

**5h 3/07/0822/FP - Erection of 29 retirement dwellings ( including 10 affordable 2 bed units) plus a managers flat, garaging and management facilities at Pentlows Farm, Braughing, SG11 2QR for English Courtyard Developments.**

**Date of Receipt:** 09.05.2007

**Type:** Full – Major

**Parish:** BRAUGHING

**Ward:** BRAUGHING

**RECOMMENDATION**

That planning permission be **REFUSED** for the following reason:-

1. The proposal fails to make adequate provision for affordable housing or adequate financial provision for infrastructure improvements to support the proposed development and mitigate against its impact on the area. It would thereby be contrary to the provisions of policies IMP1 and HSG3 of the East Herts Local Plan Second Review April 2007.

\_\_\_\_\_ (082207FP.NB)

**1.0 Background**

- 1.1 The application site is shown on the attached OS extract.
- 1.2 The site is an allocated housing site (reference number 115) as identified in the adopted Local Plan.
- 1.3 The application is for full planning permission for a residential development comprising 29 retirement dwellings and a managers flat, garaging and management facilities.
- 1.4 The full background to the application is outlined within the previous Committee report which is attached at Appendix A to this report.
- 1.5 Members may recall that in October 2007 the Development Control Committee resolved that planning permission be granted subject to conditions and the applicant entering into a legal obligation pursuant to S106 of the Town and Country Planning Act 1990 to cover the following matters:-
  - (a) The provision 10 two bed units of affordable housing, plus one key workers flat;

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- (b) The provision of financial contributions of £500 per 1 or 2 bed residential unit, £1000 per three bedroom house, index linked from the date of grant of planning permission, towards sustainable transport schemes and measures in the vicinity of the site;
- (c) The provision of £204 per unit for library contributions;
- (d) The provision of £5000 towards a Traffic Regulation Order to secure changes to the speed limit on the public highway adjoining the site;
- (e) The provision of £205 per dwelling towards youth and childcare services;
- (f) The provision of fire hydrants.

1.6 The S.106 agreement has not, however, been signed and it is understood that the applicant company has been put into administration. No decision has therefore been issued.

## **2.0 Site History**

2.1 There is no relevant planning history at this site.

## **3.0 Consultation Responses**

3.1 No further public consultation has taken place since that carried out prior to the October 2007 Development Control Committee meeting.

3.2 No further consultation responses have been received to those detailed within the previous Committee report.

## **4.0 Parish Council Representations**

4.1 No further representations from Braughing Parish Council have been received to those detailed within the previous Committee report.

## **5.0 Other Representations**

5.1 No further representations have been received to those detailed within the previous Committee report

**6.0 Policy**

- 6.1 The relevant 'saved' Local Plan policies in this application remain the same as those outlined within the previous Committee report.

**7.0 Considerations**

- 7.1 The considerations in respect of the proposed residential development at the site were set out in the previous Committee report, which is attached as Appendix A. It is not proposed to re-iterate these considerations within this report, but only to consider the outstanding issue of the Section 106 agreement for adequate financial provision for infrastructure improvements and for affordable housing.
- 7.2 The Council's Solicitor has confirmed that the last correspondence that took place regarding the Section 106 for this application was in January 2009 which was between East Herts and the County Council.
- 7.3 A letter from a firm of Solicitors confirms that English Courtyard Developments went into administration in August 2008.
- 7.4 It is clear to Officers that due to the period of time that has lapsed since the resolution for permission in October 2007 and the fact that the applicant has gone into administration that the Section 106 agreement is unlikely to be progressed.
- 7.5 In accordance with Policy IMP1 the provision of financial contributions are necessary to mitigate against the impact that a development would have upon local services. The Planning Obligations SPD outlines that the Council expects applicants to enter into a Section 106 agreement to commit to the provision of planning obligations for all Major development sites of 10 or more dwellings.
- 7.6 Policy HSG3 requires the inclusion of up to 40% affordable housing on sites of 15 or more dwellings.
- 7.7 In accordance with Policies IMP1 and HSG3 the authorised planning obligations are reasonable and necessary for the development to be deemed acceptable and no special circumstances have been demonstrated in this case to allow the Council to depart from its usual requirements. As such, Officers consider that the proposal would result in additional and unreasonable infrastructure costs to the community.

**8.0 Conclusion**

- 8.1 Since the resolution to grant planning permission at the October 2007 Development Control Committee meeting, no progress has been made on the required Section 106 agreement. Furthermore, the applicant does not appear to be in a position to progress the agreement having gone into administration.
- 8.2 The planning obligations agreed by the Committee in October 2007 are a necessary and reasonable requirement to mitigate any possible impact from the development and without those obligations in place, the development would be unacceptable.
- 8.3 Having regard to the above considerations it is recommended that planning permission is refused.