

## DEVELOPMENT MANAGEMENT COMMITTEE – 28 MARCH 2018

<b>Application Number</b>	3/17/2220/FUL
<b>Proposal</b>	Development of the land to provide 3no. commercial units at ground floor along with 10no. residential apartments (2no. at ground floor, 5 no. at first floor and 3no. at second floor)
<b>Location</b>	34 – 36 Rye Street, Bishops Stortford
<b>Applicant</b>	Mr M Gross
<b>Parish</b>	Bishops Stortford
<b>Ward</b>	Bishops Stortford Meads

<b>Date of Registration of Application</b>	22 September 2017
<b>Target Determination Date</b>	1 March 2018 (ETA)
<b>Reason for Committee Report</b>	Major
<b>Case Officer</b>	Fiona Dunning

### **RECOMMENDATION**

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

#### **1.0 Summary of Proposal and Main Issues**

1.1 The proposal is to relocate the existing car yard, demolish the office at No. 34 and the dwelling at No. 36 and redevelop the site to provide two buildings to accommodate ten residential units and three commercial units. The commercial units are located at ground floor of a three storey building with frontage to Rye Street. Above the commercial units are six residential units with direct access from Rye Street. The remaining four residential units are provided in a two storey building at the rear of the site.

- 1.2 Each of the commercial units has two parking spaces directly off Rye Street. At the rear of the site are five car parking spaces for the residential units. Sixteen cycle spaces, landscaping and refuse storage areas are also proposed at ground floor level.
- 1.3 The three commercial units are not considered likely to be let due to the location of the site and the lack of parking either on site or nearby. It is considered that the site would be more suited to a 100% residential use but this requires marketing evidence under Policy EDE2. The three commercial units have been included in the proposal in order to comply with Policy EDE2.
- 1.4 Another issue of concern is the siting of the building at the rear of the site and the impact this has on residential amenity.

## **2.0 Site Description**

- 2.1 The site is currently occupied by a single dwelling and a car sales yard and is located on the eastern side of Rye Street, approximately 200m north of Bishops Stortford Town Centre and has a walking distance to the railway station of 1.2km.
- 2.2 The area of No. 34 which is occupied by the car sales yard has an area of approximately 800m<sup>2</sup>. Most of this land is occupied by cars for sale, with a single storey building providing office space of 60m<sup>2</sup>. The office space is occupied by the owner of the business and 2 to 3 employees. The site also has a large canopy towards the front. There is a right of way on the site that provides access to the industrial building at the rear.
- 2.3 No. 36 Rye Street is occupied by a two storey dwelling, with parking at the front of the site and a driveway along the southern boundary to the rear. Part of this site currently stores cars from the car yard.
- 2.4 Adjoining and nearby properties are mostly residential semi-detached and terraces. To the north of the dwelling at No. 36 Rye Street is a single dwelling that has a very generous set back from the street. The rear of this site backs on to dwellings in Stane Close.

On the western side of Rye Street is a retaining wall with well-established landscaping along Rye Street, which essentially forms the rear garden of No. 2 Squirrels Close.

- 2.5 The only non-residential uses nearby adjoin the site. These include an industrial building to the east and an office in a former residential dwelling at No. 32A. This industrial building and No. 32A share the access with the development site. There are other non-residential land uses near the site, but these are either closer to the town centre boundary or within the town centre. Further to the east is the River Stort and Green Belt.
- 2.6 There have been other non-residential uses but the sites have been redeveloped for residential. These sites include the former petrol station site at No. 1 Rye Street, No. 30 Northgate End and No. 27 Northgate End. The planning history for these properties is provided below.

### **3.0 Planning History**

The following planning history is of relevance to this proposal:

Application Number	Proposal	Decision	Date
98/0333 34 Rye Street	Change of use to Car Sales	Grant subject to conditions	6.5.98
3/16/2453/FUL No. 30 Northgate End	Demolition of existing commercial brick structure. Proposed new building incorporating 4 residential units. Car parking to be retained to the rear of the property.	Grant subject to conditions	30.5.17

3/11/1148/FP No. 1 Rye Street (former petrol station site)	Erection of 7no 2 bed houses, 1no 3 bed houses and 1no 1 bed flat with associated car parking.	Grant subject to conditions	22.9.11
3/10/0711/FP No. 27 Northgate End	Demolition of office building and erection of 5 terrace houses, each with one parking space	Appeal Allowed	26.10.11

#### 4.0 **Main Policy Issues**

- 4.1 These relate to the relevant policies in the National Planning Policy Framework (NPPF), the draft East Herts District Plan 2016 (DP), the adopted East Herts Local Plan 2007 (LP) and Bishop's Stortford Neighbourhood Plan Silverleys and Meads (NP).

<b>Main Issue</b>	<b>NPPF</b>	<b>LP policy</b>	<b>DP policy</b>	<b>NP Policy</b>
Principle		EDE2	ED1	HDP1
Design, layout and scale	Section 7 Section 10	ENV1 NV2 ENV3 HSG6	DES1 DES2 DES3 DES4	HDP2 HDP3
Housing mix and density	Section 6	HSG1	HOU1 HOU2 HOU7	HDP1 HDP5
Parking provision, Traffic impacts and cycle storage	Section 4	TR1 TR4 TR7 TR14	TRA3	TP7 TP8
Surface water drainage	Section 10	ENV21	WAT5	

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

The District Plan is at examination stage and has some weight to be considered in the assessment of planning applications.

## **5.0 Summary of Consultee Responses**

- 5.1 HCC Highway Authority advises that it is content with the principle of the redevelopment of the site and the car parking provided, which is 0.5 spaces per unit. This is due to the site being within 400m of services and facilities. The existing business would generate a lot of traffic and it is unlikely that the proposal would create more. The access is satisfactory and conditions and a S278 agreement are proposed should permission be granted.
- 5.2 Lead Local Flood Authority states that the proposal requires a surface water drainage assessment as the proposal provides 10 residential units. Without drainage details the Lead Local Flood Authority object to the application.
- 5.3 Environment Agency advises that it has no objection to the proposal but would require several conditions should planning permission be granted. These conditions related to contamination assessment and verification, long-term monitoring, unidentified contamination, borehole decommissioning, no SuDS infiltration into the ground and piling.
- 5.4 EHDC Engineering Advisor states that there are not historical flood incidents at the site but Stane Close had flooding from the River Stort in 2002. No drainage strategy has been submitted with the application, contrary to Policy ENV21 and the NPPF in regard to sustainable construction.
- 5.5 HCC Development Services advises that the proposal is for 10 residential units and therefore planning obligations will not be sought.
- 5.6 EHDC Environmental Health Advisor raises objection to the proposal on two grounds. Firstly, there are no details on the noise generated by the adjacent industrial unit and secondly, no contamination assessment has been provided with the application. The former use was a petrol filling station.

- 5.7 Herts Police Crime Prevention Advisor is disappointed that the proposal has not addressed paragraphs 58 and 69 of the National Planning Policy Framework or local policy ENV3 Planning Out Crime and HDP3 of the Neighbourhood Plan. The car parking does not appear to be secured and this should be made clear. If planning permission is to be granted then it is requested that a condition be included requiring the scheme to meet Secured by Design accreditation.

(Note: EHDC, East Herts District Council; HCC, Hertfordshire County Council)

## **6.0 Town/Parish Council Representations**

- 6.1 The Town Council objected to the proposal on the following grounds:

- overdevelopment of the site.
- detrimental to street scene and out of keeping in appearance with neighbourhood properties.
- loss of a commercial unit and employment opportunity.

## **7.0 Summary of Other Representations**

- 7.1 4 responses have been received objecting to the proposals on the following grounds:

- three storey at front is excessive and prominent and out of character with locality
- gable end roof design is out of character with most properties being hipped.
- two storey rear building is out of character and will impact on residential amenity.
- flats are out of character with the area
- site is liable to flooding.
- overshadowing of house and garden of Nos. 36A, 36C and 38 Rye Street. A light report has not been submitted.

- loss of light to No. 35 Stane Close garden.
- overlooking of dwellings and gardens of No. 36A, 36C and 38 Rye Street and 35 and 37 Stane Close.
- loss of outlook of No. 36C.
- refuse bin for Block 2 too close to boundary and is likely to be overfilled resulting in odours and attracting vermin.
- increase in traffic.
- inadequate parking for commercial and residential occupants.
- commercial use at ground floor will conflict with residential occupation above and adjoining dwelling at No. 36C.
- commercial units are not sustainable, which was established at the appeal for 30 Northgate End, as majority of area is residential.
- there is no need for new commercial units as there are empty commercial units in the town centre.

## **8.0 Consideration of Issues**

### Principle

- 8.1 The proposal includes three commercial units in order to comply with Policy EDE2 of the Local Plan, ED1 of the Draft District Plan in regard to the loss of the employment use. These policies require evidence that the existing employment use cannot be retained. This evidence has not been provided. Objections were raised by adjoining neighbours in regard to the provision of three new commercial units on the site not being needed due to other commercial units in the town centre being vacant. One objection also referred to the appeal at 30 Northgate End, where the loss of employment use was accepted. Policy ED1 of the Draft District Plan states that a proportional approach should be taken for non-designated employment areas. The site is located in an area that is mainly residential and it is considered that the applicant could undertake some marketing to determine whether there are alternative employment uses.
- 8.2 Notwithstanding the loss of the employment use, the principle of infill development is supported by the relevant planning policies.

The provision of three small commercial units has not been justified and is considered to be contrary to Policy EDE2 and ED1 and therefore is given substantial weight.

### Design, Layout and Scale

- 8.3 The proposed three storey building at the front of the site is generally considered to be satisfactory with respect to its appearance. However the proposed building is two metres forward of the existing dwelling at No. 36 and is higher than the existing dwelling due to the orientation of the roof pitch. This will create an impact on No. 36C in terms of outlook and loss of light to the habitable rooms at ground and first floor level as 36C is set back from Rye Street boundary by approximately 14 metres with car parking in front. There is no overlooking from the proposed residential units within the front building as the only window in the northern elevation is a small bathroom window which could be conditioned to be obscurely glazed with a limited opening.
- 8.4 The rear building is more problematic as there are habitable room windows facing the northern and eastern boundaries. These windows are 1.7m and 1.4m respectively from these boundaries. It is considered that these windows are too close to the boundary and will result in a significant impact on privacy of adjoining residents. The building is also likely to create a sense of enclosure as it is essentially a two storey building in the rear garden of No. 36 Rye Street.
- 8.5 The internal arrangement of the proposed residential units is generally satisfactory as they are all dual aspect. However bedroom 2 of Plots 9 and 10 are not likely to provide adequate privacy for the occupants of these bedrooms due to the communal corridor adjoining these bedrooms. This could be addressed by providing high level windows in these bedrooms.
- 8.6 A landscape plan has not been provided with the application and the majority of the site is hardstanding. It is considered that further landscaping is required on the site for future occupiers, adjoining neighbours and the public realm.



- 8.7 The supporting information with the application has not considered the potential impact of the noise and disturbance from the adjoining industrial building to the rear. Landscaping on site would help address the potential impact of this as well as the adjoining access. The impact of the development on the amenity of adjoining neighbours and future occupants carries significant weight.

#### Housing Density and Mix

- 8.8 The proposal includes the demolition of a 3 bedroom house and the provision of eight 2 bedroom residential units and two 1 bedroom residential units. This mix does not meet Policy HOU1 of the draft East Herts District Plan 2016 or Neighbourhood Plan Policy HDP1. This means that the District's housing needs are not being met in terms of the Strategic Housing Market Assessment 2015, which indicates that 1 and 2 bedroom units are only 6% and 7% of the range of housing needed, with the greatest need being 3 bedroom houses. It is considered that the proposal needs to address the loss of the 3 bedroom house, particularly given the greatest need for housing is 3 bedroom houses. In addition, at least 15% of the housing provided should be to lifetime homes standards in accordance with Policy HSG6.
- 8.9 It is considered that a better mix should be provided on the site and at least one 3 bedroom house should be re-provided. The weight given to the poor mix of units, the loss of a 3 bedroom dwelling is considerable as further justification is required due to the proposed development not meeting the District's housing need.

#### Parking provision

- 8.10 Objectors have raised concern about the number of parking spaces on site. However the Highways Authority did not raise any objection as the site is within 400m of the town centre and therefore is in a sustainable location to justify a reduction. There

are other recent developments in the vicinity that have had a reduced requirement for on-site car parking.

### Sustainable Urban Drainage

- 8.11 The Lead Local Flood Authority has raised concern with the proposal as a drainage strategy has not been submitted. In addition, the Environment Agency has advised that there cannot be any ground infiltration in relation to SuDS due to the historical use of the site. The insufficient details carry considerable weight due to the constraints of the site and the potential for localised flooding to the east of the site.

### Other Matters

- 8.12 The siting of the refuse bin for the residential units at the rear of the site is not considered to be the best location in regard to refuse collection. A better position would be either closer to Rye Street or within the car parking area where refuse vehicles could use the existing access to the south of the site.

## **9.0 Planning Balance and Conclusion**

- 9.1 The details submitted with the application have not adequately addressed the loss of the employment use and demonstrated that the 3 proposed commercial units are viable for long-term employment use.
- 9.2 The design of the development has not addressed the constraints of the site or the amenity of adjoining and nearby neighbours and therefore is not considered to be of good design. There may be scope to provide a three storey building to house residential units on the site but the amenity of neighbours must to be taken into consideration. The encroachment of the existing front building line of the dwelling at No. 36 and the additional massing of the building creates an unacceptable impact on the occupants of No. 36C Rye Street. The proposed two storey building in the rear garden of No.

36 also creates a significant impact on the occupants of No. 36C and other adjoining and nearby neighbours.

- 9.3 Due to the proximity of the town centre, it is considered that the proposed on-site car parking is appropriate at 0.5 spaces per unit. The amount of car parking has been supported by the Highways Authority and is considered to encourage sustainable modes of transport rather than private cars.
- 9.4 The comments from the Lead Local Flood Authority and the Environment Agency are important in relation to the ability to provide sustainable urban drainage on the site.
- 9.5 The proposed mix of new housing does not meet the latest Strategic Housing Market Assessment and it is considered that there is scope for any redevelopment of the site to re-provide a 3 bedroom dwelling.

## **RECOMMENDATION**

That planning permission be **REFUSED** for the following reasons.

1. Evidence has not been submitted to demonstrate that the retention of the premises for employment use has been explored fully without success, and the proposal would therefore result in the loss of premises which currently benefit from an authorised employment use, contrary to Policy EDE2 of the East Herts Local Plan Second Review April 2007 and Policy ED1 of the draft East Herts District Plan 2016.
2. The proposed development by reason of its inappropriate design, siting and layout fails to adequately protect the amenity of adjoining neighbours. The proposal therefore is contrary to the aims and objectives of Policy ENV1 of the East Herts Local Plan Second Review April 2007, Paragraph 64 of the National Planning Policy Framework and Policy DES3 of the draft East Herts District Plan 2016.

3. The application lacks sufficient information regarding surface water drainage to enable the local planning authority to properly consider the planning merits of the application. This is contrary to policies ENV18, ENV21 and SD1 of the East Herts Local Plan Second Review April 2007, policies WAT1 and WAT5 of the pre submission East Herts District Plan and Section 10 of the National Planning Policy Framework.
  
4. The proposed housing mix does not meet the latest Strategic Housing Market Assessment contrary to policy HDP1 of the Bishop's Stortford Neighbourhood Plan for Silverleys and Meads and policy HOU1 of the draft East Herts District Plan 2016.

### **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 the planning objections to this proposal could be satisfactorily resolved within the statutory period for determining the application. However, for the reasons set out in this decision notice, the proposal is not considered to achieve an acceptable and sustainable development in accordance with the Development Plan and the National Planning Policy Framework.

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

<b>Residential density</b>		
	Bed spaces	Number of units
Number of existing units demolished	0	
Number of new flat units	1	2
	2	8
	3	0
Number of new house units		0
Total		10

**Affordable Housing**

<b>Number of units</b>	<b>Percentage</b>
	0%

**Residential Vehicle Parking Provision**

Current Parking Policy Maximum Standards (EHDC 2007 Local Plan)

<b>Parking Zone</b>		
Residential unit size (bed spaces)	Spaces per unit	Spaces required
2		
3		
4+		
Total required	9.5 maximum	9.5 spaces
Proposed provision	5	5 spaces

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

Parking Zone		
Residential unit size (bed spaces)	Spaces per unit	Spaces required
1		
2		
3		
4+		
Total required	19	19 spaces
Proposed provision	5	5 spaces