

BABERGH DISTRICT COUNCIL

URGENT ACTION - NO SPECIFIC POWERS

ACTION FOR WHICH THE CHIEF PLANNING CONTROL OFFICER HAS DELEGATED POWERS SUBJECT TO CONSULTATION WITH CHAIRMAN under Part 3 of the Council's Constitution – Responsibility for Functions including Scheme of Delegation – Page C-3-21, 1(a) of CPCO's Specific Delegation

SERIAL NO: 506

SUBJECT MATTER:

Application No B/00/01318/RES - Submission of details under outline planning permission B/88/01560/OUT – The siting, design and external appearance of, the means of access to, and the landscaping of the site for a retirement community of 404 dwellings, nursing home and associated facilities: Former HMS Ganges, Shotley Gate, Shotley.

COMMITTEE TO WHICH MATTER RELATES:

Development Committee

REASON FOR ACTION BEING TAKEN OUT OF MEETING:

To ensure that the decision made by the District Council's Development Committee on 20 January 2010 in relation to Application No B/00/01318/RES is lawful and accords with the requirements of the Habitat Regulations/Environmental Impact Assessment Regulations.

BACKGROUND:

The Development Committee refused Application No B/00/01318/RES on the grounds that the siting and layout of the proposed development particularly in relation to existing buildings along the western boundary of the site would result in an unsatisfactory form of development that would not respect the amenities of the locality. In refusing the application consideration was not given to the provisions of a draft planning agreement that the applicant was proposing to complete which, amongst other things, sought to secure the implementation of mitigation measures to protect nature conservation sites of National and European significance. In the absence of these mitigation measures being secured by legal obligation and in accordance with the District Council's Appropriate Assessment the Habitat Regulations directs that planning permission should be refused. Furthermore the draft planning agreement sought to mitigate other environmental impacts arising from the proposed development as identified in the applicant's Environmental Statement. In the absence of these mitigation measures it cannot be concluded that the development would not cause environmental harm. Authority is therefore being sought to take urgent action outside of the meeting to ensure that the District Council's decision is lawful and accords with the requirements of the Habitat Regulations/Environmental Impact Assessment Regulations.

In seeking authority informal consultation has been undertaken with the Chairman of the Development Committee, Cllr R Thake, the proposer of the motion to refuse the application, Cllr C Arthey and Cllr D Rose who seconded the motion. The Chairman has undertaken to inform Cllr P Beer, the Development Committee Vice Chairman.

**FINANCIAL IMPLICATIONS (IF ANY):**

In the absence of a second reason for refusal which records the fact that ecological mitigation measures and other steps to mitigate the impact of the development have not been secured in line with the Habitat Regulations/Environmental Impact Assessment Regulations the District Council's decision would be potentially unlawful leading to the risk of a legal challenge and cost implications.

**ACTION AUTHORISED:**

The inclusion of two additional reasons for refusal which record that in the absence of appropriate mitigation to safeguard ecological and other environmental impacts arising from the development the District Council is not satisfied that the proposal accords with the provisions of the Habitat Regulations/Environmental Impact Assessment Regulations.