

3/10/0088/FP – Redevelopment of site to provide five commercial units (use Classes A1 Retail, A2 Financial and Professional Services, A3 Restaurant, Cafe etc, A4 Public House, Wine Bar etc, A5 Hot Food Takeaway and D1 Non-residential Institution e.g. medical, educational, veterinary etc) with associated car parking for 68no. cars, cycle store and ancillary services at 306 – 310 Ware Road, Hertford for Tudorwood Ltd.

Date of Receipt: 18th January 2010 **Type:** Full - Major

Parish: HERTFORD

Ward: HERTFORD – KINGSMEAD

RECOMMENDATION

That planning permission be **REFUSED** for the following reasons:-

1. The proposed development due to the dependency on access by the private car, the relative remoteness of the site to significant residential areas and the potential undermining of strategies to support existing town centres does not represent an inclusive and sustainable form of development. The development is thereby contrary to Policies SD1 and STC6 of the East Herts Local Plan and national guidance in PPS1, PPG13 and Policy EC10.2 of PPS4
2. Inadequate information has been submitted to satisfy the requirements for a sequential assessment as required by policy EC14.3 of Planning Policy Statement 4: Planning for Sustainable Growth. In the absence of this information the Council cannot conclude whether the town centre uses are appropriate for this out-of-centre location.
3. Inadequate information has been submitted to satisfy the requirements for an impact assessment as required by policy EC16 of Planning Policy Statement 4: Planning for Sustainable Growth. In the absence of this information, the Council cannot accurately assess whether the proposed development would have an acceptable impact on the vitality and viability of the Ware and Hertford town centres.
4. Insufficient information has been submitted to allow a complete and accurate assessment of the impact proposed development on the local highway network in accordance with policies TR2 and TR3 of the East Herts Local Plan Second Review April 2007.

5. The proposed buildings would be out of character with the surrounding area, and of a size, form and appearance which fail to reflect or support local distinctiveness. The design fails to take the opportunity to improve the character and quality of the area or the way it functions contrary to policy ENV1 of the East Herts Local Plan Second Review April 2007, para 34 of PPS1 and EC10.2c of Planning Policy Statement 4: Planning for Sustainable Growth.
6. The design and layout of the car park at the rear of the proposed buildings is poor, lacking natural surveillance and creates a potential location for anti-social behaviour. This would be contrary to policies ENV1 and ENV3 of the East Herts Local Plan Second Review April 2007.
7. No provision has been made for contributions towards sustainable transport or associated infrastructure improvements as may be required to mitigate against the impact of the development. It would therefore be contrary to Policies IMPI and TR 1 of the East Herts Local Plan Second Review April 2007.
8. The development involves the loss of an existing bungalow without any replacement provision of residential accommodation as part of the development, contrary to policy EDE3 of the East Herts Local Plan Second Review April 2007.

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1.0 Background

- 1.1 The application site is shown on the attached OS extract. It comprises a mostly vacant plot of land with a bungalow in the south east corner. It is located towards the eastern edge of Hertford and lies approximately midway between the main shopping centres of Hertford and Ware, with Tesco in Hertford approximately one mile to the south-west, and Amwell End in Ware just under a mile to the north-east.
- 1.2 The proposal is for five new commercial units on the site, together with parking, access roads, landscaping and refuse facilities. One of the buildings, to be located along the south-west side of the site, would be a two-storey building for use within Use Class D1 (e.g. Health uses, nurseries, veterinary surgery, art gallery or museum, place of worship). The remaining four buildings would be for open uses within Use Class A (A1 Retail, A2 professional services, A3 restaurants and cafes, A4 public houses and A5 takeaways). These four uses would be located in the terrace of four buildings sited to the north-east of the proposed access road. All of the

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commercial uses would be recognised as town centre uses for the purposes of national guidance in PPS4.

- 1.3 The site was formerly used for a car showroom, garage, industrial unit and petrol station (nos. 308 – 310 Ware Road) with a separate bungalow (no. 306). It has subsequently been cleared, although the bungalow has been retained. It is proposed to demolish this bungalow as a part of the proposed development.
- 1.4 Alternative uses of the site were sought in the mid/late 1990s in line with the established uses, but these applications were not successful. Subsequently, the commercial uses ceased approximately two years ago.
- 1.5 The applicant claims that it has not been possible to establish a viable use of the site within the existing permitted uses. The applicant has approached the Council for pre application advice. Officers concerns were raised about the necessary tests for town centre uses; potential highways impacts and the loss of a dwelling. The idea of a mixed use scheme with residential uses was encouraged. However following local public consultation last year the applicant says that neighbours were opposed to residential development due to the inclusion of affordable housing.

2.0 Site History

- 2.1 There have been several applications relating to this site. Those considered relevant to this application are as follows:

3/95/0246/FP – Demolition of bungalow, new showroom, sales offices and flat; Extensions to parking; Removal of forecourt canopy and petrol pumps – Refused September 1995

3/95/1815/FP – Resubmission of 95/00246 – Withdrawn by applicant

3/97/0024/FP – New car showroom – Withdrawn by applicant

3.0 Consultation Responses

- 3.1 The County Highways officer has objected to the proposal on the grounds that the applicant has provided insufficient information to enable an accurate assessment of the development's impact on the highway network, and consequently highway safety and convenience may be prejudiced. In addition, the proposed highway access onto Ware Road is considered to be of insufficient standard to accommodate the likely traffic generation without

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detriment to the free and safe flow of traffic on the highway. A financial contribution of £217,000 is sought under a S106 agreement for sustainable transport.

- 3.2 The Council's Planning Policy team initially objected to the proposal on the grounds that the applicant had failed to carry out a sequential assessment of nearby retail space in accordance with recommendations in PPS4: Planning for Sustainable Economic Growth.

Subsequent to further discussions with the applicant, this objection has been withdrawn provided a condition is put in place restricting the number of non-retail uses at the site.

In addition, it would not meet the requirements of the East of England Plan to provide a minimum of 10% renewable energy as it would be a commercial development of more than one thousand square metres.

- 3.3 The Council's Landscape officer has commented that he would prefer a revised layout for the front area of car parking. A condition relating to landscaping and site layout has been recommended.

- 3.4 Veolia Water have commented that the site is within the Source Protection Zone of Musley Hill pumping station, and that Best Practise methods of construction should be followed. Any pollution found on site should be monitored and addressed subject to the appropriate remediation methods.

- 3.5 Environmental Health have commented that the development would be acceptable subject to condition relating to soil decontamination and hours of work on site.

- 3.6 Thames Water have commented that the proposal is acceptable in terms of sewerage infrastructure, subject to matters of drainage. The applicant shall be advised to contact Thames to discuss these matters in the event that permission is granted.

- 3.7 The Police Architectural Liaison Officer has commented that surveillance of the rear parking area would be necessary, and has recommended the inclusion of CCTV in this area. In addition, he has requested that details of lighting be provided to ensure that this would be sufficient to illuminate the site and discourage anti-social behaviour. He has suggested that a public toilet be included on the site to discourage anti-social behaviour.

- 3.8 The Herts Biological Records Centre has commented that there is no objection to the proposed development provided it has no impact on the adjacent Ware Line Quarry Wildlife Site.

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- 3.9 The Council's Property Services officer has commented that the site is outside any designated flood zone with no record of flooding. The proposal includes measures to reduce flood risk.
- 3.10 The County Planning Obligations Unit have recommended that financial contributions towards a fire hydrant on site be sought as part of the development.
- 3.11 The Herts & Middlesex Wildlife Trust has commented that the site is adjacent to a designated Wildlife Site that is home to foraging bats. They have recommended that any external lighting be kept to a minimum, and that bat boxes be incorporated into the buildings.

4.0 Hertford Town Council Representations

- 4.1 Hertford Town Council have said that they are pleased with the principle of commercial development on site, and have noted the nearby public house. However, members were concerned about the possible noise, traffic and general disturbance that could be introduced to the site if several food and drink uses were to open at the site, particularly at night time.

5.0 Other Representations

- 5.1 The applications have been advertised by way of press notice, site notice and neighbour notification.
- 5.2 Six letters of representation have been received which can be summarised as follows:

Loss of outlook from the Cockbush Avenue properties due to the height of the two-storey building

That the development would be out of character with the surrounding area

Increased vehicle noise from parking at rear of site

Siting of bins in relation to neighbouring properties

General impacts from food and drink uses to neighbouring occupiers and concerns about overconcentration of food and drink uses from a potential unrestricted permission

Concerns about traffic issues from the proposed access onto/off Ware Road

6.0 Policy

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

ENV1	Design and Environmental Quality
ENV2	Landscaping
ENV3	Planning Out Crime
ENV14	Local Sites
ENV16	Protected Species
ENV20	Groundwater Protection
ENV21	Surface Water Drainage
ENV23	Light Pollution and Floodlighting
ENV24	Noise Generating Development
SD1	Making Development More Sustainable
SD3	Renewable Energy
TR2	Access to New Developments
TR7	Car Parking – Standards
STC6	Out of Centre and Out of Town Retailing
STC7	Out of Centre – Limitations
EDE2	Employment Uses Outside Employment Areas

6.2 In addition, the following National policy guidance is relevant:

Planning Policy Statement 1: Delivering Sustainable Development,
Planning Policy Statement 3: Housing
Planning Policy Statement 4: Planning for Sustainable Economic Growth
Planning Policy Statement 9: Biodiversity and Geological Conservation
Planning Policy Guidance 13: Transport
Planning Policy Statement 23: Planning and Pollution Control

7.0 Considerations

7.1 The main planning issues for consideration in the determination of this application are as follows:

- The principle of out-of-town centre retail / service / leisure development;
- Whether the development represents good quality sustainable development
- The highway and traffic impacts of the development;

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- The impact on the outlook of neighbouring properties;
- The design of the development and its impact on the character of the surrounding area;
- The potential increased noise and disturbance to neighbouring occupiers

Principle of proposed development

- 7.2 The site falls approximately midway between the two town centres of Hertford and Ware. The applicant claims that the site will provide a local centre in accordance with PPS4 and serve a catchment area of Kingsmead, for approximately half a mile in either direction, where there is an identified deficiency in respect of such a centre.
- 7.3 The site is cleared of all buildings and has been vacant for around two years. This followed a period of declining fortunes on site that included the removal of the petrol station approximately ten years earlier. The site was marketed for some time before the final use ceased, but no new tenants were found.
- 7.4 The site has a mixed commercial and industrial history that eventually came to an end approximately two years ago. The site is now vacant, apart from the empty bungalow, and no longer has a lawful commercial use.
- 7.5 Policy EC14.3 of PPS4 requires that a sequential test assessing other viable sites within or on the edge of the town centre be carried out for main town centre uses in an out-of-centre location before permission can be granted..
- 7.6 Policy EC16.1 of PPS4 requires that an impact assessment be carried out to measure the likely impact of the proposal on town centre vitality, whether the development would be of an appropriate size or scale for the site, and whether it would impact on any local centres. The applicant has made no mention of the Pinehurst shops or the Police Station site for instance. Without the impact assessment, there is no way of properly considering how the proposal would affect the local or nearby town centres, especially as the proposed uses could affect both the daytime and evening economy.
- 7.7 The applicant has not carried out these tests. The submitted document simply states that there are no comparable sites for sequential assessment and there is no detailed impact appraisal. Their absence means that the proposed development cannot be properly considered.

- 7.8 Local plan policy STC6 requires that a demonstrable need be shown for any out-of-centre commercial development in out of town locations, that the use complements and would not detract from the vitality of nearby town centres, that it is well related to distribution of the resident population and that it would be easily accessible by a variety of transport.
- 7.9 The development proposes four large commercial units, in addition to a two-storey building in Use Class D1. The four units would range in floor space from 375 to 435 square metres. Such a size of unit would be more appropriate for a town centre or retail park use. A typical local shop or office in a neighbourhood centre would be more modest in size typically between 100 – 200 square metres gross.
- 7.10 The development in its design and appearance has the character of a small out of town retail park. This is considered to be an inefficient use of the site because it fails to take the opportunities to provide residential uses and there is no submitted evidence that a mixed residential development of the site is not viable or feasible. Instead, its prominent location on the main road between Hertford and Ware would be more likely to attract car-based customers. Additionally, the layout of the site does not encourage pedestrian traffic, with the front forecourt laid out for parking with no apparent pavement areas.
- 7.11 PPS1 requires that uses such as retail and leisure which attract large numbers of uses be focused in existing town centres uses to encourage sustainable patterns of development. The application site is advantageously located for passing traffic but its role for town centre uses would not be accessible to non car users in the way a town centre site would contrary to local and national policies. If there is a need for a local shopping facility then this should be provided as part of a mixed use scheme..
- 7.12 The District also requires significant additional housing land. The redevelopment of an area of land of this size can be expected to make a useful contribution towards the District's housing needs. A proportion of commercial development may be acceptable, but it would be more appropriate as part of a mixed use redevelopment of the site and for units which support local convenience services.
- 7.13 The demolition of the bungalow from the site would result in the loss of a single residential unit. This would be contrary to policy EDE3 of the Local Plan, which requires that new employment development not result in the loss of satisfactory residential accommodation,

7.14 Officers consider that the development would not be the most efficient or appropriate use of the land. While the investment and development of this brownfield site is welcomed in principle, the preference for its redevelopment is that it provide some housing to meet known needs. The applicant has not shown that the site is only suitable for retail development.

Sustainable development

7.15 PPS1 promotes sustainable development as the core underlying principle of planning. Policy ED10.2b of PPS4 requires that the accessibility of the economic proposals by a choice of means of transport be considered. PPS3 encourages the residential development of previously developed land in urban areas as a priority.

7.16 The application site is remote from the town centre and railways stations in Hertford and Ware. It is peripheral to the towns such that there are relatively few residents that would have a convenient walk to the site. Many of the residents within the 800m catchment identified by the applicant would have to manage the steep and circuitous routes from Foxholes and Pinehurst for instance. The development is therefore not likely to reduce the need to travel by car and does not encourage the fullest use of sustainable transport modes, it is therefore contrary to the objectives of PPG13 and PPS1 Climate Change and in my view does not therefore represent a good form of sustainable development.

7.17 The town centre uses at this site without evidence to the contrary would likely to discourage investment and activity in the existing town centres of Ware and Hertford. Approval of the scheme may encourage other similarly located sites along the busy connecting route between the two towns to develop town centre uses with cumulative impacts to the towns. A mixed use development of the site providing residential uses, some commercial space and local convenience services would be a more sustainable pattern of development and is one that the applicant has been encouraged to explore.

7.18 It should also be noted that a current application for a mixed use development of the former police station site on Stanstead Road is under consideration (3/09/1728/FP). In my view, if there were a need for an enhanced local shopping facility in the Kingsmeads area this would be better located and more sustainable on the former police station site, than this application site, due to it being a more central site to the wider residential population.

Highway impact

- 7.19 Policy EC10.2b of PPS4 requires that the development be accessible through a choice of means of transport. As noted above, the development would encourage high car use, with a limited degree of access achievable by passenger transport, pedestrians and cyclists. The proposed bicycle stores for example would be sited in the east corner of the site, about as far as could be possible from the main frontage, and requiring the navigation on foot of the car park and service road. This is not an acceptable layout and would encourage car use.
- 7.20 Although the site is passed by a number of bus routes, the peripheral location means this is not comparable to a town centre location and the train stations are too distant, the layout of the development is not encouraging to use by pedestrians. Officers therefore consider that the development would fail to meet the tests of the national guidance.
- 7.21 Policy EC10.2a of PPS4 requires that the development be designed to limit carbon dioxide emissions. The applicant has shown electric car charging points that would be installed on site as part of the development. In addition, the inclusion of other measures for reducing carbon emissions could be required by condition, such as the use of renewable energy to contribute to the site's energy needs.
- 7.22 Subsequent to the objections made by the County Highways officer and neighbouring residents, the applicant has produced a revised Transport Assessment for this application. The further comments of the Highways Officer on this assessment will be given orally to committee members.
- 7.23 The development would include provision through a possible Section 106 contribution for a new pedestrian crossing in the vicinity of the site to encourage pedestrian access to the site from the north side of Ware Road. This has received support in principle from the Highways officers, subject to an appropriate location being found.
- 7.24 While such details as electric charging points may mitigate the impacts of the development they do not change the fundamentals of the proposed development that in character it is designed primarily for car users and in location it is peripheral to the towns and not serving a wide residential catchment.

Parking

- 7.25 The applicant proposes to provide 63 parking spaces, most of these at the rear of the site in a 45 space area, with 18 spaces quite prominently placed along the main road frontage.
- 7.26 The provision equates to the maximum parking level for the overall development of 1885 sqm (gross) as set out in the parking standards of the local plan which seeks 1 space for 30 sqm gross floor space for units up to 500 sq metres. Given the Zone 4 location a reduction to 75% of maximum i.e. 47 spaces, would be permissible under the Council's adopted SPD on Vehicle Parking Standards.
- 7.27 This emphasises the character of the use and the intended market for the units. Car users would be driving to town centre uses at the site with free parking with an obvious advantage over charged car parking in town centre locations.

Design

- 7.28 Policy EC10.2c of PPS4 requires economic developments of this nature to be of a high quality of design that improves the quality and character of the surrounding area.
- 7.29 As noted above, the development would have the character of a retail park offering a few larger units. This would not be characteristic of a local retail parade.
- 7.30 The site has a sizable frontage of approximately 75 metres. There is no objection in principle to a development of a modern style of architecture and creating contrast with its neighbours.. However, the long sweeping roofs of the proposal and large areas of glazed frontage are indicative of a design that is not derived from an appraisal of the local context and character.
- 7.31 This part of Ware Road is an area of mixed residential and commercial uses. The larger commercial units elsewhere on Ware Road, are typically much smaller buildings than would be the case with this development, such as the builders merchants on the adjacent site, which is primarily a single-storey, flat-roofed building. The most prominent larger commercial building would probably be the office building at the Renault site further to the north-east, which is of around the same height as the adjacent residential buildings.

- 7.32 The development would introduce a rather strident and uncharacteristic form of development to the site. Officers note that the terrace of four units, which would only have a ground floor, would be of comparable height to the two-storey detached building. The height and form of these buildings contributes to the impression of a retail park rather than that of a local convenience shopping parade.
- 7.33 The design of the development would not be acceptable in this location. The buildings would be unduly prominent and excessively large. They would bear little relation to the character and pattern of development in the site's surroundings.
- 7.34 It is considered there are opportunities to achieve a much more inclusive mixed use design with smaller plot sizes that pay more respect to the character of the surrounding townscape.

Impact on outlook of neighbouring properties

- 7.35 The individual unit A would be sited in place of the existing bungalow on site. It would have a higher ridge with the main roof slope angled towards the properties on Cockbush Avenue.
- 7.36 The building would have an increased presence when compared to the existing situation on site. It would be approximately twice the depth of the existing bungalow.
- 7.37 The building would be set at a lower level than the existing bungalow by approximately one metre. Although the building would be a more prominent feature, the main impact would be limited to the occupiers of the bungalows at 2 and 4 Cockbush Avenue. The new building would sit at the foot of their gardens, at a distance of approximately twelve metres. For the other buildings in the area, the impact would be substantially less due to their relationship to the building.
- 7.38 The Cockbush Avenue properties are set at a substantially higher level than the proposed building would be due to the gradient of the road. The eaves of the roof would be at the approximate level of the ground-floor windows to the houses, which have rooms in the roof. While there is some impact therefore I do not consider the resultant effects would be so great that it would have an unacceptable loss of outlook or daylight enjoyed by those occupiers.

Impact of noise and disturbance to neighbouring properties

- 7.39 The development would feature parking to the rear of the proposed buildings, with an access road between the primary and secondary units. The commercial units would have service areas to the rear for deliveries.
- 7.40 The commercial units, which could include at most two food and drink uses (subject to a suggested planning condition), would be sited on the far side of the site from the nearest house, with a minimum separation of around 20 metres, and around 30 metres to the nearest entrance.
- 7.41 Disturbance in the evening will be a change from the previous daytime uses at the site. Some noise and activity will be expected due to sound from the new uses at the units; noise from customers leaving the premises and driving away will be limited by the distance to neighbouring dwellings and by the significant change in levels between the application site and the neighbouring properties on Cockbush Avenue.
- 7.42 Concern has also been raised about the siting of the proposed bin store along the north-west boundary of the site. This would be approximately 15 metres from the nearest garden, and around 25 metres from the nearest house. The separation would be further increased by the difference in levels between the two sites. At this distance there would be no material issue with smells coming from the bins.
- 7.43 It is considered that the applicant's proposals to install an acoustic barrier along this boundary of the site, and to limit the hours of access to the rear of the site, would help to ensure that no undue noise disturbance would result from the proposed development. Conditions relating to opening hours of the units could also mitigate the impacts so on balance I do not consider there are grounds to refuse the application on the impacts to the amenity of local residents although it is a consideration that an alternative mixed use residential / commercial scheme for the site would be likely to have a more limited impact.

8.0 Conclusion

- 8.1 The applicant has failed to show that this out of centre site would be an appropriate site for town centre retail and other service uses, or that there would be no detrimental impact on the local town centres of Hertford or Ware from the development. The application therefore fails the tests of national guidance in PPS4.

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- 8.2 Although proposed as a local retail parade, the development would have a character more akin to an out of town retail park. Such a development would be inappropriate in this location and does not represent a well designed sustainable form of development for the reasons set out above
- 8.3 The nature of the use is designed to attract car users and the location is unfavourable to non car users. The detailed layout of the site also focuses on providing access for cars, to the detriment of pedestrians and cyclists. In addition, County Highways officers have objected to the lack of information provided by the applicant in assessment of the development's impact on the local highway network.
- 8.4 The design of built form appears to make a statement but with no regard to the local context. The long angled roofs, high glazed windows and plot sizes are uncharacteristic of the mixed residential and commercial character of the immediate townscape. The rear car park being out of public view is unattractive to users and as well as a security risk may be a location for anti social behaviour
- 8.5 The proposed commercial development of the site would be an inefficient use of the site considering the identified need for housing sites in the District and the appropriateness of redeveloping the site for residential. In addition, the development would involve the loss of an existing dwelling on the site contrary to adopted local plan policy
- 8.6 For these reasons, officers recommend that permission be refused for the proposed development.