

5c 3/12/1094/FP – The erection of 4 private dwellings and a new garage for the existing house at Whitehall Leys, Whitehall Road, Bishop’s Stortford, CM23 2JL for C and W Hampton

Date of Receipt: 29.06.2012

Type: Full – Minor

Parish: BISHOP’S STORTFORD

Ward: BISHOP’S STORTFORD – MEADS

RECOMMENDATION:

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

- £22,648 towards Secondary Education;
- £420 towards Youth;
- £1,060 towards Libraries;
- £2,648 towards Parks and Public Gardens;
- £7,328 towards Outdoor Sports Facilities;
- £1,132 towards Amenity Green Space;
- £1,076 towards Children and Young People;
- £288 towards Recycling Facilities;
- £1,960 towards Community Centre ;
- £4,000 towards Accessibility;
- A commuted sum of £190,000 towards affordable housing provision with a claw back timescale of 20 years;
- Monitoring fee.

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

1. Three Year Time Limit (1T12)
2. Boundary walls and fences (2E07)
3. Approved plans (2E10)
4. Materials of construction (2E11)
5. Hard surfacing (3V21)
6. Construction parking and storage (3V22)
7. Wheel washing facilities (3V25)
8. Tree/hedge retention and protection (4P05)

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9. Landscape design proposals (4P12) (a,i,j,k,l)
10. Landscape works implementation (4P13)
11. Hours of working - plant and machinery (6N05)
12. Completion of roads/footpaths (3V13)
13. The development hereby permitted shall be carried out in accordance with the details of the Protected Species Constraints Assessment, August 2011 and the mitigation measures contained therein unless otherwise agreed in writing by the local planning authority.

Reason: To protect the habitats of protected species in accordance with Policy ENV16 of the East Herts Local Plan Second Review April 2007.

14. No building hereby permitted shall be occupied until surface water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the local planning authority. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, and the results of the assessment provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
 - i. provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - ii. include a timetable for its implementation; and
 - iii. provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

Reason: In the interests of the management of surface water flows and in accordance with Policy ENV21 of the East Herts Local Plan Second Review, April 2007.

Directives:

1. Highway Works (06FC2)

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2. Planning Obligation (08PO)
3. Street Naming and Numbering (19SN)
4. Groundwater protection zone (28GP) (The Causeway)
5. BATS (32BA)
6. Unsuspected contamination (33UC)

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, BIS8, ENV1, ENV2, ENV5, ENV11, ENV16, ENV24, TR2, TR7, IMP1, HSG2, HSG3 and HSG4) and the policies of the NPPF. The balance of the considerations having regard to those policies is that permission should be granted.

_____ (109412FP.NB)

1.0 Background:

- 1.1 The application site is shown on the attached OS extract. It is located on the northern edge of the settlement of Bishops Stortford and forms the northern section of a triangular piece of land that is separated from its neighbours by Whitehall Lane to the East, Whitehall Road to the West and Dane O'Coys Road to the North.
- 1.2 The site is currently undeveloped and is occupied by a substantial number of mature trees, many of which are protected by a group Tree Preservation Order.
- 1.3 The proposal is for the erection of 4 detached dwellings and a new garage for the existing dwelling known as Whitehall Leys.
- 1.4 The proposed dwellings would comprise large 6 bedroom units. The dwellings would be 2 storeys in height, with second floor accommodation provided within the roof spaces. Plots 2 and 4 are proposed with integral garages, whereas Plots 1 and 3 propose detached 3 bay garages with home office space above. An integral annex is proposed above the garage to Plot 2. All of the 4 dwellings would benefit from large private driveways.

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- 1.5 The garage that is proposed for the existing dwelling at Whitehall Leys provides 3 bays with a studio above.
- 1.6 It should be noted that the site layout plan, entitled 'Proposed Landscaping Plan' has been revised during the course of the application to allow minor changes to be made to ensure that sufficient provision is made for the turning of refuse and emergency vehicles within the site.
- 1.7 A new access into the site is proposed from Whitehall Road.

2.0 Site History:

- 2.1 The relevant planning history for the site is as follows:
- 2.2 A recent planning application was made at the site for 7 dwellings (4 private and 3 affordable) under lpa reference 3/11/1871/FP. This application was withdrawn in June 2012 following objections that were received from County Highways in respect of the proposed access for the affordable units and the Landscape Officer in respect of the trees that would be lost to build the affordable units.
- 2.3 In 1980 planning permission was refused for 20 dwellings at the site under lpa reference 3/80/1107/FP.
- 2.4 In 1982 planning permission was refused for 6 dwelling under lpa reference 3/82/0535/FP.

3.0 Consultation Responses:

- 3.1 Thames Water have advised that in respect of sewerage infrastructure they have no objections and that with regards of surface water drainage this is the responsibility of the developer.
- 3.2 Veolia Water have commented that the site is within the Ground Source Protection Zone of the Causeway Pumping Station and that the construction works should be done in accordance with the relevant British Standards and Best Management Practices.
- 3.3 Herts Biological Records Centre (HBRC) has commented that the ecological survey conducted in 2011 found no evidence of badgers, reptiles or Great Crested Newts. Whilst common Pipistrelle bats were recorded in flight, there were no positive roost sites identified. HBRC recommend that conditions are imposed to require all trees which are to be removed are inspected by an ecologist and felled in October; bat boxes to be provided within the site; external lighting should not be

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directed towards the trees and new landscaping should be native to enhance biodiversity.

- 3.4 Hertfordshire Constabulary has commented that the applicant has now taken measures to address their previous concerns. They encourage the applicant to build the new dwellings to Secured by Design standards and to create a gated community at the site.
- 3.5 The Herts County Council's Fire Protection Department commented that having regard to the original Proposed Landscaping Plan that was submitted (Revision D); inadequate provision was made for fire access.
- 3.6 The Council's Engineers have commented that the site is located within flood zone 1 and that there are no historic flood incidences recorded at the site. However, due to the proposed increase in impermeable area within the site the use of above ground Sustainable Drainage Systems are recommended.
- 3.7 Natural England has commented that their standing advice is relevant to the consideration of this application.
- 3.8 Herts County Council's Planning Obligations Unit has requested financial contributions towards Secondary education, youth facilities and libraries.
- 3.9 The Council's Landscape Officer recommends approval subject to landscaping conditions. It is noted that a number of trees are proposed to be removed in order to facilitate the development. Changes are suggested to be made to the proposed layout of the site to add additional landscaping within the proposed driveways which would decrease their width.
- 3.10 Environmental Health have recommended conditions which relate to construction hours of working, piling works and contaminated land.
- 3.11 The Council's Waste Services Team have confirmed that if the road layout proposed is suitable for an emergency vehicle then it would also be for the refuse collection lorries.
- 3.12 County Highways has commented that the latest proposal indicates a slightly amended internal access road that now accommodates the turning manoeuvre of a typical service vehicle. However it does rely on the area being kept clear of parked vehicles and as such it would have been preferable for the turning area to have been identified on the submitted plan. However despite the lack of definition, the highway authority does not feel that this is an issue that would justify an objection

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on highway grounds, especially when fire service vehicles can penetrate the site if necessary and the householders could wheel their bins to a central collection point.

In all other respects the proposal is acceptable. The access arrangement is appropriate for the development, sufficient car parking is provided and traffic generation will not be significant.

- 3.13 The Council's Housing Officer has commented that the previous application attempted to incorporate affordable housing but the position and access to the units was poor and would have resulted in isolated units. The applicant has therefore offered a commuted sum which is acceptable due to the exceptional circumstances of this case. The commuted sum will help to develop needed stock in the district to meet the needs of the Housing Register.

4.0 Town Council Representations:

- 4.1 Bishop's Stortford Town Council has no objections, but request that wheel washing facilities are provided on site.

5.0 Other Representations:

- 5.1 The application has been advertised by way of press notice, site notice and neighbour notification.
- 5.2 3 letters of representation have been received which can be summarised as follows:
- Increased traffic volumes onto Whitehall Road during and after construction;
 - Disturbance to neighbours effecting quality of life;
 - Concerns that the part of the site where the affordable units were previously proposed has now been removed and further development could occur there in the future;
 - Concerns that this site is being considered in isolation to the wider ASR sites to the north and the precedent that this application could set;
 - The wildlife value of the site must be considered;
 - The development would cause further damage to the surrounding roads;
 - Dangers caused by trees being removed or falling due to land becoming unstable;
 - 1 letter of support.

6.0 Policy:

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

SD2	Settlement Hierarchy
BIS8	Areas of Special Restraint 3, 4 and 5
TR2	Access to new developments
TR7	Car Parking Standards
ENV1	Design and Environmental Quality
ENV2	Landscaping
ENV5	Extensions to Dwellings
ENV11	Protection of Existing Hedgerows and Trees
ENV16	Protected Species
ENV24	Noise Generating Development
HSG2	Phased Release of Housing Land
HSG3	Affordable Housing
HSG4	Affordable Housing Criteria
IMP1	Planning Conditions and Obligations

6.2 The provisions of the NPPF are also of relevance to this application.

7.0 Considerations:

7.1 The determining issues in this case are as follows:

- Principle of development -whether the need for the development of the land has been demonstrated and the acceptability of this site being developed in isolation to the remaining ASRs within this triangle piece of land and the larger area to the north of the site;
- The impact upon protected trees;
- Access and parking provision;
- Design and layout;
- Impact upon neighbour amenity;
- Whether an appropriate affordable housing provision is made;
- Whether the proposal would provide adequate measures to mitigate against the effects of the development upon local services.

Principle

7.2 The site, including the remaining area within this triangular piece of land, is designated within the adopted Local Plan as an Area of Special Restraint (ASR) wherein Policy BIS8 states that development will not be permitted, other than would be allowed within the Green Belt, until such

time as the land is shown to be needed as a result of a review of the current Local Plan.

- 7.3 In December 2008 the Council agreed to bring forward the reserve housing land within the ASR's in order to seek to meet the 5 year land supply of deliverable sites as required by the relevant national planning policy at the time; PPS 3 (Housing). The need to develop the site has therefore been established and as such the Council has already agreed to the principle of developing the ASR land from 2008 onwards. It should be noted that this requirement for a 5 year land supply remains within the NPPF. This is a matter that the Council needs to remain mindful of. The current Annual Monitoring Report indicates that, taking account of the housing requirement figures that were canvassed as a result of work on the potential review of the East of England plan, the Council can meet this requirement. However, that anticipates that some of the land comprising the ASR sites comes forward for development within the next three years. It does not necessarily meet the requirement for a buffer of additional land to be available over and above the five year amount.
- 7.4 The current application site is separated from the main body of the ASR land to the north of the site by Dane O'Coys Road. It is important to note that the current application has been received in isolation to the remaining ASR land and does not propose any development on the land to the North which is outside of the application site.
- 7.5 Officers have carefully considered the proposal to develop this part of the site in isolation from the remaining ASR to the North and are of the opinion that, due to the circumstances of the site i.e. its size, the number of protected trees on the site and its physical separation from the land to the north, that this approach is sensible in this case and would not compromise the development of the wider ASR sites. Furthermore, Officers would anticipate that even if this site had come forward for development with the remaining ASR land, that a similar form of development to that currently proposed would have been put forward for this part of the site due to its various constraints and its physical separation from the larger sites.
- 7.6 Development is currently proposed to this part of the triangle piece of land in isolation to the sections of land to the east and south. The section of land to the east was included in the previous application and was where the affordable housing was proposed to be located. Officers anticipate that any further development into this land to the east would be unlikely to be looked upon favorably due to the impact that it would have upon protected trees and the poor access that would be available. In respect of the land to the south of the application site, it would seem that

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additional development is unlikely due to the current configuration of development on that area of land. In any event, if any further development of either areas of land were to be put forward, it would appear appropriate for them to result in a requirement for additional contributions towards affordable housing and local services and infrastructure.

- 7.7 Officers consider that, despite the site being 0.8 hectares in size and the proposal being just for 4 dwellings, that the development of this site should play a part in contributing towards the services and infrastructure that may be required as part of the wider ASR development and it is anticipated that the residents of this site would benefit from the infrastructure and services that the wider development could provide. The issue of planning obligations will be discussed later in this report.

Protected Trees

- 7.8 The existing trees at the site are currently protected by a group Tree Preservation Order.
- 7.9 Eleven trees, listed as T1-T11 are proposed to be removed at the site to facilitate the development. However, the majority of the existing planting around the boundaries of the site is proposed to be retained and enhanced by additional new planting. Officers accept that some loss of protected trees would be inevitable in order to develop the site and consider that the current proposal minimises the number of trees that would be lost and therefore ensures that the remaining group of protected trees would maintain a high amenity value.
- 7.10 The removal of the affordable units on the land to the east of the site that were proposed with the previous application reduces the loss and damage that would have been caused to protected trees. Furthermore, the low density housing that is proposed also minimises the impact that the development would have and the future pressures that a residential use will have upon the trees at the site.
- 7.11 Officers expect a full landscape plan to be submitted and agreed by condition but are satisfied that the current landscaping plan is acceptable in principle and that the losses that would be made to existing trees at the site are tolerable and can be mitigated against by additional planting.

Access and parking

- 7.12 The access into the site is proposed to be taken from Whitehall Road. The concerns raised from the neighbour in respect of additional traffic

are duly noted. However, having regard to the comments received from County Highways and the number of dwellings that are proposed, Officers do not consider that the additional traffic that would be created during and after the construction works would be unacceptable, nor would it be so harmful as to warrant refusal of the application.

- 7.13 The application form states that 8 parking spaces would be provided for the development. However, it is clear from the plans submitted that the proposed driveways would be of a size that would allow for more than 2 vehicles per dwelling to be parked off the road. Furthermore, each dwelling is proposed with garages which could accommodate more vehicles if required. Appendix II of the Local Plan recommends a maximum parking provision of 3 spaces for dwellings with 4 or more bedrooms. Having regard to the additional spaces that would be available within the garages an overprovision of parking has been made at this site which may encourage car use, in conflict with Policy SD1 and the NPPF which seek to achieve sustainable development. At this stage, there appears to be little opportunity to provide infrastructure that would encourage and support access and travel by more sustainable modes. This does not support the development of this area of land in isolation from the remainder of the ASRs. An identified concern in the town is that additional development leads to additional traffic and congestion. Whilst minimal in its effect, this site is likely to do that.
- 7.14 In its favour again are the particular characteristics of this site and its location. Even if this site were coming forward as part of a comprehensive set of development proposals it is unlikely that it would be more closely integrated with alternative transport options that could then be provided. In addition, its location does ensure that it is well placed to allow residents to take up walking and cycling options to the town centre. In that respect it performs as well as the wider ASR sites and therefore this issues is not considered to be one to which significant unfavourable weight should be given.
- 7.15 In respect of the comments that were received from the Fire Protection Department it is important to note that these were based on the previous landscaping plan submitted which has now been superseded by Revision E. Having regard to the comments received from County Highways, Officers consider that adequate provision has now been made for both emergency and refuse vehicles.

Design and Layout

- 7.16 The proposed dwellings are sited to the west of a substantial area of protected trees. Officers consider that this siting together with the overall

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layout of the site will result in the protection of a number of trees that are of high amenity value to the benefit of the character of the surrounding area as a whole.

- 7.17 Whilst the proposed density at the site is low, Officers consider that, given the constraints of the site and perhaps most importantly the number of protected trees within the site, in this instance a low density development is appropriate.
- 7.18 Officers consider the design of the proposed dwellings to be acceptable and consider that they would not detract from the character and appearance of the surrounding area.
- 7.19 With regards to the recommendations made by the Landscape Officer in respect of changes to the layout of the site, Officers consider that such changes would compromise the turning space for emergency and refuse vehicles which the recently revised layout plan seeks to provide.
- 7.20 In respect of the garage that is proposed for the existing dwelling house, Whitehall Leys, Officers are satisfied that the size, scale, siting and design of the building are all acceptable. In accordance with the aims of Policy ENV5, the proposed garage would form an appropriate addition to the existing dwelling that would not detract from its character and appearance or that of the surrounding area as a whole.
- 7.21 The comments made by Herts Constabulary in respect of achieving a gated community at this site are noted. In accordance with national planning policies, the Councils policies seek to achieve inclusive and cohesive communities. Given the characteristics of the town and surroundings of this site, it is not considered that any significant concern can be identified in terms of security or other nuisance issues that warrant the erection of gates to this development.

Neighbour Amenity

- 7.22 The proposed dwellings would retain distances of 17-20 metres to the boundaries to the North, East and West of the site, which then adjoin the public highways before neighbouring residential properties. At the closest point, Plots 1 and 4 would retain a distance of approximately 8 metres to the neighbouring dwelling to the South, Whitehall Leys, and are orientated to face away from this neighbour. Given these distances, the positions of the dwellings within the site, and the nature of the development that is proposed, Officers do not consider that the proposal would have an unacceptable impact upon the amenities of neighbouring occupiers in terms of their outlook, privacy and access to light.

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7.23 It is acknowledged that the development of the site may well lead to some temporary disturbance during construction to local residents. However, having regard to the scale of the development that it proposed, Officers do not consider that the degree of this impact would be unacceptable.

Affordable Housing

7.24 Policy HSG3 states that an affordable housing provision of up to 40% will be expected on sites of 15 or more dwellings or over 0.5ha in size in the 6 main settlements. Whilst the application site itself only proposes 4 dwellings, it does form part of the larger ASR site and, in accordance with the Planning Obligations SPD, Officers consider that it should be assessed as forming part of that larger site and in any event is greater than 0.5ha in extent. A contribution towards affordable housing is therefore considered necessary and appropriate in this case.

7.25 The previous application (Ipa. Reference 3/11/1871/FP) proposed the provision of 3 affordable units on the site. However, the on-site provision of affordable units has now been withdrawn from the proposal following objections from the Highway Authority and the Landscape Officer in respect of the siting of these dwellings. The shared use of the proposed access to the private dwellings is not considered appropriate due to the number of important trees that would be lost within the area to the east of the current application site. Therefore, a combination of issues that include the impact upon trees, the poor access and poor connections to local services have precluded an onsite affordable provision being made in this case.

7.26 To overcome the concerns that were raised during the course of the previous application, the applicant now proposes to pay a commuted sum of £190,000 towards affordable housing provision off-site. This figure has been reached by assuming that 7 dwellings could be provided on the site, as per the previous proposal which would then make a requirement for 3 affordable units if rounded up to make a 43% provision. The applicant has subtracted the amount that a Registered Provider would pay for three dwellings from the land value and build costs in order to ascertain the approximate sum that the Council would need to spend in order to provide the 3 units elsewhere. Therefore the commuted sum that is proposed represents a 43% affordable housing provision.

7.27 Officers are satisfied by the approach that has been taken in this case as is the Council's Housing Development Manager and feel that the proposed commuted sum would make adequate provision towards affordable housing.

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7.28 A claw back timescale of 20 years in respect of affordable housing is recommended by Officers in this case to be set out in the Section 106 agreement. This is in recognition of the potentially long term timescale of the development which may take place on the associated ASR sites where it is anticipated that affordable housing provision can be achieved.

Planning Obligations

7.29 As set out within the Council's Planning Obligations SPD, financial contributions would usually be sought for larger sites where 10 or more dwellings are proposed. However, as outlined above in respect of affordable housing, Officers consider that as the site forms part of the wider ASR land then the current development should be considered as part of that larger site and still make its proportionate contribution towards local services therefore. This consideration is consistently applied to any development that occurs in a piecemeal way, and is in accordance with Council policy as set out in the SPD.

7.30 The Obligations that Officers consider to be reasonable and necessary as a result of the development are set out at the head of this report. The applicant has confirmed that they are willing to enter into an agreement in respect of these matters.

Other Matters

7.31 The concern that has been raised by a neighbour in respect of the stability of trees is noted. At this stage there is nothing to suggest that the proposed development would result in the loss of any additional trees to those identified within the documents submitted. The health and safety implications of the removal of trees within the site is the responsibility of the developer and/or the landowner and is not a matter that can be controlled through the planning process.

7.32 The Council's Environmental Health Officers have recommended a condition requiring a noise assessment to be carried out if piling works for the foundations are proposed. Having regard to the scale of the development that is proposed, the distances to neighbouring occupiers and the recommended condition to restrict the hours of construction work Officers consider that this condition would not be necessary in this case.

7.33 The request by the Engineers for Sustainable Drainage Systems to be incorporated at the site is understood. The development proposed will change the drainage character of this site introducing hard surfaces into areas which are currently soft and able to drain. Given the low density nature of the development proposed it would also seem feasible to

achieve softer drainage solutions. In this case some harder engineering solutions are sought which do not achieve best practice in drainage terms. This must be assigned some negative weight in the consideration of the proposals.

- 7.34 No significant issues have been raised in relation to the impact of the proposals on wildlife protection. A condition is recommended to require the developer to adhere to the measures identified within the submitted assessment report on protected species in order to mitigate against the potential harm which may be caused.

8.0 Conclusion:

- 8.1 Officers have considered whether this site should be permitted to come forward in advance of the wider ASRs and in the absence of direct provision of affordable housing. In this case, because of the particular circumstances of the site the conclusion is that, even if it were to come forward as part of wider proposals, the general form and layout are likely to remain the most favourable. The absence of direct provision of affordable housing is a result of access and tree protection matters and is mitigated against by the provision of supporting finance to secure provision elsewhere.
- 8.2 The development will have some potentially harmful impacts. It is noted above that it is unlikely to play its part in the provision of transport solutions for the town and is likely to add to the existing burden on infrastructure. However, the impact is considered to be minimal – although it is recognised that this argument can be deployed on successive occasions and result in overall cumulative harm. In conclusion however it is not considered that the weight to be assigned to the harmful impacts is such that the development should not be permitted to proceed at this stage, with the necessary safeguards to be applied through conditions and legal agreement.