

3/14/2292/FP – Development of land at to deliver 47 homes (18 houses and 29 flats), associated car parking and amenity space and new vehicular access. Land at Chauncy School, Park Road, Ware for Riversmead Housing Association

Date of Receipt: 16.12.2014

Type: Full – Major

Parish: Ware

Ward: Ware – St Marys

RECOMMENDATION:

That, subject to referral to the Secretary of State in respect of the loss of the school playing field and the applicant or successor in title entering into a legal obligation pursuant to Section 106 of the Town and Country Planning Act 1990 to cover the following matters:

- i) The development hereby approved shall not commence until a contract for the construction of the sports hall the subject of planning application 3/14/2250/FP has been entered into by Chauncy School. The development shall not be occupied prior to the substantial completion of the sports hall.
- ii) A contribution of £1,413 index linked towards facilities at the Ware, MUGA Young People's Centre.
- iii) A contribution of £6,744 index linked towards the enhancement of Ware Library.
- iv) A contribution of £42,000 index linked towards the upgrading of the Chauncy School/GSK to the town centre pedestrian link.
- v) The provision of 19 units of affordable housing
- vi) The installation of fire hydrants.

The Director of Neighbourhood Services be authorised to **GRANT** planning permission, subject to the following conditions:

1. Three Year Time Limit (1T12)
2. Approved plans (2E10)
3. Levels (2E05)

Reason: To ensure that prior to the commencement of the development it properly relates to the levels of adjoining development in the interests of good design in accordance with Policy ENV1 of the East Herts Local Plan Second Review April 2007.

4. Boundary walls and fences (2E07)

5. Samples of materials (2E12)

Reason: To ensure that prior to the commencement the appearance of the development is satisfactory in accordance with Policy ENV1 of the East Herts Local Plan Second Review April 2007.

6. Prior to installation details of external lighting to be provided shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved detail.

Reason: In the interests of the visual amenities of the area and in accordance with Policy EN23 of the East Herts Local Plan Second Review April 2007.

7. Parking provision and retention (3V23)

8. Tree/hedge retention and protection (4P05)

9. Prior to commencement of the development details of hard and soft landscaping proposals shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the scheme of landscaping shall be implemented in accordance with the approved detail.

Reason: To ensure that prior to the commencement the appearance of the development is satisfactory in accordance with Policy ENV1 and ENV2 of the East Herts Local Plan Second Review April 2007.

10. Landscape works implementation (4P13)

11. Before the development commences detailed plans and specifications of all works proposed to the public highway, including access junction protection measures and tree removal shall be submitted to and approved by the Local Planning Authority. The works shall be constructed to the approved details prior to first occupation of the development.

Reason: To ensure that prior to commencement of the development satisfactory access is to be provided having regard to highway safety.

12. Concurrent with the construction of the site access a visibility splay 2.4 metres x 53 metres shall be provided in both directions, within which there shall be no obstruction to visibility between 0.6 metres and 2.0 metres in height above carriageway level.

Reason: In the interests of highway safety.

13. Before the access is brought into use a triangular vision splay shall be provided on each side of the access measuring 2.0 metres along the means of enclosure on the front boundary of the site and 2.0 metres into the site measured at right angles from the boundary line. The splays shall be maintained free from obstruction to visibility exceeding a height of 0.6 metres above the carriageway.

Reason: In the interest of highway safety.

14. Completion of roads/footpaths (3V13)
15. Construction traffic route (3V26)
16. Construction hours of working (6N07)
17. Wheel washing (3V25)
18. Prior to first occupation of the development the pedestrian and cycle links to adjoining land at Fanshaws and Wengeo Lane shall be completed in accordance with the approved drawings and shall thereafter be maintained.

Reason: To ensure the provision of adequate access to the development in accordance with Policy TR2 of the East Herts Local Plan Second Review 2007.

19. Prior to the commencement of development a reptile survey shall be undertaken and the report submitted to and approved in writing by the Local Planning Authority. If reptiles are found the report shall detail a suitable mitigation strategy. Thereafter the approved migration strategy shall be implemented prior to the commencement of development.

Reason: Details are required prior to the commencement of development to safeguard protected species in accordance with Policy ENV16 of the East Herts Local Plan Second Review 2007.

Directives:

1. Other Legislation (01OL)
2. Street Numbering and naming (19SN)

3. Highway works (06FC2)

Summary of Reasons for Decision

East Herts Council has considered the applicant's proposal in a positive and proactive manner with regard to the policies of the Development 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); the National Planning Policy Framework and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2012 (as amended). The balance of the considerations having regard to those policies and the pre-application advice given is that permission should be granted.

1.0 Background

- 1.1 The site is shown on the attached OS Plan and is about 1ha in area. It lies in the southwest corner of the Chauncy school grounds at the junction of Park Road and Wengeo Lane. There is a boundary hedge to Park Road and boundary planting to Wengeo Lane.
- 1.2 The land is designated as existing playing field/ open space/ recreational land in the Local Plan. It is not currently in active use. Submissions on behalf of the applicant set out that it has not been used by the school – or anyone else – for a number of years. There is a record of use as sports pitches in 2005 and it was last used for community football in 2012 when the lease to a local football club expired. To the west is an area of mainly two storey housing and to the south the industrial buildings of the Glaxo Smith Kline complex.
- 1.3 The application proposes a development of 47 residential units in a mix of 18 houses and 29 flats as set out in the table below. There will be 9 pairs of semi-detached dwellings. All other units are provided within the three storey flatted block proposed.

	Affordable rent	Shared ownership	Private	Total
1 bed flat	2	1	5	8
2 bed flat	3	3	8	14
2 bed wheelchair flat	1		2	3
3 bed flat	1	1	2	4
3 bed house	2	2	6	10

4 bed house	2	1	5	8
Total	11	8	28	47

- 1.4 Vehicular access is from Park Road cutting across a verge and through the existing boundary hedge. 86 parking spaces are proposed and cycle parking sheds are also provided within the development.
- 1.5 A seating and play space is proposed in the southwest corner of the site and an amenity space to the frontage of the flatted block.
- 1.6 The application states that the development is necessary in order to fund a proposed new school building accommodating a sports hall and 8 classrooms. That proposal is the subject of a separate application (Ref: 3/14/2250/FP) also reported to this Committee.

2.0 Site History

2.1 The relevant planning history is as follows:

- 3/01/0569/CC – Single storey teaching block. Approved May 2001.
- 3/07/1803/CC – 5 double mobile classrooms. Approved November 2007.
- 3/09/0016/FP – 5 classrooms and toilet facilities. Approved March 2009.

3.0 Consultation Responses

- 3.1 Sport England object to the proposal as it will result in the permanent loss of playing field land without meeting any of the exceptions in their adopted playing field policy. It is also considered to conflict with Para.74 of the National Planning Policy Framework (NPPF).
- 3.2 East and North Hertfordshire NHS Clinical Commissioning Group have ascertained from their provider organisations that they do not require Section 106 to mitigate the effects of the development on community services or acute and mental healthcare.
- 3.3 The Herts and Middlesex Wildlife Trust object to the application on the grounds that the Preliminary Ecological Appraisal makes recommendations that do not appear to have been incorporated into the proposals. The applicant should specify how they are to be applied and detail the mitigation measures on the plans.

- 3.4 Herts CC Ecology note the Preliminary Ecological Appraisal and comment that the development should aim to retain as much hedgerow as possible. If vegetation removal is required due diligence should take account of nesting birds during the nesting period.
- 3.5 The Environment Agency raise no objection.
- 3.6 Herts CC (Minerals and Waste Team):comment that in determining the application the Council should pay due regard to the National Planning Policy for Waste. Should the application be permitted, a number of detailed matters should be given careful consideration including the need to produce a Site Waste Management Plan (SWMP).
- 3.7 Herts CC Highways raise no objection, subject to conditions. Further details of their consideration of the proposals are included at Section 7 of this report.
- 3.8 Housing Manager comments that the proposal complies with affordable housing policy.

4.0 Town Council Representations

- 4.1 Ware Town Council object to the development on grounds of:
- Design of apartments with flat roofs – should be pitched
 - Insufficient parking provision in an area already suffering parking problems
 - Road safety concerns from increased traffic congestion, Park Road is already gridlocked

5.0 Other Representations

- 5.1 116 responses have been received from residents, a response from the Ware Society, a group response from Park Street Residents and a response from a planning consultant acting for Park Street Residents objecting to the proposal on grounds including:
- The land has been allowed to become overgrown to obtain Secretary of State approval for its sale. The community space should not be lost for one off funding.
 - Old aerial photos show that the land was marked out as pitches and in use. The school removed community football use and the club had to relocate.
 - The school has not consulted with the community about raising the

required capital.

- Increased on-street parking, congestion and road safety risk. Park Road is already heavily congested.
- The new junction will be a safety risk.
- The development is contrary to local and national planning policy which seeks to protect playing fields unless there are exceptional circumstances to justify the loss. This has not been demonstrated.
- Insufficient information has been submitted to allow a proper Assessment of ecological impact.
- The development will prevent further development of Fanshawe Swimming Pool.
- No local bus service runs along Park Road to cover the Trapstyle Estate.
- Development proposal north of Ware should provide sufficient affordable housing without building on school land.
- Over-development of the area.
- Lack of infrastructure planning for increased population.

5.2 172 responses have been received supporting the proposal making comments including:

- The development will provide a centre of excellence for sport and provide much needed facilities for the school, local primary schools and the wider area.
- The small development is ideally located with walking access to schools and easy access to transport links.
- The development will contribute to much needed housing supply and the lack of affordable housing in Ware.
- It is a win win situation with a new sports hall and much needed housing.
- This is a creative way of supporting the growth of Ware with no cost to the tax payer.
- A waste of land we need more housing. The only downside with Chauncy School is its sports facilities compared to Presdales, John Warner and Richard Hale.

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 not allocated in this Plan

HSG3	Affordable housing
HSG4	Affordable housing criteria
TR2	Access to new developments
TR7	Car parking standards
TR14	Cycling –facilities provision
ENV1	Design and environmental quality
ENV2	Landscaping
ENV11	Protection of existing hedgerows and trees
ENV17	Wildlife habitats
LRC1	Sport and recreation facilities
BH1	Archaeology and new development
IMP1	Planning conditions and obligations

6.2 The National Planning Policy Framework and National Planning Practice Guidance are also of relevance to the determination of the application.

6.3 The emerging District Plan continues to identify the site as existing playing field/ open space/ recreational area.

7.0 Considerations

7.1 The main considerations in this case are:

- The loss of the playing field having regard to Policy LRC1.
- Housing supply and provision of affordable housing having regard to the NPPF and Policies HSG3 and HSG4.
- Design, layout and landscaping having regard to Policies ENV1, ENV2 and ENV11.
- Access and car parking having regard to Policies TR2 and TR7.
- Planning obligations.

Loss of playing field

7.2 Policy LRC1 provides that proposals that would result in the loss of Sports and recreation facilities or school playing fields will be refused unless:

- Suitable alternative facilities are provided on the site or in the locality which are at least equivalent in terms of quantity and quality

or

- It can be demonstrated that the facility is no longer needed and there is no viable demand for an alternative

7.3 Paragraph 74 of the NPPF sets out similar requirements in that existing, open space, sports and recreational buildings and land, including playing fields should not be built on unless:

- An assessment has been undertaken which clearly show that open space, buildings or land are surplus to requirements; or
- The loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity or quality in a suitable location; or
- The development is for an alternative sports and recreation provision, the need for which is clearly outweighed by the loss

7.4 Members will note that Sport England are in objection. Sport England are a statutory consultee in respect of planning applications involving loss of playing fields. Sport England policy is framed in a different way to planning policy and is not subject to the same formulation process. It is not necessary for it to be compliant with the NPPF. Its objective in respect of this matter is to retain all playing fields irrespective of replacement provision coming forward and therefore it will oppose any application that would lead to loss of, or that would prejudice the use of, all or part of a playing field, unless one of five exceptions applies:

- (E1) An assessment has been made that there is an excess of playing fields in the catchment area and the site has no special significance for sport
- (E2) The development is ancillary to the principal use of the playing field and does not affect the quantity or quality of pitches
- (E3) The development only affects land incapable of forming part of a playing pitch and would lead to no loss of use/size of playing pitch
- (E4) Playing field lost would be replaced by equivalent or better in terms of quality and accessibility
- (E5) The proposed development is for an indoor/outdoor sports facility of sufficient benefit to sport to outweigh the detriment caused by the loss of playing field

Sport England do not consider that the proposal meets their exception E5 as this relates to the provision of new indoor/outdoor sports facilities. Whilst it is proposed that the proceeds from the sale of the playing field will fund the sports hall and they are supportive of the principle of this

facility, the field in question would be lost to residential development, and therefore it does not fall within the remit of the exception.

- 7.5 It is necessary then to make an assessment against the policies in the development plan and taking into account the policy of Sport England as a further material consideration. In this case, as indicated, the funding from the sale of the school playing field will fund the provision of a new sports hall building that also accommodates 8 additional classrooms, elsewhere on the school site. This is the subject of planning application 3/14/2250/FP that is also reported to this Committee.
- 7.6 It appears that the site has previously been used for active recreational purposes, that use having ceased a number of years ago. The use appeared to comprise two youth or mini football pitches. The Councils Playing Pitch Strategy (undertaken in 2010) records the previous users as having relocated to sites elsewhere in the area. The school is not using the site for recreational purposes and states that it would be difficult to achieve this safely due to the topography of the site – which makes surveillance from the school site difficult.
- 7.7 Clearly the indoor facilities comprise an enhanced quality of provision compared with the outdoor pitches. The new provision would have indoor changing facilities and would be available for use all year round regardless of the weather. The outdoor facilities lack any associated changing provision and use would be subject to the weather. The use to which the new facilities could be put would be different, indoor ball games as opposed to outdoor sports on a natural pitch. The Councils Indoor Sports assessment does indicate that improving community access to school facilities is a key method for improving capacity. However, in considering the demand in Ware for indoor provision, this is assessed to be limited due to the existing facilities that are available at the Wodson Park site.
- 7.8 The availability for public use will potentially vary as a result of these proposals. The outdoor pitches lost, if not useable by the school due to their level and location, could potentially have been made available at all times for other or public use. The new indoor facilities will be used by the school during the school day, and then are proposed to be available to the public during the evenings and weekends. The school also propose to make their remaining outdoor sports facilities available for public use in the evenings and at weekends. Whilst the availability of the replacement facilities is potentially more restricted, these are the times of predominant demand.

- 7.9 Summarising on this point, the objection of Sport England to the loss of the playing is noted, however, their policy is more narrowly defined than that in the Local Plan or the NPPF. It is considered that the replacement sports facilities proposed are at least equivalent in quantity and quality terms. In quantity terms, the proposed replacement facility, whilst improving the overall sports facilities at the school (which should be given weight), may not represent an enhancement in itself, as they will not be available to the public for much of the day. However, the school's commitment to opening up their outdoor sports facilities to public use in the evenings and at weekends boosts the overall quantity of sports facilities available to the public, albeit at restricted times. In terms of quality they are considered superior due to the potential for multi-sport use and the indoor and year round use nature of the use. However, the weight that can be given to this is reduced because demand for further such facilities by the public is limited.
- 7.10 On balance and taking into account all these aspects and having regard to the planning policy criteria regarding the loss of playing fields in the Local Plan and NPPF, the loss of the playing field to residential development is considered to be a harm which is outweighed by the benefits of the new provision. The receipt of an objection from Sport England in respect of this issue will necessitate that the application be referred to the Secretary of State should Members be minded to support these proposals.

Housing supply

- 7.11 Members are aware that the Council is currently unable 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 and subject to outstanding unresolved objections. In these circumstances, significant weight must be given to the position, set out in the NPPF that, unless the adverse impacts of permitting development are significant and demonstrable, then permission should be granted for development.
- 7.12 Significant positive weight should be given to the proposals in this respect where they will deliver 47 new residential units. The housing proposals are also compliant with policy HSG3 in respect of the delivery of affordable housing, providing 40% of units as affordable. These will comprise 3 x 1 bed, 6 x 2 bed, 3 x 2 bed wheelchair adapted and 1 x 4 bed units. 8 units would be shared ownership and 11 units for rent. The proposal is compliant with Policy HGS3. The delivery of housing and the provision of affordable housing must be given significant positive

weight.

Layout, design and landscaping

- 7.13 The proposal has been subject to pre-application advice and the layout has evolved through that process and now reflects the recommendations of Officers. The proposed houses now face outwards towards Park Road and Wengeo Lane with the flats grouped behind the houses in a block sited in the northeast corner of the site.
- 7.14 To the south, the buildings of the GSK complex are large in form, generally two storeys and three storeys in height with significant roofscapes. To the west, the conventional housing of Trapstyle Road is largely obscured from views by the intervening planting along Wengeo Lane but is conventional in design and two storey in height.
- 7.15 The proposed two and three storey houses have traditional pitched roofs with contemporary elevations. The flatted block is of three storeys with a contemporary design. Consideration has been given to the characteristics of the site and surroundings. To the east is the school and Fanshawe Swimming Pool building both having flat roofs. Whilst familiar in the local street scene, the Fanshawe pool building is not of any significant design merit and largely anonymous when viewed from the west. The new development will restrict these views of the building replacing them with more legible housing.
- 7.16 In this context, the proposed design of the flats which are to be located towards the rear of the site adjoining the Fanshawe building, although more contemporary than some housing coming forward, is considered acceptable. The flatted block will comprise a larger built element with a flat roof, but again, it will be assimilated well, given the context and behind the frontage housing, and must be considered a design improvement in the context of the Fanshawe Pool building. The provision of green roofs to the flat block promotes sustainability. In this regard paragraph 65 of the NPPF advises that that planning permission should not be refused for buildings which promote high levels of sustainability because of concerns about compatibility with existing townscape. The proposals are not considered harmful in this respect.
- 7.17 The layout retains the existing hedge and boundary planting along Park Road (apart from the new access) and Wengeo Lane with sufficient scope for on-site planting within the public areas of the layout. The rear private amenity space to the houses are of reasonable depth and area. The layout provides an appropriate setting for the houses and flats.

- 7.18 A play and seating area is to be provided in the northwest corner of the site.
- 7.19 Overall the layout and design of the scheme is of good quality and appropriate to the site and its surroundings.

Highways, access and parking

- 7.20 Vehicular access is from Park Road cutting across a verge through the existing boundary hedge. 84 parking spaces are proposed and cycle parking sheds are also provided within the development. The Councils policies in relation to the provision of parking spaces would require the provision of 91 spaces.
- 7.21 Further consideration can be separately given to the parking proposed for the housing and the flatted block. Generally, they fall into two discrete sets of provision, although users could make use of either site, albeit less conveniently. Under the current policy, the proposed flats would require the provision of 44.5 spaces. 32 spaces are provided. For the housing, current policies would require the provision of 46.5 spaces. 55 spaces are shown to be provided to the frontage of the site and situated most conveniently for the use of the housing occupiers. The Councils emerging parking policies would require the provision of 88 spaces with 56 for the flatted units and 32 for the housing respectively.
- 7.22 The current policies are framed on the basis of maxima, setting out that a reduced number of spaces can be considered appropriate, depending on the location of the development and alternative transport provision. The emerging policies, to which only limited weight can be given as they have not been subject to consultation, establish minimum levels of provision, but again, indicate that some reduction in that provision can be made.
- 7.23 This site is within the built up area of the town, and is closer to town centre services and facilities than the housing located further to the west along Park Road (the Trapstyle Estate). There are no public bus services in this area of the town, but train and bus services can be accessed by walking, albeit not as conveniently as from other parts of the town.
- 7.24 Overall it is considered that the reduction in provision against the Council maximum parking provision requirements will operate acceptably. Parking restrictions apply to this part of Park Road, ensuring that overspill parking, if it does occur, will not be able to take place during times of peak road use.

- 7.25 The currently proposed layout on the site may not operate most conveniently for occupiers. It is considered that some amendment could be made to this through revised plans. Reduction of the frontage (housing area) parking is easily achieved. Reprovision of that to the rear (for the flats) may be more difficult. Some negative, but limited weight, is assigned to this element of the proposals.
- 7.26 The Highway Authority have no objection to the proposals, subject to conditions and raise no significant concerns about trip generation. Initially concern was raised about the level of visibility at the point of access onto Park Road due to street trees and the level of roadside parking during school hours. So the highway implications of the development are closely linked to school generated traffic.
- 7.27 Officers from the Highway Authority visited the school on 29th April (during term) from 08.00 to 10.00 hours to observe the movement of pupils and in particular, those arriving by car. It was noted that the vast majority of pupils arriving by car were dropped off within the school grounds and that only a small handful of vehicles made use of roadside parking in Park Road. The roadside parking took place to the east of the school access and no parking/dropping off was observed at all along the section of Park Road onto which the access to the proposed residential development will join.
- 7.28 The County Councils School Travel Plan Advisor has confirmed that this is the normal pattern of pupil arrivals and departures, and the Highway Authority do not consider that there is justification to request an extension to the current waiting restrictions in Park Road. However, protection around the residential access is required to protect visibility and this will take the form of a short section of yellow lines either side of the access. This is the subject of a condition.

Section 106 legal obligations

- 7.29 The following financial obligations arising from consultations on the application are considered to appropriately relate to the development and have been agreed by the applicant:
- A contribution of £1,413 towards facilities at the Ware, MUGA Young People's Centre
 - A contribution of £6,744 towards the enhancement of Ware Library
 - A contribution of £42,000 towards the upgrading of the Chauncy School/GSK to the town centre pedestrian link.

- 7.30 The housing development proposed in this application is, in planning policy terms, inextricably linked to the construction of the sports hall the subject of planning application ref: 3/14/2250/FP. It is therefore appropriate to link the grant of planning permission for this development to the delivery of the sports hall and this is proposed to be included in the Section 106 Agreement.

Other matters

- 7.31 The comments of The Herts and Middlesex Wildlife Trust are noted. However, a preliminary ecological appraisal was been submitted with the application. This does not identify any significant issues. The site is predominantly semi-improved grassland with species poor hedgerows along the southern and western boundaries with mature trees along the western boundary. Herts CC (Ecology) advise that as much of the existing hedgerows as possible should be retained and that due diligence should be taken if trees/shrubs are to be removed. The layout of the development provides for the retention of existing hedgerows and a condition is recommended requiring their retention and protection during the construction period.

8.0 Conclusion

- 8.1 The provision of additional new housing, including 40% of affordable units, must be given significant weight. The provision of replacement sporting facilities, if appropriately controlled and ensured through agreement to provide public access, is also assigned weight which is considered to be sufficient as to outweigh the harm resulting from the loss of the recreational land. The objection of Sport England remains noted. The proposals are considered to be appropriate, and even provide some benefit, in visual and design terms.
- 8.2 The concerns of surrounding residents and in particular, the concern regarding traffic generation are noted. However, detailed consideration by the Highway Authority has not indicated that the proposals are likely to exacerbate any existing local highway problems. Parking provision, whilst considered sufficient overall, is not located conveniently on the site. Some negative weight is assigned in that respect.
- 8.3 Overall, it is considered that, when taking into account the requirements of the Local Plan and NPPF, no significant or demonstrable harm would be caused by the proposals. Therefore, subject to referral to the Secretary of State in respect of the loss of the playing field and completion of a Section 106 Agreement, the application is recommended for approval.