

WELWYN HATFIELD BOROUGH COUNCIL
DEVELOPMENT MANAGEMENT COMMITTEE – 16 JUNE 2016
REPORT OF THE DIRECTOR (GOVERNANCE)

6/2016/0252/FULL

LAND TO REAR OF 205-211 ST ALBANS ROAD WEST, HATFIELD, AL10 0SZ

ERECTION OF 5.NO COTTAGE STYLE DWELLINGS WITH ASSOCIATED CAR
PARKING FACILITIES AND LANDSCAPING, FOLLOWING DEMOLITION OF A
SINGLE GARAGE

APPLICANT: Mr M Attridge

(Hatfield Central)

1 Background

- 1.1 Members will recall this application being presented to the Development Management Committee (DMC) on 28 April 2016 under Planning Reference (6/2016/0252/FULL (see Appendix 1 for planning officer report).
- 1.2 At that Committee, Members approved a resolution to grant planning permission for the proposals subject to the satisfactory completion of a Section 106 agreement to provide a fire hydrant adjacent to the application site (to be signed by 28 July 2016).
- 1.3 At paragraphs 9.36 and 9.37 to the earlier officer report it stated, amongst other things, the following in respect of related planning obligations:

“9.36....Where a planning obligation is proposed for a development, The Community Infrastructure Levy Regulations 2010, which came into effect from 6 April 2010, has introduced regulation 122 which provides limitations on the use of planning obligations. In summary, a planning obligation may only constitute a reason for granting planning permission for the development if the obligation is –

- (a) necessary to make the development acceptable in planning terms;*
- (b) directly related to the development; and*
- (c) fairly and reasonably related in scale and kind to the development.*

Regulation 123 introduces further limitations and these relate to the use of planning obligations for the purpose of infrastructure. Where a local authority has a published list for infrastructure projects, the authority may not seek contributions through a legal agreement through section 106 of the Town and Country Planning Act 1990 (S106). In this case, the authority does not have a published list and therefore it is appropriate to seek contributions through an S106 legal agreement. This would be in accordance with policies M4 and IM2 of the Welwyn Hatfield District Plan 2005 and the Planning Obligations Supplementary Planning Document 2012.

9.7....*The proposed development gives rise to the necessity for the following obligations:*

1. Fire hydrant”.

- 1.4 However, during the process of investigating the details of the Fire Hydrant requirements the developer has made contact with Hertfordshire Fire & Rescue Service (Fire Protection- based at Mundells, Welwyn Garden City) and provided them with a drawing of the nearest hydrant and access route to it.
- 1.5 This situation has now been checked by the Fire Safety Inspector and the submitted plan (WD02-hydrant plan for the avoidance of doubt) by the developer is adequate for the access for fire appliances and provision of water supplies in connection with the development (See Appendix 2 Fire Safety Inspector Comments of 20 May 2016).

2 Reason for Committee Consideration

- 2.1 This application is presented to the Development Management Committee by virtue of the earlier Member resolution on 28 April 2016 (DMC) to grant planning permission subject to the satisfactory completion of a Section 106 agreement to provide a fire hydrant (to be signed by 28 July 2016).

3 Analysis

- 3.1 The planning issue to be considered in this submission is as to whether planning permission can now be issued for the said development proposal without the need for the developer to enter into a section 106 Agreement to provide a new fire hydrant. The principle of the development itself, neighbour representations and other issues are not part of this determination and cannot be revisited.
- 3.2 Whilst the County Council in consultation with the Fire and Rescue Service (Water Services Department) initially requested a S106 Obligation be completed to secure a fire hydrant, and having due regard to the Fire Safety Inspector comments in the email of 20 May 2016, officers are satisfied that the requirement and legal process to complete a “redundant” Section 106 Agreement for this development is not justified in these circumstances.
- 3.3 However, to fully safeguard the fire situation at the application site, it is recommended that an additional condition be imposed which links the fire hydrant proposals to approved drawing ‘WD02-hydrant plan’ and that the hydrant and associated details (access for fire appliances and provision of water supplies) are provided in accordance with the submitted and approved details to the Fire and Rescue Service.

4 Conclusions

- 4.1 The impacts of the proposal, both at the earlier DMC meeting of 28 April and in this report, have also been considered in relation to the impacts on visual impact of the area, amenity of neighbouring dwellings, other relevant material considerations and the fire safety implications. It is concluded that the proposal is in accordance with the relevant policies of the adopted Welwyn Hatfield District Plan 2005, adopted supplementary planning and design guidance and with the NPPF.

- 4.2 Turning to the fire and rescue issue, it is concluded that the applicant/developer does not now need to secure a fire hydrant by way of entering into a Section 106 Agreement and the attached condition will secure its future provision and availability.
- 4.3 The conditions below include the above as well as the changes to conditions that were agreed by Councillors on the 28 April 2016.

5 Recommendation

- 5.1 It is recommended that planning permission be approved subject to the safeguard of the following conditions and informatives :
1. C.30.1 – The development/works shall not be started and completed other than in accordance with the approved plans and details:

PL10A (Location Plan) & SK22D (Site Block Plan) & SK23A (Proposed Street elevati0n) received and dated 9.2.2016 and SK20D (Proposed Floor Plans) & SK21D (Proposed Elevations) & SK25B (Proposed Side and Rear Elevation) received and dated 5.4.2016.

REASON: To ensure that the development is carried out in accordance with the approved plans and details.

PRE-COMMENCEMENT
 2. No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented using the approved materials and subsequently, the approved materials shall not be changed.

REASON: To ensure a satisfactory standard of development in the interests of visual amenity in accordance with the National Planning Policy Framework and Policies D1 and D2 of the Welwyn Hatfield District Plan 2005.
 3. The development, including site clearance, must not commence until a detailed landscape plan, planting schedule and landscape specification have been submitted to the Local Planning Authority and approved in writing. The approved scheme shall be implemented within the first planting season following the completion of the development hereby approved. If any plant dies, becomes diseased or fails to thrive within a period of five years from the date of planting, or is removed, uprooted or destroyed, it must be replaced by another plant of the same kind and size and at the same place, unless the Local Planning Authority agrees to a variation beforehand, and in writing.
 - a) The detailed landscape plan and planting schedule must include details of the proposed planting including a plan, details of species, stock sizes and numbers/densities where appropriate.

b) All trees planted within hard surfaces or where hard surfaces will comprise a third of the expected semi-mature rooting area shall be planted in an area of structural soils or 3D cellular confinement system. The tree planting pit locations must be indicated on the landscape plan. A specification of tree planting pit dimensions (compliant with manufactures instructions or best arboricultural practice) and system installation must be given.

c) The landscape specification must include details of all the means by which successful establishment of the scheme will be ensured, including preparation of the planting area, planting methods, tree planting pit detail, watering, weeding, mulching, use of stakes and ties, plant protection and aftercare.

d) The landscape specification must include a clear and precise timetable for its implementation and details of the supervision of the planting and establishment over the five year period.

e) The landscape plan shall include details of the proposed location of bin collection point and details of means of enclosure and boundary treatments; and permeable surfacing details, for all hard surfacing.

REASON: The landscaping of this site is required in order to protect and enhance the existing visual character of the area and to reduce the visual and environmental impacts of the development hereby permitted in accordance with Policy D8 of the Welwyn Hatfield District Plan 2005.

4. No development shall take place (including site clearance, tree felling, tree pruning, demolition works, soil moving, temporary access construction and or widening or any operations involving the use of motorised vehicles or construction machinery) until a detailed Tree Protection Statement has been submitted to and approved in writing by the Local Planning Authority and the Tree Protection Plan works are in place. Subsequently, these works shall be carried out as approved.

The Tree Protection Statement shall include:

(a) A plan showing the location of and allocating a reference number to each existing tree on the adjacent Alban Way, that has a stem with a diameter (measured over the bark at a point 1.5m above the ground level) exceeding 75mm, and the crown spread and root protection area of each retained tree;

(b) details of the species, diameter (measured in accordance with paragraph (a) above) and the approximate height and an assessment of the general state of health and stability of each tree which is on land adjacent to the site;

(c) details of any proposed topping or lopping of any tree on land adjacent to the site.

(d) a plan showing the areas of on-site trees, or parts of trees growing from adjacent sites, to be protected and fencing, in accordance with the relevant British Standard (BS5837:2012 Trees in relation to design, demolition and construction - Recommendations) and identifying areas where no chemical or materials or equipment shall be stored, mixed or prepared and no fires or site washings within the RPA of the tree or under the canopy spread whichever is the greater.

e) Details of any proposed alterations in existing ground levels, and of the position of any proposed excavation within the crown spread of any retained tree, or any tree on land adjacent to the application site; or within a distance from any retained tree or any tree on land adjacent to the site equivalent to half the height of that tree.

f) Clearly show any demolition, construction or soil level changes to be undertaken within the proximity of the RPA of the retained trees,

g) Specify any other means needed to ensure that all of the trees to be retained will not be harmed during the development, including by damage to their root system, directly or indirectly.

No excavation for services, storage of materials or machinery, parking of vehicles, deposit or excavation of soil or rubble, lighting of fires or disposal of liquids shall be take place within any area designated as being fenced off or otherwise protected in the approved scheme.

The Tree Protection Plan works shall not be moved or removed temporarily or otherwise until all works, including external works, have been completed and all equipment machinery and surplus materials have been removed from the site.

The Arboricultural Method Statement must explain how the protection will be implemented, including responsibility for site supervision, control and liaison with the LPA. The development shall be carried out only within accordance with the approved documents. Trees on or adjacent to the site must be protected in accordance with the agreed statement throughout the period of the development.

REASON: The landscaping of this site is required in order to protect and enhance the existing visual character of the area and to reduce the visual and environmental impacts of the development hereby permitted in accordance with Policy D8 of the Welwyn Hatfield District Plan 2005.

5. Details of any external lighting proposed in connection with the development hereby approved, shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. The development shall not be carried out other than in accordance with the approved details.

REASON: In the interests of the visual amenities of the area and the residential amenity at neighbouring properties in accordance with Policy D1 of the Welwyn Hatfield District Plan 2005.

PRE-OCCUPATION

6. Prior to occupation the vehicular access (indicated for improvement on drawing number SK22D) shall be widened to a minimum width of 4.1 metres at the back edge of the highway.

REASON: To enable vehicles to pass clear of each other when entering/ exiting the site in the interests of highway safety.

7. Prior to the first occupation of the development hereby permitted) the proposed on-site car parking / servicing / turning areas shall be laid out, demarcated, levelled, surfaced and drained in accordance with the approved plan and retained thereafter for the free parking of vehicles for residents/occupiers of the development permitted and shall not be used for any other purpose.

REASON: To ensure the parking spaces and manoeuvring area are provided prior to the occupation of the units and made permanently available in the interests of highway safety in accordance with the National Planning Policy Framework.

8. Notwithstanding the provisions of Article 3 of the Town and Country Planning Use Classes Order 1987 and Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any orders revoking or re-enacting these Orders) this permission shall only permit the use of the five houses as dwelling houses (Use Class C3) and not as houses in multiple occupation (Use Class C4) and for no other use or purpose.

REASON: To enable the Local Planning Authority to fully consider the effects of development normally permitted by these Orders in the interest of protecting the residential amenity of adjoining occupiers in accordance with Policy D1 of the Welwyn Hatfield District Plan.

9. Before the commencement of the development hereby permitted, details of an additional first floor bedroom window in the rear elevation of Plots 2 and 3 shall be submitted to and approved by the Local Planning Authority. Details shall include size, position, glazing and opening details. The development shall be constructed in accordance with the approved details and retained in that condition thereafter.

REASON: To ensure a satisfactory standard of development in the interests of the amenity of future occupiers and to protect the residential amenity of adjoining occupiers in accordance with Policy D1 of the Welwyn Hatfield District Plan 2005.

10. Prior to the first occupation of the development hereby permitted) the fire hydrant specifications/proposals indicated on drawing WD02-hydrant plan shall be completed, constructed and made available in accordance with the approved details and the said fire hydrant retained and made available thereafter.

REASON: To ensure the parking spaces and manoeuvring area are provided prior to the occupation of the units and made permanently available in the interests of highway safety in accordance with the National Planning Policy Framework.

Informatives

1. The development will involve the numbering of properties and naming new streets. The applicant **MUST** contact Welwyn Hatfield Borough Council, Transportation (Cathy Wilkins 01707 357558 before any name or number is

proposed. This is a requirement of the Public Health Act 1875 and Public Health (Amendment) Act 1907.

2. The applicant is advised to take account of the provisions of The Party Wall Act 1996 insofar as the carrying out of development affecting or in close proximity to a shared boundary.
3. This planning permission should be read in conjunction with the S106 Agreement.
4. Any external lighting scheme should be designed to minimise light spill, in particular directing light away from the boundary vegetation to ensure dark corridors remain for use by wildlife as well as directing light away from potential roost/nesting sites.
5. The applicant is advised that the storage of materials associated with the construction of this development should be provided within the site on land which is not public highway, and the use of such areas must not interfere with the public highway. If this is not possible, authorisation should be sought from the Highway Authority before construction works commence. Further information is available via the website <http://www.hertsdirect.org/services/transtreets/highways/> or by telephoning 0300 1234047.
6. It is an offence under section 137 of the Highways Act 1980 for any person, without lawful authority or excuse, in any way to wilfully obstruct the free passage along a highway or public right of way. If this development is likely to result in the public highway or public right of way network becoming routinely blocked (fully or partly) the applicant must contact the Highway Authority to obtain their permission and requirements before construction works commence. Further information is available via the website <http://www.hertsdirect.org/services/transtreets/highways/> or by telephoning 0300 1234047.
7. Where works are required within the public highway to facilitate the new vehicle access, the Highway Authority require the construction of such works to be undertaken to their satisfaction and specification, and by a contractor who is authorised to work in the public highway. Before works commence the applicant will need to apply to Hertfordshire County Council Highways team to obtain their permission and requirements. Their address is County Hall, Pegs Lane, Hertford, Herts, SG13 8DN. Their telephone number is 0300 1234047.

POSITIVE AND PROACTIVE STATEMENT

The decision has been made taking into account, where practicable and appropriate the requirements of paragraphs 186-187 of the National Planning Policy Framework and material planning considerations do not justify a decision contrary to the development plan (see Officer's report which can be viewed on the Council's website or inspected at these offices).