

## DEVELOPMENT MANAGEMENT COMMITTEE – 8 SEPTEMBER 2021

<b>Application Number</b>	3/21/1283/FUL
<b>Proposal</b>	Four 5.75 metre column mounted lighting posts to be erected on the fifth floor level of Car Park.
<b>Location</b>	EHDC Car Park, Northgate End, Bishop's Stortford, Hertfordshire, CM23 2ET
<b>Applicant</b>	East Herts Council
<b>Parish</b>	Bishop's Stortford Town Council
<b>Ward</b>	Bishop's Stortford Meads

<b>Date of Registration of Application</b>	2 June 2021
<b>Target Determination Date</b>	28 July 2021
<b>Reason for Committee Report</b>	Application submitted by East Herts Council
<b>Case Officer</b>	Femi Nwanze

### **RECOMMENDATION**

That planning permission is **GRANTED** subject to the conditions set out at the end of this report. That delegated authority is granted to the Head of Planning and Building Control to finalise the detail of the conditions as set out.

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

- 1.1 This application seeks full planning permission for the erection of four lighting columns ( 5.75 m high) at the top deck ( 5<sup>th</sup> floor) of the car park that is currently under construction in accordance with planning permission 3/18/0432/FUL.
- 1.2 Schedule 2, Part 12 of the Town and Country Planning ( General Permitted Development) ( England ) Order 2015 as amended permits a local authority to erect lamp standards in connection with any public service administered by them, without planning permission. Therefore once the car park has been constructed, the Local Authority could elect to erect lamp standards on the top deck of the car park without having to submit an application for planning permission.
- 1.3 Planning permission 3/18/0432/FUL is for a mixed used development comprising of a multi-storey car park, commercial floorspace and residential units. Condition 11 of the planning permission requires that details of external lighting be submitted to the Local Planning Authority for their written approval. However, the wording of the condition does not remove, nor does it override permitted development rights afforded to the Local Authority under Schedule 2, Part 12 of the Town and Country Planning ( General Permitted Development) ( England ) Order 2015 (as amended).
- 1.4 In this regard, whilst any proposals for external lighting on the overall development would require formal consideration by the local planning authority in accordance with condition 11; the erection of lamp standards by the Local Authority as part of a function that they provide ( in this case a car park) would be exempt from this and would not require express planning permission or need to be submitted as part of condition 11.

1.5 In this instance planning permission is only required for this proposed development because the car park is not substantially completed and the applicant has chosen to apply for planning permission at this stage.

## **2.0 Site Description**

2.1 The application site is located to the north of Bishop's Stortford Town Centre and comprises a surface level public car park with access onto Northgate End. Planning permission has been granted for the redevelopment of the site to provide a mixed use development comprising a multi storey car park, commercial and residential floor space and construction works have commenced.

2.2 The site lies within the Bishop's Stortford Conservation Area and is identified as an area of archaeological importance. There are a number of listed buildings in the vicinity of the Site, the most prominent of which is the Grade I listed remains of Waytemore Castle to the southeast. The other closest listed buildings are located on North Terrace and Water Lane.

2.3 To the east of the site is a dense wooded area, part of Castle Gardens / Sworder's Field. To the north of the site is a development of two-storey houses 'Yew Tree Place'.

## **3.0 Planning History**

3.1 The following planning history is of relevance to this proposal:

<b>Application Number</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
3/85/0809/DC	Use of site as Local Authority Car Park	Granted with conditions	17 July 1985

3/18/0432/FUL	<p>Erection of Multi Storey Car Park (MSCP) over six levels providing 546 spaces, open air surface car parking for 27 spaces to the north of the car park. Erection of a 4 storey building with commercial use at ground floor and 15 residential flats arranged over the upper 3 levels, provision of open space and associated highway and public realm works. Provision of emergency vehicle access between adjacent Youth Services site and land to external parking area to north of MSCP. Removal of fence and retaining wall.</p>	Granted with conditions	15 Feb 2019
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#### **4.0 Main Policy Issues**

- 4.1 These relate to the relevant policies in the National Planning Policy Framework 2021 (NPPF), the statutory development plan comprised of the East Herts District Plan 2018, the Hertfordshire County Council Waste Core Strategy and the

## Bishop's Stortford (Silverleys and Meads) Neighbourhood Plan 2016 (the NP).

- 4.2 Section 70(2) of the Town and Country Planning Act 1990 requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions.
- 4.3 Relevant District and Neighbourhood Plan policies are noted below, along with a reference to the material consideration of the NPPF guidance relevant to this application:

<b>Main Issue</b>	<b>NPPF Chapters</b>	<b>District Plan</b>	<b>NP policy</b>
Principle of development	Section 2, , 4, 7, 8, 12, 16	DES5	HDP2 HDP3
Design and impact on character and appearance of the area, including the Conservation Area	Section 11, 12, 16	DES4 HA1 HA2 HA4	HDP2 HDP3
Impact on neighbour amenity	Section 8, 12	DES4 EQ3	HDP2 HDP3

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

## **5.0 Consultee Responses**

- 5.1 Bishop's Stortford Civic Federation: High level lighting on the top floor of the car park will increase the detriment to the conservation area and cause excessive light pollution, particularly for nearby residential properties. The multi storey car park, in Gascoyne Way, Hertford also operated by East

Herts Council has no lighting columns on the top floor, with all the lighting located within the parapet wall. We see no reason why a similar arrangement cannot be adopted at Northgate End. Although the car park has a wider footprint than the one in Hertford, a similar level of lighting could be achieved (possibly triggered to come on by movement sensors) by installing central barrier containing lighting on the top floor. An alternative approach which would also be less unacceptable than this proposal would be to close the top floor to public access during the hours of darkness, making any form of artificial lighting unnecessary. This would have the added benefit of discouraging the types of anti-social behaviour which this kind of development tends to attract.

5.2 Bishop's Stortford Town Council: The committee object to this application due to its excessive and inappropriate high level of light pollution near a conservation and residential area.

5.3 Crime Prevention Officer: No response received.

5.4 EHDC – Conservation and Design :

It is noted that the current option with the lighting posts located along the middle of the floorplan will meet the required illuminance levels in the core areas while ensuring that these remain obscured from view at ground level and most first and second floor level windows. The only instances where these lamp posts may be visible is the third or fourth floor windows of taller buildings nearby, however the view from such distant windows of some slender lamp columns is not considered to cause significant visual impact. It is noted from the Design and Access Statement and Planning Statement that the lighting design for the car park ensures that no undue light spill, halo effect, or light pollution is created and therefore neighbours will not be subject to unacceptable light pollution. The proposal for the lighting columns is therefore considered to not cause any significant visual impacts on local views nor is it considered to negatively

impact the character and appearance of the Bishop's Stortford Conservation Area.

- 5.5 EHDC – Environmental Health (Air/Land): No objection.
- 5.6 EHDC -Environmental Health (Noise/Light): No objections subject to the conditions relating to the floodlighting and times of use being attached to any permission granted.
- 5.7 HCC Highway Authority - No objection - advises that it is content with the proposed lighting and considers that this does not affect the public highway.
- 5.8 Ward Councillors:
  - 5.8.1 Councillor Mione Goldspink - Notwithstanding the Consultant's report about the 3 Lighting Options I fear that the Light Pollution would be quite significant, and it would affect all the near neighbours and also the edge of the Conservation area. The lighting would be visible from a wide area around the car park, and would have a detrimental effect on people and on the Conservation Area. I am also worried about the possibility of anti-social behaviour which could take place on the top deck of the car park after dark. There have been problems in the past with other multi-storey car parks. For both these reasons, I think that the Lighting Columns should not be installed, and that this top deck of the Car park should be closed during the hours of darkness.
  - 5.8.2 Councillor Richard Townsend - I strongly object to the installation of the proposed light towers as they will cause excessive light pollution, be intrusive to local residents and properties, encourage use outside daylight hours, promote an environment and likelihood of anti-social behaviours ( ASB) and criminal activity. The top floor should be closed "out of hours" which would combat ASB and reduce lighting cost when out of use. Essentially this inconsiderate development is

excessive and not in keeping with the locality and conservation restrictions.

5.8.3 Councillor Calvin Horner: I wish to object to the installation of the light columns on the top deck of the multi-storey car park for the following reasons:

- 1) Light spillage on to neighbouring properties will inevitably result from the installation of lights, especially as they are intended to be on the perimeter of the building. This is contrary to the recommendation for best practice that they should be located centrally.
- 2) Lighting the car park at times of low usage will attract anti-social behaviour, as the space will not be regularly frequented by members of the public.
- 3) Given the location of the car park at the lowest point of the valley, despite its height, the lights will be visible from properties and intrusive for residents of properties that overlook the car park.

In consequence the top-deck of the car park should be closed at times of darkness, which will be outside of peak usage of the car park for most of the year.

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

## **6.0 Summary of Other Representations**

6.1 The application has been advertised by letter consultation to 13 local residents and businesses, and by press and site notices. A total of 8 responses have been received; objecting to the application on the following grounds:-

- The lighting proposal exacerbates what is already a monstrous, expensive impingement on the conservation area and local residents for a net gain of around 160

parking spaces. The report is based on the car park being closed at 11pm – we know that EHDC plan to open until midnight.

- The lighting will cause severe light pollution and will be appalling intrusive for those residents nearby. The new residential block will be highly impacted by all versions of the light as well as surrounding residents. The proposed lighting stands on top of a six storey block will turn it into a massive light house creating light pollution to residents in Yew Tree Place and other residents in Northgate End and Rye Street.
- These high lights will make the building highly visible from a long way away and increase the negative environmental impact on the surrounding areas.
- The proposed lighting should be reconsidered and redesigned to create minimal problems for local residents. If this cannot be implemented the top floor should not be used at night.
- The building is of industrial scale and for an industrial estate not on the edge of what should be a pretty town centre. These lights simply make it much worse. Top area should not be open or use during the hours of darkness, negating the need for intrusive lighting. The low level lighting in the ground floor parking to the rear of the 6-storey car park will also cause a problem to those of us unfortunate enough to live in Yew Tree Place and we have asked before that this area be closed at 7pm.
- Rather than exacerbate the neighbour issues by adding higher lights the EHC should be shutting off the lighting to the top deck and barring access after sunset. I note a condition of the planning consent was an obligation to

provide before opening (for agreement) a mechanism for cutting off access to the top deck and external parking to preclude use after 11pm - this is overdue and should be settled before or in tandem with this issue -again with a view to the ensuring the most intrusive lighting is turned off early to avoid noise and nuisance to the neighbours and additionally prevent misuse by undesirables.

## **7.0 Consideration of Issues**

- 7.1 In accordance with Policy DES5 of the District Plan it is recognised that there is a need to ensure that the upper floors of the multi storey car park provide a safe and secure environment for its users.
- 7.2 The proposal will involve the erection of 4 No 5metre high twin lighting columns which will be positioned on top of a 0.75m high support plinth (total height 5.75m) along the central spine of the top deck of the car park at regular 15 metre intervals in a north to south direction. The lighting columns will also be set in from the east and west elevations of the building by 15 metres respectively and beams directed downwards. Lighting levels and direction of light spillage have been designed to comply with Guidance Note 01/20 provided by the Institution of Lighting Professionals for the reduction of obtrusive light. In general it advises that the use of as high a mounting point as possible and directing beams downward will reduce light spillage.
- 7.3 Utilising the central spine of the roof (only) for the lighting columns will ensure that light spillage to surrounding areas is minimised and that there will be no upward light as well as providing the minimum required level of lighting to those parts of the roof top where vehicles and pedestrians will intersect. In this regard it will be the central spine of the roof top that will provide the required levels of lighting for the reasons mentioned above; thus limiting light spillage to the

outer areas of the roof top and reducing visual impact in the vicinity of the site.

- 7.4 It is acknowledged that the car park structure itself will be a significant and prominent structure in the locality with an overall length of approximately 100 metres. In this regard the positioning of the 4 lighting columns on the central spine only of the upper deck will ensure that any illumination associated with its operation is limited in terms of its positioning and not unduly visible from street level. Lighting will be further restricted to the central spine of the roof area by the presence of the lift over-runs at roof level. It is proposed that conditions will be imposed regarding its operation – luminance levels and hours of operation in order to protect the amenity of the occupants of neighbouring properties.
- 7.5 The proposed lighting strategy as referred to above is the minimum level of lighting that can be provided in order to make safe use of this part of the car park. The proposed lighting strategy is considered to be appropriate for the building given its function within the town centre. It is further considered that this limited illumination at roof level will not adversely affect the character of the subject building or the Bishops Stortford Conservation Area as there are other semi illuminated buildings in this part of the Conservation Area given its town centre location.
- 7.6 Additionally it is considered that the appearance of the building and the Bishops Stortford Conservation Area will not be adversely impacted by the proposal as the lighting structures proposed will be sited in such a way that visibility from street level will be limited. It is therefore considered that both the number, form and positioning of the lighting is appropriate and would, on this building, not be harmful to the character and appearance of the Bishops Stortford Conservation Area. The proposal therefore complies with Policies HA1 and HA4 of the East Herts District Plan 2018 and

the Bishop's Stortford (Silverleys and Meads) Neighbourhood Plan.

Impact on neighbour amenity

- 7.7 Policy EQ3 in the District Plan requires all external lighting schemes to ensure they do not have an unacceptable adverse impact on neighbouring uses or the wider landscape. The closest existing residential occupiers are those located to the north at Yew Tree Place, on Northgate End to the west of the site and the residential occupiers of the new units when they come forward to the west, the residential properties at Northgate End (14a and 16) are further away from the new multi-storey car park than those in Yew Tree Place. Relevant policies of the plans include (District Plan): DES4, (and NP): HDP2 and HDP3. These seek to ensure that new development avoids having a significantly detrimental impact on the amenity of existing and future residential occupiers.
- 7.8 The positioning of the lighting columns along the central spine (only) of the top floor of the building and the use of lighting controls to govern their usage will ensure that the structures and in turn light spillage are not visible from neighbouring properties.
- 7.9 The distance from the proposed lighting column structures to properties in Yew Tree Place is 50 metres, the distance to properties at 14a and 16 Northgate End is 60 metres and the distance to the new residential development that will form part of the development (once constructed) will be 35 metres. With the above site characteristics and there being appropriate controls on both the illumination levels and hours of use of operation (by condition), it is considered that there will be no adverse impact on the amenity of neighbouring occupiers as a result of the proposed development.

## **8.0 Response to representations received:**

8.1 The majority of issues raised in objection have been addressed within the body of the report. With regard to the remaining comments the following applies:

- This proposal for lighting does not seek to alter the hours within which the car park will operate. It is proposed that the lighting proposal for the top floor of the car park will cease to be used after 23.00 hours in accordance with Condition 36 of planning permission 3/18/0432/FUL.
- Comparisons with the car park on Gascoyne Way, Hertford are not considered relevant to the facts associated with this application. Each planning application must be considered on its individual merits and in accordance with the relevant planning policies. The physical characteristics of this site and the requirement to make the operational aspects of the car park safe and secure are unique to this location.

## **9.0 Planning Balance and Conclusion**

9.1 The proposal that is the subject of this application can be implemented without planning permission and outside of condition 11 (external lighting) of planning permission 3/18/0432/FUL by using permitted development rights afforded to Local Authorities outlined in Schedule 2, Part 12 of the General Permitted Development (England) Order 2015 ( as amended) once the multi-storey car park has been substantially completed. This will enable the lamp standards to be constructed, positioned and operated without any conditions; irrespective of their location.

9.2 The submission of planning application for this development, enables planning conditions to be applied that will ensure that the proposed lighting is both positioned and operated in a manner that does not affect neighbour amenity, the

appearance of the building or the character and appearance of the Bishops Stortford Conservation Area.

- 9.3 Having regard to the above, the proposed lighting is considered to be acceptable in the context of the building that it will be situated on. By reason of its height, positioning and levels of illumination, it will not be harmful to the amenity or neighbouring occupiers and neither will it be harmful to the character and appearance of the Bishops Stortford Conservation Area. Accordingly as the proposal complies with Policies HA1, HA4, EQ3, DES4 and DES5 of the East Herts District Plan 2018, and the Bishop's Stortford (Silverleys and Meads) Neighbourhood Plan. It is therefore recommended that conditional planning consent be granted.

## 10.0 Recommendation

That planning permission be **GRANTED** subject to the conditions set out below

## 11.0 Conditions

1. Time limit for implementation – 3 Years
2. Approved Plan numbers

Plan Ref	Version	Received
PLA100 REV_		03.06.2021
PLA110 REV		03.06.2021
PLA910 REV A		03.06.2021
CAR PARK ROOF LIGHTING PLANNING REPORT		13.05.2021
PLA200 REV_		03.06.2021
PLA300 REVA		03.06.2021
PLA310 REVA		03.06.2021
PLA500 REVA		03.06.2021
PLA510 REVA		03.06.2021
PL013 REVA		03.06.2021

3. The external artificial lighting at the development hereby approved shall not exceed lux levels of vertical illumination at neighbouring premises that are recommended by the Institution of Lighting Professionals Guidance Note 01/20 'Guidance notes for the reduction of obtrusive light'. Lighting should be minimised and glare and sky glow should be prevented by correctly using, locating, aiming and shielding luminaires, in accordance with the Guidance Note.

Reason: In order to ensure an adequate level of amenity for the occupants of nearby properties in accordance with Policy EQ3 Light Pollution and DES4 Design of Development of the East Herts District Plan 2018.

4. The external artificial lighting at the development hereby approved shall be controlled via a photocell detector and time-clock, programmed to operate during dusk to dawn. The lighting shall not be in use before 07.00hours or after 23.00 hours on any day.

Reason: In order to ensure an adequate level of amenity for the occupants of nearby properties in accordance with Policy EQ3 Light Pollution and DES4 Design of Development of the adopted East Herts District Plan 2018.

5. In connection with all site preparation, lighting installation and ancillary activities, working hours shall be restricted to 08:00 – 18:00 hours on Monday to Friday, 08:00 – 13:00 hours on Saturdays, and not at all on Sundays or Bank / Public Holidays. Vehicles arriving at and leaving the site must do so within these working hours.

Reason: In order to ensure an adequate level of amenity for nearby residents in accordance with Policy EQ2 Noise Pollution of the adopted East Herts District Plan 2018.

## **Summary of Reasons for Decision**

East Herts Council has considered the applicant's proposal in a positive and proactive manner with regard to the policies of the Development Plan; the National Planning Policy Framework and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended). The balance of the considerations having regard to those policies is that permission should be granted