

WELWYN HATFIELD BOROUGH COUNCIL
PLANNING CONTROL COMMITTEE – 1 MARCH 2012
REPORT OF THE DIRECTOR (STRATEGY AND DEVELOPMENT)

S6/2011/2092/CA

SALISBURY SQUARE, OLD HATFIELD, AL9 5AF

DEMOLITION OF EXISTING SHOPPING PARADE BUILDING WITH 7
MAISONETTES ABOVE INCLUDING RETAINING WALL STRUCTURES

APPLICANT: Gascoyne Cecil Estates

(Hatfield East)

1 Background

- 1.1 Planning application S6/2011/1994/MA for the redevelopment of Salisbury Square; demolition of existing shopping parade building with seven maisonettes above including retaining wall structures; construction of new road and layout of public spaces; erection of new building containing 19 flats and four shops with basements; new two level car park; erection of terrace of five houses with road and footways; access alterations, drainage and all ancillary works was the preceding item presented to the Committee prior to this application with a recommendation to grant planning permission subject to the satisfactory completion of a legal agreement before the expiry of 3 months from the date of this resolution (1st June 2012) to secure the planning obligations.
- 1.2 Due to the site being within a Conservation Area, Conservation Area consent is required for the demolition of the existing building on the site.

2 Site Description

- 2.1 The application site is currently occupied by 'The Parade', a row of seven retail units of approximately 630sqm with seven maisonettes located above. The remainder of the site is occupied by Salisbury Square itself, which provides an area of open space to the south of The Parade, and a surface car park to the north of The Parade providing 109 car parking spaces.
- 2.2 The application site extends to around 0.93 ha of land and covers Salisbury Square, the car park to the north and the route of the new road which is proposed to run from Great North Road in the-west, to Park Street in the south-east. The application site relates directly to an area which was comprehensively redeveloped in the early 1970's and most of the buildings and public spaces within and around the site date from this time. The resulting character and quality of the built environment in this area contrasts markedly with the more historic parts of Old Hatfield.
- 2.3 The site lies entirely within the Old Hatfield Conservation Area. None of the buildings within the application site are statutorily listed, although the site adjoins a number of Grade II Listed Buildings which front onto Park Street.

Part of the site towards the east and south-east site boundary falls within an Area of Archaeological significance.

- 2.4 While much of Old Hatfield is now in residential use, Salisbury Square stands out as an exception, with none of the buildings which surround it in residential use at ground floor level, and only around half of them in residential use on their upper floor, in the form of flats above shops. However, many of the shop units are now in A3 (restaurants & cafés), A4 (drinking establishments) or A5 (hot food takeaway) use. There are now very few shop units remaining in A1 retail use and these consist of a newsagent, a hairdresser and a small supermarket. Old Hatfield contains a number of offices, both surrounding Salisbury Square and along the southern end of Park Street. These are a valuable source of local employment and help to bring trade into the area for the local shops which remain.

3 The Proposal

- 3.1 This application seeks conservation area consent for Demolition of existing shopping parade building with 7 maisonettes above including retaining wall structures.

4 Planning History

- 4.1 Below is a summary of the planning history relevant to the current proposals:
- 4.2 S6/2011/1994/MA – Redevelopment of Salisbury Square; demolition of existing shopping parade building with 7 maisonettes above including retaining wall structures; construction of new road and layout of public spaces; erection of new building containing 19 flats and 4 shops with basements; new two level car park; erection of terrace of 5 houses with road and footways; access alterations, drainage and all ancillary works. Under consideration.
- 4.3 S6/2011/1102/PA – Redevelopment of Salisbury square comprising demolition of 1 - 7 Salisbury square and replacement with 3 blocks consisting of 1235m² of retail floorspace, 19 flats and 5 terraced houses plus associated car parking, landscaping etc (Development Consultation Forum held on 7 July 2011)
- 4.4 S6/2005/0432/FP – Erection of 8 x 2 bedroom dwellings, 6 x 3 bedroom dwellings, 1 x 1 bed flat and 2 x class b1 units following demolition of garages.
Granted 05 June 2007

5 Planning Policy

- 5.1 National Planning Policy
- PPS1: Delivering Sustainable Communities
PPS5: Planning for the Historic Environment
PPS9: Biodiversity and Geological Conservation
- 5.2 East of England Plan 2008
- ENV6: The Historic Environment

5.4 Welwyn Hatfield District Plan 2005

D1: Quality of Design
D2: Character and Context
R29: Archaeology

6 **Constraints**

- 6.1 This site lies entirely within the Old Hatfield Conservation Area. Part of the site towards the east and south-east site boundary falls within an Area of Archaeological significance as outlined in the Welwyn Hatfield District Plan 2005.

7 **Consultations**

- 7.1 **English Heritage** – No response (consultation expired 03/11/2011)

- 7.2 **Welwyn Hatfield Borough Council Environmental Health Department** – I have looked at the applications and have been contacted by either the agent or applicant. They appear to be reluctant to provide a noise report at this stage, which would be my preferred option. However, I do not think that the site would fall into NEC category C or D which would indicate refusal on noise grounds so can accept that noise exposure information could be provided at a later stage as part of a condition, if you were minded to approve application.

Most of the site is screened from the road and railway by existing buildings, but the proposal does include some flats which will face the gap between the public house and the block of buildings that form the bulk of the Western boundary to the site. These will be the residential units that will have the most significant exposure, and the degree of this would need to be established so that suitable attenuation measures could be put in place. We would be looking to ensure that the “good” internal noise levels indicated by BS8233 are not exceeded. If this could only be achieved with closed windows, the applicant would need to submit details of a suitable mechanical ventilation system which could provide sufficient ventilation under these circumstances.

- 7.3 **Hertfordshire Biological Records Centre** – A day time inspection of the building took place on 23rd November 2011. No signs or evidence of roosting bats was found and it was concluded that no further survey work was required at this time. However, the report recommends that a precautionary approach to demolition works is taken, particularly with regard to an area of hanging tiles at the eastern end of the south-facing aspects of Units 5A and 6A. The report also recommended that demolition work should take place during the period mid October – end of February.

HBRC recommendations:

The following conditions should be attached to any permission granted:

1. The area of hanging tiles at the eastern end of the south-facing aspects of Units 5A and 6A will be removed by hand in the presence of a licensed bat ecologist.
2. Demolition work on Units 5A and 6A will take place during the period mid-October – end of February.

8 Representations Received

8.1 The application was advertised by site notice, newspaper notice and neighbour notification letters. Two representations were received from neighbouring occupiers located within Salisbury Square and Park Meadow.

8.2 Summary of representations received:

- Business would suffer as the existing retail units are to be demolished before new premises are made available
- The development would result in the loss of the only accessible laundrette

9 Town Council

9.1 Hatfield Town Council – No response (consultation expired 03/11/2011)

10 Discussion

10.1 This application is presented to the Planning Control Committee as Welwyn Hatfield Borough Council has a land ownership interest in the application site and objections have been received.

10.2 The main issues to be considered are:

- 1. Impact on the character and appearance of the application site and surrounding area**
- 2. Impact on Protected Species**
- 3. Impact on Archaeology**
- 4. Other Material Considerations**

1. Impact on the character and appearance of the application site and surrounding area

10.3 In accordance with s.72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, Local Authorities have a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

10.4 Planning Policy Statement 5 sets out the national policy framework for considering development proposed in the historic environment. It sets out a “presumption in favour of the conservation of the historic environment”. In this context the proposal should “either sustain or where appropriate enhance the historic environment”. Policy HE7 and HE9 of PPS5 outline that the more significant the element of the historic environment that may be affected by the relevant proposal the greater the presumption in favour of conservation. Para.HE9.5 outlines that not all elements of a Conservation Area necessarily contribute to its significance. It goes on to state “where an element does not positively contribute to its significance, local planning authorities should take into account the desirability of enhancing or better revealing the significance of the...Conservation Area, including, where appropriate, through development of that element. This should be seen as part of the process of place-shaping’.

- 10.5 Para HE7.7 outlines that “where loss of significance is justified on the merits of new development, local planning authorities should not permit the new development without taking all reasonable steps to ensure the new development will proceed after the loss has occurred by imposing appropriate planning conditions or securing obligations by agreement’.
- 10.6 In addition to the above PPS1 is also relevant which has an emphasis on design and states that “design which is inappropriate in its context, or which fails to take the opportunities available for improving the character and quality of an area and the way it functions, should not be accepted”.
- 10.7 The site is likely to have been included within The Old Hatfield Conservation Area more because of its historic function as part of Old Hatfield, rather than as a reflection of the quality of its environment. The application site relates directly to an area which was comprehensively redeveloped in the early 1970’s and most of the buildings and public spaces within and around the site date from this time. This area is in need of regeneration as it has a poor appearance, characterised by a number of vacant shops and poor quality open space. The resulting character and quality of the built environment in this area contrasts markedly with the more historic parts of Old Hatfield. None of the buildings within the application site are statutorily listed, although the site adjoins a number of Grade II Listed Buildings which front onto Park Street. With regard to the demolition of the existing property, it is considered that subject to a high quality development on the site which meets the relevant policies within the District Plan, its demolition would not be detrimental to the character and appearance of the locality. However, it would be necessary that any development granted permission was constructed.
- 10.8 Demolishing the building and leaving the site vacant is not considered to be a positive enhancement of the Conservation Area. Consideration therefore needs to be given to what would replace the building following its demolition. In this instance, the accompanying application reference, N6/2011/1994/MA, for this site proposes for the erection of new building containing 19 flats and 4 shops with basements; new two level car park; erection of terrace of 5 houses with road and footways; access alterations, drainage and all ancillary works.
- 10.9 Overall the proposal is reflective of traditional development within the locality and the design and layout of the scheme would contribute positively towards reinforcing the character of Old Hatfield. The resulting bulk and scale of the development would be comparable to the existing buildings which front onto the Square whilst creating a stronger sense of enclosure and continuity. The proposed terrace houses would face a development of houses similar in design and scale creating a new street. The proposal takes advantage of the natural slope across the site to accommodate a decked car park within a compact area enclosed by development. It is considered that overall the scheme provides an efficient use of space that would be adequately compatible with the maintenance of the character and context of Old Hatfield Conservation Area. Therefore the proposed demolition would sustain the significance of the Conservation Area in accordance with PPS1, PPS5 and Policies ENV6 of the East of England Plan and D1 and D2 of the District Plan subject to an acceptable replacement scheme, which has been put forward in application N6/2011/1994/MA. However a condition would need to be placed on the permission to ensure that the new development was constructed when the building was demolished.

2. Impact on Protected Species

10.10 The presence of protected species is a material consideration, in accordance with PPS9 (Biodiversity and Geological Conservation), Natural Environment & Rural Communities (NERC) Act 2006 (section 40), Wildlife and Countryside Act 1981 as well as Circular 06/05.

10.11 Protected species such as great crested newts, otters, dormice and bats benefit from the strictest legal protection. These species are known as European Protected Species ('EPS') and the protection afforded to them derives from the EU Habitats Directive, in addition to the above legislation. Water voles, badgers, reptiles, all wild birds, invertebrates and certain rare plants are protected to a lesser extent under UK domestic law (NERC Act and Wildlife and Countryside Act 1981).

10.12 In the UK the requirements of the EU Habitats Directive is implemented by the Conservation of Habitats and Species Regulations 2010 (the Conservation Regulations 2010). Where a European Protected Species ('EPS') might be affected by a development, it is necessary to have regard to Regulation 9(5) of the Conservation Regulations 2010, which states:

10.13 *"a competent authority, in exercising any of their functions, must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions."*

10.14 The Conservation Regulations 2010, (Regulation 41) contains the main offences for EPS animals. These comprise:

- "Deliberate capture or killing or injuring of an EPS"
- "Deliberate taking or destroying of EPS eggs"
- "Deliberate disturbance of a EPS" including in particular any disturbance which is likely –
 - (a) to impair their ability –
 - (i) to survive, to breed or reproduce, or to rear or nurture their young, or,
 - (ii) in the case of animals of a hibernating or migratory species, to hibernate or migrate, or
 - (b) to affect significantly the local distribution or abundance of the species to which they belong
- "Damage or destruction of a EPS breeding site or resting place" (applicable throughout the year).
 - e.g. bat maternity roost (breeding site) or hibernation or summer roost (resting place)
 - e.g. great crested newt pond (breeding site) or logpiles / piles of stones (resting place)
 - e.g. dormice nest (breeding site or resting place (where it hibernates)

- 10.15 In some circumstances a person is permitted to 'derogate' from this protection. The Conservation Regulations 2010 establishes a regime for dealing with such derogations via the licensing regime administered by Natural England. The approval of such a license by Natural England may only be granted if three strict "derogation" tests can be met:
- the activity to be licensed must be for imperative reasons of overriding public interest or for public health and safety;
 - there must be no satisfactory alternative; and
 - favourable conservation status of the species must be maintained.
- 10.16 Notwithstanding the licensing regime, the Council as Local Planning Authority (LPA) has a statutory duty to have regard to the requirements of the Habitat Directive and therefore should give due weight to the presence of an EPS on a development site. Therefore in deciding to grant permission for a development which could affect an EPS the LPA should:
- a) Consider whether an offence to an EPS is likely to be committed by the development proposal.
 - b) If the answer is yes, consider whether the three "derogation" tests will be met.
- 10.17 A LPA failing to do so would be in breach of Regulation 9(5) of the Conservation Regulations 2010 which requires all public bodies to have regard to the requirements of the Habitats Directive in the exercise of their functions.
- 10.18 A phase 1 Bat Assessment was undertaken on the 23 November 2011 to check for bats or signs of bats. The assessment included an internal and external inspection of each of the buildings to be demolished and an inspection of the 17 trees which would be affected by the proposal. No evidence of roosting bats was found at the time of the survey. The submitted report summarises from the lack of evidence internally and externally that it is unlikely that there are bat roosts present in any of the properties included within the development proposals. The area with the greatest potential for roosting bats is under the hanging tiles at the eastern end and south-facing aspect of units 5A and 6A. All trees likely to be affected by the development were assessed as having 'low' potential to support roosting bats.
- 10.19 As it is rarely possible to conclude with certainty that crevice-dwelling bats are absent from a building and an area of hanging tiles has some potential to support crevice dwelling species, as a precautionary measure, it was recommended that the demolition and construction works are scheduled to avoid the bat hibernation period of mid-October to end of February inclusive. Therefore, should planning permission be granted, it would be reasonable to attach planning conditions as suggested by Hertfordshire Biological Records Centre.

3. Archaeology

- 10.20 The site lies partly within and adjacent to Area of Archaeological Significance No.17 and so Policy R29 applies. An archaeological desk-based assessment which has been submitted with this application notes that the potential for surviving archaeological remains in the area of the car park is medium but lower across the rest of the site. The County Archaeologist was consulted on

this application and advised that the proposed development is likely to have an impact on heritage assets and a planning condition was suggested. The suggested condition is considered both reasonable and necessary to provide properly for the likely archaeological implications of this development proposal in accordance with Planning Policy Statement 5.

4. Other Material Considerations

10.21 **East of England Plan 2008:** On 10th November 2010, The High Court quashed the decision of the Secretary of State for Communities and Local Government to unilaterally revoke Regional Spatial Strategies in England on two grounds:

- That he acted outside his statutory powers in circumventing the need for parliamentary scrutiny of such a fundamental change to the national planning system; and
- He failed to consider the likely environmental effects of revoking Regional Strategies

10.22 However, the Government is still committed to the abolition of Regional Spatial Strategies through the Localism Bill. In the meantime, the policies in the East of England Plan are re-established and form part of the development plan again and are therefore a material consideration which can be taken into account in reaching a decision. However, the Government's intention to abolish Regional Spatial Strategies is also a material consideration that could be considered to reduce the weight to be attached to policies in Regional Spatial Strategies.

10.23 The application has been considered against policies in the East of England Plan, which at the time of this decision forms part of the development plan for the Borough but that the weight accorded to these policies, in light of the above circumstances, has been carefully considered in reaching a decision.

11 Conclusion

11.1 No objections are raised to the principle of the demolition works proposed subject to any new development adequately sustaining the character of this part of Old Hatfield. The applicant has submitted a planning application for the erection of new building containing 19 flats and 4 shops with basements; new two level car park; erection of terrace of 5 houses with road and footways; access alterations, drainage and all ancillary works (reference S6/2011/1994/MA), which would provide a development that would sit comfortably within this part of Old Hatfield and the Conservation Area. The applicant has therefore demonstrated to the satisfaction of the Local Planning Authority that the redevelopment of the site would enhance or better reveal the significance of the Conservation Area. The proposal would therefore sustain or enhance the character and appearance of the application site or the Welwyn Garden City Conservation Area in accordance with PPS5.

12 Recommendation

12.1 It is recommended that this application is approved, subject to the following conditions:

1. C.2.1 – Time Limit

2. C.13.1 – The development/works shall not be started and completed other than in accordance with the approved plans and details 789-010K & 789-020E & 789-110E & 789-111D & 789-112C & 789-113C & 789-114C & 789-115B & 789-140A & 789-150 & 789-151 & 789-152 & 789-153 & 789-155B & 789-156A & 789-157A & 789-158A & 789-159A received and dated 28 September 2011 & 789-109P & 789-120C & 789-130E received and dated 1 December 2011

PRE DEVELOPMENT

3. Demolition of the building shall not take place until a contract for the carrying out of works of demolition and redevelopment has been made and confirmed. Details of the contract for the redevelopment shall be submitted to and accepted in writing by the Local Planning Authority prior to the commencement of those works.

REASON: To protect the character and appearance of the area prior to the commencement of any future development in accordance with PPS1 and PPS5 and ENV6.

4. No demolition/development shall take place/commence until an Archaeological Written Scheme of Investigation has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of archaeological significance and research questions; and:
 - i. The programme and methodology of site investigation and recording as suggested by the archaeological evaluation
 - ii. The programme for post investigation assessment
 - iii. Provision to be made for analysis of the site investigation and recording
 - iv. Provision to be made for publication and dissemination of the analysis and records of the site investigation
 - v. Provision to be made for archive deposition of the analysis and records of the site investigation
 - vi. Nomination of a competent person or persons/organisation to undertake the works set out within the Archaeological Written Scheme of Investigation.

REASON: To ensure that a historical record is kept of any archaeological finds due to the implementation of the development and to comply with Planning Policy Statement 5: Planning and the Historic Environment, Policy ENV6 of the East of England Plan 2008 and Policy R29 of the Welwyn Hatfield District Plan 2005.

5. The building shall not be occupied/used until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition 4 above and the provision made for analysis,

REASON: To ensure that a historical record is kept of any archaeological finds due to the implementation of the development and to comply with Planning Policy Statement 5: Planning and the Historic Environment and policy ENV6 of the East of England Plan 2008

6. The area of hanging tiles at the eastern end of the south-facing aspects of Units 5A and 6A will be removed by hand in the presence of a licensed bat ecologist.

REASON: To comply with the requirements of the Wildlife and Countryside Act and Habitats Regulations and to protect species of conservation concern in accordance with PPS9 Policy ENV3 of the East of England Plan 2008 and Policy R11 and R16 of the Welwyn Hatfield District Plan 2005.

7. No demolition works shall be carried out on Units 5A and 6A between the 1st October and 28th February inclusive in any year, unless otherwise approved in writing by the Local Planning Authority.

REASON: To comply with the requirements of the Wildlife and Countryside Act and Habitats Regulations and to protect species of conservation concern in accordance with PPS9 Policy ENV3 of the East of England Plan 2008 and Policy R11 and R16 of the Welwyn Hatfield District Plan 2005.

8. No demolition or vegetation clearance works shall be carried out on site between the 1st March – 1st August inclusive in any year, unless otherwise approved in writing by the Local Planning Authority.

REASON: To protect wintering, roosting, feeding, resting, breeding birds in accordance with the Wildlife and Countryside Act 1981 (As amended) and Policy ENV3 of the East of England Plan 2008 and Policy R11 and R16 of the Welwyn Hatfield District Plan 2005.

SUMMARY OF REASONS FOR THE GRANT OF PERMISSION:

The proposal has been considered against PPS1, PPS5, PPS9 and the East of England Plan ENV6 and policies D1, D2 and R29 of the Welwyn Hatfield District Plan 2005, in addition to the Human Rights Act 1998, which indicate that the proposal should be approved. Material planning considerations do not justify a decision contrary to the Development Plan (see Officer's report which can be inspected at these offices).

Mark Peacock (Strategy and Development)

Date 14 February 2012

Background papers to be listed (if applicable)