordance with the above consideration, the modification of the wording of the S106 is considered to be acceptable in principle. Such a modification will provide the applicant with more flexibility for the construction sequence to operate whilst maintaining an agreed delivery process for the affordable housing. The modification of the wording of the S106 would make no change to the number of affordable units to be provided on the site and the change would only relate to when and how the affordable housing is provided to the RSL.
- 8.2 Officers are therefore satisfied that the development will still accord with Planning Policy and that the precise wording of the amendment to the S106 can be agreed between the Council and the developer once a resolution has been given by Members. Accordingly, it is recommended that the variation be agreed in principle, and authority is delegated to Officers to agree the detailed wording of the variation.

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**5c 3/11/1559/FP - Erection of replacement dwelling as amendment to previous planning approval Ref: 3/07/1789/FP at The Manor House, Aspenden Road, Westmill, Buntingford, Herts , SG9 9LA for Mr and Mrs D Catherall**

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**Date of Receipt:** 05.09.2011

**Type:** Full – Major

**Parish:** ASPENDEN

**Ward:** MUNDENS AND COTTERED

**RECOMMENDATION:**

That planning permission be **GRANTED** subject to the following conditions:

1. Three year time limit (1T12)
2. Approved Plans (2E10): “H2018.100; H2018.200; H2018.201; H2018.202 H2018.203; H2018.204; H2018.205; H2018.206; H2018.207”
3. Samples of materials (2E12)
4. Withdrawal of PD Rights (Part 1 Class A) (2E20)
5. Withdrawal of PD Rights (Part 1 Class E) (2E21)
6. Tree retention and protection (4P05)
7. Tree/natural feature protection: fencing (4P07)
8. Tree protection: restrictions on burning (4P08)
9. Tree protection: excavations (4P09)
10. Tree protection: earthworks (4P10)
11. Landscape design proposals (4P12) (b, e, i, k, l)
12. Landscape works implementation (4P13)

**Directive:**

1. Other Legislation (01OL)

**Summary of Reasons for Decision**

## 3/11/1559/FP

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 policies GBC3, HSG8, ENV1, ENV2, and ENV11. The balance of the considerations having regard to those policies and the previous approval 3/07/1789/FP is that permission should be granted.

\_\_\_\_\_ (155911FP.SD)

### **1.0 Background:**

- 1.1 The application site is shown on the attached OS extract. It has an area of 1.04 hectares and is situated within an isolated rural location, elevated above the public highway, in the Rural Area beyond the Green Belt to the western side of Aspenden Road between the villages of Westmill to the south and Aspenden to the north. The frontage of the site along Aspenden Road is characterised by an established mature woodland tree screen.
- 1.2 Further into the site along the access drive is a substantial area of historic woodland planting with established mature trees and hedgerows along the north and southern boundaries of the site.
- 1.3 The site is vacant at present except for a modern brick garage erected on the site as commencement of the previously approved replacement dwelling scheme. The Manor House originally on the site was a two storey building used as a former isolation hospital in the mid 19<sup>th</sup> century. Although much of the former hospital complex was removed in the 1850's there remained a former ward building converted to a dwelling, surrounded by a significant amount of outbuildings, hard surfacing and other signs of operational development.
- 1.4 All structures, including outbuildings, extensive areas of concrete hard surfacing and the dwelling conversion have all been fully demolished and the spoil removed from the site following planning approval in 2007. A brick garage is located on the north eastern side of the site, adjacent to the drive. This was constructed in March 2008 to commence the extant planning permission for a replacement dwelling and garage ref: 3/07/1789/FP.
- 1.5 The current application seeks permission for the construction of a replacement two storey dwelling of similar style and proportions to the previous planning approval ref: 3/07/1789/FP but to include a basement with side and rear light well extensions; ground floor light well screens;



## **3/11/1559/FP**

roof lights; a rear balcony at first floor; glass walkway to rear; minor fenestration elevational alterations to the rear elevation and an increase in the ridge height of the building of approximately 1.0m.

### **2.0 Site History:**

- 2.1 Until the mid 1850's the site was used for a former isolation hospital complex. The scale of the complex was then reduced and a former Tudor style ward building was converted to a single dwelling, with significant derelict and dilapidated outbuildings with areas of hard standing left to the west of the site, the property eventually becoming vacant in 2005. In 2007 an application for a replacement dwelling, and garages ref: 3/07/0022/FP was submitted but subsequently withdrawn by the applicant.
- 2.2 Later in 2007, a further application ref:3/07/1789/FP was submitted for a more modest replacement dwelling, including the demolition of all the operational buildings and concrete hard surfacing associated with the former hospital and approved by committee on the 12 December 2007.
- 2.3 The planning permission was commenced in March 2008, with the demolition of the buildings; the full clearance of the site and the construction of the garage as part of the approved scheme. However, until the new owners bought the site recently there has been no other construction work.

### **3.0 Consultation Responses:**

- 3.1 County Highways do not wish to restrict the grant of permission, the application for amendments to the previously approved replacement house design is acceptable in a highway context.
- 3.2 Veolia Water comment that as the site is within the ground water protection zone (SPZ) of Standon Pumping Station, all construction work should be carried out in accordance with relevant British Standards and Best Management Practices thereby significantly reducing groundwater pollution risk.
- 3.3 Environmental Health has no objections.
- 3.4 Landscape Section have made no comments on the proposal

### **4.0 Parish Council Representations:**

- 4.1 Aspenden Parish Council have made no comments on the proposal.

**5.0 Other Representations:**

- 5.1 The application has been advertised by way of press notice, site notice and neighbour notification.
- 5.2 No letters of representation have been received.

**6.0 Policy:**

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

- GBC3 Rural area Beyond the Green Belt
- HSG8 Replacement dwellings in the Green Belt and Rural Area beyond the Green Belt
- ENV1 Design and Environmental Quality
- ENV2 Landscaping
- ENV11 Protection of Existing Hedgerows and Trees

**7.0 Considerations:**

- 7.1 The main determining issue in this case relates to whether the proposal complies with policies GBC3 and HSG8 of the Local Plan giving appropriate weight and consideration to the previous planning approval ref: 3/07/1789/FP and the impact of the proposed development on the rural locality.
- 7.2 The applicants have submitted a copy of the detailed supporting statement and technical structural report by an Independent Surveyor that was submitted in 2007 as part of the previous approval, demonstrating that the existing dwelling was not capable of retention, due to the level of deterioration of the structural integrity of the vacant dwelling on the site at that time.
- 7.3 Policy HSG8 indicates that replacement dwellings within the Rural Area beyond the Green Belt will be permitted where the dwelling to be replaced has a lawful residential use. Although the dwelling on the application site had been vacant for a while before it was demolished it was clearly established as a residential dwelling and had been occupied as such for a considerable period prior to its subsequent vacancy.
- 7.4 The previous planning approval ref: 3/07/1789/FP for a two storey oak framed traditional replacement dwelling with detached garage, has established the principle of a replacement dwelling on the site. The 2007 planning approval was commenced in March of 2008 with the full demolition of all the agreed structures, hard standing and the vacant

dwelling on the site, followed by the construction of the garage subject of the approval. That permission therefore remains extant and is a material consideration of significant weight in this case.

- 7.5 Policy HSG8 also indicates that replacement dwellings will only be acceptable where the volume of the new dwelling is not materially larger than the existing, nor that the new dwelling is visually more intrusive than the dwelling it replaces, plus any expended permitted development rights.
- 7.6 In this case, the original dwelling had a volume of 768.0 cubic metres, with 1,628.0 cubic metres of former hospital operational structures, outbuildings and sheds, with a further 1,340sqm of concrete hard standing as part of the site.
- 7.7 The previously approved replacement dwelling created 1,325.0 cubic metres of development on the site with a basement of 600.0 cubic metres, with all of the former operational hospital structures (1,628.0 cubic metres) and all the concrete hardstanding (1,340.0cubic metres) demolished and cleared from the site. The approved replacement dwelling amounted to a 72.6% increase over the original dwelling, due largely to the increase in the height of the roof to enable the insertion of a full rather than partial first floor.
- 7.8 It was considered at that time that the removal of the eight unsightly outbuildings and the concrete hard standing, would significantly benefit the appearance, character and rural setting of the site. These considerations were felt sufficient to justify the 72.6% increase in development over the original dwelling and warrant a departure from Rural Area policy.
- 7.9 The current proposal for a replacement dwelling largely follows the form, scale, and design of the previously approved proposal ref: 3/07/1789/FP apart from a modest increase of approximately 1.0m to the ridge height. The proposed development would constitute a single dwelling principally on the same footprint as previously approved, with amendments to provide a rear balcony at first floor; the provision of additional accommodation of a relocated 4<sup>th</sup> bedroom and office space within the roof void; fenestration alterations with rooflights; the re-modelling of the rear elevation with the extension of the basement area providing a rear and side lightwell extending the leisure facilities previously approved.
- 7.10 In terms of the increased footprint of the proposed development when compared to the extant permission ref: 3/07/1789/FP, there is a minor footprint increase over the previously approved replacement dwelling

### 3/11/1559/FP

scheme from 261sqm to 268sqm. In terms of the increase floor area this increases from 718sqm to 805 sqm. However in terms of volume, the present proposal would be a reduction in volume, from 1,325.0 cubic metres to 1,304.0 cubic metres.

- 7.11 The proposed basement provides additional development in the form of the light wells and minor extensions for the gym and the pool plant room, amounting to an increase of approximately 54sqm, which, although quite minimal, is a material consideration in relation to policies GBC3 and HSG8.
- 7.12 The proposed replacement dwelling scheme as amended, is not otherwise substantially altered. The front elevation, form, materials of construction and general aspect remains as the previously approved scheme and the changes to the rear elevation produce a more balanced, consistent and sympathetic design offering a building of a simple traditional character and appearance within the landscaped rural locality.
- 7.13 The proposed modest alterations/ amendments make better use of the available space than the extant permission design, changing the internal layout and managing the roof space to provide office space with a relocated 4<sup>th</sup> bedroom without adding a greater volume than that proposed in the extant replacement dwelling proposal ref: 3/07/1789/FP.
- 7.14 The provision of the open light well element would not significantly add to the volume overall and would, in the officer's opinion have no significant visual impact on the openness of the rural area, being below ground.
- 7.15 On balance, it is considered that the proposed replacement dwelling within this mature landscaped would still constitute an overall improvement to the visual character of the area. These circumstances are sufficient to justify the modest increase in development at basement level of 54sqm, and the increased height of approximately 1.0m, without compromising the rural character and appearance of the surrounding area.

#### Neighbour amenity

- 7.16 The current proposal will have no adverse impact on the adjacent residential property to the north. Originally a barn that was part of the former hospital complex of buildings, it was sold off with a plot of land and granted planning permission for conversion to a residential dwelling in 1980. The dwelling on this adjacent site is a detached chalet dwelling of a modern construction in a similar elevated position to the Manor House but, unlike the application site, it is of a totally exposed character

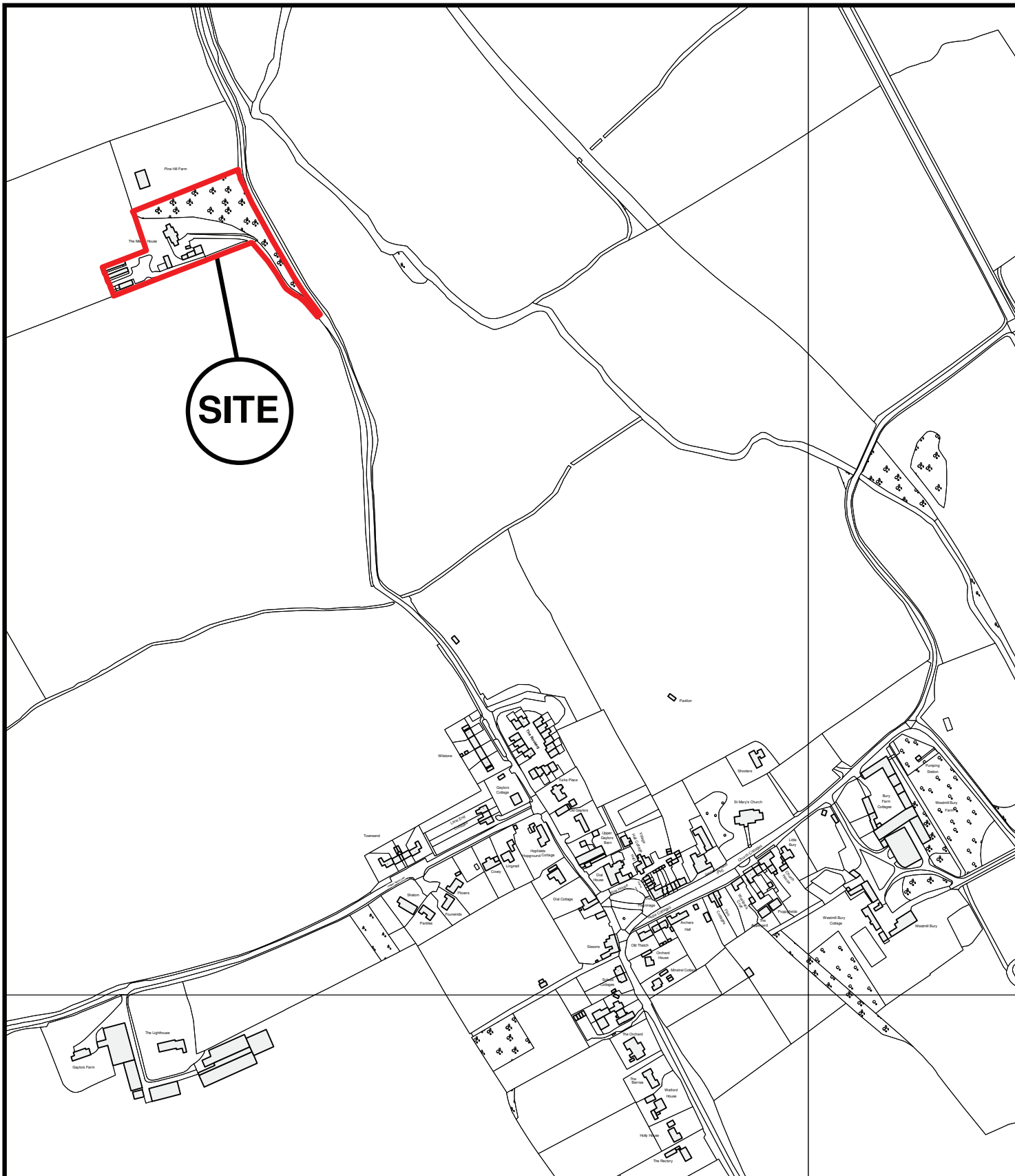
devoid of any landscaping and limited vegetation.

- 7.17 The application site abuts the shared southern boundary of the adjacent dwelling and is heavily screened by an established area of mature woodland. The replacement dwelling, will enjoy a similar aspect as the original property with only limited long views of the roof of the new dwelling being seen from a distance along the public highway on approach from Aspenden.
- 7.18 The location of the new replacement dwelling within this woodland setting provides natural screening to the two dwellings and the proposal is unlikely therefore to result in significant harm to the neighbour's outlook, privacy or daylight.
- 7.19 Officers consider that the scale, design and detailing of the new dwelling are also appropriate for this rural location.

## **8.0 Conclusion:**

- 8.1 Officer's consider that the proposed replacement dwelling, as an amended scheme to the previous approval ref: 3/07/1789/FP, is acceptable in terms of its siting, design, scale, character and appearance and would not adversely impact upon the rural character and appearance of the area.
- 8.2 Furthermore, there would be no unacceptable impact on neighbour amenity or landscaping. It is therefore recommended that planning permission be granted subject to the conditions outlined at the start of the report.

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**Address: The Manor House, Aspenden Road, Westmill, Buntingford, SG9 9LA**  
**Reference: 3/11/1559/FP**  
**Scale: 1:5000**  
**O.S Sheet: TL3627**  
**Date of Print: 16 January 2012**

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**5d 3/11/2031/SV – Modification to Annex B, Schedule 3 of the S106 agreement relating to LPA reference 3/08/0840/FP - to amend the tenure mix of Affordable Housing to 50% rental units and 50% intermediate housing, at Land off Tylers Close, Buntingford for Leach Homes**

---

**Date of Receipt:** 22.11.2011

**Type:** Section 106 Variation - Major

**Parish:** BUNTINGFORD

**Ward:** BUNTINGFORD

**RECOMMENDATION:**

That permission for the variation of the Section 106 agreement be **REFUSED** for the following reason:

1. Varying the tenure mix to from 75 % to 50% rental units and 25% to 50% intermediate housing would be contrary to the housing needs of the local area, as identified in the Housing Needs Survey and the Council's Housing Register. The proposal therefore fails to meet the requirements of Policies IMP1, HSG3 and HSG4 of the East Herts Local Plan Second Review April 2007, and the applicants have submitted insufficient evidence in this case to warrant a departure from those policies.

\_\_\_\_\_ (203111SV.FM)

**1.0 Background:**

- 1.1 The application site is shown on the attached OS extract. The site is located to the North West side of Buntingford, within the Rural Area beyond the Green Belt and outside the development boundary for the town. The site is rectangular in shape and is some 1.69 hectares in size. It is approximately 300 metres in length and 30 metres in width.
- 1.2 Members may recall that a resolution to grant reserved matters for the construction of 50 dwellings comprising of 12 No. 2 bedroom units, 18 No. 3 bedroom units, 17 No. 4 bedroom units and 3 No. 5 bedroom units (LPA reference 3/11/1033/RP) was given by the Development Control Committee on the 14 September 2011. This followed the grant of outline permission for proposed development on the 11<sup>th</sup> February 2008, which was subject to the applicant entering into a S106 agreement to secure financial contributions. That S106 has since been signed and the development was granted permission on the 20<sup>th</sup> September 2011.
- 1.3 This application seeks to vary Annex B, Schedule 3 as set out within the S106 agreement relating to LPA reference 3/08/0840/FP. It is

## **3/11/2031/SV**

proposed to amend the agreed tenure mix of Affordable Housing from 75% to 50% rental units and 25% to 50% intermediate housing.

### **2.0 Site History:**

2.1 The following is the relevant planning history relating to the site.

<b><u>LPA reference</u></b>	<b><u>Description of development</u></b>	<b><u>Decision</u></b>
<u>3/08/0840/OP</u>	Outline planning application for the erection of 50 dwellinghouses together with access road and landscaping.	Approved
<u>3/11/1033/RP</u>	Approval of reserved matters application for the erection of 50 dwellinghouses together with access road and landscaping.	Approved

### **3.0 Consultation Responses:**

3.1 The Council's Housing Manager has commented that the applicant has not submitted sufficient evidence to justify the tenure split being amended from 75% affordable rent and 25% intermediate housing to 50% affordable rent and 50% intermediate housing (shared ownership). They further comment that the Council's Housing Register (a register of households in housing need requiring rented affordable housing in East Herts), had at 1 April 2011 2,395 active households registered of which 1,346 were in a government preference category for affordable housing and are therefore judged to be in significant housing need.

### **4.0 Town Council Representations:**

4.1 Buntingford Town Council were consulted on the application. No comments have been received at the time of writing this report.

### **5.0 Other Representations:**

5.1 The application has been advertised by way of press notice, site notice and neighbour notification.

5.2 No letters of representation have been received.

**6.0 Policy:**

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

HSG3	Affordable Housing
HSG4	Affordable Housing Criteria
IMP1	Planning Conditions and Obligations

The Council's 'Affordable Housing and Lifetime Homes SPD' is also of relevance.

**7.0 Considerations:**

7.1 As described above, the permission for the erection of 50 dwellinghouses with access and landscaping was granted within LPA reference 3/08/0840/FP. The S106 agreement has been signed by all parties agreeing that the tenure mix of Affordable Housing would consist of 75% rental units and 25% intermediate housing.

7.2 This current application seeks to amend this tenure mix to 50% rental units and 50% intermediate housing. The applicant comments that they have sought advice from Circle Housing Group who feel that such a split is more achievable and more deliverable at present than the previously agreed mix of Affordable Housing. No additional information or financial assessment has been submitted in support of the application to outline why the applicant is unable to provide the agreed tenure mix.

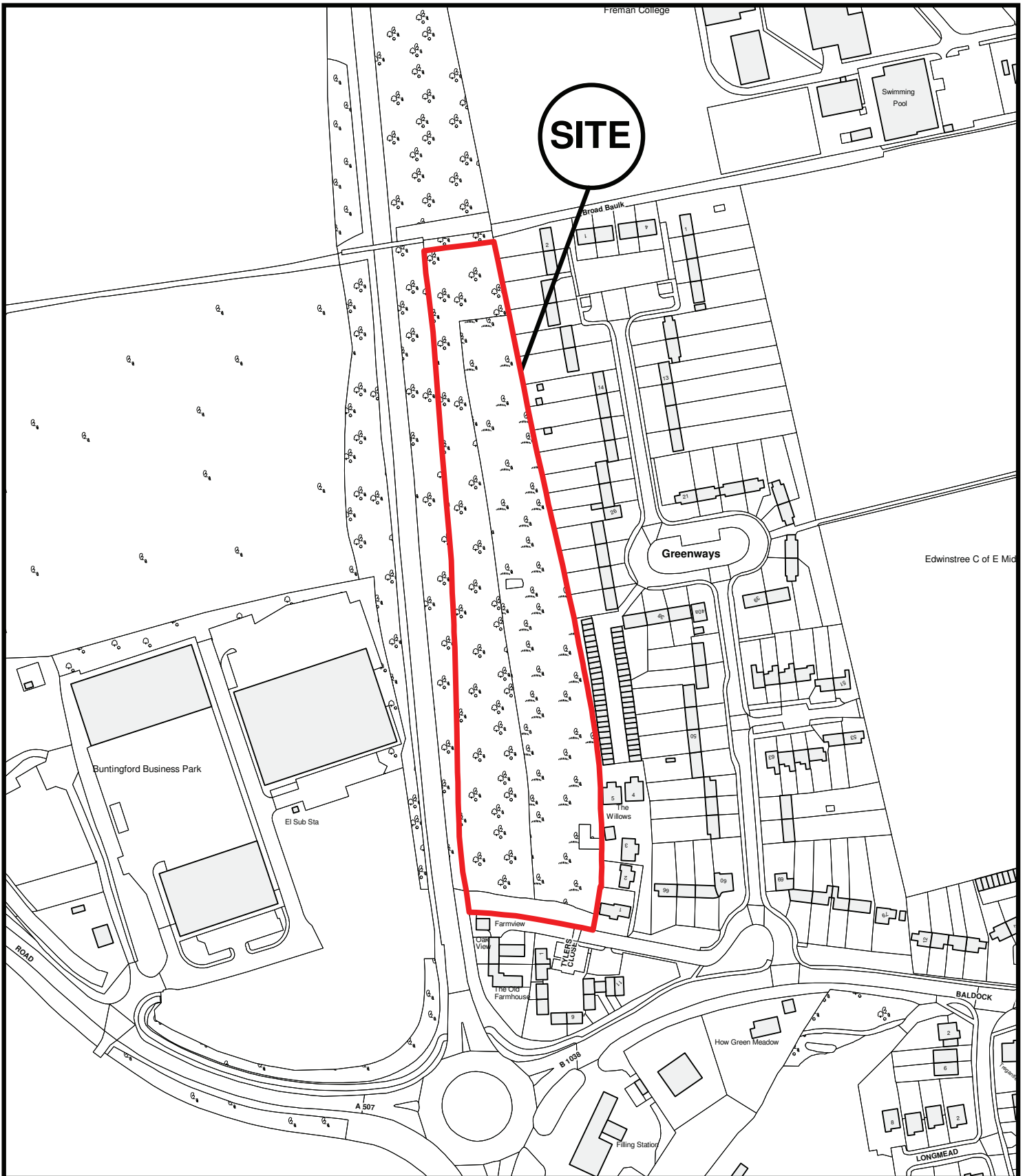
7.3 The aforementioned mix of tenure was recommended by the Council's Housing Service and, at the time, was considered to be necessary to make the development acceptable to meet the identified needs of Buntingford. In my view any change in the tenure mix would only be considered appropriate if there is a change in the identified needs of Buntingford, regardless of whether or not the Housing Association agrees to a different tenure mix.

7.4 The Council's Housing Service has commented on the application and have recommended that the proposal to vary the tenure split be refused. An important document to which regard has to be given in this case is the Council's Housing Register which is a register of households in housing need requiring rented affordable housing in East Herts. This register had, as of the 1<sup>st</sup> April 2011 2,395 active households registered, of which 1,346 were in a government preference category for affordable housing. This, in Officers view, demonstrates that there is significant housing need for Affordable rental units within the locality which has not

changed from the need identified when the S106 was previously agreed. A reduction of 25% in the amount of agreed Affordable rental units would be contrary to this identified need and would be contrary to Policies HSG3, HSG4 and IMP1 of the Local Plan.

**8.0 Conclusion:**

- 8.1 In accordance with the above, varying the agreed tenure mix from 75% to 50% rental units and 25% to 50% intermediate housing would be contrary to the housing needs of the local area. It has been clearly identified in the current Housing Needs Survey and the Council's Housing Register that there is a high demand for Affordable rental units in the locality and this demand has not altered since the approval of LPA reference 3/08/0840/FP. The proposal therefore fails to meet the requirements of Policies IMP1, HSG3 and HSG4 of the East Herts Local Plan Second Review April 2007.



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**Address: Land at, Tylers Close, Buntingford**  
**Reference: 3/11/2031/SV**  
**Scale: 1:2500**  
**O.S Sheet: TL3529**  
**Date of Print: 16 January 2012**

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**5e 3/11/2046/SV - Modification of S106 agreement to planning permission 3/08/0840/FP in respect of clauses 3.1 and 3.2 within Schedule 3 - Affordable Housing at Land off Tylers Close, Buntingford for Leach Homes.**

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**Date of Receipt:** 22.11.2011

**Type:** Variation of S106 – Major

**Parish:** BUNTINGFORD

**Ward:** BUNTINGFORD

**RECOMMENDATION:**

That the S106 legal agreement be varied to remove the following financial contributions:

1. That Members agree, in principle, to the variation of clauses 3.1 and 3.2 of the S106 agreement and delegate authority to the Director of Neighbourhood Services, in consultation with the Director of Internal Services, to agree the detailed wording of the variation.

\_\_\_\_\_ (204611SV.FM)

**1.0 Background:**

- 1.1 The application site is shown on the attached OS extract. The site is located to the north west side of Buntingford, within the Rural Area beyond the Green Belt and outside the development boundary for the town. The site is rectangular in shape and is some 1.69 hectares in size. It is approximately 300 metres in length and 30 metres in width.
- 1.2 Members may recall that a resolution to grant reserved matters for the construction of 50 dwellings comprising of 12 No. 2 bedroom units, 18 No. 3 bedroom units, 17 No. 4 bedroom units and 3 No. 5 bedroom units (LPA reference 3/11/1033/RP) was given by the Development Control Committee on the 14 September 2011. This followed the grant of outline permission for proposed development on the 11<sup>th</sup> February 2008 which was subject to the applicant entering into a S106 agreement to secure financial contributions. That S106 has since been signed and the development was granted permission on the 20<sup>th</sup> September 2011.
- 1.3 This application seeks permission to vary the wording of the S106 agreement which was attached to the grant of outline planning permission (ref. 3/08/0840/FP) in respect of affordable housing. The signed S106 agreement states:

- Not to suffer nor permit the Occupation of more than 60% (rounded up) of the Free Market Dwellings until the Affordable Dwellings have been constructed and completed in accordance with Annex A and paragraph 2.1 of this schedule.
- Not to suffer nor permit the Occupation of more than 40% (rounded up) of the Free Market Dwellings until free from financial charges the Affordable Dwellings have been Transferred to an RSL together with all necessary rights privileges and easements and all mains services reasonably available and in accordance with and subject always to Annex C hereto.

1.4 This application seeks permission to modify those clauses of the S106 in the following way:

- Not to suffer or permit the occupation of more than 30% of the free market dwellings(s) until Affordable Housing Land has been transferred to an RSL and the building contract for the construction of the Affordable Housing has been signed by both the Owner (Leach Homes) and the RSL. The building contract shall determine the type, location and delivery timeframes for the affordable housing recognising the requirements of the relevant annexes to this agreement.

1.5 The applicant, in their submissions with the application states that their reason for requesting the modification of the wording of the S106 is to provide them with more flexibility for the construction sequence to operate, whilst maintaining an agreed delivery process for the affordable housing. Currently they will be unable to allow occupation of more than 12 private dwellings until the affordable housing is complete and transferred to the RSL. They state that on this site the affordable housing is located at the top of the site and the current wording of the S106 means that they would need to operate in two separate locations on the site when building the Affordable Housing and the private dwellings.

1.6 Having to operate in such a way would be impractical, particularly in current times when construction is completed within grouped phases to avoid exposure to potentially damaging market conditions. The applicant goes on to state that proposed wording therefore offers a compromise whereby they will only occupy 30% (9 dwellings) of the private units at the stage when the land is transferred to the RSL and the Contract signed rather than all units complete. The contract will then agree the



## **3/11/2046/SV**

details in respect of the delivery timeframes for the affordable housing. The developer states that this will then allow them to proceed in a more logical sequence and gives more flexibility to proceed with the construction of private units whilst still imposing occupancy triggers within the contract with the RSL that ensures they deliver the affordable housing within a timely fashion.

### **2.0 Site History:**

2.1 The following is the relevant planning history relating to the site:

<b><u>LPA reference</u></b>	<b><u>Description of development</u></b>	<b><u>Decision</u></b>
<u>3/08/0840/OP</u>	Outline planning application for the erection of 50 dwellinghouses together with access road and landscaping.	Approved
<u>3/11/1033/RP</u>	Approval of reserved matters application for the erection of 50 dwellinghouses together with access road and landscaping.	Approved

### **3.0 Consultation Responses:**

3.1 The Council's Housing Manager has commented that the principle of the proposal is acceptable. The Housing Manager raises concerns however with the proposed wording to the alteration of the S106, and particularly in relation to the contract which is required to be agreed between the applicant and the RSL.

### **4.0 Town Council Representations:**

4.1 Buntingford Town Council were consulted on the application. No comments have been received at the time of writing this report.

### **5.0 Other Representations:**

5.1 The application has been advertised by way of press notice, site notice and neighbour notification.

5.2 No letters of representation have been received.

### **6.0 Policy:**

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

following:

HSG3	Affordable Housing
HSG 4	Affordable Housing Criteria
IMP1	Planning Conditions and Obligations

6.2 The Council's 'Affordable Housing and Lifetime Homes SPD' is also of relevance.

**7.0 Considerations:**

7.1 The determining issue in relation to the consideration of this application is whether the proposed amendment to the wording of the S106 agreement is acceptable in principle.

7.2 It is important in this case for Members to note that this application makes no change to the number of affordable units to be provided on the site. The change only relates to when and how the affordable housing is provided to the RSL. Specifically in this case, it would mean that no more than 9 free market dwellings could be occupied before the Affordable Housing Land is transferred to the RSL and a contract made to agree the timing of the construction of those units. Currently the S106 requires that no more than 12 free market dwellings can be occupied until the Affordable Dwellings have been constructed and transferred to the RSL.

7.3 In principle Officers have no objection to the proposed changes to the wording in the S106. The development would still provide 40% affordable housing which would be in accordance with the Council's policies. Whilst it is acknowledged that the proposed changes to the wording may result in a slight delay in the provision of all of the affordable housing on the site, a contract would be signed by both the Developer and the RSL which would specify the timescale for construction of the units.

7.4 The Council's Legal Team has commented on the proposed changes to the wording of the S106, and whilst they have no objection in principle to the changes, they are concerned with the specific wording proposed by the applicant. In particular they appear to be concerned with the detailed wording in relation to the contract which is required to be agreed between the applicant and the RSL.

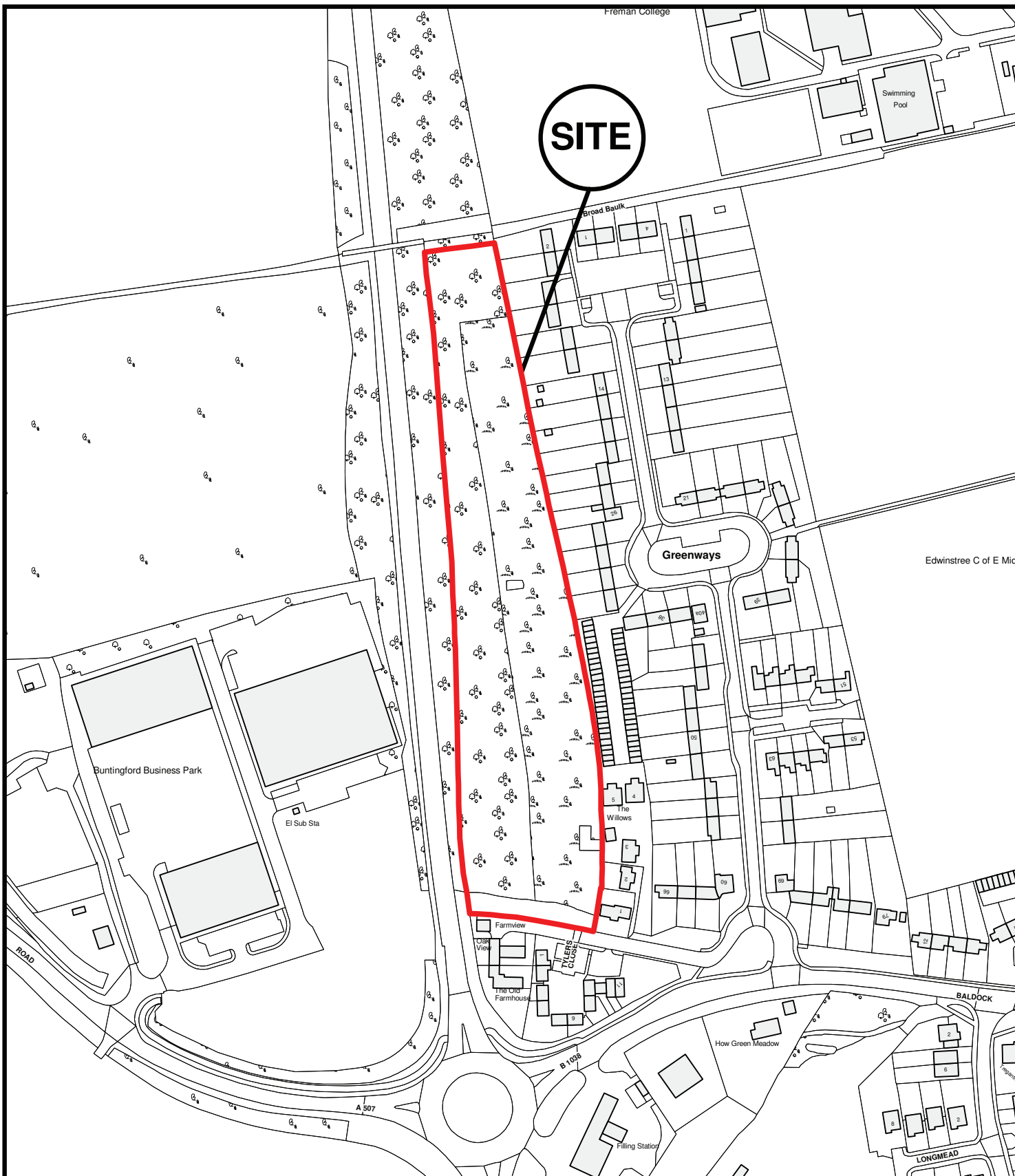
7.5 Members will be aware that when a resolution is given to grant planning permission subject to a S106 agreement the Committee report will only contain the heads of terms for the S106 which provides a brief outline of

the requirement. Detailed wording is not provided at this stage and is discussed and agreed during the drafting of the agreement. In Officer's opinion this situation is no different, and the detailed wording of the amendment to the S106 can be agreed once a resolution has been given by Members that in principle it is acceptable to change the wording of the S106. It would then be for the Council's Legal Team, in consultation with Officer's in Development Control and Housing to agree suitable detailed wording with the Developer. Officers are therefore satisfied that sufficient safeguards exist to ensure that all parties (specifically Development Control, Housing and Legal) are given the opportunity to consider and comment on the changes to the detailed wording of the S106.

## **8.0 Conclusion:**

- 8.1 This application proposes to alter the wording of the agreed S106 and, in accordance with the above, the modification of the wording of the S106 is considered to be acceptable in principle. Such a modification will provide the applicant with more flexibility for the construction sequence to operate whilst maintaining an agreed delivery process for the affordable housing. The modification of the wording of the S106 would make no change to the number of affordable units to be provided on the site and the change would only relate to when and how the affordable housing is provided to the RSL.
- 8.2 Officers are therefore satisfied that the development will still accord with Planning Policy and that the precise wording of the amendment to the S106 can be agreed between the Council and the developer once a resolution has been given by Members. Accordingly, it is recommended that the variation be agreed in principle, and authority is delegated to Officers to agree the detailed wording of the variation.

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**Reference: 3/11/2046/SV**  
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**Date of Print: 16 January 2012**

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**5f 3/11/1387/FP - Extensions to brick built 1960's building and erection of new dwelling to the rear with associated access and landscaping at Great Hormead Village Hall, Great Hormead, Buntingford, SG9 0NR for Hormead Village Hall Management Committee**

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**Date of Receipt:** 08.08.2011

**Type:** Full – Minor

**Parish:** HORMEAD

**Ward:** BRAUGHING

**RECOMMENDATION:**

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

1. A requirement that the funding raised as a result of the residential development permitted as part of this development shall be used only to fund the works of extension and improvement to the Village Hall also as permitted as part of this specific development and for no other purpose;
2. The provision of a financial contribution of £8,000 to secure a Traffic Regulation Order.
3. Appropriate monitoring fee.

The Director of Neighbourhood Services be authorized to **GRANT** planning permission subject to the conditions and summary of reasons as approved by the committee at its meeting of 12 October 2011.

\_\_\_\_\_ (138711FP.KS)

**1.0 Background:**

- 1.1 Members may recall that this application was reported to the 12 October 2011 meeting of the committee. The proposals were recommended for approval, subject to the completion of a planning obligation agreement and appropriate conditions. Members supported that recommendation. The background, previous site history, responses to consultation and relevant policy considerations are set out in the report to the 12 October 2011 meeting that is attached as an appendix to this report. The relevant minute of that meeting is also attached.
- 1.2 The application considered at that committee followed an earlier one (3/10/0033FP) which was dealt with in 2010 and which was refused. The reasons for refusal were that inadequate parking provision had been

made at the site and that the proposed overspill parking would represent inappropriate development in the rural area beyond the green belt. That proposal was also considered twice by the committee, in March and August 2010. Those reports are also attached.

- 1.3 The decision in relation to the 2010 application was the subject of an appeal. The appeal was dismissed; however the Inspector considered that the proposed development would have a strictly limited effect on the character and appearance of the area. The appeal was dismissed primarily because of the lack of a commitment, at that stage, of the applicant to provide funding to facilitate a traffic regulation order (TRO) to control parking on the road adjoining the site (B1038). The Inspectors report is attached.
- 1.4 When the current application was most recently considered, as indicated, the committee resolved to approve the proposals subject to a planning obligation agreement that requires that:
  - the village hall to be completed and occupied before the new dwelling is occupied and;
  - a financial contribution of £8,000 is made to secure a traffic regulation order (TRO).
- 1.5 Subsequent to the resolution of the committee the Solicitor acting on behalf of the applicant has contacted Officers to express concern in relation to the requirements to be set out in the legal agreement which is to be associated with the planning permission. These are set out in more detail below.

## **2.0 Consultation Responses:**

- 2.1 No further consultation has been undertaken subsequent to the consideration of the matter by the committee in October 2011. However two further communications have been received in relation to the proposals. The first is a copy of a letter from a local resident to a separate local resident who is assumed to be a member of the Village Hall committee. The letter sets out a disagreement with the design proposed and suggests an alternative design which is claimed to be achievable at a reduced cost.
- 2.2 The second is an e-mail from a parishioner who objects to any amendment to the proposed legal agreement which releases the Trustees from the obligation to provide the hall improvements prior to the completion of the residential plot. A concern is expressed that the improvement works will not take place if that amendment is permitted.



**3.0 Considerations:**

- 3.1 In his contact with the Council in relation to the planning agreement the Solicitor acting for the applicants makes two main points. These are that:
- the current position of requiring the Village Hall works to be completed and occupied before the new dwelling is occupied is quite impractical and will have the effect of completely frustrating the Trustees' wish to improve the Hall. This is because the Trustees will be unable to sell the house plot and raise the necessary funds as the purchaser of that plot is then subject to a control that prevents them occupying any property prior to the completion of the Hall works. No Bank or Building Society will lend the necessary funds on this basis;
  - there is in any event no planning justification for the restriction. The appeal Inspector did not conclude that the new dwelling would only be acceptable if the proceeds were used to fund the Hall works. The restriction is unnecessary therefore.
- 3.2 The Solicitor also objects to the requirement, set on in the draft agreement, for the payment of a monitoring fee.
- 3.3 In relation to these matters then, the second of those set out above is the more fundamental. The Solicitor sets out that the restriction does not meet the tests to be applied to planning legal agreements and therefore should not be applied.
- 3.4 When the issue was first considered by the committee in March 2010, the advice from Officers was that a new residential property, in the location proposed, would normally be considered a departure from policy OSV3. However, it could be justified in this case as the funding raised would secure the improvements to the Hall – and therefore enhanced community facilities. At that time however, Officers recommended that the proposals be refused on the basis of the inadequate parking provision.
- 3.5 The committee deferred consideration at this time and instead asked Officers to discuss two issues with the applicant – the linking of the provision of the funding raised from the sale of the housing plot with the Village Hall works and the potential for the provision of additional parking.
- 3.6 When the matter was reported again to the August 2010 meeting of the committee the matter of the new residential property was not considered again in principle. The applicant had indicated a willingness to enter into a legal agreement that restricted the use of the funds which would arise.

- As indicated, permission was still not forthcoming however because of the parking related issues.
- 3.7 When the Inspector dealt with this matter at appeal, he did not particularly comment on the principle of the new dwelling. He noted (para 11 of the appeal decision letter) that the Council acknowledge that refurbishing the hall, financed by the new house, are special circumstances that justified departing from LP policies. He did not set out whether he agreed with this position and it is set out mainly in justification of the proposed use of the adjacent farm forecourt for parking. The interpretation is that, if the new dwelling is seen as justified, then the impact that the proposed parking has should also be considered to be justified.
- 3.8 The applicants Solicitor quotes from a later section in the Inspectors decision letter (para 13) where he comments on the impact of the proposed house. However, the Inspectors comments here relate to detailed matters, outlook and amenity, rather than the principle of the matter.
- 3.9 Your Officers view then is that the appeal Inspectors decision did not challenge the policy position of the Council set out in OSV3 of the Local Plan and that the proposed residential use is one that remains contrary to that policy. It is being supported by the Council because of the particular circumstances in this case, namely that the permission and resulting development will enable funds to be raised to be used in the provision of improvements to the Hall. It remains reasonable and relevant then for proposed requirement of the legal agreement – restricting the use of the funds raised – to remain in place.
- 3.10 The second matter then is the detailed one. Given there should be a restriction, what form should it take? The applicants Solicitor sets out that the current requirement is unrealistic. The Trustees need to raise the necessary funds before the Hall works can proceed. Therefore the housing plot needs to be sold prior to the Hall works commencing. However, if occupancy of any property to be built on the plot is not permitted until after the Hall works are complete, this means the purchaser of the plot is unable to make their own decision about when to commence and complete development of that land. The plot purchaser is effectively subject to controls outside their influence.
- 3.11 The applicants Solicitor suggests that, restricting only the use of the funding rather than any control over timing, is sufficient. He suggests that this would be sufficient to ensure that there is no reasonable prospect of the dwelling being constructed but the Hall improvements not taking place.

- 3.12 Such a conclusion would not appear so straight forward to your Officers. It is acknowledged that the control of the use of the funding would be in place, but there would be no control over the timing of its use. Building and improvement projects are typically subject to many potential sources of delay and there would be a risk that the funding, whilst available, remains unused.
- 3.13 The Solicitor points out that there are safeguards in place to ensure that the Trustees could not put the funding raised to any other purpose.
- 3.14 Alternative forms of control over the use of the funding have been considered by Officers. It is understood that the Hall Trustees need to have the funds 'in-hand' or be very confident of their receipt, before letting a contract for the improvement works to the Hall.
- 3.15 Given that, and the other controls that the applicants Solicitor rightly points out are in place here with regard to the actions of the Trustees, the committee are invited to consider a way forward whereby controls are in place only in relation to the use of the funding, but not the timing. Therefore, if members are in support, the legal agreement will be formulated on the basis that the funds released from the sale of the housing plot shall only be used for Hall extension and improvement work. The timing of the use of the funds would not be specified. This would indicate that the Council is satisfied that the Village Hall committee will bring along the improvements when it sees fit. For the avoidance of doubt, it could be specified that the funding shall only be used for the development allowed by virtue of this permission. This would avoid the possibility, for example, the funding is used for more modest improvement or even maintenance works. This would reduce some flexibility, in that if a revised scheme comes forward which the Council is willing to support, a further amendment to the legal agreement would be required. However, it is considered that some degree of control should reasonably remain.
- 3.16 In relation to the monitoring fee, the Councils position is that the monitoring of legal agreements does require tasks to be undertaken that are in excess of the normal monitoring required for development. As a result, it is considered a reasonable and relevant charge, and should be applied. This position is set out in the adopted SPD relating to legal obligation agreements.

#### **4.0 Conclusion:**

- 4.1 The concerns raised by the Solicitor acting for the applicant are

acknowledged. It is considered however that the reason for a link to be made between the permitted residential development and the improvements to the Hall remains valid in planning policy terms. The monitoring fee also remains appropriate.

- 4.2 However, given the difficulties that a timing restriction on the use of the funds raised in relation to the completion of the Hall works would raise, it is suggested that the requirement be only that the funds can be used for the approved works and for no other purpose. The TRO funding requirement would remain.

**3/11/1387/FP- Extensions to brick built 1960's building and erection of new dwelling to rear with associated access and landscaping at Great Hormead Village Hall, Great Hormead, Buntingford, SG9 0NR for Hormead Village Hall Management Committee**

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**Date of Receipt:** 08.08.2011

**Type:** Full – Minor

**Parish:** HORMEAD

**Ward:** BRAUGHING

**RECOMMENDATION**

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

1. The completion and occupation of the village hall prior to the occupation of the new dwelling
2. The provision of a financial contribution of £8000 to secure a Traffic Regulation Order

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

1. Three Year Time Limit (1T12)
2. Programme of Archaeological Work (2E02)
3. Levels (2E05)
4. Approved Plans (2E10) 302.01, 302.02, 302.03, 302.04C, 302.05, 302.06, 302.30, 302.31, 302.SK.04, 06309C-2D
5. Boundary Walls and Fences (2E09)
6. Samples of Materials (2E13)
7. Hard Surfacing (3V21)
8. Provision and retention of parking spaces (3V23)
9. Wheel Washing Facilities (3V25)

### 3/11/1387/FP

10. Landscape Design Proposals (4P12) i,j,k and l
11. Construction hours of working- plant and machinery (6N07)
12. Prior to the occupation of the village hall hereby permitted the overspill car park will be made available to the users of the hall and laid out with appropriate signage in accordance with details to be submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved signage shall remain.

Reason: To ensure the development makes adequate provision for the off-site parking and maneuvering of vehicles and in the interests of highway safety.

13. The new vehicle access to the village hall shall be used for ingress only and the improved shared access shall be used for ingress and egress from the proposed dwelling but egress only from the village hall. Prior to the occupation of the development, suitable signs to indicate this which shall be first submitted to and agreed in writing by the Local Planning Authority shall be erected.

Reason: In the interests of highway safety and traffic movement.

#### 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 policies SD2, GBC3, OSV3, OSV8, ENV1, ENV2, ENV3, ENV4, BH2, BH3, BH6, TR7 and TR20. The balance of the considerations having regard to those policies and the LPA Ref 3/10/0033/FP is that permission should be granted.

\_\_\_\_\_ (138711FP.FH)

#### **1.0 Background**

- 1.1 The application site is shown on the attached OS extract.
- 1.2 The site is currently occupied by the existing village hall which is constructed in 3 sections, two brick built and one with corrugated iron. The corrugated iron section of the building is proposed to be demolished, whilst the brick built parts of the building would be retained and used in the construction of the proposed new village hall.

1.3 The existing village hall is single storey and provides an internal floor area

of approximately 186sqm. The village hall is set back approximately 7 metres from the adjacent highway and is sited fronting south towards this highway, the B1038. The remainder of the application site forms hard standing that provides car parking for the existing hall.

- 1.4 This application seeks permission for an extension to the existing building to form a new village hall and the erection of a new dwelling with associated access and landscaping.
- 1.5 The proposed extended hall would be re-orientated to face west with the flank wall fronting the highway. The hall would extend a total length of 25 metres into the site and be within 2-2.5metres of the eastern site boundary with neighbouring residential properties within Half Acre Lane. The proposed extended hall is of a fragmented design with a front projecting gable end forming an entrance to the building. Due to varying land levels the eaves and ridge height of the building's roof would vary from 4 metres and 6.3 metres respectively at the southern flank of the building, falling to 2.4 metres and 5 metres respectively at the northern flank. The building is designed to be clad with black stained weatherboarding with a slate roof.
- 1.6 The proposed extended village hall would provide ground and first floor accommodation, with a total floor area of approximately 275sqm. 13 parking spaces and an additional 2 spaces for disabled motorists are proposed to serve the village hall. Ten further spaces are proposed on the land to the west of the hall, which is in front of the adjacent agricultural barn within the application site which will be used for overspill car parking.
- 1.7 The proposed dwelling would be sited to the rear and north of the site. The majority of the dwelling would be within 11 metres of the eastern boundary of the site with the adjacent residential properties and the rear projection would be 8 metres from this boundary. The dwelling would be 2 storeys reaching an eaves height of 4.4 metres at the southern flank and a ridge height of 7.4 metres and decreasing to an eaves height of 3.8 metre at the northern flank with a ridge height of 6.7 metres.
- 1.8 The dwelling is designed with single storey front projections and a single storey rear projection that would extend 3.7metres from the rear of the main house. It would have a hipped roof with the 1<sup>st</sup> floor windows sited within the eaves and would be weather boarded with a clay tiled roof. It would have an integral garage with additional space to the front of the garage to accommodate a minimum of 2 additional vehicles.
- 1.9 The proposed dwelling is intended to help finance the extensions to the village hall. The applicant states that in 2009 it was estimated that the cost of constructing the new hall would be approximately £300,000 and that it is

estimated that the sale of the building plot at the rear with planning permission would contribute approximately £200,000 towards the project.

## 2.0 Site History

2.1 Members may recall that planning permission was refused (LPA Ref: 3/10/0033/FP) in August 2010 for extensions to the village hall and erection of a new dwelling for the following reasons:

1. Inadequate all year round provision is made within the site for the parking of vehicles in accordance with the Council's adopted standards for car parking provision and the applicant is unwilling to commit to the payment of a financial contribution to enable a Traffic Regulation order to be made. The proposal would therefore be likely to result in on-street parking, causing obstruction to the free and safe flow of traffic, thereby exacerbating traffic congestion on the nearby road network to the detriment of highway safety and contrary to policy TR7 of the East Herts Local Plan Second Review April 2007.
2. The application site lies within the Rural Area as defined in the East Hertfordshire Local Plan wherein there is a presumption against development other than required for agriculture, forestry, small scale local community facilities or other uses appropriate to a rural area. The proposed use of agricultural land for overspill car parking would form inappropriate development that would be prejudicial to this policy and would be harmful to the character, appearance and openness of the Rural Area. The proposal would thereby be contrary to policies GBC2, GBC3 and ENV1 within the East Herts Local Plan Second Review April 2007.

2.2 A subsequent appeal against this decision was dismissed. However, the inspector concluded that *'the development would have a strictly limited effect on the character and appearance of the area and that subject to the implementation of the package of proposals for parking cars, there would be no significant effect on highway safety. However, a S106 agreement has not been made which sets down the legal commitment of the appellant to facilitate a TRO to control parking on the B1038 should this prove necessary. Without such agreement I am not satisfied that parking on the road would not prove hazardous and such an agreement cannot be required by condition.'*

2.3 This decision is a material consideration of significant weight when considering the current application. The inspectors report is attached at Appendix A.



- 2.4 Conservation Area Consent for the partial demolition of the existing village hall was granted under delegated powers on the 8<sup>th</sup> March 2010 (LPA Ref: 3/10/0034/LC)

Planning permissions were granted in 2002 for a new village hall at the site (LPA Ref: 3/02/0448/FP) and in 1999 for extensions to the village hall (LPA Ref: 3/99/0588/FP). These were not implemented.

### **3.0 Consultation Responses**

- 3.1 Thames Water has commented that there are public sewers crossing the site and their permission is required for works taking place within 3 metres of a public sewer. They also advise that it is the responsibility of the developer to make proper provision for surface water drainage to ground, watercourses or a suitable sewer.
- 3.2 Environmental Health has recommended conditions to any permission granted that relate to noise, air quality and contaminated land.
- 3.3 The Historic Environment Unit has recommended a condition to require an archaeological recording of the existing building and an archaeological field evaluation to be carried out should permission be granted.
- 3.4 The Council's Conservation Officer continues to raise concerns regarding the design of the new hall and how it is perceived in the context of its function. This barn style approach removes the identity and/or perception of the Village Hall within the community and is considered to erode the historic evolution and character of the village and the wider impact it will have on the character and appearance of Great Horstead. In addition concerns are raised regarding the mass, scale and design of the new dwelling and that a more traditional approach to both elements of the scheme would go towards introducing and assisting with their connection to the immediate and wider character and appearance of the village.
- 3.5 County Highways advises that given the Planning Inspectors conclusions in relation to the previous scheme no objections are raised to the proposed development. This is subject to the provision of £8000 to be used in connection with the promotion and implementation of a Traffic Regulation Order to prevent unsafe parking on the public highway and the imposition of conditions regarding the provision of an adequate access for the new dwelling, parking, hardsurfacing, ingress and egress arrangements, gates and wheel washing.

3.6 The Council's Engineers have commented that part of the site is within flood zone 2 and therefore a site specific Flood Risk Assessment is required, however the Council has no records of historical flood incidents for this site or the surrounding area. The applicant should contact the engineering team to discuss the option of incorporating a Sustainable Drainage System, should permission be granted.

3.7 The Environment Agency comments that the only constraint on the site is flood risk. It is therefore necessary to apply the sequential test to the application and check that the appropriate flood risk assessment requirements have been met. It is confirmed that the applicant has considered access and egress in the event of a flood and the development itself is outside Flood Zone 3.

#### **4.0 Parish Council Representations**

4.1 Hormead Parish Council raise the following objections:

- Inadequate parking;
- The restrictions placed on when the overspill parking can be used and the inability to ensure it remains in perpetuity;
- The size and particularly the height of the new hall is out of keeping.

#### **5.0 Other Representations**

5.1 The application has been advertised by way of press notice, site notice and neighbour notification.

5.2 13 letters of representation have been received in support of the application which can be summarised as follows:-

- The current building in is a poor state of repair ;
- The cost of repairing the current hall will cost more than replacing it;
- Previous plans to improve the facility have not been viable due to lack of funding;
- It is an essential part of the community;
- The replacement building will increase its usage;
- The proposed building is attractive;
- The amount of parking proposed will be sufficient.

5.3 8 letters of representation have been received opposing the application which can be summarised as follows:-

- Insufficient and inappropriate parking;
- Unnecessary;
- Flood risk;
- Restricted Fire Access to neighbouring residential properties;
- Loss of rear access to Rose Cottage;
- Increase in noise and disturbance;
- Loss of privacy;
- New dwelling will not cover the entire cost of rebuilding the hall;
- No plan for future maintenance/ running of new hall.

## **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
OSV3	Category 3 Villages
OSV8	Village Shops, Community and Leisure Facilities
ENV1	Design and Environmental Quality
ENV2	Landscaping
ENV3	Planning Out Crime-New Development
ENV4	Access for Disabled People
ENV24	Noise Generating Development
BH2	Archaeological Evaluations and Assessments
BH3	Archaeological Conditions and Agreements
BH6	New Developments in Conservation Areas
TR7	Car Parking-Standards
TR20	Development Generating Traffic on Rural Roads

## **7.0 Considerations**

7.1 The main issues for consideration are:

- The appropriateness of the development in the Green Belt;
- The size, siting and design of the new dwelling and village hall;
- The impact of the development on the amenity of nearby residential properties;
- The highway, parking and access implications;

- 7.2 As outlined in Section 3.0 above, planning permission was refused in 2010 for an identical scheme on highway and parking grounds only. When considering the application it was established that the principle of development, the size, siting and design of the new dwelling and village hall and the impact they would have on neighbouring residential were acceptable. Since that time there has been no change in either national or Local Plan policy or the physical circumstances of the site and therefore I consider the proposed development in those respects remain acceptable. The planning inspector in the subsequent appeal raised no concerns regarding these matters.
- 7.3 Turning to the highway, parking and access implications, the planning inspector was satisfied that the amount of parking proposed and the arrangements with the neighbouring landowner were adequate and that the development would not unduly prejudice highway safety. He did not raise any concerns regarding the long-term availability of the overspill parking area and considered that the flexible approach to car parking provision where there would be occasional peaks in demand for car parking space was sensible. Furthermore he considered that the use of the adjacent land for overspill parking would not have a significant impact on the character and appearance of the area. In line with these and County Highways comments I do not consider that refusing the application on these grounds can be justified.
- 7.4 Notwithstanding the above comments both the Planning Inspector and County Highways have raised concerns that the development may result in vehicles parking on the B1038 which could prejudice highway safety. A sum of £8000 has been requested by County Highways to implement a Traffic Regulation Order to secure appropriate prohibition of parking on the adjoining highway which the Planning Inspector also considered to be reasonable. The applicant has now agreed to pay this contribution and has submitted a draft unilateral agreement accordingly. I consider that the contribution meets the test of Circular 5/2005 and adequately addresses this matter.
- 7.5 Finally in relation to the comments made by the Environment Agency, the Flood Risk Assessment requirements within the Environment Agency's current Flood Risk Standing Advice have not been met. PPS25: Development and Flood Risk was published on 25 March 2010, 5 months before the determination of the previous application. The physical circumstances of the site and the proposed development are unchanged and neither the Environment Agency nor the Planning Inspector raised concerns in relation to flood risk or required the sequential test to be applied. I therefore consider that it would be inappropriate to apply the sequential test in this case or refuse the application due to lack of

information on this matter.

## **8.0 Conclusion**

- 8.1 To conclude, having considered the above matters and recent appeal decision, it is my opinion that the proposed development is acceptable and special circumstances exist to warrant a departure from Local Plan policy. The size, siting and design of the proposed buildings are acceptable, sufficient parking and access arrangements are proposed and there would not be an unacceptable impact to neighbours amenities. It is therefore recommended that subject the provision of S106 Agreement, planning permission be granted subject to the conditions outlined at the start of this report.

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Appendix B

362 3/11/1387/FP - EXTENSIONS TO BRICK BUILT 1960'S BUILDING AND ERECTION OF NEW DWELLING TO REAR WITH ASSOCIATED ACCESS AND LANDSCAPING AT GREAT HORMEAD VILLAGE HALL, GREAT HORMEAD, BUNTINGFORD, SG9 0NR FOR HORMEAD VILLAGE HALL MANAGEMENT COMMITTEE

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Mr Edward Keymer addressed the Committee in support of the application.

The Director of Neighbourhood Services recommended that, subject to the applicant or successor in title signing a legal agreement pursuant to S106 of the Town and Country Planning Act 1990, in respect of application 3/11/1387/FP, planning permission be granted subject to the conditions now detailed.

Councillor Mrs R Cheswright expressed her satisfaction in relation to the Section 106 planning obligation detailed in the report now submitted. She referred to residents' concerns in relation to car parking and restricted fire service access.

After being put to the meeting and a vote taken, the Committee accepted the recommendation of the Director of Neighbourhood Services that, subject to the applicant or successor in title signing a legal agreement pursuant to S106 of the Town and Country Planning Act 1990, application 3/11/1387/FP be granted subject to the conditions now detailed.

RESOLVED – that, subject to the applicant or successor in title signing a legal agreement pursuant to S106 of the Town and Country Planning Act 1990, in respect of application 3/11/1387/FP, planning permission be granted, subject to the conditions detailed in the report now submitted.





**3/10/0033/FP- Extensions to brick built 1960's building and erection of new dwelling to rear with associated access and landscaping at Great Hormead Village Hall, Great Hormead, Buntingford, SG9 0NR for Hormead Village Hall Management Committee.**

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**Date of Receipt:** 04.02.2010

**Type:** Full – Minor

**Parish:** HORMEAD

**Ward:** BRAUGHING

**Reason for report:** Requested by Cllr Cheswright

**RECOMMENDATION**

That planning permission be **REFUSED** for the reason:-

1. The proposal would result in inadequate provision being made within the site for the parking of vehicles in accordance with the Council's adopted standards for car parking provision and the proposal would therefore be likely to result in on-street parking, causing obstruction to the free and safe flow of traffic, thereby exacerbating traffic congestion on the nearby road network to the detriment of highway safety and contrary to policy TR7 of the East Herts Local Plan Second Review April 2007.

\_\_\_\_\_ (003310FP.NB)

**1.0 Background**

- 1.1 The application site is shown on the attached OS extract.
- 1.2 The site is currently occupied by the existing village hall which is constructed in 3 sections, two brick built and one with corrugated iron. The corrugated iron section of the building is proposed to be demolished, whilst the brick built parts of the building would be retained and used in the construction of the proposed new village hall. Conservation Area Consent for this partial demolition was granted under delegated powers on the 8<sup>th</sup> March 2010 (ref 3/10/0034/LC).
- 1.3 The existing village hall is single storey and provides an internal floor area of approximately 186sqm. The village hall is set back approximately 7 metres from the adjacent highway and is sited fronting south towards this highway, the B1038. The remainder of the application site forms hard standing that provides car parking for the existing hall.



### 3/10/0033/FP

- 1.4 This application seeks permission for an extension to the existing building to form a new village hall and the erection of a new dwelling with associated access and landscaping.
- 1.5 The proposed extended hall would be re-orientated to face west with the flank wall fronting the highway. The hall would extend a total length of 25 metres into the site and be within 2-2.5metres of the eastern site boundary with neighbouring residential properties within Half Acre Lane. The proposed extended hall is of a fragmented design with a front projecting gable end forming an entrance to the building. Due to varying land levels the eaves and ridge height of the building's roof would vary from 4 metres and 6.3 metres respectively at the southern flank of the building, falling to 2.4 metres and 5 metres respectively at the northern flank. The building is designed to be clad with black stained weatherboarding with a slate roof.
- 1.6 The proposed extended village hall would provide ground and first floor accommodation, with a total floor area of approximately 275sqm. 13 parking spaces and an additional 2 spaces for disabled motorists are proposed to serve the village hall. Subsequent to an objection being received from County Highways in relation to parking issues, the architect has submitted an additional supporting letter. This letter explains that the loss of some of the existing car park was essential to fund the extensions to the hall and that other venues within the area do not have large car parks, including The Three Tuns and The Beehive Public House's, Brent Pelham Village Hall and St Nicholas church and the new church room. The letter argues that cars are parked along the B1038 in front of the school and the effect that this has is to slow traffic. It is explained that visitors would be encouraged to walk, cycle and car share and that many events would result in less need for cars such as youth and senior citizens events and events where there is a licensed bar. Methods that could be adopted, should parking overspill into the highway, are identified to include parking restrictions at the entrance and on the bend and the introduction of lighting. A recent event is referred to that occurred on 27<sup>th</sup> February where 80 people were at the hall and only 16 cars were in the car park.
- 1.7 The proposed dwelling would be sited to the rear and north of the site. The majority of the dwelling would be within 11 metres of the eastern boundary of the site with the adjacent residential properties and the rear projection would be 8 metres from this boundary. The dwelling would be 2 storeys reaching an eaves height of 4.4 metres at the southern flank and a ridge height of 7.4 metres and decreasing to an eaves height of 3.8 metre at the northern flank with a ridge height of 6.7 metres.

### **3/10/0033/FP**

- 1.8 The dwelling is designed with single storey front projections and a single storey rear projection that would extend 3.7metres from the rear of the main house. The dwelling would have a hipped roof with the 1<sup>st</sup> floor windows sited within the eaves. The dwelling is proposed to be weather boarded with a clay tiled roof. It would have an integral garage with additional space to the front of the garage to accommodate a minimum of 2 additional vehicles.
- 1.9 The proposed dwelling is intended to help finance the extensions to the village hall. A business plan submitted in support of the proposal identifies the total construction costs of the proposed hall to be estimated at £278,595.00, with professional fees of £31,419.18 and site survey, planning and building regulations fees creating a total cost of £312,851.81. However, the Planning Statement estimates a total cost for the new hall of £307,615 at 2009 prices. The sale of the building plot for the proposed dwelling was originally anticipated to raise approximately £180,000, however during recent discussions with the agent who has been in contact with a local valuer it was confirmed that this is now estimated to be in the region of £200,000-240,000. The agent has also confirmed that the applicant currently has a total saved fund of £53,000 for the new hall. Assuming therefore that the building plot for the proposed dwelling would generate an income of £200,000-£240,000, then the applicant would have a shortfall of £14,615-£54,615 to raise.

### **2.0 Site History**

- 2.1 Conservation Area Consent for the partial demolition of the existing village hall was granted under delegated powers on the 8<sup>th</sup> March 2010 under lpa reference 3/10/0034/LC.
- 2.2 Planning permission was granted for a new village hall at the site in 2002 under lpa reference 3/02/0448/FP.
- 2.3 In 1999 planning permission was granted for extensions to the village hall under lpa reference 3/99/0588/FP.
- 2.4 Permission was granted for a replacement roof to the hall in 1981 under lpa reference 3/81/0086/FP.

### **3.0 Consultation Responses**

- 3.1 Thames Water has commented that there are public sewers crossing the site and their permission is required for works taking place within 3 metres of a public sewer.

### 3/10/0033/FP

- 3.2 Environmental Health has recommended conditions to any permission granted that relate to noise, air quality and contaminated land.
- 3.3 The Historic Environment Unit has recommended a condition to require an archaeological recording of the existing building and an archaeological field evaluation to be carried out should permission be granted.
- 3.4 The Council's Conservation Officer has recommended refusal of the application. In assessing the impact of the extensions to the 1960's element of the Village Hall building and the erection of the new dwelling to the rear, she indicates that the character and appearance of the proposed building, which relates to the function of the building in terms of scale, mass and design and the contribution it makes as a community asset to Great Hormead and surrounding villages it serves, have been taken into consideration. In addition, how the building contributes to the wider character and appearance of the host village Great Hormead has to be considered.

In considering the scale and mass of the 'replacement' Village Hall, it is accepted that its footprint is not dissimilar to what exists, however there are concerns with the design and how it is perceived in the context of its function. It is recognized that the hall is located on the outer perimeter of the village adjacent to an agricultural setting, which is considered to have been the ethos behind the proposed design resulting in a Village Hall which is more reflective of a barn conversion. Unfortunately, this approach removes the identity and/or perception of the Village Hall within the community and is considered to erode the historic evolution and character of the village. This said it is accepted that the current Village Hall, which was built within the first quarter of the 20<sup>th</sup> Century, is in a poor state of repair but its overall form typically dictates its function as a valued community building within the village, the identity which is unfortunately lost in the new design.

In considering the wider impact on the character and appearance of Great Hormead, the proposed re-orientation of the new hall is considered to be out of character with the built grain of the village which creates a sense of enclosure with frontages within the street scene. This, together with the newly proposed design, is considered incongruous to the existing character and appearance of Great Hormead.

The concerns with regard to the erosion of the traditional built form of Great Hormead through the design and re-orientation of the Village Hall would be further exacerbated by the 'potential' demolition of the adjacent agricultural buildings to accommodate the overflow to the Village Hall car park. This is of particular concern as this part of the village has a strong agricultural tie with open fields and agricultural buildings which together act as a 'gateway'

when entering and exiting the village, reminding the resident and/or introducing visitors to its character. This is not to say the agricultural units cannot seek permission in the future and be considered on their own merits, but their replacement with a hard standing car park in such a prominent location would be considered out of keeping and as such detrimental to the character and appearance of the village. This said, it is recognised that this element of works does not form part of this proposal.

Lastly, in considering the mass, scale and design of the proposed house, it is accepted that it is set back from the main street and presents itself as a one and half frontage. Being mindful that the land in question does elevate itself above the highway and it is in this context that it is suggested that the design of the building reflects the immediate and wider built form of Great Hormead. It is recognized that the relationship between the new Village Hall and residential unit is important due to their close setting, however in this case a more traditional approach to both would go towards introducing and assisting with their connection to the immediate and wider character and appearance of the village.

- 3.5 County Highways have recommended refusal as to permit this proposal will increase the likelihood of vehicle parking within the public highway leading to conditions detrimental to the safe and free flow of traffic thereon. The principle of this application was considered at the pre-application stage. At that time the focus of attention was on achieving a satisfactory access arrangement. With regard to on site parking the agent was advised that parking standards were laid out in the East Herts SPD and the Highway Authority would only be concerned if the proposal were to have a significant impact upon the function of or safety on the public highway. The agent did suggest that in the event of overspill parking occurring they would investigate whether it could be accommodated within the adjacent farm land in the vicinity of the agricultural building.

Looking at the access it is confirmed that the scheme proposed is along the lines agreed pre-application, with the exception of the width of the shared drive. As this drive serves as access to and from the new dwelling and also acts as the exit for village hall traffic the width must be a minimum of 4.1 metres whereas it appears to be just over 3 metres in width which is insufficient to allow for two way traffic. It is acknowledged however that the width of the drive could be increased on land forming part of the application and without detriment to the parking layout and therefore could be overcome by condition.

Turning to the car parking County Highways have been made aware of the local residents concerns regarding the impact of any overspill parking on the public highway and have considered their concern to be justified.

Concerns have been raised about the capacity of the existing car park. The application form suggests that there is a maximum capacity of 20 spaces whereas the locals are suggesting that 50 spaces is nearer the correct figure. An assessment has been undertaken of the likely capacity and it was found that if the car park was laid out in a formal manner, 30 spaces could be achieved and there is no doubt that, parking in a haphazard manner, more like 40 cars could be accommodated.

It is noted that the Design and Access Statement does refer to the possibility of overspill parking on the adjacent site with the agreement of the landowner but as it seems to be an aspiration rather than a certainty this has not been taken into account in reaching the decision.

The submission proposes 13 car parking spaces for the village hall plus 2 for disabled motorists (excluded from the calculation to ascertain maximum parking standards). However it is questioned whether the individual space alongside the western side of the building is useable because of the restricted manoeuvring area and indeed, because of the level difference whether any of the spaces at that end of the site could be used quite as easily as the plan suggests.

The East Herts SPD on parking suggests that parking space at a ratio of 1 space per 9sqm gfa should be provided giving a maximum requirement of 31 spaces. Theoretically there is no minimum requirement so it would be wrong to say that the proposal does not comply with standards. Nevertheless this site falls within a rural area with very little public transport and on the edge of the village with, consequently a high reliance on the private car as the mode of transport to the site. It is acknowledged that there is a footway link from the village this however is not an unbroken link serving all of the residences nor is it illuminated. The submission makes no reference to any sort of Green Travel Plan or initiatives to reduce the reliance on the private car and given the uncertainty of number of users and frequency of use of the building it is considered that the value of a Green Travel Plan would be questionable.

In these circumstances it is considered that a reduction from the maximum provision is not appropriate, particularly a reduction from 31 down to 13.

The highway fronting the site is a Secondary Distributor Road, the B1038, measuring just 5.5 metres wide. Traffic volumes along the road are high when compared against similar class roads within this part of the County with a high proportion of HGV traffic. Any on road parking will cause obstruction to two way traffic. To accommodate an overspill of 18 vehicles, 108 metres of available carriageway will be required. Taking into account the position of existing accesses 11 vehicles could be accommodated to the

east of the site before the side road is reached. To the west however car parking could be stretched over 81 metres. At any point beyond 24 metres from the site visibility for and of vehicles overtaking parked vehicles is restricted thereby increasing accident potential.

The parking issue is a fundamental concern that, without securing further off-road parking provision together with a traffic regulation order to further resist on-road parking, leaves no option but to recommend that planning permission should not be permitted for the scheme as submitted.

County Highways have been sent a copy of the recent letter in relation to parking that the architect submitted and have commented that this does not change their recommendation.

- 3.6 The Council's Engineers have commented that part of the site is within flood zone 2 and therefore a site specific Flood Risk Assessment is required, however the Council has no records of historical flood incidents for this site or the surrounding area. The applicant should contact the engineering team to discuss the option of incorporating a Sustainable Drainage System, should permission be granted.

#### **4.0 Parish Council Representations**

- 4.1 Hormead Parish Council were unable to come to a majority resolution on this application and therefore have no comments to make.

#### **5.0 Other Representations**

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

- 5.2 11 letters of representation have been received which can be summarised as follows:-

- Agree that the hall needs improving;
- No need for a hall of this size;
- Close proximity to boundary with neighbour will appear ugly and block sunlight;
- The new room at the church can be used for functions;
- Insufficient amount of parking;
- Lack of parking will result in overflowing onto the B1038 causing a danger to traffic;
- Number of parking spaces indicated on the form is incorrect;
- Access to sewerage drains will be restricted;



- Small area between the hall and boundary fence would create a dark area where nefarious activities may take place ;
- No disabled access to the 1<sup>st</sup> floor;
- A bungalow would be more in keeping;
- New dwelling would set a precedent;
- Fear that if the rest of the funding is not found for the hall then more houses will be built in its place;
- Dwelling would overlook neighbouring properties causing loss of privacy, light and impact upon outlook;
- Increased noise and disturbance due to re-siting of hall close to the boundary with neighbours;
- Doubts over ability to fund raise remaining money required due to current low profit levels;
- Doubts over ability to maintain the cost of a building of this size;
- Existing site would be used for access to the dwellings in Half Acre Lane in the event of a fire;
- Loss of rear access to Rose Cottage;
- Existing problems of litter would be amplified;
- Inaccurate plans and information submitted with the application;
- Conflicts with Local Plan Policies on Conservation Areas;
- The house is out of keeping with the character and appearance of the locality;
- The house would not form affordable housing or meet a local need;
- The development would block important views and vistas of the countryside;
- Predicted increase in profits that the new hall would achieve is questionable based on the profits of other local village halls;
- The Village Hall Committee has broken rules in its constitution;
- A village hall should be a focal point, not hidden out of view.

## **6.0 Policy**

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

SD2	Settlement Hierarchy
GBC3	Appropriate Development in the Rural Area Beyond the Green Belt
OSV3	Category 3 Villages
OSV8	Village Shops, Community and Leisure Facilities
ENV1	Design and Environmental Quality
ENV2	Landscaping
ENV3	Planning Out Crime-New Development
ENV4	Access for Disabled People

ENV24	Noise Generating Development
BH2	Archaeological Evaluations and Assessments
BH3	Archaeological Conditions and Agreements
BH5	Extensions and Alterations to Unlisted Buildings in Conservation Areas
BH6	New Developments in Conservation Areas
TR7	Car Parking-Standards
TR20	Development Generating Traffic on Rural Roads

## **7.0 Considerations**

- 7.1 The proposed development for extensions to the village hall and a new dwelling form departures from Local Plan Policy and therefore the principle consideration is whether there are sufficient special circumstances in this case to justify the approval of the current application and outweigh the harm that these inappropriate developments would cause. A material consideration in the determination of the application is the planning permission granted for a new village hall at the site in 2002.

### Principle of development

- 7.2 Policies GBC3 and OSV3 outline specific types of development that are appropriate within the Rural Area Beyond the Green Belt and within Category 3 Villages, wherein the application site is situated. Extensions to village halls and the erection of new dwellings do not fall within the appropriate types of developments that these Policies allow for. However, Policy OSV8 does allow for small scale extensions to existing community facilities within Category 3 Villages. Notwithstanding this Officers consider that the size of the extensions that are proposed would not constitute a small scale extension and therefore the proposed development forms a departure from Policy OSV8 in addition to Policies GBC3 and OSV3.
- 7.3 The special circumstance that has been submitted by the applicant in this case, in order to seek to justify a departure from Local Plan Policy, is the need for the extensions to the hall and the need for the proposed building plot to provide funding towards the provision of the extensions to the village hall.
- 7.4 The planning permission granted for a new village hall at the site in 2002 accepted the need for an updated and extended hall at this site. The supporting information submitted with the current application suggests that this need remains and, despite the doubts of some local residents over this, the Council have no evidence to determine otherwise. The village hall that was granted in 2002 proposed a floor area of 270sqm, making a similar provision to the current proposal which is for 275sqm of floor space. Having

regard to the previously approved village hall, Officers consider the size of the proposed extensions to the hall to be justified in this case.

- 7.5 The total cost of providing the refurbishment and extensions to the village hall is estimated by the applicant at £307,615. Based upon the figures provided by the agent, the applicant would have a shortfall of between £14,615-£54,615 to raise to pay for the new hall. Without the estimated profits from the building plot for the new dwelling, the applicant would be left with an estimated total of £214,615-£254,615 to raise. This is clearly a significant amount of funding to raise and it is expected that the applicant would have difficulties in obtaining the funding required for the hall should the new dwelling not be approved.
- 7.6 Officers have sought advice from the Council's Economic Development team with regards to the likely sources and amounts of funding that would be available for a scheme of this kind. It was confirmed that with regards the Council's own funding there are limited resources available, other than within the Rural Development Programme for England, which is generally focused towards rural businesses. Although there would be some difficulties in achieving this funding a village hall could be considered under this programme subject to meeting a complex set of criteria. If funding were to be awarded under this programme then this would be likely to be a percentage of the amount required and not the full amount. Other funds available from the Council are limited to approximately £10,000. With regards to funding from the National Lottery, this would be unlikely to be given in this case. Although Lottery funding was obtained at Cottered the system has since changed and funding is now far more difficult to obtain.
- 7.7 Based upon the advice given from the Council's Economic Development team Officers consider that there is a greater chance in obtaining funding towards the £14,615-£54,615 shortfall that would be required should the principle of the new dwelling be approved. However, without the sale of the building plot for the new dwelling it is considered that it would be extremely difficult and somewhat unlikely that the shortfall of £214,615-£254,615 would be raised. The principle of the proposed dwelling is therefore considered to be reasonable and justified in order to provide the funding required for the new village hall, and would form a special circumstance in this case to warrant a departure from policy.

#### Parking and Highways matters

- 7.8 Appendix II of the Local Plan recommends a maximum parking provision of 1 space per 9m<sup>2</sup> of gross floor area or 1 space per 3 fixed seats for public halls. Using the proposed floor area of 275sqm this would amount to a maximum provision of 30.56 spaces. The proposed number of spaces for

the hall is 13, with an additional 2 disabled spaces. As Appendix II of the Local Plan specifies that the number of disabled parking spaces proposed are to be taken as additional to the total capacity, the total provision of 13 regular spaces will be considered in this case. The parking standards given within Appendix II are intended to form maximum standards, however the proposed level of parking at the site represents a significant shortfall of 17.56 from the maximum standard of 30.56 spaces, and Officers are concerned that this amount is insufficient within a rural location such as this to provide for the size of the development that is proposed the proposal would thereby be contrary to the aims of Policy TR7. Furthermore, the comments received from County Highways identify that the insufficient level of parking that has been proposed would be likely to result in vehicles parking on the adjacent highway which would be detrimental to highway safety.

- 7.9 The information that has been submitted in support of the application and the level of parking that is proposed has been considered. Although Officers support the principle of providing a new dwelling on the site to enable the extensions to the hall to be carried out, the amount of space for car parking that would result is not considered to be sufficient and the benefits that the extended hall would bring to the local community do not outweigh the harm to highway safety that would be caused by the proposal.
- 7.10 Officers are concerned by the suggestion of providing overspill car parking on the adjacent land to the west of the site, which is currently occupied by an agricultural barn. This would constitute further inappropriate development that would form an incursion into the Rural Area and furthermore, in accordance with the comments from the Conservation Officer, would be detrimental to the character and appearance of the Conservation Area. Although an expansion of the car park into the adjacent site does not form part of this proposal Officers do not consider this to be an acceptable solution to overcome the concerns raised with the current application.
- 7.11 The space available for parking in connection with the proposed dwelling house is however considered to be acceptable.

#### Design and Impact upon Conservation Area

- 7.12 In principle, it is considered that the proposed village hall is of a high quality design and choice of materials. However, concerns have been raised by the Conservation Officer in relation to the design and siting of the hall in terms of its impact upon the character of the village and the Conservation Area. The concern that the proposed building would adopt the character and appearance of an agricultural barn as opposed to a typical village hall

are noted and understood. However, Officers do not consider that the effect of this would be of significant harm to the character and appearance of the Conservation Area such that it would warrant a refusal of planning permission. It is understood that the intention of the barn style design of the building is to create a development that would appear in keeping with the rural character of the area and that it is not uncommon for new village halls in the District to take on a design of this kind.

7.13 Due to the siting of the building, which extends south to north across the site, the view of the building from the highway to the south of the site would be largely restricted to the southern part of the building and its southern flank. This siting, together with the set back of the building by 8.5-9metres from the adjacent highway and the existing trees that would provide some screening, would be sufficient to ensure that the building would have a limited impact upon the character and appearance of the street scene and the wider Conservation Area.

7.14 Officers understand the benefits of the siting of the existing village hall, fronting towards the highway, and had the proposed hall been designed as a more typical building to serve as a village hall then a revised siting to front the highway would have allowed the hall to make a greater contribution to the character of the village. Notwithstanding this, Officers consider that the proposed siting and design of the building would not be of any substantial harm to the character and appearance of the village and the Conservation Area such as to warrant refusal of the application.

7.15 With regards to the design of the proposed dwelling, Officers consider that this too would not result in any significant harm being caused to the character and appearance of the surrounding Conservation Area. The dwelling is proposed to be sited to the west of the majority of the village hall and therefore only visible from the highway from the south of the site. The dwelling would be set back some 39 metres from this highway. Despite the rising land levels from south to north, this distance, together with landscaping to provide some screening of the dwelling would ensure that the dwelling would appear subservient to the village hall and would not appear unduly prominent or detrimental to the character and appearance of the street scene or the surrounding Conservation Area.

#### Impact on neighbour amenity

7.16 Concerns have been raised by several local residents in relation to the impact that the development would have upon the amenities of neighbouring occupiers, including impact upon outlook, daylight, potential loss of privacy and noise and disturbance. The existing village hall is situated adjacent to two neighbouring dwellings with the remainder of the

site remaining undeveloped and used for car parking. The proposed development would result in a larger village hall and a proposed new dwelling, which would be built adjacent to the boundaries of 5 residential properties. The impact that the development would have upon residential amenity would increase compared to the existing site, however, Committee Members must determine whether the degree of this impact is such as to warrant refusal of the application on these grounds.

- 7.17 The village hall is proposed to be sited within 2-2.5 metres of the eastern boundary of the site, with the adjacent neighbours, Cleveland Cottage and Hartley. The height of the eaves of this building would be 3.6 metres at the southern end of the building, reducing to 2.3 metres as the land levels rise to the north. The roof would then pitch away from the neighbours. Despite the length of the building, which would be approximately 25 metres, the amount of the building that would be visible above a standard boundary fence would be limited and would not, in officers view, be of any significant detriment to the outlook from these neighbouring properties. In terms of loss of light, it is acknowledged that the village hall may result in some loss of light into the rear garden areas of these neighbouring properties; however this would not be to such a degree that would justify refusal of the application.
- 7.18 With regards to the potential increase in noise and disturbance that the extended and repositioned hall would cause, there have been no objections from Environmental Health. Despite the hall being proposed in a position that is closer to the neighbouring dwellings, Officers do not consider there to be any evidence to conclude that the resulting noise and disturbance would be unacceptable. If unacceptable levels of noise and disturbance were to occur as a result of this development, the Council may be able to take action against this under Environmental Health legislation, dependent on the level of nuisance caused.
- 7.19 The concerns raised in relation to the passage between the proposed hall and the boundary fence in respect of potential crime and antisocial behaviour are noted. Officers consider that retaining some distance from the boundary of the site to the building is appropriate to allow access to the building and to reduce the impact upon the neighbours, and do not consider that the design and siting of the building to be unacceptable in respect of this matter.
- 7.20 The proposed dwelling would be constructed adjacent to the boundaries with neighbouring dwellings Rose Cottage, Half Acre Cottage and Quinn House. The dwelling would be sited 8 metres from the eastern site boundary with Rose Cottage, the rest of the proposed dwelling would then be set back, retaining a distance of approximately 11 metres to the

boundary with Half Acre Cottage. The distance between the proposed dwelling and the adjacent dwellings would be approximately 28 metres in the case of Rose Cottage and 37 metres in the case of Half Acre Cottage. The distances that would be retained between the proposed dwelling and these neighbouring properties is considered to be acceptable and, together with some landscaping along the boundary that could be agreed by condition, would not result in an unacceptable impact upon the amenities of these neighbours in terms of their outlook, privacy and light.

- 7.21 Quinn House is situated to the north and east of the application site; its southern flank is more or less in line with the northern boundary of the application site and the front elevation of the dwelling is set back 1.5-2 metres from the site. Despite this close proximity, Officers do not consider that the development would result in an unacceptable impact upon the amenities of the occupiers of the neighbouring dwelling. The proposed dwelling would be set back 3-3.5 metres from the northern boundary and therefore also from the southern flank of Quinn House, ensuring that the proposed dwelling would not directly over look the habitable rooms of this property. Quinn House has a low pitched roof, with the 1<sup>st</sup> floor accommodation within the roof slope. However it is situated at a slightly raised level from the application site. The contrast between this dwelling and the proposed 2 full storey dwelling would not be unacceptable and would not result in any substantial harm the amenities of this dwelling.

## **8.0 Conclusion**

- 8.1 The need for extensions to the village hall of this size has been previously demonstrated and accepted through the grant of planning permission in 2002 (ref 3/02/0448/FP), and there is no evidence of a change in circumstances with regards to this need. The financial difficulties of providing the hall have been identified and as such the provision of the proposed dwelling to provide funding for the development is considered to be justified in this particular case. Special circumstances to allow a departure from Local Plan Policy in the case of both the extensions to the village hall and the proposed new dwelling are thereby considered to exist in this case, and the benefits that the renovated and extended village hall would bring outweigh the harm that the departure from Policy would cause.
- 8.2 The design and siting of the proposed hall and dwelling are considered to be acceptable and would not be of such significant harm to both the character and appearance of the Conservation Area or to the amenities of neighbouring occupiers, as to warrant a refusal on those grounds.

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- 8.3 However, the significant reduction in parking that is proposed at the site is considered to be unacceptable and would result in vehicles parking on the adjacent highway which would be detrimental to highway safety.
- 8.4 Having regard to all of the above considerations it is recommended that planning permission is refused.



**3/10/0033/FP - Extensions to brick built 1960's building and erection of new dwelling to rear with associated access and landscaping and use of land to the front of the adjacent barn as overspill car parking for up to 10 vehicles at Great Hormead Village Hall, Great Hormead, Buntingford, Herts, SG9 0NR for Hormead Village Hall Management Committee**

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**Date of Receipt:** 04.02.2010

**Type:** Full – Minor

**Parish:** HORMEAD

**Ward:** BRAUGHING

### **RECOMMENDATION**

That planning permission be **REFUSED** for the following reason:-

1. Inadequate all year round provision is made within the site for the parking of vehicles in accordance with the Council's adopted standards for car parking provision and the applicant is unwilling to commit to the payment of a financial contribution to enable a Traffic Regulation order to be made. The proposal would therefore be likely to result in on-street parking, causing obstruction to the free and safe flow of traffic, thereby exacerbating traffic congestion on the nearby road network to the detriment of highway safety and contrary to policy TR7 of the East Herts Local Plan Second Review April 2007.
2. The application site lies within the Rural Area as defined in the East Hertfordshire Local Plan wherein there is a presumption against development other than required for agriculture, forestry, small scale local community facilities or other uses appropriate to a rural area. The proposed use of agricultural land for overspill car parking would form inappropriate development that would be prejudicial to this policy and would be harmful to the character, appearance and openness of the Rural Area. The proposal would thereby be contrary to policies GBC2, GBC3 and ENV1 within the East Herts Local Plan Second Review April 2007.

\_\_\_\_\_(003310FP.NB)

#### **1.0 Background**

- 1.1 The application site is shown on the attached OS extract.
- 1.2 The full background to the site is outlined within the previous Committee report which is attached at Appendix A to this report.

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- 1.3 Members will recall that the current planning application was deferred at the 31<sup>st</sup> March 2010 Development Control Committee meeting in order to seek clarification in relation to the potential use of the adjacent site for overspill car parking and how the profit from the building plot would be required to be used for the construction of the village hall and for no other purposes.
- 1.4 Amended plans were received by the applicant on the 15<sup>th</sup> June 2010 which now includes the land to the west of the hall, which is in front of the adjacent agricultural barn within the application site. The application has been amended to propose the change of use of this land to provide overspill car parking for the proposed village hall.
- 1.5 A letter has been submitted from the owner of the adjacent land which states that a license has been drafted for the Village Hall committee to use part of the barn forecourt for overspill car parking and a copy of the draft license has been provided.
- 1.6 Amended plan no. 302.01c shows 10 potential parking spaces to the front of the adjacent barn.
- 1.7 Since the previous Committee meeting an additional letter has been submitted by the applicant which confirms their intentions that any profit from the sale of the building plot would be reinvested in the Village Hall land and property. The letter states that the management committee are happy to enter into a Section 106 agreement and that such an agreement would almost certainly also be required by the charity commission.
- 1.8 A full re-consultation on the amended plans and description of the proposal has been carried out, involving letters sent to neighbours and all consultees as well as the application being re-advertised in the press and a new site notice being displayed. The initial representations received on the planning application remain relevant and these are summarized within the report attached at Appendix A. However, any further representations made since the consultation took place in relation to the amended plans are summarised below.
- 1.9 The applicant has provided verbal confirmation that they would be unwilling to enter into an agreement to provide the financial contribution of £8,000 that County Highways have requested to pay for a Traffic Regulation Order (TRO) should planning permission be granted.

### **2.0 Site History**

- 2.1 The history of the site is detailed within the previous Committee report which is attached at Appendix A.

### **3.0 Consultation Responses**

- 3.1 County Highways have confirmed that as the use of the overspill car parking area is restricted to outside normal weekday business hours and between October and July they object on the grounds that this would increase the likelihood of vehicle parking within the public highway leading to conditions detrimental to the safe and free flow of traffic.

A further 10 spaces would be available for use at certain times giving an overall total of 23 convenient useable off-road car parking spaces. In County Highway's original representation on the application it was noted that the Councils SPD recommended a maximum provision of 31 spaces based on gross floor area. Quite clearly there is still a shortfall on maximum standards which given the rural location and reliance on private car is always going to be a difficult issue to resolve.

In responding to the previous proposal it was highlighted that the main issue in terms of vehicles parking on the public highway was to the west of the site where the alignment of the road impacted upon the forward visibility for drivers to such an extent that passing parked vehicles would be a hazard to safety. It was however acknowledged that up to 11 vehicles could comfortably be accommodated on-street to the east of the site. Occasional parking in this location would not have the same visibility and highway safety issues as parking on-road, west of the site would bring.

Whilst this may be the case there would be nothing to stop drivers from parking along the stretch of road where it has been highlighted there are safety problems apart from common sense. Therefore a formal Traffic Regulation Order (TRO) prohibiting parking should be considered alongside the overspill facility.

Comments from the applicant are acknowledged relating to the current use and demands for parking and the assertion that, particularly with the overspill provision, on-road parking would be extremely infrequent.

With regard to the TRO, should planning permission be granted, it is recommended that the applicant be required to make a financial contribution via S106 rather than insisting that the TRO be in place prior to occupation. This is a reasonable approach as it will allow the use of the site to commence and give a period of time to assess the actual, rather than perceived need for parking restrictions. It also provides an opportunity to take action should the overspill parking agreement fail in the future. In this respect Herts Highways advise that a sum of £8000 is an appropriate figure that would cover all the statutory consultation, advertising and publication of Orders and actual cost of implementation works.

As with the previous proposal the scheme is along the lines agreed at pre-application stage, with the exception of the width of the shared drive. As this drive serves as access to and from the new dwelling and also acts as the exit for village hall traffic the width must be a minimum of 4.1m whereas it appears to be just over 3m in width on the plan which is insufficient to allow for two way traffic. It is acknowledged however that the width of the drive could be increased on land forming part of the application and without detriment to the parking layout and therefore should planning permission be granted a condition is recommended to overcome this issue.

- 3.2 The Council's Conservation Officer has commented that the agreement that the barn forecourt would be used for temporary overspill car park will have little impact on the character and appearance of the Conservation Area. However their concerns outlined in March in relation to the initial application have not been overcome.
- 3.3 A representation has been made by the Council's Engineer which states that they are unable to comment on whether the new layout has improved on the flood risk characteristics of the site.
- 3.4 The Environment Agency has commented that they are satisfied that a dry access and egress exists for the proposed development.
- 3.5 The Council's Landscape Officer has commented that there is no change in landscape terms and therefore their original comments still stand.

#### **4.0 Parish Council Representations**

- 4.1 Hormead Parish Council has submitted a representation stating that they have resolved to approve the plans submitted.
- 4.2 A member of the Parish Council has verbally raised concerns that the Parish Council meeting was not conducted in a valid manner. However, this is not a matter that the Local Planning Authority is responsible to investigate.

#### **5.0 Other Representations**

- 5.1 11 additional letters of representation have been received since the consultation on the amended plans took place. The new issues that have been raised in addition to those outlined within the previous committee report can be summarised as follows:-

- Even with the provision of the overspill car parking the number of parking spaces is insufficient;

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- Loss of mature trees;
- Access in a flood risk area;
- The agreement with the owners of the land where the overspill car parking is proposed states that the area can not be used between 25<sup>th</sup> July and 1<sup>st</sup> October each year;
- The reference made by a Committee Member that the adjacent road is straight was misleading;
- Previous planning permission for a village hall should not set a precedent;
- Impact upon local playgroup;
- The proposed development would prevent access to Half Acre Cottage for the delivery of oil.

### **6.0 Policy**

- 6.1 The relevant 'saved' Local Plan policies in this application remain the same as those outlined within the previous Committee report.

### **7.0 Considerations**

- 7.1 The considerations in respect of the extension to the existing village hall and the erection of a new dwelling on the site were set out in the report to Committee in March, which is attached as Appendix A to this report. It is not proposed to re-iterate these considerations within this report, but to only consider the amended aspect of the proposal, namely the proposed overspill parking area, and to discuss the means by which the profits from the proposed residential building plot can be secured to be used in relation to the extension of the village hall.
- 7.2 In considering the amended plans, Members should consider whether the proposed overspill car parking overcomes the reason for refusal that was previously recommended by Officers in respect of the inadequate provision of parking within the site; whether the proposed development complies with the Policies within the Development Plan and where a departure from Policy is proposed whether sufficient special circumstances exist to warrant the grant of planning permission in this case.
- 7.3 The applicant has estimated that the overspill car park would be used on less than 5 occasions a year and has stated that there has been just 2 occasions in the past 12 months when hall users have had more than 10 cars in the car park. The applicant has also confirmed that they would be willing to comply with a restriction to the number of times that the overspill car park can be used. Whilst the comments of the applicant are noted in respect of the frequency of the use of the overspill car park, it is considered

that this should not be a determining factor in considering the acceptability of the use of the land. The extended and re-furbished village hall will be some 89 square metres larger than the existing hall, and this increase in size together with the much improved facilities may arguably result in an increase in the number of people using the hall, and thus an increase in demand for car parking. The applicant's willingness to comply with a restriction as to the number of times the overspill car park can be used is noted, however Officers consider that such a restriction would be unenforceable and would not sufficiently negate the harm that the proposed change of use would have to the rural character of the area.

- 7.4 Furthermore, it is evident from the draft Car Parking Licence submitted with the amended plans that the owner of the overspill parking area would only make the land available for use outside normal weekday business hours and between the first day of October and the twenty fifth day of July each year. Therefore the parking area would not be available for use in August and September each year, thus resulting in insufficient parking provision being available in those months. In addition whilst there is no doubt that the parking agreement has been entered into in good faith, it can be withdrawn subsequently without reference back to the Council.
- 7.5 County Highways object to the proposal as the use of the overspill car park area would be restricted to outside of weekday business hours and between October and July.
- 7.6 The proposed overspill car park would not allow for all year round provision for the required number of parking spaces for the village hall and as such Officers do not consider that the previously recommended reason for refusal in relation to an inadequate parking provision has been sufficiently overcome. Due to the inability to provide all year round overspill car parking an inadequate provision is made for the parking of vehicles within the site and the proposal would therefore be likely to result in on-street parking, causing obstruction to the free and safe flow of traffic, thereby exacerbating traffic congestion on the nearby road network to the detriment of highway safety.
- 7.7 The applicant has confirmed that they would be unwilling to enter into an agreement to provide the financial contribution that County Highways consider necessary for the implementation of a TRO should planning permission be granted. A TRO would ensure that visitors to the village hall use of the car park and overspill car park as opposed to parking on the road and therefore Officers are concerned that the absence of the means to provide a TRO would add to the likelihood of on-street parking.

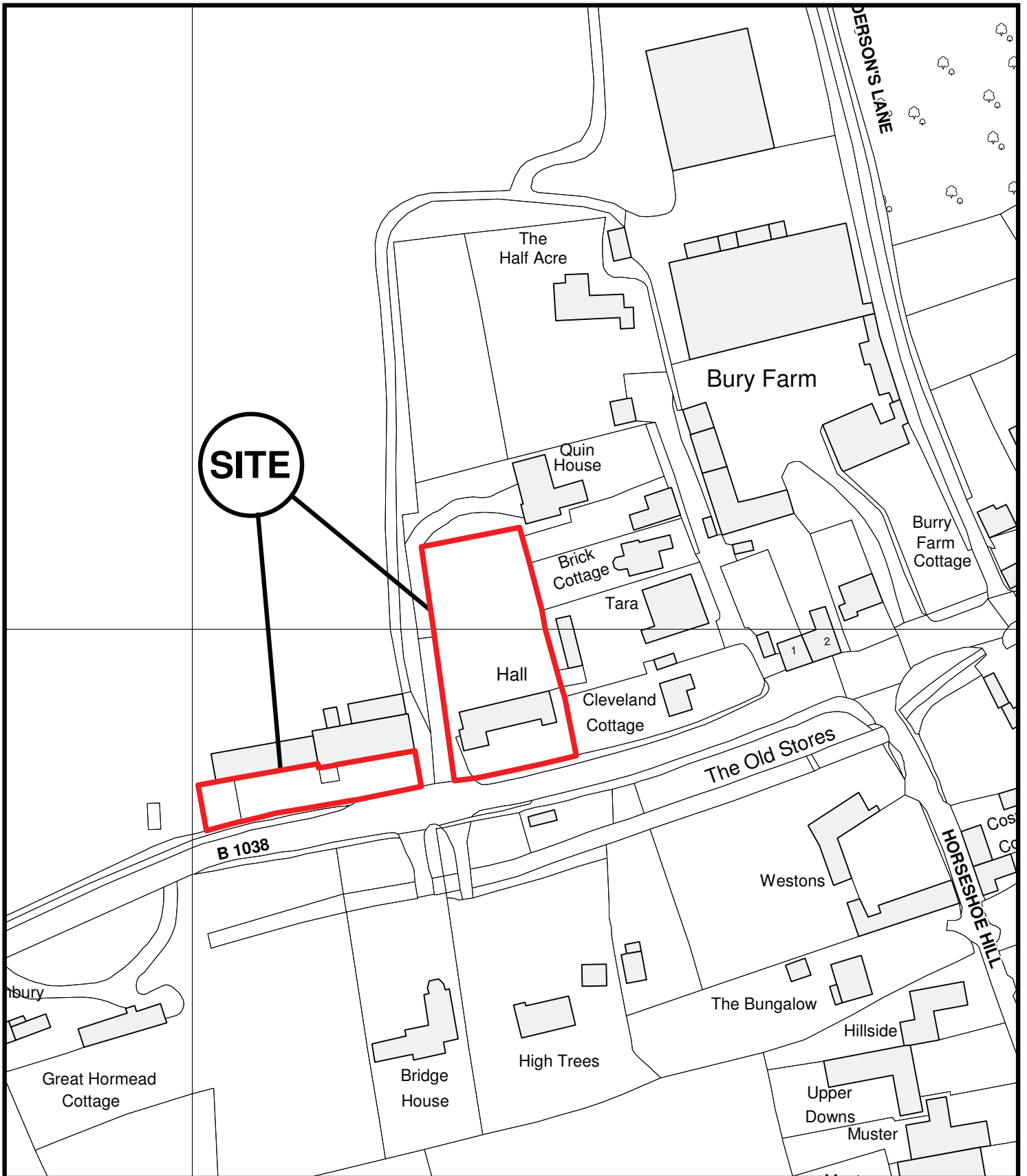
- 7.8 Members will note that paragraph 7.10 of the Officer's previous report to committee stated that *Officers are concerned by the proposal to provide overspill car parking on the adjacent land to the west of the site, which is currently occupied by an agricultural barn. This would constitute further inappropriate development that would form an incursion into the Rural Area.* The proposed overspill parking area is located within the Rural Area beyond the Green Belt as designated within the Local Plan. The use of land within the Rural Area for car parking is not specified in Policy GBC3 as appropriate development. It is therefore necessary to consider whether special circumstances exist in this case to warrant a departure from Policy and whether the proposed parking area would be harmful to the visual amenities of the site and the surrounding Rural Area. The applicant has not put forward any special circumstances to justify a departure from Policy in respect of the parking area, and Officers are concerned that the proposed car parking area represents an incursion of the use of the village hall outside of the existing site and into land that is within agricultural use and designated as an area of growth restraint (Rural Area).
- 7.9 It is acknowledged that the area of land that is proposed to be used for overspill car parking is already hard surfaced and therefore it is not anticipated that any operational development would be necessary in order for this use to be implemented. However, it is the activity together with the presence of non-agricultural vehicles on the site that would form an intrusion into the rural area to the detriment of the existing character and appearance of the surrounding area and would detract from the openness of the land by reason both of the physical presence of vehicles and the activities associated with them.
- 7.10 Turning now to the issue of ensuring that the profits made from the sale of the building plot are used for the construction of the new hall, the applicant has confirmed in writing that they are willing to enter into a Section 106 agreement to this effect. Officers are satisfied that such an agreement could be reached and would be satisfactory to ensure that the profits from the building plot are used for the new village hall.
- 7.11 With regards to the additional representations that have been made by local residents many of the issues have been previously raised and considered within the Committee report which is attached as Appendix A. Officers do not consider any of the new issues that have been raised to warrant the refusal of the application other than for the reasons given at the head of this report.



**8.0 Conclusion**

- 8.1 The applicant is unable to provide all year round overspill car parking for the village hall and as such the previous reason for refusal that was recommended by Officers in relation to car parking has not been sufficiently overcome and an inadequate provision is made for the parking of vehicles within the site. The applicant is unwilling to enter into an agreement to provide the financial contribution that County Highways consider necessary for the implementation of the TRO and as such the cumulative effect of the inability to provide all year round over spill parking and the lack of the means to provide a TRO would result in on-street parking, causing obstruction to the free and safe flow of traffic, thereby exacerbating traffic congestion on the nearby road network to the detriment of highway safety.
- 8.2 The proposed overspill car parking would constitute inappropriate development within the Rural Area and the use of agricultural land for car parking would represent an incursion into the Rural Area which would detract from the openness of the land by reason both of the physical presence of vehicles and the activities associated with them. Furthermore, the proposed car park would not provide year round provision for car parking.
- 8.3 Having regard to the above considerations and those that are set out within the report attached as Appendix A, it is recommended that planning permission is refused for the reasons given at the head of this report.

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**Address: Hornead Village Hall, Great Hornead, Buntingford, Herts, SG9 0NR**  
**Reference: 3/11/1387/FP**  
**Scale: 1:1250**  
**O.S Sheet: TL4029 & TL4030**  
**Date of Print: 22 September 2011**

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## 5g 3/11/1635/FP - Change of Use from garage units to furniture recycling scheme at Hoe Lane Garages, Hoe Lane, Ware, SG12 9LS for Riversmead Housing Association

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Date of Receipt: 16.09.2011

Type: Full - Minor

Parish: WARE

Ward: WARE - CHADWELL

### RECOMMENDATION:

That planning permission be **GRANTED** subject to the following conditions:

1. This permission shall be for a temporary period of one year, expiring on 31<sup>st</sup> March 2013 and the use hereby permitted shall cease on or before that date, and any works carried out under the permission shall be removed and the building reinstated to the satisfaction of the Local Planning Authority

Reason: In order for the Local Planning Authority to accurately assess the impact of the use on the amenities of nearby residents and on traffic generation in the area in accordance with policy ENV1 of the East Herts Local Plan Second Review April 2007.

2. Approved plans (2E10): 10635-S001, 10635-P001-A

3. The use of the premises hereby permitted shall be restricted to the hours of 1:00hrs to 15:00hrs Monday to Friday, with visitors to the site arriving by prior appointment only and these arrangements shall be maintained as such to the satisfaction of the Local Planning Authority.

Reason: In the interest of the amenities of the occupants of nearby properties, in accordance with policy ENV1 of the East Herts Local Plan Second Review April 2007 and to prevent any traffic congestion in the area at school arrival/ departure times.

4. Prior to the commencement of the use hereby permitted details of staff and visitor parking allocation within the lower level garaging area shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with those approved details.

Reason: In the interest of highway safety, and in accordance with policies TR2 and TR7 of the East Herts Local Plan Review April 2007.

**Directive:**

1. Other legislation (01OL)

**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 policies ENV1, EDE3, TR2, TR7 and WA8 and PPG1: Delivering Sustainable Development. The balance of the considerations having regard to those policies is that permission should be granted.

\_\_\_\_\_ (163511FP.SD)

**1.0 Background:**

- 1.1 The application site is shown on the attached OS extract. It comprises a block of garages for domestic use, owned by Riversmead Housing Association on the eastern side of Hoe Lane. The building is constructed in brick on two levels, the elevated brick walls rising to 5.9m enclosing a ground floor and elevated floor of individual single garages located within a primarily residential area with some limited commercial premises nearby.
- 1.2 The upper level garages serve 16 properties and residents in Grange Gardens but at present only 3 garages are leaseholder occupied. The upper level will remain with no change to the existing parking facilities on this level or the ramped access from Hoe Lane.
- 1.3 The lower level provides 21 individual garages accessed via double metal gates from a private drive with turning head and two allocated parking spaces.
- 1.4 The lower area of the garage block has been sealed off for approximately three years due to vandalism, antisocial activities and lack of general safety for the residential users.
- 1.5 The proposal is for the change of use of the lower garage parking area to provide a furniture recycling scheme on behalf of East Herts and Broxbourne Councils as part of a Furniture Re-use Project Partnership. The proposed use would fall with a B8 (storage) use class with a limited retail provision considered as ancillary to the B8 use. The primary use will be the collection of furniture, capable of immediate sale, to be stored

on site and, when sold, delivered direct to the purchaser.

- 1.6 The eight garages to the front bay on the lower level will remain while the 13 inner garages will have the garage doors removed, providing storage areas with two spaces converted to provide an office area/ kitchen and disabled WC.
- 1.7 The vehicle entrance is retained with new pedestrian gate. A single post restricted parking space is provided adjacent to the entrance with hatched line-marked restricted parking area. There will otherwise be no change to the external appearance of the building.
- 1.8 The applicants have indicated that the furniture to be collected will be tested to comply with Health and Safety Standards and Fire Regulations and be suitable for immediate re-sale; this does not include damaged items or soft furnishings. The offices will be open to the public by appointment only, operating weekdays only from 11:00 hours to 15:00 hours. Van deliveries and collections will operate initially on only 2 days per week (Monday to Friday).
- 1.9 Parking for staff, volunteers and visitors will be provided in allocated parking bays within the existing lower level garages spaces. It is envisaged that 3 to 4 members of staff will be employed to run the scheme with additional volunteers. The collection van, when visiting the site will be parked within the allocated and post restricted parking space.

## **2.0 Site History:**

- 2.1 The garage block was originally constructed as part of an adjacent housing development in the late 1970's. The only subsequent planning application was received in 2010 under ref: 3/10/2106/FP for the change of use from garage units to furniture recycling scheme which was withdrawn by the applicant/agent.

## **3.0 Consultation Responses:**

- 3.1 County Highways comment that they do not wish to restrict the grant of permission subject to a condition to secure the details of access and parking arrangements. Whilst concerned to see the establishment of a conventional industrial use and general retail use on this site, it is necessary to be mindful of the particular circumstances of the project as outlined in the submission. Having met the applicant to discuss the highways concerns it is considered that the proposal, if implemented and run as proposed, will not lead to conditions detrimental to highway safety. Nevertheless given the potential issues that may arise should the actual

### **3/11/1635/FP**

use not conform to the outlined submission, the Highway Authority recommend that consideration be given to a temporary permission, personal to the applicant.

- 3.2 The highway authority is advised that the scheme is operated by a charity that uses a small transit/Luton box type light goods vehicle to collect furniture from properties owned by the Housing Associations, there being no general retail undertaken from the premises and visitors can only attend the site by appointment outside of peak traffic hours. The scheme also makes provision for on-site parking and a dedicated LGV parking space, while seeking to end indiscriminate parking that occurs on the private road. In these particular circumstances the highway authority do not intend to raise an objection.

#### **4.0 Town Council Representation:**

- 4.1 Ware Town Council objects to the proposal on the grounds that, although a worthy scheme, this would be better in an industrial area. There are parking and traffic problems with 3 schools in the area and the site is near a hazardous junction.

#### **5.0 Other Representations:**

- 5.1 The application has been advertised by way of neighbour notification.
- 5.2 8 letters of objection have been received, a petition with 10 signatures and a letter of objection from Considerate Construction a commercial premises raising the following issues:
- There are parking issues on Hoe Lane which this scheme will exacerbate
  - The site will become a dumping ground for rubbish
  - A request for a pedestrian crossing has not been addressed
  - The scheme will result in traffic problems with 3 schools in the area, near an already hazardous junction.
  - The garages are needed for local residents
  - Visitors to the site will park in Hoe Lane, near the entrance where other vehicles will find it difficult to turn into the site safely
  - A previous scheme was closed at Gt Amwell due to anti social behaviour



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- Furniture will be sprayed with chemicals to remove bacteria, germs etc
- The scheme although worthy should be on an industrial site, with better access, and parking facilities away from residential properties.
- There will be issues of noise nuisance

5.3 Councillor M Pope, Ward Councillor for the Ware Chadwell area, has requested that the application be determined by the Development Control Committee.

#### **6.0 Policy:**

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

ENV1	Design and Environmental Quality
EDE3	Employment Uses outside Employment Areas
TR2	Traffic in New Developments
TR7	Car Parking Standards
WA8	Employment Areas

6.2 In addition, the following National policy guidance is relevant:-  
Planning Policy Guidance 1, Delivering Sustainable Development,

#### **7.0 Considerations:**

##### Principle of development

7.1 The site lies within a primarily residential area, with some commercial premises in proximity. It is not defined as a designated employment area, although Policy EDE3 applies regarding a proposed employment use sited outside of the designated employment areas. Policy WA8 also applies as the site is not within the allocated employment areas in Ware. Those policies indicate that, within the six main settlements, proposals for employment use may be permitted where there is no loss of housing, and no significant adverse impact on the amenity of nearby occupiers; where the site is capable of accommodating the proposal along with necessary access, parking and servicing arrangements and where it is of an appropriate scale and is environmentally acceptable.

7.2 In this case, the lower level of the garage block has not been in use for approximately 3 years, and officers consider that in principle the proposed recycling scheme would generate some beneficial use within part of the building, providing limited employment and a beneficial facility

for the residents of Ware.

- 7.3 The existing access arrangement is acceptable, with the dedicated van parking space, parking restriction area, and internal parking within the building. As a result, any indiscriminate parking on the private road should cease. In terms of scale, the use will be a restricted one and the building externally will remain as existing, with no signage to avoid the issues of fly tipping/ dumping. It is identified that staff parking, which is limited would be restricted to provision within part of the lower level garage space.
- 7.4 The proposal has taken into account the concerns from residents as regards traffic and amenity issues. The scheme is of a limited capacity, operating visitor appointments only outside of the peak traffic congestion periods and provides dedicated parking for staff, visitors and the scheme's collection van.
- 7.5 It is acknowledged that recycling schemes are more normally sited in industrial areas, due to the scale of many schemes and traffic movements generated by the use. However, in this instance officers consider that the small scale nature of this scheme would deliver a benefit to the immediate community and the residents of Ware that would not unduly impact on neighbour amenity of the surrounding residential properties, provided that appropriate controls are put in place.

Impact on surrounding area/Neighbour amenity

- 7.6 Amenity issues have been raised by neighbouring residents as regards the proposed scheme and the possibility of fly tipping at the site; demand for additional parking along Hoe Lane; exacerbating the levels of traffic congestion and poor highway safety in the area, especially at the peak times for dropping off and collecting school children. The applicant's planning statement defines the hours of operation of the scheme specifically outside of the peak schools hours, at 11:00hrs to 15:00hrs to avoid such conflict. The additional parking requirement is identified as modest with 3 to 4 staff with volunteers, visiting members of the public limited via appointment Monday to Friday and accommodated on-site within the garage block.
- 7.7 The Highway Authority has, as mentioned earlier, commented that "*the proposal, if implemented and run as proposed, will not lead to conditions detrimental to highway safety*". However, it does suggest that: "*given the potential issues that may arise should the actual use not conform to the outlined submission I recommend that consideration be given to a temporary permission, personal to the applicant.*" Officers Consider that

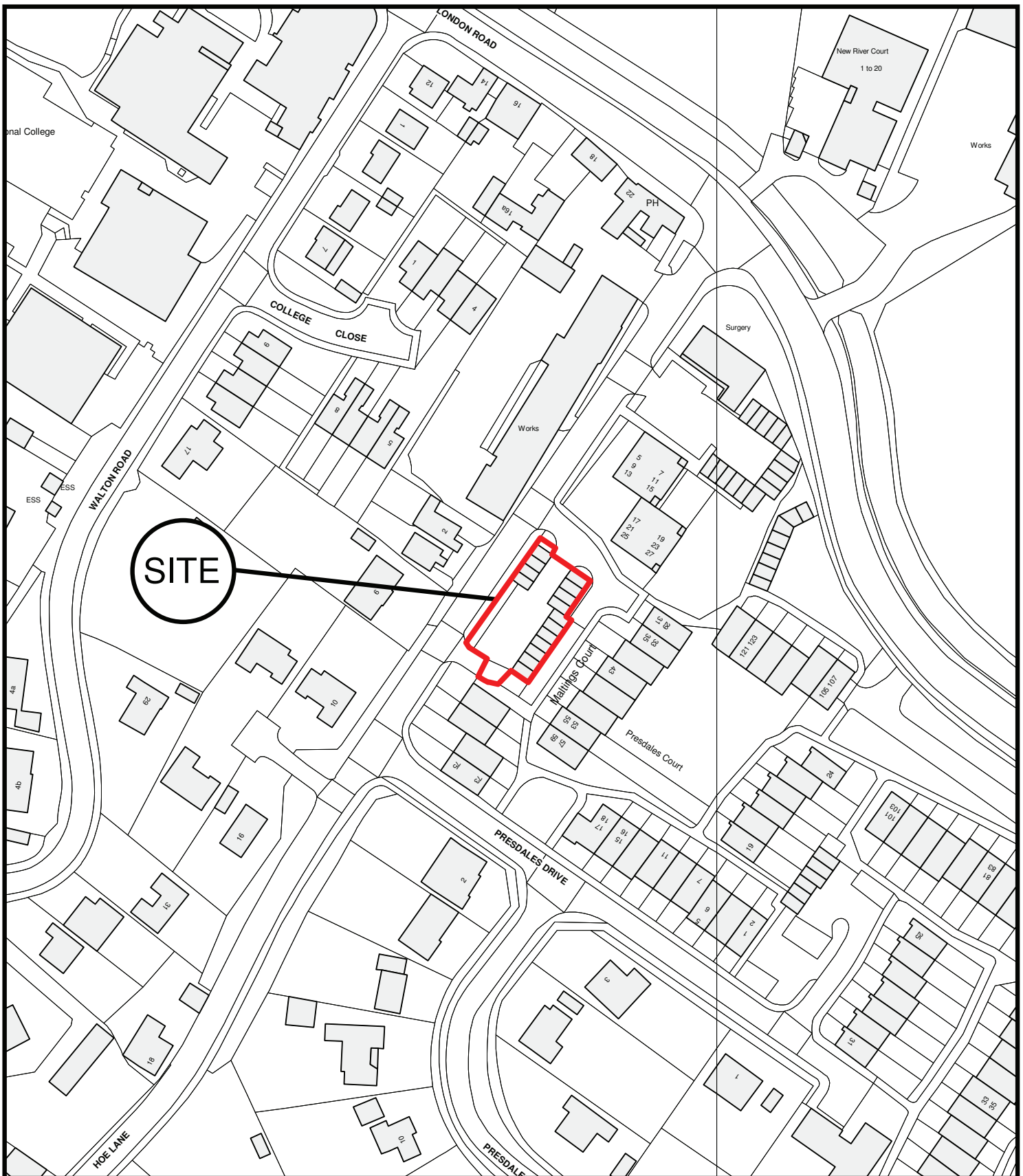
an initial temporary permission of 1 year is a reasonable condition to apply, in this case, to ensure that the site operates as proposed and will not be detrimental to highway safety in Hoe Lane or the immediate locality. This period will, in effect, act as a 'trial run' ensuring that any impact from the proposed development can be accurately assessed during the 12 month period.

- 7.8 It is not however considered appropriate or necessary to require that the temporary permission is also made personal to the applicant, as it is the impact of the use itself which falls to be considered and, with other suitable conditions in place; Officers consider that there would be adequate control over the use.

## **8.0 Conclusion:**

- 8.1 The proposed change of use to provide a furniture recycling scheme within the proposed restrictions, with a modest level of employment use, would generate positive benefits for the local community and residents of Ware and would not in Officers' opinion have a significant adverse impact on the amenities of the neighbouring residents or on highway safety.
- 8.2 It is, however considered reasonable and necessary to restrict the hours of use to ensure that any traffic generation at the site does not conflict with the peak traffic periods at the nearby schools. Furthermore, an appointment only system will ensure that any traffic to and from the site is managed so that it does not create additional kerbside parking in the areas or result in any disturbance to nearby residents
- 8.3 With these limitations in place, it is also reasonable to grant a temporary permission for 1 year so that any impact on the surrounding area can be properly assessed over that period.
- 8.4 It is therefore recommended that a one year temporary permission be granted for the proposed change of use, subject to the conditions outlined above.

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**Reference: 3/11/1635/FP**

**Scale: 1:1250**

**O.S Sheet: TL3513NE**

**Date of Print: 11 January 2012**

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**5h 3/11/1511/FP – Change of use of land to a private Gypsy and Traveller caravan site comprising 3 no. mobile homes, 2 no. touring caravans, associated hardstanding and installation of septic tank (part retrospective) at Land north of The Old Coach Road, Birch Green, Hertford SG14 2LP for Messrs Thomas and Miley Cash**

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**Date of Receipt:** 15.11.2011

**Type:** Full – Minor

**Parish:** HERTINGFORDBURY

**Ward:** HERTFORD – RURAL SOUTH

## **RECOMMENDATION:**

That planning permission be **REFUSED** for the following reasons:

1. The proposal represents inappropriate development within the Green Belt and, together with the provision of necessary access improvements and visibility splays, would be detrimental to the openness of the Green Belt; the character and appearance of this part of the village, and the setting of the adjacent listed buildings. The matters put forward by the applicants in support of the proposal are not considered to be ones to which such weight can be attached as to clearly outweigh the harm to the Green Belt and the other identified harm. The proposed development is therefore contrary to policy GBC1, ENV1, of the East Herts Local Plan Second Review April 2007 and Planning Policy Guidance 2: Green Belts.
2. The site lies within an area of known groundwater importance (Source Protection Zone 3) but the application fails to demonstrate that the proposed means of sewerage disposal would be appropriate and not result in harm to groundwater. As such, the proposal is contrary to policy ENV20 of the East Herts Local Plan April 2007 and government advice given in Circular 03/99 and PPS23 – Planning and Pollution Control.

\_\_\_\_\_ (151111FP.TH)

### **1.0 Background:**

- 1.1 The application site is shown on the attached OS extract. It lies on the northern side of The Old Coach Road and comprises the southern half of a parcel of land situated just to the west of number 12 Birch Green. That property and its neighbours at 8, 10 and 14 Birch Green are all Grade II listed buildings.

- 1.2 To the south and west of the site are open fields; whilst immediately to the north is the remaining half of the parcel of land which is accessed from within the application site itself via a metal gate in the north east corner.
- 1.3 There is a public footpath which runs to the eastern side of numbers 8 to 14 Birch Green and crosses the land to the north east of the site, leading towards the A414 by-pass. The application site is clearly visible from the footpath at the point where it crosses that field.
- 1.4 The site lies within the Metropolitan Green Belt, an Area of Archaeological Significance and a Wildlife Site as defined in the adopted Local Plan. It is also within an area of land identified by the Environment Agency as a Source Protection Zone (and area of groundwater around a public drinking water abstraction point).
- 1.5 Members may be aware that in August 2011, unauthorised works were carried out on the site involving the leveling of the land; hard surfacing; the erection of fences and its use for the stationing of a number of caravans for residential use.
- 1.6 This breach of planning control was considered serious and the Council sought, and was granted, a High Court Injunction preventing any further works from taking place on the site and also preventing its use for the stationing of residential caravans.
- 1.7 However, as works continued on site and the caravans were not removed, the Council brought further proceedings in the High Court for the breach of the injunction. The defendants were found guilty and one was initially imprisoned. The action did, however, also result in the cessation of the use of the site and the removal of some of the hardstanding.
- 1.8 In addition to this action, the Council also served two Enforcement Notices seeking the removal of all the hard surfacing on the site and the cessation of the residential use. Both Notices were withdrawn however, in view of the cessation of the use and the existence of the injunction, and an amended Notice (giving a reduced compliance period) was served in October 2011, requiring the removal of the hard surfacing. An appeal has been lodged against this Enforcement Notice.
- 1.9 The current application was originally submitted in August 2011, at the time of the original unauthorised works, but was not in a completed form until 15<sup>th</sup> November 2011. It seeks planning permission for the use of the site as a private Gypsy and Traveller caravan site comprising 3 no.



mobile homes, 2 no. touring caravans, associated hardstanding and the installation of septic tank.

1.10 In support of their application, the applicants comment that, whilst the use represents inappropriate development in the Green Belt, there are other considerations which clearly outweigh any harm to it, such that they constitute the very special circumstances required to allow the development. Those other considerations are said to be:-

- The need for Gypsy and Traveller accommodation regionally, locally and personally;
- The lack of suitable alternative sites;
- The personal circumstances of the applicant families;
- Deficiencies with Development Plan policy provision for Gypsy and Traveller caravan sites in East Hertfordshire
- The consequence of the application being refused
- Human Rights considerations

1.11 The application is also submitted with a Phase 1 Habitat Survey (carried out on 5<sup>th</sup> August 2011 before any works took place on site) which states that the site is not considered suitable for potential bat roosting habitat (although the ash tree in the south west corner of the site is recommended to be retained). The survey also identified that the site is not considered to provide good quality reptile habitat as a result of disturbance/grazing. No badger activity was found and the connectivity to ponds identified within a 500m radius of the site is considered to be poor, given the dispersal barriers created by human development and land management regimes. In this regard, the survey identified that the site is not considered to be suitable habitat for great crested newts.

1.12 Officers understand that the applicant has recently lodged an appeal with the Planning Inspectorate on the grounds that the Council has not issued a decision on this application within the 8 week period (which expired on 10<sup>th</sup> January 2012). This was of course, due to the need to report the application to the Committee and the 1<sup>st</sup> February committee is the earliest such opportunity, allowing for the receipt and consideration of necessary consultation responses. This appeal, if it is validated by the Inspectorate before the committee meeting, will mean that the Authority cannot issue a decision on this application. However, in order for Officers to clearly set out the Council's case at the forthcoming appeal, Members will, in any event, be asked to confirm the decision that would have been reached, had the appeal not been lodged.

1.13 Officers will update Members at the meeting as to whether an appeal

against 'non-determination' has been confirmed by the Planning Inspectorate.

**2.0 Site History:**

2.1 Outline planning permission was refused in January 1989 (Ref: 3/88/2612/OP) and in January 1994 (Ref: 3/93/1650/OP) for the erection of a single dwelling on the application site. The reasons for refusal in each case related to Green Belt policy; piecemeal backland development out of keeping with the character of the area; and intrusion into the open countryside.

**3.0 Consultation Responses:**

3.1 Hertfordshire Biological Records Centre does not object to the application but, in the event that planning permission were to be granted, suggest several conditions relating to ground clearance and the retention of trees/hedging at the boundaries of the site for wildlife habitat.

3.2 Natural England does not wish to comment but suggests that the impact on the local wildlife site be considered prior to the determination of the application.

3.3 The Herts and Middlesex Wildlife Trust has no objection to the proposal subject to a number of conditions to safeguard against harm to protected species.

3.4 The Council's Planning Policy team comments on the policy background to the provision of Gypsy and Traveller accommodation in the District (which is considered more fully in the 'Considerations' section of this report) and concludes that "the application fails to comply with either the policies of the Local Plan Second Review 2007 (saved policies) or with the most recent Government policy and guidance.' They recommend refusal of the application.

3.5 The Highway Authority does not wish to restrict the grant of permission subject to a number of conditions regarding the widening of the access, the provision of visibility splays and the provision of adequate parking/manoeuvring space within the site. They comment that the width of the access requires widening to ensure that two way traffic is possible and the existing frontage/hedge will require cutting back to provide adequate visibility for and of vehicles using the access drive. These matters are however, considered to be achievable on land within the control of the applicant and could therefore be secured by condition.

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- 3.6 The Environment Agency objects to the proposal because no non-mains foul drainage assessment has been provided. There is insufficient information therefore to properly assess the risk to groundwater.
- 3.7 The County Archaeologist states that, as the application is retrospective, any impact upon significant heritage assets has already occurred and therefore they have no comment to make on the proposal.

#### **4.0 Parish Council Representations:**

- 4.1 Hertingfordbury Parish Council objects to the proposal for the following reasons:

- “1. Birch Green is a category 3 village. As such there is a presumption against development (see OSV3 of the Local Plan).
2. The proposed development is contrary to policy GBC1 Appropriate Development in the Green Belt in that it does not meet the identified needs of the village or parish in accordance with Policy HSG5 (Rural exceptions).
3. The site also lies within an Area of Archaeological Significance (EH238), where Policies BH1, BH2 and BH3 apply; and within a buffer zone relating to Birch Green Pond Wildlife Site (58/056), where Policy ENV14 applies.
4. The proposal is within the greenbelt and therefore does not meet the dispensation requirements of HSG10 III (Accommodation for Gypsies).
5. The site is adjacent to several grade II listed buildings and detrimentally impacts upon their setting and curtilage.
6. The visibility for vehicular traffic entering or exiting the site is poor and could be dangerous given the nature of the road and the proximity to the traffic calming island.

In addition, we note that two planning applications have been refused for the same site in the past 1988 (Ref 3/88/2612/OP) & 1993 (Ref 3/93/1650/OP)”

#### **5.0 Other Representations:**

- 5.1 The applications have been advertised by way of press notice, site notice and neighbour notification.
- 5.2 104 individual letters of objection have been received, together with letters from the Birch Green Residents Action Group; the Hertingfordbury Conservation Society and the Campaign to Protect Rural England (CPRE). A petition against the development with 45 signatures has also

been received. The main objections can be summarised as follows:-

- Contrary to Green Belt policy and two earlier applications refused
- Contrary to policy OSV3 of the Local Plan
- Incursion into the open countryside
- Contrary to policy HSG10
- 'Very special circumstances' put forward by the applicants are not evidenced or, in any event, sufficient to justify development in the Green Belt
- There are other available Gypsy and traveller sites nearby and in East Herts
- Impact on nearby listed buildings
- Harmful to character and appearance of the village and nearby listed buildings
- Intrusion into the surrounding countryside; extending ribbon development
- Poor visibility from the access and hazard to highway safety particularly in view of proximity to the school
- Increase in traffic
- Will create unnecessary noise for adjoining residents
- Will spoil views from the public footpath which skirts the site
- Impact on local wildlife – especially Great Crested Newts
- Proposal may set an unwelcome precedent – especially for the other half of this field
- Businesses may be run from the site.
- Impact on the provision of local services from more development
- There is an existing enforcement notice on the land.

## **6.0 Policy:**

6.1 The Development Plan comprises the East of England Plan (EEP) May 2008 and the saved policies of the County Structure Plan and the Local Plan Second review April 2007.

6.2 The relevant policies of the EEP in this case are:-

H3 - Provision for gypsies and travellers  
SS7: Green Belt

Although the Government announced the revocation of the Regional Plan in July 2010, subsequent legal proceedings have confirmed that, until primary legislation is amended, the EEP remains part of the statutory Development Plan.

### 3/11/1511/FP

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

- GBC1 - Green Belt
- HSG10 - Accommodation for Gypsies
- BH1 - Archaeology and New Development
- BH2 - Archaeological Evaluations and Assessments
- BH3 - Archaeological Conditions and Agreements
- ENV1 - Design and Environmental Quality
- ENV14 - Local Sites
- ENV20 - Groundwater Protection

6.4 In addition, the following National policy guidance is relevant:-

- Planning Policy Guidance 2: Green Belts
- Circular 01/2006 (and draft replacement): Planning for Traveller sites
- Circular 03/99: Non-Mains sewerage
- Draft National Planning Policy Framework – but little weight can currently be attached to this.

### **7.0 Considerations:**

7.1 The determining issues in this case relate to Green Belt policy; the impact of the proposed development on the character and appearance of the area; highway safety; groundwater protection; archaeology and impact on wildlife in the area and whether the material considerations advanced by the applicants (including the need for Gypsy accommodation in the District) amount to the 'very special circumstances' required to justify otherwise inappropriate development in the Green Belt.

#### Green Belt policy

7.2 The application site lies within the Metropolitan Green Belt wherein there is a presumption against inappropriate development and, as stated in Policy GBC1 of the Local Plan, permission will not be given, except in very special circumstances, for purposes other than those detailed in PPG2.

7.3 PPG2 goes on to define the types of development which are considered appropriate in the Green Belt. The uses and development the subject of this application (the creation of hardstanding and the siting of mobile homes/caravans for residential occupation) do not fall within these stated types. Furthermore, Officers consider that the development fails to

maintain the openness of the Green Belt and conflict with the purposes of including land within it. They therefore constitute inappropriate development within the Green Belt which, by definition, is harmful to it.

- 7.4 PPG2 requires that substantial weight is given to the harm to the Green Belt when considering any planning application concerning such development and it is clear that planning permission should not be granted for this proposal unless there are other matters to which such weight can be given that they clearly outweigh the harm to the Green Belt by inappropriateness and any other harm, such as to amount to 'very special circumstances' for permitting this inappropriate development in the Green Belt.

#### Other harm

- 7.5 In addition to the harm by reason of inappropriateness, Officers consider that the development would result in additional harm to the area in terms of its impact on the character and appearance of the area and the potential risk to groundwater protection from the proposed sewerage system.
- 7.6 Whilst the site is currently well screened from the highway and the land to the west of the site by native boundary hedging, it is clearly visible from the footpath to the north east of the site. Officers consider that the proposed development would be prominent in the view from the footpath and would be at odds with the rural character and appearance of the surrounding area.
- 7.7 Furthermore, the provision of the visibility sight lines required to ensure that safe access and egress can be created would, in places, necessitate the cutting back and/or removal of some parts of the front boundary hedgerow. Officers are concerned that this would be detrimental to the rural character and appearance of the site itself and the surrounding area, particularly as the site is prominent at the entry to the village from the west.
- 7.8 The prominence of the development from the public footpath to the north east of the site and the provision of satisfactory sight lines would, therefore, add to the harm caused by the development.

#### Listed Buildings

- 7.9 Officers also consider that the siting of the proposed development, adjacent to this group of listed buildings, would be detrimental to their setting and historic character. This would be contrary to the national

planning policies contained in PPS5 and adds to the harm caused by the proposal.

Highway safety

- 7.10 In terms of highway safety, several residents have commented that the development would result in a harmful increase in traffic which would be detrimental to highway safety in the area. The Highway Authority, however, is satisfied that, with improved access arrangements, the proposal would be acceptable from a highway safety perspective. There is ample space within the site for the parking and turning of vehicles and it is not considered that there would be an unacceptable detrimental impact on highway grounds.

Archaeology

- 7.11 As regards the archaeological implications of the proposed development, Officers note the consultation response from the County Archaeologist. The works to create the hardstanding on the site have already taken place and, in these circumstances, Officers cannot determine that there has been any harm to archaeology on the site.

Wildlife

- 7.12 Similarly, in respect of the nearby Wildlife site, Officers are satisfied from the biodiversity survey carried out, and the representations received from the Council's own ecological advisors, that the proposed development would not have any adverse impact on protected species or their habitats. Again it is considered that suitable planning conditions could be imposed to ensure that the development did not adversely affect wildlife in the area. It is not therefore considered that unacceptable harm would be caused in this respect.

Groundwater Protection

- 7.13 The Environment Agency has confirmed that the site overlies Kesgrave Sands and is in Source Protection Zone (SPZ) 3. SPZ's define an area of groundwater around a public drinking water abstraction point which must be protected.
- 7.14 Circular 03/99 advises that, when drawing up sewerage proposals for any development, the first presumption must always be to provide a system discharging into a public sewer. Only if this is not feasible should alternative methods be considered, such as septic tanks. In such cases, the developer should submit a non-mains foul drainage assessment to

confirm that no adverse effects (as set out in Annex A to the circular) will arise.

- 7.15 This assessment has not been submitted with this application, although a septic tank is proposed, and therefore it is not possible to adequately assess any harm that might result from the proposed foul drainage system. There is therefore a potential risk to groundwater in the area and this is contrary to policy ENV20 of the Local Plan and to national planning advice set out in PPS23. Officers therefore consider that there is the potential for harm to be caused by the development as a result.
- 7.16 In summary therefore, Officers consider that the additional harm identified in this case relates to the visual impact of the development on the character and appearance of the area, particularly as a result of the provision of satisfactory vehicular visibility sight lines; the setting of the adjacent listed buildings and the potential risk to groundwater in the area. The harm caused by reason of inappropriateness, together with this additional harm must therefore be clearly outweighed by other planning considerations to which such weight can be given such as to amount to the very special circumstances required to permit development in the Green Belt.

#### Very special circumstances

- 7.17 The applicants accept that the proposal is harmful to the Green Belt by inappropriateness at least, but argue that there are other material considerations which combine to clearly outweigh this harm and any other identified harm such as to constitute those 'very special circumstances'. These considerations are summarised in paragraph 1.8 of this report and are discussed in more detail below.

#### Gypsy need and lack of alternative sites

- 7.18 The applicants' agent argues that there is a need for further sites for Gypsy and Traveller accommodation both regionally and locally and that the policy provision for such accommodation in the Development Plan is deficient in this respect. This, they indicate, contributes to very special circumstances in this case.
- 7.19 Members will be aware that local authorities have a responsibility to plan for the accommodation needs of the Gypsy and Traveller community. The Housing Act 2004 (Section 225) requires local authorities to consider Gypsy and Traveller sites as part of their Accommodation Assessments and to prepare strategies to meet those needs.



- 7.20 ODPM Circular 01/2006 provides guidance on 'Planning for Gypsy and Traveller Caravan Sites'. This states that local authorities must allocate sufficient sites for Gypsies and Travellers in their Site Allocation Development Plan Documents to meet the requirement identified in the Regional Spatial Strategy (RSS).
- 7.21 In accordance with Circular 01/2006, the Council (in partnership with Broxbourne Borough, North Hertfordshire District, Stevenage Borough, Welwyn Hatfield Borough and Hertfordshire County Councils) employed consultants to carry out a Gypsy and Traveller Accommodation Assessment (GTAA) in the study area. The Northern and Eastern Hertfordshire Gypsy and Traveller Accommodation Assessment (GTAA) was published in June 2006 and identified a need for 45 pitches (35 permanent, 10 transit) to be provided in the overall study area by 2011 (but specific pitch numbers were not allocated to individual Authorities). The Accommodation Assessment further advised that continuing provision for around 15-20 additional pitches over the five authority areas would need to be made every 5 years due to household formation expected over the next 25 years.
- 7.22 This GTAA, along with others covering the rest of the East of England area, was submitted to the East of England Regional Assembly (EERA) to inform the preparation of a Single Issue Review (SIR) policy, intended to meet the outstanding and future needs of Gypsies and Travellers in the region. The consultation draft SIR in the *East of England: Issues and options* document offered a series of options for the delivery of the 45 identified pitches in the N and E Herts area. The East Herts 'Option 1' target was for 5 pitches in the District.
- 7.23 The process leading to final adoption of the SIR was a lengthy one with the emerging Policy taking differing approaches in terms of the distribution of overall pitches required to meet identified Gypsy and Traveller accommodation needs within the region as its development progressed. East Herts Council made representations at each consultation stage and appeared at the Examination in Public (EiP) to reiterate its position that need should be met where it was locally arising and that a target provision of 5 pitches was therefore appropriate for East Herts.
- 7.24 This view was, however, not supported by the then Secretary of State and the final version of the policy was based on the principle of spreading provision over a wider area than that within which it occurred. Each authority was therefore allocated a target provision of at least 15 pitches, unless special local circumstances restricting provision applied.

- 7.25 The final version of revised RSS Policy H3 in fact required East Herts specifically to make provision for at least an additional 25 permanent Gypsy and Traveller pitches within the district by 2011 (with a further 21 additional pitches to be provided for the period 2011-2021).
- 7.26 Post adoption of Policy H3, four pitches were provided in East Herts at The Stables, Bayfordbury. These were granted on appeal and were in addition to the previously existing pitches at that location. Six additional pitches were also granted permission in High Cross in December 2010. This has reduced the 'to find' figure by 2011 from 25 to 15 (or from 46 to 36 by 2021).
- 7.27 However, whilst it is recognised that Policy H3 is currently extant, the Government is in the process of abolishing Regional Spatial Strategies and when this is fully enacted, Policy H3 will cease to be of effect. In terms of future national guidance towards Gypsy and Traveller provision, the Government has, from an early stage in the revocation process, provided local authorities with advice on how to proceed in respect of determining the level of provision to be made. This has indicated that Councils may choose to review their provision at the local level and suggests that the Gypsy and Traveller Accommodation Assessments, where completed, would form a good starting point.
- 7.28 This steer towards the findings of GTAAs is helpful; however, in the case of the Northern and Eastern Hertfordshire Partnership GTAA, only a study-wide figure of 45 pitches (35 permanent pitches plus 10 transit) is given and there are no district specific targets included. It is therefore not possible to rely on this document alone to establish a separate figure for East Herts over any other local authority in the Partnership.
- 7.29 However, government advice, in respect of housing allocations generally, also suggests that Councils may use evidence gathered to inform the preparation of Regional Strategies and therefore that Regional Strategy targets could be replaced by 'Option 1 figures' if that is considered the right thing to do for the District.
- 7.30 In the case of Gypsy and Traveller provision in the East of England Plan, the figure for East Herts Gypsy and Traveller accommodation provision to 2011 under 'Option 1' of the Issues and Options Consultation, May 2007, was 5 pitches.
- 7.31 The proposed 'Option 1' allocations are in fact the only currently available district specific figures that reflect the findings of the benchmarked GTAAs across the region to illustrate local need as arising. Therefore, Officers consider it appropriate that this figure of 5 pitches is

the most sensible starting place as a basis for establishing pitch provision in this district.

- 7.32 However, it should be noted that whatever figure is considered representative of district need to 2011, there will be a further requirement on the Council to provide sufficient pitches to ensure local need to 2031 is met within its LDF.
- 7.33 To establish a figure to cover the period from 2011-2031 is even more problematic than providing a robust figure to 2011, as the Option 1 scenario from the EERA RSS SIR May 2007 Issues and Options consultation does not go beyond 2011 provision. This is because further projections were not made at this stage for either Option 1 or Option 2. However, if the same method of projection to 2021 is applied to the Option 1 figure that would have been achieved via Policy H3, then the East Herts proportional share of the overall 1038 regional total for the additional pitches required in the period 2011-2021 would equate to 4.2 pitches, rounded to four.
- 7.34 This would therefore provide the Council with an indicative target totalling nine pitches to be provided for the period from 2006 to 2021. With four pitches already provided in 2009 on an existing private site at The Stables in Bayfordbury, and permission granted in 2010 for an additional six pitches on another existing private site at Nine Acres, High Cross, it is considered that the district would not only already have met its need over that period under that scenario, but would have slightly exceeded it.
- 7.35 In respect of further provision to 2031 this would be considered as part of the future LDF and it is likely that this would follow a further round of GTAA's
- 7.36 In summary, while the abolition of RSS's is clearly in-train, it is fully accepted by Officers that there will remain a requirement on local authorities to meet the accommodation needs of Gypsies and Travellers. However, the draft PPS *Planning for Traveller sites* (April 2011) supports the Council's view that the targets in the RSS should be given less weight and that the intention to replace those targets with locally based targets is a material consideration to which considerable weight should now be given. Therefore, in terms of current need in the district, if Option 1 figures are accepted as suitable for application, then no additional pitches would need to be provided in East Herts for the period to 2021, with provision to 2031 yet to be determined.
- 7.37 In the interim, Gypsy and Traveller accommodation proposals will be judged against the provisions of the RSS; the Government's stated

intention to abolish the RSS; the advice given to Local Authorities as a result of that intention regarding future provision; and the provisions of the adopted Local Plan.

- 7.38 Policy HSG10 of the adopted Local Plan is a criteria based policy and in this case it is considered that the proposed development does not comply with these criteria due to the adverse impact it would have on the character and appearance of the area.
- 7.39 In addition to the criteria listed in part II of the policy, HSG10 also reiterates government advice given in Circular 1/2006 and PPG2 that, in the Green Belt, Gypsy and Traveller sites are inappropriate and that it will need to be demonstrated that any harm caused to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations such as to amount to very special circumstances.
- 7.40 The applicants argue that the shortfall in Gypsy and Traveller provision across the district is one such consideration. However, whilst the Council accepts that there is a shortfall of provision against the RSS policy provision, this has to be weighed against the Government's stated intention to abolish the RSS and its guidance on future Gypsy and Traveller provision as mentioned above. The Council does not accept that there is a need for further Gypsy and Traveller sites up to 2021 in the District. Furthermore, even if the RSS figures were to be accepted, the Council does not consider that this would justify the provision of accommodation on this site within the Metropolitan Green Belt.
- 7.41 Whilst the identification of suitable land in the District for Gypsy sites is difficult due to the large amount of land designated as Green Belt or Rural Area as defined in the Local Plan, Officers consider that future provision and even the additional provision required under the RSS could be more appropriately provided within other sites that are not located within the Green Belt.
- 7.42 Officers do not therefore consider that there is an urgent need for Gypsy and Traveller accommodation in the District and that any future need can be met elsewhere outside the Green Belt. The 'need' argument put forward by the applicant is not therefore considered to be a material consideration of significant weight in this case.

Personal circumstances

- 7.43 In addition to the general 'need' argument, the applicants also state that their personal circumstances are a material consideration of significant weight in this case. However, they do not elaborate on what these

personal circumstances are. Their 'health and education needs' are cited, but without elaboration or evidence being submitted to clarify the statement.

- 7.44 Although the personal circumstances are not set out in the applicants' submission, Officers are aware, from the earlier enforcement proceedings at the site that some of the applicants' family members are in need of regular medical treatment and this was cited as a reason for them to be settled in a location close to medical facilities. Officers are also aware that the appellants wished to be settled near to a school so that the children could access appropriate education services. Officers have taken these circumstances into account, but do not consider that they outweigh the identified harm caused in this case.
- 7.45 In summary therefore, Officers cannot agree that the considerations put forward by the applicant ( as summarised in 1.8 of this report) are of such weight, either separately or in combination, as to constitute the very special circumstances required to clearly outweigh the harm caused to the Green Belt in this case.

### **Human Rights**

- 7.46 Officers have considered the human rights of the applicants under Article 8 of the European Convention on Human Rights. 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.
- 7.47 In this case, the Council considers that the harm caused to the Green Belt by the proposed development is of particular importance and is sufficient justification for the local planning authority to refuse planning permission.
- 7.48 Officers have also considered whether temporary permission should be given for the proposed Gypsy accommodation. However, as there is no immediate need for such accommodation in the district and that harm is being caused to the Green Belt; the Council does not consider that a temporary planning permission is appropriate in this case.

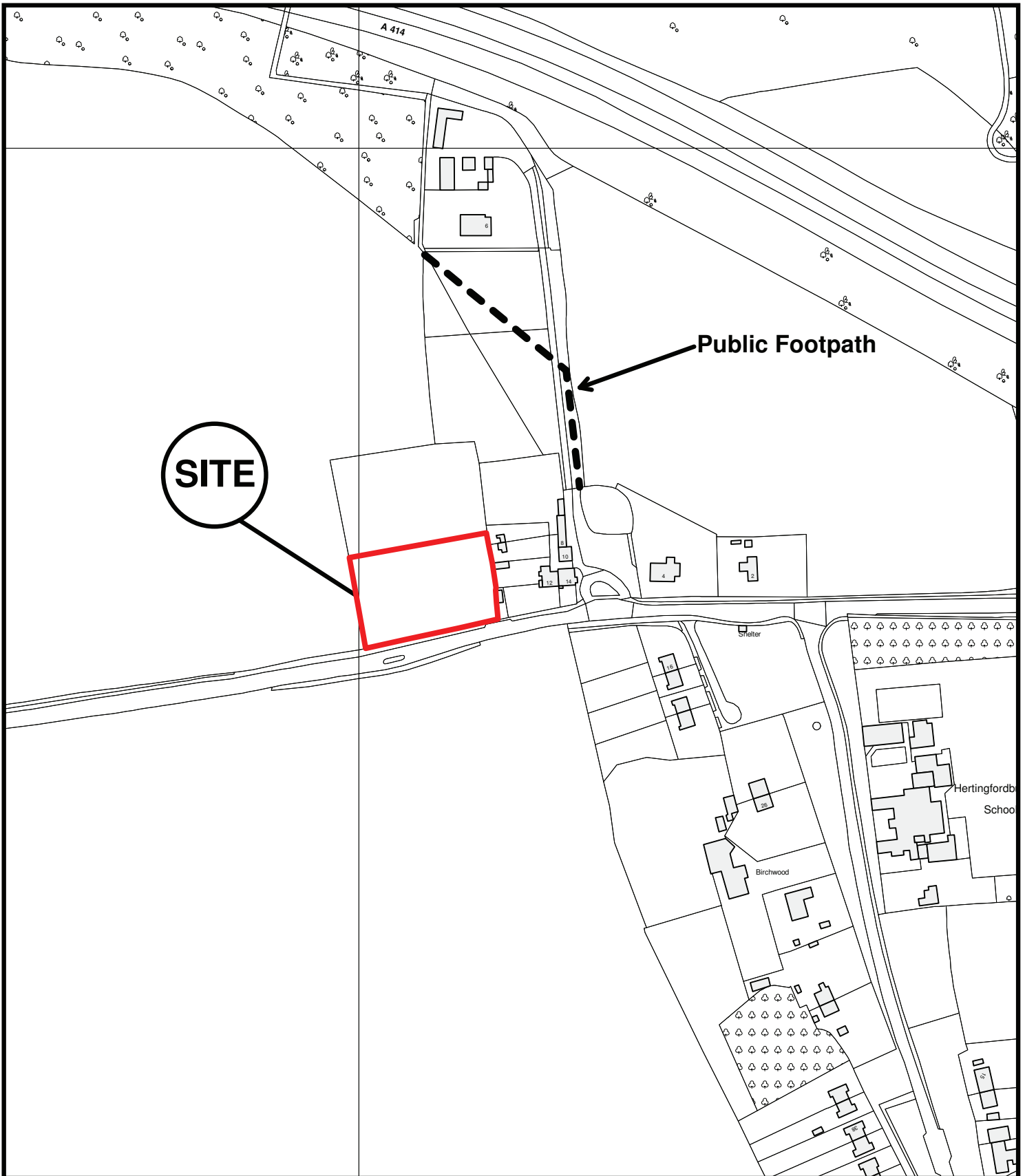
## **8.0 Conclusion:**

- 8.1 The site lies within the Metropolitan Green Belt and Officers consider that the proposed development constitutes inappropriate development. As such, in accordance with national and local planning policy, it should not

### **3/11/1511/FP**

be permitted unless the applicants have shown that there are other material planning considerations to which such weight can be given that they amount to very special circumstances which clearly outweigh the harm caused by inappropriateness and any other harm.

- 8.2 For the reason set out in the above report, Officers do not consider that the issues set forward by the applicants are of such significance as to clearly outweigh the harm caused in this case by inappropriateness and the impact of the proposal on the character and appearance of the surrounding area. It is therefore recommended that planning permission be refused for the reasons given at the head of this report.



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**Address: Land at Beechleigh Farm, The Old Coach Road, Birch Green,  
Hertford, Herts, SG14 2LP**

**Reference: 3/11/1511/FP**

**Scale: 1:2500**

**O.S Sheet: TL2811 & TL2911**

**Date of Print: 19 Januray 2012**

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5i **3/11/2019/FP – Two storey side extension at Wheatfields, Kettle Green Road, Much Hadham SG10 6AF for Mr C Sullivan**

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**Date of Receipt:** 22.11.2011

**Type:** Full - Other

**Parish:** MUCH HADHAM

**Ward:** MUCH HADHAM

**RECOMMENDATION:**

That planning permission be **GRANTED** subject to the following conditions:

1. Three Year Time Limit (1T121)
2. Approved plans (2E102) (insert:- 2391112, 2391113, 2391113 [extract] and 2391114,)
3. Matching Materials (2E133)

**Directive:**

1. Other legislation (01OL1)

**Summary of Reasons for Decision**

The proposal has been considered with regard to the policies of the Development Plan (East of England Plan, May 2008, Hertfordshire County Structure Plan, Minerals Local Plan, Waste Local Plan and East Herts Local Plan Second Review April 2007), and in particular policies GBC3, ENV1, ENV5 and ENV6. The balance of the considerations having regard to those policies and the limited harm to the character and appearance or openness of the Rural Area is that permission should be granted.

\_\_\_\_\_ (201911FP.FM)

**1.0 Background:**

- 1.1 The application site is shown on the attached OS extract. The property is a substantial detached house with brickwork and a slate roof and has been designed in a Gothic style. The building is set within spacious grounds and is located within the Rural Area, to the west of the main settlement of Much Hadham.
- 1.2 The proposal seeks permission for the provision of a two storey side extension, attached to the north flank elevation of the existing dwelling, with a footprint of 17.5 sq.metres. The proposed extension would be

## **3/11/2019/FP**

rectangular in shape with a round, turret feature and would be set down from the highest part of the roof ridge line of the existing property by 0.5metres.

- 1.3 The property has benefited from a previous single storey side extension and two storey side and rear extensions which have increased the size of the dwelling almost twofold. The extension within this proposal increases the size of the original dwelling further and this additional floor space increase therefore exceeds what might be considered 'limited' in policy terms. It is for this reason that the application has been referred to the Committee for a decision.

### **2.0 Site History:**

- 2.1 Planning permission was granted within LPA reference 3/55/0669/FP for the construction of Wheatfields.
- 2.2 A later permission, LPA reference 3/91/0895/FP, approved two storey rear and side extensions.
- 2.3 In 1995 under LPA ref. 3/95/0844/FP, planning permission was granted for single storey rear and side extensions.
- 2.4 A year later in 1996 within LPA reference 3/96/0574/FP, planning permission was granted to demolish an existing rear structure and rebuild it.
- 2.5 Planning permission was granted in 2003 (3/03/1450/FP) for a single storey side extension and in 2004 (3/04/0014/FP) for an underground swimming pool. These permissions were not implemented but were granted planning permission again under LPA references 3/08/0965/FP and 3/08/0966/FP respectively. Neither of these permissions have been implemented.

### **3.0 Consultation Responses:**

- 3.1 County Highways comment that this application will not impact upon highway safety or capacity and would not affect parking within the site, or the existing vehicle access arrangements.

### **4.0 Parish Council Representations:**

- 4.1 Much Hadham Parish Council have commented that they do not object to the proposal but raise concerns that the proposed extension is sited forward of the existing building line which they consider is already close

to the road. The Parish Council further comment that the applicant has failed to show certain features on the submitted plans, including tennis courts and a pavilion.

**5.0 Other Representations:**

5.1 The application has been advertised by way of site notice and neighbour notification.

5.2 No letters of representation have been received.

**6.0 Policy:**

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

- GBC3 Appropriate Development in the Rural Area Beyond the Green Belt
- ENV1 Design and Environmental Quality
- ENV5 Extensions to Dwellings
- ENV6 Extensions to Dwellings – Criteria

**7.0 Considerations:**

7.1 The main planning considerations relate to the principle of development and its impact on the character and appearance of the dwelling, its rural surroundings and on neighbour amenity.

**Principle of development**

7.2 The application site is located within the Rural Area beyond the Green Belt, wherein limited extensions and alterations to dwellings will be permitted in accordance with Policies GBC3 and ENV5 of the Local Plan. Policy ENV5 states that an extension to a dwelling will be expected to be of a scale and size that either by itself, or cumulatively with other extensions, would not disproportionately alter the size of the original dwelling nor intrude into the openness or rural qualities of the surrounding area. Within the Rural Area, the Council is concerned about the effect an extension may have on the character and appearance of an existing dwelling, both in itself and in relation to any adjoining dwelling and on the appearance of the locality. The Council is also concerned with the effect of extensions on the general maintenance of a supply of smaller dwellings outside of the main towns and settlements, and also with the cumulative impact of development in the countryside.

- 7.3 The history of the site reveals that planning permission has been granted for two storey rear and side extensions in 1991 which increased the size of the dwelling by 43%. In 1996 under LPA reference 3/96/0574/FP, single storey front and side extensions were added to the dwelling. A triple detached garage sited to the front of the property has subsequently been constructed. The proposed extension, together with the extensions added previously to the property would increase the size of the original dwelling by 115% and if the existing triple garage is also taken into account, by some 193%. The proposed extension does not therefore represent a limited extension and the extension now proposed will increase the floor area of the property further. In this respect the proposed development does not accord with policy GBC3(c), and it is therefore necessary to consider whether material considerations exist in this case to warrant a departure from policy.
- 7.4 The proposed extension is modest in terms of its proportions and height, would be set down from the roof ridge line of the main dwellinghouse by 0.5metres and is considered to relate well to the proportions and character of the existing dwelling. The proposed extension is considered to be of an appropriate size, scale, form and design that does not result in significant harm to the character or appearance of the dwelling.
- 7.5 The comments that have been received from Much Hadham Parish Council in relation to the proximity of the proposed extension to the highway, Kettle Green Road, have been noted. Whilst the proposed extension would reach two storeys in height, Officers have taken into account that the north flank elevation of the proposed extension would retain at least 10metres to the north flank boundary and some 18metres to Kettle Green Road; that the proposed extension would retain a set back of 1.5metres from the front building line of the existing dwelling and also the existing mature landscaping that borders the northern boundary which reaches a height of approximately 9metres. The proposed extension will not therefore be significantly visible from the surrounding area and will not result in significant harm to the character and appearance of the surroundings, the street scene or rural area.
- 7.6 Regard also has to be given to the history of the site and in particular to LPA reference 3/08/0965/FP which granted planning permission in 2008 for the construction of a single storey side extension which has not been constructed. Whilst this extension was single storey in height, it was proposed to project 1.8metres further from the north flank elevation of the property than the extension proposed and as such would have been sited closer to the highway than the proposed extension within this application. It is of also importance to take into consideration that this extension would have increased the size of the property by some 178%;

only 15% less than the extension proposed within this application.

- 7.7 Furthermore, it should also be noted that the extension does not propose to increase the number of bedrooms within the property, but only increase the size of bedroom 2 and increase the size of the dining room at ground floor. The proposed extension would therefore not increase the number of bedrooms in the property or on its own substantially increase the floorspace of the dwelling.
- 7.8 Having regard to the above considerations, Officers are of the opinion that the proposed extension is of an appropriate size, scale, form and design such that it would not result in significant harm to the character, appearance or openness of the rural site. It is therefore considered that, as outlined above, there are reasons in this case to allow a departure from policy.

Neighbour amenity considerations

- 7.9 Having regard to the relationship of the dwelling to neighbours and the isolated nature of the site, Officers consider that there will be no impact on neighbour amenity.

**8.0 Conclusion:**

- 8.1 Officers consider that the amount of development proposed cannot be considered as 'limited', and is therefore contrary to policies GBC3 and ENV5 of the Local Plan. However, the proposed extension is considered to be appropriately designed, and will not result in significant harm to the character and appearance of the dwelling or its rural setting.
- 8.2 It is therefore considered that, whilst the proposal does not accord with policies GBC3 or ENV5 of the Local Plan, there are appropriate reasons in this case to allow a departure from policy. In all other respects the proposal is considered to accord with the relevant policies of the Local Plan. It is therefore recommended that permission be granted subject to the conditions set out above.

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**5j 3/11/2057/FP - Detached open cart lodge at Elm Side, Horseshoe Lane, Great Hormead, SG9 0NQ for Mr White**

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**Date of Receipt:** 28.11.2011

**Type:** Full – Other

**Parish:** HORMEAD

**Ward:** BRAUGHING

**RECOMMENDATION:**

That planning permission be **GRANTED** subject to the following conditions:

1. Three Year Time Limit (1T121)
2. Approved Plans (2E10) (Insert: SE1; D111002 B)
3. Materials of Construction (2E11)
4. Tree retention and protection (4P05)
5. Hedge retention and protection (4P06)

**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 policies GBC3, ENV1, ENV5 and ENV6. The balance of the considerations having regard to those policies, the amendments made to the proposal following the refused application ref: 3/10/0985/FP and the limited impact of the building on the openness and character of the Rural Area is that permission should be granted.

\_\_\_\_\_(205711FP.SE)

**1.0 Background:**

- 1.1 The application site is shown on the attached OS extract.
- 1.2 The dwelling is located on the southern edge of the village of Great Hormead, which is designated within the East Herts Local Plan Second Review April 2007 as being within the Rural Area Beyond the Green Belt.
- 1.3 The proposal is to erect an open car port in the North Western corner of

the site. It is proposed to measure 5.7 metres in width, 6 metres in depth, 2.4 metres in height to the eaves, and approximately 4.6 metres in height to the ridge of the roof. The roof is proposed to be of a half-hip design, and two small roof lights are proposed in the south facing roof slope. The car port is to be sited forward of the dwelling and is screened from the highway by an existing mature 3 metre high Cypress hedgerow that is proposed to be retained.

## **2.0 Site History:**

2.1 Application reference 3/10/0984/FP proposed the development of a detached garage and store measuring 6 metres in width, 9.3 metres in length and 5.6 metres in height to the ridge. This was refused for the following reason:

1. *The proposed detached garage and store, by reason of its size, scale and siting, would be unduly prominent and incongruous within the surrounding street scene to the detrimental of the character and appearance of the locality. The proposal is thereby contrary to the saved policies ENV1 and ENV5 of the East Herts Local Plan Second Review April 2007.*

2.2 In refusing this application the Delegated Officer considered that whilst there is no objection in principle to limited extensions and outbuildings to dwellings within the Rural Area, it was considered that the steep pitched roof and 9.5 metres long unbroken side elevation, which would be in close proximity to the highway, would have been a prominent feature within the surrounding rural locality.

2.3 Application reference 3/10/0985/FP gained planning permission for the raising of the roof of the dwellinghouse together with the insertion of 4 dormers to create first floor accommodation, a new front bay window and the conversion of the garage to a habitable room.

## **3.0 Consultation Responses:**

3.1 No consultation responses have been received.

## **4.0 Parish Council Representations:**

4.1 Hormead Parish Council has no objection to this proposal.

## **5.0 Other Representations:**

5.1 The application has been advertised by way of site notice and neighbour

notification.

5.2 No letters of representation have been received.

## **6.0 Policy:**

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

- GBC3 Appropriate Development in the Rural Area Beyond the Green Belt
- ENV1 Design and Environmental Quality
- ENV5 Extensions to Dwellings
- ENV6 Extensions to Dwellings – Criteria

## **7.0 Considerations:**

### Principle of development

- 7.1 The application site is located within the Rural Area beyond the Green Belt, wherein limited extensions and alterations to dwellings will be permitted in accordance with policies GBC3 and ENV5 of the Local Plan. Policy ENV5 states that the erection of outbuildings will be expected to be of a scale and size that would either by itself, or cumulatively with other extensions, not disproportionately alter the size of the original dwelling nor intrude into the openness or rural qualities of the surrounding area.
- 7.2 As outlined earlier in this report planning permission has been granted for extensions to the dwelling in 2010. The raising of the roof and other related works have subsequently been constructed resulting in an increase in the floor space of the dwelling by some 60% in comparison to the original dwelling. The cumulative increase in size of the dwelling including the proposed cart lodge is calculated to be approximately 93%. Such a cumulative increase does not, in Officer's opinion, represent a limited extension to the original dwelling. In this respect the proposed development does not accord with policies GBC3 or ENV5 of the Local Plan. It is therefore necessary to consider whether other material considerations exist in this case to warrant a departure from policy.
- 7.3 The proposed open cart lodge is modest in terms of its proportions and height and is considered to relate well to the proportions and character of the existing dwelling. The proposed cart lodge is, in this way, considered to be of an appropriate size, scale, form and design that does not result in significant harm to the character or appearance of the dwelling.

### 3/11/2057/FP

- 7.4 Although the garage will be sited forward of the main dwelling, its limited proportions will be screened from the highway by the existing mature landscaping. The proposed garage will not therefore be significantly visible from the surrounding area and will not result in significant harm to the character and appearance of the surroundings or rural area.
- 7.5 It is therefore Officer's view that the size, scale, siting and design of the proposed cart lodge would not intrude into the openness or rural qualities of the surrounding area, and it is therefore considered that, as outlined above, there are reasons in this case to allow a departure from policy.
- 7.6 It is noted that planning reference 3/11/0984/FP for a detached garage and store was refused in 2011 due to its size, scale and siting, being unduly prominent and incongruous within the surrounding street scene to the detriment of the character and appearance of the locality. Officers consider, however, that whilst this revised application remains in the same location as the garage that was previously refused, the reduction in its size and scale reduces the prominence of the building within the locality to an appropriate level.

#### Neighbour amenity considerations

- 7.7 Having regard to the relationship of the dwelling to neighbouring properties, there will not be a significant impact on neighbour amenity that would warrant the refusal of the application.

#### Conditions

- 7.8 Since the proposed plans do not indicate materials of construction, Officers consider it appropriate to include a condition that requires the materials of construction to be agreed in writing prior to the commencement of development.

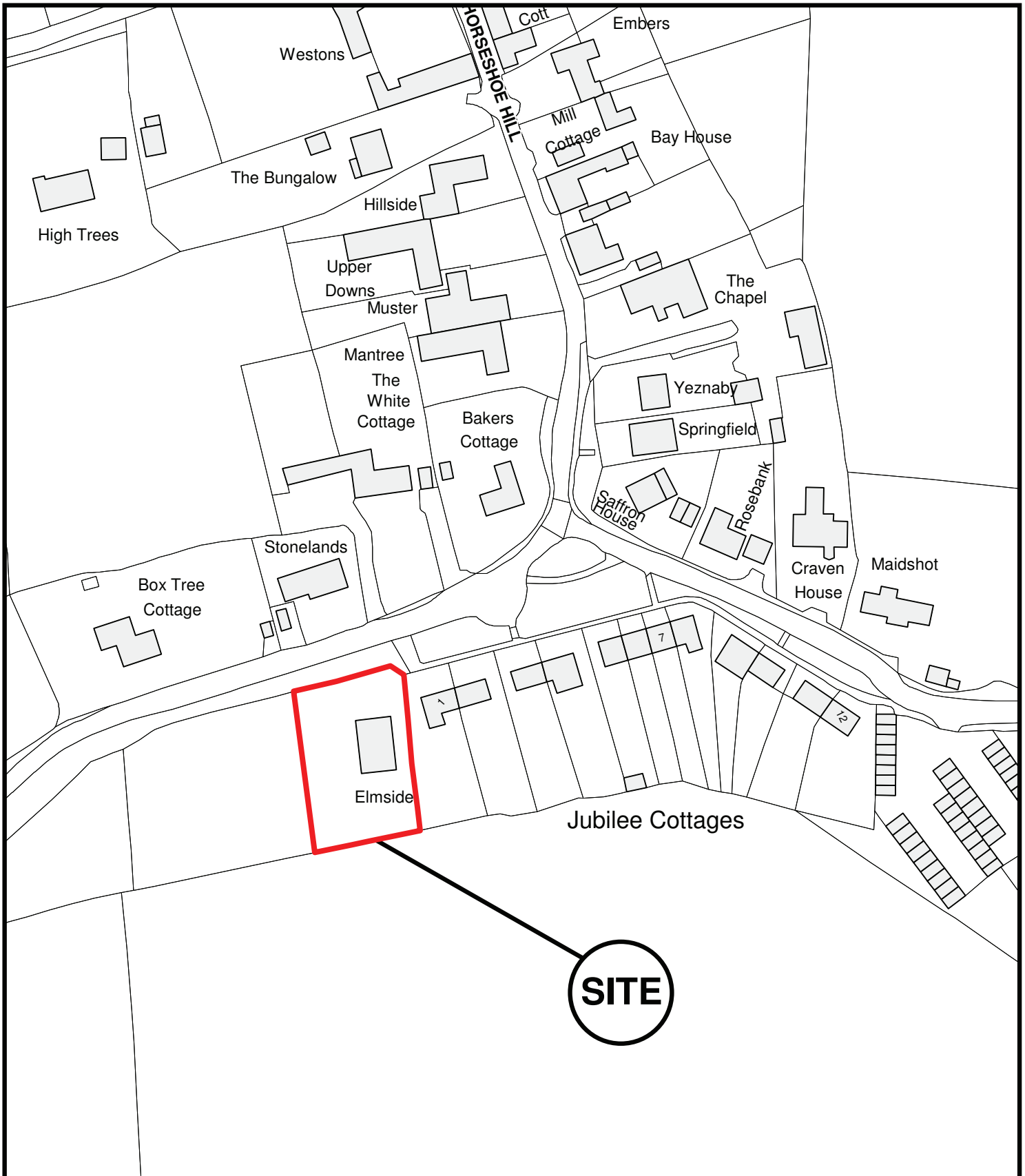
### **8.0 Conclusion:**

- 8.1 Officers consider that the amount of development proposed cannot be considered as 'limited', and is therefore contrary to policies GBC3 and ENV5 of the Local Plan. However, in this case the proposed cart lodge is considered to be of an appropriate size, scale, siting and design and would not intrude into the openness or rural qualities of the surrounding area or result in harm to the character and appearance of the area.
- 8.2 It is therefore considered that, whilst the proposal does not accord with policies GBC3 and ENV5 of the Local Plan, there are appropriate reasons in this case to allow a departure from policy. In all other

**3/11/2057/FP**

respects the proposal is considered to accord with the relevant policies of the Local Plan. It is therefore recommended that permission be granted subject to the conditions set out above.

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**Address: Elm Side, Horseshoe Lane, Great Horstead, Buntingford,  
 Herts, SG9 0NQ**

**Reference: 3/11/2057/FP**

**Scale: 1:2500**

**O.S Sheet: TL4029**

**Date of Print: 5 January 2012**

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EAST HERTFORDSHIRE DISTRICT COUNCIL  
DEVELOPMENT CONTROL COMMITTEE – 1 FEBRUARY 2012  
ITEMS FOR REPORT AND NOTING

(A) APPEALS

Director of Neighbourhood Services  
(Development Control)

Application number: 3/11/0762/CL  
Recommendation: Cert of proposed use/dev refuse  
Level of Decision: Delegated - 25-May-2011  
Site: Little Hocketts, 42, Burnham Green Road, Burnham Green, Herts, AL6 0NJ  
Appellant: Mr F Jackson  
Prop. Proposed outbuilding  
Development:  
Appeal Decision Dismissed

Application number: 3/11/1363/FP  
Recommendation: Permission refuse  
Level of Decision: Delegated - 20-Sep-2011  
Site: 1-Sunnyside Cottages, Barleycroft End, Furneux Pelham, Buntingford, Herts, SG9 0LL  
Appellant: Mr Kevin Bayes  
Prop. First floor side extension .  
Development:  
Appeal Decision Allowed

Background Papers

Correspondence at Essential Reference Paper 'A'.

Contact Officers

Kevin Steptoe, Head of Planning and Building Control – Extn: 1407  
Alison Young, Development Control Manager – Extn: 1553.

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## Appeal Decision

Site visit made on 9 January 2012

**by Gloria McFarlane LLB(Hons) BA(Hons) Solicitor (Non-practising)**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 13 January 2012**

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**Appeal Ref: APP/J1915/X/11/2161385**

**Little Hocketts, 42 Burnham Green Road, Burnham Green, Hertfordshire, AL6 0NJ**

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
  - The appeal is made by Mr F Jackson against the decision of East Hertfordshire District Council.
  - The application Ref 3/11/0762/CL, dated 28 April 2011, was refused by notice dated 25 May 2011.
  - The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 as amended.
  - The development for which a certificate of lawful use or development is sought is a proposed outbuilding.
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### Decision

1. The appeal is dismissed.

### Reasoning

2. From the facts the proposal has to be considered against Class E of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 as amended (GPDO) which permits 'the provision within the curtilage of a dwellinghouse of (a) any building ... required for a purpose incidental to the enjoyment of the dwellinghouse as such ...' subject to specified limitations.
3. The Council refused the application because in its opinion the proposal could not reasonably be considered to be incidental to the enjoyment of the dwellinghouse and it would offend the limitation set out in E.1(d) because it would not have a dual pitched roof and it would be more than three metres in height.
4. Class E of the GPDO applies to a building that is 'required for a purpose incidental to the enjoyment of the dwellinghouse as such'. The Courts have held that this should be interpreted to mean 'reasonably required' and the onus of proof is on the Appellant to show that, on the balance of probability, what is proposed is reasonably required for a purpose incidental to the use of the dwellinghouse. The proposed building would have garaging for three cars, a games room/gym some 5.3m by 9.5m, a glazed element some 5.2m wide and 1m deep, a kitchen and a shower room. It would have a floor area of some 144sq m and would be substantial structure.

5. Areas for garaging and a games room/gym are normally considered incidental uses but kitchens and shower rooms form part of primary living accommodation and are usually provided in the main dwelling. The Appellant maintains that the kitchen would be a utility room and that it would not contain cooking facilities, storage cupboards etc but it would be of sufficient size to contain these items. The glazed area with a fully opening glass door off the main room would be, in my opinion, an unusual feature in a room housing a snooker table and would be more likely to be found in the main house. On balance, taking these matters into account I consider that the Appellant has not demonstrated that all the building would have an incidental use.
6. In addition to limitations on use, there are a number of limits to what might be constructed under Class E. In this case the limitation is E.1 (d), which provides that development is not permitted if the height of the building, enclosure or container would exceed (i) 4m in the case of a building with a dual pitched roof, (ii) 2.5m in the case of a building, enclosure or container within 2m of the boundary of the curtilage of the dwellinghouse (which does not apply in this appeal) or (iii) 3m in any other case.
7. The Appellant says that the proposed roof would not offend E.1(d). The building would have, in effect, two parts and would have a ridge height of some 3.95m. The garage part would have a pitched roof and the games room part would have a separate pitched roof. There would be an element of flat roof linking these two parts. In addition there would be two gables, one at the front and one at the back of the building. The building would have a roof comprising ten tiled slopes, two tiled and glazed slopes and an element of flat roof. The term 'dual pitched' is not defined, but Guidance on the GPDO<sup>1</sup> advises that the height limit on a dual pitched roof of 4m can include hipped roofs with slopes on all four sides. In my opinion the proposed roof, which would comprise a number of different slopes well in excess of four, would be neither dual pitched nor hipped and it would not be 'a building with a dual pitched roof' (my emphasis) as permitted by Class E and described in the Guidance.
8. I have been referred to a number of appeal decisions relating to Class E of the GPDO. In the Bromley appeal<sup>2</sup> the Inspector did not consider the design of the roof because, I presume, that was not a reason for refusal. Similarly, in the Macclesfield appeal<sup>3</sup> the roof form was not considered by the Inspector. In the East Herts appeal<sup>4</sup> the Inspector found that a roof may have several slopes and be dual pitched but from the drawings<sup>5</sup> it appears that the roof in question was a pitched roof on an 'L' shaped building and therefore it was a different form from the proposed building in this appeal. In the Wokingham appeal<sup>6</sup> what was described by the Inspector as a 'complicated arrangement' of 'a series of four dual pitched roofs forming a square around the fenced area and the gutter' was found not to be permitted development. It appears to me that each of these decisions can be distinguished from the proposal in this appeal because of the different circumstances in each case.

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<sup>1</sup> Permitted Development for Householders – Technical Guidance. Issued by the Department for Communities and Local Government in August 2010

<sup>2</sup> APP/G5180/X/11/2145483

<sup>3</sup> APP/R0660/X/10/2120458

<sup>4</sup> APP/J1915/X/10/2122330

<sup>5</sup> Supplied by the Council with its final comments

<sup>6</sup> APP/X0360/A/11/2148324

9. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of a proposed outbuilding was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

**Decision**

10. I dismiss the appeal.

*Gloria McFarlane*

Inspector



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## Appeal Decision

Site visit made on 6 January 2012

by **Les Greenwood BA(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 11 January 2012

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**Appeal Ref: APP/J1915/D/11/2164617**

**1 Sunnyside Cottages, Violets Lane, Furneux Pelham, Hertfordshire  
SG9 0LL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Kevin Bayes against the decision of East Hertfordshire Council.
  - The application Ref 3/11/1363/FP, dated 25 July 2011, was refused by notice dated 20 September 2011.
  - The development proposed is a first floor side extension.
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### Decision

1. I allow the appeal, and grant planning permission for a first floor side extension at 1 Sunnyside Cottages, Violets Lane, Furneux Pelham, Hertfordshire SG9 0LL in accordance with the terms of the application Ref 3/11/1363/FP, dated 25 July 2011, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: the location/block plan dated June 2011 and drawings No 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12.
  - 3) The materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those used in the existing building.

### Main issue

2. The main issue is the effect of the proposal on the character and appearance of the building and the Furneux Pelham Conservation Area.

### Reasons

3. 1 Sunnyside Cottages is located in a small rural village outside of the Green Belt. East Hertfordshire Local Plan Second Review (LP) Policies GBC3 and ENV5 expect extensions to existing rural houses outside of the Green Belt to be of a scale and size which would not, of themselves or cumulatively with other extensions, disproportionately alter the size of the original dwelling or intrude

into the openness or rural qualities of the surrounding area. There is no indication in the sections of the LP provided that these policies aim to retain a stock of small dwellings. I therefore take it that the aim is to protect the character and appearance of the buildings and the rural area. LP Policies ENV1, ENV6 and BH6 have similar aims, particularly in respect of conservation areas.

4. Furneux Pelham is a dispersed village with a diverse range of vernacular buildings. 1 Sunnyside Cottages is one of a pair of semi-detached cottages in an elevated but well screened location near to the edge of the village and the conservation area. It was, evidently, originally diminutive in scale, but has been extended a number of times, with the overall increase in floorspace put at about 170%.
5. These extensions have been carried out sympathetically, but have nevertheless transformed the original cottage into a far more substantial and complex structure, articulated into a number of different elements. It appears to me that the other half of the building has also been much extended. The change in scale and form has been so extensive that the building has taken on a new character, and this must now be a consideration.
6. The appeal proposal would add on a further small extension, building a new first floor gable over part of an existing lean-to ground floor element. This very modestly sized proposal, at just over 10 sqm floorspace, would undoubtedly add cumulatively to the size of the building. However, it would not to my mind have any negative effect on the house's character. It would fit well with the existing form of the building, maintaining a degree of articulation of the different elements, but also providing a not unwelcome simplification of the southern and eastern elevations, facing the nearest road. The resulting building would, to the extent that it can be seen through the roadside bank and hedge, be an attractive structure which would complement the variety of other buildings within the conservation area.
7. Therefore, despite the minor increase in the size of the house, I conclude that the proposal would preserve and enhance the character and appearance of the building and the conservation area. On this basis, I find no conflict with the aims of the above-mentioned LP Policies.
8. I impose a condition listing the approved plans, for the avoidance of doubt and in the interest of proper planning. A condition requiring the use of matching materials is also necessary in order to ensure that the extension does indeed harmonise with the existing building.
9. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should succeed.

*Les Greenwood*

INSPECTOR

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## **(B) PLANNING APPEALS LODGED**

Director of Neighbourhood Services  
(Development Control)

<b>Application No:</b>	<b>Description Location</b>	<b>Decision</b>	<b>Appeal Start Date</b>	<b>Appeal Mode</b>
3/11/1327/FP	Erection of 4no 2 bedroom dwellings <b>Land rear of, 14-34, Parliament Square, Hertford, Herts, SG14 1EZ</b>	Refused  Delegated	19-Dec-2011	Written Evidence

NOTE: This report shows only appeals lodged since the last Development Control Committee agenda deadline.

### Background Papers

None.

### Contact Officers

Kevin Steptoe, Head of Planning and Building Control – Extn: 1407.  
Alison Young, Development Control Manager – Extn: 1553.

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## Planning Appeals: Inquiry and Informal Hearing Dates

### Public Inquiries:

Application Number	Location	Proposal	Hearing Date
3/10/1725/CL	Swallowfield Farm, Epping Green, Hertford	Claimed lawful development being residential use of land and buildings (and associated enforcement notice)	No date set yet

### Informal Hearings:

Application Number	Location	Proposal	Hearing Date
3/11/1492/FP	Palletts Wood, Oaks Cross Farm, Hooks Cross, Watton at Stone	Holiday Lodges	No date set yet

### Enforcement Appeals (where the matter does not relate to an associated planning or similar application which are set out above):

Ref number	Location	Development	Date
E/06/0155/A	Esbies Estate, Station Road, Sawbridgeworth	Various unauthorised developments and changes of use of land	Public inquiry reconvenes 28 Feb – 1 March, then 26 March, 2 April and 15 – 18 May
E/11/0077/B	Pound Farm, Hollybush Lane, Datchworth	Unauthorised uses	Informal Hearing 14 Feb 2012

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