

**WELWYN HATFIELD COUNCIL – DEVELOPMENT CONTROL
DELEGATED REPORT**

APPLICATION No:	S6/2012/0083/FP
APPLICATION Site:	Unit 129 The Galleria

NOTATION:

This site is located within the town of Hatfield as outlined in the Welwyn Hatfield District Plan 2005.

DESCRIPTION OF SITE:

The Galleria is a major shopping and leisure facility located between junctions 3 and 4 of the A1(M) motorway. The Galleria was constructed between 1988 and 1991 on top of a motorway tunnel and adjacent to Comet Way (A1001) which provides access to the site.

The application site comprises Unit 129 which is situated at ground floor level within The Galleria shopping mall. The unit has a gross floor area measuring approximately 606sqm. Unit 129, like all other units within The Galleria shares all the various facilities in terms of servicing, fire escapes, access via stairs, escalators and lifts, car and cycle parking and other amenities associated with the Centre.

DESCRIPTION OF PROPOSAL:

This application seeks full planning permission for use of the existing exhibition area (use class D1) as either an exhibition area or children's play area (use class D1). A flexible planning permission is sought under the provisions of Part 3, Class E of the Town and Country Planning (General Permitted Development) Order 1995 to enable either use to be carried out within a period of up to 10 years.

PLANNING HISTORY:

Planning applications relevant to the current planning application:

S6/2008/0866/FP – Change of Use from Exhibition Space to Retail Use (A1)
(Withdrawn 14/11/2008)

S6/87/0075/FP – Retail Development with Associated Leisure Facilities (Granted
06/04/1987)

SUMMARY OF DEVELOPMENT PLAN POLICIES:

National Planning Policy:

PPS1: Delivering Sustainable Development

PPS4: Planning for Sustainable Economic Growth

PPS9: Biodiversity and Geological Conservation

PPG13: Transport

PPG14: Development on Unstable Land

East of England Plan 2008:
SS1: Achieving Sustainable Development
ENV3: Biodiversity & Earth Heritage
ENV7: Quality in the Built Environment
T14: Parking

Welwyn Hatfield District Plan 2005:
GBSP2: Towns and Specified Settlements
SD1: Sustainable Development
R3: Energy Efficiency
D1: Quality of Design
D2: Character and Context
M14: Parking Standards for New Developments
TCR3: Out of Centre Retail Development
CLT10: Nurseries and Childcare Facilities
Supplementary Planning Guidance, Parking Standards, January 2004

CONSULTATIONS

Environmental Health – No response (consultation expired 16/02/2012)
Director of Social Services – No response (consultation expired 16/02/2012)

TOWN/PARISH COUNCIL COMMENTS

Hatfield Town Council – No response (consultation expired 16/02/2012)

REPRESENTATIONS

The application was advertised by site notice and neighbour notification letters. No representations were received.

DISCUSSION:

The main issues are:

1. Whether the Proposed Change of Use is Acceptable in Principle
2. Impact on the Amenity of Adjoining Occupiers
3. Impact on Highways and Parking
4. Other Material Considerations

1. Whether the Proposed Change of Use is Acceptable in Principle

The proposal would involve the temporary substitution of one type of Class D1 use (an exhibition area), for another Class D1 use (a children's play area). From the details provided, it does not appear that the amount of floorspace occupied by the proposed use would differ from the existing use. The proposed development would therefore not involve a change of use as it is also in Class D1.

The proposed development accords with criteria of District Plan Policy CLT10: Nurseries and Childcare Facilities in that it has adequate parking and dropping off facilities.

The Galleria is an existing shopping and leisure facility. Although an out of town location, the Galleria is Hatfield's main comparison goods and leisure offer. Unit 129 is situated at ground floor level within The Galleria shopping mall. A key part of the original planning permission for the Galleria restricted the amount of retail floorspace (Use Class A1). The proposed flexible planning permission would not result in an increase in retail floorspace, therefore, it is unlikely that either of the proposed uses

would prejudice the vitality or viability of Hatfield Town Centre. The proposed development is considered to be in accordance with the relevant national policies and guidance, policies within the East of England Plan 2008, the Welwyn Hatfield District Plan 2005 and the requirements of the Supplementary Design Guidance (Statement of Council Policy).

2. Impact on the Amenity of Adjoining Occupiers

The proposed change of use would have no significant impact on the residential amenity of neighbouring occupiers by virtue of the location of the application site within The Galleria centre. No representations have been received from the occupiers of neighbouring properties of Hatfield Town Council.

3. Impact on Highways and Parking

No change is proposed to existing access and parking arrangements. The proposal would involve the temporary substitution of one type of Class D1 use for another Class D1 use, therefore, the amount of D1 floorspace would not increase or decrease. The parking requirement would remain the same and the proposal would not have an unreasonable impact on the safety and operation of the adjoining highways.

5. Other Material Considerations

Sustainable Development: The applicant has completed a sustainability checklist which highlights that the scheme generally responds positively to the topic areas that are required to be considered in accordance with policies SD1 and R3 of the Welwyn Hatfield District Plan 2005 and Supplementary Design Guidance, 2005.

Chalk Mining: The application site is located in the Hatfield chalk mining assessment area. However, as the Galleria and the entire application site were constructed above the Hatfield Tunnel, the risk from chalk mines is therefore reduced.

Protected Species: 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. 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: *"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."* The Conservation Regulations 2010, (Regulation 41) contains the main offences for EPS animals, however the existing site and development is such that there is not a reasonable likelihood of EPS being present on site nor would a EPS offence be likely to occur. It is therefore not necessary to consider the Conservation Regulations 2010 further.

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

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.

The application has been considered against policy(ies) 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.

CONCLUSION:

The proposed development is considered to be in accordance with the relevant national policies and guidance, policies within the East of England Plan 2008, the Welwyn Hatfield District Plan 2005 and the requirements of the Supplementary Design Guidance (Statement of Council Policy).

RECOMMENDATION: APPROVAL WITH CONDITIONS

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 1825/SK101 P01 & 1825/SK01 P01 & 1825/SK02 P01 & 1825/SK03 P01 & 1825/SK04 P01 & 1825/SK05 P01 & 1825/SK06 P01 & 1825/SK07 P01 & 1825/SK08 P01 & 1825/SK09 P01 received and dated 12 January 2012

SUMMARY OF REASONS FOR THE GRANT OF PERMISSION:

The proposal has been considered against Planning Policy Statement/Guidance PPS1, PPS4, PPS9, PPG13 and PPG14, East of England Plan 2008 policies SS1, ENV3, ENV7, T14 and development plan policies GBSP2, SD1, R3, D1, D2, M14, TCR3, CLT10 and Supplementary Design Guidance of the Welwyn Hatfield District Plan 2005, in addition to the Human Rights Act 1998, which, at the time of this decision 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).

INFORMATIVES:

1. INF9 – Chalk Mining

Signature of author..... Date.....