

a) 3/09/0593/FP – Alterations to and conversion of Balls Park Mansion & Coach House to provide 27 apartments; Reduce size of area 'B' car park; Provision of underground car parking; Demolition of stable yard garages etc; Erection of new garages & entrance to west wing at Balls Park, Mangrove Road, Hertford, SG13 8AR for City and Country Residential.

b) 3/09/0594/FP – Conversion of Stable Block to provide 7 no. one bed and 5 no. two bed apartments. Rebuild single storey side and rear extensions and two storey front extension at Balls Park, Mangrove Road, Hertford, SG13 8AR for City and Country Residential.

c) 3/09/0595/LB – Conversion of Balls Park Mansion, Coach House and Stable Block to residential use with internal and external alterations, one and two storey extensions to Stable Block, and demolition of existing garage block at Balls Park, Mangrove Road, Hertford, SG13 8AR for City and Country Residential.

---

**Date of Receipt:** 24.06.08

**Type:** a) Full

b) Full

c) Listed Building Consent

**Parish:** HERTFORD

**Ward:** HERTFORD - CASTLE

**Reason for report:** Major applications - accompanied by Listed Building Consent

### **RECOMMENDATION**

a) That in respect of application 3/09/0593/FP, subject to the applicant entering into a legal obligation pursuant to S106 of the Town and Country Planning Act 1990 to cover the following matters:

- To pay £35,000 in respect of affordable housing and/or education and community facilities;
- To link the development to the provisions of the S106 Agreement signed in January 2006 for planning permission 3/02/2271/FP, including repairs to the historic buildings;
- To provide fire hydrants.

**a) 3/09/0593/FP b) 3/09/0594/FP c) 3/09/0595/LB**

planning permission be **GRANTED** subject to the following conditions:-

1. Three Year Time Limit (1T12)
2. Programme of archaeological work (2E02)
3. Samples of materials (2E12)
4. Refuse disposal facilities (2E24)
5. Lighting details (2E27)
6. Communal TV facilities (2E28)
7. Carried Out in Accordance (2E92)
8. Landscape design proposals (4P12 b,c,d,e,h,i,j,k)
9. Landscape works implementation (4P13)
10. Details of earthworks/mounding (4P16)
11. Mitigation measures for the protection of bats, their roosts and access points, shall be carried out in accordance with the submitted Bat

Reason: To protect the habitats of bats which are a protected species under the Wildlife and Access to the Countryside Act 1981, and in accordance with policy ENV16 of the East Herts Local Plan Second Review April 2007.

12. Prior to the commencement of development, a drawing of the proposed safety railings at Area B at a scale of not less than 1:20, and detailed specification including details of materials, shall be submitted and approved by the Local Planning Authority.

Reason: To preserve the setting of the listed building and historic park in accordance with policies BH12 and BH16 of the East Herts Local Plan Second Review April 2007.

13. Prior to the first occupation of the development hereby permitted, spaces shall be provided within the application site for the parking of cars as shown on the plans accompanying the application and such spaces shall be retained at all times for use in connection with the development hereby permitted.

**a) 3/09/0593/FP b) 3/09/0594/FP c) 3/09/0595/LB**

Reason: To ensure adequate parking provision for the development, and to preserve the setting of the listed building and historic park in accordance with policies TR7, BH12 and BH16 of the East Herts Local Plan Second Review April 2007.

14. Prior to the commencement of development, details of surface water drainage and surface water source control measures shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To prevent the increased risk of flooding in accordance with policy ENV21 of the East Herts Local Plan Second Review April 2007.

15. Unless otherwise agreed in writing, the development of the site hereby permitted shall be carried out in accordance with the approved details/provisions for waste recycling, approved highways and access arrangements, and phasing of works as agreed pursuant to the relevant conditions for planning permission 3/02/2271/FP.

Reason

The development has been agreed as a variation of the approved planning permission 3/02/2271/FP and is therefore subject to the same approved details.

Directives

1. Other legislation (01OL)
2. Street Naming and Numbering (19SN)
3. Groundwater protection zone (28GP)
4. The developer is made aware that due to the presence of bats, a Natural England License will need to be obtained. Great crested newts may also be present on site and are a protected species under the Wildlife and Countryside Act 1981 and the Conservation (Natural Habitats etc) Regulations 1994. Further information is available from Natural England on 01992 796666.

Summary of Reasons for Decision

The proposal has been considered with regard to the policies of the Development Plan (East of England Plan May 2008, Hertfordshire County Structure Plan, Minerals Local Plan, Waste Local Plan and East Herts Local Plan Second Review April 2007), and in particular policies SD1, GBC1, GBC4, GBC14, HSG3, HSG4,

**a) 3/09/0593/FP b) 3/09/0594/FP c) 3/09/0595/LB**

HSG6, TR7, TR14, EDE2, ENV1, ENV2, ENV16, ENV17, ENV20, ENV21, BH1, BH2, BH3, BH11, BH12, BH16, LRC3, LRC9 and HE10. The balance of the considerations having regard to those policies is that permission should be granted.

b) That in respect of application 3/09/0594/FP, subject to the applicant entering into a legal obligation pursuant to S106 of the Town and Country Planning Act 1990 to cover the following matters:

- To link the development to the provisions of the S106 Agreement signed in January 2006 for planning permission 3/02/2271/FP, including repairs to the historic buildings;
- To provide fire hydrants.

planning permission be **GRANTED** subject to the following conditions:-

1. Three Year Time Limit (1T12)
2. Programme of archaeological work (2E02)
3. Samples of materials (2E12)
4. Refuse disposal facilities (2E24)
5. Lighting details (2E27)
6. Communal TV facilities (2E28)
7. Carried Out in Accordance (2E92)
8. Tree/natural feature protection: fencing (4P07)
9. Landscape design proposals (4P12 b,c,d,e,h,l,j,k)
10. Landscape works implementation (4P13)
11. Prior to the first occupation of the development hereby permitted, spaces shall be provided within the application site for the parking of cars as shown on the plans accompanying the application and such spaces shall be retained at all times for use in connection with the development hereby permitted.

**a) 3/09/0593/FP b) 3/09/0594/FP c) 3/09/0595/LB**

Reason: To ensure adequate parking provision for the development in accordance with policy TR7, and to preserve the setting of the listed building and historic park in accordance with policies BH12 and BH16 of the East Herts Local Plan Second Review April 2007.

12. Prior to the commencement of development, a drawing of the proposed balcony at a scale of not less than 1:20, and detailed specification including materials, shall be submitted and approved by the Local Planning Authority.

Reason: To ensure the historic and architectural character of the building is properly maintained, in accordance with policy BH10 of the East Herts Local Plan Second Review April 2007.

13. Unless otherwise agreed in writing, the development of the site hereby permitted shall be carried out in accordance with the approved details/provisions for waste recycling, approved highways and access arrangements, and phasing of works as agreed pursuant to the relevant conditions for planning permission 3/02/2271/FP.

Reason: The development has been agreed as a variation of the approved planning permission 3/02/2271/FP and is therefore subject to the same approved details.

Directives

1. Other legislation (01OL)
2. Street Naming and Numbering (19SN)
3. Groundwater protection zone (28GP)
4. The developer is made aware that due to the presence of bats, a Natural England License will need to be obtained. Great crested newts may also be present on site and are a protected species under the Wildlife and Countryside Act 1981 and the Conservation (Natural Habitats etc) Regulations 1994. Further information is available from Natural England on 01992 796666.

Summary of Reasons for Decision

The proposal has been considered with regard to the policies of the Development Plan (East of England Plan May 2008, Hertfordshire County Structure Plan, Minerals Local Plan, Waste Local Plan and East Herts Local Plan Second Review April 2007), and in particular policies SD1, GBC1, GBC4, GBC14, HSG3, HSG4, HSG6, TR7, TR14, EDE2, ENV1, ENV2,

**a) 3/09/0593/FP b) 3/09/0594/FP c) 3/09/0595/LB**

ENV16, ENV17, ENV20, ENV21, BH1, BH2, BH3, BH11, BH12, BH16, LRC3, LRC9 and HE10. The balance of the considerations having regard to those policies is that permission should be granted.

c) That in respect of application 3/09/0595/LB, recommend to the Secretary of State that listed building consent be **GRANTED** subject to the following conditions:-

1. Listed Building three year time limit (1T14)
2. Listed building (new windows) (8L03)
3. Listed building (new doors) (8L04)
4. Listed building (new plasterwork) (8L05)
5. Listed building (new brickwork) (8L06)
6. Listed building (new rainwater goods) (8L09)
7. Listed building (making good) (8L10)
8. Prior to the commencement of development, detailed drawings of the proposed internal partitions and their construction, at a scale of not less than 1:50 shall be submitted to, and approved in writing by the Local Planning Authority.

Reason: To ensure the historic and architectural character of the building is properly maintained, in accordance with policy BH10 of the East Herts Local Plan Second Review April 2007.

9. Prior to the commencement of development, details of historic features to be retained any new or replacement fireplace surrounds, staircases, balusters, skirting, architraves and cornices shall be submitted to, and approved in writing by the Local Planning Authority.

Reason: To ensure the historic and architectural character of the building is properly maintained, in accordance with policy BH10 of the East Herts Local Plan Second Review April 2007.

10. Prior the commencement of development, detailed drawings of the proposed kitchens within the 17<sup>th</sup> Century House and later wing shall be submitted to, and approved in writing by the Local Planning Authority.

Reason: To ensure the historic and architectural character of the building is properly maintained, in accordance with policy BH10 of the East Herts Local Plan Second Review April 2007.

11. The chimney pots on the Stable Block shall be retained, or repaired/replaced if necessary, in accordance with details submitted and approved in writing by the Local Planning Authority.

Reason: To ensure the historic and architectural character of the building is properly maintained, in accordance with policy BH10 of the East Herts Local Plan Second Review April 2007.

12. Prior to the commencement of development, details of proposed external extracts and vents shall be submitted to, and approved in writing by the Local Planning Authority.

Reason: To ensure the historic and architectural character of the building is properly maintained, in accordance with policy BH10 of the East Herts Local Plan Second Review April 2007.

#### Summary of Reasons for Decision

The proposal has been considered with regard to the policies of the Development Plan (East of England Plan May 2008, Hertfordshire County Structure Plan, Minerals Local Plan, Waste Local Plan and East Herts Local Plan Second Review April 2007), and in particular policy BH10. The balance of the considerations having regard to those policies is that permission should be granted.

\_\_\_\_\_ (059309FP.HS)

### **1.0 Background**

- 1.1 The application site forms part of the Balls Park Estate extending to some 25.7 hectares with Mangrove Road to the west, London Road to the north, Simon Balle School to the northwest, and agricultural land to the east and south. The Mansion itself is a Grade I Listed country house with a linked Grade II\* Listed Coach House, and the buildings sit amongst Grade II registered Historic Park and Garden. The Stable Block is curtilage listed. The site is shown on the attached OS extract.
- 1.2 The Mansion and surrounding buildings were occupied by the University of Hertfordshire until 2000 when it relocated. The land was sold to developers City and Country in 2002 and permission granted for a re-development of the site in 2006 (see history below). This permission included an office use

**a) 3/09/0593/FP b) 3/09/0594/FP c) 3/09/0595/LB**

of the Mansion, Coach House and stable block, and the construction of 132 new residential units with no affordable housing.

- 1.3 Members may recall that permission was refused in October 2008 for conversion of the Mansion and Coach House into residential units (3/08/1177/FP and 3/08/1180/LB). Current applications 3/09/0593/FP and 3/09/0595/LB therefore form a re-submission, and propose to convert the Grade I Listed Mansion and Coach House into 27 no. residential units (7 no. 1 bed units, 17 no. 2 bed units, 2 no. 3 bed units and 1 no. 4 bed unit), all of varying floorspace. The layout of these units will be 13 in the Mansion, 5 in the West Wing and its link, and 9 in the Coach House.
- 1.4 Application 3/09/0594/FP also proposes to convert the Stable Block into 12 no. residential units (7 no. 1 bed flats and 5 no. 2 bed flats). This proposal is included in the listed building consent (3/09/0595/LB) as the Stables are curtilage listed.
- 1.5 It is also proposed to provide a part underground, part over-ground parking area in Area B, which was approved for extensive overland parking under application 3/02/2271/FP.
- 1.6 The applications also make provision for a new 6 bay garage block to the north of the Coach House and a courtyard parking area.

**2.0 Site History**

- 2.1 Members may recall that permission was granted in 2006 under reference 3/02/2271/FP for a major re-development of Balls Park, including a commercial use of the Mansion, coach house and stable block, and the erection of 132 no. residential units with associated access, parking and landscaping.
- 2.2 Permission was granted following lengthy negotiations with City and Country, and was approved with regard to the provisions of the Balls Park Planning Framework 2000 which agreed replacement of a number of modern and unsympathetic university buildings, and also in part as enabling development to ensure the continued repair and retention of the Grade I Listed Mansion. This was subject to a S106 Agreement. The permission has now been implemented, and construction is complete at Area J and underway at Areas A and C. These new build residential areas are now under the ownership of Explore Living Plc.
- 2.3 Planning permission and listed building consent were then refused in October 2008 to convert the Mansion and Coach House into residential use (reference 3/08/1177/FP and 3/08/1180/LB respectively). Appeals have

**a) 3/09/0593/FP b) 3/09/0594/FP c) 3/09/0595/LB**

been lodged against both these refusals, and a public inquiry scheduled for August 4<sup>th</sup>-5<sup>th</sup> 2009.

2.4 The planning application (3/08/1177/FP) was refused for the following reasons:

1. The proposed conversion to residential use would result in the loss of an employment use and compromise the aims and objectives of the Balls Park Planning Framework in achieving a mixed use redevelopment of the site. The proposal is therefore in conflict with policy HE10 of the East Herts Local Plan Second Review April 2007 and the adopted Balls Park Planning Framework SPG.
2. The proposed car parking provision significantly exceeds the Council's maximum Parking Standards and would therefore encourage an unsustainable dependence on the private vehicle in conflict with policy TR7 and Appendix II of the East Herts Local Plan Second Review April 2007.
3. The proposed earth bunding associated with the subterranean parking area, by reason of its siting, scale and height, would have a detrimental impact on the open and historic character and appearance of the Grade II Registered Historic Park and Garden contrary to policy BH16 of the East Herts Local Plan Second Review April 2007.
4. The proposed development fails to make adequate provision for affordable housing in accordance with the Planning Policy Statement 3 'Housing', policy HSG3 of the East Herts Local Plan Second Review 2007 and the Council's Affordable Housing and Lifetime Homes SPD.
5. The proposed development does not make adequate provision for contributions towards education and community facilities to mitigate against the impact of development. It would therefore be contrary to Policy IMP1 of the East Herts Local Plan Second Review April 2007, and the Council's Planning Obligations SPD.

2.5 The listed building consent application (3/08/1180/LB) was refused for the following reason:

1. The proposed sub-division, by way of unacceptable internal and external alterations, will compromise the special architectural and historic character of this Grade I Listed Building. The application is thereby contrary to policy BH10 of the East Herts Local Plan Second Review 2007.

### **3.0 Consultation Responses**

- 3.1 The Environment Agency have no objection in principle to the proposed development at the Mansion (3/09/0593/FP); however conditions are recommended on surface water drainage and surface water control measures. The proposed conversion of the Stables (3/09/0594/FP) is assessed as having a low environmental risk.
- 3.2 County Highways do not wish to restrict the grant of permission. They advise that the change from B1 office to a residential scheme has no detrimental impact in terms of highway safety or capacity issues. However this is on the assumption that this does not have any bearing on the implementation of the approved highway access improvements.
- 3.3 English Heritage advises that the conversion of the house into apartments would be acceptable in principle. The proposals have been refined and improved since the previous application in response to observation from both English Heritage and the Council. The general planning of the scheme remains unchanged and respects the house's historic plan. A considerable amount of work has been done to determine what alterations would be required to meet regulations. The proposals as now illustrated appear acceptable, subject to appropriate conditions.
- 3.4 In addition to standard conditions requiring the approval of materials and workmanship, there should be conditions to control the detailed design of any kitchens that are to be installed in the 17<sup>th</sup> century house and its later wing and also to control the placing and appearance of any extract or vents. English Heritage considers the proposed conversion of Balls Park into apartments to be acceptable in principle, and believes that the scheme has now been developed to the point at which the Council may approve it subject to appropriate conditions.
- 3.5 The Society for the Protection of Ancient Buildings consider that the applications lack the information necessary to assess the proposed repair and conservation of the existing fabric of the buildings to be converted. The Society also has concerns about the level of development proposed, particularly within the Mansion. Also concerns about 'Wall treatment 1'; the insertion of an independent wall in front of original wall will alter the dimensions of the rooms and problems will arise where the wall meets coving, skirting and door and window frames.
- 3.6 The Council's Conservation Officer recommends permission subject to conditions, in particular to protect ceilings during construction work. There are some remarkable fireplaces and these together with other historic

**a) 3/09/0593/FP b) 3/09/0594/FP c) 3/09/0595/LB**

features should also be protected. City & Country have an excellent record in protecting historic fabric, but we must be sure of detail.

- 3.7 The Council's Housing Development Officer advises that she has taken the applications as a single product as they are on the same site. The scheme is seeking to provide more than 15 units and as such should make some contribution towards affordable housing provision to meet the need identified in our current Housing Need Survey 2004. The scheme should also provide 15% lifetime homes provision. It is acknowledged that the application is for the conversion of a listed building and as such may not be possible to take affordable housing on site; however there are alternatives for off-site provision set out in the Affordable Housing and Lifetime Homes SPD.
- 3.8 The Council's Landscape Officer recommends consent on both applications subject to conditions on landscape design proposals and tree protection. With regards to the Stables application, he notes that there are two protected cedar trees (TPO 488 T9 and T10) in close proximity to the development, but is satisfied that subject to tree protection methods during construction, there will be no harm.
- 3.9 The County Council Planning Obligations Unit set out their requirements for financial contributions, as below:-
- 3.9.1 For the Mansion and Coach House (3/09/0593/FP):
- |                     |         |
|---------------------|---------|
| - Primary Education | £19,776 |
| - Nursery Education | £4,419  |
| - Childcare         | £1,341  |
| - Youth             | £374    |
| - Libraries         | £3,258  |
- 3.9.2 For the Stables (3/09/0594/FP):
- |                     |        |
|---------------------|--------|
| - Primary Education | £4,731 |
| - Nursery Education | £1,199 |
| - Childcare         | £341   |
| - Youth             | £86    |
| - Libraries         | £1,184 |
- 3.10 Fire hydrant provision is also sought and should be secured by a planning obligation.
- 3.11 The County Development Unit advises that regard should be had to the potential for minimising waste generated by the development. A condition to require a waste management plan is therefore recommended.

**a) 3/09/0593/FP b) 3/09/0594/FP c) 3/09/0595/LB**

- 3.12 County Archaeology advise that the site lies within Area of Archaeological Significance No. 372 and the gardens and parkland of the mansion are included on the Register of Parks and Gardens of Special Historic Interest. Area B has archaeological potential and the works to create subterranean parking are far more extensive and would remove/destroy all archaeological remains in this area. A condition for a programme of archaeological work is therefore recommended.
- 3.13 Hertfordshire Biological Records advises that the proposed development will impact on identified bat roosting sites, and due to this impact, a Habitat Regulations Licence will need to be granted by Natural England. Conditions are recommended.
- 3.14 Natural England has no objection to the proposed development in respect of legally protected species provided the mitigation as outlined in the report is incorporated into a permission or part of a suitably worded agreement or planning condition, if necessary.
- 3.15 Herts & Middlesex Wildlife Trusts suggest a condition for a bat mitigation scheme, and an informative that a licence from Natural England will be required. A condition to restrict lighting that may impact on bat roosts is also recommended.
- 3.16 Hertfordshire Gardens Trust are pleased that some effort has been made to reduce the impact of the car parking on the East Park. They have no comment on the alterations to the house, coach house or stable block but note that the suggestions for the landscaping around these areas have followed suggestions made earlier by the Trust.
- 3.17 Thames Water request that the applicant should incorporate a non-return valve or other suitable device to avoid the risk of backflow of waste water, on the assumption that the sewerage network may surcharge to ground level during storm conditions. They would also recommend that petrol/oil interceptors be fitted in all parking areas. They have no objection with regards to sewerage infrastructure, and the water supply is covered by Three Valleys Water.
- 3.18 Three Valleys Water advise that the site lies within the Groundwater Source Protection Zone of Port Hill pumping station.
- 3.19 Waste Services advise that the refuse storage for the Mansion and Coach House shown on drawing CC195-32A is acceptable; however recycling is short by 4 no. bins. No refuse storage facilities are shown to serve the Stable Block.

#### **4.0 Town Council Representations**

- 4.1 Hertford Town Council had concerns about the rather ambitious plans for the Mansion and Coach House (3/09/0593/FP and 3/09/0595/LB); particularly the density of residential properties within the old structure and grave concerns of overdevelopment. There was concern at the reduction of Area B parking, and the committee questioned whether a minimum of 1.6 spaces per property has been allowed. Whilst there was no objection to the provision of underground parking, there was concern that visitors would be forced to park around the site which would be detrimental to the character of the area.
- 4.2 The Town Council also consider that the historic nature of the stables add character to and are in keeping with the Mansion, and the Committee objected to the destruction of a series of buildings which lend character to Balls Park and was concerned that the proposals put forward result in abuse to a series of listed buildings.

#### **5.0 Other Representations**

- 5.1 The applications have been advertised by way of press notice, site notice and direct neighbour notification.
- 5.2 At the time of writing no third party representations had been received.

#### **6.0 Policy**

- 6.1 The main policy considerations relevant to these applications are East Herts Local Plan Second Review April 2007 policies:

SD1	Making Development More Sustainable
GBC1	Appropriate Development in the Green Belt
GBC4	Major Developed Sites
GBC14	Landscape Character
HSG3	Affordable Housing
HSG4	Affordable Housing Criteria
HSG6	Lifetime Homes
TR7	Car Parking – Standards
TR14	Cycling – Facilities Provision (Residential)
EDE2	Loss of Employment Sites
ENV1	Design and Environmental Quality
ENV2	Landscaping
ENV16	Protected Species
ENV17	Wildlife Habitats

**a) 3/09/0593/FP b) 3/09/0594/FP c) 3/09/0595/LB**

ENV20	Groundwater Protection
ENV21	Surface Water Drainage
BH1	Archaeology and New Development
BH2	Archaeological Evaluations and Assessments
BH3	Archaeological Conditions and Agreements
BH10	Extensions or Alterations to a Listed Building
BH11	Conversion or Change of Use of a Listed Building
BH12	Development Affecting the Setting of a Listed Building
BH16	Historic Parks and Gardens
LRC3	Recreational Requirements in New Residential Developments
LRC9	Public Rights of Way
HE10	Balls Park

6.2 Government Guidance is also provided in the following documents:

PPS1	Sustainable Development
PPG2	Green Belts
PPS3	Housing
PPG15	Planning and the Historic Environment
PPG16	Archaeology and Planning
PPS25	Development and Flood Risk

6.3 The following adopted Supplementary Planning Documents (SPDs) are also material considerations in determining these applications:

- Affordable Housing and Lifetime Homes (January 2008)
- Historic Parks and Gardens (September 2007)
- Vehicle Parking Provision at New Development (June 2008)
- Planning Obligations (October 2008)

6.4 Of further relevance is Balls Park, Hertford: A Planning Framework (EHDC, 2000), a development brief for the site that was adopted as Supplementary Planning Guidance by the Council on 7<sup>th</sup> November 2000.

6.5 Consideration is also given to the Council's Employment Land and Policy Review, published in October 2008. Whilst this document does not form adopted planning policy, the review has been undertaken to inform future planning policy.

## 7.0 **Considerations**

### **Principle of Development**

7.1 The Balls Park Estate lies within the Metropolitan Green Belt but since 2007 is designated as a Major Developed Site wherein redevelopment and limited infilling is acceptable in principle. However, policy HE10 of the Local Plan

**a) 3/09/0593/FP b) 3/09/0594/FP c) 3/09/0595/LB**

specifically states that “the conversion of the Grade I Mansion for residential use will not be permitted”. Application 3/09/0593/FP for conversion of the Mansion and Coach House is therefore again considered to be contrary to policy, and regard must be had as to whether there are any material considerations to override this principle policy objection, including the Balls Park Planning Framework and the best use of the listed building. Particular regard is had to amendments to the scheme in light of the previous refusal.

- 7.2 The proposed conversion of the Stables to residential accommodation (3/09/0594/FP) is considered to be acceptable in principle. Although various extensions are proposed to the Stable Block, these will not exceed the height of existing buildings and will not lead to a major increase in the developed proportion of the site. The conversion of the Stable Block is therefore acceptable in principle having regard to policy GBC4.

**The Balls Park Framework and Employment Land & Policy Review**

- 7.3 The Balls Park Planning Framework, adopted as Supplementary Planning Guidance in 2000, sets out a vision for a high quality redevelopment of the site including the retention and repair of the listed buildings. It states that “the District Council will give favourable consideration to the conversion and redevelopment of the site for appropriate uses, which may include either, or in a combination of:-

- Hotel/conference uses including training,
- Health and/or communal care uses,
- Leisure, sports and/or related community uses,
- Offices and/or/research uses.”

- 7.4 It goes on to state that “redevelopment for a principally residential use, either through the conversion of existing buildings or additional new buildings, is not acceptable.” It was anticipated in this Framework that residential use would remain in the minority of uses for the site, in the region of 35% of the identified floorspace. There were two main reasons for this restriction; to seek the best use for the listed building given the layout of the key spaces, and to provide a mixed use site that would contribute to the economic vitality of Hertford.

- 7.5 It is set out in the Framework that “the principal rationale governing the potential uses outlined above rests primarily upon the layout of the listed buildings. The existing internal floorplan of interconnecting spaces points to offices or function rooms as more sympathetic uses in respect of the buildings’ existing character, rather than the intrusive sub-divisions that residential use inevitably entails.” This therefore formed the background of the restrictive wording of policy HE10. However, English Heritage are now satisfied that based on the current submitted drawings, and subject to

**a) 3/09/0593/FP b) 3/09/0594/FP c) 3/09/0595/LB**

conditions, the Mansion is capable of sub-division without causing undue harm to the fabric of the building. The conservation of this nationally important building will be discussed in more detail in paragraphs 7.13-7.18 below.

- 7.6 The Balls Park Planning Framework also discouraged a predominantly residential use on site for the reason that a mixed commercial/residential use of the site would contribute better to the economic vitality of Hertford. This rested on the evolution of an economic strategy for the area based on future development needs and demands of various uses identified in the Local Plan. Since the previous refusal, an Employment Land and Policy Review has been published for the Council (October 2008) which assesses current and future employment needs in the district. Consideration is therefore given to the economic assessment set out in this document.
- 7.7 Under the previous application (3/08/1177/FP), it was considered that a loss of approximately 4,500m<sup>2</sup> of approved commercial floorspace would be unacceptable with regards to the economic vitality of Hertford, and no attempt had been made to market the site for employment purposes.
- 7.8 The applicant has now submitted a full marketing report into the economic viability of a commercial use of the Mansion, Coach House and Stable Block. This sets out that there is a significant level of commercial property supply on the market in the Hertford area, several sites which have been on the market for more than 12 months.
- 7.9 Evidence of marketing Balls Park for commercial/storage uses has also been submitted, which produced very little interest. This marketing was carried out from 2003 until recently and no serious interest was shown in letting the Mansion and Coach House, or Stables. One tenant remains in occupation in the Stables, for use as storage. However, a storage use of this building would provide insufficient income to sustain and restore the structure.
- 7.10 The Employment Land and Policy Review 2008 sets out that the current available supply of commercial space in the District is 229,000 sq.ft, and there is currently anywhere between 3.6 and 4.4 years supply in the market (para 3.2.2). The document goes on to state that "it is generally assumed that any market with more than two years would be considered to be oversupplied" (para 3.2.2). On this basis it is considered that an office use of Balls Park, as previously approved, may well be economically unviable, particularly given the current economic climate.

- 7.11 It is acknowledged that a mixed use on site with an employment use in the Mansion, Coach House and Stable block would be beneficial in creating a mixed, more sustainable community. This would also comply with the vision set out in the Planning Framework for a limited residential floorspace in the Park as a whole. However, given the marketing report now submitted, and the results of the Employment Land and Policy Review 2008, it is the Officer's view that the economic case for retaining a commercial use of the Mansion, Coach House and Stables has been weakened.
- 7.12 On the same basis, it is considered that the marketing report is also applicable to the conversion of the Stable Block to residential use.

### **Impact on the Listed Buildings**

- 7.13 The wording of policy HE10 was considered by the Inspector during the Local Plan review process, and it was stated by the Inspector that "to protect its intrinsic architectural qualities, it may be that residential conversion of the Grade I listed mansion is not a feasible option." One of the main issues in this case is therefore impact on the fabric of the Grade I listed building, and the best use of the building in accordance with PPG15.
- 7.14 PPG15 sets out that the best way of securing the upkeep of listed buildings is to keep them in active use, and where there is a change of use, adaptations to the building are inevitable. Judging the best use for a building is a particularly important and sensitive process that involves "balancing the economic viability of possible uses against the effect of any changes they entail in the special architectural and historic interest of the building in question."
- 7.15 The best use is usually that for which the building was originally intended; however in this case it is not considered viable or realistic in the current market to revert the building to a single dwelling, particularly given the development of the rest of the site.
- 7.16 The applicant, supported by English Heritage, sets out that an office use may have more impact on the building than previously anticipated. Unforeseen structural changes in order to meet current Building Regulations would be required to successfully convert the building to office use. In particular, the insertion of a lift would be intrusive in the historic fabric of the building. Alternative uses have been considered, including a hotel use, and sub-division to larger 'houses'; however these have been dismissed by the applicant as being too intrusive in the historic fabric.

- 7.17 Part of the rationale for restricting a residential sub-division of the Mansion was based on the existing layout of the building as an educational establishment with inter-connecting spaces which were considered to be better suited to a commercial use, rather than the sub-divisions that would be necessitated by a multiple residential use. However, following further discussion and alteration to the proposals, English Heritage are now satisfied that the conversion can take place without causing undue harm to the historic fabric of the building. On this basis it is the Officer's view that the proposed conversion could now be considered to represent the optimum viable use that is compatible with the fabric, interior and setting of this nationally important building, as set out in PPG15.
- 7.18 This therefore weighs in favour of the scheme, and in combination with the economic assessment above, requires that the balance of considerations that formed reason for refusal 1 of 3/08/1177/FP be re-considered. It is the Officer's view that the sub-division proposed in this application now represents the best use for the Mansion and Coach House, and that this reason for refusal has been overcome.

### **Alterations to the Mansion and Coach House**

- 7.19 Internally, the sub-division will be largely achieved by closing doors between rooms. The key spaces and important rooms have been identified and no sub-division of these key spaces will take place. Since the previous refusal, discussions have taken place with English Heritage with regards to detailed works. It is now proposed to remove a number of raised floors, which will enable a reinstatement of original floor levels. The provision of fire and sound insulation, suspended ceilings and waterproof floors above important ceilings have also been fully considered and agreed with English Heritage, subject to a number of detailed works which will be required by way of condition.
- 7.20 In terms of external changes, the previously proposed first floor link with mansard roof between the West Wing and the Coach House has been removed from the proposal. This formed part of the reason for refusing listed building consent 3/08/1180/LB. The link will therefore remain as a flat roof single storey structure which provides a clear visual break between the Grade I listed Mansion and Grade II\* listed Coach House.
- 7.21 A number of new windows and doors are proposed across the building, including 2 no. new basement window openings on the principal north elevation of the Mansion. An original basement entrance will be reopened

**a) 3/09/0593/FP b) 3/09/0594/FP c) 3/09/0595/LB**

on the west elevation, and a small porch is to be added to the West Wing. Twentieth century extensions and an unsightly external staircase will also be removed from the Coach House.

- 7.22 These external alterations are now considered to be acceptable, and the removal of unsympathetic twentieth century additions will considerably improve the special architectural character and appearance of the building. Conditions are recommended to require further details of the windows and doors, particularly the new basement windows, in order to ensure that they are in-keeping with the existing building. Further conditions are also recommended on the detailed internal works, including the design of kitchens in the 17<sup>th</sup> century house and its later wing, and the installation of any extract or vents as suggested by English Heritage.
- 7.23 Application 3/09/0593/FP also proposes a replacement garage block with bin storage areas to the north of the Coach House. Officers had concerns over the design of the previous proposal; however this did not form part of the refusal. The garage block has since been reduced in height and simplified in its design, with a reduction in the number of openings for the bin store. The structure is now proposed to measure approximately 20.7m in length and up to 4m in height with a hipped roof. It will be sited adjacent to an existing wall within an existing courtyard parking area. The proposal is part of the courtyard enclosure and is therefore not considered to harm the setting of these listed buildings.
- 7.24 Overall, it is considered that the proposed internal and external works are now acceptable and will not harm the historic fabric of the building. A number of conditions are recommended to ensure detailed works are satisfactory.

**Extensions to the Stable Block**

- 7.25 Applications 3/09/0594/FP and 3/09/0595/LB also propose a number of extensions to the existing Stable Block. A two storey extension is proposed to the north of the building in place of an existing single storey flat roof structure. The extension will measure approximately 8.7m in depth by 5.4m in width with a hipped roof up to 9.5m high (set approximately 0.3m below the main ridge).
- 7.26 Although somewhat large and forward of the existing structure, this two storey extension will not appear prominent or intrusive in the Park as the approved new buildings at Area A will project further forward by approximately 0.7m (Block A1). Further, the scale and design of this extension is considered to be acceptable in relation to the existing Stable Block. It is therefore not considered to compromise the special character

**a) 3/09/0593/FP b) 3/09/0594/FP c) 3/09/0595/LB**

and appearance of this curtilage listed building, or the setting of the Mansion.

- 7.27 It is also proposed to re-construct an existing single storey predominantly glazed lean-to to the rear of the building with a brick built extension of a similar scale. This is considered to represent an enhancement to the current appearance of the building. Single storey extensions (including an electrical sub-station) to the east elevation of the building will also be replaced by a single storey structure formed of matching brickwork. This extension will have a truncated pitch to the front; however this is not considered to be out of keeping with the listed building, and complements the design of the new buildings approved at Area A adjacent.
- 7.28 An existing external staircase will be removed from the north elevation, and the landing reconstructed as a balcony. This is considered to be acceptable in principle; however a more detailed drawing of this balcony would be required. It is also noted that the chimney pots have been omitted from the proposed drawing; this is considered to be unacceptable with regards to the historic importance of this building. A condition is therefore recommended to require that these pots are retained or replaced if necessary.
- 7.29 Internally, the sub-division will be achieved by inserting a number of new partitions. Most of these rooms are of little architectural or historic merit, having been used in the past as first floor student accommodation with a ground floor Students Union and canteen. However, there are a few fireplaces and architraves of interest that should be repaired and retained by way of condition. It is also proposed to remove an existing central staircase and insert two new staircases. This will not result in the loss of any historic fabric. Application 3/09/0595/LB is therefore considered to be acceptable and is recommended for approval.

**Parking and Access**

- 7.30 The proposed parking provision has been reduced by 19 spaces following refusal of the previous application on the grounds of an excessive provision. A total of 91 spaces are now proposed to serve all 39 units proposed in the Mansion, Coach House and Stables. Although this still exceeds the Council's maximum parking standards by 32 spaces, consideration is given to the particular circumstances in this case.
- 7.31 The site forms a Grade II listed Historic Park, and the parking area would also be seen in the context of the setting of the Grade I listed Mansion. It is therefore important to provide sufficient parking so as to prevent informal parking occurring across the estate. However this was not a reason to allow an excess of 45 spaces under the previous application. It is also material to

**a) 3/09/0593/FP b) 3/09/0594/FP c) 3/09/0595/LB**

note that the previously approved application (3/02/2271/FP) provided an excess of 28 spaces over and above adopted parking standards. It is therefore the Officer's view that there are circumstances in this case to allow for the proposed parking provision in accordance with policy TR7 and the Council's adopted Vehicle Parking Provision at New Development, Supplementary Planning Document.

- 7.32 5 no. parking spaces to the front of the Mansion have also been removed since the previous refusal, which will serve to improve the setting of this nationally important building. A number of disabled spaces are proposed in a courtyard area to the north of the Coach House, along with the block of 6 no. garages. Whilst this requires a considerable area of hard-standing in front of the Grade II\* Coach House, this is considered to be in-keeping with the historic layout and use of the Coach House for parking. A condition to require further details on the hard-standing materials is considered reasonable and necessary.
- 7.33 The parking in Area B is proposed to be provided partly underground (36 spaces) such that the overland visible parking element will be substantially reduced to 40 spaces (instead of 225 as approved under 3/02/2271/FP). The result is therefore an overall reduction in hardstanding of 5,921m<sup>2</sup> from that previously approved, which is proposed to revert to historic parkland. Planting in this area, as either grassland or woodland, can be controlled by way of condition. The reduced parking required for a residential use as opposed to a commercial use is therefore a significant benefit to the setting of the listed buildings and the historic park.
- 7.34 The subterranean parking area will be accessed via a ramp, kept by railings for safety. It is not considered that these railings will harm the openness or historic setting of the park; however full details of these railings will be required by way of condition. Ventilation is also required, which is to be achieved by way of 6 no. vent grilles set in the ground so as not to appear visually intrusive.
- 7.35 Earth bunding along the northern boundary of the Area B car park has been reduced in height since the previous refusal from 3.5m high to 2m high. This will be vegetated in order to screen the car park from view from the north. This reduction in bund height is considered to be acceptable and is no longer considered to result in a feature that will appear prominent or out of character in this historic park. A condition to require full landscaping details is recommended in order to ensure that this earth bund provides adequate screening.

**a) 3/09/0593/FP b) 3/09/0594/FP c) 3/09/0595/LB**

- 7.36 Access to the site will remain as previously approved under the original permission 3/02/2271/FP. This involves vehicular access only from London Road, through Area J, with additional footpaths and bridleways across the site designed for public access. A bus route is also required under the earlier S106 Agreement, which will provide access to the site from Mangrove Road. Highways have raised no objection to the proposal provided the previously approved highway improvement works are still undertaken. It is therefore recommended that a S106 Agreement be signed to link to the original legal agreement under 3/02/2271/FP.
- 7.37 Cycle parking is proposed in accordance with the Council's adopted Standards.

**Affordable Housing & Education/Community Contributions**

- 7.38 This issue has been the subject of much discussion between the applicant and Officers since the previous application was refused on the grounds of not providing affordable housing or financial contributions for education and community facilities. The Council's Housing Development Officer has again requested a 40% provision of affordable housing for the current applications. This is suggested to take the form of a commuted sum payment given that there is limited potential to provide affordable housing on-site given the Grade I listing of the Mansion, and there are also affordability issues related to units within the Mansion. Affordable housing was not required under the original permission (3/02/2271/FP) as it was part approved as enabling development, and was considered under the provisions of the earlier Local Plan which contained no such requirement.
- 7.39 Financial contributions for education and community facilities have also been requested by County Council and have been calculated using standard charges set out in the Councils' adopted Planning Obligations SPD and the Herts County Council's Planning Obligations Guidance Toolkit. These sums are considered reasonable in relation to the development proposed as a number of 2+ bed units are proposed which would be likely to accommodate a number of families, placing pressure on existing education, and community facilities. The requested education and community contributions for both the Mansion, Coach House and Stable Block amount to a total of £36,709.
- 7.40 However, the payment of both affordable housing and education and community contributions have been challenged by the applicant on both policy grounds, and the economics of provision. A financial appraisal has been submitted which indicates an expected loss of £1,218,947 in carrying out this development given the costs of repair to the listed buildings.

**a) 3/09/0593/FP b) 3/09/0594/FP c) 3/09/0595/LB**

Further, when a 20% profit is taken into account (as expected from any development, and as set out in English Heritage guidance), the perceived loss would be £3,642,736. Members are made aware that Officers have not sought independent advice on the validity of these figures given time constraints with the forthcoming inquiry.

7.41 The applicant has therefore advised that given the economics of provision, no financial contributions can be afforded. Nonetheless they have offered a contribution of £35,000, which can either be shared between, or paid solely towards affordable housing provision (approximately the cost of providing 1 no. 2 bed affordable unit), or education and community facilities.

7.42 The Council's requirement for affordable housing contributions will form a key issue to be challenged at the forthcoming public inquiry as the application of the Council's policy HSG3 to Balls Park has been brought into question. A Counsel opinion undertaken on behalf of the applicant sets out that the wording of policy HSG3 is such that it cannot legally be used to require affordable housing outside of the six main settlements and Category 1 and 2 Villages. As Members are aware, Balls Park is located within the Green Belt. Although the site was designated as a Major Developed Site in 2007, policy HSG3 does not refer to such sites in its wording. Policy HSG3 is repeated below for Member's convenience:-

*(I) Affordable housing is defined as housing provided, with subsidy, both for rent and low cost market housing, for people who are unable to resolve their housing requirements in the local private sector housing market because of the relationship between local housing costs and incomes.*

*(II) Affordable housing provision will be expected on sites:*

*(a) proposing 15 or more dwellings, or over 0.5 hectares, in the six main settlements; and*

*(b) proposing 3 or more dwellings, or over 0.09 hectares, in the Category 1 and 2 Villages. (Where development of a site is phased or divided into separate parts, it will be considered as a whole for the purposes of affordable housing.)*

*(III) On suitable sites (in accordance with Policy HSG4) the inclusion of up to 40% affordable homes will be sought as part of the proposed development of the site.*

7.43 It is therefore necessary for Members to consider whether this policy issue should be pursued further through the appeals process, or whether Members would accept a contribution of £35,000 as an alternative. Overall,

**a) 3/09/0593/FP b) 3/09/0594/FP c) 3/09/0595/LB**

it is the Officer's view that given the Counsel challenge against policies HSG3 and HSG4, the forthcoming public inquiry and associated costs, and weight given to the economics of provision in this case, a financial contribution as offered by City & Country would be the best way forward to help bring forward the completion of this important development.

**Residential Amenity**

- 7.44 There are no existing dwellings within the vicinity of the Mansion, Coach House or Stables to be affected by these proposals. However, regard must be had to impact on the future amenity of occupiers in the adjacent Area A new build apartments. A number of bedroom windows of Block A1 (east elevation) will face the Stable Block; however it is not considered that the addition of a two storey front extension to the Stables will result in any adverse loss of light or out look given that this will be set further away from Block A1 than the existing single storey structure (at a distance of 5m).
- 7.45 A number of new windows to serve habitable rooms are proposed in the west elevation of the Stables which will face the east elevation of the approved Block A1. Given the proximity of these buildings there would be a potential for overlooking. However, the positions of the new windows are such that they will not directly face any approved windows in Block A1. Further, the new windows in the west elevation of the Stables are proposed to be high level, at a minimum cill height of 1.5m. This is considered to be sufficient to ensure overlooking is not harmful to residential amenity.
- 7.46 In terms of the standard of residential accommodation in the Mansion and Stable Block, a variety of sized units are proposed, ranging from a 45m<sup>2</sup> 1 bed unit to a 385m<sup>2</sup> 4 bed unit. The rooms are considered to be acceptable in size, and sufficient fenestration is proposed to provide adequate daylight. A number of units are proposed to be wholly or partly located in the basement of the Mansion; however sufficient daylight can be achieved by way of lightwells. Overall, therefore it is considered that the proposals will have no adverse impact on the level of amenity of future occupiers of either the proposed development, or previously approved adjacent development.

**Landscape and Historic Park**

- 7.47 A full landscape management plan was required under the original permission 3/02/2271/FP, and it is considered reasonable and necessary to require that this be tied in with these current applications in order to require completion of the works and management of the Historic Park and Garden for the future. No additional landscape impacts are expected from this current application as opposed to the approved commercial use, and no objection has been raised by the Hertfordshire Gardens Trust or the Council's Landscape Officer. Conditions are recommended to require

**a) 3/09/0593/FP b) 3/09/0594/FP c) 3/09/0595/LB**

further detail on landscape design, particularly for the car park area, and also to ensure that protected trees within close proximity to the Stable Block extensions are safeguarded during the course of construction.

- 7.48 It is material to note that this application proposes to reduce the parking area previously approved under 3/02/2271/FP and provide a greater contribution to parkland on site. This would clearly benefit the character and appearance of this Grade II registered garden and improve the setting of the Grade I listed building.

### **Ecology**

- 7.49 A bat survey has been undertaken and submitted, and mitigation measures would be required by way of planning condition in order to protect bats that may be present within the building. A Habitat Regulations Licence will be required from Natural England, and the applicant can be informed of this requirement by way of a Directive.
- 7.50 The presence of Great Crested Newts has already been established on site, and protection measures are currently in place. However, a Directive is suggested to inform the applicant of their protection under the Wildlife and Countryside Act 1981.
- 7.51 It is not anticipated that there would be any further impacts on wildlife given that the applications propose conversion of existing buildings, and development within Area B has already been agreed under 3/02/2271/FP.

### **8.0 Conclusions**

- 8.1 The determination of these applications is based on a fine balance of considerations. Under previous application 3/08/1177/FP it was considered that the loss of an employment use, and the weight given to the Balls Park Planning Framework and policy HE10, outweighed the benefits of the application. This was supported in part by the conservation doubts of making the best use of the listed building.
- 8.2 In this revised application, the submitted marketing report and the Council's Employment Land and Policy Review 2008 indicate that Balls Park has limited potential for a commercial use. Further, English Heritage now indicate that the proposed sub-division can be achieved without causing undue harm to the fabric of historic buildings. It is therefore now considered that the residential sub-division as proposed represents the optimum viable use of this nationally important building, and ensures its retention for the future. Officers consider that this assessment equally applies to the proposed sub-division of the curtilage listed Stable Block.

**a) 3/09/0593/FP b) 3/09/0594/FP c) 3/09/0595/LB**

- 8.3 The proposed internal and external works have been amended in discussion with English Heritage following the previous refusal, and the proposed works and extensions to the curtilage listed Stable Block are considered to be acceptable. No undue harm is considered to result to the fabric of these listed buildings in accordance with policy BH10, and as such, the listed building consent application 3/09/0595/LB is considered to be acceptable.
- 8.4 The car parking provision has been reduced since the previous refusal, and the proposed earth bund along the north boundary of the car park at Area B has also been reduced. The proposal is therefore now considered to be acceptable on these grounds.
- 8.5 With regards to affordable housing and education/community contributions, Members are asked to fully consider the options, particularly in light of the Counsel opinion challenging the application of policy HSG3 on this site. A financial payment of £35,000 has been offered, which Officers consider to be appropriate in this case given the economics of provision. Should Members wish to pursue this policy issue and seek a greater financial contribution, this would take place through the forthcoming public inquiry scheduled for 4<sup>th</sup> August. In view of this timescale a decision is required on this issue at this current Committee.
- 8.6 On the basis of the above assessment, Officers therefore consider that the previous reasons for refusal have been largely overcome, and the conversion of the Stable Block is also considered to be acceptable. All three applications are therefore recommended for approval subject to the signing of a S106 Agreement, and the conditions set out above.