

5c 3/10/1147/FN – Renewal of planning permission granted under ref. 3/07/0935/FP for the demolition of existing light industrial buildings and construction of 182 new residential units with car parking and landscaping at Land off Marshgate Drive, Hertford for Zog 2 Ltd

Date of Receipt: 28.06.2010

Type: Full - Major

Parish: HERTFORD

Ward: HERTFORD - CASTLE

RECOMMENDATION:

That, subject to the applicant or successor in title varying the legal agreement signed under application 3/07/0935/FP pursuant to S106 of the Town and Country Planning Act 1990 in respect of the following:

- The provision of a minimum 8% affordable housing to be provided in accordance with the following mix:- Socially rented as 2 x 1 bed 2 person flat, 4 x 2 bed 4 person flat, 2 x 3 bed 4 person flat and 1 x 3 bed 5 person flat, and shared ownership as 2 x 1 bed 2 person flat and 3 x 2bed 3 person flat. This level of affordable housing is, however, subject to a review mechanism requiring the appraisal to be carried out again prior to the implementation of the permission (no earlier than 6 months and no later than 4 months prior to the implementation date (to be defined).
- £126,722 for Primary Education
- £51,092 for Secondary Education
- £25,364 for Nursery Education
- £7,671 for Childcare
- £1,415 for Youth
- £16,797 for Libraries
- £45,000 for transport provision
- £20,000 for controlled parking zone
- £120,990 for outdoor sports facilities
- £8,935 for children and young people
- £300 standard monitoring fee per clause
- Provision of Fire Hydrants
- The provision of a car club

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

1. Three year time limit (1T12)
2. Before site clearance is commenced, areas shall be provided on site for the delivery and storage of construction materials and the parking of construction vehicles, together with the means of access thereto, in

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accordance with a plan to be first submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure adequate off-street parking facilities in the interests of highway safety and traffic flows.

3. Programme of archaeological work (2E02)
4. Before the development hereby permitted begins, a soil survey of the site shall be undertaken to assess the degree of contamination of the site and of existing groundwater contamination, and to determine its water pollution potential risk located on site and off-site, the methods and extent of the investigation having first been agreed with the Planning Authority, and as scheme of measures to prevent pollution of ground water and surface water, including provision for monitoring, shall be submitted to and approved in writing by the Local Planning Authority. The scheme as approved shall be implemented and completed before any dwelling (or any dwelling in a specified phase, if a phasing programme has been approved) hereby permitted is first occupied and a report certifying this has been submitted to the Local Planning Authority.

Reason: To minimise and prevent pollution of the land and the water environment and in accordance with PPS23 – Planning and Pollution Control.

5. Development shall not begin until surface water drainage works have been carried out in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority. The scheme shall be designed taking into account assessment of storm periods and intensity and methods to delay and control the surface water discharged from the site. If, in light of such assessment, it is concluded that a Sustainable Urban Drainage System (SUDS) should be implemented, consideration should be given to groundwater quality and the scheme shall specify:
 - i) A management and maintenance plan, which shall include the arrangements for adoption by any public authority or statutory undertaker or any other arrangements to secure the operation of the scheme throughout its lifetime; and
 - ii) The responsibilities of each party for implementation of the SUDS scheme, together with a timescale for that implementation.

Reason: To protect the quality of groundwater and surface water and in accordance with PPS25.

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6. No development hereby permitted shall commence until details of proposed finished floor levels, and the means of protecting units numbered D.01 and D.02 from the ingress of flood water, have been submitted to and approved in writing by the Local Planning Authority. In particular:
- i) With the exception of the lower floors of units numbered D.01 and D.02, no unit shall have a floor level lower than 39.3metres AOD; and
 - ii) The lower floor units D.01 and D.02 shall be no lower than 35.5 metres AOD and they shall have no structural openings in their external walls lower than 38.03 metres AOD. Below this latter level, these two units shall be fully 'tanked' to avoid the ingress of water through the floors, drains, walls, ventilation ducts, cavities and all other openings.

The development shall be constructed in accordance with all of these details, as approved.

Reason: To reduce the risk of flooding to the proposed development and in accordance with PPS25.

7. No development shall commence until details of the basement car parking access ramp have been approved by the Local Planning Authority. The scheme shall be constructed in compliance with the approved plans, with the top of the access ramp set at a height of 38.78 metres AOD.

Reason: To reduce the risk of flooding to the proposed development and in accordance with PPS25.

8. The development permitted shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) and the following mitigation measures detailed within the FRA:
- i) Provision of compensatory flood storage on the site to a 1 in 100 year plus climate change standard.
 - ii) Identification and provision of safe routes into and out of the site to an appropriate safe haven.

Reason: To reduce the risk of flooding to the proposed development and to prevent flooding elsewhere by ensuring that compensatory storage of flood water is provided, and in accordance with PPS25.

9. No development shall take place until full details of both hard and soft

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landscaping works (the 'landscaping' of the site as defined in Article 1 of the Town and Country Planning (General Development Procedure) Order 1995 notwithstanding the reference therein to outline planning permission) have been submitted to and approved in writing n by the Local Planning Authority. These shall include, in addition:

- i) details of all materials to be used for hard surfaced areas within the site including roads, driveways, pedestrian routes and car parking areas, including those beneath the proposed flats;
- ii) the location and design of any barriers required to be erected at access points from the site onto the River Lee towpath for public safety reasons; and
- iii) a buffer zone 8 metres wide for wildlife alongside the River Lee for the full extent of the site, in accordance with application drawing 3005-27-AP.

Reason: To ensure the provision of amenity afforded by appropriate landscape design and in the interests of wildlife habitats, in accordance with policy ENV2, ENV17 and ENV18 of the East Herts Local Plan Second Review April 2007.

10. A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas including the buffer zone (other than small, privately owned, domestic gardens) shall be submitted to and approved in writing by the Local Planning Authority before the development commences.

Reason: To ensure the provision of amenity afforded by appropriate landscape design and in accordance with policy ENV2 of the East Herts Local Plan Second Review April 2007.

11. Landscape works implementation (4P13)
12. That part of the landscaping scheme referring to the 8 metre wide wildlife buffer zone shall not incorporate any built development including hardstandings, fences or formal/ornamental gardens except for the public towpath running north to south.

Reason: In the interests of wildlife habitats, in accordance with policy ENV17 and ENV18 of the East Herts Local Plan Second Review April 2007.

13. Before any of the flats in Block A and B are occupied a continuous screen boundary wall shall be erected from the back of block D along the whole of the southern boundary of the site, including the return

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behind 2-12 Spencer Street, in accordance with details of height, design and materials to be first submitted to and approved by the Local Planning Authority. The wall shall thereafter be retained in its entirety unless the Local Planning Authority agrees otherwise.

Reason: To safeguard the privacy of occupiers of adjoining properties, in accordance with policy ENV1 of the East Herts Local Plan Second Review April 2007.

14. Prior to the first occupation of any of the flats hereby permitted, the children's play area shown on drawing 2936/L/01F shall be laid out, equipped and made available for use in accordance with details to be first submitted to and approved in writing by the Local Planning Authority.

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

15. Details of any external lighting proposed in connection with the development shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development and no external lighting shall be provided without such written approval.

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

16. The basement car park shall not be brought into use until a scheme of lighting and CCTV surveillance has been introduced in accordance with plans which shall previously have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interest of safety and in accordance with Policy ENV3 of the East Herts Local Plan Second Review April 2007.

17. Notwithstanding the details shown on drawing 3005-21-AP, before development is commenced a revised basement plan shall be submitted to and approved in writing by the Local Planning Authority showing the proposed vehicle and cycle parking layout for the site. Prior to the first occupation of the development hereby permitted, the spaces so shown and approved shall be provided and thereafter kept available at all times for vehicles and cycle parking in connection with the development hereby permitted.

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Reason: To encourage the use of cycles as means of transport, in accordance with policies TR13 and TR14 and in the interests of highway safety, and in accordance with policies TR2 and TR7 of the East Herts Local Plan Second Review April 2007.

18. No dwelling shall be occupied until visibility splays have been provided at the junction of the car park access road with the public highway as shown in drawing 3005-22-P. The minimum dimensions to provide the required splays lines shall be 2.4 metres measured along the centre line of the proposed access road from their junction with the channel of Marshgate Drive and 43 metres from the centre line of the proposed access road along the line of the channel of the public highway. The vision splays required shall be provided and defined on the site by or on behalf of the developers and be kept free of any obstruction above 600mm in height.

Reason: To provide visibility for drivers of vehicles entering and leaving the site.

19. Development above ground level shall not begin until details of the proposed 2 metre wide footway along the Marshgate Drive frontage of the site and footpath links through the site linking Marshgate Drive with the tow path alongside the River Lee Navigation have been submitted to and approved in writing by the Local Planning Authority.

Reason: To provide adequate routes for pedestrians movement through the site.

20. Before the new vehicular accesses shown on drawing 3005-22-AP are first brought into use, any existing access to Marshgate Drive from the site, which is not incorporated into those new accesses shall be permanently closed in a manner to be first agreed with the Local Planning Authority in writing.

Reason: In the interests of highway safety and amenity.

21. Detailed plans, showing the existing and proposed ground levels of the site relative to adjoining land, together with the slab levels and ridge heights of the proposed buildings, shall be submitted to, and approved in writing by the Local Planning Authority prior to the commencement of development.

Reason: To ensure that the development is properly related to the levels of adjoining development in the interests of amenity.

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22. Prior to any building works being commenced, samples of the external materials of construction for the buildings hereby permitted shall be approved in writing by the Local Planning Authority.

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

23. The balcony to flat A.3.2 shall not at any time be extended over block D unless with the prior permission, in writing, of the Local Planning Authority.

Reason: To safeguard the privacy of occupiers of adjoining properties, in accordance with policy ENV1 of the East Herts Local Plan Second Review April 2007.

24. Before the development hereby permitted is commenced, details of the proposed enclosure of the recycling compound at the southern extremity of block C shall be submitted to and approved in writing by the Local Planning Authority and the compound shall be constructed in accordance with those details before any flat in Block C is first occupied.

25. Notwithstanding the details shown in 3005-42-AE, a revised elevation 6 shall be submitted to and approved in writing by the Local Planning Authority to omit the balcony shown for flat B.2.6 and to show substitute fenestration.

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

26. The proposed development shall be carried out and completed in all respects in accordance with the access, siting and layout illustrated on the approved plan and defined by this permission and, notwithstanding the provisions of Article 3 of the Town and Country Planning General Permitted Development order 1995, (or any Order revoking or re-enacting that Order) there shall be no variation without the prior approval in writing of the Local Planning Authority.

Reason: To comply with the requirements of the Town and Country Planning (General Permitted Development) Order 1995.

27. Approved plans (2E10): - 3005-01-LOC, 3005-03-SUR, 3005-08-COMP, 3005-06-COMP, 3005-04-FG, 3005-07-COMP, 3005-05-COMP, 3005-10-BP, 3005-30-KEY, 3005-09-3D, 3005-02-PH, 3005-20-SP, 3005-21-AP, 3005-22-AP, 3005-23-AP, 3005-24-AP, 3005-25-AP,

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3005-26-AP, 3005-27-AP, 2936\L\01F, 3005-40-AE, 3005-41-AE, 3005-42-AE, 3005-43-AE, 3005-44-AE

Directives:

1. Other Legislation (01OL)
2. Footpath crossing (05FC)
3. Street Naming and Numbering (19SN)

Summary of Reasons for Decision

The proposal has been considered with regard to the policies of the Development Plan (East of England Plan 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, HSG6, TR1, TR2, TR7, TR14, ENV1, ENV2, ENV3, ENV17, ENV18, ENV20, BH1, BH2, BH3, LRC3 and LRC1, and PPS1, PPS3, PPG13, and PPS23 and PPS25. The balance of the considerations having regard to those policies and the permission granted under ref lpa 3/07/0935/FP, is that permission should be granted.

_____ (114710FN.LP)

1.0 Background:

- 1.1 The application site is shown on the attached OS extract. The appeal site lies on the east side of the town of Hertford and is a triangular area of land of some 0.883 hectares set in a dip between the west side of Marshgate Drive and the south east side of the River Lee. It is currently occupied by a range of industrial units. There is a small enclave of Victorian terraced houses bordering most of the southern side of the site, beyond which is the recently developed residential development of the TXU site "The Meads". On both the opposite sides of Marshgate Drive and the River Lee are solidly industrial areas.
- 1.2 Permission was granted at appeal on 29th January 2008 for this development under reference 3/07/0935/FP with a standard three year time limit. The consent therefore expired on 29th January 2011. This is an application to renew the consent for a further three years. The main issues to be assessed are whether there have been any material changes to planning policy or site circumstances that may affect this development proposal. (Indeed the main issues are in relation to increased S106 contributions sought due to the adoption of the

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Council's Open Space, Sport and Recreation SPD since the previous permission and that a reduced percentage of affordable housing is offered on this renewal application – these will be discussed in detail later in the report).

- 1.3 The accommodation consists of 71 x 1 bed, 101 x 2 bed and 10 x 3 bed flats. Most of the accommodation is to be located within the three main blocks upon the site, around a central courtyard area, although 5 units are to be provided in the 'transitional housing' block proposed on Marshgate Drive. All three blocks are mainly 15.8 metres in height (from the lowest ground level of the site) with Block C rising to 17.6 metres where the additional fifth floor is provided. The density of the development is 190 dwellings per hectare. Materials of construction are proposed as a mix of brickwork and render with timber boarding to break up the elevations. A curved zinc roof is proposed, with zinc cladding to the flanks. Metal window frames are proposed throughout the development and a mix of glass and metal balustrades are proposed to balcony areas.

2.0 Site History:

- 2.1 As stated above, permission was granted for this scheme at appeal on 29th January 2007 under reference 3/07/0935/FP subject to a three year time limit. The application had been refused on the development being unsympathetic to the immediate context of the site and relate poorly to the height and massing of adjoining houses in Spencer Street and Marshgate Drive; that the development would result in overlooking and would have a dominant and overbearing relationship dwellings in Spencer Street and Marshgate Drive; and that no flood risk assessment has been submitted to demonstrate that the development will be safe.

3.0 Consultation Responses:

- 3.1 The Environment Agency do not object subject to conditions on contamination and remediation, no infiltration of surface water drainage into the ground, and no piling or foundation designs using penetrative methods shall be permitted without written consent, that the development shall be undertaken in accordance with the approved Flood Risk Assessment and approval of fencing and a buffer strip adjacent to the River Lee.
- 3.2 The Councils Engineers have confirmed that the site is within a flood zone 3 but the Council has no records of historical flooding near the site. They comment that 'the developer has referred to PPG25/PPS25 but not to EHDC's strategic flood risk assessment (SFRA) documents

and has concluded that the drainage solution will mainly concentrate on connections to the existing SW system. Confirmation from the developer of how the SW system will be maintained will be required. The developer should re-submit the FRA after referring to EHDC's SFRA. Due to the lack of reference to the latest SFRA information it is unknown whether the risk of flooding will be reduced for the development. As the entire SW system is based on conventional SW gravity drainage I consider that these would not tend to be sufficient on their own to provide long terms sustainable protection from flooding. We would instead recommend that more above ground type suds retention ponds etc be incorporated into the design'.

- 3.3 County Highways do not wish to restrict the grant of permission subject to the previous S106 obligations and conditions imposed on the 2007 application, although they also request an advisory note be imposed on any permission, in respect of construction of any works within the public highway to be constructed to their specification and by an authorised contractor.
- 3.4 The County Archaeology Officer comments that the site lies within Area of Archaeological Significance No. 172. There is a reasonable likelihood of significant archaeological remains being present and the proposed development is regarded as likely to have an impact on heritage asset of archaeological interest. A condition for a programme of archaeological investigation and work is therefore recommended.
- 3.5 The County Development Unit comment that the County Council seeks to promote the sustainable management of waste in the county and encourages districts to have regard to the potential for minimising waste generated by development. Planning conditions are therefore recommended.
- 3.6 Environmental Health recommend consent subject to a conditions on noise, air quality and contaminated land.
- 3.7 The County Architectural Liaison Officer comments that crime and the fear of crime is not mentioned in the design and access statement. They also make comments regarding the positioning of a large recycling area in the main entrance which they consider is inappropriate. Further concerns are raised with the location of the children's plays area (LEAP) in terms of its proximity to the canal footpath and whether two access points into the leap is required. Others comments are made in respect of communal entrance safety and safety in underground parking areas. They lastly comment that the Housing Corporation in their Design & Quality Standards document, set out their requirements for all new

homes which receive Social Housing Grant (SHG): Among these are the following two recommendations: 1) “Ensure that the scheme design reflects advice obtained from the local police Architectural Liaison Officer/Crime Prevention Design Advisers prior to detail planning stage” and 2) “Obtain Secured by Design certification wherever possible”. To date, the County Architectural Liaison Officer has not had any contact with the architects but to ensure compliance with the above.

- 3.8 The Landscape Officer has commented that there is much room for improvement to the landscape surrounds and setting for this development. They comment that to date, insufficient design input has been given to how the external space between the building blocks can provide useable amenity space as well as a pleasant and attractive appearance to the completed development. Good hard and soft landscape detailing should improve the character of the finished development. They comment that as this is a renewal of full permission which limits their capacity to make worthwhile comment, though it should be possible to improve the setting for the proposed dwellings via a sensitive (and solid) landscape design and recommends that a comprehensive landscape conditions are attached to any permission.
- 3.9 The Housing Officer initially commented that the developer should provide for 40% affordable housing which will go some way towards meeting the needs of the District but that it will be necessary for the developer to construct the units in such a way that they incorporate the Design and Quality Standards of the Homes and Communities Agency and meet East Herts Councils lifetime homes standards. Since the viability report has been undertaken they have been re-consulted and whilst they regret the substantial reduction in affordable houses, they have been involved in negotiating the tenure mix needed to this part of Hertford.
- 3.10 The County Council Planning Obligations team have requested fire hydrant provision for the scheme, and financial contributions based on their adopted Toolkit as follows:
- | | |
|---------------------|----------|
| Primary Education | £126,722 |
| Secondary Education | £51,092 |
| Nursery Education | £25,364 |
| Childcare | £7,671 |
| Youth | £1,415 |
| Libraries | £16,797 |
- 3.11 All calculations are based on PUBSEC index 175 and will be subject to indexation. If the unit size, number or tenure changes, this calculation

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will need to be reviewed. They comment that since the 2007 permission, the 'Planning Obligations Guidance – Toolkit for Hertfordshire' has been adopted, and in addition, school forecast data has been updated and now shows a need for additional secondary school places within this area.

- 3.12 British Waterways have made general comments in respect of the previous applications and in respect of this application commented with some concerns with the underground parking metal louvers which should be screened from the towpath with a sensitive planting scheme and that the fenestration to the southern end of Block B could be more pleasing. They comment that in design terms Block B should be broken up into 2 buildings or a section stepped back for more visual interest and comment with some concerns about the impact of loss of sunlight on the central area caused by Block A and to a lesser extent Block B. They reiterate the need for a financial contribution of £30,000 for canal infrastructure improvements and conditions in respect of; details of the proposed CCTV; a full landscaping scheme; and barriers to be erected at the access points to the footpath. They also seek a number of informatives to be imposed.
- 3.13 Thames Water have confirmed that there are public sewers crossing the site and comment that approval must be sought from Thames Water where buildings are within 3 metres of a public sewer.
- 3.14 No response has been received from Veolia Water or Waste Services.

4.0 Town Council Representations:

- 4.1 Hertford Town Council raise an objection and comment:

'The Committee expressed serious concern regarding the highway implications of another large development on the Mead Lane area, this following the redevelopment of the TXU site, the application to extend Tesco and the recently approved application for development on St Johns Street. The Committee could not therefore approve any further redevelopment in the area until such time as substantial improvements had been made to the highway.

Members noted that the design complemented the neighbouring residential development on the TXU site, Mill Road and that recently approved in St Johns Street and reflected, in part, the current commercial units which are on site. However, the Committee felt strongly that part of Hertford's charm was the variety of building design in the town and it therefore questioned the suitability of yet another

large, similarly designed, contemporary looking residential apartment block along this section of the riverbank. Concern was also expressed regarding the durability of the design given that the timber cladding on the Mill Road site appeared to be weathering unfavourably. Further concern was expressed regarding the proposed height of the development at four floors, with the potential for overlooking of neighbouring properties’.

5.0 Other Representations:

5.1 The application has been advertised by way of press notice, site notice and neighbour notification.

5.2 6 no. letters of representation have been received, raising comments which can be summarised as follows:-

- Increased traffic through Marshgate Drive and Mead Lane
- Limited visibility when turning onto Marshgate Drive from Spencer Street and onto Mead Lane from Marshgate Drive
- Traffic report undertaken is out of date
- Existing parking issues on double yellow lines
- Parking pressures on Spencer Street which is not part of the surrounding parking scheme
- Insufficient parking provision for development
- Concern of increase HGV and hours of operating
- Size of development is significant and is too high for the canal side setting
- Dwellings in Spencer Street would have an unsatisfactory and unattractive place to live if built – development would be noisy and block views from these properties and result in overlooking
- The attractive amenity and tourist attraction of the towpath will be lost
- Increased pressures on existing school, doctors, dentists and other facilities
- 1 person comment wholly in favour but note some comments raised above
- On nearby developments nearby residents suffered from closed footpaths, disrupted and congested roadways and mud on roads, wolf whistles from builders, overlooking and noise and general disturbance. This proposal will create similar and exacerbate such problems.

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
HSG6	Lifetime Homes
TR1	Traffic Reduction in New Developments
TR2	Access to New Developments
TR7	Car Parking – Standards
TR14	Cycling – Facilities Provision (Residential)
ENV1	Design and Environmental Quality
ENV2	Landscaping
ENV3	Planning Out Crime – New Development
ENV17	Wildlife Habitats
ENV18	Water Environment
ENV20	Groundwater Protection
BH1	Archaeology and New Development
BH2	Archaeological Evaluations and Assessments
BH3	Archaeological Conditions and Agreements
LRC3	Recreational Requirements in New Residential Developments
IMP1	Planning Conditions and Agreements
HE5	Mead Lane Area West of Marshgate Drive

6.2 In addition to the above it is considered that PPS 1: Delivering Sustainable Development, PPS3: Housing, PPG13: Transport, PPS23: Planning and Pollution Control and PPS25: Development and Flood Risk are considerations in determining this application.

7.0 Considerations:

Principle of Development

- 7.1 The site lies in the built-up area of Hertford wherein residential developments are acceptable in principle, and as this is an application to renew permission 3/07/0935/FP, the principle of this development has been clearly established. The site is part of an allocated residential site to the west of Marshgate Drive (Policy HE5). A refusal could only be justified on the grounds of a change of policy or site circumstances since the permission granted in January 2008.
- 7.2 Whilst the submitted scheme remains the same as previously permitted, members will be aware that there has been a considerable change in the economic climate generally since the original grant of permission, and this has had implications for affordable housing at this site. This is discussed in more detail in paragraphs 7.7 to 7.9.

Scale, Design and Layout

- 7.3 The development remains identical to that previously approved and is considered to be appropriate in layout, scale, siting and design. The design and general scale of Blocks are not dissimilar to that on the adjacent TXU site “The Meads”, to the west and south of Spencer Street.
- 7.4 Since the previous consent was granted it is noted that the national indicative minimum density has been removed from PPS3. However, PPS3 still provides that developments need to make the most efficient use of land and that density should be determined with regard to the character of development in the surrounding area. In this case, whilst the density is higher than TXU it is comparable to the Mill Road site and is considered to be acceptable in this location.

Parking and Access

- 7.5 The applicant had previously submitted a detailed traffic assessment report which was considered by the Highway Authority. As a result of that information and with the understanding of the recent developments in the locality, the Highway Authority has not objected to the proposed development.
- 7.6 With regard to parking, it is considered that the proposed 161 spaces and proposed car club remains acceptable in accordance with the Council’s adopted parking standards and having regard to the need to reduce car travel given the restricted access into the Mead Lane area. Neighbour concerns regarding parking provision are noted; however as stated, parking is considered to be acceptable in highway terms and has not changed since the previous approval. The proposal is therefore considered to be acceptable in this regard.

Affordable Housing

- 7.7 It is noted that 40% affordable housing was previously proposed at this site. However, due to the changes in the economy since then, a viability report has been submitted by the applicant within this renewal application to show that the scheme would not now be viable if all the financial contributions sought and the full 40% affordable housing requirement were provided. In response to this, your Officers appointed an independent consultant to assess this report. The consultants have concluded that indeed the development would not be viable with the full contributions and affordable housing requirements, but that it could be viable with the full financial contributions and a provision of 8%

affordable housing, equivalent to 14 units.

- 7.8 The reasons why the development can now only support this reduced affordable housing provision is due to the current economic climate. The previous scheme was agreed at the height of the market but since then there have been major changes in the residential market and wider economy. On average, values have fallen by up to 25% whilst costs have not reduced so severely. The type of property that has been most affected has been flatted schemes, very similar to Marshgate Drive where all units are flats. In the current market more traditional houses are in demand whilst flats are not. The ability to get mortgages has affected both direct purchasers and the buy to let market, the latter of which is key in a flatted scheme. In addition, there are also a number of factors that have increased costs to this particular scheme and these include the following; section 106 contributions have risen by approx £250,000 (although this actually has very limited impact on the number of affordable houses that can be provided – maybe by a margin of 2 units); the undercroft car parking at £4,000,000 is extremely expensive for a scheme of this size and represents 17.5% of the overall build cost; and that the site abnormal costs will have also increased due to additional requirements and legislation on site clean up costs etc.
- 7.9 Officers acknowledge that affordable housing is a key priority for the Council, but also note that a balance needs to be struck with other key infrastructure requirements for which s.106 obligations are also sought. For instance, the school forecast data has been updated since the previous approval and now shows a need for additional secondary places within this area and, with the development increasing pressure on local schools and other services, in particular on the highway network, it is felt that contributions towards highways matters and education are key priorities here. In view of these above concerns and mindful that, even without these other financial contributions, the full 40% affordable provision would not have been viable, Officers consider that a reduced provision of affordable housing is acceptable in this case (with considerable weight given to the fact that this is a renewal application) provided that all affordable housing is of the tenure mix needed in Hertford.
- 7.10 Considerable discussions have taken place between the Council, the developers and the valuation office to secure a tenure mix that meets the Council's, and in particular Hertford's, housing need whilst still achieving a viable scheme. The tenure mix is therefore proposed with a total of 14 affordable housing units (equates to 8% of the total residential units), provided as 9 socially rented units (2x1 bed 2 person flats, 4x2 bed 4 person flats and 2x3 bed 4 person flats and 1x3 bed 5

person flats) and 5 for intermediate rent (2x1 bed 2 person flats 2x2 bed 3 person flats). The independent consultant has recommended in their report that, as there is a compromise on the level of affordable housing provision on site, that either an overage or review mechanism should be included in the s.106 agreement so that the requirement can be reviewed if market conditions improve. Officers consider that this is reasonable and necessary and that this, and the other requested obligations, meets the tests of Reg.122 of the Community Infrastructure Levy Regulations (2010) and this provision is included in the recommendation at the head of this report.

- 7.11 Officers have, in consultation with the Council's consultants, considered whether a re-distribution of the s.106 contributions sought would make any significant difference to the affordable housing provision in this case but, as mentioned previously, this would be minimal; at the most providing one or two more units at the expense of other infrastructure requirements/services. Officers therefore consider that the mix of contributions/affordable housing now proposed is the best that can be achieved for this particular development at the site.

Financial Contributions

- 7.12 The previous consent was approved subject to a unilateral legal agreement. This agreement included a requirement for; transport provision; controlled parking; education; libraries; youth; and childcare facilities. The S106 contributions totalled some £187,500.
- 7.13 Since this approval, County Council have adopted a Toolkit for the calculation of contributions, and additional sums have therefore been requested in relation to education, libraries and child and youth facilities. Further, a need for secondary school contributions has also arisen and been requested. The Herts County Council contributions now total £229,061.
- 7.14 In terms of sustainable transport contributions, Hertfordshire Highways are still seeking the same figure as agreed on the previous approval. The requirement for £45,000 towards transport provision therefore remains the same.
- 7.15 Finally, since the previous consent was granted, Members will be aware that the Council has adopted an SPD on Planning Obligations. This SPD sets out standard requirements for open space provision and maintenance for East Herts, supported by an adopted SPD on Open Space, Sport and Recreation adopted in September 2009. Officers consider that sufficient amenity green space is provided on site and

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equally, around half of the children and young people provision is provided on site; however off-site contributions would be required towards outdoor sports (£120,990) and the remainder of the youth facilities (£8,935).

- 7.16 Overall, whilst Officers acknowledge that these payments did not form part of the original legal agreement, they are considered to be reasonable and necessary in order to mitigate the impact of the development on infrastructure, and therefore a variation of the signed legal agreement would be required.

Residential Amenity

- 7.17 Impact on residential amenity was fully assessed under application 3/07/0935/FP and the situation has not changed in this regard. Residents of Spencer Street appear to remain concerned about overlooking and general impacts to their living conditions. However back to back distances were thoroughly considered on appeal and the Inspector concluded that the distances and orientation of properties would ensure that there would be no significant loss of privacy or outlook.
- 7.18 In terms of visual amenity the Inspector noted the distances of proposed buildings from boundaries, internal layouts and the siting of windows and balconies and commented that these had been arranged to keep visual impact to a minimum. Whilst concerns had resulted in refusal of the application previously there was not found to be a substantive issue when it was considered at appeal.
- 7.19 The amenity of future occupiers of the new development is also considered to be acceptable in terms of acceptable room sizes, outlook and outdoor amenity space. The application therefore provides for acceptable levels of amenity for both neighbours and future occupiers.

Conditions

- 7.20 Similar conditions to 3/07/0935/FP are recommended in order to ensure the development is appropriately mitigated. However, the Environment Agency has requested that the imposed appeal conditions are updated to be in line with current policy and guidance, which are agreed as necessary.

8.0 Conclusion:

- 8.1 Overall, whilst there have been no significant changes in planning policy to warrant a reconsideration of the development proposed, there has

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been a substantial change to the economy generally. Officers have considered the resulting reduction in affordable housing provision offered, but consider that the mix of contributions now proposed offers the most appropriate mitigation for the proposed development in the current economic climate. Should the economic climate improve prior to the construction of the development, then the level of contributions and affordable housing can be reviewed through the s.106 and of course, if an alternative form of development is proposed for the site then a revised agreement would be negotiated in any event.

- 8.2 Other matters relating to the impact of the development on the surrounding area; highway safety, parking and access all remain the same as previously proposed and are considered to be acceptable subject to the imposition of similar conditions. The application is therefore recommended for approval subject to an amended legal agreement, and the conditions set out above.