

3/10/0735/FO – Alterations to and conversion of Balls Park Mansion and Coach House to provide 28 apartments; Reduce size of area 'B' car park; Provision of underground car parking; Demolition of stable yard garages etc; Erection of new garages and entrance to west wing (Variation of condition 7 of 3/09/0593/FP) at Balls Park, Mangrove Road, Hertford, Herts, SG13 8AR for City and Country Residential.

Date of Receipt: 09.04.2010

Type: Variation of Condition - Major

Parish: HERTFORD

Ward: HERTFORD - CASTLE

RECOMMENDATION

A) That subject to the applicant or successor in title varying the legal agreement signed under application 3/09/0593/FP pursuant to S106 of the Town and Country Planning Act 1990 by midday on 27th July 2010 to cover the following matters:

- To include this planning reference within the signed S106 agreement dated 5th February 2010;
- To pay additional financial contributions of £513 in respect of affordable housing;
- To pay additional financial contributions of £385 in respect of County Council education and community facilities;

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

1. The development to which this permission relates shall be begun before 5th February 2013.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990.

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)

3/10/0735/FO

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 Emergence and Activity Survey (dated 12th July 2008).

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 heritage assets in accordance with policy BH16 of the East Herts Local Plan Second Review April 2007 and PPS5 'Planning for the Historic Environment'.

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.

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 and BH16 of the East Herts Local Plan Second Review April 2007 and PPS5 'Planning for the Historic Environment'.

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

3/10/0735/FO

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 saved policies SD1, GBC1, GBC4, GBC14, HSG3, HSG4, HSG6, TR7, TR14, EDE2, ENV1, ENV2, ENV16, ENV17, ENV20, ENV21, BH1, BH2, BH3, BH16, LRC3 and LRC9 and National guidance PPS5 'Planning for the Historic Environment'. The balance of the considerations having regard to those policies, and permission 3/09/0593/FP, is that permission should be granted.

B) Where the legal agreement referred to in recommendation (A) is not completed by midday on 27th July 2010 the Director of Neighbourhood Services be authorised to **REFUSE** planning permission for the following reason:-

1. The proposal fails to make adequate financial provision for infrastructure improvements necessary to support the proposed development. The development is thereby contrary to policy IMP1 of the East Herts Local Plan Second Review April 2007.

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 a 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 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 granted subject to conditions in February 2010 for a residential conversion of the Mansion and Coach House into 27 no. units (3/09/0593/FP), and of the Stable Block into 12 no. units (3/09/0594/FP). It is now proposed to sub-divide one of the approved 4 bed units (split between the ground and basement floors), to create 2 no. 2 bed units, one on the ground floor and one in the basement. A wider porch is proposed to provide access to this new self-contained flat, along with the re-positioning of a new window, and various internal alterations.
- 1.4 This is an application under Section 73 of the Town and Country Planning Act (1990) to vary condition 7 of permission 3/09/0593/FP to provide amended plans with the additional unit included. The main issue in this case is therefore whether the proposed amendments can be considered to be a 'minor material amendment' to the approved consent.

2.0 Site History

- 2.1 Permission was first 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 Stables, and the erection of 132 no. residential units with associated access, parking and landscaping. 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. Permission was granted for an amended scheme of 84 no. units at Area A under references 3/08/0884/FP and 3/08/0885/FP, which is also currently under construction.

3/10/0735/FO

- 2.2 In October 2008, planning permission and listed building consent were refused to convert the Mansion and Coach House into residential use (under references 3/08/1177/FP and 3/08/1180/LB). However, permission was then granted in February 2010 for an amended scheme subject to a number of conditions, including the one this application seeks to vary.
- 2.3 More recently, listed building consent has been granted under delegated powers for various amendments to the approved scheme (3/10/0680/LB), including the additional residential unit; however the applicant has been informed that planning permission must also be sought.

3.0 Consultation Responses

- 3.1 Hertfordshire Property comment that the financial contributions sought towards HCC services under the previous application were determined by EHDC and the developer, and not based on HCC's Planning Obligation Toolkit. However, the best approach would be to seek a pro rata contribution for the additional unit, this would be a figure of £555 (1/27th of £15,000).
- 3.2 County Archaeology have no comment on the application. Any archaeological mitigation can be provided for under 3/09/0593/FP.

4.0 Town Council Representations

- 4.1 Hertford Town Council have no objection given no damaging alterations to the fabric of the building, and the need for homes in the area.

5.0 Other Representations

- 5.1 The applications have been advertised by way of press notice, site notice and neighbour notification.
- 5.2 1 no. letter of objection has been received from 98 Mangrove Road which can be summarised as follows:-
- No houses at all – we already have a lot for sale;
 - Adapt the whole site for older people with activities to keep their health;
 - A bus should come to the site, reducing traffic in Hertford.

6.0 Policy

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

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
ENV20	Groundwater Protection
ENV21	Surface Water Drainage
BH1	Archaeology and New Development
BH2	Archaeological Evaluations and Assessments
BH3	Archaeological Conditions and Agreements
BH16	Historic Parks and Gardens
LRC3	Recreational Requirements in New Residential Developments
LRC9	Public Rights of Way
IMP1	Planning Conditions and Obligations

In addition to the above it is considered that Planning Policy Statement 1, (Delivering Sustainable Development), PPS3 (Housing), and Planning Policy Statement 5 (Planning for the Historic Environment) are considerations within this application.

7.0 Considerations

- 7.1 The main issue in this case is whether the proposed amendments are acceptable as minor material amendments under S73 of the Town and Country Planning Act (1990). The application proposes to vary Condition 7, which was worded as follows:

The development shall, except to the extent that the local planning authority otherwise agrees in writing, be carried out in accordance with the details submitted with the application.

Reason

To comply with the requirements of the Town and Country Planning (General Permitted Development) Order 1995.

3/10/0735/FO

7.2 Greater use of the Section 73 process has been encouraged in the 'Killian Pretty Review: Planning applications - A faster and more responsive system' (2008) for making amendments to planning consents, and the procedure is now referred to as an application for a 'minor material amendment'. However, a fresh consent is granted, and therefore the application description relates to the whole development.

7.3 Recent DCLG guidance (November, 2009) suggests that the definition of 'minor material amendment' should follow that set out by White Young Green in response to the Killian Pretty Review. This is worded as follows:-

"A minor material amendment is one whose scale and nature results in a development which is not substantially different from the one which has been approved." (WYG, July 2009)

7.4 It is therefore important to consider whether the proposed amendments, in particular the creation of an additional residential unit, would result in a substantially different development to the one which has been approved. In making this judgement, it is your Officer's view that although an extra unit would be created, the scale and nature of development would not be substantially different. This is because there would be no additional built development (except for a wider porch discussed below), and the increase from 27 to 28 no. units is not considered to be significant in relation to the whole development.

7.5 The addition of a further unit would not result in a requirement for additional car parking provision but would trigger the need for additional financial contributions towards affordable housing and County Council infrastructure. It is suggested that this be considered on a pro-rata basis, which would trigger the requirement for £513 towards affordable housing and £385 towards County Council infrastructure. It is noted that HCC referred to a figure of £555; however this was calculated on the basis of 1/27th of £15,000. In fact, the previous contributions also covered the conversion of the Stables to 12 residential units, and therefore the figures are calculated on a 1/39th pro-rata basis. The developer has agreed to cover these costs through a revised legal agreement to vary that signed under application 3/09/0593/FP. Given the timescales for determination of this application, a dual recommendation is recommended, so that the application may be refused if the legal agreement is not completed in time.

7.6 Other amendments include internal alterations, the re-positioning of a new demilune window in the east elevation by 3m, and the widening of an external porch to provide space for a new staircase to access the new basement flat below. The porch is proposed to be widened by 1.5m and has been designed to minimise impact on the setting of the Mansion. Listed

3/10/0735/FO

building consent has already been granted for these alterations in consultation with English Heritage (3/10/0680/LB). Officers therefore consider that none of these amendments will materially affect the scale or nature of the development.

- 7.7 It is important to note that granting permission for a minor material amendment application under S73 results in a new consent and decision notice being issued. It is therefore necessary to recommend the same conditions again as were attached to permission 3/09/0593/FP. However, it is not considered acceptable to re-commence the three year implementation time period given that permission was only recently granted in February. The three year time period should therefore remain as previously approved (i.e. requiring commencement prior to 5th February 2013).
- 7.8 In terms of policy for the remainder of the development, although several Local Plan policies have since been cancelled, including policy HE10 'Balls Park', substantial weight is given to consent 3/09/0593/FP, and therefore full planning permission is recommended for the entire development.

8.0 Conclusion

- 8.1 Overall, Officers consider that the proposed amendments; namely sub-division of a 4 bed unit to create 2 no. 2 bed units, the re-positioning of a window, widening of an approved porch, and internal alterations will not result in a development that is substantially different from that which was previously approved. The revised plans can therefore reasonably be considered as a minor material amendment to permission 3/09/0593/FP.
- 8.2 The application is therefore recommended for approval subject to conditions, and the applicant entering into a legal agreement as set out above.