

## DEVELOPMENT MANAGEMENT COMMITTEE – 6 JANUARY 2016

<b>Application Number</b>	3/15/2235/VAR
<b>Proposal</b>	Removal of condition 14 (provision of on-site children's play area) of planning permission Ref: 3/10/1147/FN (Demolition of existing light industrial buildings and construction of 182 new residential units) and variation of Section 106 for funding of off-site play provision at Hartham Common.
<b>Location</b>	Land at Marshgate Trading Estate, Marshgate Drive, Hertford, SG13 7AQ.
<b>Applicant</b>	Weston Homes Plc
<b>Parish</b>	Hertford – CP
<b>Ward</b>	Hertford Castle

<b>Date of Registration of Application</b>	4 <sup>th</sup> November 2015
<b>Target Determination Date</b>	3rd February 2016
<b>Reason for Committee Report</b>	Major application
<b>Case Officer</b>	Tim Haggard

### **RECOMMENDATION:**

That planning permission be **GRANTED** subject to a Section 106 agreement and conditions.

The details of the requirements to be secured through the legal agreement and conditions are set out at the end of this report.

### **1.0 Summary**

1.1 Planning permission was granted for the residential development of this site at appeal on 29<sup>th</sup> January 2007, under reference 3/07/0935/FP. This permission was subsequently renewed for a further 3 years on 24<sup>th</sup> July 2013 under reference 3/10/1147/FN following the completion of a Section 106 agreement providing the following obligations:

- A minimum provision of 8% affordable housing
- £126,722 for primary education
- £51,092 for secondary education
- £25,364 for nursery education
- £7,671 for childcare
- £1,415 for youth
- £16,797 for libraries
- £45,000 for transport provision

- £20,000 for controlled parking zone
- £120,990 for outdoor sports facilities
- £8,935 for children and young people
- £300 monitoring fee
- Fire hydrants
- The provision of a car club

- 1.2 The development, which is at an advanced stage of construction, comprises a block of 71 x 1 bed, 101 x 2 bed and 10 x 3 bed flats with landscaping, amenity space and basement parking.
- 1.3 The current proposal seeks permission for the removal of the condition requiring the provision of a children's play area located in a landscaped amenity area at the centre of the development, adjoining the River Lea. This play area provision would be replaced by a further financial contribution to off-site recreation at Hartham Common as an amendment to the Section 106 agreement.
- 1.4 The benefits of the proposal in terms of the provision of additional soft landscaping; the resulting enhanced sustainable drainage measures, and the improved amenity for residents are considered to outweigh any harm that would result from the loss of the on-site play area provision.

## **2.0 Site Description**

- 2.1 The site is shown on the attached OS extract and comprises a triangular area of land amounting to 0.88ha situated between the west side of Marshgate Drive and the south east side of the River Lea and was formerly occupied by a range of industrial units.

## **3.0 Background to Proposals**

- 3.1 The development of this site was originally granted planning permission on appeal in 2007 and that permission was used as the basis for a renewal application in 2010 which is now under construction. However, further consideration has now been given to the layout of the communal amenity space provision on the site having regard to its sustainable drainage capabilities. This has resulted in a review of the location of the proposed play area.
- 3.2 The area originally allocated for the play space within the development has subsequently been found to be too small to meet current standards for adoption by the Council and proximity to dwellings could also result in the use of the play area disturbing nearby residents. Furthermore, the

provision of a fully paved playground facility, as originally approved, would be considered contrary to a need to secure permeable surfaces on the site in accordance with the Councils Strategic Flood Risk Assessment. It is therefore proposed that an alternative financial provision towards play facilities at Hartham Common would meet the need generated by the development, whilst enabling additional soft landscaping on the site, in the interest of sustainable drainage of the development. A simple recreational space, not a formal play area, could nevertheless be achieved under the landscaping submissions.

#### **4.0 Key Policy Issues**

4.1 These relate to the relevant policies in the National Planning Policy Framework (NPPF) and the adopted East Herts Local Plan 2007:

<b>Key Issue</b>	<b>NPPF</b>	<b>Local Plan policy</b>
Delivering sustainable development	Section 1	SD1
Layout and design	Section 7	ENV1, ENV2
Recreational requirements in new residential developments		LRC3
Planning conditions and obligations		IMP1
Surface water drainage		ENV21

Other relevant issues are referred to in the 'Consideration of Relevant Issues' section below.

#### **5.0 Emerging District Plan**

5.1 In relation to the key issues identified above, the policies contained in the emerging District Plan do not differ significantly from those contained in the adopted Local Plan and the NPPF as identified above. Given its stage in preparation, little weight can currently be accorded to the emerging Plan.

#### **6.0 Summary of Consultee Responses**

6.1 The Council's Landscape Officer has no objections to the proposal. The area is too restricted to work satisfactorily as a Local Equipped Area of Play (LEAP) and works best, as proposed in the submitted landscaping plans, as a simple informal space that can still offer play and recreational space including for parents with younger children. The

needs for formal play equipment are therefore best met within off site provision at Hartham Common.

6.2 The Council's Engineer has welcomed the change as the off-site provision of the play space enables a permeable rather than paved area, enhancing Sustainable Drainage characteristics with improved flood water attenuation, pollution reduction and enhanced biodiversity.

6.3 The Environment Agency has no comments on the application.

## **7.0 Town Council Representations**

7.1 Hertford Town Council object to the proposal. They consider that the play equipment is a vital amenity at the site and the condition should not be removed.

## **8.0 Summary of Other Representations**

8.1 The application has been advertised by neighbour consultation and a site notice. One response has been received from an occupier of the development raising the following points of objection:

- Concern that the developer is seeking to “buy out” its commitment to a communal play area.
- If a reduced facility is to be provided it should be located on another part of the site and not a remote provision at Hartham Common.
- There was a purchase expectation that the facility would be provided.
- The quality of the environment will be diminished.
- An equitable alternative investment should be made within the curtilage of the site.

## **9.0 Planning History**

Ref	Proposal	Decision	Date
3/07/0935/FP	Demolition of existing light industrial buildings and construction of 182 residential units with car parking and landscaping	Refused. Subsequently allowed on appeal	January 2007

3/10/1147/FN	Demolition of existing light industrial buildings and construction of 182 residential units with car parking and landscaping (renewal)	Granted	July 2013
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## **10.0 Consideration of Relevant Issues**

- 10.1 It is considered that the omission of the formal children's play area and its replacement with a single open, informal amenity area fronting the River Lea, with landscaping, pathways and seating, would provide a more coherent and integrated landscape design for the site and an improved setting to the development.
- 10.2 This part of the site lies within a dip that slopes steeply downwards, away from the bank of the River Lea, towards a high retaining wall forming part of the built development. The area is likely to suffer from accumulation of surface water run off at times. It is considered that the omission of the play area, and inclusion of the additional permeable green space, will assist surface water drainage. This will enhance the sustainable drainage capability of the site as well as having other benefits for biodiversity and water quality.
- 10.3 As advised by the Open Spaces Manager, the site is not suitable for a formal play area and would not meet current standards for adoption, having the potential to cause undue disturbance to neighbours. Given the proximity of the development to the existing Hartham Common children's play facilities, it is considered that this provides the most appropriate location to make provision within the locality. Furthermore, the provision of a financial Section 106 obligation towards the improvement of facilities at Hartham Common will benefit the community provision as a whole.

## **11.0 Conclusion**

- 11.1 Having regard to the above factors, the revised proposal is considered to be acceptable and the application is recommended for approval, subject to a variation of the Section 106 Agreement and conditions as set out below:

## **Legal Agreement**

- £8,935 for improvements to existing children's play facilities at Hartham Common.

## **Conditions:**

1. Approved plans (2E10)
2. Prior to the full occupation of the development hereby permitted, the details of a soil survey of the site to assess contamination of the site, and to determine its water pollution potential risk shall be submitted to and approved in writing by the Local Planning Authority. The scheme as approved shall be implemented and completed before any dwelling hereby permitted is first occupied and a report certifying this has been submitted to the Local Planning Authority.

Reason: To minimise and prevent pollution of the land and the water environment and in accordance with PPS23 – Planning and Pollution Control.

3. Prior to the full occupation of the development, surface water drainage works shall have been carried out in accordance with the submitted measures as approved in writing by the Local Planning Authority in letter dated 18<sup>th</sup> December 2015. Management and maintenance shall thereafter be provided in accordance with submitted details.

Reason: To protect the quality of groundwater and surface water and in accordance with Policy ENV20 of the East Herts Local Plan Second Review April 2007.

4. The development shall comply with details of finished floor levels, and the means of protecting units numbered D.01 and D.02 from the ingress of flood water, as approved in writing by the Local Planning Authority by letter dated 2<sup>nd</sup> April 2014. The development shall be constructed in accordance with all of these details, as approved.

Reason: To reduce the risk of flooding to the proposed development and in accordance with the NPPF.

5. The basement car parking access ramp shall comply with the details as approved by the Local Planning Authority in letter dated 15<sup>th</sup> September 2014. The scheme shall be constructed in compliance with the approved plans, with the top of the access ramp set at a height of 38.78

metres AOD.

Reason: To reduce the risk of flooding to the proposed development and in accordance with the NPPF.

6. The development permitted shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) and the following mitigation measures detailed within the FRA:
  - i. Provision of compensatory flood storage on the site to a 1 in 100 year plus climate change standard.
  - ii. Identification and provision of safe routes into and out of the site to an appropriate safe haven.

Reason: To reduce the risk of flooding to the proposed development and to prevent flooding elsewhere by ensuring that compensatory storage of flood water is provided, and in accordance with the NPPF.

7. Prior to completion of above ground works, full details of both hard and soft landscaping works (the 'landscaping' of the site as defined in Article 1 of the Town and Country Planning (General Development Procedure) Order 1995 notwithstanding the reference therein to outline planning permission) shall have been submitted to and approved in writing by the Local Planning Authority. These shall include, in addition:
  - i. details of all materials to be used for hard surfaced areas within the site including roads, driveways, pedestrian routes and car parking areas, including those beneath the proposed flats;
  - ii. the location and design of any barriers required to be erected at access points from the site onto the River Lee towpath for public safety reasons; and
  - iii. a buffer zone 8 metres wide for wildlife alongside the River Lee for the full extent of the site, in accordance with application drawing 3005-27-AP.

Reason: To ensure the provision of amenity afforded by appropriate landscape design and in the interest of wildlife habitats, in accordance with policy ENV2, ENV17 and ENV18 of the East Herts Local Plan Second Review April 2007.

8. The approved landscaping shall be carried out and managed in accordance with the approved landscape management plan as discharged by letter dated 2<sup>nd</sup> October 2015.

Reason: To ensure the provision of amenity afforded by appropriate landscape design and in accordance with policy ENV2 of the East Herts Local Plan Second Review April 2007.

9. Landscape works implementation (4P13)
10. The areas shown for soft landscaping within the approved landscaping scheme, including the 8 metre wide wildlife buffer zone, shall not incorporate any built development including hardstandings, fences or formal/ornamental gardens.

Reason: In the interests of wildlife habitats, in accordance with policy ENV17 and ENV18 of the East Herts Local Plan Second Review April 2007.

11. The southern boundary wall and fence, as approved by letter dated 6<sup>th</sup> November 2014, shall be erected and thereafter retained in its entirety unless the Local Planning Authority agrees otherwise.

Reason: To safeguard the privacy of occupiers of adjoining properties, in accordance with policy ENV1 of the East Herts Local Plan Second Review April 2007.

12. External lighting shall comply with details as approved in writing by letter dated 15<sup>th</sup> September 2014 of the Local Planning Authority.

Reason: In the interests of the appearance of the development, and in accordance with policy ENV1 of the East Herts Local Plan Second Review April 2007.

13. The basement car park shall not be brought into use until a scheme of lighting and CCTV surveillance has been introduced in accordance with details as approved in writing by letter dated 18<sup>th</sup> December 2015 of the Local Planning Authority.

Reason: In the interest of safety and in accordance with Policy ENV3 of the East Herts Local Plan Second Review April 2007.

14. Vehicle and cycle parking layout for the basement site shall be provided in accordance with details as approved by letter dated 6<sup>th</sup> November 2014 and thereafter kept available at all times for vehicles and cycle parking in connection with the development hereby permitted.



Reason: To encourage the use of cycles as means of transport, in accordance with policies TR13 and TR14 and in the interests of highway safety, and in accordance with policies TR2 and TR7 of the East Herts Local Plan Second Review April 2007.

15. No dwelling shall be occupied until visibility splays have been provided at the junction of the car park access road with the public highway as shown in drawing 3005-22-P. The minimum dimensions to provide the required splays lines shall be 2.4 metres measured along the centre line of the proposed access road from their junction with the channel of Marshgate Drive and 43 metres from the centre line of the proposed access road along the line of the channel of the public highway. The vision splays required shall be provided and defined on the site by or on behalf of the developers and be kept free of any obstruction above 600mm in height.

Reason: To provide visibility for drivers of vehicles entering and leaving the site.

16. 2 metre wide footways (i) along the Marshgate Drive frontage of the site and (ii) through the centre and around the north end of the site, linking Marshgate Drive with the towpath alongside the River Lee Navigation, shall be provided prior to the occupation of 90% of the approved development. These pathways shall be retained and maintained open, safe and unobstructed for general public use.

Reason: To provide adequate routes for pedestrian movement through the site.

17. Before the new vehicular accesses shown on drawing 3005-22-AP are first brought into use, any existing access to Marshgate Drive from the site, which is not incorporated into those new accesses, shall be permanently closed in a manner to be first agreed with the Local Planning Authority in writing.

Reason: In the interests of highway safety and amenity.

18. The external materials of construction for the buildings hereby permitted shall accord with those approved by letter dated 5<sup>th</sup> February 2014 from the Local Planning Authority.

Reason: In the interests of the appearance of the development, and in accordance with policy ENV1 of the East Herts Local Plan Second Review April 2007.

19. The balcony to flat A.3.2 shall not at any time be extended over block D unless with the prior permission, in writing, of the Local Planning Authority.

Reason: To safeguard the privacy of occupiers of adjoining properties, in accordance with policy ENV1 of the East Herts Local Plan Second Review April 2007.

20. The enclosure of the recycling compound at the southern end of block C shall accord with details as approved in writing by the Local Planning Authority by letter dated 6<sup>th</sup> November 2014 and the compound shall be constructed in accordance with those details before any flat in Block C is first occupied.

Reason: In the interests of amenity in accordance with policy ENV1 of the East Herts Local Plan Second Review April 2007.

21. Notwithstanding the details shown in 3005-42-AE, a revised elevation 6 shall be submitted to and approved in writing by the Local Planning Authority to omit the balcony shown for flat B.2.6 and to show substitute fenestration.

Reason: In the interests of amenity, in accordance with policy ENV1 of the East Herts Local Plan Second Review April 2007.

Plans: 3005-01-LOC, 3005-03-SUR, 3005-08-COMP, 3005-06-COMP, 3005-04-FG, 3005-07-COMP, 3005-05-COMP, 3005-10-BP, 3005-30-KEY, 3005-09-3D, 3005-02-PH, 3005-20-SP, 3005-21-AP, 3005-22-AP, 3005-23-AP, 3005-24-AP, 3005-25-AP, 3005-26-AP, 3005-27-AP, 2936\L\01F, 3005-40-AE, 3005-41-AE, 3005-42-AE, 3005-43-AE, 3005-44-AE

Directives:

1. Other Legislation (01OL)
2. Footpath crossing (05FC)
3. Street Naming and Numbering (19SN)

Summary of reasons for decision

East Herts Council has considered the applicant's proposal in a positive and proactive manner with regard to the policies of the Development Plan (Minerals Local Plan, Waste Core Strategy and Development Management Policies DPD 2012 and the 'saved' policies of the East Herts Local Plan Second Review April 2007); the National Planning Policy Framework and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015. The balance of the considerations having regard to those policies, and the permissions granted under references 3/07/0935/FP and 3/10/1147/FN is that permission should be granted.

**KEY DATA**

**Residential Development**

<b>Apartments</b>	<b>Units</b>
1 bed	71
2 bed	101
3 bed	10
Total	182

<b>Parking</b>	<b>Spaces</b>
Proposed	161