

Location: Tally Ho, London Road, Barkway, Royston, SG8 8EX

Applicant: Harvey Developments Cheshunt Ltd

Proposal: Two 3-bedroom semi detached dwellings with associated parking and access off High Street (as amended by plans received on 07/02/2017)

Ref. No: 16/03082/ 1

Officer: Melissa Tyler

Date of expiry of statutory period: 01 February 2017

Reason for delay

Application was deferred by the May committee meeting to reconsult with Anglian Water and Environmental Health. Statutory period of the application agreed by applicant to 4 August 2017.

Reason for Referral to Committee

Councillor call-in in the public interest following objections raised by the Parish Council.

1.0 Relevant History

- 1.1 **15/01724/1** Outline application for one detached four bed dwelling (appearance and landscaping reserved) **CONDITIONAL OUTLINE PERMISSION GRANTED 27/08/2015**
- 1.2 **17/00264/1** Reserved matters application for approval of appearance and landscaping for outline application 15/01724/1 granted 27/08/2015 for one 4 bed house. **GRANTED AT MAY COMMITTEE**

2.0 Policies

2.1 North Hertfordshire District Local Plan No.2 with Alterations

Policy 6 - Rural Areas beyond the Green Belt
Policy 26 - Housing Proposals
Policy 55 - Car Parking Standards
Policy 57 - Residential Guidelines and Standards

2.2 National Planning Policy Framework:

Paragraph 14 - Presumption in Favour of Sustainable Development
Paragraph 17 - Core Planning Principles
Section 6 - Delivering a wide choice of high quality homes
Section 7 - Requiring good design

- 2.3 **Supplementary Planning Guidance:**
Vehicle Parking Provision at New Development (revised November 2011)

Design SPD

2.4 **North Hertfordshire Draft Local Plan 2011-2031**

SP8 Housing
SP9 - Design and sustainability
CGB1 Rural Areas Beyond the Greenbelt
T2 Parking
D1 Sustainable Design
D3 Protecting Living Conditions

3.0 Representations

- 3.1 **Environmental Health** – No objection
3.2 **Anglian Water** – No comment - Under 10 Dwellings
3.3 **Thames Water** – No comment

4.0 Planning Considerations

4.1 **Site & Surroundings**

- 4.1.1 The application site is located on the southern edge of the village of Barkway on the road south before the Nuthampstead turn and was previously the Tally Ho's beer garden. The site is on the edge of the conservation area.
4.1.2 This site was sold after the outline application was approved and is not in ownership of the Tally-Ho pub.

4.2 **Proposal**

- 4.2.1 This application seeks permission to develop the former beer garden of the Tally Ho Public House for two three bed semi-detached dwellings.
4.2.2 The new semi-detached dwellings have a footprint of 12 m x 9 m and an approximate ridge height of 8.5 m has been shown on the amended plans.
4.2.3 A shared access is proposed on the western boundary adjacent the pub car park. Four car parking spaces have been marked out in front of each of the dwellings.
4.2.4 The dwellings are located 7 metres from the highway and orientated east to west with the front elevation mirroring the Tally Ho. The dwellings are set 30 metres from the southern elevation of the Tally-Ho pub with the pub car park in between the pub and the proposed dwellings. The dwellings have rear garden areas of over 100 square metres.

4.3 Key Issues

4.3.1 I have appended the **previous report for this application as appendix 1**, which was presented to the meeting of the Planning Control Committee held on 25 May 2017. Following the request to seek further consultation with statutory consultees the key issues in the consideration of this application, in the light of the above policies, are dealt with under the following headings:

- Permitted Development rights - Agricultural
- Sewerage Treatment Works
- Environmental Health - Noise and smell of nearby chicken farm

Permitted Development - Agricultural

4.3.2 Concerns were raised by the Parish Council and Cllr Morris at the Committee meeting in regards to permitted Development rights in relation to the proximity of the Poultry Farm to the application site.

4.3.3 I would like to clear up the confusion in regards to agricultural permitted development rights. As stated in Part 6 – *Agricultural and forestry* of the Town and Country Planning (General Permitted Development) (England) Order 2015, *Class B – agricultural development on units of less than 5 hectares* states that development is **NOT** permitted if

“it would consist of, or involve, the carrying out of any works to a building or structure used to be used for the accommodation of livestock or the storage of slurry or sewage sludge where the building or structure is within 400 metres of the curtilage of a protected building.”

4.3.4 (A Protected building has been defined within the Order (page 67) meaning “*any permanent building which is normally occupied by people or would be so occupied, if it were in use for purposes for which it is designed; but not include*

a) a building within agricultural unit, or

b) a dwelling or other building on another agricultural unit which is used for or in connection with agriculture.”)

4.3.5 Therefore the Permitted Development Order **does not** state that a dwellinghouse is not deemed acceptable within 400 metres of an existing livestock agricultural use but that planning permission would be required if any development involving livestock within 400 metres of a dwellinghouse were proposed. The purpose of this regulation is to ensure that normal agricultural permitted rights to apply for the construction of new farm buildings for the purposes of housing livestock, slurry or sewage, if they are to be sited within 400m of a dwelling(s). This means that in all such cases planning permission will be required from the local planning authority. The fact that planning permission is required does not mean there is an embargo against such development, it merely means that planning permission is necessary. For the purposes of this planning application which is for new residential development within 400m of an existing poultry unit the regulation itself has no relevance.

Sewerage Treatment Works – Cordon Sanitaire

4.3.6 The Sewerage Treatment Works is located to the east of the application site approximately 300 metres from the site. I re-consulted Anglian Water and Thames Water requesting whether comment could be made following the concerns raised

by Cllr Morris at the May Committee meeting and the response was that because the development was under 10 dwellings no comment would be made.

- 4.3.7 Due to the proximity of the sewerage treatment works to existing dwellings which are closer to the Works (less than 100 metres) than the proposed dwellings it is my opinion that this would not be a substantial reason for refusal.

Environmental Health

- 4.3.8 Following the May Committee, Environmental Health were re-consulted in regards to the potential issues of the existing poultry Farm could have on the residential development.
- 4.3.9 The Poultry farm is approximately 200 metres from the application site. There are a number of existing dwellings within a 200 metre radius of the farm, namely those within Townsend Close and a number along Ash Mill and London Road some as close as 50 metres.
- 4.3.10 The Environmental Health Officer considers that ***“odour will not adversely affect the future residents. With regard to noise, the Poultry Farm is approximately 200 metres from the proposed development, with several residential properties closer to the Farm. Given the distance involved and the absence of noise complaints from existing residents, I do not consider that noise from the Farm will adversely affect the future residents at the proposed Tally Ho development”***

4.4 Conclusion

- 4.4.1 Following the decision of deferral by Members, no objections were received from the statutory consultees therefore as concluded in the original committee report the proposed scheme is acceptable in principle, would not have any adverse impact on the streetscene, neighbouring properties, parking and highways. The proposal is outside a settlement but in a location where it would not conflict with the aims of the current Local Plan or the NPPF, which seeks to protect the countryside outside of identified settlements from speculative and harmful development. The development in my view would not assert such significant harm to the rural area to justify or sustain a reason for refusal. I have therefore framed a favourable recommendation accordingly.

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 planning permission be **GRANTED** subject to the following conditions:
1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out wholly in accordance with the details specified in the application and supporting approved documents and plans listed above.

Reason: To ensure the development is carried out in accordance with details which form the basis of this grant of permission.

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended no development as set out in Class (es) A-F of Part 1 of Schedule 2 to the Order, (or any subsequent Statutory Instrument which revokes, amends and/or replaces those provisions) shall be carried out without first obtaining a specific planning permission from the Local Planning Authority.

Reason: Given the nature of this development, the Local Planning Authority considers that development which would normally be "permitted development" should be retained within planning control in the interests of the character and amenities of the area.

4. The development hereby permitted shall not be brought into use until the proposed access has been constructed and the verge has been reinstated to the current specification of Hertfordshire County Council and to the local Planning Authority's satisfaction.

Reason: In the interests of highway safety and amenity.

5. The gradient of the access shall not be steeper than 1 in 20 for at least the first 5 metres from the edge of the carriageway.

Reason: To ensure a vehicle is approximately level before being driven of and on to the highway.

6. The access shall be not more than 4.5 metres wide.

Reason: So that vehicles may enter and leave the site with the minimum of interference to the free flow and safety of other traffic on the highway and for the convenience and safety of pedestrians and disabled people.

7. The access shall be constructed in a hard surfacing material for the first 5.0 metres from the back edge of the footway.

Reason: To prevent loose material from passing onto the public highway which may be detrimental to highway safety.

8. The turning area as shown on the approved drawing shall be provided, marked out and adequately surfaced and ready for use and shall be retained in that form and kept available for the purposes of the development and maintained thereafter.

Reason: To ensure the development makes adequate provision for the manoeuvring of vehicles likely to be associated with its use.

9. Prior to occupation, the residential property shall incorporate an Electric Vehicle (EV) ready domestic charging point.

Reason: To contribute to the objective of providing a sustainable transport network and to provide the necessary infrastructure to help off-set the adverse impact of the operational phase of the development on local air quality.

10. Notwithstanding the approved plans, a detailed landscape scheme shall be submitted and approved in writing by the Local Planning Authority before development commences and the approved details shall be implemented on site. The landscape scheme shall include the following :

- a) which, if any, of the existing vegetation is to be removed and which is to be retained

- b) what new trees, shrubs, hedges and grassed areas are to be planted, together with the species proposed and the size and density of planting

- c) the location and type of any new walls, fences or other means of enclosure, and any hardscaping proposed

- d) details of any earthworks proposed

Reason: To ensure the submitted details are sufficiently comprehensive to enable proper consideration to be given to the appearance of the completed development.

11. The approved details of landscaping shall be carried out before the end of the first planting season following either the first occupation of any of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which, within a period of 5 years from the completion of the development, die, are removed or become seriously damaged or diseased, shall be replaced during the next planting season with others of similar size and species, unless the Local Planning Authority agrees in writing to vary or dispense with this requirement.

Reason: To safeguard and enhance the appearance of the completed development and the visual amenity of the locality.

12. Before the commencement of any other works on the site, trees and hedgerows to be retained shall be protected by the erection of temporary chestnut paling or chain link fencing of a minimum height of 1.2 metres on a scaffolding framework, located at the appropriate minimum distance from the tree trunks or hedgerows in accordance with Section 4.6 of BS5837:2012 'Trees in relation to design, demolition and construction - Recommendations, unless in any particular case the Local Planning Authority agrees to dispense with this requirement. The fencing shall be maintained intact for the duration of all engineering and building works. No building materials shall be stacked or mixed within 10 metres of the trees or hedgerows. No fires shall be lit where flames could extend to within 5 metres of the foliage, and no notices shall be attached to trees.

Reason: To prevent damage to or destruction of trees to be retained on the site in the interests of the appearance of the completed development and the visual amenity of the locality.

Proactive Statement

Planning permission has been granted for this proposal. Discussion with the applicant to seek an acceptable solution was not necessary in this instance. The Council has therefore acted proactively in line with the requirements of the Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

HIGHWAY INFORMATIVE:

HCC recommends inclusion of the following highway informative to ensure that any works within the public highway are carried out in accordance with the provisions of the Highway Act 1980:

Construction standards for works within the highway:

The applicant is advised that in order to comply with this permission it will be necessary for the developer of the site to enter into an agreement with Hertfordshire County Council as Highway Authority to ensure the satisfactory completion of the access and associated road improvements.

The construction of such works must be undertaken to the satisfaction and specification of the Highway Authority, and by a contractor who is authorised to work in the public highway. Before works commence the applicant will need to apply to the Highway Authority to obtain their permission and requirements. Further information is available via the website <https://www.hertfordshire.gov.uk/services/transtreets/highways/> or by telephoning 0300 1234047.

Reason: To ensure that work undertaken on the highway is constructed to the current Highway Authority's specification, to an appropriate standard and by a contractor who is authorised to work in the Public Highway.

Informative

EV Charging Point Specification:

Each charging point shall be installed by an appropriately certified electrician/electrical contractor in accordance with the following specification. The necessary certification of electrical installation should be submitted as evidence of appropriate installation to meet the requirements of Part P of the most current Building Regulations.

Cable and circuitry ratings should be of adequate size to ensure a minimum continuous current demand for the vehicle of 16A and a maximum demand of 32A (which is recommended for Eco developments)

- A separate dedicated circuit protected by an RBCO should be

provided from the main distribution board, to a suitably enclosed termination point within a garage or an accessible enclosed termination point for future connection to an external charge point.

- The electrical circuit shall comply with the Electrical requirements of BS7671: 2008 as well as conform to the IET code of practice on Electric Vehicle Charging Equipment installation 2012 ISBN 978-1-84919-515-7 (PDF).
- If installed in a garage all conductive surfaces should be protected by supplementary protective equipotential bonding. For vehicle connecting points installed such that the vehicle can only be charged within the building, e.g. in a garage with a (non-extended) tethered lead, the PME earth may be used. For external installations the risk assessment outlined in the IET code of practice must be adopted, and may require additional earth stake or mat for the EV charging circuit. This should be installed as part of the EV ready installation to avoid significant on cost later.

Informative:

Where a development is proposed, it is the developer who is responsible for ensuring that the development is safe and suitable for use for the purpose for which it is intended. Therefore, if during development of the site any ground contamination is encountered it shall be brought to the attention of the Local Planning Authority as soon as practically possible so that a scheme to render the contamination harmless can be agreed.

Informative - Ecology

The removal of trees & shrubs should be avoided during the **bird** breeding season (March to September inclusive.) If this is not possible then a search of the area should be made by a suitably experienced Ecologist and if active nests are found, then clearance must be delayed until the last chick has fledged.

Existing trees (including the roots and overhanging branches) that are remaining on (or adjacent to the) site should be protected from damage. Protection barriers and/or a no-dig policy may be required and advice should be sought from an Arboriculturist.

Soft landscaping - new trees and shrubs should be predominantly native species, particularly those that bear blossom, fruit (berries) and nectar to support local wildlife; and night flowering plants to attract insects and increase foraging opportunities for bats. The planting of ash (*Fraxinus excelsior*) should be avoided due to the serious Ash dieback disease that is killing ash across Europe, and thus the subsequent ban on the movement of ash planting stock. Where non-native species are used they should be beneficial to biodiversity, providing a food source or habitat for wildlife.