

DELEGATED FILE NOTE

CASE OFFICER: ...Tom Rea.....

APPLICATION REFERENCE	BRIEF DESCRIPTION OF DEVELOPMENT	APPLICATION SITE
25/02061/S73	Changes to wording of condition 19 of planning permission 19/02201/S73 granted 08.11.2019 for Addition of Condition 19 (mortgage exclusion clause relating to all affordable housing dwellings) to Planning permission 09/02366/1 granted 28.03.2011 for Demolition of existing industrial units to allow residential development comprising 2 x 4-bed houses, 5 x 3 bed houses, 2 x 2 bed houses, 2 x 2 bed flats, 6 x 1 bed flats and 15 x 1 bed supported independent living flats together with associated parking, bin and cycle storage	1-12 (Inclusive), And 14-33 (Inclusive) Napier Close Hitchin Former: Units 6 And 7 : Sharps Way: Hitchin: SG4 0JA

Submitted Plan Nos

Location plan

1.0 Policies

2.0 Site History

- 2.1 19/01676/S73 - Variation of Condition 18 to application number 09/02366/1 granted 28/03/2011 for Demolition of existing industrial units to allow residential development comprising 2 x 4-bed houses, 5 x 3 bed houses, 2 x 2 bed houses, 2 x 2 bed flats, 6 x 1 bed flats and 15 x 1 bed supported independent living flats together with associated parking, bin and cycle storage – Approved 04/09/19.
- 2.2 09/02366/1 - Demolition of existing industrial units to allow residential development comprising 2 x 4-bed houses, 5 x 3 bed houses, 2 x 2 bed houses, 2 x 2 bed flats, 6 x 1 bed flats and 15 x 1 bed supported independent living flats together with associated parking, bin and cycle storage – Approved 28/03/11.
- 2.3 19/02201/S73 - Addition of Condition 19 (mortgage exclusion clause relating to all affordable housing dwellings) to Planning permission 09/02366/1 granted 28/03/2011 for Demolition of existing industrial units to allow residential development comprising 2 x 4-bed houses, 5 x 3 bed houses, 2 x 2 bed houses, 2 x 2 bed flats, 6 x 1 bed flats and 15 x 1 bed supported independent living flats together with associated parking, bin and cycle storage. Granted 6.11.2021

3.0 Representations

- 3.1 **Housing Development Officer (HDO) –**
Advises that as the applicant's agent says the proposed amendment to the Condition does not alter the amount of affordable housing delivered, nor does it undermine the condition's intended purpose. Query change of ownership.

4.0 Planning Considerations

4.1 Site and Surroundings

- 4.1.1 The site consists of land occupied by relatively new residential dwellings and flats, which is close to other residential properties and light industrial units.

4.2 **Proposal**

- 4.2.1 The application seeks to vary Condition 19 of previous planning permission 19/02201/S73, which amended 09/02366/1 which was for 'Demolition of existing industrial units to allow residential development comprising 2 x 4-bed houses, 5 x 3 bed houses, 2 x 2 bed houses, 2 x 2 bed flats, 6 x 1 bed flats and 15 x 1 bed supported independent living flats together with associated parking, bin and cycle storage'.

- 4.2.2 Condition 19 of 19/02201/S73 states:

The 15 no. one bedroom supported independent living units hereby permitted shall be used for these purposes only and for no other use whatsoever without the specific grant of planning permission by the Local Planning Authority.

This shall not be binding on a mortgagee or chargee (or any receiver appointed by such mortgagee or chargee) of the whole or any part of the affordable dwellings or any successors in title to such mortgagee or chargee or receiver PROVIDED THAT such mortgagee or chargee (or any receiver appointed thereby) or administrator (howsoever appointed) including a housing administrator acting pursuant to any event of default shall first give written notice to the Council of its intention to dispose and shall have used reasonable endeavours over a period of twelve weeks from the date of the written notice to dispose of the affordable dwellings to another registered social landlord or to the Council for a consideration not less than the amount due and outstanding to the mortgagee or chargee under the terms of the mortgage or charge including all accrued principal monies, interest and costs and expenses incurred by the mortgagee or chargee in respect of the mortgage or charge. If such disposal has not taken place within the twelve week period, the mortgagee, chargee or receiver shall be entitled to dispose of the affordable dwellings free from the affordable housing provisions in this Planning Permission which shall determine absolutely.

- 4.2.3 The proposal seeks to vary this condition, to include a slight re-wording concerning the written notice required to a Registered Provider. The reason for the variation is to accommodate changes to Home England's requirements. A revised wording for Condition 19 is proposed to be created comprising much of the original condition save the matter regarding disposal to a Registered Provider.

- 4.2.4 The proposed revised Condition 19 is:

'Condition 6 and Condition 18 and any affordable housing provision relating to this Property shall not be binding on a mortgagee or chargee (or any receiver appointed by such mortgagee or chargee) of the whole or any part of the affordable dwellings or any successors in title to such mortgagee or chargee or receiver PROVIDED THAT such mortgagee or chargee (or any receiver appointed thereby) or administrator (howsoever appointed) including a housing administrator acting pursuant to any event of default shall first give written notice to the Council of its intention to dispose and shall have used reasonable endeavours over a period of twelve weeks from the date of the written notice to complete a disposal of the affordable dwellings to another Registered Provider or to the Council for a consideration not less than the amount due and outstanding to the mortgagee or chargee under the terms of the mortgage or charge including all accrued

principal monies, interest and costs and expenses incurred by the mortgagee or chargee in respect of the mortgage or charge. If such disposal has not taken place within the twelve week period, the mortgagee, chargee or receiver shall be entitled to dispose of the affordable dwellings free from the affordable housing provisions in this Planning Permission which shall determine absolutely'

Reason: To ensure that the Local Planning Authority retains control over the future use of the site and to accord with the terms of the submitted application.

4.3 **Key Issues**

4.3.1 The key material consideration is whether the proposed variation of Condition 19 would affect the provision of affordable housing at the site.

4.3.2 The applicants agents have confirmed in their covering letter that

'The proposed amendment does not alter the amount of affordable housing delivered, nor does it undermine the condition's intended purpose. Instead, it is a necessary update to reflect the latest requirements issued by Homes England

Taking into consideration the response of the HDO, who does not raise any objections, and which is given significant weight, it is not considered that the proposed variation would result in a loss of affordable housing at the site.

4.3.3 Condition 19 shall therefore be varied as set out above in paragraph 4.2.4

4.3.4 All other conditions attached to permission ref: 19/02201/S73 should be re-attached for completeness

4.4 **Conclusion**

4.4.1 In the absence of material planning reasons to the contrary it is my view that planning permission is **GRANTED**.

5.0 **Recommendation**

5.1 That planning permission be **GRANTED** subject to the following conditions:

1. The development hereby permitted shall be carried out wholly in accordance with the details specified in the application and supporting approved documents and plans listed above.

Reason: To ensure the development is carried out in accordance with details which form the basis of this grant of permission.

2. External materials shall be in accordance with those approved under 11/02050/1DOC.

Reason: To ensure that the development will have an acceptable appearance which does not detract from the appearance and character of the surrounding area.

3. Landscaping shall be in accordance with the details approved under 11/02564/1DOC.

Reason: To ensure a satisfactory landscaping scheme is implemented on site.

4. The approved details of landscaping shall be carried out before the end of the first planting season following either the first occupation of any of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which, within a period of 5 years from the completion of the development, die, are removed or become seriously damaged or diseased, shall be replaced during the next planting season with others of similar size and species, unless the Local Planning Authority agrees in writing to vary or dispense with this requirement.

Reason: To safeguard and enhance the appearance of the completed development and the visual amenity of the locality.

5. Affordable housing shall be in accordance with the details approved under 11/02113/1DOC.

Reason: To ensure that the dwellings hereby permitted are occupied in accordance with the terms of the submitted application and to accord with the Council's policies with regard to affordable housing.

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended no development as set out in Classes A, B, C, D, E, F and G of Part 1 of Schedule 2 to the Order, (or any subsequent Statutory Instrument which revokes, amends and/or replaces those provisions) shall be carried out without first obtaining a specific planning permission from the Local Planning Authority.

Reason: Given the nature of this development, the Local Planning Authority considers that development which would normally be "permitted development" should be retained within planning control in the interests of the character and amenities of the area.

7. All building wastes from the proposed development shall be properly stored then removed from the site for disposal or recycling. No building wastes shall be burnt on site.

Reason: To protect the amenities of nearby residents

8. The development shall not be brought into use until the proposed access, internal layout on the access, turning area, parking facilities as demonstrated on drawing ref:08065wd2 10 Rev A have been constructed to the current specification of the Highway Authority and to the Local Planning Authority's satisfaction.

Reason: In the interest of highway safety and to ensure the development makes adequate provision for car parking and manoeuvring of vehicles associated with the development proposal.

9. The development shall be in accordance with 11/02115/1DOC.

Reason: In the interests of nearby residential amenity and public safety.

10. The development shall be in accordance with 11/02116/1DOC.

Reason: In the interests of nearby residential amenity and the public highway

11. The development shall be in accordance with 11/02565/1DOC and 13/00552/1DOC.

Reason: To ensure that any contamination affecting the site is dealt with in a manner that safeguards human health, the built and natural environment and to protect and prevent the pollution of controlled waters (that is inland freshwater and groundwater). This is in accordance with Planning Policy Statement 23 (PPS23) and the Environment Agency Groundwater Protection (GP3) Policy P9-6.

12. The development shall be in accordance with 11/02117/1DOC.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.

13. Finished floor levels shall be set no lower than 55.39m AOD, as recommended in the Flood Risk Assessment.

Reason: To reduce the impact of flooding on the proposed development and future occupants.

14. The development shall be in accordance with 11/02118/1DOC.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.

15. No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters.

Reason: To protect and prevent pollution of groundwater. The water environment at this site is vulnerable and there is an increased potential for pollution from inappropriately located or designed infiltration sustainable urban drainage systems (SuDS). Documents submitted with the application recognise that infiltration SuDS are unlikely to be suitable for this site as a result of the contaminants identified in soils and groundwater.

16. The development shall be in accordance with 11/02865/1DOC.

Reason: The site is contaminated and intrusive foundation solutions could lead to the contamination and pollution of groundwater in the underlying aquifer.

17. The 15 no. one bedroom supported independent living units hereby permitted shall be used for these purposes only and for no other use whatsoever without the specific grant of planning permission by the Local Planning Authority.

Reason: To ensure that the Local Planning Authority retains control over the future use of the site and to accord with the terms of the submitted application.

18. 'Condition 6 and Condition 18 and any affordable housing provision relating to this Property shall not be binding on a mortgagee or chargee (or any receiver appointed by such mortgagee or chargee) of the whole or any part of the affordable dwellings or any successors in title to such mortgagee or charge or receiver PROVIDED THAT such mortgagee or chargee (or any receiver appointed thereby) or administrator (howsoever appointed) including a housing administrator acting pursuant to any event of default shall first give written notice to the Council of its intention to dispose and shall have used reasonable endeavours over a period of twelve weeks from the date of the written notice to complete a disposal of the affordable dwellings to another Registered Provider or to the Council for a consideration not less than the amount due and outstanding to the mortgagee or chargee under the terms of the mortgage or charge including all accrued principal monies, interest and costs and expenses incurred by the mortgagee or chargee in respect of the mortgage or charge. If such disposal has not taken place within the twelve week period, the mortgagee, chargee or receiver shall be entitled to dispose of the affordable dwellings free from the affordable housing provisions in this Planning Permission which shall determine absolutely'

Reason: To ensure that the Local Planning Authority retains control over the future use of the site and to accord with the terms of the submitted application.

Biodiversity Net Gain

This development is not subject to the statutory Biodiversity Gain Plan condition because it is considered exempt under the statutory exemptions (<https://www.gov.uk/guidance/biodiversity-net-gain-exempt-developments>) or transitional arrangements in respect of the biodiversity gain condition.

Proactive Statement:

Planning permission has been granted for this proposal. The Council acted proactively through positive engagement with the applicant at the pre-application stage and during the determination process which led to improvements to the scheme. The Council has therefore acted proactively in line with the requirements of the Framework (paragraph 38) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

Signed  Anne McDonald	Development Management North Hertfordshire District Council Council Offices Gernon Road Letchworth Herts SG6 3JF
Determining Officer Date: 16 October 2025	