

## DEVELOPMENT CONTROL COMMITTEE

7<sup>th</sup> AUGUST 2014

### UPDATE SHEET

#### Item 9

#### 14/00859/FULM – Boundary Way estate

#### ADDITIONAL REPRESENTATIONS

a) A letter has been received from solicitors acting on behalf of local residents that raises a number of points. These are summarised below with the comments of the Council's Head of Democracy and Governance in *italics*:

i) Special treatment is being given to WBC by TRDC as TRDC has an arrangement to sell its land to WBC.

*The Council is not intending to purchase any land from TRDC in order to facilitate this development.*

ii) There is an inequity of arms between the high quality planning, legal and public relations advice employed by the developer and that of private individuals.

*Most large developers employ professionals to design and advise on their schemes. It is the Council's role to judge the planning application on its merits and its conformity to planning policies.*

iii) The proposal is in direct contravention of the human rights of individuals, namely Article 1 (Right to peaceful enjoyment of possessions and protection of property) and Article 8 (Right to respect for private and family life, home and possessions).

*The Council is aware of the need to consider the human rights implications of the application and these are referred to in the report. The Council has to undertake a balancing act when coming to a decision on whether or not to grant planning permission.*

iv) Whether health and safety for residents and contractors employed on the proposed site E is sufficient in accordance with legislation.

*Health and safety of residents during any construction of the proposed development is not a material planning consideration.*

v) The proposed dwellings on site E appear to have walls/boundary fences that will be attached to existing boundary walls that may be owned by private individuals.

*Land ownership is not a material planning consideration. It is perfectly legal for an applicant to apply for planning permission in respect of land he does not own; whether he will then be able to implement that permission is not a matter for the Council.*

- vi) Many of the properties on Boundary Way are subject to easements and covenants and regard should be had to these.

*These are civil matters and not material planning considerations.*

- vii) The applicant may believe that WBC and TRDC will exercise their powers of land acquisition to overcome any rights/easements in the event of any planning permission being challenged.

*There is no intention by either WBC or TRDC to use any compulsory purchase powers to facilitate this development. I am not aware that the WCHT has asked either council to do this. If such a request were made, the matter would have to be considered by the Council's Cabinet. The Development Control Committee has no locus to authorise the exercise of such powers.*

- b) Three Rivers District Council has received 82 letters of objection and 1 letter of support. A summary of these objections, as taken from the officer report to committee, is given below. The application is to be presented to committee for determination on 14<sup>th</sup> August with a recommendation for approval.

- i) Loss of garages, parking and highways:

Will narrow the road to accommodate the new buildings, example of overdevelopment; One way entrance and exit into Site C; Could emergency vehicles be able to access to the sites without damaging cars?; Objects to removal of garages to be replaced with open parking spaces; A number of residents have valuable and vulnerable vehicles which residents keep close to their homes and under watch; The additional properties will increase the need for parking provision which is already at a premium; If garages are removed family cars will be exposed to vandalism; The pedestrian paths around the new parking areas will not be sufficiently wide enough to allow safe walking and to prevent any possible impact damage to residence which has occurred in the past; Local school children use this path who could be injured by resident parking and deliveries; A wider footpath should be included in the final plans to create a buffer; Insufficient parking will cause issues for the residents; Current scheme is worse than previous proposal; Emergency and delivery vehicles will find it difficult to access site and properties; removal of garages mean cars will be exposed to vandalism; Loss of garages will cause hardship to less able bodied residents; Garages provide parking for two cars one in and one outside; Reference PPG 13 and that consideration should be given to existing residents; Trees adjacent to parking areas will damage cars through bird droppings; Loss of garages will impact on insurance; Loss of storage provision; No objection to loss of garages as do

not see many people using them for cars; Need garages for safekeeping and ease of access to vehicles; Under parking has been calculated within the areas; People in Area A will park within Area E; Layout of Area E is currently restricted for vehicular access development will make it worse; Existing garages are in a state of disrepair but could be refurbished; Narrow roads will be blocked by insensitive parking along proposed footpaths; Siting of parking bays opposite each other will cause safety hazard;

ii) Impact on area:

Overdevelopment; Overpopulation; Boundary Way is already overdeveloped; Adverse affect on trees; Development will shoehorn properties into an already overcrowded estate; Number of new dwellings will cause chaos in an already busy area; Development will impact on protected tree; Boundary Way is a unique estate that is built to capacity; Loss of green spaces will have a negative impact on character of the area; Plans give impression of space and light, this is not the case; Buildings will not be in keeping with Three Rivers side; WCHT and Three Rivers have never been able to work together; Existing grass areas are not maintained; Development will take away play areas; Boundary Way is already back to back in concrete; Development is a step too far; Existing area is grey and run down therefore welcome development; Development is built for maximum density with maximum privacy; New properties will be undersized; The new buildings will not blend in with existing properties that have not been cladded; Existing garages are ugly however they are single storey so allow for air circulation; Garages required to keep cars and contents safe; Loss of garages will make residents prisoners in own homes in the evenings due to lack of parking within the estate; Development will create a claustrophobic feel to the estate; Garages have been removed to open the estate out and remove secluded walkways; Introduction of balconies would make the development unlike the rest of the estate; Development must not impact on Ash tree; Loss of grass verges removes most of the green open area within the estate; Loss of trees which contribute to the visual amenities of the area creating an urban environment; Site C1 is too small to accommodate development;

iii) Impact on residential amenities:

Overshadowing; Loss of privacy; The area currently used as a builders' depot for the last two years will presumably be used again as a depot which will lead to further irritation and inconvenience, blocking cars and disrupting traffic flow; The construction vehicles will be hazardous for small children; Loss of view; New development will impact on value of existing properties; Loss of light; Construction vehicles will block access to homes; Additional residential properties will result in increased noise and disturbance; Properties will be overbearing; Less daylight and sunlight to existing properties; Residents were not listened to at steering groups; Overlooking of main habitable rooms; Residents opinions have previously been ignored directly affecting quality of life on Boundary Way; Development will cause stress to residents; Loss of sense of privacy; Loss of aspect; Storage facility serving the dwelling in Site E will impact on neighbouring properties through noise and disturbance;

Development will have an affect on residents' well-being; The two storey dwellings will appear as three storey to neighbouring properties due to the land fall; Loss of garages will lose provision for mobility scooters; Headlights will shine into new homes in Site E; Loss of a grit bin;

iv) Impact on Safety and security:

New Community Centre would be useful but could WCHT guarantee no anti-social behaviour; The new community garden will result in noise and disturbance to neighbouring properties through drinking, smoking and games being played; Health and safety issues demolishing garages with asbestos roofs and cement dust will ruin the external cladding; The new gardens will provide an area for increased risk of anti-social behaviour disturbing residents; CCTV will make no difference; Development will, including grass verges, create areas for anti-social behaviour; Development will attract all local children; Alleyways created will provide areas of opportunity for anti-social behaviour; Active CCTV should be provided within the community gardens;

## BAT SURVEY

A bat survey has been undertaken on behalf of the applicant in respect of the two blocks of flats that are to be demolished. This has found that there is a common pipistrelle maternity roost with up to 28 bats in one of the blocks. The demolition of this block will therefore require a licence to be obtained from Natural England.

The Herts. & Middx. Bat Group have made the following comments on the submitted bat survey:

“The grid reference in the survey report at 1.2 – TL110702 is for Stow Road in Cambridgeshire rather than for the site surveyed. If the data searches undertaken used this erroneous reference then the results would be irrelevant.

The size of this colony has been grossly underestimated, we counted 115 bats emerging from the building next door on 20th July 2014 and evidence of roosts were obtained from a number of other very nearby buildings. This clearly shows that this colony is moving around this estate, most likely due to changes in the life stage of the colony and weather conditions.

As the 2 blocks proposed for development are of similar construction it is likely that both buildings are used by this colony at some stage.

No internal surveys of the roof space have been undertaken. As the buildings are single skinned with a mono pitch roof, unusually pipistrelle droppings *could* be located within the roof void if a roost has been present. HMBG therefore strongly recommend that a full internal inspection of the roof void is undertaken by a suitably experienced and licensed surveyor at least 8 weeks prior to any planned demolition.

More concerning is there has been no mitigation suggested or proposed to enable the LPA to correctly consider the 3 tests in the Habitat Regulations or the merits of this application.

As bats are known to be present and will be affected by these development proposals, a mitigation strategy and suitable compensation is required to enable the LPA to satisfy the third Habitat Regulation test to be applied when it determines the application. In this situation an EPS licence will also be required and should be conditioned.

We have attached a flow chart from “Bat Survey Guideline” 2012 to further assist, but consider that insufficient information has been provided at this stage to allow the LPA to properly consider this application.”

In light of these comments, an additional Condition 18 is proposed (see below)

#### AMENDED RECOMMENDATION

A viability report has been submitted to TRDC and has been assessed by consultants on behalf of the Council. This has demonstrated that the scheme is unable to support the s.106 contributions sought by Hertfordshire County Council, as set out in the committee report. As such, it has been agreed by TRDC that these contributions will not be sought. As there is a net loss of 1 dwelling within Watford and the net gain of 31 dwellings is all within TRDC, this approach is considered acceptable in this case.

TRDC also do not intend to secure the provision of affordable housing through a s.106 agreement but intend to use a condition. This is not an approach that the Council would advocate and the advice of the Head of Democracy and Governance is that a s.106 undertaking should be used to secure the 11 dwellings within Watford as affordable units.

Recommendations A and B are therefore amended as follows:

- (A)** That planning permission be granted subject to the completion of a unilateral undertaking under s.106 of the Town and Country Planning Act 1990 to secure the following obligations and subject to the conditions listed below:

#### Section 106 Heads of Terms

- i) To secure the provision of fire hydrants as required by the County Council in accordance with Policy H10 of the Watford District Plan 2000.
- ii) To secure all of the 11 new dwellings within Watford Borough as affordable housing.

## Conditions

Conditions 1-17 remain as printed.

18. No demolition shall commence until a further bat survey of the two blocks of flats to be demolished (nos. 274-285 and 286-297) has been undertaken, to include full internal inspections of the roof voids and a bat mitigation strategy and method statement, has been submitted to and approved in writing by the Local Planning Authority. The survey shall be undertaken at least 8 weeks prior to the demolition of the buildings. The demolition shall only be undertaken in accordance with the approved bat mitigation strategy.

Reason: All bats and their roosts are legally protected by the Wildlife and Countryside Act 1981 and the Conservation of Habitats and Species Regulations 2010. If bats are present it is illegal to intentionally or recklessly kill, injure or take any individuals or to deliberately capture or disturb individuals. It is an offence to intentionally or recklessly damage or destroy a roost, to obstruct a roost, and to disturb an individual whilst occupying the roost.

- (B)** In the event that an acceptable planning obligation under Section 106 of the Town and Country Planning Act 1990 has not been completed by 12<sup>th</sup> September 2014 in respect of the Heads of Terms set out above, the Development Management Section Head be authorised to refuse planning permission for the application for the following reasons:

1. The proposal fails to make provision for affordable housing on-site and as such is contrary to Policy HS3 of the Watford Local Plan Core Strategy 2006-31.
2. 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 saved Policy H10 of the Watford District Plan 2000.