

## APPENDIX A1

### 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

**Type:** a) Outline – Minor

**Parish:** STOCKING PELHAM

**Ward:** LITTLE HADHAM

#### **RECOMMENDATION:**

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.
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. Members may recall that this application and LPA reference 3/10/1582/OP was reported to the 17 November 2010 Committee Meeting. With respect to application reference 3/10/1582/OP, which involved the construction of a single residential dwelling only on the site, planning permission was refused by the Committee for the following reason:-

*The application site lies within the Rural Area, as defined in the East Hertfordshire Local Plan where development will only be allowed for certain specific purposes. There is insufficient justification for the proposed building and its erection would be contrary to the aims and objectives of policies GBC2, GBC3 and OSV3 of the East Herts Local Plan Second Review April 2007.*

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- 1.2 With respect to this application (3/10/1583/OP) Members deferred the decision to enable Officers to seek further information in relation to the costs associated with the development of a new public house and for the submission of a business plan for the subsequent operation of a new public house and also to enable a legal agreement to be drafted which would seek to ensure the provision of a new public house.
- 1.3 Since the deferral of the application, additional information has been received from the applicant, which is discussed in more detail below.
- 1.4 Full details in respect of the site history, consultation responses and relevant policies of the Development Plan are contained within the previous Committee Report, attached as appendix A to this report.

## **2.0 Considerations:**

- 2.1 As is outlined above, the main issue now being considered in this Officers Committee Report is whether the additional information submitted by the applicant addresses the concerns raised in the previous Officers Report, as attached in appendix A.
- 2.2 Officers set out in appendix A that the proposed development represents inappropriate development within the Rural Area beyond the Green Belt and is as such contrary to policy GBC3 of the Local Plan. Policies STC8, LRC11 and OSV8 however place an emphasis on retaining existing community facilities in rural areas. Officers have indicated that weight can be attached to the general thrust of those policies and the requirement to retain a community facility or, in the case of this application, a proposal which seeks to replace the public house which has been destroyed by fire.
- 2.3 However, what must be considered is whether the presumptions in favour of retaining community facilities and any other material considerations outweigh the inappropriateness of residential development in the rural area.
- 2.4 It is the applicant's position that the construction of a replacement pub on the site is only viable if two dwellings are granted consent which will allow appropriate funds to be allocated to the building of a new pub. The applicant has also set out previously that rural pubs are in decline and it is not financially viable to provide a pub solely on the site. In this respect, one of the main planning considerations of this application relates to how the provision of a pub on the site should be 'enabled' or financed.

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- 2.5 In Officers opinion, enabling development is development that would be unacceptable in planning policy terms but for the fact that it would bring about benefits to justify it being carried out, and which would otherwise be agreed. In this case then, as well as the judgement about the impact of development, the Council must consider the number of residential dwellings required on the site to enable a public house to be restored on the site – effectively the extent of enabling development.
- 2.6 Officers have set out within the previous Committee Report (attached at appendix A, paragraphs 7.13 – 7.29), concerns that the information submitted by the applicant did not provide a sufficient justification to show that the provision of two dwellings is reasonably required to finance a new public house on the site.
- 2.7 The applicant has now provided additional financial information, which is as follows:
- 2.8 The applicant has set out that the current investment into the site totals £599,340. That figure includes the original purchase price, improvements to the building, rental shortfall, legal and professional fees and operating losses. Within the previous Officers Committee Report, concern was raised that the applicant had combined capital costs with normal running costs and the inclusion of running costs in assessing viability and enabling development is not justified.
- 2.9 Whilst the applicant is of the opinion that revenue costs should be included in assessing this matter, details have however now been provided in respect of the current investment into the site without revenue costs (i.e. omitting rental shortfall and operating losses), which totals £485,603. Officers are of the opinion that it is this figure which should be used in determining matters of viability and the level of enabling development.
- 2.10 The applicant has provided information with regard to the rebuild costs for the public house. The applicant relies on a cost of £1367 per square metre for a pub, based on December 2009 figures from BCIS and RICS. That costs is therefore £273,400 for a 200 square metre public house building. However, that figure does not include other associated costs reasonably required for a public house such as a catering kitchen, landscaping, parking and furnishings. The total cost therefore for a new public house on the site is £470,600.
- 2.11 Using the above figures, the applicant has produced a number of tables with various scenarios to explain the financial situation in relation to the site.

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- 2.12 The financial position of the applicant with an enabling development consisting of one house with a similar floor area to the former public house (200 square metres) and with the provision of a public house is as follows:

	Item	Cost (£)
1	Total investment into site	485,603
2	Rebuild Public House	470,600
3	Professional fees	10,000
		<b>966,203</b>
4	Site value for 1no. Dwelling	250,000
5	Less insurance received	375,000
6	Less value of Public House	350,000
		<b>975,000</b>
	Profit	<b>8,797</b>

- 2.13 In this scenario the applicant sets out that the total investment into the site combined with the rebuild costs for the public house and expected professional fees will be £966,203.00. However, the expected income created from the sale of part of the site for one residential dwellings will be 250,000. Combining that figure with the monies received from insurance (£375,000) and the expected value of the public house once built (£350,000) will provide an approximate positive value of the site of **£8,797**.
- 2.14 In this scenario with the provision of one residential dwelling on the site, the applicant will have sufficient funds to rebuild the public house, which could be retained as an asset by the applicant, and will give a balance sheet which is broadly neutral. The applicant has therefore provided evidence to suggest that the provision of one residential dwelling will provide sufficient funds to enable the public house to be rebuilt on the site and potentially release the applicant from further financial obligations. In this case, Officers are of the opinion that the provision of one residential dwelling will 'enable' the public house to be rebuilt.
- 2.15 However, within the above calculations, Members should be mindful that the applicant proposes a 200 square metre dwelling (a not insignificant sized dwelling), at a build cost of £1500 per square metre. Recent consultations from an independent Development Consultant on other development sites have indicated that average build prices for a 'high specification' dwelling are more in the region of £950 per square metre. The figure suggested by the applicant therefore seems somewhat high and, if a lower figure were used, would strengthen the

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enabling provision of 1 dwelling. Officers therefore consider that the figures set out above could potentially lead to a more significant positive value of the site and may therefore be a more viable proposition than is suggested by the applicant.

- 2.16 However, this is not what is proposed in this application. The applicant proposes the provision of two residential dwellings, each with a floor area of some 100 square metres. The applicant has similarly provided financial information in respect of this scenario also:-

	<b>Item</b>	<b>Cost (£)</b>
1	Total investment into site	485,603
2	Rebuild Public House	470,600
3	Professional fees	10,000
		<b>966,203</b>
4	Site value for 1no. Dwelling	300,000
5	Less insurance received	375,000
6	Less value of Public House	350,000
		<b>1,025,000</b>
	Profit	<b>59,000</b>

- 2.17 In this scenario, similar considerations as outlined above relate to the costs associated with the build costs for the dwellings. In this case, the provision of 2 'enabling' residential dwellings will result in a positive value of £59,000. This represents a more viable scheme than in the case of one enabling dwelling.
- 2.18 However, as is outlined above, the applicant relies on a figure of £1500 per square metre which is, in Officers opinion, over-estimated, and is likely therefore to result in a scheme which will provide sufficient enabling provision with 1 dwelling.
- 2.19 What must be considered is what minimum level of enabling development is required to provide sufficient funds for the public house to be rebuilt.
- 2.20 Having regard to the inappropriateness of residential development of the site, Officers are of the opinion that the amount of any such development should be strictly controlled in considering the acceptability of enabling development. The above comments and assessment of the information submitted by the applicant shows that the provision of one dwelling on the site will allow for the public house to be rebuilt. Whilst Officers recognise an enabling development of two residential dwellings is a more viable proposition, this is not the

judgement when the minimum extent of enabling development is being considered. The focus should, in Officers opinion, be a consideration of what the minimum level of development that is required to create the necessary funds to enable the public house to be rebuilt. As is set out above, Officers are of the opinion that one dwelling on the site will provide such funds and are concerned that the provision of any more residential dwellings will lead to a greater level of harm to the character, appearance and rural character of the site and the surroundings, which is contrary to the Councils Rural Area policies.

- 2.21 Members also requested that the application be deferred to enable the applicant to prepare a business plan. The applicant has set out that they are aware of the Councils concerns regarding the long term viability of the public house. They comment that it is extremely difficult to predict the economic viability of a public house but that the pub was viable prior to the fire and was well supported by the local population. The applicant provides some information in respect of a business plan. The applicant suggests that, in the case of enabling development consisting of one dwelling, that there is potentially a rental income of between £34,000 and £24,000 with a return from the project of between 6% and 8%. It has to be said that the claim of pre-fire viability seems to run counter to the financial information submitted which showed on going financial losses in that period.
- 2.22 Overall this provides little assurance to the Council that, should the public house be returned to the site, it will remain as a viable proposition in the longer term. In this respect, the concerns raised in the Officers Committee Report, paragraph 7.18 – 7.19 remain.
- 2.23 Members also requested that a legal agreement be prepared in order to ensure that monies associated with any enabling development are allocated to the build costs for the pub. In light of the above considerations Officers have not progressed with this matter, nor have any legal agreements been drafted or prepared by the applicant.

## **8.0 Conclusion:**

- 8.1 The provision of a pub and two residential dwellings 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 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

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terms, Officers consider that the provision of a pub is acceptable on the site.

- 8.2 However, Officers are not satisfied that the viability arguments put forward by the applicant adequately demonstrate that the provision of two dwellings is reasonably necessary to implement the pub development. The evidence submitted would, in the opinion of Officers, indicate that the provision of one dwelling on the site would generate sufficient funds for the public house to be rebuilt. In this respect, the provision of an additional dwelling is not justified and represents 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.
- 8.3 This, together with the continued uncertainty with regard to the longer term prospects for the operation of the public house, have to lead Officers to continue to recommend the refusal of LPA reference 3/10/1583/OP.