

Location: **Land East of Picknage Road and Adjacent To 36
Picknage Road
Barley
Hertfordshire**

Applicant: **Marriott Land, Brian Homent And James Squier**

Proposal: **Permission in Principle: Erection of 9 dwellings
replacement local community shop (Class F2 (a)) of
265sqm and associated access, parking, drainage and
biodiversity/landscaping area.**

Ref. No: 21/02973/PIP

Officer: **Anne McDonald**

Date of expiry of statutory period : 05.12.2021

Plan numbers

- DR-A-0001 PO3 – location plan;
- DR-A-0002 PO7 – illustrative masterplan.

Supporting documents

- Planning Statement;
- Transport Technical note;
- Letter from Barley shop owner;
- Unilateral Undertaking.

Reason for referral to the Planning Control Committee

The site area is 0.98 ha, so the application has to be presented to the Planning Control Committee in accordance with the scheme of delegation as set out in the Council's constitution. However, this application has been appealed as 'non determination within the statutory 8 week determination period' and an appeal has been lodged with the Planning Inspectorate. Therefore, the committee must now indicate how they would have determined the application in the event that NDC was still the determining Authority.

1.0 Policies

1.1 The relevant policies in this instance are:

1.2 Saved Local Plan 1996:

- 6 – Rural Areas beyond the Green Belt;
- 55 – Car Parking Standards;
- 57 – Residential Guidelines and Standards.

1.3 Submission / emerging Local Plan 2011 – 2030

Strategic Policies:

- SP1 – Sustainable development in North Hertfordshire;
- SP2 – Settlement Hierarchy and Spatial Distribution;
- SP4 – Town Centres, Local Centres and Community Shops;
- SP5 – Countryside and Green Belt;
- SP9 – Design and Sustainability;
- SP12 – Green Infrastructure, landscape and biodiversity;
- SP13 – Historic Environment

Development Management Policies:

- CGB1 – Rural Areas beyond the Green Belt;
- CGB2b – Community facilities, services and affordable housing in the Rural Area beyond the Green Belt;
- T2 – Parking;
- D1 – Sustainable design;
- D3 – Protecting living conditions;
- HC1 – Community facilities;
- NE1 – Landscape;
- HE1 – Designated heritage assets.

1.4 National Planning policy Framework:

- Section 2 – Achieving sustainable development;
- Section 5 – Delivering a sufficient supply of homes;
- Section 6 – Building a strong, competitive economy;
- Section 12 – Achieving well designed places;
- Section 16 – Conserving and enhancing the historic environment.

2.0 Site History

- 2.1 A pre-application submission, 21/01462/PRE, was submitted for this proposal with a different layout for the houses. This response concluded:

If this proposal were to proceed to the application stage, I do not consider that it would be regarded favourably due to the size of the shop, the number of houses, the lack of justification and clarity on the re-use of the existing shop and the adverse harm such a proposal will have in the landscape.

3.0 Representations

- 3.1 **NHC Waster Services** – comment made regarding bin access and requirements.
- 3.2 **NHC Environmental Health Noise** – no objection subject to the provision of EV charging points being provided.
- 3.3 **NHC Environmental Protection** – no objection subject to a land contamination condition.

3.4 **HCC LLFA** – as the application is minor we will not be providing comments at this stage and we recommend that new development is designed in accordance with our policies.

3.5 **HCC Highways** – no objection subject to conditions and informatives.

3.6 **Barley Parish Council** – objects (in summary):

- The applicant is applying for a PIP consent which is supposed to be reserved for minor housing led development only. In this case however, is the applicant applying for 9 market residential units with a shop being offered as planning gain or is it for the development of a new shop which requires substantial enabling development of 9 residential units to justify its delivery? The distinction is important. The applicant has distributed literature to most of the residents of Barley seeking their support for the proposal which states “Your chance to support the relocation and improvement of Barley Stores and Post Office”. This is a clear statement that the proposal is about the proposed relocation of the shop – Barley Stores and Post Office – and only incidentally the provision of 9 residential units. On this basis a PIP application is not the right application and it should fail automatically.
- The site identified for development in this application falls outside the defined village boundary for Barley of not only the current NHDC Local Plan No 2 with Alterations but also of the Emerging Local Plan. Policy SP2 of the Emerging Local Plan directs that development within Cat A villages, of which Barley is one, will be allowed but only within the defined settlement boundaries.
- NHDC’s housing provision has been the subject of several recent planning appeals and in all instances the inspectors have been satisfied with the provision and not considered it to be failing such that exceptions should be made to policy.
- The planning policies of the Emerging Local Plan all direct that development in Cat A villages should be restricted to within the defined settlement boundaries. This site was not selected as a suitable site for development in the ‘call for sites’ due to development on this site not protecting or enhancing the landscape and harm on the edge of village character. There are no exceptional circumstances to justify development on this site;
- The whole of the frontage to and part of the site lies within the Barley Conservation Area and the proposal would cause significant harm to the Conservation Area where development proposals should maintain or enhance the character of the Area which this proposal would clearly fail to do.

3.7 The application has been advertised with a site notice and neighbour notification letters. At the time of writing there have been 36 comments made on the application, 18 in support and 19 in objection. Key points raised include:

Support:

- We are strongly against the building outside of the village envelope but we see no logic in keeping this gap given development to the north and south and believe this land should be within the village.
- I reluctantly support this application because of the inclusion of a shop given the owner of the current one feels it is too small. But the houses need to be limited to 9 and smaller units need to be provided to make them affordable.
- Double yellow lines need to be provided along Picknage Road to stop people parking along here.
- I only support this application to retain our shop and to keep it viable.

- Many people rely on the Barley shop and post office and parking is non-existent and difficult.
- As a non-villager I do not consider that I can comment on the aspect of development outside the village.
- A bigger shop with lower prices and longer opening hours is more appealing.
- Having more parking for the shop is a good idea as parking on Church Lane is problematic.

Objection:

- We live next to the shop and the parking along the road does not make the road dangerous, you just need to drive carefully.
- The amount of traffic a shop of this size will cause congestion in the road and area in a narrow part of the road.
- The shop and bins will make more vermin appear in the area.
- Picknape Road suffers from flooding and this development will make this worse.
- Building here will result in more housing to the rear of this area in the future.
- Why are people who live in Royston and Shaftenhoe commenting when they do not live here?
- This is alongside our garden and we will be disturbed from noise, cars, bleeping lorries, lights, doors slamming, engines running and litter.
- The existing shop has a coffee machine, will this one also have hot food and become a takeaway?
- Concern that if the car park gets full that cars will block our drive or park on the grass verge in front of our house.
- The new shop needs to go in the old barn, where it will not disturb anyone.
- Whilst the new shop would provide a better facility for the village, the village already has this facility and it is not proposing a new benefit.
- The transport technical note cannot be correct as it is saying that 9 houses will only generate three new vehicle trips in the morning and evening peak hours and this does not seem correct.
- The Cumberton Bottom valley is the finest landscape view in the village and this public view would be large obliterated.
- The shop should be at the other end of the site away from the neighbours.
- Object to any development on this land. Other options on how to extend the existing shop should be considered before building on this land.
- Church End and Picknape Road is a dangerous junction and extra traffic here will result in accidents.
- Building here will harm the landscape and the countryside and is contrary to tackling climate change.
- This development will alter and harm the setting and edge of the village of Barley.
- A footpath from the shop to the county boarded should be done to encourage walking and cycling.
- The village shop is just what it is supposed to be. Not a mini supermarket. The range of goods now is sufficient for local needs.
- There are issues of water supply and flooding in the village and no developer ever sorts these out sufficiently.
- New houses should be of a size and external materials and design to match the village and not oversized faux barn conversions with token areas of flint wall.
- This proposal will not stop parking problems in Barley.
- This will have impact and harm on protected wildlife.
- An ecological report should be provided.

- This proposal feels as though the village is being blackmailed into an ‘accept this or risk losing the shop altogether’ proposal.
- The shop is just a carrot to push through housing out of the village area.
- The houses are on elevated land and will be very visible in local views.

4.0 **Planning Considerations**

4.1 **Site and Surroundings**

4.1.1 The application site comprises approximately three quarters of a field which lies to the east side of Picknage Road . The land rises to the south and whilst there are some trees along the southern part of the western boundary, the land here is open with good views out the rolling countryside extending to the east. Under the provisions of both the saved and emerging Local Plan 1996 the front part of the site is within the Conservation Area whilst the whole site is outside of the selected village area.

4.2 **Proposal**

4.2.1 This is a ‘Planning in Principle’ application for a detached shop building, with 23 parking spaces, 9 houses, each with a private rear garden and on plot parking with garages also being provided for 6 of the dwellings, three visitor parking spaces and a proposed ‘bio-diversity’ pond area. A proposed layout plan only has been provided, with no further details such as elevation details or floor plans.

4.2.2 A Unilateral Undertaking has been submitted with the application which sets out that only four of the houses can be occupied prior to the completion of the build of the shop. This is with Legal Services for review and an update will be provided at the Committee meeting.

4.2.3 A Planning Statement, statement from the Shop Owner and a Transport Technical note have all been submitted in support of the proposal. Key points from these include

Planning Statement

- The village shop is considered a very important and valuable asset in the village, Indeed it was identified as the most important village amenity/facility in the 2015 Village Plan.
- The existing shop is however constrained both in terms of its physical space and lack of parking. This affects the current operation of the business, and unless circumstances change risks its longer term viability.
- It also has consequences in terms of highway safety and congestion on Church End due to customers and unloading delivery vehicles parking on the public highway near to the school and adjacent care home.
- The loss of the shop would clearly have a negative impact on the sustainability of the village, and therefore the shopkeeper is working with the Applicants to provide a long term solution to the problem. The proposed replacement shop within this application is therefore an integral part of the proposal, and a Unilateral Undertaking is submitted with the application demonstrating the commitment to its delivery.
- The shop would be located to the north of the development. The shop is shown with an internal floor area of 265 square metres, and at this scale would be of sufficient size to meet the needs of the area. It is located at the northern end of the site, and the

therefore lowest part of the site so as to limit any visual impact from the wider area. It is also located closest to the rights of way that connect the two sides of the village.

- The illustrative masterplan shows that there would be two pairs of semi-detached dwellings and 5 detached dwellings. One of the detached dwellings, located furthest south, is indicated to be a bungalow.
- In terms of any adverse impacts of granting permission, the site is not developed and falls outside of the defined settlement boundary in the Development Plan. However, the extent to which development would have an adverse impact on the character of the village as a consequence is limited as Picknage Road does not form an edge to the village. Development already exists to the east of the Road to the immediate north of the site, and therefore development would not breach any physical or visually defined boundary. It would merely represent an extension of the existing built form on the eastern side of the Road.
- It is acknowledged there is the potential for some less than substantial harm to the Conservation Area arising from development adjacent to Picknage Road. However, this harm is considered very limited. Firstly, the narrow strip of verge that falls within the Conservation Area within the site makes a negligible contribution to the character and appearance of the Conservation Area.
- The delivery of nine dwellings (scale and mix to be agreed) will contribute towards meeting housing need and provide social benefits for those families wanting to live in the village.
- A specific benefit from this application relates to the provision of the replacement local shop to be secured via a unilateral undertaking submitted with this application. The delivery of the shop derives support from the emerging local Plan and NPPF.
- The land at Picknage Corner to the south of the site was considered but would create unacceptable highway safety issues arising from access and pedestrian movements
- Policy CGB2 of the emerging Local Plan sets out that community facilities and services adjoining Category A villages will be granted permission where it meets a proven rural need, as identified through a parish survey or other relevant study, and there is no reasonable alternative within the defined boundary of the settlement.
- There is therefore a proven and evidenced rural need for a shop in Barley, but the existing facility is not capable of adequately meeting that need within its current premises. The operator of the existing Barley Stores has provided a statement in support which is submitted with this application.
- In its current location, where there is no opportunity to expand, the existing shop cannot meet the needs of the village and will inevitably face a difficult future to remain open. Its closure would have negative consequences for the local community in terms of less opportunity for social interaction, less opportunity to support a healthy lifestyle amongst residents given the need to travel by car, and a greater need to travel by less sustainable modes of travel
- The subtext of Policy CGB2 (paragraph 6.11) states that in some cases, it may be necessary to allow some enabling development. The market housing would be enabling development and the pre-application response requested clarification as to why nine dwellings are required. An Indicative Build Cost Plan is submitted with the application that demonstrates the cost of constructing the shop would be circa £1.5m. This excludes the cost of purchasing the land. It would not be feasible to fund the delivery of the shop from the proceeds of the sale of the existing shop building. It is only feasible with some enabling development in the form of 9 market houses, which provide sufficient return to incentivise the applicants and landowners to deliver the replacement shop for the community.
- The relocation of the existing shop will also derive benefits for the character of the Conservation Area by removing parking and deliveries from Church End. The existing

situation creates a particular safety problem when deliveries are taking place, and is a source of congestion and annoyance to local residents

Letter from the shop owner

- Moving to new purposed built larger premises will allow the shop to meet the needs of the residents today and in the future.
- I have managed the shop for the last 20 years and in this time there has been several transformations including modern shelves, fridges, increasing the services we offer, scouring locally made produce.
- The biggest complaint is the lack of parking.
- The current site has no room / option for expansion.
- Covid has exposed the limitations of the current shop. Very narrow aisles, extremely hard to social distance, no suitable back doors so deliveries have to be from the front resulting in the need to shut the shop.
- Moving to the new shop would give the opportunity to offer the village and surrounding area a bigger modern shop with a increased in services, expand the range of goods and extended opening hours and dedicated customer parking.

4.3 Key Issues

Principle

- 4.3.1 Planning Practice Guidance (PPG) explains that permission in principle is an alternative way of obtaining planning permission for housing led development as part of a two-stage procedure. Permission in principle, at the initial stage, is limited to the consideration of location, land use and the amount of development which, in the event of an approval, would leave the remaining matters to be considered in a technical details application. Recent advice on the gov.uk website has updated that non-residential development may also be given a permission in principle providing housing occupies the majority of the floorspace of the overall scheme and that non-housing development is compatible with the proposed residential development, and may include a small proportion of retail, office space or community uses.
- 4.3.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications for planning permission, and therefore appeals for permission in principle, must be determined in accordance with the development plan, unless material considerations indicate otherwise.
- 4.3.3 The main issues for consideration in this recommendation are, therefore, whether the proposal, in respect to land use and amount of development, would be in a suitable location, having regard to local and national planning policies as well as whether the submission of a Permission in Principle (PiP) application is the correct application type.
- 4.3.4 Dealing with the latter issue first, I note the concern raised by Barley Parish Council (set out above). The application is being presented as a new village shop with 9 dwellings needed as enabling development. It is noted that in the Planning Statement it is set out that the costs of the development to demonstrate this are submitted, however, this has not been submitted for consideration. On the basis of the submitted information, this proposal has to be considered to be a 'shop led' development with the dwellings only being part of the development as they are to enable the funding of a new shop. Whilst the housing does occupy more of the site than the shop area, given the housing is 'enabling development' and is not the main focus of the proposal which

is the shop element, in my view, this proposal should have been submitted as a full planning application where all matters can be considered at this point in time.

4.3.5 Giving consideration to the proposal, the site lies within the Rural Area beyond the Green Belt outside of the village boundary area for Barley. Barley is considered to be a Category A sustainable village location, in accordance with the provisions of emerging Policy SP2, where there is no objection in principle to development within the village boundary area. However, as this site is outside of the village boundary area saved Policy 6 and emerging Policy CGB1 are applicable. These two policies have strict criteria which do allow for some development in the rural area. This criteria is:

- development strictly needed for agriculture or forestry or any proven need for local community services provided that the need cannot be met in a town, excluded village or selected village;
- the proposal positively improves the rural environment; or
- it would meet an identified rural housing need;
- it is a single dwelling on a small plot located within a built core;
- it involves the change to the rural economy with the re-use of an existing building.

4.3.6 The proposal does not comply with any of this criteria and the application can be considered to acknowledge that it fails to comply, as an argument to justify the proposal has been put forward. In summary this is:

- 1 – the existing shop is too small and causes parking congestion along Church Lane;
- 2 – the 9 houses are needed as enabling development to justify the cost of the new shop (as stated above this financial justification has not been submitted);
- 3 – the new houses will make a contribution to the Council's housing supply figures.

4.3.7 Emerging Policy CGB2 supports the provision of a community facility in locations such as Barley. This policy aims to provide for community facility or services where they do not exist subject to five criteria. Criteria (a) requires the proposal to meet a local need as identified through a parish survey whilst criteria (d) requires for there not be substantial impact on openness (see below for this analysis).

4.3.8 A successful shop already exists in Barley offering a range of services, which according to their website is:

"Barley stores stock every day essentials including newspapers, freshly baked bread, fruit and veg, cards, stationary, eggs from Bridgefood Farm, milk and a selection of store cupboard items.

The shops support many local businesses, include Woods Bakery bread and rolls, Braughing sausages and a range of Priors Hall products including sausages, ham, burgers, Quality and Excellent pies, Bury Lane cakes, Pinkster and Jake's gin and Jen & Alice Robertson's local handmade cards. A dry clearing service operations from the store with collection on a Friday".

4.3.9 Policy CGB2b can allow for development as an exception in the rural area beyond the Green Belt in situations where no such facilities exists. The current shop owners desire to have a larger store to offer a wider range of products and longer opening hours is not a reason to allow this proposal and as a result this application is considered to be contrary to policy CGB2b. I note that covid social distancing

restrictions imposed limitations, but given that all social distancing measures have now ended, no material weight can be given to this argument.

- 4.3.10 The application sets out that the nine new dwellings are needed as enabling development to finance the build cost of the shop. As there is no policy support for a new shop in the location there is no need for any enabling housing and the application fails for this reason.
- 4.3.11 Finally, the application sets out the Council is behind in its delivery of housing land supply and the Authority accepts that it cannot currently demonstrate a 5-year supply of housing land. Paragraph 48 of the NPPF advises that an emerging plan can be afforded weight according to:
- a) the stage of preparation of the emerging plan;
 - b) the extent to which there are unresolved objections to relevant policies; and
 - c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).
- 4.3.12 The emerging Local Plan is well advanced as all round of Examination and public consultations have been completed and the Inspector's final report is expected to be issued imminently. No issues have been raised regarding the relevant policies and as a result significant weight can be afforded to the emerging Local Plan policies.
- 4.3.13 This site is not an allocated housing site, and as set out above under the comments from Barely Parish Council, it was a site that was put forward under the 'call for sites' and due to the limitations of the site, was discounted. However, due to the on going delay in the delivery of the Local Plan, the Council's five year housing land supply has deteriorated to less than 1.5 years and given the stance of the 'tilted balance' as advised by paragraph 11 of the NPPF, if this proposal were for housing only, given the site is adjacent to a Category A settlement, in my view, I consider this would be difficult to resist.

Landscape issues and the Conservation Area

- 4.3.14 The front of the site is within the Conservation Area of Barley. Areas of open space within the Conservation Area is a key attribute of it. The application puts forward that due to the existing houses on Picknage Road to the north, this site would be the continuation of development. However, this edge of village location, opposite a large open space within the Conservation Area, has the function of softening or dispersing the village edge in this location by the function of the land being open. In my view the enclosing of this land would have harm on the setting of the Conservation Area. It is noted, that with the exception of the access, the rest of the development is rear of the Conservation Area, and, taking the requirement of paragraph 193 of the NPPF into account, whilst there is harm, in my view, this would be less than substantial harm on the setting of the Conservation Area and is not sufficient to warrant a reason for refusal.
- 4.3.15 Policy CGB2b requires for the works not to have a substantial adverse impact on openness. The application sets out that the shop is sited at the northern end of the site as this is the lower land level, so the shop is set 'down' to reduce visual impact, whilst the houses extending to the south will incline up in the landscape to its natural high point. I note that plot 9 is stated to be bungalow to reduce visual impact but there

will be clear long range views from the Chishill Road which, given the houses are in an isolated 'spit' extending southwards with the open land on either side, in my view, this form of development would appear contrary and harmful to and within the local landscape in this important open edge of village context. I note that the car parking layout would allow for views out past the shop frontage, but this further results in separating the houses from the shop part of the proposal. In my view the impact on the landscape from the development would be moderate and can be regarded as an objection to the proposal and the non compliance of emerging Policy CGB2b (d).

Layout and Amenity issues

- 4.3.16 Due to a PiP application being able to take land use into account, concern has to be expressed regarding the impact a shop in this location would have on the residential amenities of the adjacent neighbour number 36 in particular from the proposed car parking area sited at the end of their rear garden. Such adverse noise impact would include car doors slamming, engines revving, music playing and general noise and disturbance in comparison to the existing situation. Delivery lorries tend to have loud bleeping or 'caution reversing' warnings that would also be an annoyance. The height, possible visual dominance, light spill and opening hours are not a consideration of this application, but the land use layout does allow for the above concerns to be raised resulting in an objection to the proposal based on the potential adverse impact on amenity to number 36. As a result the application is considered to fail to comply with the provisions of emerging Policy D3.
- 4.3.17 Furthermore, I note that the application sets out that the proposal is the continuation of development along the road. The suggested layout does not support this, as the shop layout truncates the site and the proposed housing is separated isolated from the existing development lying to the north.

Parking and bio-diversity

- 4.3.18 These are not matters that can be taken into consideration at this stage. However, I note that one of the arguments in support of this application is to allow parking for the shop. I note that Church Lane does not have yellow lines and therefore the existing shop benefits from customers being able to park along here. Given this is a local village shop, it can be anticipated that parking along here 'turns over' fairly frequently and other drivers will have to take care when driving along here if there are parked cars. Whilst the delivery vehicle may be a local nuisance, this will be intermittent and not for long periods of time, and in my view, the parking and delivery issues raised are no basis of justification for this proposal.

Other matters

- 4.3.19 A Unilateral Undertaken has been submitted with the application which sets out that a maximum of four dwellings can be occupied prior to the completion of the build of the shop. However, the application does not set out:
- what the anticipated time frame is for the shop to be completed and occupied;
 - whilst the Planning Statement infers that the existing shop would be re-located, there is nothing in the application definitely securing this and the developer could market the shop to a national chain or rival operator;
 - if the existing shop is re-located what would happen to the existing premises.

4.4 **Conclusion**

- 4.4.1 The application is recommended for refusal as the proposed development of a new shop and 9 dwellings is on land outside of the settlement boundary, in the rural area beyond the Green Belt where planning policies seek to restrain development unless it meets strict criteria, which this application does not meet. Furthermore, as the village of Barley has a successful village shop, there is no policy support for the development of a new shop in this location as there is no unmet community need. The noise and disturbance of customers and deliveries coming and going from the proposed location of shop next to number 36 would have unacceptable adverse harm on the residential amenities of this house. The application sets out that the nine dwellings are required as enabling development to finance the new shop, for which there is no policy support. The application is therefore considered to fail to comply with the provisions of saved Policy 6 and emerging Policies CGB1, CGB2b and D3. As a result, in accordance with paragraph 11d)ii. of the NPPF the application is being recommended for refusal as the adverse impacts of the development significantly and demonstrably outweigh the benefits.

4.5 **Alternative Options**

- 4.5.1 None applicable

4.6 **Pre-Commencement Conditions**

- 4.6.1 None applicable.

5.0 **Legal Implications**

- 5.1 In making decisions on applications submitted under the Town and Country Planning legislation, the Council is required to have regard to the provisions of the development plan and to any other material considerations. The decision must be in accordance with the plan unless the material considerations indicate otherwise. Where the decision is to refuse or restrictive conditions are attached, the applicant has a right of appeal against the decision.

6.0 **Recommendation**

- 6.1 That if North Herts Council were still the determining Authority that planning permission be REFUSED for the following reason:

Due to there being no unmet need for a shop facility in Barley, there is no policy support for the proposed shop and 9 enabling dwellings on land outside of the village boundary. The proposed development would have adverse harm on the context of the open landscape and edge of village setting in this location as well as unacceptable impact on the residential amenities of the adjoining neighbour number 36. As a result, the application is considered to fail to comply with the provisions of saved Policy 6 of the Local Plan 1996 and emerging Policies CGB1, CGB2b and D3 of the Submission Local Plan 2011 - 2031.