

**5b 3/10/0820/FN – Renewal of planning permission granted under ref. 3/07/1647/FP for the erection of 14 apartments with parking and landscaping, with new access from St. Johns Street at Former car park to The Dolphin, Mill Road, Hertford for Allunite Ltd.**

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**Date of Receipt:** 06.05.2010

**Type:** Full - Major

**Parish:** HERTFORD

**Ward:** HERTFORD - CASTLE

### **RECOMMENDATION**

A) That subject to the applicant or successor in title varying the legal agreement signed under application 3/07/1647/FP pursuant to S106 of the Town and Country Planning Act 1990, by midday on 13<sup>th</sup> August 2010, amending the planning reference and making the following payments:

- £11,424 in respect of primary schools;
- £6,216 in respect of secondary schools;
- £1,806 in respect of libraries;
- £182 in respect of youth facilities;
- £798 in respect of childcare facilities;
- £2,730 in respect of nursery facilities;
- £7,000 Accessibility Contribution (index linked from 01/03/2006);
- £9,819.53 in respect of outdoor sports facilities, plus £24,653.80 maintenance;
- £1,450.31 in respect of children and young people, plus £2,783.09 maintenance;
- £1,064 in respect of recycling facilities;
- £300 standard monitoring fee per clause.

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

1. Three year time limit (1T12)
2. Programme of archaeological work (2E02 please add 'applicant or successors in title')
3. Complete accordance (2E101)
4. Levels (2E05)
5. Boundary walls and fences (2E07)
6. Samples of materials (2E12)

### 3/10/0820/FN

7. Lighting details (2E27)
8. Communal TV facilities (2E28)
9. Cycle Parking Facilities (2E29)
10. Protection of archaeological regime (2E31)
11. Contaminated land survey and remediation (2E33)
12. Prior to the commencement of development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved in writing by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the LPA.

Reason: To ensure the site no longer poses a risk to groundwater in accordance with policy ENV20 of the East Herts Local Plan Second Review April 2007 and PPS23 'Planning and Pollution Control'.

13. New Doors and Windows- unlisted buildings (2E34)
14. Sample Brickwork Panel- unlisted buildings (2E35)
15. External details of extraction equipment (2E37)
16. Prior to first occupation of the development hereby approved, all access and junction arrangements serving the development shall be completed in accordance with the approved in principle plans and constructed to the specification of the Highway Authority and satisfaction of the Local Planning Authority.

Reason: To ensure that the access is constructed to an appropriate specification in the interests of highway safety and convenience.

17. Prior to first occupation of the development hereby approved the existing footway along the Mill Road frontage of the site shall be widened to 2.0 meters in accordance with details to be first submitted to and approved by the Local Planning Authority.

Reason: In the interests of road safety and pedestrian movement.

18. Prior to the first use of the access hereby approved a triangular vision splay shall be provided on each side of the new access and shall measure 2.0 metres along the fence, wall, hedge or other means of definition of the front boundary of the site, and 2.0 metres measured into the site at right angles to the same line along the side of the new access drive. The vision splays so described and on land under the applicant's control shall be maintained free of any obstruction to visibility exceeding a height of 600mm above the adjoining footway level.

Reason: To provide adequate visibility between the existing highway and the proposed access, and to make the access safe and convenient for the traffic likely to use it.

19. Retention of parking space (3V04)
20. Construction parking and storage (3V221)
21. Wheel washing facilities (3V25)
22. Landscape design proposals (4P12)
23. Landscape works implementation (4P13)
24. Landscape maintenance (4P17)
25. Hours of working - plant and machinery (6N05)
26. Piling or other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given to those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater.

Reason: To protect groundwater from contamination in accordance with policy ENV20 of the East Herts Local Plan Second Review April 2007 and PPS23 'Planning and Pollution Control'.

27. No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the Local Planning Authority, which may be given to those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters.

Reason: To protect groundwater from contamination in accordance with policy ENV20 of the East Herts Local Plan Second Review April 2007 and PPS23 'Planning and Pollution Control'.

28. Prior to the commencement of development, specification details for any ground source pumps shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Environment Agency.

Reason: In order to protect groundwater in accordance with policy ENV20 of the East Herts Local Plan Second Review April 2007 and PPS23 'Planning and Pollution Control'.

Directives:

1. Other Legislation (01OL)
2. Footpath crossing (05FC)
3. Street Naming and Numbering (19SN)

Summary of Reasons for Decision

The proposal has been considered with regard to the policies of the Development Plan (Hertfordshire County Structure Plan, Minerals Local Plan, Waste Local Plan and the 'saved' policies of the East Herts Local Plan Second Review April 2007), and in particular policies SD1, SD2, HSG6, TR1, TR2, TR7, TR14, ENV1, ENV2, ENV3, ENV20, BH1, BH2, BH3, BH6, LRC3 and LRC1, and PPS1, PPS3, PPS5, PPG13 and PPS23. The balance of the considerations having regard to those policies is that permission should be granted.

- B) Where the legal agreement referred to in recommendation (A) is not completed by midday on 13<sup>th</sup> August 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 is shown on the attached OS extract. It comprises a vacant 0.12 ha site located to the west of Mill Road opposite Hertford East Railway Station, and to the north of the former Dolphin public house (now 5 no. residential units). To the north of the site is the new Waterfront development of 112 no. residential units, and to the west of the site are two storey Victorian terraced dwellings fronting St. John's Street.
- 1.2 Permission was granted on 15<sup>th</sup> November 2007 for this development under reference 3/07/1647/FP with a standard three year time limit. The consent therefore expires on 15<sup>th</sup> November 2010, and this is an application to renew the consent for a further three years. The main issues to be assessed are whether there have been any material changes to planning policy that may affect this development proposal.
- 1.3 The accommodation consists of 14 no. 2 bed apartments provided on four floors, with a lower three storey section at the southern end of the Mill Road elevation. The development is of a modern design with substantial use of glazing and balconies. The building will be finished at ground floor level with facing brickwork, and with render and timber clad upper floors with a flat roof.

## **2.0 Site History**

- 2.1 Permission was granted for this scheme on 15<sup>th</sup> November 2007 under reference 3/07/1647/FP subject to a three year time limit. The site has since been sold to a new developer who is now applying to extend this time limit in order to provide sufficient time for the development to commence.
- 2.2 Previously the site benefited from consent under reference 3/03/0371/FP for the erection of 5 no. town houses, along with the residential conversion of the Dolphin PH, which has now been completed. The town house aspect of that permission therefore remains extant.
- 2.3 The site was also the subject of two earlier applications for 20 apartments (3/06/2044/FP and 3/07/0217/FP) but these were withdrawn due to Officer concerns and neighbour objections.

**3.0 Consultation Responses**

- 3.1 The Environment Agency do not object subject to conditions on contamination and remediation, no infiltration of surface water drainage into the ground, and no piling or foundation designs using penetrative methods shall be permitted without written consent.
- 3.2 County Highways do not wish to restrict the grant of permission subject to the previous conditions on 3/07/1647/FP. However, they comment that since the previous approval it has been agreed that the East Herts SPD takes precedence over the HCC Toolkit for contributions. In this case the actual figure remains the same £7,000 (14 x £500 per parking space), but is now defined as an Accessibility Contribution. Second, the Herts Highways contact details included in the advisory note have changed and should be amended.
- 3.3 The County Archaeology Officer comments that the site lies within Area of Archaeological Significance No. 172 and archaeological evaluation of the site in 2003 recorded several remains. Subsequently, archaeological monitoring in 2005 revealed new and important remains probably associated with the Priory and are of regional or national importance. There is a reasonable likelihood of significant archaeological remains being present and a further evaluation of the site is necessary. A condition for a programme of archaeological work is therefore recommended. A Written Scheme of Investigation was submitted and approved in line with 3/07/1647/FP but this should be amended and updated with the appropriate application details.
- 3.4 The County Development Unit comment that the County Council seeks to promote the sustainable management of waste in the county and encourages districts to have regard to the potential for minimising waste generated by development. Planning conditions are therefore recommended.
- 3.5 Environmental Health recommend consent subject to a condition on soil decontamination.
- 3.6 The County Architectural Liaison Officer comments that no mention was given to security in the original Design and Access Statement and there is no evidence to support the fact that crime and the fear of crime has been taken seriously. Strongly recommend that minimum standards of security be a planning condition – all ground floor glazing should meet BS7950, and all apartment doors should meet PAS 24. Balconies should be designed to remove the opportunity for burglars, and all ground floor panels should have laminated glass.

### **3/10/0820/FN**

- 3.7 The Conservation Officer recommends consent. She comments that the proposed scheme remains unchanged from 3/07/1647/FP and is in keeping with current legislation.
- 3.8 The Council's Engineers comment that they have no records of historical flooding at the site. The submitted drawings do not seem to show how the surface water drainage to the site will be discharged. It is unlikely that the development would contribute to localised flooding especially if the development makes use of soakaways and other SUDS type drainage systems, rainwater harvesting etc.
- 3.9 The Landscape Officer recommends consent as there is no significant change to the previously approved scheme.
- 3.10 The Housing Officer comments that there are insufficient units to allow her to seek affordable housing on this site. The threshold is 15 units and the application is for 14 units.
- 3.11 The County Council Planning Obligations team have requested fire hydrant provision for the scheme, and financial contributions based on their adopted Toolkit as follows:
- |                     |         |
|---------------------|---------|
| Primary Education   | £11,424 |
| Secondary Education | £6,216  |
| Nursery Education   | £2,730  |
| Childcare           | £798    |
| Youth               | £182    |
| Libraries           | £1,806  |
- 3.12 All calculations are based on PUBSEC index 175 and will be subject to indexation. If the unit size, number or tenure changes, this calculation will need to be reviewed. They comment that since the 2007 permission, the 'Planning Obligations Guidance – Toolkit for Hertfordshire' has been adopted, and in addition, school forecast data has been updated and now shows a need for additional secondary school places within this area.
- 3.13 At the time of writing this report no response had been received from Veolia Water, English Heritage or Waste Services.

### **4.0 Town Council Representations**

- 4.1 Hertford Town Council has no objection.

## **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 from 10 and 14 St. John's Street and the Priest of the Parish of the Immaculate Conception and Saint Joseph which can be summarised as follows:-

- St. John's Street is a narrow cul-de-sac with residents' parking on the east side. Daily church services, weddings and funerals require access at all times during construction;
- The access should not be from St. John's Street but from Mill Road or Railway Street instead;
- Since the original consent was granted, the site has been bought by the same developer and therefore affordable housing guidelines apply;
- Four storey buildings will result in loss of privacy and daylight – the proposed landscaping will not address this issue;
- Modern style with lots of glass will look out of place compared to historical surroundings and listed buildings;
- Access to car parking near residential properties will cause noise and light pollution;
- No reference has been made to impact on traffic congestion and visitor parking with the change in access in St. John's Street;
- Increased number of vehicles will be dangerous on a blind bend;
- No reference has been made to pressure on local services such as waste disposal, schools and health;
- There is already a flood of flats on the market in Hertford – houses would be preferable;

## **6.0 Policy**

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

SD1	Making Development More Sustainable
SD2	Settlement Hierarchy
HSG6	Lifetime Homes
TR1	Traffic Reduction in New Developments
TR2	Access to New Developments
TR7	Car Parking – Standards
TR14	Cycling – Facilities Provision (Residential)
ENV1	Design and Environmental Quality
ENV2	Landscaping
ENV3	Planning Out Crime – New Development



ENV20	Groundwater Protection
BH1	Archaeology and New Development
BH2	Archaeological Evaluations and Assessments
BH3	Archaeological Conditions and Agreements
BH6	New Developments in Conservation Areas
LRC3	Recreational Requirements in New Residential Developments
IMP1	Planning Conditions and Agreements

- 6.2 In addition to the above it is considered that Planning Policy Statement 1, (Delivering Sustainable Development), Planning Policy Statement 3 'Housing', PPS5 'Planning for the Historic Environment', PPG13 'Transport', and PPS23 'Planning and Pollution Control' are considerations in determining this application.

## **7.0 Considerations**

### **Principle of Development**

- 7.1 The site lies in the built-up area of Hertford wherein residential developments are acceptable in principle, and as this is an application to renew permission 3/07/1647/FP, the principle of this development has been clearly established. A refusal could only be justified on the grounds of a change of policy or site circumstances since 2007.

### **Scale, Design and Layout**

- 7.2 The development remains identical to that previously approved and is considered to be appropriate in layout, scale, siting and design. The building will face onto Mill Road with pedestrian access and a landscaped frontage. Vehicular access will be provided from St. John's Street to the rear with courtyard parking for 14 no. vehicles. Additional landscaped garden areas are available to the rear of the building, along with a service building including refuse and cycle storage facilities.
- 7.3 The scale and design of the building remains acceptable in relation to the character and appearance of the surrounding area. The contemporary design will enhance the appearance of the street and surrounding Conservation Area. Although the building would be four storeys in height to the north of the site, this is in-keeping with the scale of the Waterfront development (up to five storeys) and other new developments in the area.
- 7.4 The former Dolphin PH to the south of the site is lower in height, along with a converted coach house closest to the site boundary. The new development is reduced to three storeys in height in this location and is therefore considered to create an acceptable relationship. The former Dolphin PH is grade II listed, but due to the scale and design of the new

building, and distance of approximately 13m to the Dolphin, Officers do not consider that the setting of this heritage asset would be harmed.

- 7.5 Since the previous consent was granted it is noted that the national indicative minimum density has been removed from PPS3. Densities should now be determined in line with the character of development in the surrounding area. In this case, Officers consider that the proposed density of 116 dwellings per hectare is considered to be appropriate in this location, and in fact is lower than other neighbouring new developments (202 dph at the Waterfront, Mill Road and 125 dph at the former TXU site, Mead Lane).

### **Parking and Access**

- 7.6 Parking for 14 no. vehicles (i.e. one per unit) is located to the rear of the development with vehicular access as approved from St. John's Street. This remains acceptable in accordance with the Council's adopted parking standards. Neighbour concerns regarding this access are noted; however this is considered to be acceptable in highway terms and has not changed since the previous approval. The proposal is therefore considered to be acceptable in this regard.

### **Affordable Housing**

- 7.7 Comments raised by a neighbour regarding affordable housing are noted. As this application proposes 14 no. units it falls just under the threshold for providing affordable housing. However, policy HSG3 makes it clear that "where the development of a site is phased or divided into parts it will be considered as a whole for the purposes of affordable housing."
- 7.8 The site has recently been sold along with land to the south of this application site where permission was previously granted for additional residential development (north of Railway Street). This includes consent for 8 no. residential units on the corner of Railway Street and St. John's Street (3/08/1161/FP), 3 no. town houses on Railway Street (3/07/2364/FP and 3/08/1033/FP) and a further 3 no. mews houses to the rear (3/08/1033/FP). In total this would exceed the 15 dwelling threshold and trigger the requirement for affordable housing.
- 7.9 However, Officers do not consider that this is a single site that has been divided into parts. The land has all been recently sold by Parkhall Property, but Officers are not certain that it has been acquired by the same developer. Further, the plots emerged from separate ownership and affordable housing was not required on any of the previous schemes. Overall, Officers do not consider that circumstances have changed since 3/07/1647/FP to justify a requirement of affordable housing on this scheme.

### Financial Contributions

- 7.10 The previous consent was approved subject to a legal agreement signed on 15<sup>th</sup> November 2007. This agreement included a requirement for £7,000 Sustainable Transport Contributions, £4,649 towards primary schools, £2,856 towards libraries, £5,740 towards youth and childcare facilities, and fire hydrants. This totalled some £13,245.
- 7.11 Since this approval, County Council have adopted a Toolkit for the calculation of contributions, and additional sums have therefore been requested in relation to education, libraries, child and youth facilities. Further, a need for secondary school contributions has also arisen and been requested. The HCC contributions now total some £23,156, i.e. approximately £10,000 more than previously required.
- 7.12 In terms of transport contributions, the East Herts Planning Obligations SPD takes precedence over the HCC Toolkit for a development of 14 no. units. This requires a contribution of £500 per car parking space index linked to the Transport Plan upon which those figures are based (1<sup>st</sup> March 2006). Whilst the figure of £7,000 therefore remains the same, the index linking will require an additional payment from the developer.
- 7.13 Finally, since the previous consent was granted, Members will be aware that the Council has adopted an SPD on Planning Obligations. This SPD sets out standard requirements for open space provision and maintenance for East Herts, supported by an adopted SPD on Open Space, Sport and Recreation adopted in September 2009. Officers consider that sufficient amenity green space is provided on site; however off-site contributions would be required towards outdoor sports and youth facilities, along with maintenance payments, and recycling facilities as set out below:-

Outdoor sports facilities	£ 9,819.53
+ maintenance	£24,653.80
Children and young people	£ 1,450.31
+ maintenance	£ 2,783.09
Recycling facilities	£ 1,064.00
Monitoring fee	£ 300
<b>EHDC Total</b>	<b>£40,070.73</b>

- 7.14 Overall, whilst Officers acknowledge that these payments did not form part of the original legal agreement, they are considered to be reasonable and necessary in order to mitigate the impact of the development on infrastructure, and therefore a variation of the signed legal agreement would be required. Should this not be signed by the 13<sup>th</sup> August 2010 then it is

recommended that the application be refused on the grounds of insufficient infrastructure contributions.

### **Residential Amenity**

- 7.15 Impact on residential amenity was fully assessed under application 3/07/1647/FP and the situation has not changed in this regard. Residents of St. John's Street appear to remain concerned about overlooking; however the back to back distances are some 33m and therefore there would be no significant loss of privacy or outlook. St. John's Court is slightly closer (approximately 19m), but the relationship between this new development is very similar to that of the Waterfront scheme.
- 7.16 Further, although car parking and the vehicular access are proposed in close proximity to the rear gardens of St. John's Street, I do not consider that the scale and frequency of vehicular movements would be such that harm would arise to neighbours' amenity. There is also a high boundary wall (over 2m high) in this location.
- 7.17 The amenity of future occupiers of the new development is also considered to be acceptable in terms of decent room sizes, outlook and outdoor amenity space. The application therefore continues to provide for acceptable levels of amenity for both neighbours and future occupiers.

### **Conditions**

- 7.18 Similar conditions to 3/07/1647/FP are recommended in order to ensure the development is appropriately mitigated. However, the Environment Agency are now recommending additional conditions on groundwater protection and piling/penetrative foundation methods as the site lies on a principal aquifer, in a Source Protection Zone 3 and around a potable public water supply borehole. The groundwater in this location is also at a shallow depth and is therefore very sensitive to contamination. A condition was previously attached on piling works; this is no longer considered necessary as the EA seek an alternative condition to restrict piling activities. The applicant has suggested that ground source heat pumps would be installed as part of the development, but this could have implications for the protection of groundwater in this location. No details have been submitted, and therefore a condition is recommended to require details prior to the commencement of development.
- 7.19 A previous condition on construction parking and storage is no longer considered necessary as this can be controlled through Highways legislation. Finally, the cycle parking condition has been amended so as not to specify 10 no. spaces. Additional cycle spaces will be required in order to comply with policy TR14, but it may be possible to vary the number.

### **3/10/0820/FN**

- 7.20 A condition on waste minimisation as recommended by HCC is not considered necessary as the site is already vacant; no demolition is proposed.
- 7.21 Finally, comments raised by the Hertfordshire Constabulary Architectural Liaison Officer are noted; however these were not included as conditions in the earlier consent, and policy ENV3 has not changed since 2007. It is therefore not considered reasonable or necessary to attach additional planning conditions on crime prevention measures.

### **8.0 Conclusion**

- 8.1 Overall, there have been no significant changes in planning policy to warrant a reconsideration of the development proposed. Officers therefore consider that a renewal of the application would be acceptable for a further three years. However, this is subject to the additional payments now required under the Council's adopted Planning Obligations SPD and the HCC Toolkit, and a number of planning conditions.
- 8.2 The application is therefore recommended for approval subject to an amended legal agreement, and the conditions set out above.