

5d 3/12/1662/FO – Variation of condition 9 of planning permission ref. 3/10/0396/FP to allow 50% of the residential units to be occupied prior to the widening of the existing footway along Stansted Road at Former Wagon and Horses PH, 135 Stansted Road, Bishop's Stortford, Herts, CM23 2AL for McCarthy and Stone

Date of Receipt: 08.10.2012

Type: Variation of Onerous Condition
– Major

Parish: BISHOP'S STORTFORD

Ward: BISHOP'S STORTFORD – MEADS

RECOMMENDATION:

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

1. The development hereby permitted shall be carried out in accordance with the following approved plans: 12735, 6927/01, 6928/02, 869/01A, 10/1642/100, 10/1642/101, 10/1642/102, 10/1642/103, 10/1642/104, 10/1642/105, 10/1642/106, 10/1942/107, 10/1642/108, 10/1642/104A, 10/1642/006B, 10/1642/001, 10/1642/500, 31044-02X, 31044/03X.

Reason: To ensure the development is carried out in accordance with the approved plans, drawings and specifications.

2. Prior to the occupation of 50% of the residential units within the development, the footway along the Stansted Road frontage of the site shall be widened to 2 metres in accordance with the details shown on the approved plans.

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

3. The 2 metre wide footway that has been constructed along the Legions Way frontage of the site in accordance with the details shown on approved plan numbers 31044-02X and 10/1642/006/B shall hereafter be retained for public access.

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

4. All materials used for the construction of the external surfaces of the building; the proposed boundary treatment; the soft and hard landscaping; the plans for the access road including gradients, surface water disposal and sightlines; the arrangements for construction and delivery vehicles and the proposed surface water drainage scheme shall all accord with the details approved under LPA reference

X/10/0396/01 and the Council's letter dated 16th August 2011, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of the appearance of the development; to ensure the provision of amenity afforded by appropriate landscape design; to ensure that the proposed road works are constructed to an adequate standard and to prevent the increased risk of flooding in accordance with policies ENV1, ENV2 and ENV21 of the East Herts Local Plan Second Review April 2007.

5. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the first occupation of any part of the development or in accordance with the programme agreed with the Local Planning Authority. Any trees or plants compromising part of the approved landscape works that, within a period of five years after planting, are removed, die or become seriously damaged or defective, shall be replaced in accordance with a timetable to be agreed in writing with the local planning authority.

Reason: To ensure the provision, establishment and maintenance of a reasonable standard of landscaping in accordance with the approved designs, in accordance with policies ENV1 and ENV2 of the East Herts Local Plan Second Review April 2007 and national guidance in section 7 of the National Planning Policy Framework.

6. No part of the development hereby permitted shall be occupied until the car parking areas have been provided in accordance with the approved plans for 22 cars to be parked and those areas shall not thereafter be used for any purpose other than for the parking of vehicles.

Reason: To ensure that adequate parking provision is retained at all times, in accordance with policy TR7 and Appendix II of the East Herts Local Plan Second Review April 2007.

7. The development hereby permitted shall be used for warden control sheltered accommodation for persons over 60 years in age for a single or eldest occupier and 55 years of age for any additional occupiers of any single unit and for no other purpose including any other purpose in Class C3 of the Schedule of the Town and Country Planning (Use Classes) Order 2005.

Reason: To ensure that that no alternative use is made of the building which would be likely to result in an increase in the number of parking spaces required for residents or improved access arrangements.

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 Core Strategy and Development Management Policies DPD 2012 and the saved policies of the East Herts Local Plan Second Review April 2007, in particular policies SD1, SD2, EDE2, ENV1, ENV2, ENV3, ENV21, ENV24, HSG1, HSG3, HSG4, HSG6, HSG7, TR1, TR2, TR4, TR7, IMP1) and the NPPF. The balance of the considerations having regard to those policies and the planning permission that was granted under lpa reference 3/10/0396/FP is that permission should be granted.

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1.0 Background:

- 1.1 The application site is shown on the attached OS extract. It is located within the built up area of Bishop's Stortford, on the western side of Stansted Road and is some 0.39 hectares in area.
- 1.2 The site was formerly occupied by a Public House and an ancillary hotel. However, development is currently underway to construct 45 Category II type sheltered apartments which were granted planning permission at appeal in April 2011 under lpa reference 3/10/0396/FP.
- 1.3 The approved development forms an L-shaped building of 2 and 3 storeys in height. The building fronts onto both Stansted Road and Legions Way, with parking and amenity spaces located centrally within the site.
- 1.4 The vehicular access into the site is proposed from Legions Way.
- 1.5 The application seeks to vary condition 9 of the planning permission, approved under lpa reference 3/10/0396/FP, which currently states as follows:

Prior to the first occupation of any part of the hereby permitted development the footway along the Stansted Road frontage of the site shall be widened to 2 metres, and a 2 metre wide footway shall be provided along the Legions Way frontage of the site and returning into the access road to the development, in accordance with details which shall be submitted to and approved in writing by the local planning authority.

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1.6 The applicant proposes a variation to the above condition in order to allow up to 50% of the residential units to be occupied prior to the widening of the footway along Stansted Road. The description of the proposal on the application form also included the provision of the new footway in Legions Way. However, the applicant has recently informed Officers that the Legions Way footway has now been completed. The proposed variation of the above condition is therefore partially retrospective insofar as it relates to the widening of the Legions Way footway.

2.0 Site History:

2.1 Planning permission was granted at appeal in April 2011 for 45 Category II type sheltered apartments (lpa reference 3/10/0396/FP). This development is currently under construction at the site.

2.2 Prior to that, an application made for 49 Category II type sheltered apartments was refused in March 2009 (lpa reference 3/08/2122/FP) and an earlier scheme for 49 Category II type sheltered apartments was also refused in August 2008 (lpa reference 3/08/1010/FP).

2.3 Previous planning history included a planning permission for the construction of a 10 bed hotel building in 2002 (3/02/1562/FP) and earlier permissions for extensions and alterations to the former public house (3/02/0462/FP and 3/99/0496/FP).

3.0 Consultation Responses:

3.1 County Highways do not wish to restrict the grant of permission. No objections are raised to the variation of the condition provided that pedestrian access for the whole building can be gained via the new walkway linking onto Stansted Road in the interim period. The Highway Authority is prepared to accept a 1.8 metre wide footway in Legions Way as this would be more in keeping with the existing footways.

4.0 Town Council Representations:

4.1 Bishop's Stortford Town Council object to the proposal and have stated that their Members stressed the importance of the condition and that no case had been made to change it.

5.0 Other Representations:

5.1 The application has been advertised by way of press notice, site notice

and neighbour notification.

- 5.2 Two letters of representation have been received. One letter, which appears to be from a local resident, raises concerns in respect of removing the obligations to carry out the works to the footways. The second letter is from Cllr Janice Elliott, Deputy Major of Bishop's Stortford who has raised concerns in respect of whether the developer has already exceeded the agreed scope of work.

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
HSG1	Assessment of Sites
EDE2	The Loss of Employment Sites
ENV1	Design and Environmental Quality
ENV2	Landscaping
HSG1	Assessment of Sites Not Allocated in This Plan
HSG3	Affordable Housing
HSG4	Affordable Housing Criteria
HSG6	Lifetime Homes
HSG7	Replacement Dwellings and Infill Housing Development
TR1	Traffic Reduction in New Developments
TR2	Access to New Developments
TR4	Travel Plans
TR7	Car Parking Standards
ENV3	Planning Out Crime-New Development
ENV21	Surface Water Drainage
ENV24	Noise Generating Development
IMP1	Planning Obligations

- 6.2 The National Planning Policy Framework (NPPF) is also of relevance.

7.0 Considerations:

- 7.1 As the footway on the Legions Way frontage of the site has already been provided, the determining issue in this case is whether the proposed variation of the condition requiring the widening of the Stansted Road footway to be completed prior to 50% occupation of the site is acceptable. There are no further changes to the previous permission that was granted under lpa reference 3/10/0396/FP.

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- 7.2 Whilst no justification has been submitted with the current application in respect of the proposed variation of the condition, previous correspondence from the applicant in respect of the matter stated that, in the current economic climate, the sale of some of the properties now, as opposed to waiting for the works to the footway to be completed, could make a significant contribution to the economic well-being of the town and release under occupied homes back into family use.
- 7.3 The condition in question which requires the new footway in Legions Way and the widening of the existing footway in Stansted Road was originally recommended by County Highways in the interests of road safety and pedestrian movement. It is therefore road safety and pedestrian safety that forms the principle consideration as to whether the proposed variation of the condition is acceptable.
- 7.4 County Highways have raised no objections to the proposed variation of condition provided that a pedestrian access would remain for all of the residential units to reach Stansted Road. Officers have been informed by the Highways Authority that the footway along Legions Way has now been completed satisfactorily to section 278 (Highways Act) standards. Provided that the Legions Way footway is maintained and available for pedestrian use, which can be controlled by condition 3, then Officers consider that this requirement for pedestrian access onto Stansted Road has been met.
- 7.5 The concerns that have been raised by the Town Council, a member of the public and the Deputy Major have been considered by Officers. It is important to recognise that the proposal is to vary the condition and not to remove it. Officers agree with the Town Council that the provision of a new footway in Legions Way and the widening of the existing footway in Stansted Road remain important to the development. However, Officers agree with the comments that have been received from County Highways in that, provided that a pedestrian access onto the existing footway along Stansted Road is made available for all of the new residential units, then allowing up to 50% occupation prior to the completion of the footway works would not unduly compromise road safety and pedestrian movement. Having regard to the comments made by County Highways, Officers therefore consider the proposal to vary the condition to be acceptable.
- 7.6 County Highways have commented that they would be prepared to accept a 1.8 metre wide footway in Legions Way as this would be more in keeping with the existing footways. Officers agreed that a 1.8 metre footway as opposed to 2 metres would be acceptable in Legions Way and informed the applicant of this view during pre-application

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discussions. However, it appears that the applicant has chosen to continue with the construction of a 2 metre wide footway in any event, which is equally acceptable.

8.0 Conclusion:

- 8.1 Having regard to the representations that have been made on the application and in particular the comments that have been made by County Highways, Officers consider that the proposal to vary a condition in respect of the footway works is acceptable.
- 8.2 Officers have recommended that conditions are imposed on this application to require that the development is carried out in accordance with the details that have previously been agreed pursuant to the other conditions imposed on planning permission reference 3/10/0396/FP. In respect of the financial contributions that were required through a Section 106 agreement as part of this original permission, Officers understand that these payments have now been made and, following advice from the Councils Legal Manager, it is understood that an addendum to this agreement is not required as part of the current proposal.
- 8.3 Having regard to the above considerations, it is recommended that permission for the variation of the condition is approved subject to the conditions suggested at the head of this report.