

WELWYN HATFIELD COUNCIL  
PLANNING CONTROL COMMITTEE – 20 JANUARY 2011  
REPORT OF THE DIRECTOR (STRATEGY AND DEVELOPMENT)

N6/2010/2461/FP

FORMER CEREAL PARTNERSHIP, HYDE WAY, WELWYN GARDEN CITY, AL7 1RR

RETENTION OF USE OF LAND INTO A TEMPORARY CAR PARK FOR 12 MONTHS

APPLICANT: Mr Neil Edwards, Green Parking Limited

(Peartree)

**1 Site Description**

- 1.1 The application site is located at the western end of Hyde Way. The main line railway station adjoins the western side of the site and the main pedestrian access from the east of the railway crosses over the site by way of a foot bridge. The site measures approx. 50 by 60 metres. The site is surrounded by a 2 metre palisade fence and there is a small hut in the north east of the application site.

**2 The Proposal**

- 2.1 This application proposes the retention of the change of use of this site from B2 to a commuter car park (Sui Generis) for a temporary 12 month period. There are 130 parking spaces including 3 disabled bays. A cabin has been erected in the north eastern corner of the site.

**3 Planning History**

- 3.1 N6/2010/2055/MA - Full Planning Permission for part demolition, repair, restoration, extension and conversion of the former Shredded Wheat factory complex to provide retail (A1 & A3), business (B1), heritage centre (D1), energy centre, new leisure centre building and Civic Square building including residential and retail (A1 to A5). Associated alterations to existing vehicular and pedestrian access and highway layout within and around the site, including the creation of two vehicular access ramps to basement parking, hard and soft landscaping, the provision of a civic square, park, public and private open space, pedestrian walkways to include the upgrade of the existing pedestrian footpath over the railway line and associated enabling works. Outline Planning Permission for development of land to the west and south of the shredded wheat factory to comprise the following uses: Retail (A1 & A5), business (B1), hotel (C1), residential, to include: houses, flats, care home and YMCA (C2 & C3); doctors surgery and pharmacy (D1); with all matters reserved apart from means of access – Under consideration.
- 3.2 N6/2010/2060/LB - Works for and including part demolition, repair, restoration, extension and conversion of the former Shredded Wheat factory complex to

provide retail (A1 and A3), business (B1), heritage centre (D1) and energy centre – Under consideration.

- 3.3 N6/2003/1557/FP - Installation of new 6mtr. car park lighting scheme following removal of existing scheme – Granted 18/12/2003
- 3.4 N6/2003/0112/LB - Installation of wheat sampling equipment - Withdrawn 26/02/2003
- 3.5 N6/2002/1219/FP - Installation of boiler flue ductwork – Granted 23/09/2002
- 3.6 N6/2001/0715/FP - Installation of floodlighting in lorry park area – Granted 16/07/2001
- 3.7 N6/1996/0539/FP - Retention of temporary office building - Granted 02/08/1996
- 3.8 N6/1992/0408/LB - Erection of two porches over existing staircases and enlargement of two windows - Granted 28/09/1992
- 3.9 N6/1992/0407/FP - Erection of two porches over existing entrances – Granted 28/09/1992
- 3.10 N6/1992/0406/LB - Alterations to silo elevation - Granted 03/08/1992
- 3.11 N6/1992/0391/FP - Infill of existing ground floor windows fronting Broadwater Road - Granted 20/07/1992
- 3.12 N6/1991/7039/AD - Erection of three non-illuminated signs - Granted 30/09/1991
- 3.13 N6/1991/0679/LB - Erection of 3 non-illuminated signs - Granted 07/10/1991
- 3.14 N6/1981/0186/ - Site for road / rail freight depot – Withdrawn

#### **4 Planning Policy**

##### 4.1 National Planning Policy:

PPS1: Delivering sustainable development  
PPS4: Economic development  
PPG13: Transport  
PPS23: Pollution Control

##### 4.2 It is recommended that the application be considered against the East of England Plan, which at the time of this decision forms part of the development plan for the borough.

East of England Plan 2008:

SS1: Achieving Sustainable Development  
SS2: Overall Spatial Strategy  
SS3: Key Centres for Development and Change  
T1: Regional Transport Strategy Objectives and Outcomes  
T2: Changing Travel Behaviour  
T3: Managing Traffic Demand  
T4: Urban Transport  
T5: Inter Urban Public Transport  
T14: Parking

ENV7: Quality of the Built Environment

4.2 Hertfordshire Structure Plan Review:

None

4.3 County Council Local Transport Plan Long Term Local Transport Plan

4.4 Welwyn Hatfield District Plan 2005:

SD1: Sustainable Development

GBSP2: Towns and specified settlements

R3: Energy Efficiency

R7: Protection of Ground and Surface Water

M14: Parking standards for new developments

D1: Quality of design

D2: Character and context

D7: Safety by Design

D9: Access and Design for people with disabilities

EMP1: Employment Areas

EMP2: Acceptable Uses in Employment Areas

EMP3: Mixed Use Development Site at Broadwater Road West

4.5 Supplementary Design Guidance, February 2005 sections:

Section 2 – Design Principles

Section 3 – General Design Guidance

Section 4 – Sustainability Checklist

4.6 Supplementary Planning Guidance, Parking Standards, January 2004

4.7 Welwyn Hatfield District Plan, Broadwater Road West, Supplementary Planning Document, December 2008

## **5 Constraints**

5.1 The site lies within Welwyn Garden City in the Employment Area EA1 as designated in the Welwyn Hatfield District Plan 2005.

## **6 Representations Received**

6.1 This application has been advertised by site notice and neighbour notifications. No representations have been received.

## **7 Consultations Received**

7.1 **Hertfordshire County Council, Transportation Planning and Policy** – Initial comments: The application should be refused as it is contrary to the aims of PPG13 (Transport) and the County Council Local Transport Plan Long Term Local Transport Plan Strategies.

Following the submission of the additional information on 13 December 2010, comments: On balance the sustainability arguments being made by PPG13 regarding the relationship between availability/provision of car parking and sustainable transport outweigh the benefit of the proposal in terms of reducing vehicle journey length that may result (once again no evidence has been

provided) from the introduction of an additional car park on the other side of the town

7.2 **Environmental Health** – No objection

7.3 **Environment Agency** – Comments due by 11 January 2011. Any comments received will be presented as late representations at the PCC meeting.

7.4 **Hertfordshire Constabulary** – Comments due by 18 January 2011. Any comments received will be presented as late representations at the PCC meeting.

## **8 Discussion**

8.1 **The main issues to be considered are:**

1. **Whether the proposed development complies with Policies EM3.**
2. **Impact on the character and appearance of the surrounding area.**
3. **Safety by Design**
4. **Sustainable Development**
5. **Pollution**
6. **Protected Species**
7. **Temporary Permission**
8. **Other Material Planning Considerations**

### **1. Whether the proposed development complies with Policies EM2 and EM3**

8.2 Policy EMP3 states that development of the site within Employment Area EA1 should be in accordance with the criteria in Policy EMP2 and other relevant policies of the Plan relating to the uses proposed. It also states that development shall comply with a Development Brief to be approved by the Council as a supplementary planning document. In accordance with this the Council has subsequently published the Broadwater Road West Supplementary Planning Document (SPD) in December to 2008.

8.3 The Broadwater Road West SPD provides a brief for the comprehensive redevelopment of the of the Broadwater Road West site for mixed use development comprising primarily employment, housing, leisure and rail-related uses. The proposed car park would not comply with the objectives for the redevelopment of this site as set out in the SPD and, more specifically, would directly conflict with the content of paragraph 6.72 which states:

*“No parking should be accommodated for station use, and elsewhere residential street parking should be controlled by permits to prevent general parking”.*

The reason for stating that “[n]o parking should be accommodated for station use” is that it would conflict with the comprehensive redevelopment of the Broadwater Road West Site as set out in the SPD and it would conflict with the policy aims of PPG13 and East of England Plan Policy T1, which both seek to increase and promote opportunities for travel by means other than the car, particularly walking, cycling and public transport.

8.4 Policy EMP2 sets out five criteria for assessing proposed developments in this location. The proposal will be considered against each of these in turn:

- (i) The proposal would not, due to the scale of employment generated, have an unacceptable impact on the demand for housing in the travel to work area.
- 8.6 Only one full-time and one part-time member of staff operate the car park. Regardless of the length of time the car operates in this location, it is not considered that it would have an unacceptable impact on the demand for housing in the travel to work area.
- (ii) The proposal would not have an unacceptable impact on the local and/or strategic transport infrastructure.
- 8.7 Original no information/evidence was submitted by the applicant to demonstrate that the development would not have an unacceptable impact on the local and/or strategic transport infrastructure. On the 19<sup>th</sup> November 2010 a letter was sent to the applicant requesting a variety of additional information to be submitted in support of the proposed development. With regard to the impact on the local and/or strategic infrastructure the letter stated:
- “Planning Policy Guidance Note 13: Transport’ sets out the national planning framework for, among other things, the basis for considering proposals for the provision of public car parks. The overriding aim of PPG13 is to reduce the reliance on the car and to promote other more sustainable methods of transport. The Local Planning Authority is not aware for the need for additional public car parking in this location. The provision of further car parking is likely to increase the reliance on the car contrary to PPG13 and runs counter to the objective set out in the adopted District Plan (paragraph 6.8) to reduce dependency on the car and encourage modes of travel that have less adverse environmental impact. Consequently it is advised that a parking needs survey should be submitted to demonstrate the purported need for this additional parking area”.*
- 8.8 Subsequently it would appear that the applicant hired an agent to act on their behalf. On the 26<sup>th</sup> November 2010 the agent contacted the planning officer to clarify what was additional information was required. The Case Officer highlighted that it was not simply a case of demonstrating that the existing long-term car parks were at capacity, it was about demonstrating that there was a further need for additional transport provisions to this location and that a car park was the most appropriate method for meeting this demand, opposed to more sustainable transport methods in line with national/regional/local policy and the Hertfordshire County Council's Local Transport Plan. The Case Officer highlighted that the information that had subsequently become available to them demonstrated that there was a surplus of approx. 100 parking spaces in the Osborne Road Car Park alone. They also highlighted that the comments were now available on the Council's website from the Hertfordshire County Council – Transportation Planning and Policy, which supported the concerns raised in their letter dated 19<sup>th</sup> November 2010.
- 8.9 On the 13 December 2010 an email was received from the agent. With regard to the impact on local and strategic transport infrastructure it states:

*“The primary objective of PPG13 is to reduce the need to travel, especially by car. Reducing the length of car trips is clearly in line with that objective because it reduces the overall propagation of vehicle emissions.*

*PPG13 also recognises that the provision of parking at urban and suburban rail stations can increase the potential catchment population for rail services (but can at the same time exacerbate road congestion in the surrounding area). The existing long-stay car parking for rail commuters from Welwyn Garden City is all located on the west side of the railway line, in the town centre. People driving to the station from the large residential areas on the east side of the town, and beyond in that direction must, therefore, cross the railway line by one of the limited number of bridges, and drive into the town centre in order to access that car parking. The parking itself operates close to its practical capacity meaning that it can be difficult to find a space at times.*

*The proposed temporary car park is on the eastern side of the railway tracks, and is, therefore, much more accessible to those approaching from the east. Its use will therefore reduce traffic congestion on the limited number of bridges across the railway, and within the town centre. Making the station car parking facilities more easily accessible to the large numbers of people approaching from the eastern side of the town, improves the attractiveness of making the main commuter journey by rail rather than continuing the whole journey by car. In that way, the proposals are consistent with the objectives of PPG13’.*

- 8.10 The statements made in the email are very general and appear to be based on general assertions rather than any evidence. For example, it states *“Its use will therefore reduce traffic congestion on the limited number of bridges across the railway and within the town centre”*. It is eluded that this will solve an existing problem, but does not actually state this and no evidence is submitted to support this statement. A temporary car park in this location may temporarily reduce traffic on routes to the other long stay car parks, but there is no evidence to suggest that this would be a benefit in the short-term or that this benefit would be sufficient to overcome the concerns that the proposal would only serve to promote the use of car contrary to the provisions of PPG13, East of England Plan Policy T1, T2 and the Broadwater Road West SPD. In addition, it states that the car park will be *“more easily accessible to the large numbers of people approaching from the eastern side of the town”*. Again, there is no evidence to suggest that the majority of people currently using this car park do actually live in the eastern side of the Garden City.
- 8.11 Promoting other methods of transport other than the car takes time and requires a comprehensive transport strategy for an area, as set out in the County Council's Local Transport Plan Long Term Local Transport Plan which states that *“[c]ar parking is one of the key elements in managing the highway network and encouraging alternatives to the car. The overall aims of the parking strategy include reducing dependence on the car, particularly in town centre”*. Even if the car park is considered on a short term basis, this would result in significant set back in encouraging people to utilise more sustainable means of transport.
- (iii) The proposal would not harm the amenities of any nearby residential properties.

- 8.11 The impact of the proposed development on the residential amenity of neighbouring dwellings is considered in terms of the impact on neighbouring properties access to day/sun/sky light, privacy, overshadowing and noise/nuisance. Giving consideration to the scale of the proposed development, the siting of car park and the short term nature of the proposal, it is considered that the car park does not have an unreasonable impact on the daylight or sunlight afforded to the neighbouring residency or the level of privacy they currently enjoy.
- 8.12 It is considered that the proposal would sufficiently maintain the amenity of adjoining occupiers in accordance with Policy D1.
- (iv) The development would provide adequate parking, servicing and access.
- 8.13 The application is for a car park and, therefore, it is not considered that additional parking would be required to meet the needs of the development. In addition, there are no concerns with the access onto the western end of Hyde Way.
- (v) Any retail element of the development would clearly be ancillary to the main business use.
- 8.14 There would be no retail element with in the proposed development

## **2. Impact on the character and appearance of the surrounding area**

- 8.15 Policies GBSP2, D1 and D2 of the Welwyn Hatfield District Plan set out the general design approach to be adopted in respect of development proposals within the Borough. The Supplementary Design Guidance; Statement of Council Policy 2005 provides further detailed guidance as to how new development should respect and relate to the character and context of the area in which it is located.
- 8.16 Whilst no specific details have been submitted, it would appear that the only change to the appearance of the site is the erection of the small hut in the north eastern corner of the site. It is small in scale and screened by the palisade fencing. Given the context of the site and the short term nature of the application it is not considered that it is to the detriment of the visual amenity of the application site in accordance with policies GBSP2, D1 and D2.

## **3. Safety by design**

- 8.17 No details are supplied of the provision of a safe pedestrian access between their cars and the railway footbridge. A number of the parking spaces are under the foot bridge and are not directly overlooked even at peak times when there is steady flow of pedestrians across the bridge. No details have been provided about lighting when it is dark and there do not appear to be lights on the site. Consequently, it is considered that insufficient information has been submitted to demonstrate that the proposal would comply with the requirements of Policy D7.

## **4. Sustainable Development**

- 8.18 The applicant has failed to submit a statement assessing the proposals against the sustainability checklist contained within the Supplementary Design Guidance. The proposals are considered not to be in accordance with policies R3 of the District Plan and SD1 of the Supplementary Design Guidance.

## 5. Pollution

- 8.19 PPS23 promotes the precautionary principle when dealing with pollution/contamination. When dealing with planning applications it states that:

*“the potential for contamination to be present must be considered in relation to the existing use and circumstances of the land, the proposed new use and the possibility of encountering contamination during development. The LPA should satisfy itself that the potential for contamination and any risks arising are properly assessed and that the development incorporates any necessary remediation and subsequent management measures to deal with unacceptable risks including those covered by Part IIA of the EPA 1990. Intending developers should be able to assure LPAs they have the expertise, or access to it, to make such assessments.”*

- 8.20 The application site was previously used for general industry and is sited adjacent to the main line railway. There are large holes in the tarmac that forms the surface of the site, and this does not appear to have been altered since the car park has occupied the site. It is therefore considered reasonable to suspect contamination from the former industrial use on the site. However, no ground works have been proposed and the proposed use does not fall into the category as those classed as a ‘sensitive use’ in PPS23.

- 8.21 No information was submitted with the application with regard to contaminated land. Following a requested for further information, the email from the agent on 13<sup>th</sup> December 2010 stated:

*“Green Parking have liaised with Tesco who have undertaken work in connection with contaminated land as part of their planning application scheme. It has been confirmed by Tesco that there are no contamination issues with regard to the area where the temporary car park is sited”.*

- 8.22 However, no evidence has been submitted that this is the case and the statement is overly vague. Whilst it would not be reasonable to require a full contamination investigation due to the nature of the proposed use, it is considered reasonable to require an initial survey to be conducted to assess the presence of any contamination. Consequently, if planning permission is granted, this application will be subject to an appropriately worded condition.

## 6. Protected Species

- 8.23 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 an EPS offence be likely to occur. It is therefore not necessary to consider the Conservation Regulations 2010 further.

## 7. Temporary Permission

- 8.24 The car park is proposed for a one year temporary period and should be considered on that basis. Circular 11/95 states:

*“In deciding whether a temporary permission is appropriate, three main factors should be taken into account. First, it will rarely be necessary to give a temporary permission to an applicant who wishes to carry out development which conforms with the provisions of the development plan. Next, it is undesirable to impose a condition requiring the demolition after a stated period of a building that is clearly intended to be permanent. Lastly, the material considerations to which regard must be had in granting any permission are not limited or made different by a decision to make the permission a temporary one”.*

- 8.25 The applicant has used the first factor to justify why they do not think the Broadwater Road West SPD is not relevant to the consideration of this application. However, the Local Planning Authority do not agree that this means that developments, which do not comply with the development plan, should simply be granted temporary permission if requested. In contrast the Local Planning Authority considers that it means if a temporary permission is requested for a development that fully complies with the development plan, generally there would be no need to restrict the development/use for a temporary period and full planning permission should be granted instead.
- 8.26 With regard to the second factor, only a small temporary hut has been erected and this could easily be removed once the use ceases. Consequently, it is not considered that conditioning this application requiring the removal of this building would be inappropriate in this instance.
- 8.27 The third factor relates to material considerations to which regard must be had in granting any permission. The only material consideration put forward by the applicant to justify the development is that the *“continued use for temporary parking as opposed to leaving the site vacant, provides an onsite presence and degree of security”*. However, during the site visit there was no one present on the site and there is limited perspective of the wider Broadwater Road Development Site from the application site. There is already a regular flow of people walking along Hyde Way and there is no evidence to suggest that there is a need for an on-site presence given the location of the site.
- 8.28 The applicant may have volunteered this as a temporary permission, but no information/evidence has been put forward to demonstrate what planning circumstances will change at the end of the one year period. There is an application in by the land owner for the redevelopment of the whole area of the site that they own, but there is no indication that development will start on the site in a year's time and that the development will then cease to exist.
- 8.29 Even if a definitive end could be demonstrated for the siting of the car park in this location, there is no link between limiting the time frame of the use and the

material consideration put forward to justify the development. The material considerations are not considered sufficient to outweigh the impact of the car park on the aims of PPG13 and East of England Plan T1, T2 and limiting the time frame of the development would not serve to reduce or alter the impact of the proposed development as detail above. It is, therefore, considered that the only reason for granting a temporary permission in this instance would be to limit the time frame for which it would have an impact, which is considered to be contrary to the guidance in Circular 11/95.

- 8.30 Circular 11/95 also outlines that temporary permissions may also be acceptable in order to trial the acceptability of a proposed development. It is not considered that this would be appropriate in this instance, as the evidence available to the Local Planning Authority clearly indicates that the proposed development would be contrary to National, Regional and Local policies.

## **8. Other Material Considerations**

- 8.31 **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.

- 8.32 Whilst the Government is still committed to the abolition of Regional Spatial Strategies through the Localism Bill, which is expected to begin its passage through Parliament before Christmas, 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.

- 8.33 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

## **9 Conclusion**

- 9.1 It is considered that the car park in this location would fail to comply with the development brief in the Broadwater Road West SPD and would promote the use of the car opposed to more sustainable types of transport contrary to PPG13 and East of England Plan Policy T1. The proposal would, therefore, be contrary to the requirements of Policy EM3.

- 9.2 In this instance, it is considered that applicant has failed to demonstrate to the satisfaction of the Local Planning Authority that a condition restricting the use for a one year period would limit or alter the impact of the development. It would, therefore, fail to comply with the guidance in Circular 11/95.

## **10 Recommendation**

- 10.1 It is recommended that planning permission be refused for the following reason:

The proposal, by virtue of its location, siting and number of spaces would result in an over provision of car parking spaces within Welwyn Garden City town centre and accordingly, would encourage increased travel and dependency on motor vehicles, as opposed to encouraging other sustainable and less environmentally damaging modes of travel. The proposal would therefore be contrary to the aims and objectives of PPG13: Transport, East of England Plan Policies T1, T2, Policy EMP3 and the Broadwater Road West Supplementary Planning Document (Adopted December 2008) of the Welwyn Hatfield District Plan 2005 and the Hertfordshire County Council Local Transport Plan. The applicant has failed to prove to the satisfaction of the Local Planning Authority that any material considerations exist to warrant a decision other than in accordance with these policies and guidance.

Sam Silcocks (Strategy and Development)

Date 04/01/11

Background papers to be listed (if applicable)

