

E/12/0052/A – The erection of two dwellinghouses with a roof ridge height which exceeds that granted planning permission under planning reference 3/09/1370/FP, at Plots 13 and 14, Linden Homes Development, Land south of Gravelly Lane, Braughing, (now also known as 1 and 2 Totts Cottages, Pound Close, Braughing), SG11 2BH.

Parish: BRAUGHING

Ward: BRAUGHING

RECOMMENDATION:

That Members confirm the view that it is not expedient to issue and serve a planning enforcement notice in respect of the breach of planning control relating to the increased height of the two dwelling houses.

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1.0 Background:

- 1.1 The site lies within a development of 17 new dwellings being erected at Green End immediately to the south of Gravelly Lane, Braughing. It is shown on the attached OS extract.
- 1.2 The site, which comprises a pair of semi-detached houses, is located in the Rural Area Beyond the Green Belt within both the Braughing village boundary and the Conservation Area of Braughing.
- 1.3 The two properties were originally designed with a lower joining section between the main properties to help reduce the bulk of the buildings and to reflect the traditional form of buildings and roofscapes found within the historic Conservation Area of Braughing.
- 1.4 However, planning and enforcement officers became aware that the ridge height of the lower link roof section had been constructed higher than was shown on the approved plans. The builders state that the ridge height is lower than the main ridge by 500mm as opposed to the approved 800mm.
- 1.5 The developers submitted an application for a non-material minor amendment to the original permission under application number 3/11/1727/MA in respect of this discrepancy. However, this was

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refused by officers, under delegated powers, as it was considered that the amendments were, in fact, material and would therefore require further assessment and public consultation through the submission of a further application – either for a minor material amendment or for full planning permission.

- 1.6 The enforcement officer has been in communication with the developers' agent regarding the submission of a retrospective planning permission but has now been told that the developers are not prepared to submit such an application. As Members will be aware, there are no powers available to require such a submission and, accordingly, the Council now need to consider the expediency of issuing a planning enforcement notice with regard to the breach of planning control.
- 1.7 Officers' consider that, given the failure to build the properties in accordance with the approved plans, they will not benefit from the planning permission granted for the development under 3/09/1370/FP. As an unauthorised development these two properties will also not be bound by the planning conditions attached to that permission.
- 1.8 Whilst most of the planning conditions refer to whole site requirements that will have no ongoing effect, there are two conditions that the Council may be unable to enforce on these two properties in future, should no enforcement action be taken now. These relate to the future retention of boundary walls, fences or other means of enclosure and to landscaping.
- 1.9 The Council's conservation officer considers that, whilst the lower link roof ridge is higher than approved, it still remains subservient to the main ridge. Whilst this subservience is assisted by the different materials of the link section, the building as constructed has more bulk than that approved. On balance, she considers that, subject to the public consultation process, any application to regularise the development would be likely to succeed.
- 1.10 The matter has now become more complex as officers' have been informed that one of the properties has now been sold and that the other is under offer. Local land charges do show that searches have been made on both properties. Should the new owners of the properties attempt to sell them without a specific planning permission in place, they may be at a disadvantage if there is no evidence of any permission having been granted for development. It may also affect the value of their land.

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- 1.11 Furthermore, as it would be possible for Members to reconsider any decision not to take enforcement action until the buildings and use became lawful, the new owners would remain at risk of an enforcement notice being served until they became lawful due to the passage of time. Officers would, therefore, continue to strongly advise the developer and/or owners to seek retrospective permission for this alteration.
- 1.12 Those who have made local land charge searches on the two properties have been informed of this report and that the matter will be considered by the Development Control Committee.
- 1.13 Photographs of the site will be available at the Committee meeting.

2.0 Planning History:

- 2.1 The recent planning and enforcement history is as follows:

Planning History		
3/80/1533/FP	Erection of five dwellings	Refused
3/98/1370/FP	Proposed dwelling	Refused
3/07/2039/FP	Erection of 26 no. dwellings, new road junction, landscaping and associated works	Withdrawn
3/08/0763/FP	Erection of 30 no. dwellings, new road junction, landscaping and associated works	Refused
3/09/1370/FP	Erection of 17 no. dwellings, including 6 affordable dwellings, new road junction, landscaping and associated works	Granted
3/10/1731/M A	Minor amendments to 3/09/1370/FP	Granted
3/11/1548/M A	Minor amendments to 3/09/1370/FP	Refused
3/11/1727/M A	Minor amendments to 3/09/1370/FP	Refused
Enforcement History		
E/10/0058/A	Diggers on site - removing hedgerows opposite other works	No breach
E/11/0086/A	Unauthorised removal of trees, and hedgerows and various	Open; awaits remedial

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	other works	works
E/11/0212/A	Unauthorised advertisements on hoardings and directional signs	Not expedient to take action
E/12/0052/A	The unauthorised separation of plots 7 & 8 without planning permission	Open; properties under construction although the S106 agreement has not yet been signed nor the permission issued

3.0 Considerations:

- 3.1 The main consideration in this case is the acceptability in planning terms of the buildings as they have been constructed. Whilst the actual built form of the site is bulkier and less subservient than that granted planning permission, it is the view of officers that, were an application to be submitted, it may well be granted permission, subject to any representations that may be made to the Council during the public consultation process.
- 3.2 The planning conditions attached to the original planning permission for the wider site did not remove any permitted development rights from the property and officers' consider that an inability to take action with regard to any future changes to the boundary treatment or landscaping alone would not justify the service of a planning enforcement notice.
- 3.3 Land Registry titles for the site have not yet been updated. However, it is important to note that if the two properties have been sold to new purchasers then any enforcement notice would be served on the owners of the land at the time of such service and others with an interest in it.

4.0 Conclusion:

- 4.1 Whilst officers' consider that this is a finely balanced decision, it is

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recommended that no further action is taken in respect of the breach of planning control described above.