

MINUTES OF A MEETING OF THE
DEVELOPMENT MANAGEMENT
(FORMERLY CONTROL) COMMITTEE
HELD IN THE COUNCIL CHAMBER,
WALLFIELDS, HERTFORD ON
WEDNESDAY 11 SEPTEMBER 2013, AT
7.00 PM

PRESENT: Councillor Mrs R Cheswright (Chairman).
Councillors M Alexander, D Andrews,
E Bedford, S Bull, A Burlton, K Crofton,
G Jones, P Moore, M Newman, N Symonds
and G Williamson.

ALSO PRESENT:

Councillors W Ashley, J Jones and P Ruffles.

OFFICERS IN ATTENDANCE:

Liz Aston	- Development Team Manager (East)
Lorraine Blackburn	- Democratic Services Officer
Glyn Day	- Principal Planning Enforcement Officer
Simon Drinkwater	- Director of Neighbourhood Services
Kevin Steptoe	- Head of Planning and Building Control Services

220 CHAIRMAN'S ANNOUNCEMENTS

The Chairman announced that Democratic Services Officer, Peter Mannings and his wife Tracy, had become the proud parents of a son. Members sent their congratulations to the new parents.

The Chairman announced that application 3/13/1115/FP (Garage site and grassed area, Francis Road, Ware) and enforcement case E/13/0/187A (Unauthorised advertisements at 212 Dunmow Road, Bishop's Stortford, Herts) had been withdrawn.

221 MINUTES – 14 AUGUST 2013

In respect of Minute 190 – Applications 3/12/1955/FP and 3/12/1956/LB, Councillor D Andrews stated that although Councillor P Ballam was the local Member she was not the local “ward” Member. The Committee agreed that the word “ward” should be deleted.

RESOLVED – that the Minutes of the meeting held on 14 August 2013 as now amended, be confirmed as a correct record and signed by the Chairman.

- 222 (A) 3/13/1000/FP – ERECTION OF 160 DWELLINGS WITH ASSOCIATED GARAGES, CAR PARKING, PUBLIC OPEN SPACE, CHILDREN'S PLAY AREA, LANDSCAPING, DIVERSION OF FOOTPATH, PUMPING STATION WITH ASSOCIATED WORKS AND NEW VEHICULAR, PEDESTRIAN AND CYCLIST ACCESSES AND THE PROVISION OF ALLOTMENTS AND THE CHANGE OF USE OF LAND FOR A CEMETERY WITH ASSOCIATED ACCESSES, CAR PARKING AND LANDSCAPING; AND (B) 3/13/1183/OP - ERECTION OF 160 DWELLINGS WITH ASSOCIATED GARAGES, CAR PARKING, PUBLIC OPEN SPACE, CHILDREN'S PLAY AREA, LANDSCAPING, DIVERSION OF FOOTPATH, PUMPING STATION WITH ASSOCIATED WORKS AND NEW VEHICULAR, PEDESTRIAN AND CYCLIST ACCESSES AND THE PROVISION OF ALLOTMENTS AND THE CHANGE OF USE OF LAND FOR A CEMETERY WITH ASSOCIATED ACCESSES, CAR PARKING AND LANDSCAPING (CHANGE OF SITE AREA) AT LAND NORTH OF HARE STREET ROAD, BUNTINGFORD FOR TAYLOR WIMPEY UK LTD
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Mr Baker addressed the Committee against the

application. Mr Phillips spoke for the application.

The Director of Neighbourhood Services recommended that, subject to the applicants entering into legal obligations pursuant to Section 106 of the Town and Country Planning Act 1990, in respect of applications 3/13/1000/FP and 3/13/1183/OP, planning permission and outline planning permission be granted subject to the conditions detailed in the report now submitted. He drew Members' attention to the additional representations which had been submitted after the agenda had been dispatched.

The Director of Neighbourhood Services stated that the main issue was the absence of an up to date District Plan and that the Council did not have the ability to demonstrate the supply of land over a five year period but that a robust approach was being taken by the government nationally to allow development to come forward. He commented that, in relation to planning policy, if significant harm, "the high test", could not be demonstrated, then applications for planning permission should be approved. He drew Members' attention to the changes that the applicant had put forward following concerns expressed and negotiation with Officers.

Councillor J Jones, as a ward member, stated that the application was premature in that a District Plan was not yet available. He acknowledged that housing would come to Buntingford but that this was a "hostile application" in a location within the town, which nobody wanted. Councillor Jones said that there had been no reasonable consultation with the Town Council and residents by the developer and that the applicant was using the vulnerability of Buntingford in the absence of a District Plan. He referred to the fact that the location was not within the natural valley to the east of the town and that the application would dominate the town from an elevated position.

Councillor J Jones expressed concern regarding the

proposed mini roundabout and the logistics of its use by the Funeral Service and stated that the cemetery proposed was not in a suitable location. He referred to the draft District Plan which stated that this was the least favourable location for such an application. Councillor Jones stated that for localism to succeed, the application needed to be refused on grounds of prematurity.

Councillor S Bull stated that it had been fundamental to refuse the previous application on the grounds of prematurity and that it still remained a valid reason for this application. He explained that the whole site was in a rural area and that the site was less suitable than other sites in the town. Councillor Bull referred to previous planning applications which had been approved and that housing provision was already in excess of what was anticipated in the draft District Plan. He suggested that it should be refused for a number of planning reasons including Policies GBC2 and GBC3, transport policy and policy SD1.

Councillor Bull referred to the application's close proximity to the school, accessibility problems and the unsuitability of the proposed new cemetery. He acknowledged that the applicants had made a number of changes to the application but considered that these were minor in nature and would have a substantial impact on local properties. In response to a query from Councillor P Moore concerning sustainability, he stated that other sites were more sustainable in terms of transport.

Councillor A Burlton reminded Members that an earlier application by the developer was awaiting a decision by the Planning Inspector. He questioned why Members were being urged to make a decision prior to a decision being reached on the earlier application. The Director of Neighbourhood Services reminded Members of the background adding that the applicant preferred to obtain a permission via the Council rather than through the appeal process. Also, Members did not have to make a decision on the proposal but that this did not indicate a pro active

approach and indeed, might make the Council vulnerable to challenge in terms of unreasonableness.

Councillor M Alexander urged Members to be consistent in their decision making.

Councillor G Jones referred to the provision of the infrastructure and whether this could be accommodated by the proposed contribution by the developer. The Director of Neighbourhood Services explained how the figure had been arrived at and the role of other services in the process.

Councillor M Newman referred to the dilemma Members faced in approving or refusing the application, adding that the basis of a defence on appeal was tenuous, of the likelihood of the applicant winning and of the possibility of them being awarded costs against the Council.

Councillor G Williamson stated that the land was Green Belt and therefore contrary to policy GBC3.

Councillor N Symonds commented that not much had changed from the previous application and that Members needed to observe localism and refuse the application. She cited the planning policies which she felt the application contravened.

In response to a query from Councillor K Crofton regarding a suggestion to delete the cemetery and replace this with sports facilities, the Director of Neighbourhood Services explained that minor changes could be covered by conditions but a substantial change of this nature would have to be the subject of further negotiation.

The Chairman stated that Buntingford had been targeted by developers who were there to make money. She urged Members to consider carefully the planning reasons for refusal, if so minded. The Chairman asked whether the Council could defer the application so that

further consultation could take place with the Town Council. The Director of Neighbourhood Services explained that consultation should preferably have initially been carried out by the developer but it had in any event been undertaken by the Council as part of process.

The Director reminded Members that the land in question was not Green Belt land but was identified in the Local Plan as rural area beyond the green belt. He explained the pressures on the Council of finding suitable areas on which to allow residential development around the five main towns in the District. He reminded Members which previous planning policies had been cited in the earlier refusal and urged Members to be cautious, given the circumstances explained, if they were minded to refuse the application before them.

The Director stated that Members needed to articulate where the application was failing in terms of the “significant harm” test. It seemed that Members felt this was in relation to the infrastructure.

Councillor S Bull proposed and Councillor D Andrews seconded, a motion that applications 3/13/1000/FP and 3/13/1183/OP be refused on the grounds that they were contrary to Policies GBC2 and GBC3 and SD1.

After being put the meeting and a vote taken, this motion was declared CARRIED. The Committee rejected the recommendations of the Director of Neighbourhood Services as now submitted.

RESOLVED – that (A) in respect of planning application 3/13/1000/FP, planning permission be refused for the following reasons:

1. The site lies in the Rural Area Beyond the Green Belt as defined in the East Herts Local Plan Second Review, April 2007, where development will only be allowed for certain specific purposes. The proposals do not

represent an acceptable form of development in that respect and are, therefore contrary to the aims and objectives of policies GBC2 and GBC3 of the East Herts Local Plan Second Review April 2007. Prior to the publication of the East Herts District Plan, Part 1: Strategy, development at this time would prejudice the assessment process currently underway which will lead to the identification of land and the preferred strategy for residential and other development across the district. The proposals are therefore contrary to the objectives set out in that respect in the National Planning Policy Framework.

2. The proposed development, if permitted to proceed in advance of a full assessment of the impact of this and other potential development in the town, which may come forward through the District Plan process, will constitute an unsustainable form of development, particularly in relation to the impact and demand placed upon education, public transport, health facilities and local leisure provision. The proposal is therefore contrary to policy SD1 of the East Herts Local Plan Second Review April 2007 and the policies of the National Planning Policy Framework.

(B) in respect of application 3/13/1183/OP that planning permission be refused for the following reasons:

1. The site lies in the Rural Area Beyond the Green Belt as defined in the East Herts Local Plan Second Review, April 2007, where development will only be allowed for certain specific purposes. The proposals do not represent an acceptable form of development in that respect and are, therefore contrary to the aims and objectives of policies GBC2 and

GBC3 of the East Herts Local Plan Second Review April 2007. Prior to the publication of the East Herts District Plan, Part 1: Strategy, development at this time would prejudice the assessment process currently underway which will lead to the identification of land and the preferred strategy for residential and other development across the district. The proposals are therefore contrary to the objectives set out in that respect in the National Planning Policy Framework.

2. The proposed development, if permitted to proceed in advance of a full assessment of the impact of this and other potential development in the town, which may come forward through the District Plan process, will constitute an unsustainable form of development, particularly in relation to the impact and demand placed upon education, public transport, health facilities and local leisure provision. The proposal is therefore contrary to policy SD1 of the East Herts Local Plan Second Review April 2007 and the policies of the National Planning Policy Framework.

223 3/13/0923/RP – ERECTION OF EARLY YEARS CENTRE, INCLUDING DETAILS OF ASSOCIATED CAR PARKING, LANDSCAPING AND DRAINAGE SWALE FOLLOWING OUTLINE PERMISSION 3/08/2054/OP AT CLAPPERS LANE, WATTON AT STONE, SG14 3QA FOR HERTFORDSHIRE COUNTY COUNCIL

The Director of Neighbourhood Services recommended that, in respect of application 3/13/0923/RP, planning permission be granted subject to the conditions detailed in the report now submitted.

After being put to the meeting and a vote taken, the Committee supported the recommendation of the Director of Neighbourhood Services as now submitted.

RESOLVED – that in respect of application 3/13/0923/RP, planning permission be granted subject to the conditions detailed in the report now submitted.

224 3/13/1023/FO – VARIATION OF CONDITIONS 3 AND 5 OF OUTLINE PLANNING PERMISSION 3/11/0554/OP TO ALTER DEVELOPMENT PLOT BOUNDARIES, ALTERATIONS TO MINIMUM PLOT HEIGHTS AND REMOVAL OF PEDESTRIAN ACCESS B ONTO BURNT MILL LANE AT TERLINGS PARK, EASTWICK ROAD, EASTWICK, CM20 2QR FOR BLOOR HOMES

The Director of Neighbourhood Services recommended that, in respect of application 3/13/1023/FO, planning permission be granted subject to the conditions detailed in the report now submitted.

The Director of Neighbourhood Services stated that a Deed of Variation needed to be incorporated within the Section 106 Agreement.

After being put to the meeting and a vote taken, the Committee supported the recommendation of the Director of Neighbourhood Services as amended and as now submitted.

RESOLVED – that subject to the applicant or successor entering into a Deed of Variation to the existing Section 106 Agreement in relation to application reference 3/11/0554/OP, planning permission be granted in respect of application 3/13/1023/FO, subject to the following conditions:

1. Outline permission time limit (1T03)
2. The residential development hereby permitted shall not exceed a total gross internal floorspace of 37,068 sq.m.

Reason: To ensure that the amount of development is compatible with the location of the site within the Metropolitan Green Belt.

3. Approved plans (2E10) (BH1001, BH1002, BH1003, BH1004, BH1005, and BH1100)
4. Details of the 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.

5. Prior to the occupation of the development the pedestrian and cyclist accesses shown on Plan No. BH1004 shall be provided and thereafter retained for such use.

Reason: To help achieve a sustainable development and promote the use of non car modes of transport in accordance with the aims of the NPPF.

6. Hours of working - plant and machinery (6N05)
7. Prior to the commencement of development the works specified within the Phase 1 Geo-environmental Assessment Report, March 2011, shall be carried out unless amendments to these works are agreed in writing by the Local Planning Authority. Following the completion of the works a validation report shall be submitted to and approved in writing by the Local Planning Authority prior to any

building works commencing on site.

Reason: To ensure the site no longer poses a potential risk to groundwater in accordance with policy ENV20 of the East Herts Local Plan Second Review April 2007 and the Technical Guidance to the NPPF.

8. No development or groundworks shall take place until the applicant has implemented the programme of archaeological work in accordance with the written scheme of investigation which was submitted by Northamptonshire Archaeology dated 3rd January 2013. The development shall be carried out in accordance with the approved scheme, and this condition will only be discharged when the required archaeological reports are submitted to and approved in writing by the Local Planning Authority.

Reason: To secure the protection of and proper provision for any archaeological remains in accordance with policies BH2 and BH3 of the East Herts Local Plan Second Review April 2007.

9. Prior to the commencement of development details of a surface and foul water drainage scheme for the site shall be submitted to and approved in writing by the Local Planning Authority and thereafter implemented in accordance with the approved details.

Reason: To ensure that adequate provision is in place in accordance with policy ENV21 of the East Herts Local Plan Second Review April 2007.

10. A Green Travel Plan, with the object of reducing travel to and from the development

by private car, shall be submitted with the submission of any subsequent Reserved Matters for approval by the Local Planning Authority and the proposed measures shall be implemented to an agreed timetable.

Reason: To promote the use of non car modes of transport in accordance Policy TR4 of East Herts Local Plan Second Review April 2007.

11. Prior to the commencement of the development a construction management plan covering delivery and storage of materials, on-site parking during construction, wheel washing facilities and construction vehicle routing shall be submitted to and approved in writing by the Local Planning Authority and thereafter implemented in accordance with the approved details.

Reason: To ensure the impact of construction vehicles on the local road network is minimised.

12. The development hereby permitted shall be carried out in accordance with the details of the Flood Risk Assessment (FRA), Revision 3, March 2011 and the mitigation measures contained therein unless it is superseded by any other FRA that is previously submitted to and approved in writing by the local planning authority.

Reason: To minimise flood risk in accordance with Policy ENV19 of the East Herts Local Plan Second Review April 2007.

13. The development hereby permitted shall be carried out in accordance with the details of the bat survey, December 2010 and the

mitigation measures contained therein unless superseded by any subsequent submissions.

Reason: To protect the habitats of bats which are a protected species under the Wildlife and Access to the Countryside Act 1981, and in accordance with Policy ENV16 of the East Herts Local Plan Second Review April 2007.

Directives:

1. Other legislation (01OL)
2. This planning permission is subject to the Planning Obligations agreed with the previous outline permission granted under lpa reference 3/11/0554/OP under S106 of the Town and Country Planning Act 1990 (as amended).
3. Street name and numbering (19SN)
4. Highway Works (06FC2)
5. Unsuspected contamination (33UC)

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 Outline planning permission granted under LPA reference

3/11/0554/OP is that permission should be granted.

225 3/11/2137/SV – MODIFICATION OF SECTION 106 AGREEMENT IN RESPECT OF THE COMMERCIAL BUILDINGS APPROVED UNDER REF: 3/04/0657/OP BY THE VARIATION OF A £125,000 HIGHWAYS CONTRIBUTION AT 95-97 LONDON ROAD, BISHOP'S STORTFORD, CM23 3DU FOR TANNERS WHARF LTD

The Director of Neighbourhood Services recommended that, in respect of application 3/11/2137/SV, Members confirm that, if they had been able to determine the application, they would have agreed to a variation of the Section 106 agreement as detailed in the report now submitted.

Councillor D Andrews expressed concern regarding the wording in relation to the transfer of the freehold and suggested that the words “provided such transfer occurs within 5 years of completion of the agreement” be deleted.

Councillor G Jones was against modification of the Section 106 agreement and that the original agreement of £125,000 should be paid to the County Council. Councillor A Burlton agreed that the Council should not be subsidising commercial organisations. This was also supported by Councillor N Symonds.

The Committee accepted the recommendation of the Director of Neighbourhood Services as amended.

RESOLVED – that if able to determine application 3/11/2137/SV, a variation of the Section 106 agreement as detailed in the report and now amended, be approved:

An amended highways contribution of £80,000 towards works contained within the Bishop's Stortford Transportation Plan (reduced from

£125,000 in original agreement) to be paid to the County Council as follows:

- £10,000 per each floor of the building (four floors) payable prior to occupation of each floor (indexed from date of agreement); and
- £40,000 paid upon transfer of the freehold.

226 3/13/0074/FP – CONSTRUCTION OF DETACHED THREE BEDROOM DWELLING AT LAND OFF TYLERS CLOSE, BUNTINGFORD, SG9 9FP FOR LEACH HOMES

The Director of Neighbourhood Services recommended that, subject to the applicant or successor in title entering into a legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990, in respect of application 3/13/0074/FP, planning permission be granted subject to the conditions detailed in the report now submitted.

After being put to the meeting and a vote taken, the Committee supported the recommendation of the Director of Neighbourhood Services as now submitted.

RESOLVED – that in respect of application 3/13/0074/FP, planning permission be granted subject to the conditions detailed in the report now submitted.

227 E/13/0106/B – UNTIDY CONDITION OF LAND AT 41 MANDEVILLE ROAD, HERTFORD, HERTFORDSHIRE, SG13 8JH

The Director of Neighbourhood Services recommended that, in respect of the site relating to E/13/0106/B, enforcement action be authorised on the basis now detailed.

After being put to the meeting and a vote taken, the Committee accepted the Director's recommendation for enforcement action to be authorised in respect of the site

relating to E/13/0106/B on the basis now detailed.

RESOLVED – that in respect of E/13/0106/B, the Director of Neighbourhood Services, in conjunction with the Director of Finance and Support Services, be authorised to take enforcement action on the basis now detailed.

228 E/12/0308/B – UNTIDY CONDITION OF LAND AT 17 NEW ROAD, HERTFORD, SG14 3JJ

The Director of Neighbourhood Services recommended that, in respect of the site relating to E/12/0308/B, enforcement action be authorised on the basis now detailed.

After being put to the meeting and a vote taken, the Committee accepted the Director's recommendation for enforcement action to be authorised in respect of the site relating to E/12/0308/B on the basis now detailed.

RESOLVED – that in respect of E/12/0308/B, the Director of Neighbourhood Services, in conjunction with the Director of Finance and Support Services, be authorised to take enforcement action on the basis now detailed.

229 ITEMS FOR REPORTING AND NOTING

RESOLVED – that the following reports be noted:

- (A) Appeals against refusal of planning permission / non determination;
- (B) Planning Appeals lodged;
- (C) Planning Appeals: Inquiry and Informal Hearing dates; and
- (D) Planning Statistics.

The meeting closed at 8.50 pm

Chairman

Date