

**5a 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  
(previously deferred)

**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 a tenure mix of 75% social rented and 25% intermediate affordable housing or, subject to the availability of grant funding, as otherwise agreed with the Council to a minimum mix of 50% social rented and 50% intermediate affordable housing;
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. To establish a management company for the future maintenance of roads, communal areas and public open space within the development site and a scheme to ensure the maintenance of public access to the open space;
9. To provide fire hydrants;
10. To submit full details on the location and specification of the pedestrian route and play space for written approval from the Local Planning Authority, including the footbridge over the River Lee to Tumbling Bay, and not to occupy more than 50% of the units until the footpath, bridge and play space are brought into use;
11. £300 standard monitoring fee per obligation.

\* The contributions marked with an asterisk 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.

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

1. Three year time limit (1T12)
2. Approved plans (2E10 – 061001-WIM.NT.01 B, 02 A, 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 A, AA-E2, AA-P1, AB-E1, AB-P1, AC-E1, AC-P1, ABS-AC-E1, ABS-P1, AD-E1, AD-P1 A, AE-P1, AE-E1, 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, TWNT 17471-01, TWNT 17474-03, TWNT 174747-11 Sheet 1 B, TWNT 174747-11 Sheet 2 B, TWNT 174747-11 Sheet 3 B, TWNT 174747-12)
3. Programme of archaeological work (2E02)
4. Boundary walls and fences (2E07)
5. Materials of construction (2E11)
6. Lighting details (2E27)
7. Wheel washing facilities (3V25)
8. Tree retention and protection (4P05 – please add ‘and hedges’)
9. Landscape design proposals (4P12 - amended see AUT4)
10. Landscape works implementation (4P13)
11. Tree Planting (4P15)
12. Vehicular use of garage (5U10)
13. 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.

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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.

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

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.

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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

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)

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2. Street Naming and Numbering (19SN)
3. Groundwater protection zone (28GP – insert Musley Hill)
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 Members will recall the report to Development Control Committee on 12<sup>th</sup> January 2011, attached as Appendix A, when it was resolved to defer the application to enable Officers to seek the agreement of the applicant to provide an equipped on-site children's play space within the site; to include energy efficiency measures within the design, and to increase the parking provision on site. A question was also raised over consultation with the Hertfordshire Constabulary Architectural Liaison Officer.
- 1.2 An on-site natural play space has since been proposed by the developer, to be located at the turning head of the development, and this has been agreed in principle with the Environment Agency and the Council's Environment Manager. This is discussed in more detail below.

**2.0 Consultation Responses**

- 2.1 Previous consultation responses are contained within the report attached as Appendix A. Additional responses are summarised below.
- 2.2 The Environment Agency confirm that they are satisfied with the principle of the proposed natural play space. In order to manage flood risk they would expect all play equipment to be securely anchored so they do not float away in a flood event, as this could cause a blockage downstream.
- 2.3 The Lea Valley Regional Park Authority has now provided a full consultation response. They raise no objection to the application, but request conditions for the submission of details on the design of the public open space, proposed lighting and management of the open space. They also request a planning obligation to secure contributions to the management and

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development of the Regional Park in this location, including funding for the proposed footbridge over the River Lee, and a Grampian condition to ensure that no more than 50% of the dwellings are occupied prior to the opening of the footbridge.

- 2.4 The Council's Environment Manager raises no objection to the principle of the proposed natural play space and confirms that it fulfils the aspirations of a LAP (Local Area of Play) in terms of the new Fields in Trust standard. However it is only intended for very young children and will not meet the needs of the majority of young people on this development. He also suggests that the vertical logs be designed to minimise injury through their spacing or materials of construction. Finally he comments that "the seat is a good idea for parents and carers to sit with their children, but the seat could attract older children and as the area is so close to the houses this may cause a nuisance. This is less likely to be a problem when there is play area designed for the older age group nearby. King George V recreation ground is only about 500m away so the management company should be able to resolve any problems by working closely with the local PCSOs."
- 2.5 The Hertfordshire Police Architectural Liaison Officer comments that "in general this 'estate' is not likely to be of any major concern to police and we would welcome its completion and the opportunity to work with the applicant and their agents to ensure that all opportunities are taken to ensure that it will be an asset to the area rather than a problem." He recommends a condition requiring that the development be built to Secured by Design standards and comments that both social units and open market units should be built to the same standard, with equal right to adequate security. He suggests that the northeast corner car park does not benefit from good levels of natural surveillance and asks for good levels of lighting. The 'drive through' at Block 1, Flats 25-29 may become a congregating area for youths and conflict with the bedroom above. The rubbish storage area below is also of concern in the case of a fire.
- 2.6 In terms of the play area, he comments that it should benefit from as much natural surveillance as possible and should only be available for use in daylight and therefore with no lighting. The design proposal does not feature any covered areas which is good. He suggests consideration of a 1m high fence to be locked at dusk to provide a physiological barrier, and a bench design which has arms to divide each seat to discourage skateboard use and people lying down. A repair and anti-graffiti scheme must also be agreed.

### **3.0 Town Council Representations**

- 3.1 There have been no further consultations with Ware Town Council.

Previous comments are summarised in the Appendix A report.

#### **4.0 Other Representations**

4.1 There have been no further consultations with third parties. Previous comments are summarised in the Appendix A report.

#### **5.0 Considerations**

##### **Play Area and Layout**

- 5.1 A Local Area of Play (LAP) is now proposed to be located at the turning head of the development, adjacent to the public footpaths that will provide access to the bridge. Officers consider this to be the most appropriate location for a play area on site as it will benefit from good natural surveillance from the footpaths and adjacent dwellings, and will minimise encroachment into the semi-natural open space, and the floodplain adjacent to the river. Officers have liaised with the Environment Agency and the Council's Environment Manager and neither object to the proposal. The Environment Manager confirms that the play area would meet the aspirations of a LAP as set out in the Fields in Trust 'Planning and Design for Outdoor Sport and Play' standards.
- 5.2 The play area is proposed as a natural play space including grass mounds and log sections at different heights, along with a bench, gravel path and 'child-scale' hedging and planting. Members requested that a safe play area be provided on site. Although it is not proposed to provide fencing, the Fields in Trust standard states that 'depending on location it may have a 600mm guard rail, low fence or planting to indicate the perimeter.' In this case, low level planting as proposed is considered to be most appropriate to the context of the surrounding landscape. Further, a fence would be likely to obstruct floodwater in the event of a flood.
- 5.3 Natural play areas seem to be increasing in popularity and Play England have produced specific guidance on 'Nature Play'. This states that "Nature Play can be introduced into new play spaces or incorporated into established ones. Nature Play involves introducing elements such as planting, sand, boulders or tree trunks, trees and any natural surfaces that the provider may decide to incorporate into an established play park or playground."
- 5.4 It is not proposed to include traditional play equipment as this would classify the play area as a Local Equipped Area of Play (LEAP), requiring a 10m buffer to the boundary of the nearest residential property, and 20m between the activity zone and habitable room façade of the nearest property. To meet these requirements the play area would either need to be provided

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further into the floodzone, encroaching into the natural vegetated area adjacent to the river and Wildlife Site, where Officers consider that the provision of play equipment and fencing would appear incongruous and out of keeping.

- 5.5 Or alternatively, to accommodate a LEAP on site, a number of residential units would have to be removed from the scheme, and the layout re-designed. Officers do not consider this to be a reasonable approach given that a similar layout has already been approved at outline stage, with no play area provided. Therefore in these circumstances, Officers consider the proposed natural play space to be the best approach.
- 5.6 Full details of the natural features and landscaping can be adequately controlled through the legal agreement; clause 10 has been re-worded accordingly. The developer has confirmed that the play area would be maintained by the management company and not adopted by the Local Authority, and this would be controlled through clause 8 of the suggested legal agreement. The previously suggested contribution of £10,472 towards off-site play areas has been removed from the recommendation as this money would be instead be used for the on-site provision.
- 5.7 Consultation comments have now been received from the Hertfordshire Constabulary Architectural Liaison Officer. He raises no objection to the scheme but raises a couple of concerns regarding the layout (see paragraph 2.5). Security in rear courtyard parking areas can be ensured through an appropriate lighting scheme, and a condition is now recommended to require full details of external lighting. Comments regarding the possible congregation of youths below one of the bedrooms are noted, but this is not considered likely to create unacceptable living conditions.
- 5.8 Although it would be preferable to meet Secured by Design standards, Officers do not consider that such a condition would meet the tests of Circular 11/95 in being necessary to make the development acceptable in planning terms, or reasonable given that it is not defined in the Council's adopted planning policies. Comments raised with regards to the design of the play area are noted and will be taken into account when agreeing specification details. The developer has been made aware of these comments and encouraged to work closely with the Police in developing this site.

#### **Lee Valley Regional Park**

- 5.9 A full response has now been received from the Lee Valley Regional Park Authority, as summarised in paragraph 2.3. The design and management of the open space, and a requirement to bring the footpaths and bridge into use prior to occupation of 50% of the units is covered by recommended

clauses 8 and 10 of the legal agreement (set out at the outset of this report).

- 5.10 As per outline application 3/08/1399/OP, a request has again been made for financial contributions towards the maintenance and management of the Regional Park in this location. However, Officers do not consider it reasonable or justified to require additional financial contributions for land outside the application site, and it is important to note that the previous legal agreement was endorsed by the Planning Inspector. It is therefore not considered reasonable or necessary to require contributions for the purposes of this current application.

### **Parking Provision**

- 5.11 In terms of parking, Members expressed concern that insufficient parking provision is being proposed on site. Officers have discussed this issue with the developer; however they do not propose any increase in the parking provision given that the proposal does not differ significantly from the layout previously approved at outline stage.
- 5.12 A total of 118 spaces are proposed for the 76 units, amounting to an average of 1.55 spaces per unit (Members may recall that PPG3 previously suggested a standard of 1.5 spaces per residential unit and the adopted SPD is based around this level). It appears that the previous outline consent provided 115 spaces for the 76 units; therefore a slightly lower provision. According to the Council's adopted parking standards, the proposed development would trigger a maximum of 163 spaces, therefore amounting to a 72% provision of the maximum standard (these figures have been amended since the previous report to take into account previous changes to the number of 4 bed social rented units).
- 5.13 Members will be aware that this is a maximum standard and that PPG13 states: "Local Authorities should not require developers to provide more spaces than they themselves wish, other than in exceptional circumstances which might include for example where there are significant implications for road safety which cannot be resolved through the introduction or enforcement of on-street parking controls." In this case it is not considered that there are significant implications for road safety as there is potential for additional on-street parking (if necessary) without overflowing to the public highway. Officers note that Government has recently made changes to PPG13 in removing maximum standards for certain types of development; however residential parking remains unaffected, and current adopted Local Plan standards continue to apply.

5.14 Further, Officers consider that the site is well located in relation to services and infrastructure; it is 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 footbridge provision secured by the legal agreement further improves links. A contribution of £101,500 towards sustainable transport initiatives would be used to further improve transport links in the vicinity of the development site. Finally, Officers note that the provision of additional parking would be at the expense of landscaping and street planting. Having regard to these considerations, and the extant outline consent for a similar parking provision, Officers consider the parking proposal to comply with policy TR7 and the adopted SPD on 'Vehicle Parking at New Development'.

### **Sustainability**

5.15 Members had also expressed concerns over the sustainability of the development and compliance with policy ENG1 of the East of England Plan (EEP), despite Government confusion over the status of Regional Spatial Strategies. This policy applies to new major developments and requires that 10% of the energy be derived from low carbon renewable or decentralised sources, unless it is not feasible or viable. Members are reminded that the developer has submitted a viability appraisal which indicates that the 10% renewable energy requirement would cost an additional £114,000 (approximately £1,500 per unit), and the developer has confirmed that it would not be viable to meet this requirement over and above the financial contributions listed at the outset of this report.

5.16 Members are also again reminded that outline consent was granted without this 10% renewable energy requirement, despite the policy being undisputed at the time, and the developer is already agreeing to pay £102,254 in contributions over and above the approved outline consent (see paragraphs 7.38 - 7.40 and table in Appendix A). Further, the submitted Sustainability Statement confirms that a number of sustainability measures have been incorporated into the design of the scheme, including affordable homes to meet Code for Sustainable Homes Level 3.

5.17 Officers therefore do not consider it reasonable, particularly on the grounds of viability, to require additional costs of £114,000. Members previously discussed the possibility of reducing or removing contributions from other services in order to meet policy ENG1. Members would therefore need to take a view on the priorities for this site to determine the allocation of financial contributions, and this would need to be fully justified.

**6.0 Conclusion**

- 6.1 This application was previously deferred to enable Officers to seek the agreement from the applicant to provide an equipped on-site children's play space within the site; to include energy efficiency measures within the design, and to increase the parking provision. A natural play area is now proposed, which Officers consider to be well-sited and designed, and appropriate to the context of the surrounding landscape. Unfortunately the provision of 10% renewable energy has been demonstrated as unviable in this case (in addition to the contributions listed at the outset of this report), and the developer does not wish to propose any increase in parking provision. Having regard to the extant outline consent for a similar form of development, Officers do not consider it reasonable to pursue these latter points.
- 6.2 The application is therefore again recommended for approval subject to a S106 legal agreement, and the conditions set out above.