

ITEM NO:	
<u>Location:</u>	Land To The East Of Bedford Road And West Of Old Ramerick Manor Bedford Road Ickleford Hertfordshire
<u>Applicant:</u>	Barratt David Wilson North Thames
<u>Proposal:</u>	Erection of 144no. dwellings, new vehicular access onto Bedford Road, associated garages and car parking spaces, public open space, landscaping and attenuation areas (as amended 25th October 2018).
<u>Ref. No:</u>	18/01622/FP
<u>Officer:</u>	Tom Rea

Reason for Delay

An extension to the statutory period for determining this application expired on 1st July 2019. This application is now the subject of an appeal to be heard by a Public Inquiry with a date to be confirmed by the Planning Inspectorate.

1.0 Background to Report and Reason for Referral to Committee

- 1.1 This planning application was considered by the Planning Control Committee at its meeting on 30th May 2019 at which the Committee resolved to defer consideration of the application until the publication of the emerging North Hertfordshire Local Plan Examination Inspector's report.
- 1.2 On 24th June 2019 the Local Planning Authority (LPA) received prior notification of the applicants' (Barratt David Wilson North Thames) intention to lodge an appeal against the non-determination of the planning application ref: 18/01622/FP with the Planning Inspectorate on 2nd July 2019. The applicants further advised that it is their intention to submit a duplicate planning application after 18th July in order for any concerns raised by the Planning Control Committee to be addressed which may result in a quicker decision and obviate the need to pursue the appeal to its conclusion.
- 1.3 On 3rd July 2019 the LPA received confirmation from the Planning Inspectorate that an appeal against non-determination had been received. The appeal reference is APP/X1925/W/19/3232512. The appellants have requested a Public Inquiry.

- 1.4 As part of the appeal procedure the Planning Inspectorate will (within 5 weeks of the start date of the appeal) require the LPA to provide a Statement of Case which must include what decision it would have taken on planning application ref: 18/01622/FP. An agreed statement of Common Ground is also required within this same period.
- 1.5 The purposes of this report is therefore to seek the Committee's views on what decision the LPA would have arrived at on application 18/01622/FP, to provide further comment on the issues raised at 30th May 2019 Committee and to make a recommendation in respect of the submitted appeal.
- 1.6 For clarity, the Committee is informed that it is the Planning Inspectorate who will now determine planning application ref: 18/01622/FP, should the appeal process be concluded, rather than the LPA.

2.0 **Site History**

- 2.1 See officer report presented to 30th May 2019 Planning Control Committee at **Appendix A**

3.0 **Representations**

- 3.1 As part of the appeal process all representations received as a result of consultation on the planning application ref: 18/01622/FP will be sent to the Planning Inspectorate and all interested parties will be provided with an opportunity to make further comments to PINs and attend and participate in the forthcoming public inquiry.

4.0 **Planning Considerations**

- 4.1 The key planning considerations in respect of planning application ref: 18/01622/FP are set out in the Committee report presented to 30th May 2019 Planning Control Committee at **Appendix A**.
- 4.2 Notwithstanding the resolution of the Committee on 30th May to defer a decision on application ref: 18/01622/FP until publication of the Local Plan Inspector's report, a number of issues were raised at the meeting in debate prior to the formal resolution. Therefore, it is considered appropriate to respond in more detail on these matters raised in order to assist the Committee to formulate a response to PINs as required by the appeal procedures.
- 4.3 The issues raised at Committee on 30th May include the following:
- The Emerging Local Plan and housing land supply
 - Density of development
 - Education matters
 - Air Quality
 - Highway matters

4.4 The Emerging Local Plan and housing land supply

4.4.1 Members are referred to paragraphs 4.3.4 to 4.3.10 of the 30th May Committee report attached as Appendix A. These paragraphs explain the weight that can be applied to the ELP and how the policies in the ELP are considered to be closely aligned and consistent with the NPPF. They also explain why, through reference to Paragraph 49 of the NPPF, the proposed development cannot be considered premature. The key message of this section of the report is that in the absence of a five year land supply, there is a presumption in favour of delivering sustainable development and that the LS1 site, given its location adjacent to a large settlement and alongside a major transport corridor, can meet the economic, social and environmental objectives necessary to achieve sustainable development where the limited harm associated with it is outweighed by the benefits such as boosting the supply of housing including the provision of affordable housing.

4.4.2 For some time the LPA has been addressing its housing shortfall through the grant of planning permission on several Emerging Local Plan sites throughout the district most notably around Royston on sites in the Rural Area Beyond the Green Belt. These include:

- BK1 (Cambridge Road, Barkway – under construction)
- RY1 (Ivy Farm, Baldock Road – part completed)
- RY2 (Newmarket Road – under construction)
- RY4 (Lindsay Close – permission granted)
- RY10 (Newmarket Road – permission granted)
- RY11 (Barkway Road – partly constructed)
- Priors Hill, Pirton (under construction)*
- Holwell Turn, Pirton (under construction)*
- Brickyard Lane, Reed (completed)*

* Included at earlier preferred options stage

4.4.3 It is the view of planning officers that consideration of the LS1 application should be consistent with the approach to delivering housing that the LPA has been taking with other similar allocated sites in the Rural Area Beyond the Green Belt as identified above.

4.4.4 The ELP Inspector's report is still awaited. There is no certainty at this stage when the report will be published and whether any part of the Examination sessions will be re-opened or when the Plan may be adopted. In the meantime the Council's efforts to address its housing supply has been referred to by recent planning appeal Inspectors (e.g. at Offley, Pirton and Barkway) as having relevance in attributing the weight that can be applied to housing proposals. Inspectors have, in the planning balance on these recent appeals, given less weight to the benefits of new housing on non-allocated sites and increased weight on the adverse impacts. Moreover, for the Council to continue to implement its housing strategy on ELP allocated sites that are deliverable such as LS1 (and following the presumption in favour of sustainable development) this will assist in preventing the submission of hostile, unplanned development proposals predicated on this Council's lack of a five year housing supply argument, as was the case with e.g. Offley and Pirton.

4.4.5 Density of development

4.4.6 The dwelling estimate for the LS1 site is 120 units whilst the planning application proposes 144 (20% increase). The Communities section of the ELP provides an assessment for the housing needs of each community throughout the district. It advises that the dwelling figures are not a target and do not necessarily represent the maximum number of new homes that will be built.

4.4.7 In the case of the LS1 site, regard has to be given to the site's location immediately adjacent to the settlement of Henlow Camp and in particular The Railway development to the north, recently constructed and comprising of 2.5 storey dwellings. As mentioned in the attached Committee report at 4.3.16 the LS1 development *'...represents a transition in scale from The Railway development to the north of the site to a looser, more appropriate form of development to the south that responds to the scale of the houses at Ramerick Cottages and also provides a substantial buffer with the wider open farmland landscape further south'*

4.4.8 The LS1 proposals will result in a relatively low density overall with the site containing approximately 40% of public open space and landscaping. Section 11 of the NPPF ('Making effective use of land') requires Local Planning Authorities to promote and effective use of land in meeting the need for new homes and other uses while safeguarding and improving the environment and ensuring safe and healthy living conditions. It is considered that the LS1 proposals strike a reasonable balance between the need to make effective use of the land but also to reflect the character of the area and to provide a high quality living environment for future residents.

4.4.9 Attached at **Appendix B** is a document explaining the approach to dwelling estimates in the emerging local plan. The key message here is that ELP sites should 'broadly accord' with the indicative number of homes shown in the Plan but that policies both in the emerging Plan and the National Planning Policy Framework provide the basis for considering the appropriateness or otherwise of individual planning applications.

4.4.10 Education matters

4.4.11 Concerns were raised at the Committee meeting on 30th May as to whether the education contributions arising from the LS1 development should go towards Hertfordshire or Central Bedfordshire schools.

4.4.12 An important element of the National Planning Policy Framework is the Duty to co-operate as introduced by the 2011 Localism Act. Local Authorities have a legal duty to co-operate on strategic planning issues that cross administrative boundaries and work together to meet development requirements which may not be wholly met within their own areas. To meet this requirement Local Authorities are required to prepare and maintain statements of common ground documenting the cross – boundary matters to be addressed and progress in co-operating on these matters.

- 4.4.13 In respect of the LS1 site, a Memorandum of Understanding has been signed between North Hertfordshire District Council and Central Bedfordshire Council and sets out confirmed points of agreement between the two authorities on planning matters including community infrastructure and other local facilities. Paragraph 5.15 of the document confirms the agreement between North Herts and Central Bedfordshire to work together over the further potential development of Lower Stondon including the LS1 site and to work with other relevant organisations to deliver the services and infrastructure required to support development. This includes education provision.
- 4.4.14 Officers at North Hertfordshire and Hertfordshire County Council agree that given the location of the site and proximity to schools in Henlow, and to reflect the Local Transport Plan LTP4, it is appropriate that education contributions from the LS1 development go towards improving capacity of schools in Central Bedfordshire. This approach is agreed with Central Bedfordshire in principle and it is expected that the Section 106 Agreement will secure this essential infrastructure.
- 4.4.15 Air Quality
- 4.4.16 Local authorities in the UK have a responsibility under Local Air Quality Management (LAQM) legislation to review air quality. Where concentrations exceed national objectives an Air Quality Management Area (AQMA) is required and measures should be put in place to reduce emissions, and be reported in the local Air Quality Action Plan (AQAP).
- 4.4.17 The main source of air pollution in North Hertfordshire is from traffic. Objectives set out in the Air Quality Regulations 2010 identify a level of pollutants for which there would be no, or low risk to health. North Hertfordshire District Council monitors against these objectives and if exceeded, more detailed monitoring action would be required, which may highlight the need to take locally targeted action to improve the air quality. Air quality reports are published regularly on the Council website.
- 4.4.18 There are currently two Air Quality Management Areas within North Hertfordshire. These are both within Hitchin at Paynes Park and Stevenage Road. There are no AQMAs along the A600 towards Hitchin although the Council monitors air quality at a number of sites across the district in order to satisfy its responsibilities to keep this issue under review.
- 4.4.19 Measures to reduce air pollution relating to traffic include the following:
- Encouraging a move away from internal combustion engine vehicles to ultra low emission vehicles (ULEV) which will reduce particulate emissions from exhausts;
 - Measures to reduce road travel altogether will reduce emissions from other vehicular emissions and pollutants.

4.4.20 In the case of the LS1 site the Council's Environmental Health officer considers that there are several methods of addressing air quality arising from this development and these are secured by conditions recommended in the report. These are centred around encouraging the use of Ultra Low Emission Vehicles through the provision of electric vehicle charging infrastructure and a encouraging sustainable travel patterns reducing the use of the private car. Conditions 14, 15 and 17 address these issues. In addition condition 18 relating to construction traffic management will need to include measures to minimise emissions from construction vehicles.

4.4.21 Highway matters

4.4.22 Concern has been raised at transport related aspects of the proposed LS1 development particularly at the proposed T- junction and the cumulative impact of the development when taken with approved and planned development.

4.4.23 In terms of the proposed T – junction access arrangements, the layout of the proposed junction has been designed in conjunction with Hertfordshire Highways and as part of this process a Road Safety Audit has been undertaken which has demonstrated that the junction can operate safely. On this basis, the junction arrangements are considered to be acceptable. The detail of the junction works will need to be secured by a s278 Highways Act Agreement in association with Central Bedfordshire County Council. It is relevant to mention that traffic speeds will reduce past the junction following an approved reduction in maximum speed for this stretch of the A600 to 30mph from the current 40mph.

4.4.24 In terms of the cumulative impact the Highway Authority have acknowledged that the submitted Transport Assessment (TA) has taken into account other committed development in the area. These include the 85 dwellings currently under construction at Brunswick Gate opposite the site and the 78 dwellings being constructed at Pirton.

4.4.25 The Highway Authority do not object to the development subject to the satisfactory completion of the S106 Agreement and the S278 Highway Agreement. Overall they consider that the traffic impact of this development will not be severe – see paragraph 109 of NPPF:

'Development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe'

5.0 Procedural matters and risk of costs

5.1 As part of the appeal process the appellants will be commencing their preparations to support their case at a Public Inquiry and this will involve engaging Counsel and specialist witnesses in preparing expert evidence to cover the various matters likely to be examined by the Appeal Inspector. Likewise, the LPA will also have to engage Counsel and witnesses to defend the appeal. In addition there will be a number of 'Rule 6' parties (other main parties to the Inquiry e.g. Parish Councils, Neighbourhood Groups)

5.2 Given the above, officers consider it important at this stage that the Local Planning Authority considers what its decision would have been if it had determined planning application 18/01622/FP and to convey that decision asap to the Planning Inspectorate. To delay this consideration will potentially result in unnecessary or wasted costs being incurred by all parties. Furthermore, the Planning Practice Guidance (PPG) advises that local authorities are required to behave reasonably in relation to procedural matters at appeal e.g. by complying with the requirements and deadlines of the process. The PPG states that examples of unreasonable behaviour which may result in an award of costs include:

- Delay in providing information or other failure to adhere to deadlines;
- Failing to provide relevant information within statutory time limits;
- Not agreeing a statement of common ground in a timely manner

6.0 Conclusion

6.1 Application ref: 18/01622/FP was registered valid on 20th July 2018 following a previous application refused in March 2018. In the past 12 months extensive negotiations have been undertaken to resolve objections from statutory consultees and negotiate an acceptable Section 106 Agreement. The submission of the appeal against non-determination is regrettable however delaying consideration of this application to await the publication of the ELP Inspectors report is not reasonable given the unknown timescale for the delivery of that report, the lack of any objections from statutory consultees on technical matters and the overall benefits of the scheme outweighing any identified harm in the planning balance. Furthermore, negotiations on the Section 106 are at a very advanced stage so as not to prevent a decision being taken subject to a satisfactory conclusion of the agreement.

7.0 Alternative Options

7.1 None applicable

8.0 Legal Implications

8.1 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.

9.0 Recommendation

9.1 That the Planning Control Committee resolve the following in relation to the submitted appeal against non-determination of application ref: 18/01622/FP:

- 9.2 **A) That North Hertfordshire District Council advise the Planning Inspectorate that had it determined planning application ref: 18/01622/FP it would have resolved to grant planning permission subject to the completion of a satisfactory legal agreement and the planning conditions and informatives as set out in the Committee report to the NHDC Planning Control Committee, 30th May 2019 (Agenda item 11)**
- 9.3 **B) That North Hertfordshire District Council advise the Planning Inspectorate that it does not wish to contest the appeal against non-determination of planning application ref: 18/01622/FP (Appeal ref: APP/X1925/W/3232512) subject to the Council's participation in the completion of a satisfactory legal agreement and appropriate conditions and informatives.**
- 10.0 **Appendices**
- 10.1 Appendix A – Copy of Committee report to North Hertfordshire District Council Planning Control Committee, 30th May 2019.
- 10.2 Appendix B – Approach to dwelling estimates in the emerging Local Plan