

**Committee:** Development Control Committee

**Date:** 28 June 2004

**Agenda Item No:** 6

**Title:** Enforcement of Planning Control:  
Hempstead Hall Barn, Finchingfield Road,  
Hempstead

**Contacts:** J Mitchell (01799 510450) and C Theobald (01799) 510463

### **Introduction**

- 1 This report concerns the reconstruction of a barn without planning permission and recommends that enforcement, and, if necessary, legal action be taken to require the removal of the building and clear all resulting debris and materials from the land.

### **Notation**

- 2 Outside Development Limits and Settlement Boundaries. Adjacent to Grade II Listed Building. Access via a protected lane

### **Relevant History**

- 3 Planning permission for change of use of barn to dwelling refused June 2002, but allowed on appeal May 2003 (UTT/0190/02/FUL). Permission granted February 2004 for conversion and alteration of barn to form dwelling, including conversion of barn to form garaging and store (alternative design) (UTT/1846/03/FUL & UTT/1847/03/LB).

### **Background**

- 4 The nineteenth century barn known as Hempstead Hall Barn stood until very recently within the grounds of the converted listed Hempstead Hall at the end of a separate entrance drive from Finchingfield Road. The barn previously formed part of the working farm associated with the hall.
- 5 On 21 March 2004, the Council received information that the barn had collapsed during gales and learnt subsequent to this that a new building was in the course of being reconstructed in its place. On 30 March 2004, the Council wrote to the developer responsible for the reconstruction work informing it that a condition had been imposed on planning permission UTT/1847/03/LB stating that the permission related solely to the conversion being applied for and that any rebuilding or reconstruction was not covered by the permission and would require a separate application (the appeal decision for UTT/0190/02/FUL did not contain any such condition). The Council advised that a fresh planning application would have to be submitted for

approval prior to any works commencing on the site if it was the developer's intention to reconstruct the barn following its collapse.

- 6 On 1 April 2004, the developer's Solicitors responded by saying that their client had obtained senior planning counsel advice (25 March 2004) following the storm damage and in advance of recommencement of work, who advised that the developer was entitled to complete the works in accordance with the appeal permission and, accordingly, could proceed without further ado with works to that end. The developer's Solicitors advised that their client would continue work on the building work in accordance with this advice. It should be noted from this that Counsel restricted its advice primarily to the terms of the appeal permission.
- 7 On 15 April 2004, a planning enforcement officer visited the site to inspect works in progress. It was found that the building had a new framework clad with engineering ply board off a new floor and sitting on a brick plinth. The structure had ground and first floor joists, although did not have a first floor ceiling or roof. Various "original" timber uprights were in place off the ground floor. From what was seen, it was determined that the works could not be said to constitute a maintenance, repair or refurbishment of the existing barn and constituted a reconstruction instead. A pile of old timbers was observed lying on the ground adjacent to the barn, presumed to be remnants of the former structure.
- 8 The inspection and separate enquiries made with Building Control with regard to submission of details clearly show that the planning permission being implemented is UTT/1846/03/FUL, i.e; the permission that carries the restrictive condition and not the appeal permission that does not carry such a condition. Officers took the view that as the barn had collapsed, the works that were taking place were unlawful as the new structure amounted to a reconstruction and was breaching the restrictive condition. In addition to this, several other conditions had not been satisfied and it could therefore be argued in any event that the permission was not being properly implemented.
- 9 It was considered expedient for urgent enforcement action to be taken to require a cessation of the works as they were considered to be in clear breach of the restrictive condition. Enforcement action was agreed under the Terms of Delegation to Chief Officers in consultation with the Chairman of the Development Control Committee and an enforcement notice alleging the erection of a new building was issued on 16 April 2004, which required the cessation of the reconstruction works and the removal of the building and resultant debris and materials from the site. Time for compliance was set at one month. Copies of the notice were served on all parties with a declared interest in the land.
- 10 On 15 April 2004, the developer's Solicitors advised the Council that it had received further counsel advice on behalf of their client (15 April 2004), which reinforces earlier advice and which asserts that the Council has misconstrued the terms of the planning permission granted and, as such, the developer would be advised to continue with the works. The Council responded by saying that it was the Council's view that it was not possible to change the use or convert a building that no longer exists as a structure.

- 11 On 5 May 2004, the Council received a further communication from the developers Solicitors in which they stated that their client had already completed a substantial amount of work in connection with the conversion and refurbishment work at the time of storm damage to the barn, adding that this may alter the Council's view on the legal position and the service of the enforcement notice. They enclosed copies of architects statement of works to their client in this respect adding that, in these circumstances, there could be no doubt that the barn had been substantially reconstructed before the storm, which caused only the external structure to collapse, but which did not destroy the ground work carried out as detailed in the statements.
- 12 On 24 May 2004, the Council received its own advice from Counsel. In summary, Counsel's opinion is that (i) enforcement action was properly taken and (ii) the advice from the developer's Counsel is wrong. Counsel has asserted that, as the permissions were for conversion to a dwelling, consent no longer exists if the original building was incapable of conversion, that the first permission allows for conversion of an existing building, but not its complete reconstruction and that the second permission is also limited to works of conversion, rather than wholesale reconstruction. Concluding, Counsel has advised that the reconstruction of the barn is not within the ambit of either permission and is liable to enforcement action and that there is nothing to suggest that the extant enforcement notice should be withdrawn.
- 13 On 1 June 2004, however, the Council withdrew the enforcement notice as it had learnt that building works on the building had ceased. On 2 June 2004, the Council wrote to the developer's Solicitors confirming withdrawal of the notice and stating that the matter would be placed before Members of the Development Control Committee on 28 June 2004 for full consideration and for them to consider a resolution to issue a fresh enforcement notice in the same terms as the one that had been withdrawn providing that a legal undertaking was received that no further work would take place on the barn before the 28 June 2004. On 2 June 2004, the Council received the legal undertaking.
- 14 On 2 June 2004, a further site inspection was conducted in the presence of the developer, when the extent of further building works was established. The framework of the building had been completed and the building had a new first floor and new roof, the previous roof having been lost in the gales. The interior of the building contained elements of the original barn that had been retained in connection with the restoration works and which had been re-erected in the same positions as before, after the gales. These extended to vertical timber posts and some ground floor ceiling joists. However, the extent of these original works is considered to be minimal in terms of the overall new building works that have taken place. Work on the site had ceased. A further inspection made on 15 June 2004 for this report showed that there were no changes in circumstances from the previous inspection.

### **Planning Considerations**

**The main issues in this case are whether, given the planning history, it is expedient to take enforcement action**

- 15 The conversion of this barn was allowed on appeal, with an amendment being approved for an alternative form of development in February this year. Planning policies are clear. Policies C5 of the Structure Plan, S2 of the District Plan and S7 of the deposit Local Plan all presume against unacceptable development in the countryside. Included in this category would be a dwelling not required for agriculture, forestry or other appropriate rural uses. As an exception to this blanket policy, conversions of barns will be permitted under the terms of Structure Plan Policy RE2 but only if they are of sound construction, and if in the open countryside, they are capable of conversion without major or complete reconstruction. This policy is augmented by policies C6 of the District Plan and H5 of the deposit local plan.
- 16 In this case the barn had blown down. It now clearly is not a structure that can be converted, or have its use changed, to a dwelling without substantial reconstruction. Circumstances have changed materially since planning permission was granted and the development now taking place is tantamount to the construction of a new dwelling in the countryside without any of the justifications or exceptions set out in policy. While investment may have taken place, the land use planning issues are clear. Enforcement action is recommended.

### **Conclusion**

- 17 Officers are of the view that there is expediency for enforcement action to be taken to require the removal of the building having regard to the provisions of the development plan and to other material considerations.

RECOMMENDED that enforcement, and, if necessary, legal action be taken to require the removal of the building and clear all resulting debris and materials from the land.

Background Papers: Enforcement File ENF/81/04/A

**Committee:** Development Control Committee

**Date:** 28 June 2004

**Agenda Item No:** 7

**Title:** Advanced report of issues relating to: Master Plan, UTT/1017/04/OP: Outline Planning Application for Community Services, Employment and live-work units. UTT/1019/04/FUL Full application for live work flats at Thaxted Road, Saffron Walden

**Contact:** John Mitchell (01799) 510476

### Summary

- 1 This report concerns a master plan, outline planning application and a full application for the above development at Thaxted Road. There is a joint report that sets out the main issues, and Officers seeks the advice of Members on whether there are additional matters that require consideration prior to drafting a conventional committee report containing a recommendation. Members are reminded that they should not offer an opinion at this stage.

### Background

- 2 Members will recall that the advance reporting scheme is being tried out to improve the authority's performance in determining major applications within the 13 week target set by Government. The report is attached  
**RECOMMENDED:** That Members advise officers whether there are additional issues they would like officers to cover when considering these applications.

Background Papers: Current applications

**DESCRIPTION OF SITE:** The site is located on the north eastern side of the B184 Thaxted Road and comprises the civic amenity site, a vacant industrial building, a former garden centre, two depots operated by the County and District Councils and vacant employment land. Adjacent to the site on the southern boundary is a new industrial building, which is in use. The site lies within development limits although it is outside the main urban area of Saffron Walden

**DESCRIPTION OF PROPOSAL:** Outline planning permission is sought over the whole site for a variety of uses, backed up by a master plan. It includes relocation of the Civic Amenity and Recycling Centre to the southern part of the site, although this is the subject of a separate application by Essex County Council. Relocation of the salt store and highways depots are also proposed. The central part of the site would remain in employment use, with live work units to the north, adjoining the development at Southgate House, which is the subject of a separate application on the schedule. (UTT/0040/04/FUL refers). The live work units would be

complemented by a business support centre, which would provide such facilities as meeting rooms, collections and delivery facilities and secretarial support. The existing ITT building would be entirely reformatted to provide small individual office suites of varying sizes. Access would be revised in accordance with the County Council's requirements. Extensive landscaping is proposed and it is proposed to fund public art at the entrance to the site, by way of a local competition

The Master Plan gives further details of how the scheme would evolve, together with a phasing plan.

Accompanying this application is a full application for the first phase of live work units and the business support centre. These would be located on the part of the site currently occupied by the civic amenity site and comprise a total of 42 live work units (13x1 bed and 29x2 bed) arranged in a staggered group of three and four storey flats with the business support unit on the site frontage. The existing slip road would be removed and landscaped.

**RELEVANT HISTORY:** Planning permission was refused earlier this year for a development of affordable houses on the site, together with relocation of the civic amenity site.

#### **PLANNING CONSIDERATIONS:**

The main issues are whether:

- 1) **B1 live work use on this site is considered acceptable (PPG4, ERSP Policies BIW3, 4, 5; ADP Policies S1, SW7 and DLP policies S1, SW5 and E2)**
- 2) **The scale, form and design of the development and its effect on surrounding land would be acceptable (ERSP Policy BIW4; ADP Policies DC1, DC14 and DLP Policies GEN2, 4 and 5)**
- 3) **The highway access and parking arrangements are acceptable (ERSP policies T3, T8 and T12; ADP policies T1 and T2, and DLP policies GEN1 and 9)**
- 4) **The proposed juxtaposition of uses is acceptable**

Members are invited to consider whether Officers should be considering any other issues.

**Committee:** DEVELOPMENT CONTROL COMMITTEE  
**Date:** 28 June 2004  
**Agenda Item No:** 8  
**Title:** PROPOSED WORKS TO 1 NO LONDON PLANE TREE IN THE GROUNDS OF BRIDGE END GARDENS  
**Author:** Ben Smeeden (01799) 510466

### **Introduction**

- 1 This report seeks Members approval of proposed works to a London Plane tree at Bridge End Gardens, Saffron Walden. The tree is within a Conservation Area.

### **Background**

- 2 Notification of intent to crown reduce 1 no London Plane tree has been received from the Bridge End Gardens Project Manager. This follows a tree surgeon's report on the condition of the tree based on the findings of a climbing inspection and core samples taken.

### **Assessment**

- 3 The tree has been inspected by the Council's Landscape Officer.
- 4 The tree is a mature specimen of approximately 30 metres in height with an overall crown spread of approximately 20 metres. The crown is well balanced with limited branch tip dieback present.
- 5 A number of areas of decay have been identified and bore tests indicate that there is potential for a major failure in parts of the crown. To reduce this risk, an overall crown reduction between 25 to 30% is considered necessary.

RECOMMENDED that no objection be raised to a 25 to 30% overall crown reduction of the London Plane tree.

Background Papers:

**Committee:** Development Control  
**Date:** 28 June 2004  
**Agenda Item No:** 9  
**Title:** PLANNING AGREEMENTS  
**Author:** Christine Oliva (01799 510417)

The following table sets out the current position regarding outstanding Section 106 Agreements:-

	<b>Planning Current Ref.</b>	<b>Approved by Committee</b>	<b>Applicant</b>	<b>Property</b>	<b>Position</b>
1.	UTT/0816/00/OP	29.4.02	Countryside Properties Plc	Priors Green Takeley/Little Canfield	Agreement agreed by main parties. Some landowners reluctant to sign. No further action possible until all parties sign.
2.	UTT/0884/02/OP	22.7.02	Exors of D M Harris	83 High Street, Gt. Dunmow	Agreement being signed within the next few days
3.	UTT/0875/02/FUL	23/9/02	Granite Estates Ltd	Thaxted Road, Saffron Walden	Agreement being prepared by Essex C.C.
4.	UTT/1247/02/FUL	24/02/03	M B Rich-Jones	Coach House High Street Stebbing	Unable to progress due to ill-health of applicant.
5.	UTT/0023/03/OP	07/04/03	Enodis Properties Ltd	Former Sugar Beet Works, Little Dunmow	Draft agreement has been agreed. Anticipated completion within two weeks
6.	UTT/1042/02/OP	07/04/03	Countryside Properties plc	Takeley Nurseries	Final instructions received from ECC. Planning services to instruct Legal on terms for the agreement.



7.	UTT/0518/02/OP	07/04/03	R & E McGowan	Laurels Yard, Takeley	Amended draft received from Applicant. Planning Services considering extensive amendments.
8.	UTT/1810/02/FUL	27/05/03	Welcome Break Group Ltd	Birchanger Green MSA	Agreement being finalised
9.	UTT/0595/03/OP	16/06/03	Ashdon PC & English Villages Housing Assoc	Guildhall Way, Ashdon	Final instructions being received. Draft in preparation.
10.	UTT/0811/02/OP	On appeal	Easton Properties	The Broadway, Church End, Great Dunmow	Agreement being finalised
11.	UTT/0511/03/OP	16/06/03	Mrs Gatsky	Hamilton Road, Little Canfield	Final instructions received from ECC. Planning services to instruct Legal on terms for the agreement.
12.	UTT/0630/03/DFO	07/07/03	David Wilson Homes	Barkers Tank, Takeley	Agreement being finalised.
13.	UTT/0147/03/FUL	07/07/03	Estuary Housing Association	Woodlands Park, Gt Dunmow	Agreement being finalised
14.	UTT1513/02/FUL	28/07/03	Norwich Union	Chesterford Park	Negotiations commencing
15.	UTT/0790/03/REN	26/08/03	Countryside Properties	Bell College, Saffron Walden	ECC have replied to draft and are considering amendments – almost finalised.
16.	UTT/1002/03/OP	26/08/03	Ms C Cox	The Homestead, Lt Canfield	Final instructions received from ECC. Planning services to instruct Legal on terms for the agreement.
17.	UTT/1084/03/OP	26/08/03	Mr & Mrs T Boswell	Hamilton Road, Lt Canfield	Final instructions received from ECC. Planning services to instruct Legal on terms for the agreement. Dispute over financial contributions to be resolved.

18.	UTT/1020/03/FUL & UTT/1195/03/FUL	26/08/03	Paul Watkinson	Felsted School	Applicant questioning need for 106 agreement. Awaiting instruction from Planning Services
19.	UTT/1340/03/FUL	22/09/03	Coston Engineering	Bowers Lane, Hadstock	Awaiting proof of Title.
20.	UTT/1315/03/FUL	22/09/03	S M Smith	Hamilton Road, Lt Canfield	Final instructions received from ECC. Planning services to instruct Legal on terms for the agreement.
21.	UTT/1988/03/OP	12/01/04	Mrs S M Griffiths	Land Adjacent 4 Hamilton Road, Little Canfield	Final instructions received from ECC. Planning services to instruct Legal on terms for the agreement.
22.	UTT/0775/03/OP	07/07/03	Mr and Mrs G Pretious	Westview Cottage, Dunmow Road, Takeley	Final instructions received from ECC. Planning services to instruct Legal on terms for the agreement.
23.	UTT/0705/03/FUL	26/08/03	Mr G Cory-Wright	Takeley Mobile Home Park, Takeley	Agreement sealed
24.	UTT/1795/03/FUL	12/01/04	Mr F A Rogers	Wire Farm, Crawley End. Chrishall	Applicant does not accept terms of Committee decision – considering appeal
25.	UTT/0954/03/FUL	13/10/03	Mr Keeys	Bonningtons, George Green, Little Hallingbury	Applicant considering the draft agreement. No contact despite reminder.
26.	UTT/1980/03/REN	02/02/04	Jackson Management	Thremhall Priory, Dunmow Road/Bury Lodge Lane, Stansted	Awaiting information from applicant.
27.	UTT/0352/03/FUL	22/09/03	Messrs W & R Drown	Chapel Field House, High Easter	Agreement sealed

28.	UTT/2055/033/FUL L	34/02/04	Countryside Properties	Bowling Club House, Beldams Farm, Great Hallingbury	Awaiting instructions from Planning Services
29.	UTT/2227/03/FUL & UTT/2228/03/LB	15/03/04	Exciting Projects Ltd	The Old Mill Public House, Takeley	Draft prepared and being considered by Planning Services. Almost finalised.
30.	UTT/1569/03/FUL	17/05/04	Felsted School	Land to the North of Ingrams, Felsted	Initial letter sent to applicants requesting title to land and undertaking for costs
31.	UTT/0103/04/FUL	17/05/04	Mr F P McGarrigan	Great Hallingbury Manor, Great Hallingbury.	Initial letter sent to applicants requesting title to land and undertaking for costs

Background Papers: Planning Applications  
Files relating to each application

FOR INFORMATION