

**6 DCNC2004/2192/F - CONSTRUCTION OF 8 NO. HOUSES AT THE OLD FOLD YARD, CHURCH LANE, UPPER SAPEY, WORCESTER WR6 6XR****For: Elgar Housing Association per Fellows Burt Dalton Assocs Ltd, The Old Telephone Exchange, Gipsy Lane, Balsall Common, Coventry, CV7 7FW.**

Date Received: 23rd June 2004 Ward: Bringsty

Grid Ref: 68429, 63627

Expiry Date: 18th August 2004

Local Member: Councillor T.W. Hunt

***Updated report*****1. Site Description and Proposal**

- 1.1 The application site lies towards the north end of Church Lane in Upper Sapey. It is currently occupied by a number of relatively modern farm buildings situated around the concrete yard. The site has a frontage to the road of approximately 45m and a depth of approximately 40m. To the east of the site the land falls steeply to a stream, similarly just to the south is the same feature.
- 1.2 The proposal is for the erection of 4 pairs of semi-detached dwellings, comprising 4 three-bed and 4 two-bed affordable dwellings with 4 dwellings for rent and 4 for shared ownership.
- 1.3 Access to the site is via Church Lane from a new centrally located single access point. An informal play area is proposed to the south of the access and an area for communal drainage and heating equipment is proposed in the north-east corner of the site. The proposal will, of course, involve the demolition and removal of all the buildings on the site.
- 1.4 Church Lane rises from south to north, as the site is relatively level this means that the level of the site is above the road at its southern end but this tapers out to the north end of the site where it is only slightly above the road levels. The northern boundary of the site is lined with tall Leylandii trees. Just beyond the eastern boundary lie trees associated with the top of the bank of the stream.

**2. Policies****2.1 Malvern Hills District Local Plan**

Housing Policy 4 – Development in the countryside

Housing Policy 11 – Affordable housing for local people in rural areas

Landscape Policy 1 – Development outside settlement boundaries

**2.2 Herefordshire Unitary Development Plan (Revised Deposit Draft)**

H10 – Rural exception housing

- 2.3 Supplementary Planning Guidance – Provision of affordable housing
- 2.4 Planning Policy Guidance Note 3 - Housing

### 3. Planning History

NC2001/2455/F - Construction of 8 houses and 2 bungalows on The Fold Yard. Refused 12.12.2001 for the following reason:

*"It is considered that the proposal is contrary to Housing Policy 4 of the adopted Malvern Hills District Local Plan in that it proposes residential development outside of the identified settlement boundary. There is insufficient evidence of local need to suggest that the proposal complies, as an exception to that policy, through the application of Housing Policy 11. Furthermore, an element of cross subsidy is proposed contrary to that policy and to the advice contained within Planning Policy Guidance Note 3: Housing, and the Council's Supplementary Planning Guidance: 'Affordable Housing'."*

### 4. Consultation Summary

#### Statutory Consultations

- 4.1 Environment Agency: No objection subject to the provision of foul drainage works.

#### Internal Council Advice

- 4.2 Head of Engineering and Transport:: Recommends that any permission be subject to conditions.
- 4.3 The Forward Planning Section advise:

#### **"Malvern Hills District Local Plan**

The proposed housing site lies outside of the Upper Sapey settlement boundary as defined by the current adopted Malvern Hills District Local Plan. New residential development is not permitted outside of settlement boundaries unless listed as an exception to Housing Policy 4. Affordable housing is one such exception provided that the proposal also satisfies Housing Policy 11. In terms of housing need, the Council's Housing Needs Study from August 2003 indicates that there is a local need. The restrictions outlined in criteria (b) must be enforced if planning permission were to be granted and the proposed dwelling must be of a size that remains affordable in perpetuity.

#### **Unitary Development Plan – Revised Draft**

Upper Sapey is not included as one of the 46 main villages or 38 smaller settlements, where new residential development outside of Hereford and the market towns is to be concentrated. Exception housing is permitted within or adjoining rural settlements provided it satisfies Policy H10. However, proposals must be limited to one dwelling.

#### **Summary**

The proposal for 8 affordable dwellings adjacent to the settlement boundary of Upper Sapey, where there is a local housing need, satisfies the policies of the Malvern Hills District Local Plan. If permission is granted arrangements must be made to ensure that the proposed dwellings remain affordable in perpetuity. It should be noted that the

UDP Revised Deposit does not permit such developments. However, the weight afforded to this policy at this time is limited and so therefore the proposal should be judged against the Malvern Hills District Local Plan.”

#### 4.4 Strategic Housing Services comment:

“Strategic Housing Services fully supports the proposed development by Elgar Housing Association for the provision of affordable housing to provide a mix of rented and shared ownership homes in Upper Sapey to meet an identified housing need. Whilst the site has been identified in Upper Sapey, this forms part of the North Bromyard Group of parishes and therefore any need identified can be applied to the parish. The group consists of five parishes comprising 267 households with Upper Sapey having nearly half of these (128).

As this is an exception site, a local need must be met and a housing need survey was undertaken for the group parish. Whilst the summary of the survey indicated “not a strong” need for affordable housing, a need for 7 affordable homes was identified. To support This HOMEPOINT data does indicate households seeking housing within the area.

To ensure that local needs are met, a S106 legal agreement will be entered into by the Housing Association which would give preference to those in housing need with a connection to firstly Upper Sapey, then cascading to the four remaining parishes within the group, then adjoining parishes and, finally, within Herefordshire.

This will assist young emergent households secure affordable housing in a rural area where house prices range from £160,000 which is well above the average household earnings capability for Herefordshire (i.e. average earnings £19,720 x 3 = £59,160). Without the provision of affordable housing in the parish, not only in Upper Sapey, but also the group parishes, there is a danger of younger households being forced out of the area.

I understand that an amendment is due to be submitted by the Housing Association to address issues following a meeting with the Parish Council. The Parish Council had indicated it felt that no additional housing was required. Interestingly, however, given that a recent application for 8 market houses received no objection from the Parish Council.

The proposed properties will be built to lifetime home standards that will ensure that should the needs of local households change over time, properties can be adapted to meet the changing needs, permitting families to remain in their local communities for support.”

#### ***“Upper Sapey: proposed Fold Yard development Summary of Housing Needs, RL/CW 20/9/04***

In May 2003 Herefordshire Council Research Team, on behalf of the Council’s Directorate of Social Care and Strategic Housing, undertook a housing needs study in the North Bromyard Group of parishes (Edvin Loach & Saltmarshe, Tedstone Delamere, Tedstone Wafer, Upper Sapey and Wolferlow).

A self-completion questionnaire was posted to each of the 267 households in this group of parishes, and 117 were returned, a response rate of 44%. The age profile of respondents was checked against the known profile for the 5 parishes (2001 census); similarly the distribution of council tax bands across all responding households was checked against the known proportions of the different bands within these parishes (council tax records). In both cases, the households who responded had a profile sufficiently similar to the profile across the whole Group Parish for us to be confident of generalising the survey results to apply to the whole population.

The survey asked about likely housing needs over the next 5 years. The results showed 7 households likely to need affordable housing (mainly smaller homes) and 2 affordable units likely to be released by households moving away – a **net** need of 5 units arising from those responding to the survey. Assuming a similar level of need from those households who did not respond, the net need of 5 units can be adjusted to show the need for the group Parish by multiplying the net need of 5 units by the total number of households (267), and dividing by the number who responded (117). This gives an overall likely need of 11 units.

In addition, two RSL properties for rent recently become vacant in Upper Sapey. Demand data for these homes from Homepoint, Herefordshire shows that there were 8 applicants for the 3 bed house and 5 applicants for the 2 bed house, mostly in the gold and silver categories. Applications were invited with a requirement for the successful applicant to be local or to have a local connection.

On the evidence above, Strategic Housing is confident that there is sufficient need to justify the proposed scheme for 8 homes, particularly the mix of rented and shared ownership providing a mix of tenure on the site.

The scheme has grant funding from the Housing Corporation of £461,342. This funding will most likely be lost to Herefordshire if the scheme does not gain approval.”

## 5. Representations

### 5.1 Upper Sapey Parish Council objects to the amended plans:

- 1) The Housing Needs Study 2003 does not show a very strong need for affordable housing.
- 2) The roads around the site are not suitable for the increase in traffic movements, particularly Church Lane.
- 3) Even with a visibility splay, vision is still restricted.
- 4) The road width is restricted with no footpath and villagers are concerned with the road safety - an accident waiting to happen.
- 5) The proposal only provides parking for residents, visitors will have to park elsewhere causing access problems.
- 6) The site is overdeveloped and there is no safe area for playing.
- 7) This proposal is against the wishes of local residents. There is no proven need.
- 8) The design is poor and totally unsuitable.

The comments of the Parish Council received in response to the original layout, which has subsequently been amended. This layout indicated two large blocks of terraced housing. Comment on the amended scheme will be reported verbally at the meeting.

### 5.2 Objections have been received from the following local residents:

Mr. Maddock, Brook House  
Mr. and Mrs. Clarke, 4 Church Close  
D. Roberts, The Old Rectory  
V. Smark, Harvestlea  
Heather Buchanan of Toad Hall Country workshop  
Mr. Wilde, Springfield  
Helen Miles, Church House  
Ian Evans-Fisher, Church Cottage  
Mrs. C. Evans-Fisher, Church Cottage, including 12 other signatories

Mr. and Mrs. Careless, Littlebrook  
Mr. and Mrs. Amphlett, 1 Church Close  
P.T. Rogers and Miss L. Taylor, 2 Church Close

Their objections are summarised as follows:

- 1) The site notice read 'Old Ford Yard' not 'Old Fold Yard'
- 2) The site notice was put up during the holiday period
- 3) The buildings are still in use for agricultural purposes
- 4) There are already significant numbers of council and social houses in Upper Sapey and already plenty to meet local needs
- 5) Out of character with the area's larger properties. Similar development can be found south of Orchard Gardens and any further development should take place here
- 6) No public transport
- 7) Insufficient car parking
- 8) Insufficient local facilities, local school has several full classes
- 9) No public play facilities
- 10) The roads are too narrow, currently 25-30 cars using Church Lane, the proposal will double this number. Unacceptable risk to cyclists to pedestrians
- 11) A risk assessment has been submitted and lodged with Solicitors, in the event of an accident action will be taken against Herefordshire Council and any individual officers or committee members supporting a proposal
- 12) No need for the development according to the 2003 survey
- 13) Overdevelopment of the site
- 14) No spare capacity in the sewage treatment plant
- 15) New sewage treatment works will not be acceptable on the boundary of The Old Rectory
- 16) This proposal is not initiated by the Parish Council and the whole village is opposed to it
- 17) This is a rehash of the previously refused application and fails to comply with UDP Policies H10, H15 and H16
- 18) The design is inappropriate
- 19) Not a suitable location, particularly for children, consequently turn to vandalism
- 20) Creeping urbanisation
- 21) Possibility of contamination due to filling of land
- 22) A dangerous dam is upstream
- 23) Summarising objections trivialises them
- 24) Supporter, Mrs Yelland, is daughter of applicant and should declare interest
- 25) Farm traffic is of less concern than residential traffic
- 26) Contrary to para 17.53.4 of Malvern Hills District Local Plan in tht it would be visually intrusive, be environmentally unacceptable and adversely affect visual quality of the area
- 27) The local plan settlement boundary was drawn particularly to exclude development of the site
- 28) Proposal considered to be departure and referred to Secretary of State
- 29) Premature application pending UDP
- 30) 30) Not a small scale development in line with Housing Policy 11
- 31) Challenge legality of terms of Section 106 agreement
- 32) Letting arrangements do not comply with adopted Local Plan
- 33) 3 houses available for rent in Upper Sapey demonstrating lack of need
- 34) Question reliance of survey of need does not indicate whether people are prepared to move to Upper Sapey

- 5.3 In addition, a letter signed by 8 residents of Upper Sapey expresses concern with the Council in its housing function for supporting this proposal prior to the consultation stage with local residents and that this is therefore a done deal. Local people consider that they had been deliberately misled by officers in terms of the presentation of the Home Point data information.
- 5.4 A letter of support has been received from Jane Yelland of The Wain House on the basis that the view would be much improved and the traffic generated by the development would be preferential to the large farm vehicles.
- 5.5 In support of the application, The Festival Housing Group advise that from the supporting documents (namely the Housing Needs Study for the North Bromyard Group of Parishes August 2003) there is a demonstrable need for affordable housing units within Upper Sapey and the association is keen to assist local people by providing this mixed tenure development. The scheme comprises construction of 4 units for rent and 4 for shared ownership sale as there is a need to give families an opportunity to access home ownership, in addition to providing much needed rented accommodation. Elgar Housing Association has an allocation of Housing Corporation funding to support this scheme. They have recently advised that grant assistance has been sought for inclusion of solar panels.
- 5.6 The full text of these letters and the 2003 survey can be inspected at Northern Planning Services, Blueschool House, Blueschool Street, Hereford, and prior to the Sub-Committee meeting.

## **6. Officers Appraisal**

- 6.1 The application site lies outside of the settlement boundary identified in the Malvern Hills District Local Plan for Upper Sapey. Outside of the settlement boundary development would only be acceptable if meeting one of the number of exceptional needs. In this instance, that need is claimed to be for affordable housing. Housing Policy 11 of that document sets out criteria for consideration for affordable housing.
- 6.2 There has been much debate about the need for this development. One of the conclusions of the Housing Needs Study completed in 2003 was that the survey does not show a very strong need for affordable properties within this group of Parishes, particularly bearing in mind that some Housing Association property will be released by households moving out. Nevertheless, the interpretation of the information available suggests an overall likely need of 11 units. A summary of the survey appears under the comments of the Strategic Housing Section.
- 6.3 The criteria of Housing Policy 11 include reference to cross subsidy, scale, character and density of the development, site conditions and services, access issues, amenity issues, and the control of any subsequent occupation of the dwellings.
- 6.4 There is no cross subsidy element in this particular application, which formed part of the previous reason for refusal for the application submitted in 2001.
- 6.5 An amended layout and design of the dwellings has been submitted, which is a considerable improvement on the previously submitted scheme. It is not considered that the scale or design of the development is inappropriate to the character of the area. Despite claims to the contrary, the proposal is not contrary to Policies H15 or H16 of the Unitary Development Plan. It is not considered that there are any issues

of overlooking of neighbouring properties and in terms of highway safety, the Head of Transportation and Engineering raises no objection.

- 6.6 Policy H10 of the Unitary Development Plan (Revised Deposit Draft) advises that, in locations such as Upper Sapey, in future exceptional housing sites will be restricted to provision of one dwelling only. However, at present the Malvern Hills District Local Plan is the adopted Local Plan and carries more weight than this policy. This is confirmed by the Forward Planning Section.
- 6.7 There remain a number of outstanding matters with the application including site levels, layout of the play area, drainage and heating equipment details. These, however, can be adequately covered by imposition of conditions.
- 6.8 A Section 106 legal Agreement will, of course, be required to ensure compliance with the requirements of Housing Policy 11 of the Malvern Hills District Local Plan, this will include lettings policy and safeguards regarding the shared ownership elements.

## **RECOMMENDATION**

**That the County Secretary and Solicitor be authorised to complete a planning obligation under Section 106 of the Town and Country Planning Act 1990 to ensure compliance with the requirements of the affordable housing policy and any additional matters and terms she considers appropriate**

**Upon completion of the aforementioned planning obligation that the officers named in the Scheme of Delegation to Officers be authorised to issue planning permission subject to the following conditions:**

**1 A01 (Time limit for commencement (full permission))**

**Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990.**

**2 A09 (Amended plans)**

**Reason: To ensure the development is carried out in accordance with the amended plans.**

**3 B01 (Samples of external materials)**

**Reason: To ensure that the materials harmonise with the surroundings.**

**4 F18 (Scheme of foul drainage disposal)**

**Reason: In order to ensure that satisfactory drainage arrangements are provided.**

**5 F25 (Bunding facilities for oils/fuels/chemicals)**

**Reason: To prevent pollution of the water environment.**

**6 F20 (Scheme of surface water drainage)**

**Reason: To prevent the increased risk of flooding by ensuring the provision of a satisfactory means of surface water disposal.**

**7 F48 (Details of slab levels)**

**Reason: In order to define the permission and ensure that the development is of a scale and height appropriate to the site.**

**8 G04 (Landscaping scheme (general))**

**Reason: In order to protect the visual amenities of the area.**

**9 G05 (Implementation of landscaping scheme (general))**

**Reason: In order to protect the visual amenities of the area.**

**10 G31 (Details of play equipment)**

**Reason: To ensure the play area is suitably equipped.**

**11 H03 (Visibility splays) (4.5m x full extent of site frontage and 2.4m x 60m)**

**Reason: In the interests of highway safety.**

**12 H06 (Vehicular access construction)**

**Reason: In the interests of highway safety.**

**13 H14 (Turning and parking: change of use - domestic) (16 cars – min 2 per dwelling)**

**Reason: To minimise the likelihood of indiscriminate parking in the interests of highway safety.**

**14 H21 (Wheel washing)**

**Reason: To ensure that the wheels of vehicles are cleaned before leaving the site in the interests of highway safety.**

**15 H27 (Parking for site operatives)**

**Reason: To prevent indiscriminate parking in the interests of highway safety.**

**Informatives:**

**1 N15 - Reason(s) for the Grant of PP/LBC/CAC**

**2 HN05 - Works within the highway**

**3 HN10 - No drainage to discharge to highway**

Decision: .....

Notes: .....

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**Background Papers**

Internal departmental consultation replies.