

EAST HERTS COUNCIL

DEVELOPMENT MANAGEMENT COMMITTEE – 15 OCTOBER 2014

REPORT BY HEAD OF PLANNING AND BUILDING CONTROL

PLANNING APPEAL: REDEVELOPMENT TO PROVIDE A NEW COLLEGE BUILDING AND ENABLING RESIDENTIAL DEVELOPMENT OF 50 DWELLINGS, CAR PARKING, ASSOCIATED ACCESS AND LANDSCAPING INCLUDING DEMOLITION OF EXISTING BUILDINGS AT HERTFORD REGIONAL COLLEGE, SCOTTS ROAD, WARE: REF 3/13/1762/FP

WARD(S) AFFECTED: WARE CHADWELL

Purpose/Summary of Report:

- To update Members in relation to the current circumstances regarding the above appeal and to enable the position of the Council to be considered in the light of further relevant information.

<u>RECOMMENDATIONS FOR DECISION That:</u>	
(A)	In relation to reasons for refusal 1 and 3, the Council continues to prepare its case in relation to the forthcoming appeal with authority delegated to Officers to deal with matters arising as detailed in recommendation (C);
(B)	In relation to reason for refusal 2, the Council does not pursue a case on this matter in relation to the forthcoming appeal and informs the appellant of its position; and
(C)	The Head of Planning and Building Control, in consultation with the Chairman of the Committee and a Ware Ward Member, be authorised to engage with the appellants in relation to all matters relevant to the appeal and to formulate, alter, amend and update the Council's statement and evidence to be submitted to the appeal inquiry.

1.0 Background

1.1 Members will recall that the development proposals were considered at the 5 February 2014 meeting of this Committee. A

copy of the report submitted to that meeting is attached as **Essential Reference Paper 'B'** to this report. The recommendation submitted at the time was that the proposals could be approved. After considering the matter, Members resolved to refuse planning permission for the reasons that are set out below:

- 1) The element of the development comprising the apartment block at the northern end of the site fronting Hertford Road would have an unacceptable impact on the character and appearance of the street scene and the surrounding area by reason of its height, scale, bulk and design. The proposal is thereby contrary to policies ENV1 and HSG7 of the East Herts Local Plan Second Review April 2007 and the National Planning Policy Framework.
- 2) Insufficient parking is proposed for the residential element of the development which would result in additional pressure on already restricted parking provision in the local area, harmful to the amenities of existing and future residents. The proposal is thereby contrary to policies TR7 and ENV1 of the East Herts Local Plan Second Review April 2007 and the National Planning Policy Framework.
- 3) The proposed development makes insufficient provision for affordable housing and therefore fails to address the demand for such housing within the District contrary to policy HSG3 of the East Herts Local Plan Second Review April 2007 and the National Planning Policy Framework.

1.2 An appeal has now been submitted in relation to the decision. The appellants have requested, and the Planning Inspectorate has agreed, that the matter is dealt with by means of a public inquiry. The commencement date for the inquiry has now been confirmed as 24 February 2015. The appellants have also requested that the Council reassesses its position in relation to the reasons for refusal. It considers that the Council is in an unreasonable position in relation to refusal reasons 2 and 3.

1.3 Following that decision a further application was submitted in March 2014 for the redevelopment of the college facilities in isolation. Members considered that matter and authorised the grant of planning permission, at the 30 April 2014 Development Management Committee meeting. This was approved under Ipa reference 3/14/0411/FP. Works have commenced on site in

connection with this permission.

2.0 Update

- 2.1 In determining that the appeal should follow the inquiry procedure, The Planning Inspectorate stated that the reason for this was that housing land supply is likely to be an issue. The Council's current position in respect of housing land supply is set out in this report.
- 2.2 The National Planning Policy Framework (NPPF) sets out the requirement for the Council to identify the supply of land for five years worth of housing against its identified needs. Since the refusal of planning permission the most recent Annual Monitoring Report (AMR) has been published. The AMR predicts land supply for the 2014/15 to 2018/19 five year period. With an annual requirement of 660 new homes (the figure remaining in use prior to the introduction of updated District Plan figures) 3.4 years of supply are identified. This takes into account the requirement for a 5% buffer, brought forward from later in the forthcoming plan period.
- 2.3 As indicated, the AMR is based on the requirement figures that remain in place from the previous East of England Regional Plan. That Plan is now revoked and the Council has consulted on a draft District Plan with an annual requirement of 750 dwellings. Given the stage in the preparation of the plan, little weight should be assigned to this higher figure at this stage, but it can be used in robust assessments of the Council's land supply position.
- 2.4 The table below was presented to the Committee in a report to its last meeting dealing with development proposals at Buntingford. Whilst the sites under consideration are different, the overall land supply position remains the same. It tests a range of scenarios against the 660 and 750 target figures and with buffer levels of 5% and 20%. Members will note that only in one scenario is a level of 5 years supply achieved.

	Predicted supply	Number of years of supply			
		At 660 per year + 5%	At 660 per year + 20%	At 750 per year + 5%	At 750 per year + 20%
Current AMR projections	2340	3.4	3.0	3.0	2.6
AMR projections plus further permissions and reassessment in relation to BSN	3430	5.0	4.3	4.4	3.8

- 2.5 However, even in the circumstances where the greatest level of supply is demonstrated in the table, previous under supply has not been factored in. Recent appeal decisions which have dealt with this issue have set out that this under supply should be included within the 5 year period being assessed. Of course, economic conditions generally in the last five years have meant that delivery of new housing has been restricted. Completions figures demonstrate an under supply of 960 dwellings over the period. When this is factored into the figures in the above table it is the case that 5 year supply cannot be demonstrated in any of the range of scenarios tested. This position has been acknowledged by the Council and it is not seeking to demonstrate otherwise.
- 2.6 Taking that into account the NPPF sets out a presumption in favour of sustainable development. For decision making this means that “where the development plan is absent, silent, or relevant policies are out of date”, planning permission should be granted unless any adverse impacts of doing so “would significantly and demonstrably outweigh the benefits”. Whilst the policies in the Local Plan 2007 are considered largely to be consistent with the NPPF, there is a recognised deficiency in that the Local Plan does not identify adequate land to enable a five year supply of land for housing development.
- 2.7 Therefore, at the forthcoming Inquiry, the Council will need to demonstrate that the proposal would result in adverse impacts that would significantly and demonstrably outweigh the benefits of the proposal, most significantly the contribution that it would make

to housing land supply.

3.0 Assessment of the Councils Current Position

3.1 As set out above, planning permission was refused on the basis of three reasons. Officers have reassessed below the evidence available in relation to each of these and can advise as follows:

Reason 1: Character and Appearance

3.2 The refusal reason relates specifically to the proposed apartment block at the northern end of the residential element of the proposals. Members will be aware that there currently exists a building of some height, visibility and presence at that location. It is one of the buildings which comprises the current further education use on the site. It is located in an elevated position above the Hertford Road frontage, is readily visible and of a basic design and appearance. It appears that there is general agreement that the redevelopment of the site of this building is to be welcomed.

3.3 To the east of this part of the site are the existing larger scale buildings on the college site which have been implemented as part of the first phase of its redevelopment. These are more closely related to the Hertford Road frontage, being set lower and closer to it.

3.4 To the west of this part of the site are the conventional residential dwellings on Scotts Road, adjacent Hertford Road and on Hillside further to the west. These are conventional designs, well established and generally on plot sizes which allow a range of garden and landscape planting. The scale of the individual residential buildings is smaller than that of the existing college building or proposed apartment block.

3.5 North of the site is the Conservation Area boundary (the site being just outside), is the open land around the New River and, beyond that, further commercial and residential apartment buildings.

3.6 Officers are aware of the concern that Members previously expressed in relation to the impact that the proposed apartment building would have. Whilst the scale of the existing building in this location was acknowledged, Members were concerned that the particular siting of the new building, bringing it further toward the Hertford Road frontage and its modern design, would

exacerbate its impact.

- 3.7 The impact that this element of the proposed development is likely to have has been assessed again. It is concluded that it is appropriate to continue to advance a case at the forthcoming inquiry that the proposals do indeed have a harmful impact in this respect. The refusal reason is clear and focussed and Officers recommend that no change be made in the Councils position in relation to it.

Reason 2: Parking provision

- 3.8 The reason for refusal that relates to insufficient parking is in respect of the residential element of the proposals only. The harmful impact identified is an amenity one in that the additional parking demand generated by the proposals will put further pressure on parking availability in the area thereby causing greater competition for limited and restricted parking provision.
- 3.9 The proposal is to provide 72 parking spaces for the 50 dwellings. Maximum parking provision that would be required to accord with the policy as set out in the Councils Parking Supplementary Planning Document (SPD) is 99.75 spaces. This is made up as follows:

Unit size (bedrooms)	Number of units	Max parking spaces per unit type (as per SPD)	Total spaces to meet max requirements
2	28	1.5	42
3	11	2.25	25.75
4	11	3	33
TOTAL			99.75

- 3.10 Members may recall that in assessing the parking provision proposed Officers applied the 50 – 75% reduction in provision that the SPD allows for within Zone 3, wherein the site is located. This results in a requirement for 50 – 75 parking spaces (given the maximum 100 requirement above).
- 3.11 Officers acknowledge that the 25 – 50% reduction (referred to as a 50-75% provision within the report) does fall under the ‘non-residential’ section of the SPD. However, the residential section of the SPD does make it clear that parking provision must be assessed having regard to locational characteristics which include

the proximity to shops, jobs and local services as well as public transport services.

- 3.12 The location is generally convenient for the town centre and transport services and therefore Officers considered that weight could be given to a potential reduction of this nature. Having regard to this, and the fact that the Council's parking standards are only given as a maximum number, the 25 – 50% reduction was used by way of guidance to establish a broad minimum parking provision that would be acceptable. This approach has been taken with other Major planning applications within the District, including some that have been considered by Inspectors at appeal. In further assessments set out in this report, to ensure robustness, testing has been undertaken in relation to the potential maximum provision.
- 3.13 Members will be aware that parking restrictions apply to the surrounding roads. All of them are controlled by some form of parking restriction. Scotts Road, from which the access into the residential site would be taken, is in some parts subject to a restriction that there can be no waiting at any time and the remaining road does not allow for any waiting 09:00 – 20:00. Warner Road, which adjoins Scotts Road from the south, is restricted to no waiting 09:00 – 18:30 and 09:00 – 20:00 applies further along this road in an easterly direction. Other surrounding roads, including Little Acres, Myddleton Road, Scotts Close, The Grotto, Cedar Close and Walton Road are all subject to similar restrictions, some of which require no waiting Monday-Friday 10:00 – 11:00 and 15:00 – 16:00.
- 3.14 Against this background, Officers have tested the likely impact of the development further in two ways. Firstly by separating out the apartment parking provision from that for the remainder of the site and secondly by assessing census information in relation to vehicle availability and therefore potential demand for parking.
- 3.15 Firstly then, if the two elements of the scheme are separated, 28 spaces are proposed for the apartment element of the scheme. The remaining 44 spaces are provided for the conventional housing proposals (33 external spaces and 11 garages). The provision can be judged against the maximum requirements as follows:

Apartments					
Unit size (bedrooms)	Number of units	Max parking spaces (as per SPD)	Total spaces required	Total spaces provided	Ratio spaces: unit
2	28	1.5	42	28	1.0
Housing					
3	11	2.25	25.75	18	1.64
4	11	3	33	26	2.36

This assessment, against the maximum requirements set out in the SPD, shows a shortfall of 14 spaces for the apartment element of the proposals. For the housing the 44 spaces provided meet the maximum requirements of the SPD exactly. A further assessment can be undertaken using information relating to actual vehicle availability.

- 3.16 This assessment is made against information from the 2011 Census. This provides useful information in relation to vehicle availability and therefore sets out evidence in relation to the likely actual pressure that will arise on parking provision as a result of the development proposals.
- 3.17 Information from the Census sets out vehicle availability on a ward basis. A comparison between this and information for Ware as a whole, indicates lower levels of vehicle availability in the Chadwell Ward. However, applying the Ware town figures (higher availability figures and therefore a more robust assessment) indicates a potential vehicle availability of 39 vehicles for the apartments and 27 for the houses. Against this figure there would be oversupply for the housing element (44 spaces provided) and undersupply for the apartments (28 spaces provided).
- 3.18 Against this information, which does show the potential for greater demand than supply, a consideration is then required of the harm which it may lead to. As indicated above, the concern of Members was the impact on amenity that this demand would result in for existing and future residents. Given the parking restrictions in the area, this has been considered on the basis of the demand generated by the apartment element of the proposals only and then on a day time impact (generally when existing on road parking restrictions are in place) and an evening/ weekend impact (when they are not).

- 3.19 During the daytime, whilst clearly residents and vehicles will remain on site, it is likely that parking demand will be reduced. If a minimum of 11 residents are away from the site with their vehicles then provision would be adequate. There would be no greater pressure on parking than currently exists. In addition, of course, at this time the on road restrictions would prevent parking on the local roads.
- 3.20 At the evenings and weekends parking restrictions are not in place. For testing it has been assumed that all potential vehicles will be present. To assess parking availability at this time, two recent parking surveys have been undertaken (Monday 15 September at 9pm and Sunday 28 September at 3pm). These showed limited parking taking place on most local roads and with no vehicles parked on the lower part of Scotts Road adjacent to the site.
- 3.21 It is acknowledged that this survey work is limited in extent, however it demonstrates that, on those occasions there was parking availability in local roads outside of restricted times. As a result, the introduction of additional parking which would cause little inconvenience to existing residents and it is likely that there would be capacity for future residents.
- 3.22 Having assessed the additional information, Officers consider that the Council will be able to provide limited evidence to substantiate that the proposed parking provision would be unacceptable and would result in harm to the amenities of existing and future residents. Members are asked to bear in mind that the assessments carried out here are robust ones, they make no allowances for the sustainable location of the proposed development, the awareness of parking provision that potential purchasers would have and the potential that some limited additional provision could actually be achieved within the site.
- 3.23 Given the above, it is recommended that the Council does not pursue the case in respect of the 2nd reason for refusal that relates to parking provision.

Reason 3: Affordable Housing

- 3.24 Members will recall that 6% of the units are to be provided as affordable housing. This would provide 3 affordable units on the site. The applicant has explained that, in order to achieve the necessary funding from the residential development to enable the

redevelopment of the College site, providing all of the appropriate financial contributions towards local services and making a full 40% affordable housing contribution would render the scheme unviable.

- 3.25 Since the submission of the appeal the appellants has provided the Council with an updated viability assessment to demonstrate that once the capital that is required to fund the building works within the college site is subtracted, that sufficient funds would not be available to provide any additional affordable housing. The appellants has confirmed that the capital is still required to fund the redevelopment of the college site and therefore the contribution that can be made towards affordable housing remains at 6%.
- 3.26 To achieve robustness in the Councils assessment of this matter, Officers have engaged a further independent consideration of the viability appraisal. This has raised a number of issues that Officers are exploring with the appellants. These relate to the cost, value and funding assumptions made in the viability assessment. In addition, Officers are further assessing the policy basis on which the appellants has determined that much of the value secured from the site should be assigned toward the enhancement of further education.
- 3.27 The refusal reason as it stands relates solely to the inadequate provision of Affordable Housing. It is implicit in the refusal reason, that this situation has come about as a result of the assumptions that have been made by the appellants in their viability assessment work and in relation to how funds realised as a result of the development should be utilised.
- 3.28 As indicated, at this stage Officers are continuing to explore a number of these issues with the appellants. In advance of further conclusions in relation to them it is recommended that the Council continues to present a case in relation to the refusal reason.

4.0 Conclusion

- 4.1 The first reasons relates to a visual and character impact. Following reassessment it is concluded that it is appropriate to continue to advance a case through the appeal in relation to this reason. Reason three continues to be subject to exploration and assessment with the appellants. At this stage, it is recommended that Officers continue to explore these issues and report back to

Members through the delegation arrangement set out in the recommendation to this report and below.

- 4.2 In addition to concluding matters that remain subject to further exploration, to ensure that the Council is in a suitable position to respond to these and tailor its case as appropriate in respect of the inquiry, delegated authority is sought for Officers to further formulate, alter, amend and update the Councils case as appropriate in the run up to the inquiry. It is suggested that this delegated authority would be in consultation with the Chairman of the Committee and a Member who represents a Ware ward.
- 4.3 In relation to the second condition (impact of parking demand on amenity), the conclusion of this reassessment, using specific and relevant further information, is that there is limited evidence to substantiate a case demonstrating harm.

5.0 Implications/Consultations

- 5.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

Background Papers

Planning Application – 3/13/1762/FP.

Contact Member: Councillor M Alexander, Deputy Leader and Executive Member for Community Safety and Environment. malcolm.alexander@eastherts.gov.uk

Contact Officer: Kevin Steptoe – Head of Planning and Building Control, Extn: 1407.
kevin.steptoe@eastherts.gov.uk

Report Author: Kevin Steptoe – Head of Planning and Building Control, Extn: 1407.
kevin.steptoe@eastherts.gov.uk