

## DEVELOPMENT MANAGEMENT COMMITTEE – 14 SEPTEMBER 2016

|                           |  |
|---------------------------|--|
| <b>Application Number</b> | 3/16/0404/FUL  |
| <b>Proposal</b>           | Demolition of existing buildings and erection of a 'Retirement Living' block of 33 residential units (Category II sheltered housing) for the elderly with associated communal facilities, car parking and landscaping. |
| <b>Location</b>           | Gates of Hertford, Gascoyne Way, Hertford, SG13 8EL  |
| <b>Applicant</b>          | McCarthy and Stone Retirement Lifestyles Ltd.  |
| <b>Parish</b>             | Hertford - CP  |
| <b>Ward</b>               | Hertford Castle  |

|  |                            |
|--|----------------------------|
| <b>Date of Registration of Application</b> | 22 February 2016           |
| <b>Target Determination Date</b>           | 23 May 2016                |
| <b>Reason for Committee Report</b>         | Major planning application |
| <b>Case officer</b>                        | David Snell                |

### **RECOMMENDATION:**

That planning permission be **REFUSED** for the reason set out at the end of this report.

#### **1.0 Summary**

- 1.1 The proposal seeks permission for the demolition of the existing commercial garage and the erection of a 3.5 storey block of 33 retirement living apartments.
- 1.2 The proposals would make a positive contribution to the Council's 5 year housing land supply and the size and design of the building is considered acceptable having regard to the location and context of the site. However, the proposals result in the loss of an employment use which the Council seeks to retain in the town. This is considered harmful. The highway aspects of the development are also considered to be satisfactory. Parking provision would be limited.
- 1.3 The proposal is for warden supported elderly persons accommodation, and in such circumstances the provision of on-site affordable housing would not be appropriate. However, a financial contribution towards the provision of off-site affordable housing is considered necessary and appropriate in order for the proposals to represent a sustainable form of development. Accordingly, the application was submitted with a Viability Assessment (VA) to determine the level of contribution towards off-site

affordable housing and that report was then reviewed and assessed by the Council's consultant.

- 1.4 There is a substantial gap between the affordable housing contribution that results from the applicant's assessment and that considered appropriate and achievable by the Council's consultant. In the absence of an appropriate contribution to affordable housing, the proposal is contrary to policies HSG3 and HSG4 of the Local Plan and the aims and objectives of the NPPF in terms of providing sustainable development.

## **2.0 Site Description**

- 2.1 The site comprises an irregular shaped plot of approximately 0.37ha situated on the south side of, and fronting onto, Gascoyne Way (the A414). It currently accommodates a commercial garage comprising a car showroom, external car display area, workshops and car park. To the east of the site there is a private access road running off the A414 between the site and Pimlico House, and this enables a vehicular exit from the site directly onto Pegs Lane.
- 2.2 The site lies within the Hertford Conservation Area and there are several listed buildings in the vicinity of the site.
- 2.3 The site slopes down to the A414 from the south and also, to the west of the site, the surrounding land slopes steeply down towards, and through, the rear gardens of residential properties fronting West Street.

## **3.0 Background to Proposals**

- 3.1 The application proposes the demolition of the garage buildings on the site and the erection of a 3.5 storey block of retirement apartments running north to south through the site. The block would accommodate 33 apartments (13 x one-bed and 20 x two-bed) and communal/ancillary facilities such as a residents lounge, buggy store, managers office and guest suite.
- 3.2 The proposals would also include some landscaped gardens for future residents and 26 car parking spaces are proposed with access off the A414 Gascoyne Way via the existing private access road to the east of the site. There would be no exit onto the A414, however, with traffic exiting the site onto Pegs Lane as currently.

#### 4.0 **Key Policy Issues**

4.1 These relate to the relevant policies in the National Planning Policy Framework (NPPF) and the adopted East Herts Local Plan 2007:

| <b>Key Issue</b>  | <b>NPPF</b> | <b>Local Plan policy</b> |
|---|-------------|--------------------------|
| Principle of development - Delivering sustainable development       | Section 1   | SD1                      |
| Delivering high quality homes                                       | Section 6   |                          |
| Loss of employment site   |             | EDE2                     |
| The layout, design and external appearance of the extended building | Section 7   | ENV1, ENV2               |
| Conservation and listed buildings                                   | Section 12  | BH6                      |
| Highway implications  | Section 4   | TR2, TR4, TR7            |
| Neighbour impact  |             | ENV1                     |
| Affordable housing  | Section 6   | HSG3, HSG4               |
| Flood risk – surface water drainage                                 | Section 10  | ENV21                    |

Other relevant issues are referred to in the ‘Consideration of Relevant Issues’ section below.

#### 5.0 **Emerging District Plan**

5.1 In relation to the key issues identified above, the policies contained in the emerging District Plan do not differ significantly from those contained in the adopted Local Plan and the NPPF as identified above. Following the draft Plan, it is currently proposed that the site will not be identified for employment purposes. Given its stage in preparation, little weight can currently be accorded to the policies of the emerging Plan.

#### 6.0 **Summary of Consultee Responses**

6.1 HCC Highway Authority initially objected to the proposed access arrangements and highway works but, following the receipt of amended plans, it does not wish to restrict the grant of planning permission, subject to conditions.

6.2 Lead Local Flood Authority considers that the application provides sufficient detail to demonstrate that there is a feasible drainage scheme for the site. No objection is therefore raised subject to conditions.

- 6.3 Environment Agency has no objections to raise or conditions to request. Consultation with Environmental Health is recommended with regard to addressing potential land contamination.
- 6.4 EHDC Engineering Advisor comments that the site lies in Flood Zone 1 and away from surface water inundation zones. There are no recorded incidents of flooding and the development increases the amount of permeable areas on the site. However, he comments that the rain gardens are linked to underground attenuation tanks which are difficult to maintain. The rain gardens, whilst creating some amenity and water quality improvements, are limited in extent and in the variety of biodiversity that they will provide.
- 6.5 EHDC Conservation and Heritage Advisor comments that the site is situated within the Hertford Conservation Area. It is surrounded by listed buildings, mostly along West Street, but also Wallfields House, buildings along Water Lane and Castle Street, and the Grade 1 listed Hertford Castle Gatehouse. The principal elevation to Gascoyne Way would be seen along Castle Street, but is considered to be of suitable quality for the location. The height and massing of the building could be slightly problematic next to the historic West Street, where the majority of houses are listed buildings. However, the next door Pimlico House has set a context with regards to an acceptable scale of development on this site.
- 6.6 The Grade II listed Wallfields to the south has had its setting compromised by a large modern extension. The nearby Bentley House is also similarly large scale. Taking these modern buildings into account, it is not considered that the setting of Wallfields will be harmed. The frontage car park is the best option given site constraints. The active edges to Gascoyne Way and the access road are welcomed, and will provide a pleasant environment for passing pedestrians. No conservation objections are raised, subject to conditions.
- 6.7 HCC Historic Environment Advisor has no comments.
- 6.8 EHDC Landscape Advisor comments that the indicative landscape proposals are a reasonably resolved design, given the limited space. The level of amenity space for the number of flats proposed is limited. However, it should be recognised that the development is a short distance from Hertford Castle grounds. Therefore the proposals are satisfactory and landscape conditions are recommended.

- 6.9 HCC Development Services confirm that no financial planning obligations are to be sought.
- 6.10 HCC Minerals and Waste comment that waste management matters should be given careful consideration.
- 6.11 EHDC Environmental Health Advisor has no objection, subject to conditions.
- 6.12 Herts Police Crime Prevention Advisor raises no objections.
- 6.13 EHDC Planning Policy Team comment that the site does not fall within a designated employment area under policies EDE1 and HE8. In the Emerging District Plan the site is not currently proposed to form part of a designated Employment Area for Hertford. In the light of the latest Court of Appeal decision on Housing Supply for decision taking at this stage of District Plan production it would be challenging to argue that the loss of one small site for employment use would outweigh the demand for housing supply.
- 6.14 NHS Clinical Commissioning Group request financial planning obligations totalling £6,517 in the event that planning permission were to be granted. £8,537 is also requested to mitigate the impact on GP provision.

## **7.0 Town Council Representations**

- 7.1 Hertford Town Council expresses concern that the parking proposed is not adequate for residents, staff and visitors. They also have concerns about the impact on West Street, which is lower than the proposed development and, due to the slope of the land; this will have an adverse impact.

## **8.0 Summary of Other Representations**

- 8.1 The application has been advertised by neighbour consultation and a site notice.
- 8.2 Ten responses have been received, including responses from the West Street Association and Hertford Civic Society objecting to the proposal on grounds summarised as follows:
- Proximity to boundary and potential impact on rear gardens in West Street in terms of overshadowing and loss of privacy

- The height and scale of the building and it will dominate houses in West Street
- Plot is too small for the amount of development proposed
- Poor building design
- Adverse visual impact
- The proposal will reduce light to windows in Pimlico House
- Inadequate parking
- Adverse impact on historic listed houses and the conservation area
- Lack of affordable housing provision or payment for off-site provision
- Impact on GP services
- Concern over the future of the private access road and access to Pimlico House
- There is already sufficient provision for elderly residential units in the area
- There is no reason why Ford owners should have to travel a distance when there is an existing dealership in Hertford.

One response has been received from a resident of West Street suggesting that a s.106 Obligation should be sought to progress a residents parking scheme for West Street.

Five responses have been received supporting the proposal. These are from residents of West Street (2), Westfield Road (1), Digswell (1) and Harlow (1) and can be summarised as follows:

- Hertford desperately needs this type of accommodation for the growing number of elderly owners
- The development would fit in with its surroundings and improve the area.

## **9.0 Planning History**

9.1 The following planning history is of relevance to this proposal:

| Ref           | Proposal                  | Decision | Date |
|---------------|---------------------------|----------|------|
| 3/99/0232/FP  | Car showroom              | Granted  | 1999 |
| 3/94/0066/FP  | Extension to car showroom | Granted  | 1994 |
| 3/15/0812/FUL | Car wash enclosure        | Granted  | 2015 |

## **10.0 Consideration of Relevant Issues**

### Principle of development and loss of employment land

- 10.1 The site lies within the built up area of Hertford and within a designated employment area under policies EDE1 and HE8 of the adopted Local Plan. The proposal would involve the loss of a site currently in use for employment purposes and would therefore be contrary to policy EDE2 of the adopted Local Plan.
- 10.2 The weight to be given to this matter has been considered carefully in the light of the following matters. Firstly, the existing use of the site is for sui generis purposes rather than one of the identified Class B employment uses and the loss of employment would be relatively small. The site is also poorly located for continued employment use, in that, whilst being visible it is located between existing and proposed new residential areas.
- 10.3 Employment provision reports commissioned by the Council indicate that the loss of employment provision in the town should be resisted because of the imbalance between housing growth and local employment opportunities. Whilst provision at this site is limited it considered that harmful weight must be assigned to this matter and the ability of the site to retain employment generating uses subject to further investigation before the site is released.
- 10.4 Members are aware to the current position of the Council in relation to its ability to demonstrate sufficient land supply to deliver housing over a 5 year period. Housing policies in the 2007 Local Plan are out of date and the emerging District Plan policies, with regard to the location and supply of housing development, are at an early stage of their preparation. In these circumstances then, significant weight must be given to the position, set out in paragraph 14 of the NPPF, that unless the adverse impacts of permitting development are significant and demonstrable, then permission should be granted for the development.

### Design, layout and heritage impact

- 10.5 The proposed development would occupy a significant proportion of the site. However, it is considered that site coverage and the massing of the building are acceptable in this location close to Hertford town centre. The scale, height and massing of the proposed development is also reflective of the adjoining Pimlico House development.

- 10.6 It is considered that the level of amenity space and landscaping around the building which, whilst limited for residents, would provide an appropriate setting for the building. In particular the frontage to the A414 would be improved.
- 10.7 The Council's Conservation Advisor is also satisfied that the proposal would have an acceptable impact on the character and appearance of the Conservation Area, preserving and enhancing it and be acceptable in relation to other nearby heritage assets.
- 10.8 The proposal has been subject to pre-application advice with regard to the design of the building, and its external appearance now reflects the improvements sought. The design of the building is acceptable within its context displaying appropriate articulation and good use of materials.

#### Highways and Parking

- 10.9 The Highway Authority initially objected to the proposed access arrangements and highway works, but following the receipt of amended plans, they do not wish to restrict the grant of planning permission, subject to conditions.
- 10.10 Twenty six car parking spaces are proposed, 22 on the frontage and 4 on the east side of the block with access off the existing one way private road that bounds the east side of the site. The proposals have been considered against the adopted parking standards for conventional residential housing as that most closely characterises the use proposed on the site. The standards would require a maximum of 37 spaces in this zone 3 location. The emerging District Plan Standard would require a maximum of 60 spaces, which could be reduced by up to 50% as a result of the location, requiring 30 spaces.
- 10.11 The site is not within the town centre and despite the crossing and subway, Gascoyne Way represents something of a barrier to access to public transport provision (accessed in the town centre) and parking provision within the town. There is limited on street parking provision in the area. With regard to the type, tenure and mix of housing, all private provision is proposed on the site and occupiers are considered likely to continue to rely to a reasonable extent on the use of their own vehicle for transport.
- 10.12 The applicants advise that the average age of residents in their retirement living developments is 78 and the submitted Transport Statement indicates that surveys at other McCarthy and Stone



retirement living developments show that car ownership rates for this type of development are low with peak demand of less than 0.4 spaces per apartment. The Transport Statement also indicates that traffic generation would be less than the existing commercial use.

- 10.13 It is considered that some harmful weight must be applied as the limited parking provision is likely to result in additional demand on limited off site parking provision in the area, to the inconvenience of both existing and future residents.

#### Neighbour impact

- 10.14 The main issue with regard to the impact of the proposal on neighbouring occupiers arises from the proposed scale, massing and height of the proposed block and its siting in relation to residential properties on the northeast side of West Street. The West Street properties are situated at a lower level than the application site.
- 10.15 West Street angles away from the application site. The distance between the facing windows of the houses and the proposed block increase from a minimum of approx. 24m to No.3 West Street, to 40m to No.9 and increasing to approx. 42m to No.15. The existing Gates Building is sited a minimum of approx. 17m from the rear facing windows of No.3 West Street.
- 10.16 Notwithstanding that the proposed building is sited at a higher level, given the distance between the proposed block and the rear elevations of West Street properties, it is considered that the proposed development will not give rise to material adverse overlooking impact.
- 10.17 Due to the positioning of the proposed block to the southeast of West Street there is likely to be some increased overshadowing of the rear parts of the long rear gardens of the facing West Street properties. The rear garden boundaries of Nos.3 to 15 West Street being sited between 14m and 11m approx. from the proposed block. However, the relationship is considered to be a satisfactory one, and one which is not uncommon in an urban area.

#### Flood risk

- 10.18 The site is situated within Flood Zone 1 away from Zones 2 and 3 and surface water inundation zones. There are no recorded incidents of flooding. The development increases the amount of permeable areas on the site and the proposals for the disposal of surface water are

satisfactory. The Lead Flood Risk Authority raises no objection and the proposals are therefore considered to be acceptable.

- 10.19 The Council's Engineer has suggested that some improvements could be made to the sustainable drainage measures included within the proposals. However, given that the proposal represents an improvement on the current drainage situation; is in a low risk flood zone; and bearing in mind the advice of the LLFA on the suitability of the proposed drainage scheme, Officers consider that the SuDS proposed in this case are acceptable.

#### Affordable housing

- 10.20 The proposal is for warden supported retirement living accommodation and the provision of on-site affordable housing would not be appropriate. A Viability Appraisal (VA) has been submitted with the application which has been reviewed by the Council's consultants.
- 10.21 There is currently a significant gap between the residual value calculation (the basis for calculating contribution level) in the applicant's assessment and the Council's consultant's review amounting to approximately £660,000. The applicant has advised that they are unable to increase the contribution (currently of approximately £46,000) and, in the circumstances, the proposal would be contrary to policies HSG3 and HSG4 of the Local Plan and paragraph 50 of the NPPF. Whilst the proposals do deliver much needed housing, this lack of any significant contribution to the delivery of associated affordable housing is considered to render the proposals unsustainable. Substantial harmful weight is assigned to the proposals with respect to this matter.

#### Planning obligation

- 10.22 Limited amenity provision is made on the site and a reasonable assessment is that the proposals would place additional demands on amenity and leisure facilities in the town. Specific sums have been sought by service providers in relation issues relating to parking pressure in the area and health services. These are considered to meet the necessary tests for securing provision.
- 10.23 In the light of the conclusion below recommending that the proposals be refused, Officers have not advanced any further dialogue with regard to securing funding provision. In the absence of this, further weight must be added to the unsustainable character of the proposals.

## 11.0 Conclusion

- 11.1 The site lies in the built-up part of Hertford. The site is considered to be in a sustainable location. Given the Council's lack of a 5 year housing supply, the presumption in favour of sustainable development set out in paragraph 14 of the NPPF applies, and development proposals that accord with the development plan should be approved without delay. The provision of 33 residential units will make a positive contribution towards the Council's 5 year housing supply and weighs in favour of the scheme.
- 11.2 The proposal however will result in the loss of employment provision in the town. This impact further reduces the sustainability of the town with regard to the balance to be struck between homes and employment. They also do not, make an appropriate contribution to affordable housing in the area and they are therefore contrary to policies HSG3 and HSG4 of the Local Plan and paragraph 50 of the NPPF. As a result, this is considered to render the proposals unsustainable and the presumption set out in the NPPF does not apply. Substantial harmful weight is assigned to the proposals as a result. This is considered to outweigh the beneficial aspects of the proposals.
- 11.3 Limited parking provision is made in relation to the proposals and this is considered to result in a harmful impact both in relation to the convenience of future occupiers and existing residents locally.
- 11.4 The proposal is appropriate in visual and design terms and it would not result in adverse impact on the character of the Conservation Area or nearby listed buildings.
- 11.5 The concerns of nearby residents in West Street and, in particular, the concerns regarding overshadowing of gardens and the potential for overlooking are noted and have been carefully considered. However, the relationship between the proposed block and properties in West Street is considered to be satisfactory. The highway aspects of the proposal are also considered to be satisfactory.
- 11.6 Overall, given the unsustainable nature of the proposals it is recommended that permission be **REFUSED** for the following reasons:
1. The proposed development fails to make an appropriate contribution towards affordable housing provision contrary to Policies HSG3 and HSG4 of the East Herts Local Plan Second Review April 2007 and the NPPF. As a result, the proposals would

not constitute a sustainable form of development and would be contrary to national planning policy set out in the NPPF.

2. The proposals result in the loss of a site which is in economic use and therefore has a harmful impact on the future economic capacity and activity of the town. This is considered to be harmful with regard to the sustainability of the town and therefore the proposals are contrary to policies EDE2 of the East Herts Local Plan Second Review April 2007 and the NPPF.
3. The proposals include limited private vehicle parking provision. It is considered that the demand for such provision will exceed supply and therefore the proposed development will lead to additional demand for current existing on street parking provision which is already under stress due to demand. As a result the proposals will have a harmful impact on the amenity of both existing residents in the area and future residents. The proposals then are contrary to policy TR7 of the East Herts Local Plan Second Review April 2007 and the NPPF.
4. The proposals fail to make appropriate provision for the additional demand that will be placed on infrastructure, services and facilities as a result of it. The proposals are therefore contrary to policy IMP1 of the East Herts Local Plan Second Review April 2007 and the NPPF.

#### Summary of reasons for decision

In accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015. East Herts Council has considered, in a positive and proactive manner, whether planning objections to this application could be satisfactorily resolved within the statutory period for determining the application. However, for the reasons set out in the decision notice, the proposal is not considered to achieve an acceptable and sustainable development in accordance with the Development Plan and the National Planning Framework.

**KEY DATA****Residential Development**

| <b>Residential density</b> | <b>89 units/Ha</b> |                        |
|----------------------------|--------------------|------------------------|
|                            | <b>Bed spaces</b>  | <b>Number of units</b> |
| Number of retirement units | 1                  | 13                     |
|                            | 2                  | 20                     |
| <b>Total</b>               |                    | <b>33</b>              |

**Affordable Housing**

| <b>Number of units</b> | <b>Percentage</b>                           |
|------------------------|---|
| 0                      | 0%  |
| Off-site contribution  | Subject to negotiation/viability assessment |

**Residential Vehicle Parking Provision**

Current Parking Policy Maximum Standards – warden controlled sheltered accommodation (EHDC 2007 Local Plan)

| Parking Zone                       | 3               |                 |
|------------------------------------|-----------------|-----------------|
| Residential unit size (bed spaces) | Spaces per unit | Spaces required |
| 1                                  | 1.25            | 16.25           |
| 2                                  | 1.5             | 30              |
| <b>Total required</b>              |                 | <b>37</b>       |
| <b>Proposed provision</b>          |                 | <b>26</b>       |

**Emerging Parking Standards (endorsed at District Plan Panel 19 March 2015)**

| Parking Zone                       | 3               |                 |
|------------------------------------|-----------------|-----------------|
| Residential unit size (bed spaces) | Spaces per unit | Spaces required |
| 1                                  | 1.5             | 19.5            |
| 2                                  | 2               | 40              |
| <b>Total required</b>              |                 | <b>60</b>       |
| Accessibility reduction            | 50%             |                 |
| <b>Resulting requirement</b>       |                 | <b>30</b>       |

|                    |    |
|--------------------|----|
| Proposed provision | 26 |
|--------------------|----|

### Legal Agreement – financial obligations

This table sets out the financial obligations that would potentially be sought from the proposed development if planning permission were to be granted or an appeal lodged against the refusal of planning permission. These are in accordance with the East Herts Planning Obligations SPD 2008 and other requested contributions from consultees.

None have been secured in this case as the proposals are not supported – but would be sought if the proposals were acceptable in other respects.

| Obligation   | Amount sought by EH Planning obligations SPD | Amount recommended in this case | Reason for difference (if any) |
|--|--|---------------------------------|--------------------------------|
| Affordable housing – off site contribution                         | Not determined.                              |                                 |                                |
| Parks and Public Gardens   | £7,758.82                                    |                                 |                                |
| Outdoor Sports facilities  | £21,488.20                                   |                                 |                                |
| Amenity Green Space  | £3,305.16                                    |                                 |                                |
| Provision for children and young people                            | £3,173.73                                    | Not applicable                  |                                |
| Maintenance contribution - Parks and public gardens                | £17,125.13                                   |                                 |                                |
| Maintenance contribution - Outdoor Sports facilities               | £53,950.20                                   |                                 |                                |
| Maintenance contribution - Amenity Green Space                     | £9,297.16                                    |                                 |                                |
| Maintenance contribution - Provision for children and young people | £6,090.26                                    | Not applicable                  |                                |

|                                    |         |  |  |
|------------------------------------|---------|--|--|
| West Street Residents Parking zone | £10,000 |  |  |
| GP Practices                       | £8,537  |  |  |
| Mental health and Community health | £6,517  |  |  |