

**5b 3/10/1968/FP - Erection of 76 dwellings, open space, landscaping, parking and access from Widbury Hill at The Depot And Coachworks, Leaside Depot, Widbury Hill, Ware, SG12 7QE for Taylor Wimpey North Thames**

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**Date of Receipt:** 05.11.2010

**Type:** Full - Major

**Parish:** WARE

**Ward:** WARE - CHRISTCHURCH

**RECOMMENDATION**

That, subject to the applicant entering into a S106 legal agreement to cover the following matters:-

1. To provide 30 units of affordable housing with tenure and mix to be agreed depending on the availability of grant funding to a minimum mix of 50% social rented and 50% shared ownership, and maximum mix of 75% social rented and 25% shared ownership;
2. To provide 15% Lifetime Homes;
3. £101,500 towards Sustainable Transport;
4. £154,737\* towards Secondary Education;
5. £3,050\* towards Youth;
6. £12,864\* towards Libraries;
7. £70,904 towards Outdoor Sports Facilities;
8. £10,472 towards Children and Young People;
9. To establish a management company for the future maintenance of roads, communal areas and public open space within the development site;
10. To provide fire hydrants;
11. To provide full details on the location and specification of the pedestrian route (including the bridge) and not to occupy any unit until the route is made available for public use;
12. £300 standard monitoring fee per obligation.

\* The contributions marked with an asterix are subject to re-calculation through the legal agreement depending on the exact tenure split provided under obligation (1), and in accordance with the figures set out in the Hertfordshire Planning Obligations Toolkit.

planning permission be **GRANTED** subject to the following conditions:-

1. Three year time limit (1T12)
2. Approved plans (2E10 – 061001-WIM.NT.01, 02, 03, A-E1, A-E2, A-P1, B-E1 A, B-P1, C-E1, C-E2, C-P1, D-E1, D-P1 A, E-E1 A, E-P1 A, AA-E1, AA-E2, AA-P1, AB-E1, AB-P1, AC-E1, AC-P1, ABS-AC-E1, ABS-P1, AD-E1,

### 3/10/1968/FP

AD-P1 A, B1-E1, B1-E2, B1-P1, B1-P2, B1-P3, B2-E1, B2-E2, B2-E3, B2-E4, B2-P1, B2-P2 A, B2-P3 A, B3-E1, B3-E2, B3-P1, B3-P2, B3-P3, B4-E1, B4-E2, B4-P1, B4-P2, B4-P3, GAR1, BS1, BCS1, SHED 1, SS-AA, SS-BB, SS-CC)

3. Programme of archaeological work (2E02)
4. Boundary walls and fences (2E07)
5. Materials of construction (2E11)
6. Wheel washing facilities (3V25)
7. Tree retention and protection (4P05 – please add ‘and hedges’)
8. Landscape design proposals (4P12 - amended see AUT4)
9. Landscape works implementation (4P13)
10. Tree Planting (4P15)
11. Vehicular use of garage (5U10)
12. The development shall be carried out in accordance with the recommendations and mitigation measures set out in the Ecological Update report dated October 2010, and prior to the construction of the footbridge further ecological surveys shall be carried out to identify the presence of any reptiles, water voles, otters or amphibians and submitted to and approved in writing by the Local Planning Authority, including details of any necessary mitigation measures.

Reason: To protect the ecological value of the site and protected species in accordance with policies ENV14, ENV16 and ENV17 of the East Herts Local Plan Second Review April 2007.

13. Prior to first occupation of more than 50% of the dwellings to be constructed on the site under this permission the footbridge over the River Lee to Tumbling Bay shall have been constructed in accordance with details to be previously submitted to and agreed in writing by the local planning authority and brought into use.

Reason: To improve pedestrian and cyclist links and provide access to Tumbling Bay in accordance with policies LRC9 and WA10 of the East Herts Local Plan Second Review April 2007.

14. No development shall take place until details of the lighting scheme and details of the management of the public open space have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details before any of the dwellings hereby permitted are first occupied.

Reason: In the interests of the appearance of the development in accordance with policy ENV1 of the East Herts Local Plan Second Review April 2007.

15. No development shall take place until a scheme providing for the insulation of the proposed dwellings against the transmission of noise and vibration from the neighbouring commercial premises, shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details before any of the dwellings hereby permitted are first occupied.

Reason: To ensure a satisfactory living environment for future residential occupiers in accordance with policies ENV1 and ENV25 of the East Herts Local Plan Second Review April 2007.

16. Prior to the commencement of development (or other such 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 be submitted to and approved in writing by the Local Planning Authority:
- a. A site investigation scheme, based on the preliminary risk assessment by CARD Geotechnics dated January 2008, to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site.
  - b. The site investigation results and the detailed risk assessment (a), 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.
  - c. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (b) are complete and identifying any requirements for longer-term monitoring of pollutant leakages, maintenance and arrangements for contingency action.
- The scheme shall be implemented as approved unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure protection of human health and the environment in accordance with PPS23 'Planning and Pollution Control'.

### 3/10/1968/FP

17. The presence of any significant unsuspected contamination that becomes evident during the development of the site shall be brought to the attention of the Local Planning Authority, and appropriate mitigation measures implemented as approved in writing.

Reason: To ensure protection of human health and the environment in accordance with PPS23 'Planning and Pollution Control'.

18. The development shall be carried out in accordance with the approved Flood Risk Assessment by Halcrow dated June 2008 and the mitigation measures contained within it, including finished floor levels set no lower than 31.94m above Ordnance Datum (AOD).

Reason: To minimise the risk of flooding to people and property in accordance with policy ENV19 of the East Herts Local Plan Second Review April 2007.

19. No building hereby permitted shall be occupied until a sustainable urban drainage system has been implemented in accordance with details that shall be submitted to and approved in writing by the Local Planning Authority. The submitted details shall:
- a. Provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
  - b. include a timetable for its implementation; and,
  - c. provide a management and maintenance plans for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements for adoption by any public authority or statutory undertaker and any other arrangements s to secure the operation of the scheme throughout its lifetime.

Reason: To ensure satisfactory management of surface water drainage in accordance with policy ENV21 of the East Herts Local Plan Second Review April 2007.

20. Before first occupation of any of the buildings hereby permitted foul drainage works shall have been carried out in accordance with details to be submitted to and approved in writing by the Local Planning Authority

### 3/10/1968/FP

Reason: To ensure satisfactory management of foul drainage in accordance with policy ENV20 of the East Herts Local Plan Second Review April 2007.

21. Piling or any other foundation design using penetrative methods shall not be permitted other than with the express 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 groundwater. The development shall be carried out in accordance with the approved details.

Reason: To protect groundwater on site in accordance with policy ENV20 of the East Herts Local Plan Second Review April 2007.

22. No development shall be carried out until full details of the estate road junction onto Widbury Hill, including visibility splays, have been submitted to and approved in writing by the Local Planning Authority. No dwellings shall be occupied until such time as the access has been constructed in accordance with the approved details.

Reason: To ensure satisfactory access to the site and highway safety.

23. No development shall begin until details of the proposed service roads, including sections, gradients and method of surface water disposal have been approved in writing by the Local Planning Authority. No dwelling shall be occupied until that part of the service road which provides access to it has been constructed in accordance with the approved plans.

Reason: To ensure satisfactory access to the site and highway safety.

24. Construction of the development hereby approved shall not commence until details of construction vehicles movements and construction access arrangements are submitted to and approved by the Local Planning Authority.

Reason: To ensure satisfactory access to the site and highway safety.

#### Directives:

1. Other legislation (01OL)
2. Street Naming and Numbering (19SN)
3. Groundwater protection zone (28GP – insert Musley Hill)

### 3/10/1968/FP

4. The site has a public sewer running across or close to it which may be affected by the proposed building works. It may be necessary to divert the sewer and water course and carry out other works to protect it and the proposed building works. You should contact Thames Water Developer Services on 0845 8502777 about this matter before any site works are commenced.
5. The applicant is advised that in order to comply with conditions of this permission it will be necessary for the developer to enter into an agreement with Hertfordshire County Council as Highway Authority under Section 278 of the Highways Act 1980 to ensure satisfactory completion of the access and associated road improvements including street lighting, footway and safety barriers. The applicant is advised to contact the Eastern Herts Highways Area Office, Hertford House, Meadway Corporate Centre, Rutherford Close, Stevenage SG1 3HL (Tel 01438 757880) to obtain the requirements on the procedure to enter into the necessary agreement with the highway authority prior to commencement of development.
6. The applicant is advised that if it is the intention to request Hertfordshire County Council as Local Highway Authority to adopt any of the proposed highways as maintainable at the public expense then details of the specification, layout and alignment, width and levels of the said highways together with all the necessary highway and drainage arrangements, including run-off calculations must be submitted to Eastern Herts Highways Area Office, Hertford House, Meadway Corporate Centre, Rutherford Close, Stevenage SG1 3HL (Tel 01438 757880). No development shall commence until the details have been approved in writing and an Agreement made under Section 38 of the Highways Act 1980 is in place.
7. The applicant is advised to contact third party works engineer, Hilton Guerra (07710 733353) in order to ensure that any necessary consents are obtained and the works are compliant with the current British Waterways 'Code of Practice for Works affecting British Waterways.'
8. The applicant is advised that under the terms of Water Resources Act 1991 and the Land Drainage Byelaws, the prior written consent of the Environment Agency is required for any proposed works or structures in, under, over or within 8m of the top of the bank of the River Lee, designated a 'main river'. If there is to be increased access to the river, interpretation boards should be considered to increase awareness of the river corridor and its wildlife. This could be achieved through the Hertford's River Corridors Partnership Interpretation Project.

**Summary of Reasons for Decision**

The proposal has been considered with regard to the policies of the Development Plan (East of England Plan May 2008, Hertfordshire County Structure Plan, Minerals Local Plan, Waste Local Plan and the 'saved' policies of the East Herts Local Plan Second Review April 2007), and in particular policies SD1, SD2, HSG1, HSG3, HSG4, HSG6, TR1, TR2, TR7, TR8, TR14, EDE1, ENV1, ENV2, ENV3, ENV11, ENV14, ENV19, ENV20, ENV21, ENV25, LRC3, LRC9, WA8, WA10 and IMP1, and PPS1, PPS3, PPS4, PPS9, PPG13, PPG17, PPS23, PPG24 and PPS25. The balance of the considerations having regard to those policies, and permission 3/08/1399/OP, is that permission should be granted.

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**1.0 Background**

- 1.1 The application site is shown on the attached OS extract and comprises the former Depot and Coachworks site located on the eastern edge of Ware. The site is bordered by Widbury Hill to the north, a nursery and allotments to the east, petrol station and commercial buildings to the west, and the River Lea to the south, beyond which lies the Tumbling Bay Wildlife Site.
- 1.2 Previous warehouse/depot buildings have now been demolished, and the site remains vacant. There is a group of newer 'refurbished' employment units to the west of the site. The site is well landscaped to all boundaries and is sited at a lower level than Widbury Hill which falls away gently from north to south. There are two vehicular accesses into the site from Widbury Hill; to the west corner there is a shared access with the petrol station and the second is at mid point along Widbury Hill.
- 1.3 Members may recall that outline planning consent was granted at appeal for a residential development of 76 dwellings in July 2009 under reference 3/08/1399/OP. Access and layout were agreed at the time, with appearance, landscaping and scale as reserved matters. The site is now being acquired by different developers, Taylor Wimpey, who propose an amended layout and therefore it is necessary to apply for full planning permission rather than just reserved matters. This application only relates to the residential aspect of the approved outline scheme, and therefore does not include the commercial part of the development approved at outline stage.

## 3/10/1968/FP

- 1.4 The proposed development includes 2 no. 1 bed, 23 no. 2 bed, 36 no. 3 bed, and 15 no. 4 bed units, including 118 parking spaces, 40% affordable housing, 15% lifetimes homes and 0.43ha open space. 5 of the 3 bed units were originally proposed as 4 bed units but have been amended as required by the Housing Team.

### **2.0 Site History**

3/08/1399/OP	Outline application for a mixed use development incorporating 1880 sq m of commercial space, 0.45ha of open space, 76 residential units and access onto Widbury Hill.	Refused 19-Nov-2008 Appeal Allowed 29-Jul-2009
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### **3.0 Consultation Responses**

- 3.1 Herts County Council request the following contributions based on PUBSEC index 175 subject to indexation:

Secondary Education	£154,737
Youth	£3,050
Libraries	£12,864

Fire hydrant provision is also required. The above figures have been calculated in accordance with the Herts County Council Planning Obligations Toolkit and will be used towards mitigating the impact of the proposed development on facilities serving this locality.

- 3.2 Herts Biological Records Centre raise no objection subject to conditions on stopping work if any protected species is found, inspecting mature trees for bats prior to felling, protecting the river and its margins during development, surveying the footbridge area for reptiles prior to works commencing in that area, and that site clearance should only take place between October and February inclusive.
- 3.3 The Environment Agency raise no objection subject to conditions on ensuring access to, protection and maintenance of existing flood defences, that finished floor levels are set no lower than 31.94m above AOD, a scheme for surface water drainage, land contamination risk assessment, details of compensatory habitat creation, a landscape management plan, and restrictions on infiltration of surface water drainage, and piling. They also comment that they would need to see details of the proposed pedestrian bridge, and that their consent would be required for its



### 3/10/1968/FP

construction. Interpretation boards are also recommended to increase awareness of the river corridor and its wildlife if access to the river is to be increased.

- 3.4 Environmental Health recommend consent subject to conditions on construction hours of working, dust, bonfires, contaminated land, and details of refuse disposal facilities.
- 3.5 The Council's Engineers comment that the site is mostly situated within floodzone 2 and partly 3 and approximately half of the site is shown as affected by overland surface water flows. There are no historical flood incidents shown at the site, and an exception test may be required to be completed for the site. The site appears to be in favour of using above ground Sustainable Urban Drainage systems (SUDs) but they would require more detailed information to be provided in order to make an assessment of the flood risk for the site.
- 3.6 Thames Water have no objection to the application. They comment that there are public sewers crossing the site and the developer must therefore seek approval from Thames Water for development within 3m of a public sewer. They also advise that it is the responsibility of the developer to make proper provision for drainage and that prior approval from Thames Water would be required to discharge to a public sewer. The water supply would be provided by Veolia Water.
- 3.7 Veolia Water advise that the site is located within the groundwater Source Protection Zone of Musley Hill Pumping Station.
- 3.8 British Waterways comment that this significant site offers opportunities for sustainable transport with a proposed timber bridge spanning the River Lea to get access to the Lee towpath, and details of the pedestrian route were previously required under the unilateral undertaking. They comment that the location and specification of the bridge must be approved by British Waterways as well as the Environment Agency before any new units are occupied.
- 3.9 The Lea Valley Regional Park Authority make no objection subject to conditions requiring details of the design of the public open space and that a planning obligation is completed to secure contributions to the management and development of the Regional Park in this location. They may comment more fully prior to the Committee date.
- 3.10 County Archaeology comment that as previously advised in relation to application 3/08/1399/OP, preliminary analysis of existing geotechnical data relating to the application site confirmed that it has the potential to contain

### 3/10/1968/FP

significant archaeo-environmental remains, particularly for archaeological remains of early prehistoric date, and palaeo-environmental remains. It was consequently recommended to the LPA that a geoarchaeological investigation be carried out in areas of potential impact, to enable the construction of a detailed deposit model of the site, and that, depending on the results of this investigation, additional mitigation measures might be required. A geoarchaeological field investigation of the application site was carried out by Oxford Archaeology in October 2010 and was completed successfully with samples of the key sediment zones retrieved from six boreholes. However, this office has not yet received a report on the analysis of the data or recommendations concerning any additional mitigation necessary. A condition is therefore recommended to require a programme of archaeological work to be undertaken.

- 3.11 The Planning Policy team comment that their policy observations on 3/08/1399/OP still stand. These observations can be summarised that the site lies within the developable area of Ware and outside the Conservation Area. Although not covered by its designation, the site immediately abuts the Lee Valley Regional Park and is adjacent to a Wildlife Site. The site lies within a designated employment area under policies EDE1 and WA8, primarily reserved for industry comprising Classes B1 and B2. This designation is supported by the Council's Employment Land Study (2004) which concludes that employment sites allocated for that purpose should be retained as such. It is therefore considered that there is an in principle policy objection to the application and that it should be refused. However should the application be approved, there are numerous matters that should be required, including planning obligations and contributions, car parking and cycle facilities in accordance the Council's adopted standards, and the potential to help realise the Council's long-held aspirations for improvements in the Tumbling Bay area in accordance with policy WA10.
- 3.12 The Policy team also now comment that the East of England Plan remains extant, including policy ENG1 which requires that at least 10% of the energy to be secured from decentralised and renewable or low-carbon sources, unless it is not feasible or viable. They suggest that this could be a flagship scheme for future developments in terms of sustainability, and there is potential for integrated utility infrastructure/asset ownership.
- 3.13 The Council's Landscape Officer raises no objection to the application subject to conditions on detailed landscape design proposals and tree planting. He comments that "removal of existing trees is justified by the tree survey having regard to their condition and life expectancy. The overall site planning and layout appears acceptable although there are no long sections to show how the layout fits with level changes, some of which are significant. He also comments that parking spaces 31 and 34 will be difficult

### 3/10/1968/FP

to negotiate when the courtyard is full. A minor adjustment to the rear garden boundary fence line would resolve this issue. There is also an opportunity to plant a tree within the same parking courtyard if the fence line to plot 38 is “squared off” to allow a small amount of soft landscape provision to the parking courtyard.

- 3.14 “The soft landscape proposals, in the form of planting plans need to be simplified and refined. The shape, size and orientation of blocks of planting within planting beds should be amended in a number of areas in order to give a more complete visual coherence to the soft landscape character of the finished development. There is a lack of information on hard landscape details, including fences, railings, gates, kerbs and edgings etc. There is also potential for a “green wall” with climbing plants or hedge / trees planted along the boundary with the commercial site (if space can be found).”
- 3.15 County Highways do not wish to restrict the grant of permission subject to conditions on completing all access and junction arrangements including visibility splays, width and surfacing, cycle storage facilities, restricting garages, providing temporary turning space during development, wheel washing facilities, and details of construction vehicle movements and access arrangements. They state that “the principle of residential development on this site is acceptable in a highway context. At outline stage the form of access onto Widbury Hill and new access to the allotment site has been agreed and will be of a design and layout appropriate to the size of development.
- 3.16 “Turning to the on-site highway details of the proposed layout the scheme has been prepared in compliance with the HCC design guide 'Roads in Herts' and the DfT publication 'Manual for Streets'. The estate layout allows for penetration by refuse collection, service and emergency vehicles although I am doubtful that the entire road network will be suitable for adoption as public highway. Nevertheless, as is now common practice, if the developer intends to operate a management company to administer and maintain common areas not taken over by the Local Authority I would recommend that such a requirement is included as part of any S106 agreement to ensure that remains the case in perpetuity.
- 3.17 “With regard to sustainable transport issues the site is within recognised walking distances to the nearest bus-stops and cycling distances to the rail station and town centre. The development provides for appropriate cycle storage provision and pedestrian linkages are identified. However, as with the outline application, I consider that it is not unreasonable for the development to make a financial contribution towards accessibility and the promotion of sustainable transport measures. In this respect and in compliance with guidance contained in Circular 05/05, PPG13, and Local

### 3/10/1968/FP

Plan Policy IMP1, the highway authority seek financial contributions to promote sustainable transport measures/schemes or to implement schemes identified in the local transport plan based upon the guidance contained in the HCC Planning Obligations Toolkit. With regard to the development as now proposed the appropriate contribution is £103,375.”

- 3.18 Herts and Middlesex Wildlife Trust comment that the site is adjacent to an identified Wildlife Site (Tumbling Bay Gravel Pit) and the trust wishes to seek assurances that the integrity of the Wildlife Site is protected from any indirect effects associated with the development. They fully support the Environment Agency’s response and recommended conditions, particularly to provide a scheme for the provision and management of compensatory habitat creation. They comment that “as the applicants are proposing to provide pedestrian access onto Tumbling Bay Wildlife Site, any access provision must be in the context of other appropriate habitat management works at the site, and consider the protection of sensitive breeding bird habitats from potential disturbance by humans and pets”. Conditions are also recommended to protect breeding birds and to restrict external lighting, and directives are recommended for bird and bat boxes.
- 3.19 At the time of writing this report, no response has been received from the Hertfordshire Police Architectural Liaison Officer, Countryside Access Officer, EDF, Natural England, the Ramblers Association, or Environmental Services.

#### **4.0 Town Council Representations**

- 4.1 Ware Town Council raise no objection but do have concerns over surface water drainage, sewerage and potential flooding despite assurance of the Environment Agency.

#### **5.0 Other Representations**

- 5.1 The applications have been advertised by way of press notice, site notice and neighbour notification.
- 5.2 8 no. letters of representation have been received from Nos. 4, 23, 25, 27 and The Pines, Little Widbury Lane, No. 23 Jeffries Road, the Chairman of the Ware Allotments and Gardens Society, and one unaddressed email which can be summarised as follows:-
- Queries over traffic flows and speeds on Widbury Hill, and concern over impact of construction traffic – suggest traffic calming measures;
  - Concern over safe access and visibility from Widbury Hill – suggest a roundabout instead;

## 3/10/1968/FP

- Suggest closing the Little Widbury Lane exit onto Widbury Hill and turning it into a cul-de-sac due to poor visibility and speeding traffic at this exit;
- Concern over access to the allotments at all times, and measure to prevent new residents parking in this service road;
- Request for new fencing at the bottom boundary of the allotment site and service road to deter access from the development site to the allotments;
- Disappointment over loss of employment but the planned development seems to be a constructive use of the land;
- Suggest that the river be cleaned up where the bridge is to be built.

## **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
HSG6	Lifetime Homes
TR1	Traffic Reduction in New Developments
TR2	Access to New Developments
TR7	Car Parking – Standards
TR8	Car Parking – Accessibility Contributions
TR14	Cycling – Facilities Provision (Residential)
EDE1	Employment Areas
ENV1	Design and Environmental Quality
ENV2	Landscaping
ENV3	Planning Out Crime – New Development
ENV11	Protection of Existing Hedgerows and Trees
ENV14	Local Sites
ENV19	Development in Areas Liable to Flood
ENV20	Groundwater Protection
ENV21	Surface Water Drainage
ENV25	Noise Sensitive Development
LRC3	Recreational Requirements in New Residential Developments
LRC9	Public Rights of Way
WA8	Employment Areas
WA10	Tumbling Bay
IMP1	Planning Conditions and Obligations

6.2 In addition to the above it is considered that the following Government guidance notes are considerations in determining this application:-

PPS1	Delivering Sustainable Development
PPS3	Housing
PPS4	Planning for Sustainable Economic Growth
PPS9	Biodiversity and Geological Conservation
PPG13	Transport
PPG17	Planning for Open Space, Sport and Recreation
PPS23	Planning and Pollution Control
PPG24	Planning and Noise
PPS25	Development and Flood Risk

## **7.0 Considerations**

### **Principle of Development and Employment Site**

7.1 The site lies within the built-up area of Ware wherein new developments are acceptable in principle in accordance with policy SD2. However, the site is designated as an employment site under policies EDE1 and WA8, and is reserved primarily for B1 and B2 business uses. The loss of this site for employment purposes was the primary reason for the Council refusing the previous outline application, 3/08/1399/OP.

7.2 However, the appeal was allowed on the grounds that the Inspector considered the benefits (mixed use development, affordable housing and environmental improvements) to outweigh any adverse impact on the supply of employment land in the district. Considerable weight is given to this Inspector's decision in relation to the loss of employment land, and it is not considered that there have been any material changes to planning policy, or the merits of the planning proposal since this appeal was allowed. On this basis, it is considered that the principle of this residential development has been established by the Inspector, and therefore there are material considerations to override the loss of the employment site in this case.

7.3 The allowed appeal also included new commercial floorspace to the west of the site; however this does not form part of this application, and there was no requirement in the Inspector's conditions or the legal agreement to require the commercial development to be carried out at any stage.

### **Scale, Design and Layout**

7.4 The layout of the site was previously approved at outline stage for 76 dwellings, and although amendments have been made to the scheme by the current developer, the general arrangement and density of the proposed development remains similar to that approved. The main changes relate to

### 3/10/1968/FP

re-positioning a number of the blocks to improve the relationship between buildings, and re-designing a number of the rear courtyard parking areas. Overall these amendments are considered to represent improvements to the approved outline consent.

- 7.5 The layout includes rows of dwellings backing onto the boundaries of the site with two central blocks enclosing rear gardens and courtyard parking areas. Appropriate levels of private amenity space are proposed, and the pattern of development is considered to be in-keeping with the surrounding area. Although rear courtyard parking areas are not ideal in design terms, these areas appear to benefit from adequate levels of natural surveillance. Details of sheds, garages and bin stores have also been submitted and are considered to be appropriate in scale, layout and design.
- 7.6 The density of the scheme is calculated at approximately 46 dwellings per hectare, as per the previously approved outline scheme, and is considered to be acceptable in this location. Although the density of the surrounding area varies considerably (from approximately 15dph immediately north) to nearer 50dph further west towards town), the proposal is not considered to be out of keeping.
- 7.7 The buildings are proposed as a mix of two, two and a half and three storey terraced and semi-detached dwellings, with 4 no. three storey blocks of flats. The site is remote from other neighbouring residential developments and positioned on lower land. There are limited views from the wider area. The overall scale and height of the development is therefore considered to be acceptable.
- 7.8 The design is considered to be acceptable, comprising traditional gable pitched and hipped roofs. A number of small flat roof dormers are proposed to the front of the two and a half storey units with rooflights to the rear. These dormers are considered to be appropriate in scale and design. A number of balconies are also proposed to take advantage of views and add a contemporary touch to the design. The palette of materials comprises a mix of brick, painted render, timber weatherboarding and slate tiled roofs. Two options of materials shown on elevation drawings have been submitted and are considered to be acceptable. Full details can be agreed by way of condition.
- 7.9 In terms of crime prevention, no response has been received from the Hertfordshire Constabulary; however it is considered that the layout maximises natural surveillance and minimises the potential to attract crime.

### **3/10/1968/FP**

A number of the rear courtyard parking areas have been reduced in size or re-designed since the previous approval, and this is considered to represent an improvement. Overall the proposal is considered to comply with policy ENV3.

#### **Residential Amenity**

- 7.10 There are no immediate neighbours to be affected by these proposals. The existing houses on the northern side of Widbury Hill are located at a distance of at least 40m and are positioned on much higher land. There will be no impact on the amenities of users of the allotments to the east, or the existing nursery business given the scale and siting of the development.
- 7.11 In terms of the amenity of future occupiers, the buildings are positioned and designed to minimise overlooking and loss of light to habitable rooms. It is also noted that it was required by condition at outline stage that noise insulation be provided for dwellings adjacent to the commercial units. A similar condition is therefore again recommended. Having regard to current householder permitted development rights and the layout and density of the site, it is not considered necessary to remove rights for extensions, alterations to the roof, or outbuildings.

#### **Open Space and Recreation Provision**

- 7.12 In terms of open space, it is proposed to provide 0.43ha of open amenity land to the south of the site adjacent to the river, as per the approved scheme. This will provide for a good level of amenity and standard of living for future occupiers and ensures a high quality development. No further financial contributions towards off-site open space are therefore required. However, it will again be necessary to require through the legal agreement that a management company be formed to maintain communal areas, and to guarantee that it remains publicly accessible.
- 7.13 A bridge is also again proposed to link the site to Tumbling Bay on the opposite side of the River Lea. This was a requirement of the approved outline consent and should again be required to be brought into use prior to occupation of 50% of the dwellings. This should be secured through a planning condition with full details to be provided and agreed.
- 7.14 No children's play area is proposed within the scheme, and given that the development includes a number of family houses, a contribution of £10,472 towards off-site play facilities is considered reasonable and necessary, along with £70,904 towards outdoor sports facilities, in accordance with policy LRC3, and the Council's adopted Open Space, Sport and Recreation SPD.



### **Affordable Housing**

- 7.15 It is proposed to provide 40% of the units (30 no. units) as affordable housing in accordance with policy HSG3, and as per the approved outline consent. However, an issue has arisen over the breakdown of the tenure of this affordable housing due to the financial viability of the scheme. The Council's adopted SPD on Affordable Housing expects developers to provide 75% of the units as social rented units, with 25% as intermediate rent. Intermediate rented units return greater profit for the developer than social rented units.
- 7.16 Due to the current economic climate, and reduced funding available for social rented units through the Housing and Communities Agency (HCA), the developer proposes that the mix be reduced to 50% social rented and 50% intermediate rent if no grant funding becomes available. It is proposed to agree a cascade mechanism whereby a 50/50 mix would be provided if no grant funding is awarded from the HCA (the grant process is undertaken at a later stage once planning permission has been granted). If grant funding does become available, then the proportion of social rented units would be increased, up to the expected 75/25 mix.
- 7.17 A financial viability appraisal has been submitted and considered by the Housing Team which sets out that it would not be viable for the developer to proceed with 40% affordable housing on the basis of a 75/25 mix without grant funding. On this basis, and in accordance with policy HSG4, which takes account of 'the availability of public subsidy', it is considered that this is an acceptable approach. The delivery of these affordable units, including the exact tenure mix, would need to be secured through a legal agreement.
- 7.18 It is also proposed to provide 15% of the units as Lifetime Homes in accordance with policy HSG6, and this should form part of the legal agreement.

### **Access and Parking**

- 7.19 Access to the site is from an established access onto Widbury Hill, to the north of the site. The junction arrangements were previously considered to be unacceptable under application 3/08/1399/OP; hence the application was also refused on those grounds. However, during the course of the appeal hearing, an amended plan was submitted to address the issues, and was allowed by the Inspector. The amended access layout provides a better relationship with the existing access to the east of the junction serving the allotments and nursery. The access arrangements remain unchanged since this approval, and are therefore considered to be acceptable. No objection has been raised by County Highways to the proposed access and visibility arrangements, subject to conditions.

- 7.20 Concerns have been raised over traffic flows and speeds on Widbury Hill. This remains to be a 30mph zone and County Highways have raised no objection to this application. In terms of traffic flows, Officers are satisfied that the number of vehicular movements would not be significant, particularly in relation to the previous employment use of the site. Further, there has been no material change in this respect since the granting of outline consent.
- 7.21 In terms of parking, a mix of parking options is proposed across the site including garage and frontage parking, on-street parallel parking, and rear courtyard parking. A total of 118 no. spaces are proposed for the 76 units, amounting to an average of 1.55 spaces per unit. According to the Council's adopted parking standards, the development would trigger a maximum of 166 no. spaces. The number of proposed spaces therefore amounts to a 71% provision of the maximum standard.
- 7.22 Having regard to PPG13 and the need to reduce reliance on the private car, it is considered that the proposed parking provision is acceptable and will not result in parking problems for the wider highway network. The site is also located within walking distance of Ware town centre and the railway station, and is served by bus routes on Widbury Hill, with more frequent services from Star Street. The site is therefore considered to be in a sustainable location, and the overall parking provision is considered to be acceptable in accordance with policy TR7. However, in order to ensure that this parking provision is satisfactorily maintained, it is considered reasonable and necessary to restrict the use of the garages for parking.
- 7.23 The scheme is able to provide for good pedestrian and cyclist links across the site from Widbury Hill to the River Lee through the provision of a new footbridge. This needs to be secured through appropriate planning conditions and obligations.
- 7.24 A contribution of £103,375 has been requested from County Highways towards sustainable transport initiatives set out in the Hertford and Ware Urban Transport Plan. This has since been amended to £101,500 as 5 of the proposed 4 bed units have been changed to 3 bed units as requested by the Housing Team. Given the scale of the development proposed, and the frequency of vehicular movements, this contribution is considered to be necessary and reasonable to require through a legal agreement in accordance with the 2010 CIL Regulations, as per the approved outline consent.

- 7.25 Cycle parking is proposed within sheds and garages for the dwellings and within designated cycle stores for the blocks of flats. The overall provision is considered to comply with policy TR14.

### **Trees and Landscaping**

- 7.26 There are a number of mature trees located along the boundaries of the site; the majority of which will be retained. A full landscaping scheme, Tree Report, Arboricultural Implications Assessment, Arboricultural Method Statement, and Management and Maintenance Plan have been submitted with the application.
- 7.27 A row of trees across the middle of the site will be removed, as per the approved outline consent. These trees have been identified to be of poor quality. However, a number of replacement trees are proposed across the site in order to ensure a high quality planting scheme, including street trees to delineate on-street parking spaces.
- 7.28 It was previously proposed and agreed to retain T1, a hybrid black poplar, near the entrance to the site. However, following more detailed surveys on the topography of the land and layout of the site, it would not be possible to successfully retain this tree. It is therefore proposed to provide replacement planting to compensate for its loss. No objection has been raised by the Landscape Officer to this approach.
- 7.29 The submitted landscaping proposals are considered to be broadly acceptable; however a number of comments have been made by the Landscape Officer. A condition is therefore recommended to require an amended scheme to the satisfaction of the Local Planning Authority. A Landscape Management Plan has been submitted and no objection has been raised to this by the Landscape Officer.

### **Lee Valley Regional Park**

- 7.30 The site borders the Lee Valley Regional Park (LVRP) to the south of the site; the Lee Valley Regional Park Authority has therefore been consulted. At the time of writing this report they have been unable to view the full plans for the proposal but make an initial comment that they raise no objection. Full details of the public open space and the bridge would be required by condition and/or the legal agreement. A request has been made for financial contributions towards the maintenance and management of the Regional Park in this location, and a similar request was made for application 3/08/1399/OP.

- 7.31 However, Officers did not consider it reasonable or justified to require such additional financial contributions for areas outside the application site, and it is important to note that the previous legal agreement was endorsed by the Inspector. It is therefore not considered reasonable or necessary to require contributions for the purposes of this current application. Maintenance and management of the site, including the communal open space bordering the LVRP, would be controlled by condition and/or legal agreement, although it is reasonable and necessary to ensure public access to this space.

### **Sustainability**

- 7.32 Following confirmation that abolition of the Regional Spatial Strategies was unlawful, the policies contained within the East of England Plan (EEP) remain to be material considerations for determining planning applications. Policy ENG1 requires that for new major developments, 10% of the energy should be derived from low carbon renewable or decentralised sources, unless it is not feasible or viable. This was not included within the outline permission, and due to confusion over the status of the EEP, has not been incorporated into the design of the scheme. Further, the developer has submitted a viability appraisal for the affordable housing tenure mix, which indicates that the 10% renewable energy requirement would cost an additional £114,000 (approximately £1,500 per unit). Officers therefore consider that this requirement may render the scheme unviable and is not considered to be a reasonable requirement given that it was not included in the outline consent, and given the status of the EEP.
- 7.33 Nonetheless, in order to comply with policy SD1 and ENV1, a Sustainability Statement has been submitted which confirms that the units will be constructed from more sustainable materials and fitted with environmentally friendly goods and devices. The affordable units are intended to meet Code for Sustainable Homes Level 3.

### **Wildlife and Protected Species**

- 7.34 An Ecological Survey update has been undertaken since the previous approval, and submitted with the application. This concludes that no protected species would be affected by the development and no objection has been raised by the Herts Biological Records Centre. A number of conditions have been suggested by HBRC following the conclusions and recommendations of the developer's ecologist. It is considered reasonable and necessary to require that these recommendations and mitigation measures be carried out as in order to comply with policies ENV14, ENV16 and ENV17.

### **Flood Risk**

- 7.35 The site lies within a floodzone 2, with a small part to the south being floodzone 3. A Full flood Risk Assessment has been submitted, as per the approved outline application, and no objection has been raised by the Environment Agency, subject to a number of conditions.
- 7.36 As the site lies within floodzone 2, it would be necessary to apply the Sequential Test as required by PPS25. It does not appear that the Sequential Test was carried out for application 3/08/1399/OP, and was not referred to by the Planning Inspector. However, again there has been no change in the relevant planning policies and considerable weight must be given to the approved outline permission for development on this site.
- 7.37 In terms of surface water drainage, a detailed scheme would be required by way of condition.

### **Other Contributions**

- 7.38 In accordance with the adopted Hertfordshire Planning Obligations Toolkit, Herts County Council have requested contributions of £159,737 towards Secondary Education, £3,050 towards youth facilities and £12,864 towards libraries, along with fire hydrant provision. These figures are based on the number and mix of units proposed.
- 7.39 At the time of the outline consent, there was no requirement for contributions towards secondary education facilities. By applying for full planning permission, rather than pursuing reserved matters on the approved outline consent, the developer has therefore become subject to this additional and considerable financial obligation. A previous requirement for childcare contributions is no longer needed; however this still results in additional contributions of £144,141 over and above the outline consent towards County Council Planning Obligations. Officers have therefore been in discussion with the developer in terms of viability and have agreed to waive contributions towards parks and gardens and recycling facilities that previously formed part of the outline consent.
- 7.40 Overall, the current proposal results in additional financial contributions of £102,254 over and above the approved outline consent. A summary of the approved and proposed contributions is set out below for Members' benefit:

<b>Obligation</b>	<b>Approved</b>	<b>Proposed</b>
Outdoor Sports & Recreation	£75,171	£70,904
Parks & Gardens	£27,142	£0
Children & Young People	£11,103	£10,472
Recycling	£5,472	£0
Sustainable Transport	£105,875	£101,500
Childcare	£10,835	£0
Libraries	£12,509	£12,864
Youth	£3,166	£3,050
Secondary Education	£0	£154,737
<b>TOTAL</b>	<b>£251,273</b>	<b>£353,527</b>

### **Other Matters**

- 7.41 Environmental Health have recommended a number of conditions; however Officers do not consider that restriction on construction hours of working is necessary in this case given the distance to neighbouring property. Further, conditions on dust and bonfires are not properly related to planning. Details of refuse disposal and storage facilities have been provided and are considered to be acceptable. A condition is recommended, however, to ensure the land is suitably mitigated from contaminated land. Further conditions have been recommended by the Environment Agency on this matter and are considered necessary to protect groundwater, and human health in accordance with PPS23 Planning and Pollution Control.
- 7.42 A condition to require a programme of archaeological work is also considered reasonable and necessary as recommended by County Archaeology, and in accordance with policies BH1, BH2 and BH3.

### **8.0 Conclusion**

- 8.1 Overall, having regard to the extant outline consent granted at appeal, it is considered that the principle of the proposed residential development remains to be acceptable. Although layout was previously approved at outline stage, alterations have been made, and are overall considered to represent improvements to the scheme. Details regarding access, landscaping, scale and appearance have been addressed, and the proposal is considered to comply with relevant planning policies.
- 8.2 The application is therefore recommended for approval subject to a S106 legal agreement, and the conditions set out above.