

**5e 3/11/0370/FP - Separation of plots 7 and 8 shown as a pair of semi-detached dwellings on the approved scheme under ref. 3/09/1370/FP to provide 2no. detached dwellings. Alterations and extensions to enable use of roof spaces for additional accommodation to include 2no. additional bedrooms for each dwelling at Land at, Gravelly Lane, Braughing for Linden Homes.**

**Date of Receipt:** 28.03.2011

**Type:** Full – Minor

**Parish:** BRAUGHING

**Ward:** BRAUGHING

**RECOMMENDATION:**

That, subject to the applicant entering into a deed of variation in respect of the S106 legal obligation entered into for the planning permission granted for 17 dwellings under lpa reference 3/09/1370/FP to cover the following matters:-

- An additional financial contribution of £750 towards Sustainable Transport Programs;
- An additional financial contribution of £4,454 towards Middle Tier Education, £4,080 towards Upper Tier Education, £212 towards Childcare, £110 Youth and £134 towards Libraries;
- An additional financial contribution of £180 towards recreation facilities for children and young people.

planning permission be **GRANTED** subject to the following conditions:

1. Three Year Time Limit (1T121)
2. Approved plans (2E10) P01a, P02b
3. Samples of Materials (2E12)
4. Construction hours of working (6N07)
5. Boundary Walls and Fences (2E07)
6. Hard surfacing (3V213)
7. Landscape Design Proposals (4P12)
8. Landscape works implementation (4P13)
9. Tree retention and protection (4P053)

### 3/11/0370/FP

10. Hedge retention and protection (4P063)
11. Levels (2E051)
12. New Doors and Windows - unlisted buildings (2E342)
13. Wheel washing facilities (3V251)
14. Construction parking and storage (3V221)
15. Programme of archaeological work (2E023)
16. Prior to the commencement of the development details of the junction between the proposed estate road and the highway shall be submitted to and approved in writing by the Local Planning Authority, and no building shall be occupied until that junction has been constructed in accordance with the approved details.

Reason: In order to minimise danger, obstruction and inconvenience to users of the highway and of the proposed estate road.

17. Prior to the first occupation of the dwellings hereby permitted, visibility splays of 4.5m x 70m shall be provided each side of the means of access to the site from Green End and within which there shall be no obstruction to visibility.

Reason: In the interests of Highway safety

18. Prior to the commencement of the development hereby permitted detailed plans and sections of the proposed roads including gradients and method of surface water disposal shall be submitted in writing and approved by the Local Planning Authority, and no building shall be occupied until the section of road which provides access thereto has been constructed (apart from final surfacing) in accordance with the approved details.

Reason: To ensure that the proposed road works are constructed to an adequate standard.

19. No dwelling shall be occupied until the existing footway along the entire B1368 frontage of the site has been widened to 1.8m in accordance with details to be submitted to and approved in writing by the Local Planning Authority. Any Statutory Undertakers equipment or street furniture shall be re-sited to provide an unobstructed footway.

### 3/11/0370/FP

Reason: In the interests of road safety and pedestrian movement.  
20. Existing access closure (3V051)

21. Prior to the commencement of the development hereby approved, details of construction vehicle movements and construction access arrangements shall be submitted to and approved in writing by the Local Planning Authority, and all construction vehicle movements shall accord with the agreed details.

Reason: To ensure the impact of construction vehicles on the local road network is minimised.

22. Protection of bats (2E41)

23. Prior to the commencement of any works on the site and at an appropriate time of the year a survey of reptile activity, including details for their protection and any necessary mitigation measures shall be undertaken by a suitable specialist. This shall be submitted to and approved in writing by the Local Planning Authority and any subsequent mitigation shall be undertaken in accordance with the findings of this survey.

Reason: To protect the habitats of species which are a protected under the Wildlife and Access to the Countryside Act 1981, and in accordance with policy ENV16 of the East Herts Local Plan Second Review April 2007.

24. Prior to the commencement of the development, surface water drainage works shall be carried out in accordance with details which shall have been submitted to and approved in writing by the Local Planning Authority.

Reason: To prevent the increased risk of flooding, and in accordance with Policy ENV21 of the East Hertfordshire Local Plan Second review April 2007.

25. Prior to the commencement of the development, surface water source control measures shall be carried out in accordance with details which shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To prevent the increased risk of flooding and to improve water quality in accordance with Policies ENV18 and ENV19 fo the East Herts Local Plan Second Review April 2007.

26. Prior to the commencement of the development hereby permitted details

### 3/11/0370/FP

of cost effective energy efficiency measures to be carried out to the dwellings shall be submitted to and approved in writing by the Local Planning Authority. The approved Energy Efficiency measures shall be implemented during the construction of the development, unless otherwise agreed in writing by the Local Planning Authority.

Reason: These measures are required to mitigate the use of energy resulting from the development and in accordance with Policies SD1 and SD3 of the East Herts Local Plan Second Review April 2007.

#### 27. Tree/natural feature protection fence (4P07)

##### Directive:

1. This planning permission is also subject to the Planning Obligation under S106 of the Town and Country Planning Act 1990 (as amended) under lpa reference 3/09/1370/FP.

##### Summary of Reasons for Decision

The proposal has been considered with regard to the policies of the Development Plan (East of England Plan May 2008, 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 OSV1, ENV1, ENV2, ENV5, ENV6, BH5, IMP1 and TR7. The balance of the considerations having regard to those policies and the planning permission that was granted for 17 dwellings under lpa reference 3/09/1370/FP is that permission should be granted.

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#### **1.0 Background:**

- 1.1 The application site is shown on the attached OS extract.
- 1.2 The site comprises part of a larger plot of land measuring 0.98 ha in area, located at the corner of Green End (B1386) and Gravelly Lane. The larger site is currently under construction for a development of 17 dwellings that were granted planning permission in 2010 under lpa reference 3/09/1370/FP.
- 1.3 The application proposes the separation of Plots 7 and 8 from a pair of semi-detached dwellings to two detached dwelling houses. The proposal would involve alterations to the properties including the conversion of their roof spaces to create 2 additional bedrooms for each unit. The approved semi-detached dwelling houses were to have 3 bedrooms,

### **3/11/0370/FP**

whereas the current proposal would result in two detached 5 bedroom dwellings.

- 1.4 The changes that are proposed for Plot 7 are for a dormer window that is proposed to the rear roof slope and a 2<sup>nd</sup> floor window within the south facing gable end.
- 1.5 The current proposal for Plot 8 proposes a 2 storey lean-to side extension, which would extend 2 metres from the side of the dwelling and the addition of a window within each of the gable ends of the dwellings at 2<sup>nd</sup> floor level.
- 1.6 Members may recall that this application was originally reported to the 25 May 2011 Development Control Committee where Members resolved to grant planning permission subject to the applicant entering into a deed of variation in respect of the S106 legal obligation that was entered into in respect of 3/09/1370/FP. The officer's report and minutes from that meeting can be found in Appendix A.

### **2.0 Policy:**

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

OSV1	Development within Category 1 Villages
ENV1	Design & Environmental Quality
ENV2	Landscaping
ENV5	Extensions to Dwellings
ENV6	Extensions to Dwelling-Criteria
BH5	Extensions and Alterations to Unlisted Buildings in Conservation Areas
IMP1	Planning Conditions and Obligations
TR7	Car Parking Standards

### **3.0 Considerations:**

- 3.1 As outlined in Section 2 above Members resolved to grant planning permission on 25 May for the proposed development.
- 3.2 Since that time Officers have been working with the applicant to secure the necessary deed of variation. During this process it has been advised by the Council's Legal Team that it is not appropriate to include a clause requiring the development to be carried out in accordance with the details to be agreed under the conditions of planning permission reference 3/09/1370/FP. A Section 106 Agreement should not be used

### **3/11/0370/FP**

to attach conditions from a previous planning permission to a new permission and any necessary conditions should be included on the planning permission.

- 3.3 It has therefore been recommended that the clause in question be removed from the deed of variation and the relevant conditions be attached to the planning permission itself. Having reviewed all the conditions attached to the previous planning permission Officers consider that these all remain relevant and necessary in relation to the current application.

#### **4.0 Conclusion:**

- 4.1 To conclude, Officers consider that attaching all the conditions from the previous planning permission to the planning permission rather than the S106 Agreement is appropriate and that the proposed development remains acceptable as set out in the Officers report in Appendix A. It is therefore recommended that planning permission be approved subject to a deed of variation to the existing S106 agreement and the conditions at the head of this report.