

Development Management Committee
21 October 2021

WELWYN HATFIELD COUNCIL

Minutes of a meeting of the DEVELOPMENT MANAGEMENT COMMITTEE held on Thursday 21 October 2021 at 7.30 pm in the Council Chamber, Campus East, Welwyn Garden City, Herts, AL8 6AE.

PRESENT: Councillors J. Boulton (Chair)
B. Fitzsimon (Vice-Chair)

C Juggins, N. Pace, J. Ranshaw, D. Richardson, J. Skoczylas, P. Shah, T. Travell, R. Trigg, S. Tunstall, J. Weston and J. Quinton

ALSO Legal Advisor, Trowers and Hamlins LLP (J. Backhaus)
PRESENT:
OFFICIALS Development Management Services Manager (D. Lawrence)
PRESENT: Planning Obligations and CIL Officer (C. Robinson)
Career Grade Development Management Officer (E. Stainer)
Senior Development Management Officer (R. Lee)
Principal Governance Officer (J. Anthony)
Democratic Services Assistant (B. Taylor)

30. SUBSTITUTIONS

The following substitution of Committee Members had been made in accordance with Council Procedure Rules:

Councillor J. Quinton for Councillor S. Elam.

31. APOLOGIES

An apology of absence was received from Councillor S. Elam.

32. MINUTES

A decision to agree the Minutes of the meeting held on 9 September 2021 was deferred and Officers would discuss issues raised by Councillor S. Elam, through Councillors J. Quinton and J. Ranshaw.

33. DECLARATIONS OF INTEREST BY MEMBERS

Councillors J. Ranshaw, D. Richardson and S. Tunstall declared interest in item 36 (Item 8 on the agenda) by virtue of being Members of the Crematorium

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Procurement Board and they would recuse themselves from the meeting for this item.

34. 6/2020/2818/FULL - 61 NEW ROAD, DIGSWELL, WELWYN AL6 0AL - DEMOLITION OF EXISTING DWELLING AND ERECTION OF A DETACHED TWO STOREY BUILDING WITH ACCOMMODATION IN ROOFSpace COMPRISING 9 APARTMENTS

Report of the Corporate Director (Public Protection, Planning and Governance) on the planning permission of the erection of nine flats following the demolition of the existing dwelling on the site. The flats would be incorporated in one larger building, centrally sited in the plot, set back from the front of the plot by approximately 40m. The proposed building would measure approximately 25.8m in width by 22m in depth and 9.7m in height. The building is designed with the hipped main roof and central front gable projection with hipped roof projections to the sides. There would be two flat roof dormer window features to the front, first floor balconies to both the front and rear elevations and a rear facing roof terrace.

There would be four flats each at ground and first floor levels around a central lobby and one within in the roof space. They would be served by a staircase and a passenger lift. The development would be served by a parking and turning area to the front of the building incorporating 15 parking spaces. Access to the highway would be taken from the existing driveway from New Road which would be widened to accommodate two-way traffic.

The application was presented to this Committee on the 17 June 2021, and a further ecological survey of the site was undertaken to address the concerns raised with regards to the potential impact of the development upon badgers.

This application was presented to the Development Management Committee because Welwyn Parish Council had submitted a Major Objection.

Mr P. Hughes, spoke as the agent, stating that the proposed development would be in visual harmony with the area and noted that a very similar development had been approved in the neighbouring site by Welwyn Hatfield Borough Council. Additionally, the proposed development would be larger than the existing property. However, the development was an enhancement due to the high-quality design and appearance. The agent felt the plot of land would comfortably accommodate the development, parking and new planting; the latter would be substantial improvement due to an increase in biodiversity. Furthermore, the parking provisions met the councils' adopted standards, and the retention of trees and vegetation protected the neighbours' amenities and local wildlife. The agent noted that there was a lack of objections from the RSPB regarding Badgers or other protected species. The agent stated that the proposal effectively used an existing piece of sustainable land and would boost the supply of housing without intruding into the greenbelt. The development would count toward the Councils housing land supply, and the proposal was

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compliant with the adopted and emerging Local Plans, the NPPF and national design guidance.

Mr P. Oakenfull, spoke as an objector against the application, stating that his objection was on behalf of the Herts and Middlesex Badger Group. The group maintained that the proposal would have a great impact on badgers in the immediate area, and they would expect the developer to be required to carry out a badger impact assessment. He highlighted the significant difference of opinion found between the developers' badger assessment and the Herts and Middlesex Badger Groups over whether the Badger sets belonged to one or more badger socials group. Mr Oakenfull provided details on the Herts and Middlesex Badger Group and Digswell Residents Association badger assessment. The Herts and Middlesex Badger Group felt that due to the lack of badger impact assessments conducted that the proposal should be rejected. However, the Herts and Middlesex Badger group proposed some mitigation planning conditions to allow the badgers to continue as they did presently.

Mr S. Archer, spoke on behalf of Welwyn Parish Council. The Parish Council objected to the development, and Mr Archer noted that planning legislation was explicit in where there is a reasonable likelihood of a protected species present, then the extent that species would be impacted by the development must be established before planning permission was granted. Mr Archer highlighted the variation of the Badger presence and Badger sets distance in the reports by Herts Ecology and Herts Wildlife Trust. It was suggested that more work be undertaken with dedicated badger experts to confirm the impact this development would have and mitigation that may be required.

The Chair asked the Legal representative to explain the point raised regarding the impact assessment given before planning permission were granted. The Legal representative stated that all matters are dealt with before planning permission is granted and it is the advice of Natural England that needs to be followed in regard of the badgers. It was noted that Officers had set this out in the report alongside the report from Herts Ecology. The Chair also sought confirmation on the advice that was given by Natural England. The Legal representative stated that Natural England required a survey to be undertaken if badgers are considered to be present, and the survey would have been undertaken to satisfaction of Herts Ecology and to the Officers. Regarding the previous assessments taken, they were reviewed legally and did not accord with Natural England's guidance. The new assessments undertaken were to Natural England's guidance.

The Chair asked Martin Hicks, Senior Ecology Officer at Herts Ecology, for his opinion on the issue raised around the badgers as the Council's Ecological advisor. Mr Hicks explained that specific legislation sought to protect badgers from cruelty and was not focused on conservation. Mr Hicks highlighted that the proposal did not interfere with the welfare of the badgers as their sets were not being damaged. He stated that there was no legal breach as there was no legal requirement to protect foraging routes and corridors, as long as alternatives were available. If a development was likely to impact and destroy the last foraging

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area for a badger set, then this could be considered detrimental to the badger's welfare. However, this is not what was being suggested. Furthermore, Mr Hick stated that the number of Badgers and Badger sets was not a material consideration unless main sets or remaining foraging areas were under threat. In fact, the proposed increased landscaping scheme would improve foraging for the Badgers. The Ecologist felt that in their professional opinion further studies would not provide relevant additional information that would need to be considered before planning approval could be given.

Members referred to a late submission that stated that a badger set was close to the boundary. Officers stated that the video and supporting information did not have clear information on where the set seen in the video was in regard to the proposed development plot. The Council's Ecologist informed members that Badgers may use any feature for a set, and there is no evidence that the set seen in the video was the Badger's main set. As such there was not direct impact on the main set by the proposed development. It was advised that in any event, a further walkover survey could be carried out prior to the commencement of any works on site to establish whether there is any direct harm to new badger setts and inform whether a license would be needed.

Members asked if there would be a pre-commencement survey. Officers informed Members that there was a condition approved for a walk over survey.

Members raised the objection from Welwyn Parish Council with regard to safeguarding the landscape, protecting the wildlife and hedgerows and asked where the policy is in regard to the specific objection. Officers stated that the adopted policy seeks to increase the rural aspect of the site and mitigate against loss of boundary trees and vegetation. Officer stated that the standard procedure was to follow the adopted policy which ensured that no detrimental harm was caused to the landscape and in this instance the proposals were considered to be acceptable.

Members raised questions on whether there was enough space for parking as it had been increased from 12 to 15, including 3 spaces for electric charging. Officers stated that amended plan for parking had been assessed by the Parking Officers and HCC Highways. They found that the proposal did adhere to the parking standards and met the maximum parking provisions of the area.

Members noticed the difference carried out in the assessments. However, the evidence provided by Herts Ecology was more than sufficient to inform the Members on the need and benefit of further studies.

Members asked who would manage and maintain the Badger gate. Officers stated that it was under condition to ensure the gate was maintained for its purpose.

Members raised a question over the refuse on site, and the apparent lack of recycling provision. Officers stated that the Council's Client Services Team raised no objections to the proposed facilities.

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Members expressed support for the proposed development and felt that the design was aesthetically in keeping with the area; and would not look out of place.

Members queried why no energy statement had been submitted. Members also stated that the Council had declared a climate emergency and felt that the development could be more sustainable, by adding solar panels on the large roof-space and make provisions for EV charging spots. Officers stated that a condition could be added for the energy and sustainability statement.

The Chair gave an overview of the main points raised throughout the discussion and concerns raised could be secured by condition.

Following discussion, it was proposed and seconded by Councillors P. Shah and C. Juggins to accept the application and

RESOLVED:
(11 in favour, 1 abstention, 1 against)

Subject to conditions set out in the Officer report and,

- a) Prior to above ground development an Energy & Sustainability Statement must be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the agreed and shall thereafter be maintained in the approved form.

REASON: To ensure that the development contributes towards Sustainable Development and Energy efficiency in accordance with Policy R3 of the Welwyn Hatfield District Plan 2005 and the National Planning Policy Framework.

35. 6/2021/0417/FULL - 12 FIRWAY WELWYN AL6 0RD - ERECTION OF 2 NO. FOUR BEDROOM DETACHED CHALET BUNGALOWS WITH GARAGES FOLLOWING THE DEMOLITION OF THE EXISTING PROPERTY

Report of the Corporate Director (Public Protection, Planning and Governance) on the planning permission of the erection of 2 dwellings following the demolition of the existing dwelling on the site. Plot 1 would be located in what would be the front garden of the existing dwelling, approximately 3.0m back from the highway on a plot of approximately 440 sqm. Plot 2 would be located deep into what is presently the back garden and between two existing properties (14 Firway and a newly constructed dwelling to the north) on a plot of approximately 555m in size. Between the two dwellings would be a shared vehicle parking and garaging area serviced by a driveway that runs along the southern site boundary following the route of the existing driveway and utilising the existing highway access point. The development would be served by a parking and turning area in the central section to include 6 car parking spaces and 4 bicycle spaces.

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This application was presented to the Development Management Committee because Welwyn Parish Council had submitted a Major Objection.

Members raised concern over the construction traffic that would amount due to the lack of footpaths and parking in the area.

Members asked about the post development landscaping and how the Council could make sure it took place. Officers stated that the landscaping was under condition to be maintained and implemented. The Legal representative informed Members that were the developer not to comply then the Council had legal power to ensure compliance.

Members questioned what trees would be lost. Officer stated that 7 trees would be felled, and the Councils Tree Officer did not feel the trees should be covered by a tree preservation order (TPO).

Members queried the location of parking on the site. Officer stated that the garages, bike store and bins were located in the middle of the site. This would also benefit from a power supply which could be used for EV charging points at a later date should it be required.

Members expressed full support for the application with regard to the design.

The Chair gave an overview of the main points raised throughout the discussion and concerns raised could be secured by condition.

Following discussion, it was proposed and seconded by Councillors B. Fitzsimon and N. Pace to accept the application and

RESOLVED:
(Unanimous in favour)

Subject to the conditions set out in the Officer report.

36. 6/2021/1612/VAR - THE LAWN CEMETERY SOUTHWAY HATFIELD AL10 8HS - VARIATION OF CONDITION 3 (FLOOD RISK ASSESSMENT), CONDITION 5 (LANDSCAPE MANAGEMENT PLAN), CONDITION 6 (CYCLE PARKING SCHEME, (CONDITION 7 (GREEN ROOF), CONDITION 10 (SURFACE WATER DRAINAGE), CONDITION 17 (DISABLED PARKING PROVISION) AND CONDITION 18 (APPROVED PLANS) ON PLANNING PERMISSION 6/2019/1208/MAJ

Report of the Corporate Director (Public Protection, Planning and Governance) on the planning permission to vary condition 3 (flood risk assessment), condition 5 (landscape management plan), condition 6 (cycle parking scheme), condition 7 (green roof), condition 10 (surface water drainage), condition 17 (disabled parking provision) and condition 18 (approved drawings) of planning permission 6/2019/1208/MAJ.

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The principle and description of the development would remain the same and no additional buildings are proposed. The amendments include the reconfiguration of the entrance lobby, waiting area, vestry and AV room in the front of house, the office and admin areas to provide an entrance lobby and larger open plan office, the internal spaces in the cremator hall and the road layout. The main alterations to the external design involve the removal of an upper section of the chapel, a reduction in the size of the flower court, alterations to the memorial court and admin block to a more linear form of design and the removal of the level change between the front and back of house of the cremator hall. The works to the cremator hall include an increase in the height of the chimney, but this will be repositioned to reduce its overall appearance. The parking layout and landscaping has also been updated to reflect a more logical layout which aims to reduce congestion.

As the amendments to the approved drawings result in a difference in the footprint compared to the approved scheme, the surface water attenuation figures have been recalculated. Further details have been submitted in the Flood Risk Assessment and Drainage Strategy Addendum which additionally seeks to address the requirements of condition 3 (flood risk assessment).

This application was presented to the Development Management Committee because the application was a departure from the development plan and because the Welwyn Hatfield Borough Council was the applicant.

Officers informed Members that two historic planning applications were not listed in the relevant planning history section (section 4) of the committee report. These applications were:

Application Number: 6/2016/2623/MAJ

Decision Date: 3 May 2017

Decision: Granted (subsequently challenged by judicial review and quashed)

Proposal: Erection of a new chapel, machinery store and crematory, to include new car parking provision and enhanced landscaping following demolition of existing chapel, machinery store, lodge house and central colonnade (Granted then quashed)

Application Number: 6/2019/1144/EIA

Decision Date: 3 February 2020

Decision: Granted

Proposal: Request for a screening opinion for Welwyn Hatfield Crematorium South Way Lawn Cemetery

Furthermore, Officers also stated that following the publication of the Officer report, an error was noted by Officers as the footprint percentage calculations

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(paragraphs 10.13 and 10.20) did not distinguish which parts of the proposal would constitute a 15% reduction from approved. For clarity, the total developed footprint would be approximately 15% less than the extant scheme, whereas the total developed area including the service yard would be approximately 4.5% less than the extant scheme.

In addition to this, Officers stated that there was an error in the wording for condition 15 in the report as the site location plan reference was incorrect, therefore it should be substituted with plan reference 03-91-001 which showed the site in its present state instead of site location plan with the approved building shown on it.

Members asked whether the reduction in size would reduce the working capacity. Officers stated that the attendance size of the chapel would remain the same and the amount of cremator facilities/committal space in the cremator hall would be the same amount therefore the same number of cremations would occur.

Members asked where the surface water drainage would be going. Officers stated that there are drainage ponds on the site. The recalculations were done due to the changes of size under this proposal.

Members queried if there were parking standards. Officer stated that no parking standards are known and the parking under this proposal was the same as the extant scheme.

The Chair gave an overview of the main points raised throughout the discussion.

Following discussion, it was proposed and seconded by Councillors N. Pace and C. Juggins to accept the application and

RESOLVED:

(Unanimous in favour of the Members present - 9 in total)

Subject to the conditions set out in the Officer report.

37. SECTION 106 PLANNING OBLIGATIONS REPORT 2020-21

Report of the Corporate Director (Public Protection, Planning and Governance) on the section 106 Planning obligations report 2020-21.

Planning obligations are an effective tool to secure the necessary infrastructure and services required as a result of development. They also ensure that the negative impacts of a development can be adequately mitigated, for example increasing/improving public transport provision, increasing school capacity, enhancing open spaces, requiring that a given portion of housing is affordable, etc. It is important to note that they cannot be used to mitigate the impact of any shortfall in existing infrastructure.

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The purpose of planning obligations are to make development acceptable that would otherwise be unacceptable in planning terms. The National Planning Policy Framework (NPPF) sets out in paragraph 57 that planning obligations can only be sought where they meet the following tests:

- Necessary to make the development acceptable in planning terms
- Directly related to the development; and
- Fairly and reasonably related in scale and kind in development.

Members were advised that S106 contributions could be sought from future developments above 10 residential units and to consider this in identifying potentially related infrastructure projects. Furthermore, contributions could also be sought from developments including employment or retail uses.

In addition, Members were asked to consider how they would like the Council to secure and spend Section 106 and Community Infrastructure Levy (CIL) contributions in future.

Members asked when the money would be received specifically in Healthcare, Mental Health and sports secured against a specific ward. Officers stated that schemes have to be implemented in which developers have up to 3 years to do so. Most contributions will become due on commencement of a scheme.

Members asked why there was a lack of social housing, and how many of the 174 affordable housing units secured was social housing. Officers stated current Policy requires developers to give 30% to affordable housing (the emerging Local Plan changes this and has a variety of percentages across the Borough) this 30% is then split between social rent and an intermediate product. Officers stated that a breakdown of the 174 units would be provided to Members.

Members asked whether S106 monies was a spend or lose it and if it is time limited. Officers stated that some say 5 years, and some say 10 years. Welwyn Hatfield Borough Council, as good practice tries to spend funds within 5 years of receipt. Officers stated that a small number of monies had been returned as it was surplus amount.

Members expressed gratitude to the officer for the report noting that it was easy to understand and full of useful information. The Chair thanked all Officers for their work.

RESOLVED:

Members noted the contents of the annual report.

38. APPEAL DECISIONS

Report of the Corporate Director (Public Protection, Planning and Governance) detailing recent appeal decisions for the period 3 August to 8 October 2021.

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Member expressed an interest over the part allowed, part dismissed cases. Officers stated that each case is looked at on its own merit and for these particular cases there were concerns at the impact of development on neighbouring properties. These appeal decisions and others in the report indicate support from the Planning Inspectorate for the Council's Supplementary Planning Guidance on Design.

RESOLVED:

That appeal decisions during the period be 3 August to 10 October 2021 be noted.

39. PLANNING UPDATE - FUTURE PLANNING APPLICATIONS

Report of the Corporate Director (Public Protection, Planning and Governance) providing the Committee with a summary of planning applications that may be presented to DMC in future.

Members asked whether the pausing of the Local Plan would cause more applications to come forward. Officer stated that the Local Plan was paused due to the Prime Minister's comments, however it is business as usual.

RESOVLED:

That future planning applications which might be considered by the Committee be noted.

40. DEVELOPMENT MANAGEMENT PERFORMANCE REPORT APRIL - SEPTEMBER 2021

Report of the Corporate Director (Public Protection, Planning and Governance) relating to the performance of the Development Management Service over a six-month period April to September 2021 (Quarters 2 and 3). It is worth noting to members that the Planning department software considers them to be quarters 2 and 3 as with the calendar year, rather than being quarters 1 and 2 as with the financial year.

Officers highlighted that the Council was assessed against government targets over a two-year time frame, and the Council is above the government targets despite a minor dip. Officer stated that some of the figures are sensitive by minor changes which could cause the data to dramatically change.

Officers stated that despite a challenging time within the Planning department in recruiting, they were still above government targets and the expected performance will increase.

Members raised that they had received complaints about planning officers stating that they were only contactable via email and not by phone due to them

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working from home. In addition, replies via email can take a very long time. Officers stated that they would look into the issue.

RESOVLED:

Members noted the contents of the report.

Meeting ended at 9.33 pm
BT