

**COMMITTEE:** DEVELOPMENT CONTROL

**DATE:** 25 APRIL 2004

**SUBJECT:** LAND REAR OF 173 HART LANE  
DEVELOPMENT AT VARIANCE WITH APPROVED  
PLANS FOR DEVELOPMENT OF LAND FOR  
RESIDENTIAL PURPOSES: APPROVAL OF  
RESERVED MATTERS AND PART DISCHARGE OF  
CONDITION 2 (DESIGN, SITING AND  
LANDSCAPING) OF OUTLINE PERMISSION  
03/01297/OUT DATED 11 MARCH 2004.  
(APPLICANT: WATERWAY ESTATES LTD)  
(APPLICATION NUMBER (06/00375/REM)

**REPORT BY:** DEVELOPMENT CONTROL MANAGER

**CONTACT OFFICER:** BEN HUSKINSON 546317

**IMPLICATIONS:**

LEGAL	COMMUNITY SAFETY
EQUALITIES	ENVIRONMENT
FINANCIAL	CONSULTATIONS
STAFFING	OTHER

**WARDS AFFECTED: HIGH TOWN**

---

**PURPOSE**

1. To advise Members of a proposed amendment to the approved scheme and to seek their decision.

**RECOMMENDATION(S)**

2. Subject to the outcome of the Committee's visit to the site on the day of the Committee Meeting, Development Control Committee is recommended to confirm that the proposed revisions can be treated as a minor amendment to the Reserved Matters approved under Permission No. 06/00375/REM dated 26th May 2006.

## **BACKGROUND**

3. The development of this site for the erection of 28 flats in two 3 storey blocks was approved by the Committee in outline under reference 03/01297/OUT on 11th March 2004, with the Reserved Matters for the development being subsequently approved under reference 06/00375/REM on 26th May 2006. Construction commenced on site in mid 2006 and it became evident that the works were being installed at heights significantly greater than had been anticipated when planning permission was granted.

4. Members will recall that, at the 13th December 2006 Meeting, authorisation was given for the service of an enforcement notice in order to secure demolition of the floor slab of the block referred to on the approved plans as "Block B", and the reconstruction of the slab at a level closer to that indicated on the approved plans. However, in view of the possibility that the differences between the approved plans and the actual works on-site may not be sufficient to warrant formal enforcement action, Members also instructed the Development Control Manager to assess amended plans provided by the developer before proceeding, and if those plans and a further assessment of the impact of the buildings on the surrounding properties (including consultation with the occupiers of properties adjacent to the development site) demonstrated that there would be no significant material harm to the surrounding area, the Development Control Manager was given the discretion not to implement the authorised enforcement action.

## **REPORT**

5. The matter arose following a formal complaint received alleging that the development has not been constructed in accordance with the approved plans. A site investigation revealed that the block nearest to Hart Lane (Block A) is approximately 1 metre higher, and the block to the south (Block B) is nearly 3 metres higher than they should have been with respect to their relationship with nearby properties. This came about as a result of the cross sections shown on the drawings submitted with the application being inaccurate.

6. A site visit was arranged on 20th December 2006 attended by the developer and his agent. At the site meeting it was noted that Block A was erected and roofed, and Block B was completed to slab level. Plans had been prepared that showed the potential for the approved height of Block B to be reduced at ridge level by 1.373 metres.

7. A thorough inspection was made to assess the potential impact of the blocks on the nearest residential properties. It was concluded that there is a potential for overlooking and loss of privacy to the properties in Pomfret Avenue from the top floor windows of both Block A and Block B. This would not have been the case if the blocks had been built to heights that were consistent with the approved sections. It was considered that there would be no loss of light to the affected properties and the level of visual intrusion would not be significant.

8. On the northwest side, facing the properties in Hitchin Road, the distance between the blocks and the existing properties is considerably greater. Therefore, although the discrepancy between the anticipated height of Block B and its potential height, if built off the existing slab, is at its most severe, the combination of the distances to the Hitchin Road properties, a potential reduction in the actual ridge height of 1.373 metres

and the already limited outlook from affected windows in the Hitchin Road properties, all demonstrate that the potential for adverse impact would only be marginal.

9. As a consequence of these findings, revised plans have been submitted seeking an amendment to the approved scheme. Apart from the reduction in the ridge height of Block B already referred to, it is proposed that the second floor windows in the rear projection of each block that face the houses in Pomfret Avenue are obscure glazed with only the top light being capable of being opened. In addition to this, with respect to Block B, one of the window openings will be dispensed with altogether.

10. Sixty eight local occupiers have been advised of the proposed amendments. At the time of writing this report the date by which any representations should be made had not lapsed. Any representations that are received will be reported at the meeting. In addition, it is considered appropriate for Members to visit the site and to see for themselves the impact of the two blocks on the surrounding properties

## **CONCLUSIONS**

11. In the Committee report of 13th December 2006 it was recommended that a height reduction of 1.8 metres in the height of Block B should be pursued. At the time the agent was offering a reduction of 1.18 metres. The current proposal to reduce the ridge height by 1.373 metres means that there are potentially only 0.427 metres between what was originally sought and the proposed amendment.

12. In an appeal situation, it is unlikely that the Appeal Inspector would support a Notice requiring that reduction, particularly having regard to the other amendments proposed to prevent the likelihood of overlooking and loss of privacy. It is recommended, therefore, subject to consideration of any representations that are received and to the outcome of the site visit, that the revised drawings are treated as a minor amendment to Permission No. 06/00375/REM.

## **LIST OF BACKGROUND PAPERS**

### **LOCAL GOVERNMENT ACT 1972, SECTION 100D**

13. Luton Local Plan 2001 - 2011

14. File No. 03/01297/OUT and File No. 06/00375/REM

15. There are no other background papers relating to this report other than those which disclose exempt information within the meaning of Section 100A and Section 12A to the Local Government Act 1972.