

**WELWYN HATFIELD BOROUGH COUNCIL
EXECUTIVE DIRECTOR - PLANNING, PUBLIC PROTECTION AND GOVERNANCE**

DELEGATED APPLICATION

Application No: 6/2018/0642/VAR
Location: 37 Broadwater Road Welwyn Garden City AL7 3AX
Proposal: Variation of condition 16 (approved plans) on planning permission 6/2016/2497/MAJ
Officer: Ms Louise Sahlke

Recommendation: Refused

6/2018/0642/VAR

Context				
Site and Application description	<p>The application site is located on the eastern side of Broadwater Road and comprises a two storey office building and its associated car park. Broadwater Road is located within an employment area whereby a number of commercial premises can be seen. However it should be noted that the area is changing by virtue of residential developments seen in close proximity to the application site.</p> <p>The application property currently benefits from a relatively large car parking area with limited soft landscaping.</p> <p>Immediately to the south lies a pedestrian footpath providing access from Broadwater Road to Peartree Lane.</p> <p>Planning permission for the change of use of an office building to form 24 x 2 bedroom residential apartments with balconies, the construction of an additional two storeys and a four storey side and rear extension with roof garden, layout of 26 car parking spaces and cycle parking, internal access routes, landscaping and supporting infrastructure was granted planning permission on 27th April 2017 (ref:6/2017/2419/VAR). Condition 16 of that permission stated:</p> <p><i>‘The development/works shall not be started and completed other than in accordance with the approved plans and details:</i></p>			
	Plan number	Revision Number	Details	Received Date
	312.AS.02		Existing Elevations	7 December 2016
	312.AS.01		Existing Floor Plans	7 December 2016
	312.AS.03		Existing Site Plan	7 December 2016
	312.AB.05		Location Plan	7 December 2016
312.AB.02	B	Proposed Floor	17 February	

			Plans Second & Third Floor	2017
312.AB.01	B		Proposed Floor Plans Ground & First Floor	17 February 2017
312.AB.04	E		Proposed Site Plan	10 March 2017
687.16.1			Landscape Plan	14 December 2016
40299_5501_S K01	B		Tracking Plan	17 February 2017
40299_5501_S K02	B		Tracking Plan	17 February 2017
<p><i>REASON: To ensure that the development is carried out in accordance with the approved plans and details'.</i></p> <p>This application is submitted for some changes to the proposed scheme. The changes include:</p> <ul style="list-style-type: none"> • Better internal arrangement of flats and value engineering for means of escape; • Minor alterations to windows. <p>These alterations have been submitted as drawings number</p> <p><i>Proposed plans ground floor and first floor (drawing number 100 Rev F)</i> <i>Proposed plans second and third floor (drawing number 101 Rev F)</i> <i>Proposed elevations (drawing number 102 Rev D)</i> <i>Proposed elevations (drawing number 103 Rev D)</i> <i>Proposed plans roof plan (drawing number 105)</i> <i>Proposed site plan (drawing number 106 Rev A)</i> <i>Proposed site plan (drawing number 107)</i> <i>Proposed bin shed (drawing number 206)</i></p> <p>All dated 18/5/2018.</p> <p>On comparison of the proposed and approved plans, it is noted that the agent has made further amendments, these are discussed under the background section below.</p> <p>All other aspects of the proposal would remain the same as previously permitted.</p>				
Constraints (as defined within WHDP 2005)	<p>LBC - LISTED BUILDING 1938-40 by Otto R Salvisberg of Zurich in - Distance: 28.36</p> <p>EMPL - EA1 (Welwyn Garden City Industrial Area) - Distance: 0</p> <p>Wards - Peartree - Distance: 0</p> <p>FM10 - Flood Zone Surface Water 100mm (2712958) - Distance: 0</p> <p>FM10 - Flood Zone Surface Water 100mm (2763729) - Distance: 0</p> <p>FM00 - Flood Zone Surface Water 1000mm (7569731) - Distance: 0</p> <p>FM00 - Flood Zone Surface Water 1000mm (7660626) - Distance: 0</p>			

	<p>HEN - No known habitats present (medium priority for habitat creation) - Distance: 0</p> <p>SAGB - Sand and Gravel Belt - Distance: 0</p> <p>tpos - TPO151 G2 - Distance: 7.63</p> <p>tpos - TPO151 G3 - Distance: 0</p> <p>tpos - 780 (2018) G2 - Distance: 5.71</p> <p>tpos - 780 (2018) G3 - Distance: 0</p>
<p>Relevant planning history</p>	<p>Planning</p> <p>Application Number: N6/1998/0988/FP Decision: Granted Decision Date: 12 February 1999</p> <p>Proposal: Demolition of existing single storey building and erection of two storey extensions to existing building</p> <p>N6/1983/0359/ - Two storey block of offices and workshop accommodation (class IV) - Approved 7th July 1983</p> <p>Application Number: N6/2000/0368/FP Decision: Granted Decision Date: 08 May 2000</p> <p>Proposal: ERECTION OF THREE METRE HIGH METAL FENCE TO SOUTHERN BOUNDARY</p> <p>Application Number: N6/2015/0615/OR Decision: Granted Decision Date: 14 May 2015</p> <p>Proposal: Prior approval for the change of use from use class B1(a) (offices) to use class C3 (dwellinghouses) creating no.3 three bedroom flats, no.5 two bedroom flats, and no.4 one bedroom flats</p> <p>Application Number: 6/2016/1318/PN11 Decision: Prior Approval Required and Granted Decision Date: 05 September 2016</p> <p>Proposal: Prior approval for the proposed change of use from office (class B1) to residential (class C3)</p> <p>Application Number: 6/2016/2497/MAJ Decision: Granted Decision Date: 16 May 2017</p> <p>Proposal: Change of use of an office building to form 24 x 2 bedroom residential apartments with balconies, the construction of an additional two storeys and a four storey side and rear extension with roof garden, layout of 26 car parking spaces and cycle parking, internal access routes, landscaping and supporting infrastructure.</p> <p>Application Number: 6/2018/0254/COND Decision: Part Discharged</p>

	Decision Date: 22 March 2018		
	Proposal: Submission of details pursuant to condition 1 (material samples), 2 (hard and soft landscape), 3 (details regarding sedum roof), 4 (surface water drainage), 5 (construction management plan), 6 (bin storage), 7 (cycle storage) and 8 (noise levels) on planning permission 6/2016/2497/MAJ, dated 16/05/2017		
Consultations			
Neighbour representations	Support: 1	Object: 0	Other: 0
Publicity	Site Notice Display Date: 22 May 2018 Site Notice Expiry Date: 12 June 2018 Press Advert Display Date: 28 March 2018 Press Advert Expiry Date: 25 April 2018		
Summary of neighbour responses	None		
Consultees and responses	<p><u>WHBC - Client Services – Objection.</u></p> <p>The bin store would need to have double doors which open outwards.</p> <p>As advised in the original application the requirement will be for 4 x 1100 litre containers and 1 x MRC (mini recycling centre). The bin store on the documents here show 10 bins and a single door opening inwards, this needs to be revised.</p> <p>Also like to see a swept path diagram showing the freighter entering and exiting the site in a forward motion, please use the Bin Store Planning Guidance for our vehicle dimensions.</p> <p><u>Lead Local Flood Authority – No objection subject to clarification.</u></p> <p>Have no objection on the proposed variation of condition 16 on the surface water grounds.</p> <p>However, we have noticed that the applicant is proposing now a Single PLY Roof. If this will impact the approved drainage strategy on the development site, the LPA should seek a clarification from the applicant. The LPA should make sure that the approved drainage strategy will be implemented on the site.</p> <p>Please note if the LPA decide to vary the condition, we wished to be notified for our records should there be any subsequent surface water flooding that we may be required to investigate as a result of the new development.</p> <p><u>Hertfordshire County Council - Historic Environment Advisor – No objection.</u></p> <p><u>Hertfordshire County Council - Hertfordshire Transport Programmes & Strategy – No objection.</u></p>		

	<p><u>Hertfordshire County Council Development Services – No comments.</u></p> <p><u>WHBC - Public Health and Protection – No comments</u></p> <p><u>Hertfordshire Constabulary - Support:</u></p> <p>Environment Agency – No comments received.</p> <p>Thames Water, Development Control – No comments received.</p> <p>Welwyn Hatfield Borough Council - Matt Rayner - Community Partnerships Manager – No comments received.</p> <p>Herts Biological Records Centre – No comments received.</p> <p>Welwyn Hatfield Borough Council - Landscapes Department – No comments received.</p> <p>WHBC - Affordable Housing – No comments received.</p>
Relevant Policies	
<ul style="list-style-type: none"> • National Planning Policy Framework 2012 • Welwyn Hatfield District Plan 2005 • Draft Local Plan Proposed Submission 2016 • Supplementary Design Guidance, February 2005 (SDG) • Supplementary Planning Guidance, Parking Standards, January 2004 (SPG) • Interim Policy for Car Parking Standards and Garage Sizes, August 2014 • Planning Obligations 2012 <p>Planning application reference 6/2016/2497/MAJ was assessed against Draft Local Plan Proposed Submission 2016. This document is currently going through the examination process with the Planning Inspector and is at advanced stage holding significant weight.</p>	
Main Issues	
Background	<p>The Case Officer has noted that there are minor amendments to the proposed elevations when compared to the approved plans. These have not been applied for under this application. However as these are demonstrated clearly on the plans, it is considered that assessment can be undertaken and further neighbour consultation is not required.</p>
Whether the site is required to meet future employment requirements and business and community needs	<p>The principle of development was discussed under planning application reference 6/2016/2497/MAJ. The loss of the site to residential use within the employment area was assessed against both Policy EMP2 of the District Plan 2005 and Policy SADM10 of the Draft Local Plan Proposed Submission 2016.</p> <p>It is not considered that there is any material change in planning policy which would impact on the principle of development. Therefore it remains that the employment use of the building has effectively ceased. Therefore the principle of development is considered acceptable in regards to the National Planning Policy Framework 2012, Policy EMP2 of the District Plan 2005 and Policy SADM10 of the Draft Local Plan Proposed Submission 2016.</p>

<p>Whether the principle of residential development is acceptable</p>	<p>The principle of residential development was discussed under planning application reference 6/2016/2497/MAJ. The application for windfall residential development was assessed for the potential and suitability against relevant criteria and considered acceptable.</p> <p>The application was assessed against Policies H2, SD1 and R1 of the District Plan 2005.</p> <p>Policy SADM1 of the Draft Local Plan Proposed Submission 2016 has some similarities to Policy H2 of the District Plan 2005. However, Policy SADM1 of the Draft Local Plan Proposed Submission 2016 also introduces new criteria on ensuring that proposals do not undermine the delivery of allocated sites or the overall strategy of the plan or result in disproportionate growth taking into account the position of a settlement within the settlement hierarchy.</p> <p>Policy SP1 of the Draft Local Plan Proposed Submission 2016 is similar in the aims of Policies SD1 and R1 of the District Plan 2005.</p> <p>It is not considered that there is any material change in planning policy which would impact on the principle of residential development. Therefore the principle of development is considered acceptable in regards to the National Planning Policy Framework 2012, Policies H2, SD1 and R1 of the District Plan 2005 and Policy SADM1 of the Draft Local Plan Proposed Submission 2016.</p>
<p>Affordable housing</p>	<p>The Draft Local Plan Proposed Submission has been submitted for examination. The examination is at its latter stages. Policy SP7 has been independently tested by the Planning Inspector and found to be sound. Therefore this policy hold significant weight and applies under this current application.</p> <p>Policy SP7 of the Draft Local Plan Proposed Submission 2016 requires the proposed development of 24 self-contained units should provide 30% affordable housing. The application has failed to provide on-site affordable housing or a viability assessment to justify the lack of provision of affordable housing. Therefore, the proposal fails to comply with the National Planning Policy Framework 2012 and Policy SP7 of the Draft Local Plan Proposed Submission 2016.</p>
<p>Design (form, size, scale, siting) and Character (appearance within the streetscene)</p>	<p>An assessment of the previous planning permission took into account the design and scale of the proposal. This proposal seeks permission to vary that permission by:</p> <ul style="list-style-type: none"> • Removal of lift shaft; • Relocation and resizing of second lift shaft; • Alterations to windows; • Increase in the depth of the canopy; • Increase and relocation of the service areas now called plant room; • Increase in the floorspace of flats; • Internal alterations to the floor plans such as windows; • Removal of planters from balconies; • Change of sedum roof to single ply roof.

	<p>In relation to the elevational changes to the scheme, these would not negatively alter the contextual design and built form of the proposal. The proposed elevational alterations would not significantly impact upon any of the other material considerations that were relevant under the original application. These considerations weigh substantially in favour of the scheme.</p> <p>The sedum roof was considered to soften the bulk and mass of the proposal and to match those on the opposite side of the road and to ensure that the proposal is in keeping with the key, soft landscaping ethos of the garden city. The change of the sedum roof to a single ply roof would not be highly visible from the public realm and therefore on balance its removal is considered acceptable.</p> <p>The internal alterations to the built form are considered acceptable and are not considered to impact on the bulk, size and massing of the proposal.</p> <p>The NPPG governs the use of conditions in planning and the power to impose conditions when granting planning permission is very wide. If used properly, conditions can enhance the quality of development and enable many development proposals to proceed where it would otherwise have been necessary to refuse planning permission. The objectives of planning, however, are best served when that power is exercised in such a way that conditions are seen to be fair, reasonable and practicable. Conditions should only be imposed where they are necessary and reasonable, as well as enforceable, precise and relevant both to planning and to the development to be permitted. In relation to this proposal, a successful application to amend conditions results in the issue of what is in effect a new planning permission, but does not cancel the old permission.</p> <p>It is reasonable therefore that the current planning application should be subject to the same conditions as the previous planning application, 6/2016/2497/MAJ whereby conditions were applied, as they remain in accordance with the tests set out in paragraph 206 of the NPPF.</p> <p>It is recommended that suitably worded conditions are attached to ensure compliance with the approved details. Where conditions have been agreed, their wording has been amended accordingly.</p> <p>Therefore subject to conditions, the proposal is considered acceptable in regards to the National Planning Policy Framework 2012, Policies D1, D2 and D8 of the District Plan 2005 and Policies SADM SP9, SP10, SADM11 and SADM12 of the Draft Local Plan Proposed Submission 2016.</p>
<p>Impact on the Setting of the Listed Buildings</p>	<p>The impact on the setting of the Listed Buildings was discussed under planning application reference 6/2016/2497/MAJ. It was considered that the proposal would lead to less than substantial harm to the setting of the listed buildings and would provide benefits in the form of new housing in a sustainable location.</p> <p>It is not considered that there is any material change in planning policy which would impact on the impact on the setting of the Listed Buildings.</p>

	Therefore the principle of development is considered acceptable in regards to the National Planning Policy Framework 2012, and Policy SADM15 of the Draft Local Plan Proposed Submission 2016.
Impact on neighbours	<p>The proposed amendments are not considered to result in any additional loss of privacy or overlooking to neighbouring properties.</p> <p>The Council's Environmental Health Officer's raise no objection to the relocation of the plant machinery in regards to noise or disturbance.</p> <p>Therefore the proposal is in accordance with the National Planning Policy Framework 2012, Policies D1 and D2 of the District Plan 2005 and Policy SADM11 of the Draft Local Plan Proposed Submission 2016.</p>
Access, car parking and highway considerations	It is not considered that there is any material change in planning policy which would impact on the impact on the proposed access, highway or parking. Therefore is considered acceptable in regards to planning policy.
Landscaping Issues	The submitted site plan does not demonstrate the full extent of landscaping as agreed under application 6/2016/2497/MAJ. However as it states that it is a site plan only and not a landscape plan. The Local Planning Authority expect the level of landscaping in the form of planters on the balconies agreed as per the major application to be fully implemented on site.
Other Material considerations	
Fire and Rescue	The internal works demonstrate that the second staircase and lift shaft would be removed to allow for an increase in the floorspace of flats. The Fire and Rescue Department have not commented in regards to this planning application. However the Local Planning Authority would not be able to refuse planning permission based on this matter. However the removal of the second staircase and lift shaft would have to meet building regulations which would also cover any harm to fire safety.
Waste Management	It is not considered that there is a material change in planning policy. However amended plans were submitted following comments from Welwyn Hatfield Client Services. These plans do not overcome the requirements and therefore it is considered that a relevant condition is needed should planning permission be granted.
Flooding and drainage	<p>It is not considered that there is a material change in planning policy.</p> <p>An amended Flood Risk Assessment and Surface Water Strategy was submitted to overcome the concerns raised by the Lead Local Authority.</p> <p>The Lead Local Flood Authority were initially consulted on the application and do not wish to raise an objection on flood risk grounds. However they asked for clarification in regards to the removal of the sedum roof.</p> <p>The Case Officer has discussed the amended Flood Risk Assessment and Surface Water Strategy with the Lead Local Flood Authority and the conclusions are considered acceptable. However the</p>

	Lead Local Authority would expect if this application was approved that this Flood Risk Assessment and Surface Water Strategy would be conditioned as part of any approval.
Planning Obligations	The proposed increase in the floorspace of the flats is not considered to require an amended S106.
Conclusion	
Policy SP7 of the Draft Local Plan Proposed Submission 2016 requires the proposed development of 24 self-contained units should provide 30% affordable housing. The application has failed to provide on-site affordable housing or a viability assessment to justify the lack of provision of affordable housing. Therefore, the proposal fails to comply with the National Planning Policy Framework 2012 and Policy SP7 of the Draft Local Plan Proposed Submission 2016.	

Reasons for Refusal:

1. Policy SP7 of the Draft Local Plan Proposed Submission 2016 requires the proposed development of 24 self-contained units should provide 30% affordable housing. The application has failed to provide on-site affordable housing or a viability assessment to justify the lack of provision of affordable housing. Therefore, the proposal fails to comply with the National Planning Policy Framework 2012 and Policy SP7 of the Draft Local Plan Proposed Submission 2016.

REFUSED DRAWING NUMBERS

2.

Plan Number	Revision Number	Details	Received Date
102	D	Proposed Elevations	18 May 2018
103	D	Proposed Elevations	18 May 2018
106	A	Proposed site plan	18 May 2018
100	F	Proposed plans Ground Floor & First Floor	18 May 2018
101	F	Proposed plans Second Floor and Third Floor	18 May 2018
107		Site Plan	18 May 2018
105		Roof plan	18 May 2018
206		Bin store	18 May 2018

1. 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).

Determined By:

Mr Chris Carter
13 June 2018