

DEVELOPMENT MANAGEMENT COMMITTEE REPORT – 11 Oct 2017

Application Number	3/17/1222/VAR
Proposal	Variation of condition 2 (Approved Plans) of 3/14/1369/FP - Demolition of filling station canopy, kiosk, workshop and part of former ground floor showroom. Change of use of former coachworks and showroom building to 4 houses and 9 new-build houses. New office building. Associated car parking, refuse and access - amendments to approved plots 03 and 04 due to the structural integrity of the existing construction of the first floor upwards being condemned. Conversion of first floor upwards not viable. Replace revision 'A' drawings with revision 'B'.
Location	Former Waters Garage Site, 9 North Road Hertford
Applicant	Mr Nigel Tedder
Parish	Hertford
Ward	Hertford - Castle

Date of Registration of Application	2 June 2017
Target Determination Date	1Sept 2017
Reason for Committee Report	Major planning application
Case Officer	Artemis Christophi

RECOMMENDATION

That, subject to the completion of a deed of variation under s106 of the Town and Country Planning Act assigning the obligations entered into in relation to application 3/14/1369/FP to this application, planning permission be **GRANTED** subject also to the conditions set out at the end of this report.

1.0 Summary

- 1.1 The application site has permission under reference 3/14/1369/FP for the demolition of the former filling station canopy, kiosk, workshop and part of the former ground floor showroom. The proposals also involved the change of use of the former coachworks and showroom building to 4 houses and 9 new-build houses and the erection of a new office building.
- 1.2 Development of the site is currently underway and, following more detailed inspection and assessment of an element of the original buildings on the site the applicants are of the view that the reuse of this element of the existing buildings is not now feasible. A new build

element is now proposed which will be the same in its external appearance and provide the same amount of internal accommodation.

- 1.3 Therefore, the consideration for Members, in relation to this proposal, is whether the amended scheme raises new issues to which such weight should be assigned to such that the balance of considerations reached in relation to the original scheme is altered.

2.0 Site Description

- 2.1 The site (0.17 hectares overall) is a former car showroom and repairs business, located between North Road and Hertingfordbury Road and within the Hertford Conservation Area. Construction and conversion works are currently underway on the site following the implementation of a previous planning permission to which this variation relates.

3.0 Background to Proposal

- 3.1 Following implementation of the 2014 planning permission, which involves the retention and conversion of two floors of accommodation above the east end of the former showroom to residential use, the applicant has investigated further the structural integrity of the building. This has resulted in the identification of serious defects to the structure and construction of the building such that the applicants consulting engineers recommend that the only safe way to enable implementation of the accommodation approved by the earlier permission is by demolition to the ground floor level followed by reconstruction.
- 3.2 This application then proposes that action be undertaken. The overall layout to the site, the number of units and amount of accommodation and the final appearance of the buildings would be unchanged.
- 3.3 The report submitted to the committee which set out the details of the original planning application proposal is included as Essential Reference Paper A. This sets out the full range of issues that were considered at the time of that permission. This variation application has the effect of issuing a new permission and therefore it is appropriate to consider all relevant issues afresh. However, where they are canvassed in the previous report and policy circumstances are not considered to have changed in relation to them, they are not repeated again in this report. Therefore it is appropriate for Members

to refer to both reports, as far as is appropriate, in the consideration of this application.

4.0 Key Policy Issues

4.1 These relate to the relevant policies in the National Planning Policy Framework (NPPF), the adopted East Herts Local Plan 2007; and the pre-submission District Plan (Nov 2016).

Key Issue	NPPF	Local Plan policy	Pre-submission District Plan
Principal and sustainable development	Para 11-16,	SD2,	INT1, DPS1, DPS2, DPS3, DPS4, HERT1, CC1, CC2
Impact on the character and appearance of the area and the Conservation area.	section 7 and 12	ENV1, ENV2, BH5, BH6	DES1, DES3, HA1, HA2, HA4

5.0 Emerging District Plan

5.1 The District Plan has been submitted to the Secretary of State for examination. The view of the Council is that the Plan has been positively prepared, seeking to ensure significantly increased housing development during the plan period. The weight that can be assigned to the policies in the emerging plan can now be increased, given it has reached a further stage in preparation. There does remain a need to qualify that weight somewhat, given that the Plan has yet to be examined.

6.0 Summary of Consultee Responses

6.1 HCC Highway Authority raise no objection to the proposal

6.2 Local Lead Flood Authority note the proposals relate to the first and second floors and will have no impact on surface water management issues. It raises no objection to the proposed development.

6.3 EHDC Engineering Advisor notes that the development of housing on the site may increase permeable areas. The advisor refers to the flood risk assessment submitted with the previous proposals

highlighting that green roofs are supported whereas the provision of geo cellular (underground) storage is not. Limited site space is noted and recommendations are made to the possible inclusion of more environmentally Suds features.

- 6.4 EHDC Conservation and Heritage Advisor has sought advice from the Building Control service with regard to the integrity of the building. That advice indicates that, without a detailed inspection of the building, it is clear that extensive remedial work would be required to enable retention and reuse of the building. On carrying out a further inspection the Advisor notes the structural deficiencies and the poor quality of the brick work is clear to see. The amount of work that would be required to address these structural deficiencies would not be warranted – given the low significance of the historic fabric of this unlisted building. Any harm that results from the loss of this fabric is far outweighed by the public benefit of the re use of the site. The impact on the Conservation Area is neutral.
- 6.5 Historic England does not wish to offer any comments on the proposals.
- 6.6 Herts Ecology comments that there are no biological records for the site or adjacent to it and therefore have no objection to the proposed development.
- 6.7 HCC Development Services raise no objection to the proposal, notes an existing unilateral undertaking relating to the site and states that it has no further comments to make on this variation application.
- 6.8 EHDC Environmental Health Advisor raises no objection to the proposal and does not wish to restrict the grant of permission.
- 6.9 EHDC Operational Services refer to a lack of information in relation to refuse provision.
- 6.10 HCC Historic Environment Advisor raises no objection to the proposal on the basis that the development will have no significant impact on heritage assets of archaeological interests.
- 6.11 Herts Fire and Rescue Service comments that access for fire fighting vehicles and water supplies should be provided and appropriate provision of fire hydrants.

7.0 Town Council Representations

7.1 Hertford Town Council set out that it applauds the work undertaken to ensure the best presentation of a difficult site, its members would not wish to see changes, visually, from the original plan.

8.0 Summary of Other Representations

8.1 A total of 84 neighbour consultation letters were sent out. There were no responses received.

9.0 Planning History

Ref	Proposal	Decision	Date
3/05/0647/FP	Change of use of petrol station to car showroom	Approved with conditions	April 2005
3/05/2166/LC	Demolition of the canopy and kiosk	Approved with conditions	January 2006
3/07/0797/FP	Creation of new hard standing parking/display bays, new block paving, landscaping, drop down bollards and dropped kerb	Refused	June 2007
3/12/0427/FP	Conversion and extension of former coachworks to form 2 no. 3-bedroom houses and ground floor retail unit with 10 no. apartments above and provision of 2 no. 3 bedroom houses on former car park site opposite	Withdrawn	2012
3/12/0428/LC	Demolition of existing structures	Withdrawn	2012
3/14/0414/FP	Application for a twelve month temporary consent to change the use of the former Waters Garage, Showroom and Forecourt to A1 Retail.	Approved	May 2014

3/14/1457/FP	Change of use (for a 12 month period) of the former petrol filling station to a mixed use site to include both car sales and car washing operations	Refused	October 2014
3/14/1369/FP	The previous application for the part demolition and change of use of the buildings previously on the site to allow the mixed office and residential use	Approved	2 April 2015

10.0 Consideration of Relevant Issues

- 10.1 The location of the application is within the town of Hertford and comprises a previously developed site. The principle of development on the site is acceptable and the previous report, in relation to application 3/14/1369/FP set out all the considerations which led the committee to conclude that permission should be granted at the time.
- 10.2 In policy terms, there has been no significant change in circumstances since that time. The NPPF and the Councils 2007 Local Plan remain relevant policy considerations. The Councils emerging District Plan has progressed to the pre submission stage, and more weight can be assigned to the policies set out in it. Overall it is considered that the balance of weight to be given to the relevant issues has not changed since the time of the previous decision and, therefore, it is necessary only to consider what weight now needs to be assigned to new issues arising and whether these impact on the overall balance.
- 10.3 The relevant new issue is the impact of the now proposed construction in relation to the first and second floors over the eastern end of the former showroom area of the building. Information submitted by the applicant has referred to the defects identified to the construction of the existing building. Inspections have been undertaken by the Building Control service and by the Councils Conservation and Heritage Advisor. Whilst these have not comprised detailed structural surveys, it appears clear in this case that, requiring more intensive survey work to be undertaken is unlikely to come to a different conclusion and, in addition, that remedial works, which are likely to be extensive and costly, are not warranted.

- 10.4 Having accepted that this element of the original building is to be lost, it is necessary to consider whether that impact is harmful. The Conservation and Heritage Advisors refers to the unlisted nature of the building and gives a view in relation to the loss of the historic fabric. It is considered that the loss of the historic fabric should be assigned some, but very limited harm.
- 10.5 With regard to the visual impact and the impact on the character of the area and the Conservation Area, replica facades are now proposed. These will ultimately be the same in appearance as the original proposals. The impact on character will therefore be neutral. No harm results and the character of the Conservation Area will be preserved.
- 10.6 With regard to the accommodation to provided, the original proposals enabled two units to be created within the converted ground, first and second floors of this part of the building. That amount of accommodation is still proposed.

11.0 Conclusion

- 11.1 Members will note that there was a balance of issues under consideration in relation to the previous application for redevelopment at the site, as set out in the attached report at ERP A. Harm was assigned to some issues, for example, the introduction of residential uses into this location immediately adjacent to the busy Hertingfordbury Road. The conversion of buildings at the site was referred to as a key issue, although in the overall balance it appeared the final impact on visual appearance that was of greatest concern. Ultimately, the balance of consideration was that permission could be approved. In this case, some limited additional harm is applied, by virtue of the loss of the unlisted historic fabric of the buildings. In relation to appearance, character and the Conservation Area, the impact is neutral.
- 11.2 Whilst a further element of the previous building is now to be removed, the outcome visually is to be the same. Some additional, but limited harm, is now assigned as a result of the loss of the historic fabric. However, it is considered, in conclusion, that this limited additional harm, when considering all relevant and material issues, does not result in a change in the balance of considerations overall. It is recommended therefore that permission be granted in this case.

- 11.3 As this decision results in the issuing of a new permission, it is necessary to reapply all previous conditions, except where they need to be modified to reflect the position where their requirements have already been met. As a Legal Obligation Agreement had been signed in relation to the previous permission, it is necessary to secure a deed of variation to ensure that its provisions continue to apply.

Conditions

1. Three Year Time Limit (01T12)
2. Approved plans (); (PL001, PL002, PL003, PL004, PL005, PL006, PL007A, PL008A, PL009A, PL010A, PL011A, PL012A, PL013A, PL014B, PL015B, PL016A, PL017B, PL018A, PL019A, PL020A, PL021A, PL022A, PL023 A, PL024A, PL052A, PL053A, SK19A, SK20A, SK23, SK24, SK25, SK26, SK27, plans and details of air filtration units)
3. Materials of construction (2E111)
4. Landscape works implementation (4P131) – referring to landscape details agree under application 3/14/1369/FP
5. Before development commences, additional plans, drawn to an appropriate scale, must be submitted to and approved in writing by the Local Planning Authority, in consultation with the Highway Authority, which clearly show the detailed design and construction of all works within the public highway (at ground level and below ground level), including (but not limited to) vehicle accesses, footways / footpaths, highway maintenance areas, the proposed parking area on highway land, and the diversion of public utilities, as shown on drawing number PL053 Revision A ('highway improvements plan') and other associated plans. These works shall be constructed to the specification of the Highway Authority and Local Planning Authority's satisfaction, and completed before first occupation of the development.
Reason
To ensure the provision of an access and footway appropriate for the development in the interests of highway safety and convenience.
6. Any existing access not incorporated in the approved plan shall be permanently closed to the satisfaction of the Highway Authority.
Reason
In the interest of highway safety and to avoid inconvenience to highway users.

7. Concurrent with the construction of the accesses, carriageway visibility splays of 2.4 metres x 43 metres shall be provided in both directions, from each access. These splays shall be permanently maintained in each direction within which there shall be no obstruction to visibility between 600mm and 2 m above the carriageway level.
Reason
To provide adequate visibility for drivers entering or leaving the site.
8. Before the vehicle accesses are first brought into use by the new development, a triangular vision splay shall be provided on each side of each new access and shall measure 0.65m along the fence, wall, hedge or other means of definition of the front boundary of the site, and 0.65m measured into the site at right angles to the same line along the side of the new access drive. The vision splays so described and on land under the applicant's control shall be maintained free of any obstruction to visibility exceeding a height of 600mm above the adjoining footway level.
Reason
To provide adequate visibility for and of drivers entering or leaving the site in the interests of pedestrian safety.
9. Prior to the occupation of the residential units, or by such timetable as may otherwise be agreed in writing with the local planning authority, the new footpath through the site (as shown on PL053 Revision A, 'highway improvements plan') shall be completed to a standard suitable for adoption as public highway, and the process commenced for it to be adopted as highway maintainable at public expense through Section 38 of the Highways Act 1980 or another appropriate process.
Reason
To ensure the long term provision of a suitable public link through the site.
10. Prior to the commencement of the development, a 'Construction Traffic Management Plan' shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. Thereafter the construction of the development shall only be carried out in accordance with the approved Plan.
Reason
In the interest of highway safety and to avoid inconvenience to highway users.
11. Vehicular use of garages (5U101)

12. Following demolition of the site infrastructure and prior to the commencement of construction approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

1) A preliminary risk assessment which has identified:

- all previous uses
- potential contaminants associated with those uses
- a conceptual model of the site indicating sources, pathways and receptors
- potentially unacceptable risks arising from contamination at the site.

2) A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

3) The results of the site investigation and detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express consent of the local planning authority. The scheme shall be implemented as approved.

Reason

To protect groundwater quality. The site is located in a vulnerable source protection zone 3 where groundwater ultimately feeds into public drinking water supply. Should any contamination be present, the demolition and redevelopment works could disturb and create pathways into which the contaminants could leach into the underlying groundwater. We must be confident that the risks are understood and minimised. The submitted land contamination assessment dates back to 2010. This needs updating.

Paragraph 109 of the NPPF states that the planning system should contribute to and enhances the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels water pollution.

Paragraph 120 states that local policies and decisions should ensure that new development is appropriate for its location, having regard to the effects of pollution on health or the natural environment, taking account of the potential sensitivity of the area or proposed development to adverse effects from pollution. Paragraph 121 also states that planning policies and decisions should ensure that adequate site investigation information, prepared by a competent person, is presented.

13. Prior to occupation of any part of the development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the local planning authority. The long-term monitoring and maintenance plan shall be implemented as approved.

Reason

To protect groundwater quality by ensuring any remedial work required by the previous condition is undertaken and demonstrated to have been successful.

14. Reports on monitoring, maintenance and any contingency action carried out in accordance with a long-term monitoring and maintenance plan shall be submitted to the local planning authority as set out in that plan. On completion of the monitoring programme a final report demonstrating that all long-term site remediation criteria have been met and documenting the decision to cease monitoring shall be submitted to and approved in writing by the local planning authority.

Reason

To protect groundwater quality by ensuring any groundwater monitoring required by the previous condition and any necessary contingency action is completed and demonstrated to have been successful.

15. No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details.

Reason

To protect groundwater quality. Sustainable drainage systems using infiltration may be acceptable in principle, but it must be demonstrated that the infiltration will be clean water into uncontaminated ground. This condition ensures that the site disposes of surface water appropriately without contaminating groundwater.

16. No impact piling shall take place until a piling method statement (detailing the depth and type of piling to be undertaken and the methodology by which such piling shall be carried out, including measures to prevent and minimise the potential for damage to subsurface sewerage infrastructure, and the programme for the works) has been submitted to and approved in writing by the Local Planning Authority in consultation with Thames Water. Any piling must be undertaken in accordance with the terms of the approved piling method statement.

Reason

The proposed works will be in close proximity to the underground sewerage utility infrastructure. Piling has the potential to impact on local underground sewerage utility infrastructure. The applicant is advised to contact Thames Water Developer Services on 0845 850 2777 to discuss the details of the piling method statement.

17. No development shall take place within the proposed development site until the applicant, or their agents, or their successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation, which has been submitted to the planning authority and approved in writing. This condition will only be considered to be discharged when the planning authority has received and approved an archaeological report of all the required archaeological works, and if appropriate, a commitment to publication has been made.

Reason

To secure the protection of and proper provision for any archaeological remains in accordance with policies BH2 and BH3 of the East Herts Local Plan Second Review April 2007.

18. Notwithstanding the provisions of condition 2, the terrace of 3 houses in the south-west corner of the site shall not be occupied until they have been fitted with the approved air filtration units, or with such filtration units as may otherwise be agreed in writing with the Local Planning Authority.

Reason

To ensure that air quality within the approved houses would be acceptable for future occupiers in accordance with the requirements of policy ENV27 of the East Herts Local Plan Second Review April 2007.

19. Prior to first occupation of the westernmost mews house, details shall be submitted and approved for a privacy screen to the external terrace. The screen shall be installed and thereafter retained in accordance with the approved details.

Reason

In the interests of the privacy of neighbouring occupiers, and in accordance with the requirements of policy ENV1 of the East Herts Local Plan Second Review April 2007.

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; the National Planning Policy Framework and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended). The balance of the considerations having regard to those policies and the way in which the development will address housing land supply issues is that permission should be granted.