

EAST HERTS COUNCIL

DEVELOPMENT CONTROL COMMITTEE –15 DECEMBER 2010

REPORT BY HEAD OF PLANNING AND BUILDING CONTROL

7. PROPOSED SHELTERED HOUSING DEVELOPMENT 135 STANSTED ROAD, BISHOP'S STORTFORD: PLANNING APPEAL

WARD AFFECTED: Bishop's Stortford Meads.

Purpose/Summary of Report

- To enable the Committee to reconsider its position in relation to the refusal of the above proposals which are now subject to appeal.

<u>RECOMMENDATION: that</u>	
(A)	The Council does not continue to contest the issue of parking provision for the development proposal at appeal and confirms to the Planning Inspectorate that it will be offering no evidence in relation to this matter.

1.0 Background

1.1 Members will recall that the planning application for the development proposed by McCarthy and Stone, of 45 sheltered apartments at the above site, was reported to the 20 October 2010 meeting of this Committee. The committee report relating to the application is attached as **Essential Reference Paper B**. At that meeting Members resolved that permission should be refused. The reasons for refusal were as follows:

- i) The proposed development fails to achieve a high standard of layout and by reason of its size, massing, design and form would result in a development that would be detrimental to the character, appearance and visual interest of the surrounding area, contrary to Policies ENV1 and HSG7 of the East Herts Local Plan Second Review April 2007.
- ii) The proposal fails to make adequate provision for parking within the site to the detriment of the amenities of future occupants, and would thereby be contrary to Policies ENV1

and TR7 of the East Herts Local Plan Second Review April 2007.

- 1.2 An appeal has now been submitted to the Planning Inspectorate in relation to this decision. The appeal was received on 15 November 2010. The appeal is to be dealt with by a hearing. No date for the hearing is currently established.
- 1.3 In its initial appeal submission, the appellant has indicated that it considers the Council has acted unreasonably with regard to the issue relating to parking provision, and will seek to show this at the appeal hearing. Given we have an indication that costs will be claimed against the Council it is appropriate to reassess the position of the Council in this matter.
- 2.0 First Reason – Layout and Design
- 2.1 The first reason for refusal relates to the standard of the proposed layout and the size, massing, design and form of the proposed development. Officers acknowledge that the judgement relating to these issues are very much subjective. It is therefore considered that the Members decision to refuse planning permission on these grounds, albeit contrary to the Officers recommendation, is legitimate and reasonable in this instance. Furthermore, whilst Officers considered the layout, size, massing, design and form of the proposed development to be acceptable, it was noted within the previous committee report that the changes that had been made with regards to the size, massing, design and form, when compared to the previous proposal that Members refused on these grounds, were not significant.
- 2.2 The position of the Council on these issues is considered therefore to be reasonable and that an appropriate case will be formulated for the purposes of the appeal.

Second Reason – Car Parking

- 2.3 The second reason for refusal related to the inadequacy of parking provision at the site. Unlike the issues raised by the first reason for refusal, this is a less subjective matter. Tangible evidence has been advanced by the appellant in the application process and will be relied on, along with the representations submitted by the Highway Authority, in the forthcoming appeal.

- 2.4 A total of 22 spaces are proposed at the site for the 45 units. This is a ratio of 2.04 units for each parking space (or 0.49 spaces per unit). Members will recall that Officers have previously referred to the specialised nature of the provision here in that this is a form of sheltered development where parking demand will be different from conventional residential units.
- 2.5 It is quite clear that some of the residents of the site will continue to own and use their own vehicles. It is also quite likely to be the case that some new residents will take the opportunity to forgo their car when moving to a site like this because it represents an opportunity to reassess the support the resident needs and the ability to rely on other provision. Studies undertaken by the appellant show that there is a clear correlation between the time a resident decides to forgo car ownership and time of entrance into occupancy of a scheme of this nature.
- 2.6 Whilst then the Council has anecdotal evidence that elderly people continue to own cars, it has no specific information that would counter the clear evidence the appellant has that occupiers of schemes of this nature generally have reduced car ownership.
- 2.7 In addition, as Members know, the appellant operates many sites of this nature across the County and beyond. Since the refusal of the planning application Officers have sought further information regarding parking provision at other McCarthy and Stone sites within Hertfordshire. The applicant has confirmed that a schedule of sites that was prepared when proposals for the development at the Charvill site in Ware were being considered, remains relevant in relation to this.
- 2.8 The schedule of the Hertfordshire sites shows that this proposed site in Bishop's Stortford has the highest ratio of parking spaces per flat unit (that is the greatest provision) at 0.49 spaces per unit (or 2.04 units per space). At the other extreme, some sites have as few as 0.18 spaces per unit (or 5.5 units per parking space). The Council accepted provision of 2.6 units per space at the Charvill site in Ware. As a separate example, officers are aware of a McCarthy and Stone development proposal for 60 residential units within the District of Epping Forest where a total of 23 spaces are proposed. This equates to a ratio of 2.6 units per space. In the case of the proposal at Epping Forest this application is currently under appeal against non-determination, however Members have agreed that they find the proposed

parking provision to be acceptable and therefore this is not an issue that they will contend at appeal.

- 2.9 Given then that the Council has accepted a reduced ratio of provision at a similar form of development within the recent past (the Charvill site, Ware) and given that there is no clear or empirical evidence which can be called on in support of the Councils case in this matter, I do consider that the Council will be seen as unreasonable if it pursues this reason for refusal at appeal.
- 2.10 To be in a better position, I suggest, would require surveys of other sites to be undertaken to determine how they operate and potentially interviews with residents at those sites. This is time-consuming work, which may require the instruction of specialist assistance. It would offer no guarantee of success, as the outcome may be that it substantiates the position of the appellant.
- 2.11 On reassessment of the proposals then my conclusion has to be that the likelihood of success for the Council at appeal in relation to this matter is very limited. To establish with greater certainty whether there is a substantive case involves the engagement of specialist assistance at appropriate cost. If this subsequently only serves to support the appellants case, and the Council reassesses its position at a later stage, then it will be claimed that the Council has been further unreasonable.
- 2.12 My recommendation then has to be then that the Council does not continue to contest the issue of parking provision at this appeal. If it chooses this approach it will be necessary to inform the Planning Inspectorate that the Council will be advancing no further case in relation to the issue of parking provision. The appellant may still be able to advance a case that the Council was unreasonable but the risk of this is reduced if the Council reassesses its position as soon as possible.

3.0 Implications/Consultations

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

Background Papers

Planning application 3/10/0396/FP.

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ESSENTIAL REFERENCE PAPER 'A'

Contribution to the Council's Corporate Priorities/ Objectives	<p>Fit for purpose, services fit for you <i>Deliver customer focused services by maintaining and developing a well managed and publicly accountable organisation.</i></p> <p>Shaping now, shaping the future <i>Safeguard and enhance our unique mix of rural and urban communities, ensuring sustainable, economic and social opportunities including the continuation of effective development control and other measures.</i></p> <p>Leading the way, working together <i>Deliver responsible community leadership that engages with our partners and the public.</i></p>
Consultation:	<p>There has been no further consultation prior to the preparation of this report. The information submitted as a result of the application has been reassessed.</p> <p>Interested residents who commented on these proposals will be notified that this report is being considered, but have not been invited to further comment on the proposals.</p>
Legal:	None identified
Financial:	<p>All cost implications relate to revenue costs. There are no ongoing cost implications in relation to this application beyond the life of the appeal.</p> <p>If a decision is made that further information is required to support the Councils current position, it is likely that costs will be incurred as a result. It is difficult to predict what these may be as they would relate to the scale and type of information sought.</p> <p>The main financial implication relates to the potential for a judgement to be reached that the Council has acted in an unreasonable way. Costs claims on this basis usually relate to the time involved in the appellant formulating and making their case at the appeal. Professional costs can be high (often over £100 per hour) and the appellant in this case has already indicated that they will be legally represented. The Council may also be required to meet a proportion of these legal costs.</p>

Human Resource:	None identified
Risk Management:	The risks to the Council form the main basis for this report.