

**3/09/1937/FP - Variation of Condition 5 of permission 3/05/0316/FP - to allow 10 no. HGV movements over Spencer Street for a 3 day period (dates to be agreed) to remove containers at TXU Site, Mead Lane, Hertford for Weston Homes Plc.**

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**Date of Receipt:** 30.11.2009

**Type:** Full - Major

**Parish:** HERTFORD

**Ward:** HERTFORD - CASTLE

### **RECOMMENDATION**

That planning permission be **GRANTED** subject to the condition set out below:

1. Details of the dates and times of vehicular movements shall be submitted to and approved in writing by the Local Planning Authority prior to the vehicular movements taking place.

Reason: To minimise impact on the local road network and occupiers of neighbouring residential properties.

#### **Directives:**

1. Other legislation (01OL)
2. The granting of this permission does not convey or imply any consent to access land not within the ownership of the applicant, without the approval of the landowner.

#### **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 TR2 and ENV1. The balance of the considerations having regard to those policies is that permission should be granted.

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### **1.0 Background**

- 1.1 The application site is shown on the attached OS extract. It comprises a new residential development site located on the corner of Mead Lane and Mill Road. Permission was granted under reference 3/05/0316/FP subject to a number of conditions and a S106 Agreement. The development of 130 flats and a new sea cadet facility is now nearing completion.

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- 1.2 This application proposes to vary a condition of the original consent to allow for the removal of containers through Spencer Street by way of 10 HGV movements over 3 days. Spencer Street is a private unadopted residential road located to the east of the site comprising rows of Victorian two storey terraced properties.

## **2.0 Site History**

- 2.1 Permission was granted at appeal for a residential re-development of this former industrial site in September 2005 under reference 3/05/0316/FP. The development comprises 130 residential flats and a new sea cadet facility. This permission was subject to numerous conditions, one of which restricted access to the development site for demolition and construction from Spencer Street (Condition 5). This application therefore seeks to vary this condition. The wording of the condition is as follows:-

*Access to and egress from the site during demolition and construction works shall only be obtained from Mead Lane.*

### **Reason**

*To ensure a satisfactory route for construction traffic.*

- 2.2 An earlier application (3/05/2252/FO) was approved to remove Condition 23 which required the developer to re-surface Spencer Street prior to first occupation of the new development, and to modify the S106 Agreement accordingly. This was due to the condition being unlawful in that the owner did not have sufficient control over the land to comply with this condition. A financial contribution of £70,000 was agreed as an alternative through the S106 Agreement, which has subsequently been paid to Highways who are now responsible for implementing this road re-surfacing.
- 2.3 Members may also recall that permission was refused in October 2007 to vary Condition 26 to remove the lower basement parking area and vary the S106 Agreement accordingly, but this was later allowed at appeal. The Inspector considered that, subject to 3 year funding of a vehicle car club for residents, the removal of this parking area would not exacerbate the existing problem with kerbside parking.

## **3.0 Consultation Responses**

- 3.1 County Highways do not wish to restrict the grant of permission subject to a condition that implementation of this permission shall not take place until details of the dates and times of vehicle movements have been submitted to and agreed in writing by the Local Planning Authority. They comment that the principle of the application to accommodate the removal of

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temporary buildings from this major construction site, nearing completion, is acceptable. It would also seem sensible that the application is implemented before commencement of the Spencer Street reconstruction works that the applicants are obliged to undertake.

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

4.1 At the time of writing this report, no response had been received from Hertford Town Council.

#### **5.0 Other Representations**

5.1 The application has been advertised by way of press notice, site notice and neighbour notification.

5.2 3 no. letters of representation have been received which can be summarised as follows:-

- Residents are currently in discussion with Highways over re-surfacing Spencer Street, for which the developer has already paid monies;
- Damage was caused to the road during construction and the condition has deteriorated due to recent bad weather;
- This is a private unadopted road and residents are liable for any damage to underground services;
- The Council has no right to give developers permission to access the TXU site from Spencer Street;
- It would be better for the containers to be removed through the parking facilities of the new flats;
- Request that the access from the TXU site to Spencer Street be blocked thereafter.

#### **6.0 Policy**

6.1 The relevant Local Plan policies in this application include the following:-

TR2 Access to New Developments  
ENV1 Design and Environmental Quality

In addition to the above it is considered that Planning Policy Statement 1, (Delivering Sustainable Development), and Planning Policy Guidance 13 (Transport) are considerations within this application.

#### **7.0 Considerations**

7.1 The main issues in this case relate to the impact of the proposal on the local highway network, and residential amenity for those occupiers of

Spencer Street.

### **Residential Amenity**

- 7.2 Spencer Street is a private unadopted residential road comprising rows of 19 no. two storey terraced properties. The road is currently in a poor condition, and discussions are on-going with Herts Highways to implement the re-surfacing of the road that has already been paid for by the developer. The road is a cul-de-sac with on-street parking on both sides of the road. There is an existing access gate to the TXU site, which is to be used solely in connection with the sea cadet facility and existing sub-station. It is this access that the developer intends to use to remove the containers.
- 7.3 Whilst it is acknowledged that there will be some impact on residential amenity by way of these lorry movements, I do not consider that this impact would be unacceptable given the restricted number of vehicle movements. The Local Planning Authority would also retain control over the dates and times of the movements in order to minimise impact, and could therefore request that the dates are weekdays, not weekends. Further, it is important to note that Spencer Street was previously used as an access to the commercial site, and therefore large vehicle movements have been considerably reduced as a result of this application.
- 7.4 Neighbour comments regarding the ownership of Spencer Street are noted; however land ownership is not a material planning consideration. A grant of planning permission does not negate the need for the developer to arrange access over private land with the landowner.

### **Highway Impact**

- 7.5 In terms of impact on the highway network, the HGV movements would take place over a 3 day period, with a total of 10 trips. In relation to the vehicular movements for the construction of the site, this is a minimal number of movements that will cause limited disturbance to the wider highway network. The only alternative option to remove these containers would be to crane them over the new building, which would necessitate the closure of Mead Lane. This would clearly have greater repercussions for the wider highway network, including disruption to local residents and the many businesses in the area.
- 7.6 Highways have raised no objection to the proposal, subject to a condition requiring details of the exact dates and times of movements. A condition to require the removal of the containers to be complete prior to re-surfacing of the road has been considered; however this is not considered to meet the tests of Circular 11/95 as the re-surfacing is now out of the control of the applicant. Further, discussions with Herts Highways have already

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confirmed that the resurfacing will not take place until the HGV movements have been completed.

#### **8.0 Conclusion**

- 8.1 Overall it is considered that the variation of this condition will not result in any harmful impact on residents, or the highway network. The application is therefore recommended for approval subject to the condition set out above.