

**4/03266/16/ROC - VARIATION OF CONDITIONS 5 (HARD SURFACING MATERIALS - CHANGE OF AMENITY AREA TO CAR PARKING) AND 18 (APPROVED PLANS) ATTACHED TO PLANNING PERMISSION 4/00779/15/MFA (DEMOLITION OF EXISTING OFFICE BUILDING. CONSTRUCTION OF 14 NEW FLATS IN A FOUR-STOREY BUILDING WITH ASSOCIATED CAR PARKING AND LANDSCAPING.).
ABLE HOUSE, FIGTREE HILL, HEMEL HEMPSTEAD, HP2 5XH.
APPLICANT: DAVID BARRETT.**

[Case Officer - Andrew Parrish]

Summary

The application is recommended for approval. The proposal would provide 14 affordable units for rent. Car parking would be substituted for amenity space. The proposal is considered acceptable in its design and layout; amenity provision and landscaping is still considered satisfactory; adequate parking and access is available; the proposal would comply with sustainability principles and would mitigate the impacts of the development through provision of contributions to highway infrastructure in the area.

Site Description

The application site is a cleared site, previously comprised of a vacant three storey, new town, 1960's office building within an irregularly shaped plot of 0.13ha located on the western side of Figtree Hill and to the rear of the High Street in the old town of Hemel Hempstead. There is a change in level across the Figtree Hill frontage of approximately 3 metres, the site sloping upwards from south-to-north. There is a more gentle downward change in levels from east-to-west.

The site is surrounded by residential properties (predominantly flats) to its north, east and south. The backs of properties along the High Street form the western boundary to the site, some of which have right of access through the site to their parking areas.

There are also two pedestrian rights of way through to the High Street.

The site falls within the town centre.

Proposal

In June 2015 planning permission was granted for demolition of existing office building, construction of 14 new flats in a four-storey building with associated car parking and landscaping (4/00779/15/MFA).

This current application seeks amendments to the approved scheme through section 73 of the Planning Act, wherein the condition listing the approved plans under Condition 18 is amended to list the updated plan numbers and formalise the amendments to the scheme, and minor changes to the wording of Condition 5 relating to details of the enclosure of the amenity area are made.

The amendments relate to the substitution of 3 parking spaces for the approved amenity area (net increase of 2 spaces) and the slight realignment of the building.

Referral to Committee

The application is referred to the Development Control Committee because the applicant is Dacorum Borough Council.

Planning History

4/00779/15/MFA DEMOLITION OF EXISTING OFFICE BUILDING. CONSTRUCTION OF 14 NEW FLATS IN A FOUR-STOREY BUILDING WITH ASSOCIATED CAR PARKING AND LANDSCAPING.
Granted
25/06/2015

4/00405/14/PRE CONSTRUCTION OF 15 DWELLINGS WITH ASSOCIATED PARKING AND LANDSCAPING
Unknown
25/02/2015

4/00142/13/MO DEMOLITION OF THE EXISTING OFFICE PREMISES AND
A CONSTRUCTION OF A MIXED USE DEVELOPMENT COMPRISING COMMERCIAL USE AT GROUND FLOOR (RETAIL OR OFFICES) WITH 3 FLOORS OF RESIDENTIAL DWELLINGS PROVIDING ELEVEN TWO BEDROOM FLATS.
Granted
03/05/2013

Policies

National Policy Guidance

National Planning Policy Framework (NPPF)
National Planning Policy Guidance (NPPG)

Adopted Core Strategy

NP1 - Supporting Development
CS1 - Distribution of Development
CS4 - The Towns and Large Villages
CS8 - Sustainable Transport
CS9 - Management of Roads
CS10 - Quality of Settlement Design
CS11 - Quality of Neighbourhood Design
CS12 - Quality of Site Design
CS13 - Quality of Public Realm
CS15 - Offices, Research, Industry, Storage and Distribution
CS17 - New Housing
CS19 - Affordable Housing
CS25 - Landscape Character
CS29 - Sustainable Design and Construction
CS31 - Water Management
CS32 - Air, Water and Soil Quality
CS33 - Hemel Hempstead Urban Design Principles
CS35 - Infrastructure and Developer Contributions

Saved Policies of the Dacorum Borough Local Plan

Policies 10, 12, 13, 18, 19, 21, 37, 39, 51, 54, 58, 61, 62, 63, 100, 129
Appendices 1 (*updated through the sustainability checklist*), 3, 5 and 6

Supplementary Planning Guidance/Documents

Environmental Guidelines
Accessibility Zones for the Application of Car Parking Standards July 2002
Water Conservation & Sustainable Drainage
Energy Efficiency & Conservation
Planning Obligations SPD April 2011
Affordable Housing SPD 2013

Advice Notes

Sustainable Development Advice Note (Dec 2016)
Refuse Storage Guidance Note (Jan 2015)

Summary of Representations

Design Out Crime Officer

I am content with what is proposed.

Conservation and Design

Any comments received will be reported at the meeting

Highway Authority

Any comments received will be reported at the meeting

HCC Fire & Rescue

Any comments received will be reported at the meeting

Historic Environment Officer

Any comments received will be reported at the meeting

Trees and Woodlands

Any comments received will be reported at the meeting

Response to Neighbour Notification / Site Notice / Newspaper Advertisement

29 High Street

We have the right of access and egress to the car park at the rear of our property from Figtree Hill over the car park at the rear of the new flats, formerly the yard to Able House.

We are concerned that planning application A15-108-GA-70 rev B does not tell the true facts regarding car park spaces 13 & 14. These are in fact below the existing flats and have walls to the front and side {admittedly shown dotted on the plan}. This reduces the useable area for turning, etc.

We cannot see that these two spaces and also space 12 can be sensibly used without coming over the site boundary onto our land.

Considerations

Key issues

The principle issue is whether the alternative layout with 3 parking spaces in lieu of the originally agreed private amenity space and realignment of the building to the west would be detrimental to the appearance and functioning of the scheme and residential amenities.

Condition 18 lists the approved plans.

It is now proposed to substitute these with amended plans showing the alternative layout.

Discussion

Reference should be made to the report on 4/00779/15/MFA which granted permission for the redevelopment of the site for 14 flats (see Appendix).

In considering 4/00779/15/MFA it was noted that Appendix 3 seeks private outdoor amenity provision equivalent to the floorspace of the proposal plus additional for each floor above 2 storeys. The proposal is three storeys and it was acknowledged that relatively little could be provided without reducing the footprint / increasing the height which would be likely to become either unviable or unacceptable in townscape terms. However, it was noted that a reasonable amount of private amenity space would be provided in the form of a small roof garden to the northern element of the building, together with a further small amenity area to the north of this at ground level. Furthermore, it was also noted that the design incorporated private balconies to all but the ground floor units and that these were welcomed as they both helped articulate the elevations whilst also providing essential private / semi-private amenity space for the occupants. It was concluded, on balance, that the amount of amenity space was acceptable given also the proximity of public parks.

It is now proposed to omit the ground level amenity space and to provide 3 parking spaces in lieu. This would amount to a net increase of 2 spaces overall because one space to the front of the amenity area would now be lost. The reason expressed is that the applicant would prefer the amenity space to be a hard landscaped parking area instead.

The amenity area extends to some 62 sq metres. The loss of private amenity space is disappointing particularly given that car parking provision at a ratio of 1 to 1 is in accordance with parking standards for this sustainable location in the town centre. However, given the roof garden and balconies to some of the flats, and the town centre location, the reduced provision is considered acceptable.

The amenity space was to be subject to details of its means of enclosure through Condition 5 to ensure an acceptable appearance and privacy. However, this requirement is no longer necessary in the absence of the amenity area.

The revised layout would continue to provide a good amount of general soft landscaping around the building which would help soften and integrate the development into the surroundings. Provision of soft landscaping would be slightly increased as a result of the realignment of the southern end of the block further to the west by approximately 1 m and the addition of a small island of planting within the car park to the rear.

In visual terms, the additional hardsurfacing for the 3 parking spaces would match the remaining car park with a brindle block pavior which would provide an appropriate appearance and setting to the street scene and pedestrian routes through to the adjacent High Street Conservation Area. Due to significant level differences, the car parking would not be visible from Figtree Hill.

With regards to access and turning provision, this would be largely as approved with the exception of the 2 additional parking spaces and the slightly more restricted turning space as a result of the realigned building. However, the 3 parking bays 15, 16 and 17, would have more than adequate turning provision. Highway comments are awaited with regards to the adequacy of turning provision for a refuse vehicle.

A neighbour has raised concerns regarding the adequacy of turning provision to the rear of spaces 13 and 14 which are contained within undercroft garages. However, given that these are existing garages being reused and the layout in this respect has not altered either from the approved scheme or the pre-existing layout, it is not considered that a refusal could be justified on this ground.

The proposed amendments would comply with Policies CS12, 13 and 27 and saved Policy 120.

Other matters

A deed of variation to the existing s106 agreement will be necessary to refer to the current application number.

The development has been implemented. Condition 1 is therefore not relevant anymore.

Conditions 2, 3, 4, 6, 10, 11 relating to materials, 1:20 details, levels, sustainability measures, waste and construction management plans have been discharged. Compliance conditions are recommended.

Condition 5 relates to landscaping details which have been part discharged in respect of hard landscaping but these details change under the current ROC. As the area of hard and soft landscaping has changed, but full details have been provided under the ROC, it is only necessary to accord with the current ROC details. Details have also been submitted in respect of means of screening the roof garden which are considered acceptable comprising 15 mm thick obscure toughened and laminated glass to the north elevation, and CCTV cameras, as required by the Police Crime Prevention Advisor. Although soft landscaping and various other aspects are the subject of a concurrent application which has yet to be discharged, details remain outstanding or unacceptable in respect of external lighting luminaires, landscaping to the roof garden, minor artefacts and structures (e.g. furniture, or other storage units, signs etc.). If the soft landscaping and other aspects are determined before determination of the current ROC application, a compliance condition would be recommended - otherwise an amended landscaping condition would be appropriate, as drafted.

Condition 7 relates to a post construction review of energy performance and remains relevant.

Condition 8 relates to sustainable surface water drainage which is the subject of a concurrent application wherein details confirm that the surface water discharge rate will be less than the current site. Details have however been submitted with the current ROC application and a compliance condition is recommended.

Condition 9 requires compliance with crime prevention measures and remains relevant.

Condition 12 requires compliance with parking and turning arrangements shown on plan and is relevant.

Condition 13 relates to an assessment of contamination which is the subject of a concurrent application. Until this is discharged a condition remains necessary.

Condition 14 relates to a remediation scheme which remains relevant.

Condition 15 relates to a validation report which remains relevant.

Condition 16 relates to additional contamination which remains relevant.

Condition 17 relates to obscure glazing which remains relevant

Condition 18 relates to the list of approved plans which should be updated to refer to the revised plans.

RECOMMENDATION

1. That the application be DELEGATED to the Group Manager - Development Management & Planning with a view to approval subject to the completion of a Deed of Variation to the existing planning obligation under s.106 of the Town and Country Planning Act 1990 and the draft list of conditions below.

2. That the following Heads of Terms for the Deed of Variation, or such other terms as the Committee may determine, be agreed:

That reference is made to planning application 4/03266/16/ROC in the current s106 agreement relating to 4/00779/15/MFA.

Suggested Conditions

RECOMMENDATION - That planning permission be **GRANTED** for the reasons referred to above and subject to the following conditions:

1 **The development shall be carried out in accordance with the materials approved under application reference 4/00586/16/DRC.**

Reason: To ensure a satisfactory appearance to the development in accordance with Policy CS12 of the Dacorum Core Strategy (September 2013).

2 **The development (with the exception of demolition) shall be carried out in accordance with the approved plans and elevations and in accordance with the details of windows, doors and openings, balconies, railings, balustrades and rainwater goods approved under application reference 4/00586/16/DRC.**

Reason: To ensure a satisfactory appearance to the development in accordance with Policies CS10, 11, 12 and 13 of the Dacorum Core Strategy (September 2013).

3 **The development shall be carried out in accordance with the slab, finished floor and ridge levels approved under application reference 4/00586/16/DRC.**

Reason: For the avoidance of doubt and to ensure a satisfactory form of development in accordance with Policy CS12 of the Dacorum Core Strategy September 2013.

4 **The details of hard and soft landscaping shown on Drg. Nos. 11547.03 GD and A15-108-GA70 Rev B, finished levels and means of screening the roof garden shown on Drg. No. A15-108-GA70B and A15-108-PA20A & PA21A and external**

lighting and CCTV shown on Drg. No. A15-108-GA-60 Rev C shall be carried out prior to the first occupation of the development hereby permitted and the details shall thereafter be retained.

Any tree or shrub which forms part of the approved landscaping scheme which within a period of five years from planting fails to become established, becomes seriously damaged or diseased, dies or for any reason is removed shall be replaced in the next planting season by a tree or shrub of a species, size and maturity to be approved by the local planning authority.

Reason: To ensure a satisfactory appearance to the development and to safeguard the visual character of the immediate area in accordance with saved Policies 99 and 100 of the Dacorum Borough Local Plan 1991-2011 and Policies CS12 and 13 of the Dacorum Core Strategy September 2013.

5 Notwithstanding any details submitted, prior to the commencement of any landscaping, details of the following shall be submitted to and approved in writing by the local planning authority:

- **external lighting luminaires;**
- **hard and soft landscaping of the roof garden, including seating;**
- **minor artefacts and structures (e.g. furniture, other storage units, signs etc.);**

The approved details shall be carried out prior to the first occupation of the development hereby permitted.

Reason: To ensure a satisfactory appearance to the development and to safeguard the visual character of the immediate area in accordance with saved Policies 99 and 100 of the Dacorum Borough Local Plan 1991-2011 and Policies CS12 and 13 of the Dacorum Core Strategy September 2013.

6 The development hereby permitted shall be carried out in accordance with the C-Plan Sustainability Statement and Section 7 (Sustainability and Environment Statement) of the Design and Access Statement approved under application reference 4/00779/15/MFA, and in accordance with the energy statement approved under application reference 4/00586/16/DRC. The measures identified in the statements shall be retained and adequately maintained at all times.

Reason: To ensure the sustainable development of the site in accordance with the aims of Policies CS29 and 31 and Para. 18.22 of the Dacorum Borough Core Strategy September 2013 and adopted Supplementary Planning Guidance.

7 Prior to first occupation of the development, a post construction review to formally demonstrate achievement of the energy performance target approved under Condition 6 shall be submitted to and approved in writing by the local planning authority.

Reason: To ensure the sustainable development of the site in accordance with the aims of Policies CS29 and 31 and Para. 18.22 of the Dacorum Borough Core Strategy September 2013 and adopted Supplementary Planning Guidance.

8 The development shall not be occupied until the details of sustainable surface water drainage shown on Drg. No. 16-001-DR1 Rev 9 and in Plane Infiltration

System Design shall have been provided, and they shall thereafter be permanently retained.

Reason: To ensure the sustainable development of the site in accordance with the aims of Policies CS29 and 31 of the Dacorum Borough Core Strategy September 2013 and adopted Supplementary Planning Guidance.

- 9 **The development shall be carried out in accordance with the measures set down in Section 3.5 (Crime Prevention) of the Design and Access Statement approved under application reference 4/00779/15/MFA. The measures shall thereafter be retained and adequately maintained at all times.**

Reason: To ensure a secure and safe form of development for the residents in accordance with Best Practice and Secured by Design principles and Policy CS12 of the Dacorum Core Strategy (September 2013).

- 10 **The development shall be carried out in accordance with the details of site waste management plan (SWMP) approved under application reference 4/02639/15/DRC and 4/02051/16/DRC.**

Reason: To accord with the waste planning policies of the area, Policy CS29 of the Dacorum Core Strategy (September 2013) and saved Policy 129 of the Dacorum Borough Local Plan 1991-2011.

- 11 **The development shall be carried out throughout the construction period in accordance with the details of Construction Management Plan approved under planning reference 4/02639/16/DRC.**

Reason: To minimise danger, obstruction and inconvenience to users of the highway in accordance with saved Policy 51 of the Dacorum Borough Local Plan 1991-2011.

- 12 **The development hereby permitted shall not be occupied until the arrangements for vehicle parking, cycle parking, circulation, turning and access shown on Drawing No. A15-108-GA-70 Rev B shall have been provided, and they shall not be used thereafter otherwise than for the purposes approved.**

Reason: To ensure that adequate access and parking is provided at all times so that the development does not prejudice the free flow of traffic or the conditions of general safety along the adjacent highways, and to encourage the use of sustainable modes of transport in accordance with saved Policy 51 and 58 of the adopted Dacorum Borough Local Plan 1991 - 2011 and Policy CS12 of the Dacorum Core Strategy September 2013.

- 13 **Notwithstanding any details submitted with the application, no development (with the exception of demolition) shall take place until an assessment of the nature and extent of contamination has been submitted to and approved in writing by the local planning authority. This assessment shall be undertaken by a competent person, and shall assess any contamination on the site, whether or not it originates on the site. Moreover, it shall include:**

(i) a survey of the extent, scale and nature of contamination;

(ii) an assessment of the potential risks to:
(a) human health;

- (b) property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;
- (c) adjoining land;
- (d) groundwater and surface waters; and,
- (e) ecological systems.
- (f) archaeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy CS32 of the Dacorum Core Strategy September 2013.

- 14 **No development (with the exception of demolition) shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural environment has been submitted to and approved in writing by the local planning authority. The scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria, an appraisal of remedial options, proposed preferred option(s), and a timetable of works and site management procedures. The scheme shall ensure that the site does not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. The remediation scheme shall be implemented in accordance with the approved timetable of works.**

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy CS32 of the Dacorum Core Strategy September 2013.

- 15 **Within 6 months of the completion of measures identified in the approved remediation scheme, a validation report (that demonstrates the effectiveness of the remediation carried out) shall be submitted to the local planning authority for its written approval.**

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy CS32 of the Dacorum Core Strategy September 2013.

- 16 **In the event that contamination is found at any time when carrying out the approved development that was not previously identified it shall be reported in writing within 7 days to the local planning authority and once the local**

planning authority has identified the part of the site affected by the unexpected contamination, development shall be halted on that part of the site. An assessment shall be undertaken in accordance with the requirements of Condition No 13, and where remediation is necessary a remediation scheme, together with a timetable for its implementation, shall be submitted to and approved in writing by the local planning authority in accordance with the requirements of Condition No 14. The measures in the approved remediation scheme shall then be implemented in accordance with the approved timetable. Following completion of measures identified in the approved remediation scheme a validation report shall be submitted to and approved in writing by the local planning authority in accordance with Condition No 15.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy CS32 of the Dacorum Core Strategy September 2013.

- 17 **The windows at first floor level in the north elevation of the development hereby permitted shall be non-opening and shall be permanently fitted with obscured glass unless otherwise agreed in writing with the local planning authority.**

Reason: In the interests of the amenity of adjoining residents in accordance with Policy CS12 of the Core Strategy

- 18 **The development hereby permitted shall be carried out in accordance with the following approved plans:**

**11547.03 GD
16-001-DR1 Rev 9
A-15-108-GA-70 Rev B
A-15-108-GA-60 Rev C
A15-108-PA20A
A15-108-PA21A**

together with the following plans approved under 4/00779/15/MFA:

**14003/020
14003/021
14003/022
14003/023
14003/024
14003/026 Rev B
14003/027 Rev A
14003/028 Rev C
14003/029 Rev D
14003/033**

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

Article 35 Statement

Planning permission has been granted for this proposal. The Council acted proactively through positive engagement with the applicant during the pre-application

and determination process which led to improvements to the scheme. The Council has therefore acted pro-actively in line with the requirements of the Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2015.

INFORMATIVES:

The development hereby permitted is an amendment to the permission granted under planning permission 4/00779/15/MFA.

Thames Water

Waste Comments

Surface Water Drainage - With regard to surface water drainage it is the responsibility of a developer to make proper provision for drainage to ground, water courses or a suitable sewer. In respect of surface water it is recommended that the applicant should ensure that storm flows are attenuated or regulated into the receiving public network through on or off site storage. When it is proposed to connect to a combined public sewer, the site drainage should be separate and combined at the final manhole nearest the boundary. Connections are not permitted for the removal of groundwater. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. They can be contacted on 0800 009 3921.

Legal changes under The Water Industry (Scheme for the Adoption of private sewers) Regulations 2011 mean that the sections of pipes you share with your neighbours, or are situated outside of your property boundary which connect to a public sewer are likely to have transferred to Thames Water's ownership. Should your proposed building work fall within 3 metres of these pipes we recommend you contact Thames Water to discuss their status in more detail and to determine if a building over / near to agreement is required. You can contact Thames Water on 0800 009 3921 or for more information please visit our website at www.thameswater.co.uk

Water Comments

With regard to water supply, this comes within the area covered by the Affinity Water Company. For your information the address to write to is - Affinity Water Company The Hub, Tamblin Way, Hatfield, Herts, AL10 9EZ - Tel - 0845 782 3333.

Affinity Water

You should be aware that the site is located within the groundwater Source Protection Zone (SPZ) corresponding to Marlowes Pumping Station. This is a public water supply comprising a number of chalk boreholes operated by Affinity Water Ltd.

The construction works and operation of the proposed development site should be done in accordance with the relevant British Standards and Best Management Practices, thereby significantly reducing the groundwater pollution risk. It should be noted that the construction works may exacerbate any existing pollution. If any pollution is found at the sites then the appropriate monitoring and remediation methods will need to be undertaken.

For further information we refer you to CIRIA Publication C532 "Control of water pollution from construction - guidance for consultants and contractors".