

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

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

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

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

Parish: BRAUGHING

Ward: BRAUGHING

RECOMMENDATION

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

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

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

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

_____ (220911FP.MP)

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

_____ (221011LB.MP)

1.0 Background

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

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

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

2.0 Further Consultation Responses

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3.0 Additional Parish Council Representations

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

4.0 Additional Third Party Representations

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

5.0 Considerations

Land transfer and maintenance

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

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

Balancing pond

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

Construction vehicular movements

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

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

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

Wildlife Issues - Bats

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

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

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

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

Financial contributions

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

Other matters

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

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

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

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

6.0 Conclusion

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