

Development Management Committee
16 June 2022

WELWYN HATFIELD COUNCIL

Minutes of a meeting of the DEVELOPMENT MANAGEMENT COMMITTEE held on Thursday 16 June 2022 at 7.30 pm in the Council Chamber, Council Offices, The Campus, Welwyn Garden City, Herts, AL8 6AE.

PRESENT: Councillors J. Boulton (Chairman)
R. Trigg (Vice-Chairman)

J. Cragg, L. Musk, N. Pace, D. Panter, J. Ranshaw, D. Richardson, J.P. Skoczylas, P. Shah, S. Thusu, T. Travell, J. Weston

ALSO PRESENT: Legal Advisor, Trowers (J. Backhaus)

OFFICIALS PRESENT: Assistant Director (Planning) (C. Dale)
Development Management Services Manager (D. Lawrence)
Principal Major Development Officer (D. Elmore)
Senior Development Management Officer (R. Lee)
Democratic Services Assistant (V. Mistry)

1. SUBSTITUTIONS

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

Councillor T. Travell for Councillor S. Tunstall
Councillor L. Musk for Councillor J. Broach
Councillor S. Thusu for Council C. Juggins

2. APOLOGIES

Apologies of absence were received from Councillors J. Broach, C. Juggins and S. Tunstall.

3. MINUTES

The minutes of the meetings held on 3 March 2022 were approved as a correct record.

4. DECLARATIONS OF INTEREST BY MEMBERS

Councillor J. Cragg declared a non-pecuniary interest in Item 7 of the agenda as the Chair of Cabinet Housing Panel.

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5. 6/2021/0079/FULL - 8 HILL RISE, CUFFLEY, POTTERS BAR, EN6 4EE - ERECTION OF DWELLING. REVISIONS TO PLANNING PERMISSION 6/2018/0383/FULL (RETROSPECTIVE)

Report of the Head of Planning on Retrospective planning permission which was sought for the existing dwelling. Planning permission was granted in April 2018 for the erection of a new dwelling on the plot following demolition of existing (application number: 6/2018/0383/FULL). The dwelling which had been built however was not as per the approved plans. The key changes were summarised as follows:

- Reduction in depth of dwelling by approximately 0.3 metres;
- Increase in depth of rear patio by 4.6 metres and increase in width of rear patio to span the full width of the plot;
- Setting of dwelling into the ground by approximately 0.65 metres, increase in eaves height by 0.282 metres and increase in ridge height by 0.673 metres;
- Insertion of additional first floor window on Right Side Elevation;
- Skylights added to single storey rear element;
- Reduction in overall height of front hard boundary treatment;
- Change of windows from uPVC to aluminium; and
- Alterations to openings

The application site is situated on the north-eastern side of Hill Rise and comprises a three-storey detached dwelling (inclusive of habitable roof space) set back from the road behind a large driveway.

This part of Hill Rise slopes steeply uphill from its junction with Sutherland Way/Tolmers Avenue to the junction with Plough Hill and the site is located approximately halfway along this section of the road.

The application was presented to the Development Management Committee because it had been called-in by Councillor George Michaelides.

Northaw & Cuffley Parish Council raised an objection to the development for the reasons set out below:

“At the Planning Committee held 3rd February 2021 the Committee unanimously resolved to submit an objection this application. The grounds for objection are confirmed as overdevelopment of the plot, the height of the shared/adjoining wall, that the roof height would be out of line with the adjoining properties and that the additional side elevation and patio doors contain additional windows causing technical issues with this application”.

Christian Theodorou, Objector, stated that he resided at 6 Hill Rise next door to 8 Hill Rise. He stated that the applicant had deliberately set out to breach planning on a vast scale to increase the size of the property. The applicant had excavated lower than agreed and constructed a retaining wall which did not have planning permission. He stated that the retaining wall was defective and has put his property at risk of serious structural damage. In addition, the applicant failed

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to provide safety barriers on the retaining wall in order to avoid the potential fall of 1.6 metres from 6 Hill Rise and 2.5 metres from 10 Hill Rise and was a serious safety concern. The raised patio was much larger than approved. The patio now extended to the full width of the plot and towered over neighbours' gardens and was extremely intrusive. The applicant had gained extra height by excavating lower than agreed and increasing the height of the roof. The applicant also breached the plan by adding an extra window on the right-side elevation. This window was directly opposite the objector's bedroom and has caused further harm to living conditions and diminished privacy. The driveway has not been landscaped in accordance with the approved plan. The conditions stated that there were to be trees, hedges and soft features and not have been implemented. Neighbours opposite the property felt that the large windows were extremely intrusive. Fellow neighbours of High Rise are all against this application. The property has deliberately been overdeveloped and a significant harm to the street and neighbours.

Members felt that the application was not to plan and had breached planning conditions and that the build was too big within the area. The Legal Officer stated that Members needed to consider the application in accordance with planning policy. Therefore this was to be considered as a new application and the officers had assessed the application in accordance with policy and come to a conclusion that they feel that the house as built is not overdevelopment and does not overly dominate the street scenes. The applicant will likely appeal if the application is refused, leaving it to an inspector to determine. The inspector will be asked to make the same planning judgement as the officers in accordance with policy.

Members were concerned about the lack of privacy due to the additional window opposite the bedroom, the front garden's lack of soft landscaping and the safety of the retaining wall. Officers stated that in terms of the side window the plans note they will be obscured glazing and non-opening below 1.7 metres from finish floor level which is standard measure to prevent any adverse overlooking or loss of privacy. It was noted that an additional window had been added in a different location and it was comparable to that in the previous application and the measure of obscure glazing and the restriction of the height of the opening is sufficient to make sure there will be no harmful impact in terms of privacy.

It was noted that the approved landscaping scheme from the previous approval had not been implemented. The officer subsequently contacted the agent to undertake those works. They are now mostly completed and a revised landscaping condition is recommended on this application, with implementation required in the next planting season.

Members asked about the safety of the retaining wall. It has been an important issue and had been discussed in detail between officers and legal advice was also sought. It was considered by Officers that this matter would be appropriately dealt with under the building control regime and/or through litigation between neighbours as a matter of private law. Members also asked whether a fall from the wall could be an issue. Officers confirmed that the retaining wall was

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incomplete and a fence had been installed above the wall to prevent any falling from that point. It is not the case that it is exposed and someone could fall off it by walking along the side boundary of No. 6 Hill Rise.

Members asked about the construction of the retaining wall. Officers stated that they had received competing claims from the applicant and No. 6 Hill Rise regarding its safety. The council have sought legal advice from their solicitors on this matter. It would not be reasonable to add a condition or a planning obligation requiring further information as this matter is considered more appropriately dealt with through building regulations.

The Legal officer stated that the issues that had been raised are the structural integrity and the safety of the retaining wall. Also the structural integrity and the potential damage to adjoining properties and buildings. It was noted that if a building is within two metres of the boundary wall, a party wall notice will have to be served and any damage to property that is caused by somebody adjacent will be dealt through the civil courts if there is no agreement.

Members queried the size of the patio. Officers confirmed it was wider than approved and had increased depth. The officer stated that they were comfortable that there was no adverse overlooking and loss of privacy for either of the neighbouring properties due to the 1.8m boundary fences and well-established trees and hedges.

Members noted that the plot looked over dominant and overdeveloped. Officers stated that whilst the dwelling is taller than approved, its roof and ridge height is still lower than 6 Hill Rise and is considered respectful of the character of the street. The depth of the dwelling itself was slightly smaller and the separation distance from the boundaries was the same. The patio although larger in size is located within a generously sized rear garden and is not considered to be harmful to the living conditions of neighbours. The windows are different than the approved application however on Hill Rise there is a mix of dwellings and materials being used as well as different types and sizes of window openings. Whilst different from approval, it would acceptably relate to the character and appearance of Hill Rise.

Members noted that the applicant had added a garage which had not been in the original application.

Members asked if the Council had asked the applicant why the development had not been built in accordance with the planning permission as there were big changes made. Officers stated that the matter had not been raised and no information was given in the application.

Members asked about the balcony on the third floor and if it caused overlooking. Officers confirmed it was a protective railing for building control purposes and not an actual balcony that could be stood on.

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

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

RESOLVED:
(6 in favour and 7 against)

Following the defeated motion, it was proposed and seconded by Councillors S. Thusu and D. Panter

RESOLVED:
(7 in favour, 4 against and 2 Abstentions)

That planning permission be REFUSED due to the following reasons:

- overdevelopment within the area
- dominating design features (windows)

6. 6/2021/3367/MAJ - LUDWICK GREEN, LUDWICK WAY, WELWYN GARDEN CITY, AL7 3QN - ERECTION OF 1 X 3 STOREY BUILDING COMPRISING OF 14 NO DWELLINGS WITH ASSOCIATED ANCILLARY SPACE, LANDSCAPING WORK, CAR AND CYCLE PARKING, AND ALTERATIONS TO EXISTING ACCESS INVOLVING DEMOLITION OF EXISTING 8 UNIT FLAT BUILDING

Report of the Head of Planning for the redevelopment of the site following the demolition of the existing 8 one-bedroom flats building. The proposed building would comprise of 14 x 1 bedroom, 2 person apartments. It was stated that the development would be 100% affordable housing. The building would be sited in a similar location to the existing building, towards the northern side of the plot, set back from the front of the plot by approximately 6.7m. The proposed building would measure approximately 22.6m in width by 25.4m in depth and 10m in overall height. The building rises to three storeys in height with a two-storey projection to the side, designed with a mansard roof form with dormer window features to the front. There will be first and second floor balconies in the front, sides and rear elevations of the building. There would be three flats at ground floor, six flats on the first-floor level and five flats on the second floor. The upper storeys of the building would be served by a centrally located staircase. The development would be served by a parking and turning area at the rear of the building incorporating 14 parking spaces in total (6 of which would be provided within an under-croft area). A refuse store is proposed to the south adjacent to the existing substation and a 16 Secure Cycle Shelter & Bike Stands Parking area have been provided and is located on the north-eastern side of the site next to the secure car park. Access to the highway would be taken from the existing driveway from Ludwick Way on the western side of the site which has been widened to 4 metres to allow passing of vehicles. Pedestrian priority access is proposed through the site and the green space to the south and east. Following concerns raised by the Case Officer and the Highway Authority, revised plans were submitted by the applicant which included the relocation of the proposed rooftop plant on the rear of the building, removal of gates to the car park area,

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inclusion of secure cycle parking and minor amendments to the proposed access. Neighbours and relevant consultees were re-consulted for a period of 10 days for their information and comments as a result of the amended drawings received.

This application was presented to the Development Management Committee because the application is a Major application and Welwyn Hatfield Borough Council is the applicant.

Charlotte Hagerty, Agent stated that for this site, the existing residential building was deemed not fit for purpose and the site was identified by the council as ready for development to provide permanent affordable housing. Prior to the submission of the application, advice was sought from the planning department, resulting in a reduction on the overall massing of the proposal and an agreement on how to minimise impact upon neighbouring properties whilst maintaining architectural style appropriate to the context. A transport assessment was carried out by EAS transport planning to determine suitable number of parking spaces for the development. Secure cycle parking has also been included in the scheme. The online consultation was published to neighbouring properties and drawings were uploaded with opportunity to comment and ask questions provided. Elevations facing neighbouring gardens have no first-floor windows to prevent overlooking. Existing trees surrounding the site also offer further visual screening. The mansard roof reduces the visual impact of the street facing elevation. Further to this the building line is set back maintaining a buffer of soft landscaping to the front of the property intending to preserve the character of the garden city. The garden city architectural style is referenced throughout the design in both the materiality and the arrangement of the windows, balconies and dormers. The building will also benefit from the use of the air source heat pumps located on the roof. The pumps are set back from the main elevation and would have limited visibility from the street, they would also operate at low volume preventing any noise nuisance to the neighbours. Existing trees and vegetation retained at the site will be protected throughout construction in line with specialist advice.

Councillor Russ Platt, Ward Councillor stated that he was speaking on behalf of a resident at 94 Ludwick way who also had the support of other residents on Ludwick Way who all oppose the proposal. Residents support the development of Ludwick Green, however they cannot support the proposal in its current form. Residents feel the proposal is not sympathetic and in keeping with the neighbouring properties in the local area where properties are predominately of lighter brick work, have pitched roofs and hedgerows. The proposal's third storey would start at the pitch of its neighbours roofs and they will be a full storey higher than any building in the immediate area dwarfing those around and dominating the area. The proposal would deprive the opposite neighbours of light and privacy. The large living room windows would have unrestricted views into the bedrooms of the people opposite. There is concern about the development of the site and the environmental impact on the garden city by the removal of a substantial amount of greenery in the form of healthy trees, shrubs, hedgerows and grass. Residents urge the designers to reduce the quantity of dwellings and

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make the proposal a two-storey building. This will retain greenery, provide garden space for new residents and reduce the need for an undercroft car park, allowing the development to expand rearwards, removing a need for roof plant for fume extraction and reduce building height. The wheelchair accessible dwellings are badly positioned due to the distance to the dwellings and designated disabled parking spaces. The development is also within the estate management scheme (EMS), the Council should be leading an EMS compliant design and not recommend development that does not follow EMS rules.

Whilst some members liked the high number of one-bedroom social housing units as it was a modern property with enough parking others wanted to see a wider variety of housing mix.

Officers stated that regarding the impact on the neighbours to the east of the development, there is a separation created from the urban open land, there must be in excess of 30 metres distance from the development to their boundaries. There is a sufficient distance away from Salisbury Gardens to avoid any loss of amenity in terms of light, outlook and privacy. In terms of private amenities, there were balconies for the upper floor that would enable them to have some outdoor space.

The ground floor has an area to the front of the development which is adjacent to the urban open land, providing more opportunities for residents to enjoy the outdoors. There are also facilities nearby and services that they could utilise. In terms of housing mix, the proposal does fail to comply with the council's policy on housing mix which looks for more family sized buildings, but in terms of the planning balance for the proposal the council does not have a five year land supply. There is also the consideration that needs to be given of affordable housing and the housing team would be happy to enter into a unilateral undertaking to ensure that it does remain in place. This would generate significant benefits to the scheme, outweighing the negative impact caused by the housing mix.

Members asked how much a developer contributes to the sustainability statement. Officers stated that to comply with the conditions, the applicant would need to come up with measures as part of the development to demonstrate a 10% increase over building regulations in terms of energy efficiency. This could be achieved through features of the property, through the fabric itself or through the air source heat pump they are implementing.

Members asked how many EV charging points would need to be provided in order to comply with the planning condition. The original proposal included no details of EV charging points which was questioned by the Highway Authority who requested one charging point per unit. While the council does not have its own policy on EV charging points this has become a building regulation requirement for current and future applications.

Members sought clarification regarding any overlooking of the properties opposite the development. Officers stated that there would be 1st floor and

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upper floor windows overlooking between the properties but this will be at a distance of around 29 metres across the street and confirmed there is no set guidance on acceptable distances. Officers stated that this would be considered sufficient to avoid detrimental overlooking.

Members asked whether the locations of the disabled parking spaces could be amended as the inconvenient positioning of these spaces could lead to people parking on the streets; adding to pre-existing parking issues in the area. Officers stated that the parking spaces themselves are located within metres of the front doors of the property and are accessible by a pavement on the site. The applicant confirmed that the disabled parking spaces for the wheelchair accessible dwellings comply with M4(3) of the building regulations. The council are conditioning that the units meet the M4(2) of the building regulations so they are adaptable and usable for occupants.

Members asked about the SP7 policy and how it had been applied. Officers stated the application was a major development to redevelop the site by demolishing the existing building units and creating fourteen units. The council had to consider any policies that relate to the development including SP7 for the housing mix. There was also the need to address whether or not there is a need for financial contribution as a result of these six additional units which is a separate matter. The application is in conflict with SP7 housing mix however as with every application the council have to weigh up the pros and cons of the development. In this case the council considers that the social benefits outweigh the conflict of policy SP7.

Following further queries about going against policy, officers confirmed that there are a range of issues to be considered in every application. One of these being affordable housing. There will always be a large number of different policies that apply to any application and most applications do not meet every policy. Therefore the balancing act is to look at each policy and decide what weight can be given to each in the overall balance. It was noted that the council does not have to meet every policy for it to be a lawful decision.

Members were concerned about the accessibility for the disabled units and disabled car parking spaces and were concerned that disabled residents would not be able to go outside. Officers said that the amenity space at the front of the property was not ideal but the site was near the urban open land where there is plenty of high quality amenity space for residents. The disabled users parking in the car park had a distance to travel and the parking spaces were not covered. Officers considered having the spaces in the undercroft car park would be beneficial but they would also need to comply with the building regulations for accessibility. It was noted that the parking was based on zonal areas of the town and Ludwick was in Zone 3 and it would be 1.25 spaces per unit according to maximum guidelines.

Members asked about the 1.8 metre fence added as a condition for privacy. Officers stated that on the balcony on the first floor, residents would have views towards the north towards the rear end of the garden of 93A Ludwick Way.

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Although it is about 12 metres away from the balcony edge to the shared boundary of the garden the officers considered the need for a 1.8 metre tall side screen to avoid the possibility of overlooking.

Members were concerned about the design, size, height and scale of the proposal and the fact that the proposal was in the Estate Management Scheme area. The mansard roof was completely out of character and the design of the building was not in keeping with other buildings in the area. Officers stated that in terms of the design, height and scale, it does incorporate a purposeful stepped down from the two storey development to the north. There was no direct development to the south where the urban open land was located. It would not be as impactful having the third storey element. The mansard roof is of a neo Georgian design, the windows are to be in white and the glazing panels are larger but there are no particular window design style in the area.

When asked what weight should be given to the EMS concerns, officers confirmed that Planning and EMS are separate legislation independent of each other. It was noted that the Estate Management Officer was consulted and did not raise any concerns.

It was noted that the air source heat pumps will be located at the back of the property near the east towards the urban open land.

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

Following discussion, it was proposed and seconded by Councillors L. Musk and J. Cragg to accept the application and

**RESOLVED:
(13 in favour - unanimous)**

That PLANNING PERMISSION BE GRANTED subject to the conditions in the report.

7. 6/2020/3451/MAJ - WELLS FARM NORTHAW ROAD EAST CUFFLEY POTTERS BAR EN6 4RD - DEMOLITION OF EXISTING BUILDINGS AND ERECTION OF 14 DWELLINGS

This item was withdrawn from the agenda.

8. APPEAL DECISIONS

Report of the Head of Planning detailing recent appeal decisions for the period 1 April to 6 June 2022.

Members noted the planning appeal at 39A Roe Green Lane Hatfield AL10 0SH had been dismissed by the inspector.

RESOLVED:

That appeal decisions during the period 1 April to 6 June 2022 be noted.

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9. PLANNING UPDATE - FUTURE PLANNING APPLICATIONS

Report of the Head of Planning providing the Committee with a summary of planning applications that may be presented to DMC in future.

Members queried an application for Upper Bell Lane Farm Bell Lane, The Brookmans Park, Estate Bell Bar. There was no reason stated for the application to go to committee other than 'see attached file' and there were no files attached to the agenda. Officers stated that they will look into it and provide clarification to the committee.

RESOLVED:

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

Meeting ended at 9.33pm
VM