

3/09/0492/FP

1. **3/09/0492/FP – Mixed use development comprising B1 office building and Baptist Church and associated parking at Mineral Water Site, Twyford Road Business Centre, Twyford Road, Bishop's Stortford for Mr Mark Van Hees**

Date of Receipt: 09.06.2009

Type: Full - Major

Parish: BISHOP'S STORTFORD

Ward: BISHOP'S STORTFORD - SOUTH

RECOMMENDATION

That, subject to the applicant entering into a legal obligation pursuant to section 106 of the Town and Country Planning Act 1990 in respect of the following:-

- A financial contribution of £28,000 index linked by SPON from Jul 2006, which shall be payable upon commencement of the development towards sustainable transport schemes and measures within the vicinity.

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

1. Three year time limit (1T121)
2. Samples of materials (2E123)
3. Prior to the first beneficial occupation of the church building as shown in drawing number PL/01 K, the office building, also shown on that drawing number, shall be constructed and made available for occupation as an office use.

Reason: To ensure that provision for employment use is made within the site in accordance with policy EDE1 and BIS9 of the East Herts Local Plan Second Review April 2007.

4. Notwithstanding the details shown on the approved drawings, no development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include means of enclosure (including any gates walls or fences associated with the development); hard surfacing materials; planting plans; schedules of plants noting species, planting sizes and proposed numbers/densities and a timetable for implementation.

Reason: To ensure the provision of amenity afforded by appropriate

landscape design in accordance with policy ENV2 of the East Herts Local Plan Second Review April 2007.

5. All hard and soft landscape works shall be carried out in accordance with the details approved pursuant to Condition 4. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the local planning authority. Any trees or plants that, within a period of 5 years after planting are removed, die or become damaged or defective shall be replaced with others of the same species, size and number as originally approved unless the local planning authority has given written consent to any variation.

Reason: To ensure the provision, establishment and maintenance of a reasonable standard of landscaping in accordance with the approved.

6. No development hereby permitted shall take place until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - I. the parking of vehicles of site operatives and visitors loading and unloading of plant and materials
 - II. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 - III. wheel washing facilities
 - IV. a scheme for recycling/disposing of waste resulting from demolition and construction works
7. The development hereby permitted shall be carried out in accordance with the approved Flood Risk Assessment (MLM, 24.03.2009) which requires that finished floor levels are set no lower than 56.16 metres above Ordnance Datum.

Reason: To reduce the risk of flooding of the development and future occupants in accordance with the requirements of Policy ENV19 of the East Herts Local Plan Second Review April 2007.

8. Prior to the commencement of the development hereby approved, full engineering details of the off-site highway works on Twoford Road, as indicated on plan reference PL/01 K, shall be submitted to and approved in writing by the Local Planning Authority. The details

approved shall be carried out and implemented in accordance with the approved plans.

Reason: To ensure the provision of appropriate facilities to enable the safe movement of the pedestrians to the site in the interests of highway safety.

9. Prior to the first beneficial use of the church, a Green Travel Plan shall be submitted to and approved in writing by the Local Planning Authority, and thereafter implemented with the approved details. The Green Travel Plan shall have the object of minimizing the number of staff and visitors traveling to the development by private car.

Reason: To promote sustainable transport measures to the development in accordance with national guidance in PPG13 and policy TR4 of the East Herts Local Plan Second Review April 2007.

10. Boundary walls and fences (2E073)

Directives

1. Other legislation.
2. Highway works.
3. The applicant is advised that in order to comply with condition 8, it will be necessary to enter into an agreement with Hertfordshire County Council as a Highways Authority under Section 278 of the Highways Act 1980, to ensure the satisfactory completion of the access and associated road improvements. You are advised to contact Eastern Herts Highways Area Office, Hertford House, Meadway Corporate Centre, Rutherford Close, Stevenage, SG1 3HL (01438 757880) to obtain the requirements of the procedure to enter into the necessary agreement with the Highways Authority prior to the commencement of development.

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1.0 Background

- 1.1 Members may recall that this application was deferred within the 26th August Committee Meeting to allow Officers to enter into further consultation in relation to the details of development on the site. Those discussions have since taken place which has seen an amended design for the buildings on the site and revised pedestrian access arrangements.

- 1.2 The amended pedestrian access includes the partial widening of the existing pedestrian access along Twyford Road and the provision of an access from the towpath.
- 1.3 The previous Committee Report is attached as Appendix A, and Officers do not therefore repeat those comments within this Committee Report. The main areas of consideration raised within this report shall focus on the previous areas of concern and suggested reasons for refusal, which can be summarised as follows:-
- Loss of land reserved for employment use;
 - The design quality of the development and relationship with water environment;
 - Insufficient parking provision;
 - Inadequate provision for pedestrian access.
- 1.4 This Committee Report will also outline any further consultation responses in respect of the amended scheme and focus on how the above concerns have been addressed.

2.0 Consultation Responses

- 2.1 County Highways have commented that they do not wish to restrict the grant of permission subject to conditions. The Highways Officer comments that scheme now proposes a 1.2metre wide footway along Twyford Road, accommodated by moving the opposite kerb line within the confines of the existing highway, whilst maintaining the existing carriageway width. The Highways Officer recognises that the width of the footway is below the recommended standards. However, the Highways Authority are prepared to accept this, given the acceptability of the applicants agreement to provide financial contributions to sustainable transport measures (which may well include improvements to the tow path along the River Stort – for which the site has a direct linkage), and the provision of a Green Travel Plan.
- 2.2 The Highways Officer comments in respect of parking provision that it is understood that the proposed formal shared use of the parking spaces allocated to surrounding commercial development will be formalised and subject to an agreement with the Council.
- 2.3 Thames Water have reiterated their previous comments that they have no objection to the planning application in terms of sewerage infrastructure.
- 2.4 The Planning Obligations Officer comments that County Council will not

3/09/0492/FP

seek financial contributions in respect of the application.

2.5 British Waterways comment that they maintain previous comments made and specify that the buildings layout could better address the waterway in a way that would benefit the scheme and visitors to it. They comment that of the financial contribution requested by the Highways Authority, this would not be enough to resurface the towpath here but would allow a contribution to works that British Waterways may undertake.

2.6 The Environment Agency have commented that their comments remain the same that, on the provision of a condition restricting floor levels to be no lower than 56.16metres above Ordnance Datum, that there will no significant risk to flooding as a result of the development.

3.0 Other Representations

3.1 The amended scheme has been re-advertised by way of neighbour notification.

3.2 1 neighbour letter has been received raising comments as follows:-

- Twyford Road has heavy traffic from industrial estate, children's gym and Mencap;
- Development on a floodplain. Would put properties at risk;
- Insufficient proposed parking. Proposed users of development are unlikely to use public transport. Existing parking pressures in Twyford Close.

4.0 Considerations

4.1 Having regard to the recommended reasons for refusal outlined within the previous Officer Committee Report (attached as Appendix A), the main considerations in the determination of this revised scheme relate to the following planning issues:-

- The principal of an office and church development at the site;
- The appropriateness of the layout, scale and chosen design of the development;
- The level of parking provision and pedestrian access arrangements.

Principal of a mixed use development at the site

4.2 The previous Officer Committee Report outlined to Members the restrictive policies of the Local Plan which control development opportunities of the

employment use of the site. In this respect the office use proposed is considered to be acceptable, in principle. However, as the provision of a church does not represent an employment use, the principle of that element of the development is contrary to the aims and objectives of employment use policies.

- 4.3 The previous Committee Report also advised members of the Employment Study, and the strategic importance of that document in analysing the current and future demand and level of provision for employment sites in the District. Particular reference is made to Bishop's Stortford in the Employment Report, which outlines that, due to strong demand and low vacancy rates in combination with the scarcity of supply mean that existing employment sites in the town need to be safeguarded.
- 4.4 However, the previous Committee Report also highlighted that the site subject to this application is identified as 'amber', wherein employment uses remain viable but intervention in the future may be required to retain employment uses. It has previously been acknowledged by Officers that the site and buildings will provide limited employment in its current state and that investment and redevelopment is to be welcomed. In this case the proposal does provide upgraded employment potential with the office building however it would result in the loss of the majority of the site for employment uses.
- 4.5 However, what Members must weigh into the balance of considerations, is that the development of the site for a church use will allow for the partial development of a high quality office building which, the applicants argue will increase the numbers of persons employed at the site.
- 4.6 However, the sacrifice for the increased quality of employment provision is the loss of employment land given over to the church. Officers have however taken into account the community need that is met by the provision of the church and, on balance, it is considered that, given the level and quality of provision for employment use that the proposal would create in an existing employment site and the beneficial provision of a Church for the community, it is considered that the loss of a proportion of the employment site is acceptable, in this case.
- 4.7 However, in the judgement of Officers, the acceptability of the development is dependent on the actual implementation of the office building. Should the developer only implement the church building, any justification relating to the provision of a high quality office building creating an increased employment use within the site to justify the Church would be lost, and the only justification would relate to the provision of a community facility.

Members may consider that the weight attached to that community facility is sufficient in its own right to justify the development of the site as proposed. However, given that one of the objectives of the Council is to increase the quality and provision of employment in the town, Officers consider that the provision of the new office building, as proposed in the development, has to be considered to form some element of the justification for the development. As a result, Officers have proposed a linking condition; condition No.3, at the commencement of this report, which proposes that the office building is made available at the same time as the church.

- 4.8 During the process of negotiations, the applicant has stated that it is their intention to implement the office building. However, the applicant has raised concern with the imposition of the above mentioned condition. The applicant has commented that in the current economic climate no developer would be prepared to progress an office building of this nature on a speculative basis. The applicant comments that there has been some interest in the office building, but there is no formal arrangement with an incoming tenant or buyer at this stage and there is no guarantee that it will be let or sold prior to the occupation of the church.
- 4.9 The applicant has also reiterated the above position and further considerations within a letter dated 08 December 2009 from a Planning Consultancy. That letter expresses the view that the provision of the church on the site reflects a material consideration that outweighs the requirements of Local Planning Policy and that such a 'linking' condition would fail the needs and reasonableness test as set out in Circular 11/95.
- 4.10 Within that letter the applicant outlines the justification of the proposed development based on marketing the existing employment use and lack of suitable sites for a church use, which represents a material consideration that outweighs the requirements of the Development Plan and that the condition recommended by Officers seeks to secure an 'additional benefit' to further justify the scheme. In other words, the appellant considers that the material consideration to provide the church use is enough justification in itself, and the provision of the office space is an 'added bonus' to the scheme and there is therefore no need for a condition requiring the office development to be implemented as part of the permission.
- 4.11 Whilst Officers agree that it is a material consideration of some weight that the church use will provide a valued community use – it is also material that the proposed development seeks planning permission for the provision of a high quality office unit within the site which is categorised as an employment site, and that this offsets the loss of the site in totality to

employment uses.

- 4.12 Subsequent discussions have revolved around a suggestion that the existing buildings on the site, where their removal is not required to allow the church to be developed, could be retained and made available in the interim, prior to the commencement of development of the new office building. Whilst this does allow some employment provision to be maintained on the site, your Officers would be disappointed at the poor visual and design outcome this would give. As Members will recall, the design that was put forward and the relationship to the waterside environment was an issue on which Officers suggested the proposal be refused previously. This issue is canvassed further below but, whilst the development is not considered to maximize the opportunities of the site in this respect if it takes place fully, partial implementation would result in an even poorer solution.
- 4.13 If the recommended condition (3) is not imposed, Members must accept that there would be no control that the Council would have in the office building being implemented in accordance with the proposed plans. In the case of this application, it is considered by Officers that provision of a proportion of the site for the office use is an important planning consideration, given the existing designation of the land. If such a condition is not imposed, then potentially an employment use will be lost from the site completely. The provision of a church on a site such as this is only acceptable, in Officers opinion, if a proportion of the land for the provision of an employment use can be secured. The planning justification for the development of the site as proposed is therefore based upon two issues – 1) the provision for a community facility and 2) the associated provision of an improved quality employment development.
- 4.14 If however Members are inclined to attach a greater degree of weight to 1) above – the provision of a church, and do not attach as much weight to 2) above (the provision of an office use), then they may wish to determine the application without attaching the recommended condition 3 and instead substitute a condition which requires existing buildings to be retained. Officers will have the details of a suitable condition to hand at the Committee Meeting.

Appropriateness of the amount, size, scale and design

- 4.15 The principle criticisms of the previous proposal related to the lack of inspiration of the design of the Church Building and a ‘missed opportunity’ to integrate the development with the water environment of the adjacent river. Members are keenly aware of previous criticisms generally that

3/09/0492/FP

development in the Town does not pay sufficient regard to the waterway environment.

- 4.16 The principle massing, bulk and form of the church building has not altered significantly. However, the elevational treatment flanking the rivers has been altered. Whereas those elevations previously offered a rather dull elevational treatment – compounded by the horizontal glazing, now proposed on the east and west elevation is fenestration and appendages to the building creating a greater level of interest. Included within this is a greater level of access from the building to the river bank frontage.
- 4.17 The proposed plans show this access and pedestrian link between the towpath and the development site. However, any accesses and integration between the water frontage and the development may be constrained by any security measures which may be implemented. In order to control any future development and relationship between the development, accesses and the waterway, Officers consider it to be necessary and reasonable to seek further details regarding fences, walls and enclosures which can be secured via condition.
- 4.18 Some disappointment remains that the development does not take full advantage of the opportunities to integrate with the water environment, however, on the balance of considerations and, taking into account the wider benefits of the scheme, the relationship between the development and the river environment is not considered to be unacceptable and in accordance with the requirements of Local Plan Policies. In this respect, it is considered that the previous concerns raised by Officers in the Committee Report have been adequately addressed.

Highways implications

- 4.19 The principle concerns of the Highways Authority within the previous scheme revolved around inadequate parking provision and pedestrian access. These two issues have, in Officers opinion been adequately addressed.

Pedestrian Access

- 4.20 The applicant has been in discussions with the County Highways Authority in respect of the pedestrian access matters which has resulted in a revised design. However, the Highways Officer outlines that that arrangement is below normal requirements, in terms of the width of the pedestrian footway. Nevertheless, when the financial contribution suggested and accepted by the applicant is factored into the balance of considerations, it is Officers

opinion that the degree of impact on pedestrian safety will not be to such an extent as to warrant the refusal of the application. The Highways Officer comments that the monies sought may well be utilised in improvements to the Tow Path which, in Officers view, will have direct benefit to pedestrian access as it will provide a useful linkage to the site. Allied to this, the suggested Green Travel Plan as a condition will to a degree also offset the degree of impact of the development in terms of the deficiencies in the pedestrian access.

Parking provision

- 4.21 The previous comments raised by Officers in respect of parking provision raised concern with the lack of compatibility with the maximum standards of parking provision (even with a 75% reduction) as specified in Policy TR7 and the Parking SPD. The only material difference between the previous scheme and the amended scheme is a commitment by the developer to contribute to sustainable transport measures and the imposition of a Green Travel Plan. A commitment that was not forthcoming within the previous scheme and a criticism outlined within the previous Officer Committee Report.
- 4.22 The main criticism of the proposal related to the provision of parking space for the Church use. However, as outlined within the previous committee report, it is material that the car parking for the office space is not for the exclusive use of that building but can be used for the Church building at weekends when it is expected that there will be a greater demand for parking spaces.
- 4.23 Further to that consideration, the requirements in PPG13 must be taken into account. That National Policy Guidance advises that developers should not be required to supply more parking than they themselves wish, other than in exceptional circumstances, for example where there are significant concerns for highway safety.
- 4.24 No highway safety implications are raised by the Highways Authority in respect of the level of parking provision within the more recent consultation and, taking into account the financial contributions and suggested Green Travel Plan combined with the level of provision that can be manipulated within the site, the refusal of planning permission on lack of parking provision cannot be justified in this case. Officers therefore consider that, for the above reasons, the level of parking provision is acceptable.

Conditions

- 4.25 Whilst mindful of the details as outlined within the plans, elevations and

3/09/0492/FP

details submitted with the application, it is considered that in order for the development to successfully assimilate with the setting of the site and the surroundings that high quality sympathetic materials are used in the development and that appropriate landscaping is implemented. For these reasons it is necessary to attach conditions relating to these issues.

- 4.26 The comments from the Environment Agency are noted and, in the interests of protecting against flooding and, as required in policy ENV19, Officers therefore recommend a condition pertaining to this issue.
- 4.27 Taking into account the comments from the Highways Officer and for the reasons outlined above relating to highways matters and contributions, the conditions and S106 monies recommended are considered to be necessary and reasonable in this case.
- 4.28 Other conditions have been suggested by the Herts and Middlesex Trust relating to protected species. However, the requirements of the conditions recommended are considered to be unreasonable and unnecessary in this case and are not therefore recommended within this permission.

5.0 Conclusion

- 5.1 The revised development proposals have been considered with regard to the policies of the Development Plan. The predominant proportion of the development of the employment to the site for a church use is acceptable, having regard to the provision for the community facility and, given the smaller (albeit good quality) use of the site for the employment use.
- 5.2 The amendments to the design now reflect a more congruous relationship with the nearby water environment which, in combination to the improvements to the pedestrian access which can be secured through the S106 monies, will allow a greater degree of interaction with the water environment to the benefit of the scheme and its users. The level of parking provision is considered to be acceptable when taking into account the location of the development and the way in which the parking provision can be shared during peak times and the level of contribution offered.
- 5.3 The revised scheme and amended details have adequately addressed the previous concerns raised by Officers and for the reasons outlined within this report and, subject to the recommended conditions is now acceptable, in planning terms. Officers therefore recommend that planning permission is granted.