

5e a) 3/10/1582/OP – The erection of a single dwelling and b) 3/10/1583/OP - The erection of a public house and two dwellings at The former Cock Public House, Stocking Pelham for Mr D Lyle Smith

Date of Receipt: a) 20.09.2010
b) 20.09.2010

Type: a) Outline – Minor
b) Outline - Minor

Parish: STOCKING PELHAM

Ward: LITTLE HADHAM

RECOMMENDATION

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

1. Outline permission time limit (1T032)
2. Outline – submission of details (2E01)

Directives

1. Other legislation (01OL1)

Summary of Reasons for Decision

The proposal has been considered with regard to the policies of the Development Plan (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 GBC2, GBC3, ENV1, STC8, LRC11 and OSV8. The balance of the considerations having regard to those policies and that there was previously development on the site in the form of a detached public house building is that permission should be granted.

b) That planning permission be **REFUSED** for the following reasons:-

1. The application site lies within the Rural Area as defined in the East Herts Local Plan Second Review April 2007 wherein there is a presumption against inappropriate development other than required for agriculture, forestry, small scale local community facilities or other uses appropriate to a rural area. The proposed development involving the provision of two dwellings would represent inappropriate development and would result in significant harm to the open, rural character of the site and the locality, contrary to policies GBC2, GBC3, and ENV1 of the East Herts Local Plan Second Review April 2007.

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- 2 Insufficient justification has been submitted to show that the provision of two dwellings is reasonably required to finance the provision of the new public house on the site or to demonstrate that the provision of a pub is a viable proposition and therefore likely to remain in that use in the longer term. The proposed development would therefore be contrary to the aims and objectives of policies GBC2 and GBC3 of the East Herts Local Plan Second Review April 2007.

_____ (158310OP.MP)

1.0 Background

- 1.1 The application site is shown on the attached OS extract. The application site is the former Cock Public House site in Stocking Pelham. The public house was destroyed by a fire on the 19 February 2008. All that currently remains on the site is a temporary metal security fence, outbuildings, and a few piles of timber and rubble. The pub was a listed building, however it was delisted on 10 October 2008.
- 1.2 The submitted applications seek permission for a) the erection of a single dwelling on the site and b) the erection of a public house and two dwellings on the site. Submitted with both applications are indicative plans. The plans submitted with application a) shows the siting of the proposed single dwelling fronting onto the road with a detached garage building. In respect of application b), the plans indicate the siting of two residential dwellings adjacent to the neighbouring property, Harvest Briars and fronting onto the road. The proposed pub submitted with application b) is located in a similar location to the pub previously on the site with an access to the north west of the site and parking proposed in the far north of the site.
- 1.3 Members should note that the applications are in outline form only with all matters reserved. Accordingly, what is being considered is the principle of the two proposed developments, matters relating to access, layout, design, scale and landscaping are all reserved matters.
- 1.4 Since the 23 December 2008, Officers have been in contact with the applicant regarding the appearance of the site and future proposals. The applicant has provided full details of that correspondence with the applications now presented to Committee. The discussions that have taken place have cumulated in the submission of these two outline planning applications.

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1.5 Submitted with the two applications is a Planning Statement which explores the planning and viability reasons for these two applications – which are discussed below.

1.6 These applications are referred to the committee as they represent a departure from policy, raise unusual issues and have been the subject of significant local interest.

2.0 Site History

2.1 The only planning history relates to the previous listed building which, as outlined above has been destroyed by a fire.

2.2 Planning permission and listed building consent were granted within LPA references 3/06/1487/LB and 3/06/1488/FP for additional parking and a storage shed.

3.0 Consultation Responses

3.1 With regards to LPA reference 3/10/1583/OP, Environmental Health recommend that conditions relating to construction hours of working, dust, asbestos and contaminated land are attached with any grant of permission

4.0 Parish Council Representations

4.1 Stocking Pelham Parish Council object to the application relating to the provision of a single detached dwelling (LPA reference 3/10/1582/OP), as it does not restore a public house on the site. However, the Parish Council do not object and are 'strongly in favour' of the application for the erection of the public house and the provision of two dwellings. The Parish Council accepts that the two dwellings will provide the necessary finance to provide a pub. The Parish Council ask that a legal agreement is signed to ensure that the proceeds of the two dwellings is directly used to finance the provision of a new pub.

5.0 Other Representations

5.1 The applications have been advertised by way of press notice, site notice and neighbour notification.

5.2 With regards to LPA reference 3/10/1582/OP 10 letters of representation have been received which can be summarised as follows:-

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- The provision of a new dwelling represents inappropriate development;
- The proposal does not replace the pub – there are no other pubs in Stocking Pelham and the pub provided a much valued community facility for meetings and gatherings of locals.
- The previous pub provided a beneficial base for passing trade and tourism which enhances the local economy.

5.3 With regards to LPA reference 3/10/1583/OP 12 letters of representation have been received which can be summarised as follows:-

- The provision of new dwellings represents inappropriate development.
- The proposal will replace the previous pub on the site which will provide a valued community facility for local people and the wider locality;
- The pub will bring life back to the village;
- Will allow the site to be visually improved.

5.4 A petition which objects to any development on the site that does not include a pub has also been received with 346 signatures. The petition does have a small comments section in which the majority of signatures express a desire for the provision of a pub on the site.

6.0 Policy

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

GBC2	The Rural Area Beyond the Green Belt
GBC3	Appropriate Development in the Rural Area Beyond the Green Belt
ENV1	Design and Environmental Quality
STC8	Local Centres and Rural Provision
LRC11	Retention of Community Facilities
OSV8	Village Shops, Community and Leisure Facilities

7.0 Considerations

7.1 As is outlined above, these applications are both in outline form with all matters reserved. Accordingly, the only planning considerations relate to the principle of development on the site.

7.2 In this respect the planning considerations relate to:-

- The principle of development - do the proposals represent appropriate development in the rural area?
- Do the proposals represent the retention of community facilities?

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- Are there any material considerations which would outweigh the inappropriateness of the development?

The principle of development

- 7.2 The application site is located within the Rural Area Beyond the Green Belt, as defined in the East Herts Local Plan Second Review April 2007. Within such an area there is a presumption against inappropriate development. Policy GBC3 of that Local Plan does outline some exceptions to this.
- 7.3 There is however no provision within Policy GBC3 for residential dwellings, apart from affordable housing. The single residential dwelling proposed in LPA reference 3/10/1582/OP and the two residential dwellings proposed in LPA reference 3/10/1583/OP therefore represent inappropriate development, which is contrary to policy GBC3 of the Local Plan.
- 7.4 With regards to the proposed public house, criteria h) of policy GBC3 does allow for *'other essential small scale facilities, services or uses of land which meet a local need, are appropriate to a rural area and assist rural diversification'*.
- 7.5 The preface to policy GBC3 sets out that development in smaller settlements will be accommodated only to support facilities and services needed and to meet the employment and housing needs for that settlement and the surrounding area. Officers are of the opinion that the provision of a pub cannot be reasonably described as an 'essential' facility, nor can it be considered as needed to meet employment or housing needs in the village. Officers are however mindful that the provision of a public house does have some benefit in providing a facility which supports the local community. The applicant however, does not mention the requirements of this element of policy GBC3 and, in light of that consideration and that the provision of a pub is not essential nor does it meet an employment or housing need, Officers are of the opinion that the provision of a public house in the rural area also represents inappropriate development in the rural area.
- 7.6 Having regards to the above considerations, both applications propose developments which represent inappropriate development in the rural area which is contrary to the aims and objectives of policies GBC2 and GBC3 of the Local Plan.

Other Local Plan Policies

- 7.7 The applicant has made reference to other policies in the Local Plan which, they argue support the provision of a pub on the site. They comment that

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policies STC8, LRC11 and OSV8 place an emphasis on retaining existing community facilities in rural areas.

- 7.8 Whilst it is the case that those policies do seek to protect against the loss of a community facility, it should be stressed that the pub has already been lost as a result of the fire. Whilst weight may be attached to the general thrust of those policies, and the requirement to retain community facilities, those policies cannot be relied upon to any significant extent to support the proposed development, as they do not require what is proposed in LPA reference 3.10/1583/OP - the provision of a new pub.

A single dwelling – LPA reference 3/10/1582/OP

- 7.9 This application proposes the provision of a single detached dwelling on the plot. The applicant sets out that this is not their desired form of development as it does not provide the community facility– the provision of a replacement pub on the site. This is such a concern echoed by the Parish Council and letters of representation. Nevertheless, the applicant considers that the provision of some development on the site will provide a presence within the village at an important visible location in the village which is considered to be important and, that a built form on the site will reflect that there has historically been a building on the site.
- 7.10 The fact that there was previously a building on the site is considered by Officers to be a material consideration, which weighs in favour of allowing some form of development on the site. Officers have concerns with the indicative layout of the proposed single dwelling on the site, which would not seem to relate particularly well to the street scene, nor add to or provide a significant active frontage or presence within this important visible location in the village. However, this is not what is being considered as part of this application – it is purely the principle of a residential dwelling in this location which must be assessed – planning issues relating to layout, design and scale of the building are reserved matters.
- 7.11 It is considered that having regard to the previous building on the site, that the principle of a new single residential dwelling on the site would be acceptable, in this case. The proposed development will, subject to an appropriate design and layout (which can be assessed within any reserved matters application) provide an important presence within the street scene which, in Officers opinion, is considered to be an important planning consideration. Officers recognise that the provision of a single dwelling would not provide or make allowance for the previous pub/community facility on the site.

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7.12 Officers have considered whether or not refusal of this planning application on the basis that a public house is not provided for on the site, is justified in planning terms. Whilst Officers acknowledge the benefits of providing a pub on the site and the benefits to the community and the letters/petition which support the provision of a pub, there is no policy or planning requirement to provide a pub or community facility on the site. Accordingly, Officers consider that refusal of planning permission on these grounds would be unjustified. Officers acknowledge that, by allowing a new residential dwelling on the site this will probably mean that the provision of a new pub on the site is unlikely to be forthcoming.

Two dwellings to enable the provision of a pub – LPA reference 3/10/1583/OP

7.13 This application involves the provision of two new dwellinghouses on the site to 'enable' the provision of a new pub building on the site.

7.14 As has been outlined above, the provision of a pub and 2 dwellings represents inappropriate development, and it is necessary to consider whether there are any material considerations to outweigh the inappropriateness of the development.

7.15 Officers have identified above the benefits of providing a pub as a local community facility and the support this has received from the third party representations. Additionally, whilst Officers consider that there is no policy requirement to provide a new pub on the land and as such no justified reason to refuse planning permission for a single residential dwelling on the land, there is considered to be appropriate justification for the provision of a new pub on the site, in the case of this planning application. This acknowledges the fact that there was previously a pub on the site which is a material consideration of some weight and the lack of any alternative community facilities within the village. Such a position is supported by third party representatives and is an area of common ground between the applicant and Officers, as is expressed in pre-application correspondence. In principle therefore, the provision of a new pub on the site is accepted by Officers.

7.16 However, the main consideration of this application, relates to how the provision of a pub on the site should be 'enabled' or financed.

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- 7.17 The applicant's position is that rural pubs are in decline and it is not financially viable to provide a pub solely on the site. It is the applicant's contention that the provision of a pub on the site is only viable if two dwellings are granted consent which will allow appropriate funds to be allocated to the provision of a new pub.
- 7.18 Officers accept that, from the information submitted that the provision of rural pubs is a challenging business enterprise and there are many constraints which inhibit the provision of a pub from a business point of view. This reinforces the fact that pubs should not only focus their attention on normal traditional pub trade – such as serving drinks, food, etc, but that they also need to consider diversifying their business approach with other related, business opportunities such as bed and breakfast accommodation, short term lets, etc – as has recently been granted at other pub sites in the District, such as the Golden Fleece, Braughing.
- 7.19 However, the applicant has not produced any business plan or any evidence to indicate the long term viability of the pub or possible opportunities to diversify the pub business. Officers acknowledge the support of third party representatives, which encourages the provision of such a facility, and suggests that such a pub may well be used by local people. However, such information is insufficient to fully test whether the pub as proposed in this application is a viable business. In order to attach weight to provision of a new pub on the site, Officers consider that the Council should be satisfied that, as far as is reasonably practicable, the provision of a pub is a viable proposition on this site. Officers are concerned that, without such information, the Council cannot be certain that the pub could be retained in the longer term, as is evidenced by the applicant and the submissions made in respect of the recent trend of failing rural pubs and through financial information submitted by the applicant outlining the financial losses that were made by The Cock when it was in operation.
- 7.20 Combined with those considerations, is whether sufficient evidence/information has been submitted to show that the provision of two residential dwellings is reasonably necessary to enable the provision of the public house.
- 7.21 Within the Design and Access Statement, the applicant sets out that the only way to make the provision of a pub on the site a viable development is to build two residential dwellings in order to provide finance to build the pub. Reference is made to a 'financial statement' in the Design and Access Statement. Such financial information is that which was submitted at pre-application stage in the form of a letter from the applicant's accountant, "CJ Duke & Co Accountants" and information supplied from Barker Associates.

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- 7.22 The information provided is not in the format Officers would normally associate with a viability assessment, which has made it challenging to extrapolate the precise data and information required in order to assess whether the two residential dwellings are reasonably necessary. The applicant acknowledges that the financial information submitted at pre-application stage (and as relied upon within this current application) are 'approximations only' and are for 'illustrative purposes only'.
- 7.23 That illustrative information submitted sets out the financial position of the applicant since purchasing the pub site, the monies spent on improvements to the building and losses incurred by the applicant during the period the pub was open. In addition, the applicant sets out the monies that have been received from the insurance companies in 'full and final settlement' as a result of the fire.
- 7.24 The information submitted at pre-application indicates that the costs incurred by the applicant at the site up until 31 July 2010 amount to some £619,000. A breakdown of that figure includes the following:-

Description of expenditure	Amount (£)
Purchase of the site	396,259
Improvement to the building	68,593
Rental shortfall	20,139
Professional fees	15,251
Operating losses	83,598
Applicants time	15,000
Purchase of additional land	23,500

- 7.25 The applicant has set out that monies received by the insurance company in respect of the building destroyed by the fire in 'full and final settlement' amount to £375,000. The applicant argues however that the investments made into the premises and the losses incurred do not amount to what has been received from the insurance company.
- 7.26 The applicant has indicated that a rebuilt pub will cost in the region of £460,000. The applicant relies on the £619,000 and the monies received from the insurance to argue that the provision of a pub on its own would be unviable.
- 7.27 Officers have considered the financial position of the applicant, as outlined above and in the information submitted at pre-application stage. However, Officers would comment that approximations of any financial position are insufficient for Officers to make a full and proper assessment of the viability

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issue the applicant alleges with providing a single pub on the site. From the financial information submitted there would appear to be confusion between capital costs of provision and normal running costs. Officers are therefore concerned that the Council cannot be sure that 1) the new dwellings are required to finance the provision of a pub and 2) whether the provision of a pub will remain a viable option in the long term. What is needed is a full and robust viability appraisal that can be properly assessed by an independent party. From the information submitted Officers have been unable to make any such assessment.

7.28 Notwithstanding the deficiencies in the information submitted, Officers are of opinion that, having regard to the illustrative submissions as set out above, that an enabling development to provide for the pub has not been justified, and that special circumstances have not been demonstrated to allow a departure to policy, in this case. There are figures included within the applicant's justification which should not be used to argue that the provision of a pub on the site is unviable.

7.29 Officers acknowledge and have attached appropriate weight to the benefits that the provision of a community facility may have to the local community. In such circumstances, Officers consider that, if permission was sought for the erection of a public house only on the site that planning permission is likely to be forthcoming. Officers also consider that, in principle some form of enabling development may be appropriate, subject to appropriate viability appraisals and some level of evidence that the provision of a pub is viable proposition. However, as set out above, such justification has not unfortunately been submitted with this application.

8.0 Conclusion

8.1 The provision of a residential dwelling on the site represents inappropriate development, contrary to rural area policy. However, it is a material consideration that there has previously been built form and development on the site. The provision of a new residential dwelling will provide a presence within the street scene which will enhance the character of the existing appearance of the street scene. In these terms, the provision of a single dwelling on the site is considered to be acceptable, in planning terms. Officers therefore recommend the approval of LPA reference 3/10/1582/OP, subject to the conditions set out at the commencement of the report.

8.2 The provision of a pub and two residential dwellings also represents inappropriate development in the rural area. However, Officers accept the community benefits in providing a public house and the general thrust of policies STC8, LRC11 and OSV8 which promotes the retention of community facilities. Officers also acknowledge the level of support for a

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new pub on the site. It is also a material consideration of significant weight that a pub was previously on the site and the proposal in this application would restore that previous community facility. In these terms, Officers consider that the provision of a pub is acceptable on the site.

- 8.3 However, the applicant states that the provision of a pub only on the site is not a financially viable option and two residential dwellings are required to enable the provision of a pub.
- 8.4 Officers are not satisfied that the viability arguments put forward by the applicant adequately demonstrate that the provision of those two dwellings are reasonably necessary to implement the pub or that appropriate information has been put forward that the provision of a pub on the site is a viable proposition. In this respect, the provision of the two residential dwellings is unjustified.
- 8.5 The two residential dwellings represent inappropriate development in the Rural Area and will result in significant harm to the open rural character of the site and locality, contrary to the aims and objectives of policy GBC3 of the Local plan.
- 8.6 Officers therefore recommend the refusal of LPA reference 3/10/1583/OP.