

MINUTES OF A MEETING OF THE  
DEVELOPMENT MANAGEMENT  
COMMITTEE HELD VIRTUALLY VIA ZOOM  
ON THURSDAY 25 JUNE 2020, AT 7.00 PM

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PRESENT: Councillor B Deering (Chairman)  
Councillors D Andrews, T Beckett,  
R Buckmaster, B Crystall, R Fernando,  
A Huggins, J Jones, I Kemp, C Redfern,  
P Ruffles and T Stowe

ALSO PRESENT:

Councillors J Goodeve and S Rutland-  
Barsby

OFFICERS IN ATTENDANCE:

Peter Mannings	- Democratic Services Officer
Sara Saunders	- Head of Planning and Building Control
Rachael Collard	- Principal Planning Officer
Kay Mead	- Principal Planning Officer
David Snell	- Service Manager (Development Management)
Victoria Wilders	- Legal Services Manager
John Williams	- Electoral Services Manager

57 APOLOGY

An apology for absence was submitted on behalf of Councillor Page. It was noted that Councillor Fernando was substituting for Councillor Page.

58 CHAIRMAN'S ANNOUNCEMENTS

The Chairman welcomed all attendees and those viewing online to the meeting. He stated that The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 came into force on Saturday 4 April 2020 to enable councils to hold remote committee meetings during the Covid-19 pandemic period. This was to ensure local authorities could conduct business during this current public health emergency. This meeting of the Development Management Committee was being held remotely under these regulations, via the Zoom application and was being recorded and live streamed on YouTube.

The Chairman invited each Member and Officer in attendance at the meeting to introduce themselves.

59 DECLARATIONS OF INTEREST

No declarations of interest were made by Members in any item on the agenda.

60 3/19/2614/FUL - MIXED USE RE-DEVELOPMENT  
COMPRISING PARTIAL DEMOLITION OF EXISTING  
BUILDINGS AND REPLACEMENT WITH 3,419 SQUARE  
METRES OF COMMERCIAL FLOORSPACE (USE CLASSES A1-  
A4, D1), AN 86-BED HOTEL (USE CLASS C1), 98 RESIDENTIAL  
APARTMENTS (USE CLASS C3), ALTERATIONS TO AN  
EXISTING CAR PARK, NEW BUS STATION FACILITIES AND  
ASSOCIATED WORKS AND IMPROVEMENTS AT BIRCHERLEY  
GREEN SHOPPING CENTRE, BIRCHERLEY GREEN,  
HERTFORD, SG14 1BN

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The Head of Planning and Building Control recommended that in respect of application 3/19/2614/FUL, planning permission be granted subject to a legal agreement and subject to the conditions detailed in the report now submitted and for the reasons also set out therein. The report also sought delegated authority for the Head of Planning and Building Control to finalise the detail of the legal agreement and conditions.

The Principal Planning Officer, on behalf of the Head of Planning and Building Control, introduced the report and gave a detailed presentation of the proposed development for which planning permission was being sought and the range of issues and considerations that were material to the determination of the application.

The Principal Planning Officer reported that:

- the proposal was for a mixed use redevelopment of the 1970s Bircherley Green shopping centre, the main modern retail area in Hertford town centre. The shopping centre

closed in 2018 following the determination of planning application 3/17/0392/FUL, approved in January 2018 for a mixed-use redevelopment scheme. Partial demolition of the site commenced but the then owners sold the site in the latter part of 2019 citing that due to market conditions, the scheme had become unviable. Chase New Homes purchased the site and sought to redevelop it for mixed use.

- the site was located within the Hertford Conservation Area and the Area of Archaeological Significance and was immediately adjacent to the River Lea, which in its canalised section formed the northern boundary of the site. The proposals raised a range of issues relevant to an important development located in the town centre. Given its location and a scheme having previously been approved, redevelopment of the site was acceptable in principle. The current development comprised retail space, parking, the bus station, public circulation areas including a river walkway and a public multi-storey car park providing 188 parking spaces, accessed via Bircherley Street. As with the approved scheme, the proposal introduces new uses to the site, including residential development and a hotel use.
- Policy HOU3 sets out the Council's Affordable Housing policy and seeks the provision of up to 40% of residential units as affordable. Where a lower provision is proposed a financial viability assessment is required. A viability report accompanied the application to justify the

applicant's position, which was that no affordable housing is proposed. The Council engaged an independent viability consultant to scrutinise that submission, who had concluded that the scheme was not sufficiently viable to deliver an affordable housing contribution.

The Principal Planning Officer drew Members' attention to the summary of additional representations received after completion of reports submitted to the Committee but by 5pm on the date of the meeting, which had been circulated to Committee Members. This document included corrected wording for the summary for reason of decision on Page 91 of the agenda pack as follows: "East Herts Council has considered the applicant's proposal in a positive and proactive manner with regard to the policies of the Development Plan and any relevant material considerations. The balance of the considerations is that permission should be granted."

Mr Norman addressed the Committee in objection to the application. Mr Ward spoke for the application.

Councillor Rutland-Barsby, as a local councillor for Hertford Castle Ward, addressed the Committee. She stated that the proposal was not perfect and the lack of affordable housing was disappointing, but the scheme did include a number of important social benefits. The viability assessment had been tested by experts and if the development was not approved there was a danger that the site would remain derelict. Councillor Rutland-Barsby urged the Committee to support the application.

Councillor Ruffles asked whether the applicant could address the issues raised by the Canal and River Trust and in particular the waterside landscaping and whether it would be possible to introduce moorings. The Principal Planning Officer stated that the single mooring currently in existence (used by the Hertford to Ware riverboat service) would be retained but the applicant was not proposing any additional moorings. Councillor Andrews stated that the riverboat service did not require a mooring but simply a stop to allow passengers to alight and board. He also clarified the difference between a mooring and a mooring point. Councillor Andrews supported the provision of additional moorings but considered that these should be subject to a limit of 24 or 48 hours to attract visitors to the town rather than longer term occupation. He suggested that this could be a matter for discussion between the applicant, the Canal and River Trust and the Town Council. Councillor Crystall also considered the provision of additional moorings adjacent to the proposed development could help to create a sense of place, for example by enabling traders to visit the site.

The Service Manager (Development Manager), on behalf of the Head of Planning and Building Control, noted that there were currently temporary visitor moorings on the opposite side of the river adjacent to allotments and that these were often taken up by long-term occupants. The Principal Planning Officer, on behalf of the Head of Planning and Building Control, stated that one issue that could be problematic in relation to the provision of moorings was the height of the site above the river level.

Councillor Crystall referred to the principles guiding the Hertford Town Centre Urban Design Strategy (HUDS) and questioned whether these were addressed by the proposal, particularly in relation to the riverside area, much of which would remain available for vehicular access. Councillor Crystall asked whether the landscaping plan could be submitted to Members prior to approval. The Service Manager Development Management advised that it would be possible for officers to consult Members on the detailed landscaping proposals when these were received but that in accordance with the Council's Constitution the discharge of planning conditions was delegated to the Head of Planning and Building Control.

Councillor Kemp asked what measures would be in place to avoid disturbance to people enjoying the proposed riverside area from delivery vehicles, and whether it would be possible to avoid vehicles using this area at all. Councillor Redfern asked about the arrangements for parcel deliveries to the private flats as well as commercial premises. Councillor Ruffles asked whether a physical barrier should be installed. The Principal Planning Officer advised that the existing planning consent provided for deliveries to be made via this route which was the only practical option, but that a condition was proposed that would restrict deliveries to between 7.00 a.m. and 10.00 a.m. and that a detailed Delivery and Servicing Plan would have to be submitted for approval by the local authority and subsequently enforced by the management company as the area was private land. No physical barrier was currently proposed although this could be discussed

with the applicant.

Councillor Crystall asked whether it would be possible to provide a dedicated path for safe access on foot from the bus station to the riverside. The Principal Planning Officer stated that a condition was proposed that would require a Stage 1 Road Safety Audit for all access arrangements and any necessary mitigation measures to be approved before the commencement of any above ground works.

Councillor Kemp noted that an NHS facility could potentially be provided in the development and asked what arrangements would be in place to enable users to be dropped off within easy walking distance of this facility. The Principal Planning Officer stated that this was not currently specified but could be discussed with the applicant if the potential health facility went ahead.

Councillor Ruffles asked whether it would be possible to implement Hertford Town Council's suggestion for a condition requiring each occupant of the residential accommodation not to own a car without an allocated space. The Principal Planning Officer advised that such a condition would not be considered reasonable.

With regard to car parking provision, the Principal Planning Officer stated that the existing car park would be retained and access would continue to be from Bircherley Street. The car park would retain a total of 188 car parking spaces. The proposal sought to allocate 40 of the total spaces for the residential units, plus 5 spaces for a car club. 143 'Pay and Display' spaces were provided for general use and would be



operational 24 hours a day. 15 spaces could be allocated to the NHS facility if this proceeded, leaving 128 publicly accessible spaces.

Councillor Kemp asked how the 40 car parking spaces reserved for the residential development would be allocated amongst the 98 units. The Principal Planning Officer advised that one space would be allocated to the proposed residential unit with wheelchair access. The allocation of the remaining 39 spaces was not yet known but a condition would require these details to be provided in a parking strategy to be submitted for approval.

Councillor Jones regretted that the proposals for the car park included only ten electric charging points. He asked whether a condition could be included to future-proof the development by requiring the laying of cables to enable additional charging points to be installed in future. Councillor Buckmaster concurred. The Principal Planning Officer confirmed that this could be discussed with the applicant.

Councillor Buckmaster asked whether the proposed height limit for the car park could be raised from 1.95 metres to 2.00 metres, which she stated was the standard height limit to which constructors of SUVs and people carriers worked. The Principal Planning Officer advised that this was unlikely to be possible due to the physical constraints of the car park building, which would remain unchanged.

Councillor Jones asked what arrangements the applicant proposed to ensure the cycle storage

facilities would be secure and attractive to residents to use. He noted that in many developments such facilities remained unused and suggested that the applicant should consult with local cycling organisations in this regard. Councillor T Beckett endorsed the importance of good cycle storage facilities and suggested that the applicant should consider implementing the BREEAM guidance. The Principal Planning Officer advised that a total of 112 secure cycle parking spaces were proposed in five locations at ground floor level. Cycle parking for residents would be located in these stores. In relation to cycle spaces for the public, the applicant considered that 78 spaces could be provided within racks positioned around the site, with overlooked cycle spaces adjacent to the wall with Lombard House and along the riverfront. There were concerns that some of the locations chosen could obstruct servicing arrangements, but this was addressed by a condition requiring that further details of cycle parking spaces be provided and approved. The Head of Planning and Building Control drew members' attention to Policy TRA1 which set out that development proposals should primarily be located to enable sustainable journeys to be made by a range of options including walking, cycling and public transport.

Councillor Crystall referred to the increasing popularity of electric cycles and asked whether charging points would be provided in the cycle storage areas. The Principal Planning Officer confirmed that this was a matter that could be discussed with the applicant.

Councillor Beckett asked whether the bus station

facilities could be expanded to provide additional ladies' toilets. The Principal Planning Officer advised that the toilets would be in the same location as now and would remain separate from the bus station waiting room.

Councillor Ruffles welcomed the proposed retention of the bus station, feeling that this was a crucial facility for the town. He did however consider that the bus station could benefit from improvements and expressed the hope that County Council investment would be forthcoming in this regard. The Chairman agreed that the bus station was an important facility and stated that in his capacity as a County Councillor he would work with others to ensure that the quality of that facility was maintained and improved as possible.

Councillor Crystall asked what measures were proposed to address any 'wind tunnel' affects that might be experienced in the central walkway of the proposed development. The Principal Planning Officer reported that this had not been modelled but limited planting could be undertaken as the area was a delivery route.

Councillor Crystall referred to possible concerns of residents of Folly Island regarding their privacy and asked whether a condition could be included to require planting along that frontage. The Principal Planning Officer stated that this could not be required as the area was outside the development site, but planting along the front of the development itself could be discussed with the applicant.

Councillor Jones questioned the conclusions of the viability assessment. He did not feel that it was acceptable for the Council to be asked to accept such a significant development with no Section 106 contribution and no affordable housing provision. Councillor Jones pointed out that the 2018 consent included the provision of seven affordable units, which equated to 10% of the residential accommodation proposed in that development. He considered that a similar requirement should be applied to the current proposals. The development of Bircherley Green was important but the Council should not be forced into accepting an unsatisfactory proposal. Councillor Jones also considered that improvements to the bus station should be included in the scheme rather than seeking additional funding from the County Council.

Councillor Ruffles stated that the whole of the bus station was not included within the developer's ownership. Councillor Andrews pointed out that the previous developer had walked away from that scheme as it could not be made viable.

Councillor Redfern expressed disappointment at the lack of any Section 106 contribution or affordable housing and was concerned about how the extra amenities required because of the development could be funded. She felt that the Council was faced with a very difficult choice in relation to what was a crucial site for the town.

Councillor Beckett was disappointed at the lack of any affordable housing but understood the reason for this and did not feel that the application would set a

precedent as there were unique factors in relation to this site including the bus station.

Councillor Kemp stated that the Council had acted properly in obtaining an independent financial assessment which had confirmed the scheme was not viable with affordable housing or a Section 106 contribution. The scheme therefore had to be seen as an exception to the normal requirements set out in the Development Plan in this respect.

The Head of Planning and Building Control referred to Policy HOU3 and confirmed that officers had followed all required steps in relation to assessment of the viability of the development. A viability assessment accompanied the application and was based on 0% affordable housing and Section 106 costs of £277,866. The assessment produced a residual land value and when compared to the benchmark land value the scheme showed a deficit of over £4,480,000. The Council's viability consultant undertook further viability 'sensitivity' testing, with scheme adjustments resulting in an increased residual land value; however it too remained below the amended benchmark land value with the scheme remaining in deficit.

In response to a question from the Chairman, the Service Manager Development Management confirmed that provision did exist for a potential second viability review to be undertaken after construction took place and if appropriate for Section 106 funds to be agreed at that stage in a process known as 'clawback'.

The Head of Planning and Building Control stated that the overall planning balance was one of considering the identified benefits of the proposals, the introduction of residential use, improvement to the public realm, the enhancement of the Conservation area and other benefits against the harm. Whilst the viability situation gave rise to a non-policy compliant affordable housing offer and no Section 106 contributions, overall the balance was considered to be such that the benefits clearly outweigh the identified harm.

Councillor J Jones proposed a motion that in respect of application 3/19/2614/FUL, consideration of the application be deferred for further work on the viability of the scheme with a view to achieving some affordable housing element and/or Section 106 contribution from the development. Councillor Jones' proposal was not seconded.

Councillor Kemp expressed reservations about certain aspects of the development including its appearance but on balance he welcomed the proposal for the site to be developed and considered the scheme was the best that could be achieved.

Councillor Huggins felt that compromises had to be made in relation to the proposed development. He expressed concern about the long term future of the bus station which was an important sustainable transport facility but was on private land.

Councillor Ruffles also expressed reservations about certain aspects of the proposed scheme. He did not

share the view of some residents that any development would be better than the current situation, but he did feel on balance that there were enough positive aspects to the application to justify its approval. Councillor Ruffles drew attention to the information regarding town centre economies at paragraph 8.13 of the report and also pointed out that the proposed hotel was not significantly different to that previously consented.

The Chairman summarised a number of issues raised during the debate that were of key concern to the Committee. Officers undertook to hold further discussions with the applicant in the event that the application was approved and, in finalising the detail of the legal agreement and conditions, to have regard to the matters raised by Members during the debate and in particular:

- future-proofing of the car parking facilities by the provision of sufficient cabling and infrastructure to allow the future installation of additional electric charging points (condition 20 refers);
- ensuring that cycle parking provision was secure and adequate for both residents and the general public and the possible provision of charging points for electric cycles (condition 22);
- measures to minimise conflict between delivery and other vehicles and pedestrians in the riverside area (conditions 15 and 19); and
- scrutiny of the hard and soft landscaping proposals including planting, any riverside railings and the potential for additional mooring

points (condition 39)

Councillor Beckett proposed and Councillor Ruffles seconded, a motion that in respect of application 3/19/2614/FUL, the Committee approve the recommendation that planning permission be granted subject to a legal agreement and subject to the conditions detailed in the report now submitted for the reasons also set out therein (as amended by the updated wording included in the summary of additional representations circulated); and that delegated authority be granted to the Head of Planning and Building Control to finalise the detail of the legal agreement and conditions.

After being put to the meeting and a vote taken, this motion was declared CARRIED. The Committee supported the recommendations of the Head of Planning and Building Control as now submitted.

RESOLVED – that (A) in respect of application 3/19/2614/FUL, planning permission be granted subject to a legal agreement and subject to the conditions detailed in the report now submitted for the reasons also set out therein, subject to amendment of the summary for reason of decision on Page 91 of the agenda pack to read: “East Herts Council has considered the applicant's proposal in a positive and proactive manner with regard to the policies of the Development Plan and any relevant material considerations. The balance of the considerations is that permission should be granted”; and



(B) delegated authority be granted to the Head of Planning and Building Control to finalise the detail of the legal agreement and conditions.

The meeting closed at 9.11 pm

Chairman .....
Date .....