

Development Management Committee
19 July 2017

WELWYN HATFIELD COUNCIL

Minutes of a meeting of the DEVELOPMENT MANAGEMENT COMMITTEE held on Wednesday 19 July 2017 at 7.30 pm in the Council Chamber, Council Offices, The Campus, Welwyn Garden City, Herts, AL8 6AE.

PRESENT: Councillors S.Boulton (Chairman)
N.Pace (Vice-Chairman)

R.Basch, J.Beckerman, D.Bennett, A.Chesterman,
B.Fitzsimon, C.Gillett (Substituting for I.Dean),
M.Larkins, T.Lyons, T.Mitchinson, P.Shah, F.Thomson,
J.Weston, P.Zukowskyj

ALSO PRESENT: M.Perkins (Deputy Leader, Executive Member, Planning,
Housing and Community)

OFFICIALS PRESENT: Head of Planning (C.Haigh)
Principal Development Management Officer (A.Mangham)
Planning Officer (R.Collard)
Planning Obligations and Council Infrastructure Levy Officer (C.Robinson)
Solicitor for Development Management Committee (N.Katevu)
Governance Services Officer (M.Lowe)

26. SUBSTITUTIONS

The following substitutions of Committee Members had been made in accordance with Council Procedure Rules 19-22:

Councillor C.Gillett in place of Irene Dean.

27. APOLOGIES

Apologies for absence were received from Councillor I.Dean.

28. MINUTES

The Minutes of the meeting held on 22 June 2017 were approved as a correct record and signed by the Chairman.

29. DECLARATIONS OF INTEREST BY MEMBERS

Councillors S. Boulton and P. Zukowskyj declared a non-pecuniary interest in items on the agenda as appropriate by virtue of being members of Hertfordshire County Council.

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30. MERCURY HOUSE, 1 BROADWATER ROAD, WELWYN GARDEN CITY, AL7 3BQ - 6/2016/2624/FULL - CHANGE OF USE FROM B1(A) OFFICE TO C3 RESIDENTIAL, CONSTRUCTION OF ROOF AND SIDE EXTENSIONS, CREATION OF 43 RESIDENTIAL APARTMENTS AND CYCLE STORAGE COMPOUND

The report of the Executive Director (Public Protection, Planning and Governance) setting out the application seeking planning permission for the change of use from B1(a) office to C3 residential, construction of roof and side extensions, creation of 43 residential apartments and cycle storage compound.

The application site was located on the corner of the cross roads with Bridge Road East and Broadwater Road and comprised a three storey office building and its associated car park. The site was located within an employment area. However Members were asked to note that this particular area was changing by virtue of the introduction of residential developments close to the application site, which included the recent permission for the re-development of the Shredded Wheat Factory opposite.

The application site currently benefited from a large car parking area to the side and front boundaries, with limited soft landscaping along its boundaries.

The Proposal

The proposal would provide a total of 43 flats, 41 of which would be one bedroom flats and two would be two bedroom flats.

The proposed 43 dwellings comprised an increase of twelve dwellings from the development approved under the recent prior approval application (ref. 6/2016/2160/PN11). The proposal would result in the construction of an additional storey, a three storey side extension fronting Bridge Road East with balcony detailing and a roof top terrace.

Members were also asked to note that these changes were not possible under the application for prior approval, as the process did not allow for works which would constitute development as these required separate planning permission. The prior approval established that the building could be converted to residential, this application was seeking to justify a greater number of flats and a denser form of residential development.

Reason for Committee Consideration

The application was presented to the Development Management Committee by virtue of the proposed development being a departure from the Development Plan.

Officers referred to recent communication with the Council's acting solicitors (Trowers and Hamlins), Members were requested to note that revisions to the draft s.106 agreement was currently being prepared, which had not been

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itemised in the case Officer's report circulated with the agenda and related to the addition of fire hydrants obligation and the deletion of the nursery contribution.

Officers provided a verbal update to the Committee report which advised Members of the following.

"The deletion of the nursery contribution from the s.106 obligations, it should be clarified that the nursery contribution and Childcare Service contribution as stated at point 9.61 of the report had been amalgamated and therefore was now the Early Years contribution within the draft s.106 agreement currently being prepared, of which the sum remains unchanged. Additionally Hertfordshire County Council had sought the addition of a fire hydrants obligation.

Secondly there had been an amendment to paragraph 9.39 of the report – Highway and Parking matters, a new paragraph had been circulated and apologies for the lateness of this, however it was clarified that the maximum number of parking spaces sought at the application site in accordance with the Council's maximum car parking standards would be 33 and therefore the provision of 43 spaces as per the proposed scheme results in an overprovision of parking at the application site.

Finally there are minor amendments to Conditions 9 and 10, the word 'second' would be replaced with 'first' within Condition 9. Also 'flat 2' would be replaced with 'flat 24' within Condition 10."

Mr T.Waller (Agent) spoke in support of the application.

The Chairman advised the Committee that the increase of twelve dwellings could be completed under the recent prior approval application and that the parking provision met the required standards. Under the prior approval application the Council was not in a position to ask for 30% of the total number of units to be affordable housing but only from the twelve additional flats.

The Chairman proposed that any cladding used in the building materials was non-combustible.

Members, during the discussion which ensued, raised a number of serious and significant concerns regarding the proposal, which are set out below.

- The amount of "affordable" housing, comprising of four properties, agreed by the developer would not be affordable to the majority of those in the lower income bracket due to the market value.
- The number of affordable housing units offered by the developer under this application was considered to be inadequate when the total number of properties was taken into consideration (43 properties) by the Members of the Committee.
- The affordable housing was not 30% of the total number of properties proposed. Why had the developer not been asked to provide 30%

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affordable housing? It was reasonable to ask this of the developer considering the amount of profit which was likely to be made.

- The loss of employment land was against the ethos of Ebenezer Howard, the founder of the Garden City principles.
- The level of contaminated land on or near the site.
- The amount of monies proposed under the s.106 agreement was considered to be unreasonable considering the twelve additional dwellings and the impact on the local infrastructure. Particular reference was made to Peartree Primary School, which was already under pressure.
- The prior approval system appeared to allow developers an opportunity to bypass the system, particularly with regards to affordable housing.
- The viability of the site did not meet the Council's policy requirements.

The Chairman explained that Members and Officers had to consider the planning rules and law. An application could not be refused on the grounds that the proposal was disliked or that they considered there to be insufficient affordable housing or if the committee thought that there were insufficient s.106 contributions even though these had been agreed with the Council. The developer for this site would be able to build the 31 units granted under the prior approval permission and therefore the twelve additional properties are the difference effectively under consideration.

Officers referred Members to the report which set out the terms of affordable housing in relation to the application which sought consent for 43 residential units. The additional properties would be as a result of external alterations and extensions to the existing building. As such and in accordance with the Council's Planning Obligations Supplementary Planning Document, the Council could seek affordable housing on residential sites of 25 units or more. In accordance with Policy H7 a 30% proportion of affordable housing would be sought.

However as already addressed within the report, this site had permission via prior approval for the conversion of the office building to 31 residential units. The prior approval process did not allow the Council to seek any affordable housing and therefore the site had a fall-back position of 31 approved units with no affordable housing provision.

As part of the submission the applicant had stated that the proposal also seeks an increase in the number of units by twelve and had applied for Vacant Building Credit (VBC).

Guidance in relation to VBC states that affordable housing contributions may be required for any increase in floorspace. Where there was an overall increase in floorspace in the proposed development, the local planning authority should calculate the amount of affordable housing contributions required from the development as set out in their Local Plan.

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In this instance the design and access statement submitted as part of the application stated that no affordable housing was to be provided. However no viability evidence had been provided to demonstrate why this was not possible. In this particular case it was considered that affordable housing should be pursued but only on the floor space that was created by virtue of the extensions proposed. Through negotiations the applicant had agreed to provide 30% affordable housing, which had been applied to the increase in units (12) over the prior approval permission. As such the applicant had agreed to provide four, one bedroom, shared ownership units. The Council's housing team had confirmed that this proportion would be acceptable.

As the occupiers of the new residential development would have an impact upon local services, the contributions of total £22,553.46 (plus indexation) had been requested.

The Council considered it reasonable and necessary to seek an additional contribution of £1,127.67 (5% of total contributions), to ensure the continued and effective monitoring of these contributions.

Although the applicant had agreed in principle to these contributions, no legal agreement was in place at this time. However the s.106 agreement was with solicitors and it was anticipated that should permission be granted it was subject to the completion of an acceptable s.106 agreement.

The Head of Planning provided the following responses to the concerns raised by Members.

- The land on which the proposed development stood was not contaminated.
- Four affordable units was 30% of the twelve additional properties under the Council's adopted policy.
- Consideration could be given to the discussion around the viability of a site however the development would need to be built before it could be tested that it was viable. Generally a 20% profit was considered acceptable as the industry standard.
- Due to the complexities of the s.106 agreements and no more than five sites could contribute to one project the Council tried to target other developments. This system would be addressed by the introduction of the Council Infrastructure Levy (CIL) which would, hopefully, be introduced at the Council shortly.
- It was not felt that this particular development would impact greatly on the local primary school due to the low number of two bedroomed properties and the target market.

In summary, Members acknowledged there were larger issues relating to Government policy in relation to affordable housing and planning law.

It was then moved by Councillor J.Beckerman and seconded by Councillor N.Pace that planning permission be agreed subject to the satisfactory

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completion and signing of the reported s.106 agreement, the revised wording to the two reported planning conditions and an additional condition in respect of the external materials/cladding being non-combustible, (Officers to agree the wording of the condition with the Chairman).

RESOLVED:
(12 voting for, 3 against)

That planning permission be agreed subject to subject to the satisfactory completion and signing of the reported section 106 agreement, the revised wording to two reported planning conditions and an additional condition in respect of the external materials/cladding being non-combustible (Officers to agree the wording of the condition with the Chairman).

31. SECTION 106 PLANNING OBLIGATIONS REPORT

The report of the Executive Director (Public Protection, Planning and Governance) advises Members of how the Borough Council collects and spends Section 106 (s.106) monies and provides details of any remaining monies still to be spent.

The report also advised Ward Members that s.106 contributions could be sought from future developments above ten residential units and for Members to consider this in identifying related potential infrastructure requirements in their Wards. Contributions could also be sought from developments which included employment or retail uses.

Members considered how the Council should secure and spend s106 and Community Infrastructure Levy contributions in the future.

Officers, in response to questions from Members, confirmed the following.

- Discussions regarding s.106 agreements could take place at the pre-application stage, when applicants were invited to submit a Heads of Term for consideration by Officers on behalf of the Council. However the pre applications process was confidential therefore consultations were not carried out.
- Ward Members were consulted by email on planning applications in their Wards, as part of this process Officers were looking to include inviting Members to consider related potential uses of s.106 obligations/contributions for infrastructure requirements in their Wards. However Members needed to keep in mind obligations could only be sought where they met the necessary tests as stated in the report. Managing the expectations of Ward Members was an important part of the process.
- All Members were informed of all the applications by the weekly lists published.
- At present the intention was to adopt and implement the Community Infrastructure Levy (CIL) by the summer of 2018.

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The CIL Officer undertook to report back to the Member who questions the recommendations of the Review regarding the parish/neighbourhood's infrastructure requirements.

RESOLVED:

1. That the contents of the report which informed Members on how the Borough Council collected and spent s.106 monies and advised of monies still to be spent be noted.
2. That Section 106 contributions could be sought from future developments above ten residential units and the method of the identification of related potential infrastructure requirements in their Wards be noted.
3. That contributions could also be sought from developments, including employment or retail uses be noted.
4. The process for Members to give further consideration and comments on how they would like the Council to secure and spend Section 106 and Community Infrastructure Levy contributions in the future be noted.

32. APPEAL DECISIONS

The report of the Executive Director (Public Protection, Planning and Governance) detailed recent appeal decisions for the period 3 June 2017 to 6 July 2017.

RESOLVED:

That the appeal decisions during the period set out in the report of the Executive Director (Public Protection, Planning and Governance) be noted.

33. PLANNING UPDATE - FUTURE PLANNING APPLICATIONS

The report of the Executive Director (Public Protection, Planning and Governance) provided Members with a summary of planning applications that might be presented to Committee over the next one or two months. If the call-in or application was withdrawn, the item would not be presented.

RESOLVED:

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

Meeting ended at 8.45 pm
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