

PART A

Report of: **DEVELOPMENT MANAGEMENT SECTION HEAD**

Date of Committee	<b>19<sup>th</sup> September 2013</b>
Site address:	<b>52A-56 High Street</b>
Reference Number :	<b>13/00828/VAR</b>
Description of Development:	<b>Variation of Condition 13 of planning permission ref. 10/00121/EXT for the redevelopment of the site to provide 4, 5 and 7-storey buildings comprising ground floor retail use and 56 flats without the provision of basement car parking and with the projecting balconies replaced by juliette balconies</b>
Applicant:	<b>J M Rowe (Investments) Ltd</b>
Date received:	<b>9<sup>th</sup> August 2013</b>
8 week date(minor):	<b>4<sup>th</sup> October 2013</b>
Ward:	<b>CENTRAL</b>

**SUMMARY**

On 22<sup>nd</sup> April 2010, planning permission was granted for the redevelopment of the site to provide retail use at ground floor and 56 flats with undercroft and basement car parking (ref. 10/00121/EXT). This is an application for a minor material amendment to this permission to vary Condition 13, which lists the approved drawings, by substituting amended drawings to delete the basement car park and replace the projecting balconies with juliette balconies.

The reason for the changes proposed in the application is to improve the viability of the scheme which was first granted permission in May 2007 but has not been commenced.

The approved scheme originally proposed 42 car parking spaces with 19 at ground level in an undercroft and 23 spaces in a basement car park. As the site is within the town centre where car free development is acceptable in principle, the loss of the 23 basement parking spaces is acceptable. The revised ground floor layout still provides 21 parking spaces. The replacement of the previously approved projecting balconies with Juliette balconies will not have a significant adverse impact on the appearance of the proposal or on the amenities of the future occupiers.

The Development Management Section Head therefore recommends that the application be approved, subject to appropriate conditions and the completion of a new planning obligation, as set out in the report.

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## **BACKGROUND**

### **Background to proposals for minor material amendments**

The submitted application is for a minor material amendment to the extant planning permission ref. 10/00121/EXT to vary Condition 13 which lists the approved drawings. The application is made under s.73 of the Town and Country Planning Act 1990, as amended. This will allow a new planning permission, incorporating the proposed amendments, to be granted.

A streamlined procedure for making minor material amendments to extant planning permissions was introduced on 1<sup>st</sup> October 2009 as part of a package of measures to introduce greater flexibility into the procedures for amending planning permissions.

Guidance from Communities and Local Government in the determination of such applications requires local planning authorities to take a 'positive and constructive approach towards applications which improve the prospect of sustainable development being taken forward quickly'. The development would have been judged to be acceptable at an earlier date, and this therefore acts as a material consideration to be taken into account in the determination of this application under Section 38(6) of the Planning and

Compulsory Purchase Act 2004. However, local planning authorities are also required to take into account any changes in national, regional and local planning policy made since the determination of the original planning permission. In the case of this application, since June 2010, when the current planning permission was granted, there have been significant changes in policy at national, regional and local level. These include the publication of the National Planning Policy Framework (NPPF) in April 2012, the revocation of the East of England Plan and the remaining “saved” policies of the Hertfordshire Structure Plan in January 2013, and the adoption of the Council’s Core Strategy on 30<sup>th</sup> January 2013. However, there have been no changes to the physical context of the site or to any other material planning considerations.

If an application for a minor material amendment is granted, the result will be a new planning permission but subject to the same time limit for commencement as the original permission. The original permission will continue to exist, until it expires, regardless of the decision taken on the new application.

### **Site and surroundings**

The application site is located on the western side of the High Street between the junctions with Clarendon Road to the north and Market Street to the south. To the rear (west) of the site is Wellstones. The total land area is approximately 1500m<sup>2</sup>; the site is irregular in shape with a frontage to the High Street of 15m and a rear boundary to Wellstones of 25m. It includes land to the rear of Nos. 50-52 and 58, High Street, which is currently used for car parking, storage and refuse areas.

The application site currently comprises a three-storey neo-classical building with a symmetrical brick front and is a Locally Listed Building, originally known as the ‘Clock House’. The upper storeys have slightly curved segmental central and outer bays, and there is raised detail in brick columns between the bays and tall, small pane windows. There is a store building to the rear and car parking beyond this. Rear access is provided from Wellstones.

The site adjoins 58, High Street to its south-east which is a Grade II Listed Building. The adjoining property to the north-west, 50-52, High Street, is a Locally Listed Building.

### **Proposed development**

The application is for a minor material amendment to the extant planning permission ref. 10/00121/EXT to vary Condition 13, which lists the approved drawings, to substitute amended drawings. The two changes incorporated into these drawings are:-

1. Deletion of the basement car park (23 spaces) and a revised provision of 21 spaces at ground level within the undercroft.
2. Deletion of the projecting balconies on the north and west elevations facing Wellstones and the south and east elevations facing the internal courtyard and their replacement with juliette balconies.

All other aspects of the scheme remain unchanged.

### **Planning history**

06/01335/FULM – Full planning permission granted on 18<sup>th</sup> May 2007 for the redevelopment of the existing buildings to provide 4, 5 and 7 storey buildings comprising ground floor retail use, 56 flats and 42 parking spaces in an undercroft and basement.

10/00121/EXT – Full planning permission granted on 4<sup>th</sup> June 2010 for the renewal of planning permission ref. 06/01335/FULM for a further period of 5 years.

13/00712/NONMAT – A non-material amendment was granted to planning permission ref. 10/00121/EXT to add a new condition (13) to list the approved drawings.

### **Relevant policies**

#### **National Planning Policy Framework**

Section 1 Building a strong, competitive economy

Section 4 Promoting sustainable transport

Section 6 Delivering a wide choice of high quality homes

Section 7 Requiring good design

**Hertfordshire Waste Core Strategy and Development Management Policies  
Document 2011-2026**

No relevant policies.

**Hertfordshire Minerals Local Plan Review 2002-2016**

No relevant policies.

**Watford Local Plan Core Strategy 2006-31**

- SS1 Spatial Strategy
- SD1 Sustainable Design
- SD2 Water and Wastewater
- SD3 Climate Change
- HS1 Housing Supply
- HS2 Housing Mix
- HS3 Affordable Housing
- T2 Location of New Development
- T3 Improving Accessibility
- T5 Providing New Infrastructure
- INF1 Infrastructure Delivery and Planning Obligations
- UD1 Delivering High Quality Design

**Watford District Plan 2000**

- SE7 Waste Storage and Recycling in New Development
- SE39 Tree and Hedgerow Provision in New Development
- T10 Cycle Parking Standards
- T21 Access and Servicing
- T22 Car Parking Standards
- T24 Residential Development

T26	Car Free Residential Development
H10	Educational and Community Facilities
L8	Public Open Space
L9	Children's Play Space

### **Supplementary Planning Guidance Notes and Supplementary Planning Documents**

SPG6 Internal Space Standards

SPG10 Open Space Provision

Residential Design Guide Volume 1: Building New Homes

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## **CONSULTATIONS**

### **Neighbour consultations**

One hundred properties in High Street, Market Street and Wellstones were notified of the application. No responses have been received.

### **Advertisements in local paper/ site notices**

None.

### **Consultations**

No further consultations were undertaken in respect of this application.

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## **APPRAISAL**

In accordance with s.38 of the Planning and Compulsory Purchase Act 2004, the Development Plan for Watford comprises:

- (a) the *Watford Local Plan Core Strategy 2006-31*;
- (b) the continuing "saved" policies of the *Watford District Plan 2000*;

- (c) the *Hertfordshire Waste Core Strategy and Development Management Policies Document 2011-2026*; and
- (d) the *Hertfordshire Minerals Local Plan Review 2002-2016*.

The East of England Plan 2008 and the “saved” policies of the Hertfordshire Structure Plan 1991-2011 were revoked on 3<sup>rd</sup> January 2013.

### **Comments on new policy context**

The changes in the national, regional and local policy context do not have any significant implications for the consideration of the changes proposed. The proposed amendments do not make any fundamental change to the nature of the approved development with the deletion of the basement car park and the reduction in the number of parking spaces provided being the most significant change. The access arrangements to the site, the layout of the site, the scale of the proposed buildings, the proposed uses and floorspace, the number of flats and the relationship of the proposed buildings to adjoining properties all remain unchanged.

The application accords with the policy objectives of the NPPF for a presumption in favour of sustainable development by utilising a previously developed site to provide new, improved quality retail floorspace and 56 new flats in this highly sustainable town centre location. It also accords with the new policies of the Core Strategy which reflect these policy objectives.

### **Proposed minor material changes**

The proposed changes have several possible implications that need to be considered.

#### *i) Provision of car parking*

The approved scheme incorporated 42 parking spaces with 23 of these provided at basement level. The proposed deletion of the basement level results in 21 spaces being provided at ground level within the undercroft. As the site is located within the town centre it is highly accessible by public transport with good access to bus services, Watford

Junction Station, High Street Station and the wide range of facilities within the town centre. As such, car free development is acceptable in principle. The proposed reduction in the level of car parking to 21 spaces is therefore acceptable. The previously approved level of parking was proposed by the applicant and was within the Council's maximum parking standards for this location but was not a requirement of the Council.

*ii) Impact on the appearance of the buildings*

The only external change to the elevations of the buildings is the replacement of the approved projecting balconies with flush Juliette balconies. This change is not considered to have any significant adverse impact on the appearance of the building. The projecting balconies were proposed by the applicant and were not a requirement of the Council. The deletion of the basement car park will have no impact on the appearance of the building.

*iii) Impact on the character and appearance of the area*

The main east elevation fronting High Street, incorporating the locally listed retained façade, will remain unchanged. The change in the type of balcony on the north and west facing elevations will only be visible from Wellstones to the rear. Wellstones is dominated by the large BT building and associated car parking and the change in the balconies will have no impact on the character and appearance of this area.

*iv) Impact on adjoining properties.*

The proposed changes will have no impact on the adjoining commercial properties.

**Planning obligation and conditions**

The current planning permission was accompanied by a Section 106 planning obligation to secure financial contributions towards open space, children's play space, healthcare, primary education, youth and childcare facilities, libraries and sustainable transport; a payment of £2,000 to exclude the development from the controlled parking zone; the provision of fire hydrants where required; and 17 units of affordable housing. Any new permission granted will need to be accompanied by a new obligation. With the recent abolition of the Primary Care Trusts, the healthcare contribution is no longer required.



The various details required to be submitted pursuant to the conditions of the extant planning permission have subsequently been approved. Conditions can be imposed on any new permission to include these details.

### **Conclusion**

The minor material changes proposed are the deletion of the basement car park and the replacement the projecting balconies with juliette balconies. The reason for these changes is to improve the viability of the scheme which was first granted permission in May 2007 but has not been commenced. The approved scheme originally proposed 42 car parking spaces with 19 at ground level in an undercroft and 23 spaces in a basement car park. As the site is within the town centre where car free development is acceptable in principle, the loss of the 23 basement parking spaces is acceptable. The revised ground floor layout still provides 21 parking spaces. The replacement of the previously approved projecting balconies with juliette balconies will not have a significant adverse impact on the appearance of the proposal, the character and appearance of the area or on the amenities of the future occupiers.

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### **HUMAN RIGHTS IMPLICATIONS**

The grant of permission, subject to a planning obligation and conditions, will have an impact on the human rights of the applicant to develop the land. However, this is considered justified in order to protect the human rights of third parties and to accord with the policies of the local plan. With appropriate conditions, it is not considered that any impacts on third parties will be sufficient to override the human rights of the applicant in this instance.

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### **RECOMMENDATIONS**

- (A) That conditional planning permission be granted subject to the completion of a planning obligation under section 106 of the Town and Country Planning Act 1990 to secure the following contributions and subject to the conditions listed below:

## Section 106 Heads of Terms

- i) To secure financial payments to the Council of:
  - a) £138,432 (index linked) towards the provision and improvement of public open space in the Borough in accordance with Policy L8 of the Watford District Plan 2000;
  - b) £37,430 (index linked) towards the provision and improvement of children's play space in the Borough in accordance with Policy L9 of the Watford District Plan 2000;
  - c) £2,000 towards the variation of the relevant Traffic Regulation Order to exclude the site from the controlled parking zone, thereby preventing residents' parking permits being allocated to this site.
  
- ii) To secure financial payments to the County Council of:
  - a) £25,750 (index linked) towards the implementation of the South West Hertfordshire Transport Strategy and sustainable transport measures in Watford in accordance with Policies T3, T4, T5 and INF1 of the Watford Local Plan Core Strategy 2006-31;
  - b) £16,905 (index linked) towards the provision of secondary education in accordance with Policy INF1 of the Watford Local Plan Core Strategy 2006-31 and Policy H10 of the Watford District Plan 2000;
  - c) £33,343 (index linked) towards the provision of primary education in accordance with Policy INF1 of the Watford Local Plan Core Strategy 2006-31 and Policy H10 of the Watford District Plan 2000;

- d) £7,865 (index linked) towards the provision of nursery education in accordance with Policy INF1 of the Watford Local Plan Core Strategy 2006-31 and Policy H10 of the Watford District Plan 2000;
  - e) £2,302 (index linked) towards the provision of childcare facilities in Watford in accordance with Policy INF1 of the Watford Local Plan Core Strategy 2006-31 and Policy H10 of the Watford District Plan 2000;
  - f) £511 (index linked) towards the provision of youth facilities in Watford in accordance with Policy INF1 of the Watford Local Plan Core Strategy 2006-31 and Policy H10 of the Watford District Plan 2000;
  - g) £5,835 (index linked) towards the provision of library facilities in accordance with Policy INF1 of the Watford Local Plan Core Strategy 2006-31 and Policy H10 of the Watford District Plan 2000;
- iii) To secure the provision of fire hydrants as required by the County Council.
  - iv) To secure the provision of 17 affordable housing units of which 11 shall be general needs rented (8 x 1 bed and 3 x 2 bed) and 6 shall be for intermediate tenures (5 x 1 bed and 1 x 2 bed).

### Conditions

1. The development to which this permission relates shall be commenced before 4<sup>th</sup> June 2015.

Reason: To accord with the time period for commencement of planning permission ref. 10/00121/EXT dated 4<sup>th</sup> June 2010.

2. Construction of the development hereby permitted shall not take place before 8am or after 6pm Mondays to Fridays, before 8am or after 1pm on Saturdays and not at all on Sundays and Public Holidays.

Reason: To safeguard the amenities and quiet enjoyment of neighbouring properties during the time that the development is being constructed, pursuant to Policy SE22 of the Watford District Plan 2000.

3. Demolition of the existing buildings shall only take place in accordance with the Demolition Method Statement, Demolition Plan and Façade Retention Statement dated 19<sup>th</sup> September 2012, unless otherwise agreed in writing by the Local Planning Authority. No construction shall commence until a Construction Environmental Management Plan has been submitted to and approved by the Local Planning Authority. This Plan shall include details of phasing of construction, contractors parking, the delivery and storage of materials, measures to mitigate noise and dust, wheel washing facilities, plant and equipment and a contact procedure for complaints. The Plan as approved shall be implemented throughout the construction period.

Reason: To safeguard the amenities and quiet enjoyment of neighbouring properties and prevent obstruction of the adjoining Highway during the time that the development is being constructed, pursuant to Policies T4 and SE22 of the Watford District Plan 2000.

4. No construction shall commence until the programme of archaeological work set out in the Archaeological Project Design by The Heritage Network dated November 2012 has been undertaken. No part of the development shall be occupied or brought into use until the approved scheme of investigation for archaeological works has been implemented in full. Any evidence, reports or archive generated as a result of the programme of archaeological work shall

be deposited within six months of the completion of the work with the historic environment record maintained by the Hertfordshire County Council (with copies provided to the Watford Museum) or such other public depository as shall be agreed in writing with the Local Planning Authority.

Reason: To ensure that any archaeological remains are properly recorded in accordance with Policy UD2 of the Watford Local Plan Core Strategy 2006-31.

5. The development shall only be carried out in accordance with the detailed works for the retention, renovation and refurbishment of the façade of the existing building on the High Street frontage, as contained in the Façade Retention Statement dated 19<sup>th</sup> December 2012 and the Schedule of Works dated 15<sup>th</sup> May 2013, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the building makes a positive contribution to the character and appearance of the area in accordance with Policy UD1 of the Watford Local Plan Core Strategy 2006-31.

6. The development shall only be carried out using the following external materials, as shown on drawing nos. 1416-7-2A, 1416-7-3A, 1416-7-4A, 1416-7-5A and 1416-7-6A (W. Griffiths & Glass), unless otherwise agreed in writing by the Local Planning Authority:-

PermaRock Metallocryl Render in colours Silver and Copper

Metsa Thermowood timber cladding

Trespa Meteor laminated panels in colour Spring Green (A3723)

Euroclad Vieo metal cladding system

Windows and external doors - powder coated aluminium

External stair - galvanised metal with perforated infill panels

Balconies - translucent structural glass balcony panels in clear glass and orange tinted glass with brushed stainless steel handrails and patch fittings

Reason: To ensure that the development utilises high quality materials that respond to the buildings context and makes a positive contribution to the character and appearance of the area in accordance with Policy UD1 of the Watford Local Plan Core Strategy 2006-31.

7. The development shall only be constructed in accordance with the threshold levels shown on drawing no.988\_1-10 (W Griffiths), unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the development maintains a satisfactory relationship between the development and existing properties in accordance with Policy UD1 of the Watford Local Plan Core Strategy 2006-31.

8. The development shall only be carried out in accordance with the hard and soft landscaping scheme shown on drawing nos. 988\_1-9 and 988\_7-4 Rev.C (W Griffiths) and detailed in the email dated 27th June 2013 from Chris Griffiths, unless otherwise approved in writing by the Local Planning Authority. No part of the development shall be occupied until the approved scheme has been implemented and the works carried out shall thereafter be retained as approved at all times.

Reason: In the interests of the visual appearance of the site in accordance with Policy UD1 of the Watford Local Plan Core Strategy 2006-31.

9. The development shall not be occupied until the cycle store on the fifth floor has been constructed and Code Streetpods have been installed to accommodate 18 cycles, unless otherwise approved in writing by the Local Authority. The cycle store shall be retained at all times..

Reason: To ensure adequate cycle provision is made for the occupiers of the development, in accordance with Policy T10 of the Watford District Plan 2000.

10. No part of the development hereby permitted shall be occupied until the refuse, recycling and cycle storage areas shall have been provided as approved, and all these areas shall thereafter be retained solely for these purposes.

Reason: To ensure adequate facilities are provided for future occupiers of the development, in accordance with Policies SE7 and T10 of the Watford District Plan 2000.

11. No affordable housing units shall be located on the first or second floors of the rear building in any of the units numbered 1.1 to 1.6 inclusive or 2.1 to 2.6 inclusive which face north-east or south-west, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that this part of the development is adaptable and does not prejudice the redevelopment of Key Development Site RA1 (known as 'Exchange Square' in the Town Centre Study 2005).

12. The development hereby permitted shall be carried out in accordance with the following approved drawings:-

988-1-1B, 2E, 3E, 4E, 5E, 6E, 7E, and 8F;  
988-2-1D, 2D, 3F, 4F and 5F.

Reason: For the avoidance of doubt and in the interests of proper planning.

### Informative

1. This planning permission is accompanied by a unilateral undertaking under Section 106 of the Town and Country Planning Act 1990 to secure financial contributions

towards the provision or improvement of public open space, children's play space, education facilities, childcare, youth facilities, library facilities and sustainable transport measures within the Borough of Watford. In addition the agreement secures a contribution towards the variation of the Borough of Watford (Watford Central Area and West Watford Area) (Controlled Parking Zones) (Consolidation) Order 2006 to exclude future residents of the development from entitlement to residents parking permits. The agreement also requires the provision of necessary fire hydrants to serve the development and the provision of 17 affordable housing units.

2. In dealing with this application, Watford Borough Council has considered the proposal in a positive and proactive manner having regard to the policies of the development plan as well as paragraphs 186 and 187 of the National Planning Policy Framework and other material considerations, and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2010, as amended.

Drawing numbers

988-1-2E, 988-1-3E, 988-1-4E, 988-1-5E, 988-1-6E, 988-1-7E, 988-1-8F, 988-2-1D, 988-2-3F, 988-2-4F, 988-2-5F

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**(B)** In the event that no section 106 planning obligation is completed by 2<sup>nd</sup> October 2013 in respect of the Heads of Terms set out above, the Development Management Section Head be authorised to refuse planning permission for this application for the following reasons:

1. The proposed development fails to make provision for public open space or children's play space, either in the form of on-site works or commuted payments, and as such is contrary to Policies L8 and L9 of the Watford District Plan 2000.



2. The proposed development fails to contribute towards the implementation of sustainable transport measures forming part of the South West Hertfordshire Transportation Strategy, either in the form of off-site highway works or commuted payments, and as such is contrary to Policies T3, T4, T5 and INF1 of the Watford Local Plan Core Strategy 2006-31.
3. The proposed development fails to contribute to the provision or improvement of education and community facilities (youth facilities, childcare, libraries and healthcare) in the Borough and as such is contrary to Policy INF1 of the Watford Local Plan Core Strategy 2006-31 and Policy H10 of the Watford District Plan 2000.
4. The proposed development fails to make the required affordable housing contribution pursuant to Policy HS3 of the Watford Local Plan Core Strategy 2006-31.
5. The proposal fails to make appropriate provision to restrict on-street parking in the surrounding Controlled Parking Zone and as such is contrary to Policy T24 of the Watford District Plan 2000.
6. The proposal fails to make provision for fire hydrants to serve the development and as such is contrary to Policy INF1 of the Watford Local Plan Core Strategy 2006-31 and Policy H10 of the Watford District Plan 2000.

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Case Officer: **Paul Baxter**

Email: **paul.baxter@watford.gov.uk**

Tel: **01923 278284**