

5g 3/13/0813/OP – Development of site to provide 13 family dwelling houses with associated car parking and landscaping – Land to North of Park Farm Industrial Estate, Ermine Street, Buntingford

Date of Receipt: 03.06.2013

Type: Full – Major

Parish: BUNTINGFORD

Ward: BUNTINGFORD

RECOMMENDATION:

That subject to the applicant or successor in title entering into a legal obligation pursuant to Section 106 of the Town and Country Planning Act 1990 to cover the following matters:

- A financial contribution towards Nursery, Primary and Secondary Education, Childcare, Youth and Library services to Hertfordshire County Council in accordance with the residential type and mix as approved in any subsequent planning application and the Planning Obligations Guidance – Toolkit for Hertfordshire 2008;
- A financial contribution towards Sustainable Transport to Hertfordshire County Council in accordance with the residential type and mix as approved in any subsequent planning application and the Planning Obligations Guidance – Toolkit for Hertfordshire 2008;
- A financial contribution towards Outdoor Sports facilities to East Herts Council in accordance with the residential type and mix as approved in any subsequent planning application and the Planning Obligations Supplementary Planning Document 2008;

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

1. Outline permission time limit (1T03)
2. Approved plans (Site location plan; SK2)
3. Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") of the development shall be submitted to and approved in writing by the Local Planning Authority before any development begins and the development shall be carried out as approved.

Reason: To comply with the provisions of Article 4 of the Town and Country Planning (Development Management Procedure) Order 2010.

3/13/0813/OP

Directives:

1. Other Legislation (01OL1)
2. Planning Obligation (08PO)

Summary of Reasons for Decision

East Herts Council has considered the applicant's proposal in a positive and proactive manner with regard to the policies of the Development Plan (Minerals Local Plan, Waste Core Strategy and Development Management Policies DPD 2012 and the 'saved' policies of the East Herts Local Plan Second Review April 2007; the National Planning Policy Framework and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2012 (as amended). The balance of the considerations having regard to those policies and the pre-app advice given is that permission should be granted.

_____ (081313OP.SE)

1.0 Background:

- 1.1 The application site is shown on the attached OS extract. It is situated to the north of Buntingford town centre, but within the settlement boundary as set out in the Local Plan. The application site is 0.49 hectares in size and comprises a vacant greenfield site which fronts Ermine Street.
- 1.2 The site is bordered to the south and west by the existing Park Farm Industrial Estate, which was developed under planning approval 3/86/1960/FP. This industrial estate is formed of one and two storey units used for the purpose of light and general industry. To the north of the site is number 7 Ermine Street, which is a residential dwelling and garden. The boundaries of the site are generally well landscaped with mature landscaping including trees.
- 1.3 This application seeks permission in outline form for the construction of 13 residential dwellings on the site. All detailed matters have been reserved. The application originally included access details, but these are also now to be dealt with as a reserved matter. Despite the status of the application, the applicant has submitted material which shows a potential layout and house types for the site. These details are being considered as illustrative.

3/13/0813/OP

2.0 Site History:

- 2.1 Park Farm Industrial Estate was developed under LPA ref: 3/86/1960/FP. There is no recent planning history on this site.
- 2.2 An outline planning application has been received for the redevelopment of the site of no. 7 Ermine Street (to the north of the application site) for the construction of up to 7 dwellings with associated car parking and landscaping (ref. 3/13/1294/OP). This application is due for determination by 12 September 2013.
- 2.3 Proposals have also come forward for the development of land further north, this time outside of the town development boundary. These proposals comprise conventional and sheltered housing, a care home, extension to the adjacent school playing fields and the potential for a hotel.

3.0 Consultation Responses:

- 3.1 Planning Policy has commented that the proposal is for 13 dwellings on land allocated for live/work units and employment purposes. The proposal is therefore contrary to saved policies BUN6 and EDE1 of the East Herts Local Plan 2007.
- 3.2 The policy team refers to the requirement to ensure that the need for employment land has been thoroughly tested before it is released for other uses. Whilst there appears to be no interest in this site for that purpose, developers considering sites elsewhere in the town have indicated that there may be scope to include employment land in their schemes. This seems to be at odds then with a case of lack of demand here. If a residential use is permitted, it would be necessary to ensure there is an acceptable relationship between it and the commercial uses to the south and west.
- 3.3 The team acknowledge that the Council is unable to demonstrate a 5 year supply of land for housing, but considers that this site will not have a material impact in that respect.
- 3.4 With regard to affordable housing, the team note that the site is only just below the threshold size for provision. It is considered that this is an attempt to avoid the policy requirement for the provision affordable housing given the applicant owns land adjacent to the site. The team refers to the current circumstances in relation to capacity at schools in the town.

3/13/0813/OP

- 3.5 The Crime Prevention Design Officer at Hertfordshire Constabulary has commented that Government guidance states that applications should demonstrate how crime prevention measures have been considered in the design of the proposal....and how the design reflects the attributes of safe, sustainable places set out in 'Safer Places'. The Officer is concerned that the architect and agent have not demonstrated how this issue is being addressed. Some particular plot related concerns are referred to.
- 3.6 The Hertfordshire Biological Records Centre (HBRC) have recommended that if development does not start within 12 months, then the site should be fully surveyed for reptiles and existing log piles assessed as potential hibernacula. They also recommend that if reptiles are found to be present a Compensation Plan will be needed; any site clearance must only be conducted during the period October – February; bird and bat boxes should be erected post development and post development landscape planting should consist of native species.
- 3.7 Natural England have commented that the ecology survey submitted with the application has not identified that there will be any significant impacts on statutory protected sites, species or on priority Biodiversity Action Plan (BAP) habitats as a result of the proposal. However when considering this application the Council should encourage opportunities to incorporate biodiversity in and around the development. Examples of biodiversity enhancements are: green/ brown roofs; landscaping; nesting and roosting sites; sustainable urban drainage systems (SuDS); and local wildlife sites.
- 3.8 The Council's Engineers have commented that the site is situated within flood zone 1 and there is no historic flood incidents recorded for the site. They state that the development shows a net increase in the amount of impermeable areas being created with consequent increase in the risk of associated flooding to the surrounding areas and residences and potential increase within the development. They state that in order to improve the sustainable construction characteristics of the development they would recommend to make use of 'above ground' SUDS drainage systems such as external/garden rain harvesting water butts, swales, green roofs, permeable paving and grey water recycling/internal rainwater harvesting.
- 3.9 The Environment Agency has commented that they have no flood risk concerns on this site that can not be dealt with through their Flood Risk Standing Advice. As the development is in Flood Zone 1 and is under a hectare, surface water management good practice should be applied.

3/13/0813/OP

- 3.10 Environmental Health has commented that they do not wish to restrict the grant of permission subject to conditions relating to construction – hours of working – plant and machinery; soil decontamination and piling works.
- 3.11 County Highways does not wish to restrict the grant of permission subject to conditions relating to reserved matters approval for visibility splay; junction radii/alignment/gradient and road widths; vehicle parking; wheel washing facilities; parking and storage of and delivery of materials within the site; cycle storage facilities; and the approval of a Construction Traffic Management Plan. They commented that there is no highway objection to the principle of additional houses in this location. Initially concern was raised in relation to the detail of the access arrangements. This is now to be dealt with as a reserved matter.
- 3.12 The Planning Obligations Officer, HCC has stated that based on the information to date for a development of 13 dwellings, financial contributions would be sought towards First/Primary education (£29,883); Middle education (£27,804); Upper Education (£31,711); Nursery education (£5,339); Childcare (£2,266); Youth (£897); Libraries (£2,899).
- 3.13 The Spatial and Land Use Planning Minerals and Waste Team, HCC have commented that regard should be had to the policies of the Hertfordshire County Council Waste Core Strategy and Development Management Policies Development Plan Document 2012.
- 3.14 Thames Water have commented that it is the responsibility of the developer to make proper provision for surface water drainage and that with regard to sewerage infrastructure they do not have any objections to the application.
- 3.15 The Council's Landscape Officer has recommended consent be granted and has expressed no strong objection to the principle of the removal of trees, although some should be retained, if possible. Elsewhere in his response he indicates that it would be highly desirable to retain some frontage trees and that, without the retention of one or two trees adjacent to the southern boundary of the site, the replacement planting would not seem to do much to screen the adjacent industrial unit. If the frontage trees are removed, space needs to be allowed for compensatory planting. There is no objection to the principle of the development.

3/13/0813/OP

4.0 Town Council Representations:

- 4.1 The Buntingford Town Council comments that the land was allocated in the East Herts Local Plan 2007 as mixed use and therefore the principle of development is already established. The Town Council has no objections to the proposed change of use but would ask that these proposals are considered in the wider context of the future development within Buntingford.
- 4.2 The site is situated at the point where the 30mph speed restriction on Ermine Street ends. The Town Council recommend that consideration is given to continuing the restricted speed limit to the north of the site, although it is understood that there is a possibility of further development in this area which would require a further extension of the limit.
- 4.3 The Arboricultural Report refers to two category B Poplar trees on the south west corner of the site. The Town Council would ask that these trees are retained, which it is believed that the developer has stated would be possible. Additionally the Habitat Survey recommends that any work is carried out outside of the breeding season and any tree lines that are removed should be replaced elsewhere on the site, these items should be included as conditions of planning permission.
- 4.4 The Foul Drainage Assessment states that the proposed development would be served by a 150mm diameter pipe which runs south along Ermine Street to the junction with the High Street, where it becomes a 225mm diameter pipe. It is assumed that Thames Water has made allowance for this site as it has been allocated for development since 2007. The Town Council would ask that Thames Water investigate fully and confirm that the 150mm pipe is capable of serving this development, especially in light of the fact that an additional 11 dwellings have been sited to the south of Park Farm Industrial Estate on Woods Way.

5.0 Other Representations:

- 5.1 The application has been advertised by way of press notice, site notice and neighbour notification.
- 5.2 Two letters of representation have been received which raise the following comments:
- Overlooking and loss of privacy to garden of neighbouring

residential property;

- Impact on future development possibilities of no. 7 Ermine Street;
- Removal of existing trees should be kept to a minimum;
- All contractors working at the development should not park or cause hindrance in front of private residences on Ermine Street during the construction period.

5.3 A letter of concern has also been received from a planning agent representing the current occupants of no. 7 Ermine Street. It is noted that the occupants of this neighbouring dwelling are currently in the process of submitting a formal outline planning application for residential development of this neighbouring property. The letter raises similar concerns to those specified above, and also raises concerns with regard to lack of clarity of the current proposal and the need for further control through conditions of approval.

5.4 Buntingford Civic Society has raised concern that another application is put forward to build houses in Buntingford in the absence of a District Plan or consistent with EHC publication 'Everyone Matters – A Sustainable Community Strategy for East Herts 2009 to 2024'. The Civic Society continue by stating that BTC/BARD/CofC/BCS have published a core strategy for development in the town which is the genesis of a Neighbourhood Plan and it is impossible to comment meaningfully on outline planning applications in isolation from numerous other applications in the pipeline. To the community each of these applications to date appear to be 'premature' and certainly not sustainable in the absence of a wide range of infrastructure improvements. They comment that at this stage the Buntingford Civic Society considers that the application should be dismissed.

6.0 Policy:

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

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| SD2 | Settlement Hierarchy |
| HSG1 | Assessment of sites not allocated in this Plan |
| HSG7 | Replacement dwellings and infill development |
| EDE1 | Employment Areas |
| EDE2 | Loss of Employment Sites |
| TR2 | Access to new developments |
| TR7 | Car parking standards |
| ENV1 | Design and environmental quality |
| ENV2 | Landscaping |

3/13/0813/OP

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| ENV3 | Planning Out Crime – New Development |
| ENV11 | Protection of Existing Hedgerows and Trees |
| ENV16 | Protected Species |
| ENV25 | Noise Sensitive Development |
| BUN1 | Housing allocations – Buntingford |
| BUN6 | Park Farm Industrial Estate |

6.2 The National Planning Policy Framework (NPPF) is also of relevance to the consideration of the application.

7.0 Considerations:

7.1 As indicated, this application has been submitted in outline form. Initially, details of access were provided as part of the submission. Following the response from the Highway Authority, this element has also been removed from the matters to be considered at this stage. The proposals comprise therefore a wholly outline application. Despite this, material has been submitted showing a potential layout of dwellings on the site and the style and design of those potential properties. This material is being considered as illustrative only. The applicant has confirmed that the site size is 0.49ha.

7.2 The determining issues in the consideration of this application are:

- The principle of development and loss of land for employment purposes;
- Highways;
- Visual Impact;
- Layout and design;
- Impact on residential amenity;
- Section 106 obligations;
- Impact on protected species

Principle of development and loss of employment

7.3 The site lies within the built up area of Buntingford wherein there is no objection in principle to development. However, Policy BUN6 of the Local Plan allocates the site for employment, split into two areas. An area which is reserved primarily for industry comprising B1 and B2 uses in accordance with policy EDE1, and a smaller area to the east fronting Ermine Street which is reserved for live/work units.

7.4 As this proposal is for residential development and not a development of live/work units or B1/B2 use, it is contrary to policies EDE1 and BUN6

3/13/0813/OP

of the Local Plan. It is therefore necessary to consider whether there are any material considerations in this case which would warrant a departure from these policies.

- 7.5 The applicant has stated that the site has been vacant for thirteen years. There has been no firm interest to develop the site for employment or live/work accommodation despite the marketing of the site since 2007. The site was extensively marketed between 2007 and 2008, active marketing stopped on the advice of the agents as the sale prospects were poor. The site has recently been actively marketed again, and across this entire period, the site has remained available for sale, with local employers aware of its presence even when not actively marketed. No firm interest has materialised at all over this period.
- 7.6 Set against this apparent lack of demand, planning policy Officers refer to the ongoing preparation of the Councils District Plan that will guide development in the period to 2031. It is anticipated that it will be necessary to accommodate some residential development in the town of course and that it will generate a need and demand for additional employment provision. The case is that short term decisions now should not be made which may preclude longer term objectives.
- 7.7 This position is recognised. The Councils current position is that its District Plan is likely to be released in a draft form prior to the end of this year. That will need to go through a period of public consultation and examination before significant weight can be attached to it. In advance, development proposals are coming forward. Some of these may, speculatively at this stage, contain an element of employment related development. What is crucial however, is how much confidence be given to these speculative proposals turning into reality. That again will depend on the strength of the market. Given these uncertainties, it is considered that the weight that can be assigned to this longer term objective cannot be significant at this stage.
- 7.8 In this respect, regard must also be had to guidance contained within the NPPF. Para 22 of the NPPF states that “planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Land allocations should be regularly reviewed. Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities”.

3/13/0813/OP

- 7.9 In support, the applicant also identifies that the scheme will deliver some housing going some way toward meeting the short fall that the Council currently faces in this regard. Its contribution will clearly be modest, 13 units. However, it is considered that some positive weight can be assigned to this matter, albeit modest.

Highways

- 7.10 As set out earlier in this report, the detailed matter of access has been removed from this application and will now be dealt with as a reserved matter. County Highways have confirmed that there is no highway objection to the principle of additional houses in this location. There was initial concern in relation to the detailed specification of the access. Whilst this element of the scheme has now been withdrawn from current consideration, it would appear that the ability to achieve an acceptable access here, with regard to its specification, is not in doubt.
- 7.11 Reference has been made to the development proposals that have already been submitted in relation to the site at 7 Ermine Street, immediately to the north of the application site. An access to that property is already in existence. If the proposals at no 7 are supported, then its use would be intensified, as the proposals at that site are also in outline form for up to 7 units. The limited scale of the developments are such that the inter-relationship of the accesses is not considered to be unacceptable.
- 7.12 In addition, proposals are being formulated for land to the north of the town development boundary which have been canvassed publically. Whilst a more significant form of development, access to that site is sufficiently distant not to be affected by a decision that may be made here.

Visual Impact

- 7.13 The Council's Landscape Officer has not raised any formal objection in principle to development on the site. The existing site is well landscaped, especially the Ermine Street frontage, and therefore views into the site are generally restricted. The Arboricultural Report submitted with the application has assessed the existing trees on the site with the majority being classified as Category C trees – trees of low quality and value but with a life expectancy of more than 10 years. It is proposed to remove all of the existing trees on the site. The submitted Report states that the overall quality of the tree stock is so poor that removal and replacement is considered to be the most appropriate approach and will allow the implementation of a comprehensive and

3/13/0813/OP

coherent landscaping scheme which will better serve the interests of amenity in the longer term.

- 7.14 The loss of the trees on the site is regrettable, and clearly the removal of all of them would not be the most favourable outcome anticipated by the Landscape Officer when submitting his response. Both the applicant and the Landscape Officer suggest that a replacement planting scheme would be of greater value in the longer term. This is acknowledged, given the scale of development proposed, it does appear that the ability to achieve any level of significant replacement planting, must be somewhat limited.
- 7.15 The site is identified for development and any alternative proposals which may have come forward – employment or live/ work units – would have the potential to have the same impact on existing trees on the site, in principle. However, it remains the case that any development scheme could endeavour to accommodate more of the existing planting on the site to assist with its assimilation. It is considered that the impact of the scheme as it stands is a harmful one in relation to this matter. Some negative weight must be assigned in this regard.

Layout and Design

- 7.16 As previously stated, this application seeks permission for the redevelopment of the site with all matters reserved. Therefore, the detailed matters of appearance, layout, scale, landscaping and access are all reserved. The application is accompanied by an illustrative site layout and elevations of the proposed dwellings seeking to demonstrate how 13 dwellings could be provided on the site. Officers do have some concerns in relation to these details, however, those matters will be considered in detail as part of any future reserved matters application.
- 7.17 Officers are however satisfied that the site can accommodate 13 dwellings with sufficient space available for access, turning, parking and landscaping, albeit not significant. The grain and layout of development and the scale and design of dwellings in the vicinity of the application site is varied, and it is considered that an appropriate dwelling layout and design can be achieved that would be appropriate to and respect the character and appearance of the surrounding area. The concerns raised by Herts Constabulary Officers would be appropriately considered at the detailed stage.

Impact on residential amenity

- 7.18 Some concerns have been raised in relation to the impact of the

3/13/0813/OP

development on the amenity of the occupiers of land to the north, 7 Ermine Street. In that respect, the impact can be considered against the current circumstances, where there is a single dwelling on that site, and a potential future situation where more intensive residential development may have come forward on that site also.

- 7.19 In relation to the first of these the development proposed is likely to result in an impact on the amenity of the occupier of no 7. Residential development will be introduced into the site immediately to the south of that property. However, it is considered that a layout of development can be achieved that will ensure this impact is not greater than that which would be reasonable. New planting in garden areas of the proposed dwellings will assist with this, of course.
- 7.20 In the latter case, given that both development proposals are currently in outline form, establishing the nature and extent of the impact with any certainty is difficult. However, with the creation of two new higher density residential environments, the expectations of occupiers will be such that some inter-relationships between the properties will be anticipated. Again, it is considered that a layout can be achieved where 13 units on this site and up to 7 on the land to the north can be achieved with acceptable relationships between them. Whilst there is some scope for amenity impact then, this is not considered to be of such an extent that it should be assigned harmful weight.
- 7.21 The Park Farm Industrial Estate is adjacent to the south and west of the site. Due to the nature of activities that occur on the industrial estate (B1 and B2 uses) it is anticipated that the future occupiers of the proposed development may experience some noise and disturbance. The situation to the west is less sensitive in that there exists a substantial landscaped belt and there is currently no development immediately proximate on the Park Farm site. The industrial units are closer to the south. However, they face away from the residential development site and the relationship is no closer than that which has been accepted previously in relation to the development at Woods Way. Officers are satisfied that any noise and disturbance experienced would be limited and would not preclude residential development on this site. It is noted that the Council's Environmental Health Team have not raised any objections to the development on these grounds.

Affordable Housing

- 7.22 The site area is just below the 0.5ha threshold site area size for the provision of affordable housing (at 0.49ha) and the comments from policy officers are noted in relation to the ownership of the adjacent

land. However, the only location where site expansion could take place, to the west, is an area which accommodates an existing landscaped strip. Therefore this is not an area on which it would be considered desirable to locate development. As a result it is considered acceptable, all other matters being satisfactory, to allow the site to proceed in the absence of affordable housing provision.

Section 106 Obligations

- 7.23 The number of dwellings proposed is above the number required to trigger the requirement for planning obligations in accordance with the Council's Planning Obligations SPD and the Herts County Council (HCC) Planning Obligations Toolkit. HCC have confirmed that they will require contributions towards primary, middle, upper and nursery education, childcare, youth and library facilities. Whilst the County Council have set out figures related to these contributions, these were based upon an indicative number of bedrooms per dwelling. Officers however consider that contributions towards these services are necessary and reasonable based on pressures that the development will place on existing infrastructure, and they are therefore considered to meet the tests set out in S122 of The Community Infrastructure Levy Regulations (CIL) 2010.
- 7.24 With regards to Highways contributions, the Planning Obligations SPD and policy TR8 require that, where new developments generate a need for new parking provision that a contributions of £500 (index linked) per vehicular parking space be made towards sustainable transport schemes and traffic calming/ safety enhancement measures in the vicinity of the site.
- 7.25 The Planning Obligations SPD identifies that, for a development of this scale, that contributions are required to accommodate the demand placed on: Parks and Public Gardens; Outdoor Sports Facilities; Amenity Green Space; Children and Young People.
- 7.26 Taking into account the requirements of the Planning Obligations SPD and deficiencies in open space, Officers consider that a financial contribution towards open space is considered to meet the tests set out in Section 122 of The Community Infrastructure Levy Regulations (CIL) 2010.

Protected species

- 7.27 An extended Phase 1 Habitat Survey supported the application. It concluded that that the site is unlikely to support protected species and

3/13/0813/OP

recommends potential ecological enhancements such as native species within landscape schemes and the installation of bird boxes. Both Natural England and the Hertfordshire Biological Records Centre concur with these findings. For these reasons this proposal accords with policy ENV16 of the Local Plan.

8.0 Conclusion:

- 8.1 The site is located within the settlement of Buntingford where the principle of development is acceptable. Although the site was allocated for live/ work use in the East Herts Local Plan Second Review April 2007, the marketing of the site for this use has been unsuccessful and it has remained vacant and undeveloped.
- 8.2 Whilst there may be potential for greater demand for employment provision in the future, the scale and timescale of this is currently unknown. Given that, the guidance in the NPPF and the modest ability of the site to play a part in housing land supply, it is considered that a scheme of residential development can be supported.
- 8.3 Whilst some negative weight is assigned due to the proposed approach to the existing trees on the site, namely the removal in entirety, the scheme is considered acceptable in all other respects, or there are no other matters to which harmful weight is applied. As a result, it is considered that the beneficial aspects of the proposal are such that Officers recommend that planning permission be granted, subject to the signing of a Section 106 agreement and planning conditions.