

EAST HERTS COUNCIL

DEVELOPMENT MANAGEMENT COMMITTEE – 4 FEBRUARY 2015

REPORT BY DIRECTOR OF NEIGHBOURHOOD SERVICES

PLANNING APPEAL: RESIDENTIAL DEVELOPMENT PROPOSALS,
LAND EAST OF CAMBRIDGE ROAD, PUCKERIDGE (24 NEW
HOUSES) REF 3/14/1627/OP

WARD(S) AFFECTED: PUCKERIDGE

Purpose/Summary of Report:

- To update Members in relation to the current circumstances regarding the above application and to enable the position of the Council to be considered in the light of further relevant information.

<u>RECOMMENDATIONS FOR DECISION</u> That:	
(A)	In relation to reasons for refusal 1 and 2, the Council prepare its case in relation to any forthcoming appeal with authority delegated to Officers to deal with matters arising as detailed in recommendation (C);
(B)	In relation to reason for refusal 3, the Council does not pursue a case on this matter in relation to any forthcoming appeal, withdraws this reason, and informs the appellant of its position; and
(C)	The Head of Planning and Building Control, in consultation with the Chairman of the Committee and the ward Member, be authorised to engage with the appellants in relation to all matters relevant to the appeal and to formulate, alter, amend and update the Councils statement and evidence to be submitted in relation to any forthcoming appeal.

1.0 Background

1.1 Members will recall that the development proposals at this site were considered at the 10 December 2014 meeting of this Committee. A copy of the report submitted to that meeting is attached as **Essential Reference Paper 'B'** to this report. The

recommendation submitted at the time was that planning permission be granted subject to the signing of a Section 106 legal agreement. After considering the matter, Members resolved to refuse planning permission for the reasons that are set out below:

- 1) The proposed development would represent an unsustainable form of development contrary to the requirements of the National Planning Policy Framework, by reason of the sites poor public transport connections; lack of local facilities and employment opportunities and reliance on the use of the private motor vehicle. The proposal thereby represents inappropriate development in the Rural Area beyond the Green Belt contrary to policies GBC2 and GBC3 of the East Herts Local Plan Second Review April 2007.
- 2) The proposed development would represent a form of ribbon development and would result in the loss of open space between the built up part of the settlement of Puckeridge and Standon Hill (the A120), which would be to the detriment of the rural character of the surrounding landscape and the containment of the settlement of Puckeridge. The proposal will thereby be contrary to policies GBC14 and ENV1 of the East Herts Local Plan Second Review April 2007 and national guidance in the National Planning Policy Framework.
- 3) The Local Planning Authority is yet to be satisfied that the development of the site would not compromise the provision of flood mitigation measures on or in the vicinity of the application site which may be identified through the current investigations being undertaken by the Environment Agency. The development may therefore prejudice the implementation of appropriate flood prevention measures and is therefore contrary to policy ENV19 of the East Herts Local Plan Second Review April 2007 and national guidance in the National Planning Policy Framework.

- 1.2 The applicant has written to the Council and indicated that it intends to submit an appeal against the refusal of planning permission and is reviewing whether any of the reasons for the decision represent a possible unreasonable position on behalf of the Council. The applicant has asked the Council to review its position in respect of the third reason for refusal.

2.0 Update

- 2.1 In their consideration of this application Members raised concerns with regard to the siting of the development in relation to the Puckeridge Tributary and flooding which occurred last year. Members referred to an understanding that the Environment Agency (EA) is currently undertaken work to consider possible flood alleviation schemes which may require the use of land which comprises the site.
- 2.2 Members were advised at the December committee meeting that the EA had made no objection to the development proposals. However, after consideration planning permission was refused by the committee on (amongst other matters) flood risk grounds, for the reasons set out above.
- 2.3 Since the December committee meeting Officers have discussed the concerns raised by Members further with EA staff. Further information on the current progress on this matter by the EA has been provided. This is as follows:
- 2.4 The EA is at an early stage in an investigation into a potential flood alleviation scheme for Puckeridge. It is assessing the processes that cause flooding in the village and investigating the feasibility of a flood alleviation scheme.
- 2.5 This work involves surveying and modelling the catchment to properly understand all of the areas at risk from flooding in the community. If the study determines that channel capacity is the primary cause of flooding, it will then consider the best location, size and design of a flood alleviation scheme and assess scheme costs and benefits to the community. Funding for any appropriate scheme identified will then need to be secured.
- 2.6 In the meantime, the EA comments that planning application 3/14/1627/OP (these proposals) include measures to ensure that there will be no increase in the level of flood risk as a result of this development. It is considered that the development proposal will not affect the outcome of the flood risk assessment work.

3.0 Review of the Councils Position

- 3.1 As detailed in **Essential Reference Paper 'A'**, the proposed development site is located within flood zone 1 and is therefore located outside of the main flood risk areas and is set back an appropriate distance to allow maintenance of the watercourse and

the provision of SuDS (Sustainable Drainage Systems). Officers assessed then that, on their own, the proposals did not result in any unacceptable implications in relation to flood risk.

- 3.2 In relation to the wider matter then of the potential for a flood alleviation scheme for the settlement, the EA has confirmed that it is at an early stage in its assessment of that matter. In addition, it is clear that development on this site would not have any currently identified impact on the possibility of bringing forward a wider scheme.
- 3.3 Given the nature of this matter, if the Council were to proceed with this reason for refusal, it will be necessary to provide some technical evidence to substantiate the Council's position. The authority charged with dealing with this matter (the EA) is not in a position to provide evidence for the Council.
- 3.4 An approach can be made to consultant experts in this matter, with a request that they undertake a further review of the position and provide a further assessment for the Council. This would require the identification and engagement of appropriate consultants, the preparation of a brief for their work and time to be permitted to enable their work to be undertaken. Costs would have to be identified and met by the Council. There is a remaining risk that undertaking such work is no guarantee that evidence would be provided as a result. In the absence of any evidence, a position that development may prejudice a future, currently unknown scheme, is not a tenable position for the Council to seek to defend.
- 3.5 The conclusion drawn by Officers on the basis of further consultation with the EA is that there is no prospect to be able to provide evidence to substantiate the current position of the Council, with respect to this third reason for refusal. Pursuing such a position, where the Council has been asked to review it, is most likely to be considered an unreasonable approach to the matter and will expose the Council to the risk of that claim for costs against it will be successful.

3.6 It is recommended that the third reason for refusal be withdrawn.

4.0 Delegation

4.1 Officers also request that authority be delegated, subject to consultation with the Chair of the Committee and the Local

Member, to formulate, alter, amend and update the Councils statement and evidence to be submitted in relation to any forthcoming appeal. This will allow the Council the flexibility to react promptly to any new information and required changes to the Councils position as a result. Members who have been involved in appeals elsewhere recently will be aware that significant matters can be raised at short notice which require a rapid response from the Council. There is an update note for members elsewhere on this agenda which sets out the circumstances regarding the recent Buntingford appeal.

5.0 Implications/Consultations

5.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

Background Papers

Planning application – 3/14/1627/OP.

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