

**5f 3/11/1742/FP – Residential development of 3 no. detached dwellings at New Mead Nursery, Walkern Road, Benington, SG2 7LS for Page and Watts Ltd**

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**Date of Receipt:** 30.09.2011

**Type:** Full - Minor

**Parish:** BENINGTON

**Ward:** WALKERN

**RECOMMENDATION:**

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

1. Within Rural Area – EHLP (R031)
2. The proposed development, by reason of its scale, siting and overall domestication of the site would harm the rural character and appearance of the surrounding area. If permitted the proposal would therefore be contrary to policy ENV1 of the East Herts Local Plan Second Review April 2007.

\_\_\_\_\_ (174211FP.LP)

**1.0 Background:**

- 1.1 The application site is shown on the attached OS extract. The site lies to the north of Benington village and comprised a derelict nursery greenhouse and outbuildings. The existing buildings are set back some 60m from Walkern Road with an existing vehicular access adjacent to No. 68 Walkern Road.
- 1.2 To the northwest of the site is a row of 6 no. detached dwellings – all bungalows except No. 68 which is two storey – and the remainder of the site is surrounded by open agricultural land. Dragon’s Green, a Grade II listed building, is located approximately 80m to the south of the site.
- 1.3 This application proposes a residential redevelopment of the site to provide 3 no. 4 bed detached dwellings with associated parking, access and front and rear gardens. The application proposes no on-site affordable housing but provides an off site contribution for affordable of £100,000.
- 1.4 The application is being referred to Committee as it is contrary to Local Plan Policies and because the previous Committee supported the proposals.

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### **2.0 Site History:**

- 2.1 The site is a previous nursery which has been vacant for many years and now lies derelict and overgrown. The history of the site is set out below, and indicates a number of applications for residential developments since the 1960s.
- 2.2 Of particular note is 3/10/0308/FP, wherein Officers recommended refusal but Members gave weight to the provision of 50% on site affordable housing, and granted permission subject to the signing of a legal agreement to secure the affordable housing. One of the dwellings (plot 1), has been constructed in accordance with approved plans and in accordance with the details of the S106 which allows one of the market dwellings to be occupied prior to the affordable housing being constructed and completed.

3/11/0208/FP	Residential development of 3no. four bedroom market dwellings – and an off site contribution of £100,000 for affordable housing	Refused 01-April-2011
3/10/0308/FP	Residential development of 2 no. 4 bed and 2 no. 2 bed dwellings	Approved with conditions and subject to S106 for the two 2 bedroom dwellings to be affordable 23-Dec-2010
3/93/0320/FP	Change of use from nursery to nursery with retail sale of plants and associated products.	Approved with Conditions 05-May-1993
3/89/0503/OP	Three dwellings	Refused 24-May-1989 Appeal Dismissed 09-Jul-1990
3/88/1694/OP	Mixed residential development	Withdrawn by applicant 10-Jan-1989
3/88/1693/OP	Craft work shops	Refused 17-Jan-1989
3/84/1866/FP	Mobile home	Refused 18-Feb-1985 Appeal Dismissed 05-Sep-1985

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3/82/0926	Use of caravan as offices and refreshment room	Refused 13-Oct-1982
3/75/0193	Detached house and garage incorporating nursery office	Refused 20-Jun-1975
3/73/3863	3 houses with garages, access and fencing	Refused 03-Sep-1973 Appeal Dismissed 23-Aug-1974
3/73/2656	House, garage, fencing and access (details)	Approved 04-Jul-1973
3/72/5071	Site for residential development	Refused 14-Dec-1972
3/72/1269	Site for residential development	Refused 01-May-1972
3/69/1238	House	Approved 11-Aug-1969
3/67/0275	Site for residential development	Refused 04-Mar-1967
3/65/1773	Site for residential development	Refused 02-Oct-1965
3/65/0006	Site for house	Approved with Conditions 06-Feb-1965

### **3.0 Consultation Responses:**

- 3.1 County Highways do not wish to restrict the grant of permission subject to conditions on widening the existing access and provisions for wheel cleaning. They comment that fundamentally the principle of the development is acceptable. The existing access whilst needing reconstruction and minor widening, is appropriate in terms of visibility provision. Adequate provision is made for on-site vehicle parking and turning space and given the existing frontage footway, no off-site works are required.
- 3.2 County Archaeology makes no comment; the proposal is unlikely to have an impact upon significant heritage assets.
- 3.3 The Council's Housing Development Officer has commented:-

*'I note that this is a revised scheme from the approved scheme of 3/10/0308/FP (December 2010). This revised scheme removes the 2 x 2 Bed affordable dwellings from the scheme and replaces them with a*

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*detached market dwelling. In addition the applicant offers an in lieu commuted sum towards the provision of affordable housing elsewhere.*

*In regards to the original approved scheme (3/10/0308/FP) Members gave substantial weight to the provision of 50% affordable housing. It was also established that the affordable dwellings proposed would meet a need in Bennington and there was interest in them from the Registered Providers. The removal of these dwellings and the offer of a commuted sum is a route which is only recommended in exceptional circumstances and any financial contribution would need to be robustly justified.*

*I am uncomfortable with the revised scheme and the offer of a commuted sum. I do not feel that there are exceptional circumstances to warrant the removal of all the affordable dwellings.*

*I feel that there is scope to discuss the tenure further of the original 2 affordable dwellings with the applicant and Registered Providers as I am unclear as to whether shared ownership as well as rental tenures have been considered.*

*If a commuted sum route is followed I would need to have some robust justification from the applicant as to how the sum has been arrived at.*

*Assessing the new application 3/11/1742/FP as a totally new application my views are that the proposed 3 dwellings in Bennington are over the affordable housing threshold and I would request 1 dwelling in line with the New Affordable Homes Commissioning Brief'.*

3.4 No comments have been received from the Council's Landscape Officer, Environmental Health or Thames Water.

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

4.1 Benington Parish Council suggest that a financial provision be made for the proposed community proposals in the village.

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

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

#### **6.0 Policy:**

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

following:

SD2	Settlement Hierarchy
HSG3	Affordable Housing
HSG4	Affordable Housing Criteria
GBC3	Appropriate Development in the Rural Area Beyond the Green Belt
TR2	Access to New Developments
TR7	Car Parking – Standards
EDE2	Loss of Employment Sites
ENV1	Design and Environmental Quality
ENV2	Landscaping
ENV11	Protection of Existing Hedgerows and Trees
BH1	Archaeology and New Development

- 6.2 In addition to the above it is considered that Planning Policy Statement 1, (Delivering Sustainable Development), Planning Policy Statement 3 (Housing), Planning Policy Statement 5 (Planning for the Historic Environment) and Planning Policy Statement 7 (Sustainable Development in Rural Areas) are considerations within this application.

## **7.0 Considerations:**

### Principle of Development

- 7.1 The site lies to the north of Benington village on Walkern Road, just outside the Conservation Area boundary, with a row of 6 no. detached dwellings located further north. The New Mead Nursery site, along with an adjacent site to the south form a break in the residential development of the village and it is therefore my Officer view that the site falls outside the built-up area of the village, and therefore within the Rural Area Beyond the Green Belt.
- 7.2 This view was supported by an Inspector at an earlier appeal for 3 no. detached dwellings (3/89/0503/OP). Although Benington was not designated as a Category 2 Village at that time, the Inspector stated in his decision that “despite the presence of a small number of nearby houses the locality is rural in character and in my judgement the site lies outside the main part of the village which lies further south.” An even earlier Inspector’s decision for residential development in 1974 (3/73/3863) also referred to the open rural character of the site, and the wide gap, containing the nursery site, which separates it from existing residential development on the east side.

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- 7.3 On application 3/10/0308/FP, Officers commented that they considered the site to be outside of the built up area of the Category 2 village; however Members resolved to grant consent for 4 dwellings, giving weight to the fact that 2 of the units were to be secured for affordable housing. The principle of residential (incorporating 50% affordable housing) has therefore been established subject to that valuable affordable housing contribution, and the 2010 decision is a material consideration on this and in future decision making. However the site is still considered by Officers to lie outside of the built up area of the village wherein residential development would be inappropriate in accordance with policy GBC3, and such material considerations would therefore have to be demonstrated to outweigh this harm.

#### Employment Site

- 7.4 The site was last used for employment purposes and therefore policy EDE2 of the Local Plan would apply. This seeks to protect sites that were previously used for employment, and to require thorough exploration of alternative uses before allowing a loss of employment.
- 7.5 No such exploration or full evidence has been submitted with this application; however on the previous application (3/10/0308/FP) Members did not consider that the loss of the employment use was an over-riding concern, and noted that the redevelopment would tidy up the site. That decision is a material consideration in determining this current application and now part of the site has been redeveloped with the first house of the 4 previously approved. On balance; no objection is therefore raised in regards to the loss of this employment site or non compliance with policy EDE2.

#### Character and Appearance

- 7.6 The existing site has been derelict for many years. The previous nursery building was set back some 60m from the road and therefore had limited visual impact. In comparison, the new dwellings would be positioned further forward on the plot to follow the existing building line, and would therefore result in a more significant visual impact. Therefore, whilst Officers note that whilst the proposals would tidy up the site, it would have a significant impact on the character, changing it to one of a domestic nature.
- 7.7 Further, residential development of this site would extend the built development of the village and result in the loss of what is considered to be an important natural break on the edge of the village. The site currently retains a relatively open rural character, mainly due to the absence of development on the west side of the road, and the distance

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to developments to the south and east.

- 7.8 Given the size and layout of the development with long rear gardens, much of the land would also become domestic garden space, and this would contribute to the adverse impact on the rural character of the area. The domestication of such a large area of land would erode the rural character of the area, particularly when viewed from the footpath to the rear of the site.
- 7.9 Taking into account the general domestication of the site resulting from a residential development, the previous Inspector had concluded that 3 no. dwellings would seriously harm the rural character of the area. Although over 10 years has passed since the previous appeal decision, Officers do not consider the situation to have changed, and therefore give substantial weight to this harm. The development will erode the rural character of the area when viewed from both Walkern Road, and the public footpath to the rear, particularly in winter months.
- 7.10 Members, in granting 3/10/0308/FP, determined that the harm to the rural area was outweighed by the provision of 2 affordable housing units on site. As on site affordable housing is not now being provided, the previous basis for granting permission has largely fallen away. Whilst a financial contribution is being offered it is far less certain that any provision will actually be achieved.
- 7.11 Members will note that application 3/11/0208/FP was also refused. This was solely on the basis of insufficient financial justification. In hindsight Officers consider they should also have refused on the basis of the principle of housing in the rural area. However regardless of the position now reached, officers remain of the view that the reasons set out above for the refusal of this application remain valid.
- 7.12 Finally, the Benington Village Conservation Area boundary runs to the south of the site, and the development would therefore have the potential to impact on the setting of this Conservation Area. Whilst the development would result in the loss of a green wedge of land and increase the built development of the area, Officers do not consider that the setting of the Conservation Area would be harmed. Officers therefore consider the proposal complies with Planning Policy Statement 5.

#### Scale, Design and Density

- 7.13 The application proposes 3 no. detached two storey dwellings positioned in a row parallel to Walkern Road. This reflects the layout and grain of development in the surrounding area and also respects the existing

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building line of Walkern Road.

- 7.14 The density has been calculated as approximately 5 dwellings per hectare which reflects the density of the surrounding area, and as such the proposal is considered to be acceptable in this regard. A higher density development would result in further encroachment to the rear of the site, resulting in greater impact on the rural character of the area.
- 7.15 In terms of scale, the dwellings will all be two storeys in height with hipped and pitched roofs. The majority of dwellings to the north are single storey, apart from No. 68 immediately adjacent which is of similar two storey height. Whilst the scale and height of these new buildings would be similar to No. 68, I consider that the additional scale of development would exacerbate the visual harm to the rural character of the area, and impact on the setting of the village.
- 7.16 The dwellings have been designed with dark stained clad elevations on a red brick plinth, with timber framed windows, and a terracotta pantile roof with exposed rafter feet. Plot 1 and 3 would have a front hipped roof projection with substantial glazing whilst Plot 2 is designed with a flush central glazed two storey section to the front elevation. Officers consider this design to be in-keeping with the rural character of the area, subject to good quality build materials which could be controlled by planning condition.

#### Neighbour Impact

- 7.17 The only potential impact on residential amenity would relate to No. 68 Walkern Road, located immediately to the north. This is a two storey building with no first floor side windows. As with the approved scheme (and the dwelling on Plot 1 now constructed) no first floor windows are proposed in the flank elevation; however a secondary bedroom window is proposed in the side elevation of the rear projection. This window would face towards No. 68 and provide views of the private outdoor amenity space of No. 68. The same situation also arises with a similar window in Plot B facing the rear of Plot A. These windows could be required to be obscure glazed by way of a planning condition however.
- 7.18 Overall, the relationship between these buildings, and the scale of development is considered to be acceptable and will not result in any undue loss of light or overbearing impact. It is noted that a garage is proposed to abut the boundary with No. 68; however this is only a small single garage with a pitched roof to a height of some 4.3m. The proposal is therefore considered to be acceptable in this regard.

Trees and Landscaping

- 7.19 There are a number of mature trees along the southeast and northern boundaries of the site; however the new buildings would be positioned at an appropriate distance so as not to impact on the root protection area of these trees.
- 7.20 In terms of layout, a landscaped buffer would be provided to the road, with the existing hedge retained and a number of new trees planted. The dwellings would be provided with front gardens as well as large rear gardens, and overall the development is considered to comply with landscape policy ENV2.

Affordable Housing

- 7.21 As Officers consider the site is outside of the Category 2 village the scheme should provide for 100% affordable housing as an affordable housing exceptions site in accordance with policy HSG5. This scheme provides no on site affordable housing and is therefore contrary to policy, however Members of course approved the previous scheme with 50% affordable housing and weight needs to be given to that decision.
- 7.22 In making the decision to approve the previous scheme it is clear to Officers that the justification was that affordable housing was being provided on site. As stated this scheme now proposes no on site affordable housing but instead proposes a legal agreement to secure an off site contribution of £100,000 towards affordable housing to meet a district wide need. The reasoning for this is that the scheme would also not be viable if one of the 3 was required as affordable, and indeed the approved scheme for 4 units would also not be financially viable with 2 as affordable. A full 'Affordable Housing Viability Assessment' Report has been submitted to demonstrate this and Officers concur with the conclusions.
- 7.23 However, despite Officers agreement that the approved scheme and the scheme proposed now are not viable with on site affordable housing, it is important to consider this in respect of the wider policy consideration and the principle of the residential development in any event. The application is as stated in Para 7.1 to 7.3 outside of the built up area of the village and this fact needs to be balanced with the previous decision made by Members to grant a scheme for 50% affordable housing on site. The scheme now, differs considerable from the scheme that was previously granted, and the benefits that Members identified to justify development contrary to policy have failed to materialise.
- 7.24 This is not a site that Officers consider should be delivered for residential

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development, as it lies outside of the built up area of Benington. The proposal constitutes inappropriate development and is contrary to rural area policies. The previous decision is a material consideration and Officers have given weight to that decision. However have determined that the balance of weight is now tipped against approval. The approved scheme offered real benefits that are no longer or achievable.

- 7.25 The comments made by Benington Parish Council who seek to gain a percentage of the financial contribution for community uses are noted, however whilst there is a policy justification for the contribution towards off site affordable housing, there is no policy support for this to be split with community uses or other. Equally the scale of the development would not warrant a financial contribution towards community uses in its own right, despite the acknowledgment by Officers that the existing community buildings need attention.

#### Parking and Access

- 7.26 It is proposed to use an existing field access from Walkern Road to serve the new dwellings, adjacent to the existing access to No. 68. A service road would be provided across the front of the dwellings, set back approximately 7m from the road behind frontage planting. This access is considered to be acceptable in highway terms and no objection has been raised by County Highways.
- 7.27 In terms of parking, each of the dwellings will have a single garage and frontage parking space. This is considered to be acceptable in line with the Council's maximum parking standards and policy TR7. There would also be sufficient space for additional parking within the development without overflowing into the public highway.
- 7.28 Previous comments from neighbours regarding the additional traffic movements are noted; however it is not considered that the development will have a significant impact on traffic flows in the village or surrounding rural area, nor have County Highways raised concerns on this.

#### Archaeology

- 7.29 The site lies in an Area of Archaeological Significance; however the County Council's Archaeologist does not consider that the proposal will have an impact upon any significant heritage assets. The proposal therefore complies with policy BH1 and PPS5.

### **8.0 Conclusion:**

- 8.1 The site has been assessed as being located outside the built-up area of

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this Category 2 village, and therefore within the Rural Area Beyond the Green Belt wherein residential developments are inappropriate in principle. The proposal therefore conflicts with policy GBC3 of the Local Plan. Although the development is considered to be acceptable in terms of density, design and layout, the scale of the development and overall domestication of the site would be harmful to the rural character of the area.

- 8.2 It is clear that there is a benefit of the development in providing £100,000 as an off site affordable housing contribution. However this is a significantly reduced benefit when compared with the previous provision of 2 dwellings which was approved by Members. Consistent with the original recommendation, Officers do not consider that the benefit now offered outweighs the harm caused to the rural area and character of the village. No other benefits are apparent in this scheme, and no further material considerations have been put forward by the applicant. Officers therefore do not consider there to be any overriding material considerations to allow this development.
- 8.3 The application is therefore recommended for refusal for the reasons set out above.