

PART A

Report of: **DEVELOPMENT MANAGEMENT SECTION HEAD**

Date of Committee: **12th March 2015**

Site address: **52A-56 High Street**

Reference Number : **14/01617/VAR**

Description of Development: **Variation of Condition 11 (location of affordable housing) of planning permission ref. 13/00828/VAR for the redevelopment of the site to provide 4, 5 and 7-storey buildings comprising ground floor retail use and 56 flats and the variation of the Section 106 legal agreement to increase the number of affordable housing units from 17 to 45 and to reduce the sums payable to the Council towards the provision or improvement of open space and children's playspace by £150,862.**

Applicant: **Home Group Ltd**

Date received: **8th December 2014**

8 week date(minor): **9th March 2015**

Ward: **Central**

SUMMARY

On 22nd 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). A subsequent application for a minor material amendment to this permission to delete the basement car park and replace the projecting balconies with juliette balconies was approved on 1st October 2013 (ref. 13/00828/VAR).

The current application seeks to remove condition 11 of planning permission ref. 13/00828/VAR, which restricts the location of affordable housing units within the development. The applicant is also seeking to vary the Section 106 legal agreement associated with this application to increase the number of affordable housing units from 17 to 45 and to reduce the payment to the Council towards the provision or improvement of open space and children's playspace by £150,862 in order to facilitate this. The reason for the changes proposed to the Section 106 legal agreement are that the applicant is a Registered Provider of affordable housing who has purchased the site. They wish to maximise the number of affordable housing units on the site by reducing costs, including the Section 106 obligations relating to the commuted sums towards open space and children's playspace (to be reduced from £175,862 to £25,000), and to use this money to help lever in significant additional grant funding of £1.4 million. In respect of Condition 11, this condition was imposed having regard to the Town Centre Study 2005 which was never formally adopted by the Council and therefore carries little weight. Also, by significantly increasing the number of affordable units in the scheme, the location of the units will be in conflict with this condition.

In respect of the payment of commuted sums towards the provision or improvement of open space and children's playspace, the nearest locations to the site where these monies could be spent are Watford Fields, Waterfields Recreation Ground and Cassiobury Park. The play area at Watford Fields was significantly improved 2 years ago and Waterfields has had £380,000 spent on improvements in the past year. Cassiobury Park gained Green Flag status for the eighth year running in 2014 and has also recently been awarded a grant of £4.542 million from the Heritage Lottery Fund and Big Lottery Fund for further, significant improvements, part of a £6.5 million package of improvements. In light of this, it is considered that the benefits of an additional 28 affordable housing units in the development will significantly outweigh the loss of monies towards further open space and children's playspace improvements in this case.

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.

BACKGROUND

Background to proposals for minor material amendments

The submitted application is for a minor material amendment to the extant planning permission ref. 13/00828/VAR to remove Condition 11 which restricts the location of the affordable housing units in the development. The application is made under s.73 of the Town and Country Planning Act 1990 as amended (the Act). This will allow a new planning permission, incorporating the proposed amendments, to be granted. The applicant is also seeking a variation of the Section 106 legal agreement attached to this permission. This element falls under s.106A of the Act.

The Government introduced a streamlined procedure for making minor material amendments to extant planning permissions on 1st October 2009 as part of a package of measures to introduce greater flexibility into the procedures for amending planning permissions. Guidance from the Department of 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 October 2013 when the current planning permission was granted, there have been no significant changes in policy at national, regional and local level relevant to this application. There have also 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 1500m²; 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 comprises two elements:

1. An application under s.73 of the Act for the removal of Condition 11 which states:

“No affordable housing units shall be located on the first and 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)."

2. An application under s.106A of the Act to vary Clauses 3(c)(i) and (ii) of the Section 106 unilateral undertaking to reduce the total sum payable to the Council towards the provision or improvement of open space and children's playspace from £175,862 to £25,000. Clause 3(c)(i) requires the payment of £138,432 towards open space and Clause 3(c)(ii) requires the payment of £37,430 towards children's playspace.

All other aspects of the scheme remain unchanged.

Planning history

06/01335/FULM – Full planning permission granted on 18th 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 4th 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.

13/00828/VAR – Planning permission was granted on 1st October 2013 for the 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.

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

SPG10 Open Space Provision

Residential Design Guide (2014)

CONSULTATIONS

Neighbour consultations

None.

Advertisements in local paper/ site notices

A site notice was placed outside the site on 17th December 2014 and a public notice was published in the Watford Observer on 2nd January 2015.

Consultations

No further consultations were undertaken in respect of this application.

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*.

Condition 11

This condition was imposed having regard to the Town Centre Study 2005. This study proposed a development of the so called ‘Exchange Square’ on land in The Wellstones to the rear of the site. This envisaged a decked podium with car parking underneath and retail and commercial units facing onto the podium. In this scenario, units 1.1 to 1.6 and 2.1 to 2.6 (12 in total) would potentially have been lost to commercial uses. There was a concern at the time that if these units were used to provide the affordable housing within the approved scheme, these would be lost in the event of the development of ‘Exchange Square’ as set out in the Town Centre Study.

This situation has now changed significantly. Firstly, the Town Centre Study was never formally adopted by the Council as supplementary planning guidance to the Watford District Plan 2000 or as a supplementary planning document to the Core Strategy. It can therefore be given very little weight in the determination of planning applications. In a recent appeal decision on a site at 1 The Wellstones, where the Town Centre Study was cited in the reason for refusal, the Inspector stated “...*the TCS [Town Centre Study] does not have the status of a development plan or supplementary planning document.*” and consequently gave it little weight. He also noted “...*the absence of evidence that the Exchange Square development is progressing.*” Policy SPA1: Town Centre of the Core Strategy identifies Charter Place for redevelopment but leaves the identification of other sites for retail development for site allocation and town centre documents. A new strategy for the town centre is due to be prepared during the course of this year.

Secondly, the site has been acquired by Home Group, a registered provider of affordable housing. They wish to increase the number of affordable housing units to 45 which means that some of the units listed in Condition 11 will have to be affordable and therefore in conflict with this condition.

Having regard to these factors, it is not considered that there is any justification for retaining Condition 11 which can therefore be removed in its entirety.

Section 106 payments

The request for the reduction in the open space and children's playspace payments to £25,000 is in order to help facilitate financially the provision of 28 additional affordable housing units. The existing planning permission requires the provision of 17 affordable housing units. As these are a planning policy requirement, Home Group cannot apply for any grant funding towards the provision of these units. In order to be able to apply for grant funding, Home Group must be able to demonstrate the provision of additional units over and above the planning policy requirement. This requires the input of additional capital from either their own reserves and/or from cost savings from the development itself. If this can be achieved, significant grant funding can be levered in. The financial viability of this is, however, a complex balancing exercise. The increase in affordable units results in a loss of sales capital and a loss of rental income compared with market units. The grant achieved has to be able to compensate for these losses.

Furthermore, as a registered provider, Home Group also has to comply with strict financial restrictions set out by the Homes and Communities Agency (HCA). These take the form of various loan covenants which dictate minimum levels of financial performance for any borrowing in order to safeguard the borrowing capacity and management of existing loan portfolios of the organisation. Two relevant requirements for this project are the total capitalised cost percentage of market value (82%) and a minimum sales margin of 19%.

Home Group had originally aspired to develop all 56 units as affordable housing but this cannot be achieved in this case within the financial restrictions set by the HCA. They have therefore proposed the option of 45 affordable units with the additional provision of 16 rented units and 12 shared ownership units. This option is secured with a grant of £1.4m which is levered in to the development and complies with the financial requirements of the HCA.

The gain of 28 additional affordable housing units is a significant planning benefit for the town. This benefit needs to be balanced against the loss of s.106 monies towards open space and children's playspace provision. The nearest locations to the site where these monies could be spent are Watford Fields (735m), Waterfields Recreation Ground (810m) and Cassiobury Park (890m). Watford Fields play area was completely refurbished and expanded 2 years ago. No further improvements are planned. Waterfields Recreation Ground has also been significantly improved in the past year with £180,000 spent on the new play area and £200,000 spent on the park in landscape improvements. Both of these used existing Section 106 monies. Cassiobury Park gained Green Flag status for the eighth year running in 2014 and has also recently been awarded a grant of £4.542 million from the Heritage Lottery Fund and Big Lottery Fund for further, significant improvements as part of a package totalling £6.5 million. In light of these very recent improvements to Watford Fields and Waterfields and the imminent substantial improvements to Cassiobury Park, it is considered that in this case, the benefits of 28 additional affordable housing units on the site will significantly outweigh the loss of £150,862 towards open space and children's playspace.

Conclusion

Condition 11 of the existing planning permission was imposed having regard to the Town Centre Study 2005. However, this was never formally adopted by the Council as supplementary guidance and therefore can be given little weight in the determination of the application. Also, by significantly increasing the number of affordable units in the scheme, the location of the units will inevitably be in conflict with this condition. The reduction in the section 106 payments towards open space and children's playspace by

£150,862 will contribute towards a financial package that includes £1.4 million in grant in order to provide an additional 28 affordable housing units in the development, taking the total to 45 affordable housing units. Overall, having regard to all the relevant considerations for this application, it is considered that the benefits of the 28 additional affordable housing units on the site will significantly outweigh the loss of £150,862 for further open space and children's playspace provision.

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.

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) £25,000 (index linked) towards the provision and improvement of public open space and children's playspace in accordance with Policies L8 and L9 of the Watford District Plan 2000 and Policy INF1 of the Watford Local Plan Core Strategy 2006-31;

- b) £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 45 affordable housing units of which 29 shall be affordable rented (14 x 1 bed and 15 x 2 bed) and 16 shall be for intermediate tenures (4 x 1 bed and 12 x 2 bed).

Conditions

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

Reason: To accord with the time period for commencement of planning permission ref. 10/00121/EXT dated 4th 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 19th 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 19th December 2012 and the Schedule of Works dated 15th 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 Meteon 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 any alternative arrangements shall have been 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. 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; 1416-7-2A, 1416-7-3A, 1416-7-4A, 1416-7-5A and 1416-7-6A (W. Griffiths & Glass); 988-1-9 and 988-7-4 Rev.C (W Griffiths); 988-1-10 (W Griffiths).

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.

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; 1416-7-2A, 1416-7-3A, 1416-7-4A, 1416-7-5A and 1416-7-6A (W. Griffiths & Glass); 988-1-9 and 988-7-4 Rev.C (W Griffiths); 988-1-10 (W Griffiths).

(B) In the event that no section 106 planning obligation is completed by 27th March 2015 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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