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PLANNING APPLICATIONS AWAITING DECISIONS WHICH HAVE ALREADY BEEN INCLUDED ON A PREVIOUS SCHEDULE AS AT 9 AUGUST 2006

APPL NO: **UTT0187/06/FUL**
PARISH: **LITTLE DUNMOW**
DEVELOPMENT: Change of use of land for car and lorry turning and maintenance facility to storage of empty skips and waste transfer in connection with existing waste transfer operation

APPLICANT: Dunmow Skips Limited
LOCATION: AERC (Mr Stephen Heading)
D.C. CTTE: 19 July 2006 (see report copy attached)
REMARKS: Deferred for Site Visit
RECOMMENDATION: **Approval**
Case Officer: *Mr M Ranner 01799 510556*
Expiry Date: 30/03/2006

UTT/0187/06/FUL - LITTLE DUNMOW

Change of use of land for car and lorry turning and maintenance facility to storage of empty skips and waste transfer in connection with existing waste transfer operation

Location: Land adj to the Railway Yard Station Road. GR/TL 664-212.

Applicant: Dunmow Skips Limited

Agent: AERC (Mr Stephen Heading)

Case Officer: Mr M Ranner 01799 510556

Expiry Date: 30/03/2006

ODPM Classification: OTHER

NOTATION: Outside of development limits.

DESCRIPTION OF SITE: The application site lies outside of development limits to the east of Little Dunmow on the road to Felsted. It comprises an L-shaped site of approximately 800 metres square immediately adjacent to an existing waste transfer station. The area in the immediate locality of the site is rural in nature although development does exist in the locality, most notably to the south. This includes the former station, now a dwelling, a gypsy site and beyond this the Oakwood Park housing development (distance of approximately 125 m). A pair of cottages lie approximately 70m to the north of the site although these fall within the ownership of the applicant. Vehicular access is gained via 'Station Road' on the eastern boundary of the site, which is bordered by close boarded fencing. Earth bunding of around 1.5m in height screens the application site on its western and southern sides.

DESCRIPTION OF PROPOSAL: The application seeks full permission for a change of use of land currently consented as a lorry/car turning, parking and maintenance area to an extended waste transfer area (385sq.m) and storage area for empty skips (456sq.m). No other alterations are proposed to the area surrounding the site.

APPLICANT'S CASE: A five-page supporting document accompanies the application, which is appended to the end of the report for information purposes.

RELEVANT HISTORY: The area immediately adjacent to the site has a long planning history. The applicants gained retrospective planning permission for a skip hire business in 1993 (UTT/0381/93/FUL). Planning permission was later granted in 1995 (UTT/0322/95/FUL) for the expansion of the skip hire business to incorporate a waste transfer station. More recently in 2003 planning permission was granted (UTT/1760/02/FUL) for a change of use of the agricultural land adjacent to the waste transfer station to provide a car and lorry turning facility to be used in connection with the waste transfer station. It is this area that the current application refers.

CONSULTATIONS: None received.

PARISH COUNCIL COMMENTS: Little Dunmow Parish Council: Object to the application and state the following:

"The Parish Council object to this application as it would mean further expansion into the countryside and exacerbate the existing problem with mud on the highway, causing a hazard to motorists. Drainage is also a problem in this area and if permission is granted then a proper drainage system would need to be installed."

REPRESENTATIONS: A single letter of objection has been received from a local resident. The main points of concern can be summarised as follows:

- Increase of noise disturbance
- Increase volume of lorries on road
- Visual impact from all views looks unsightly
- Increase of countryside land used.
- Detrimental environmental impact
- Overdevelopment of little Dunmow and surrounding area
- Is this eventually going to lead to a recycling facility?
- Poor access and visual image of skip yard
- Poor signage to entrance/exit of skip yard
- No signage warning vehicle drivers of Lorries turning out of skip yard.
- The site looks untidy and from our view is messy showing a lot of raised earth with rubble mixed in.
- The current boundary agreed from previous application in 2003 was supposed to have conifers planted around to landscape properly and to date this has never been done.
- Main entrance to skip yard looks visually untidy and unkept.
- The road and pathway around the entrance has been seen to be muddy at times.
- This is the second application to extend the site, how many more in the future?

COMMENTS ON REPRESENTATIONS: The main points raised that are material to the consideration of this application will be considered as part of the following section of this report.

PLANNING CONSIDERATIONS: The main issues are

- 1) **the appropriateness of the proposed development in the countryside and its impact on the rural character/appearance of the area (ERSP Policies C5, WM1 & WM3 and ULP Policies S7 & GEN2);**
- 2) **the affects of the development on nearby residential amenity (ERSP Policies BE6 & WM3 & ULP Policies GEN2 & GEN4) and**
- 3) **other material planning considerations.**

1) The application site is situated outside of development limits within the countryside where policies C5 of the ERSP and S7 of the ULP apply. Policy S7 states that planning permission will only be given for development that protects or enhances the particular character of the part of the countryside within which it is set. Furthermore the countryside will be protected for its own sake and new building will be strictly controlled to that required to support agriculture, forestry or other uses. The proposed change of use is not required for any purpose related to agriculture, forestry or other rural uses and in his respect the proposal is contrary to adopted rural restraint policy and so therefore would normally attract a recommendation for refusal.

In this case however, the existing commercial use of the land subject to the application is of material importance. The overall area associated with the waste transfer station is enclosed by bunding which forms the western and southern boundaries. The application site is located within this area and under planning permission UTT/1760/02/FUL was approved as a lorry turning/ parking area and lorry maintenance facility associated with the waste transfer station. The current application site has not however been used for these purposes continuously and for periods over the last year or so has been used to store skips and provide an extended waste transfer area to the existing approved facilities that abut the application sites northern boundary without permission. The current application seeks to formalise this and permanently use this area for these purposes. The commercial use of the premises associated with its use as a waste transfer station is not proposed to be extended outside of the developed area and the bunding enclosing the site will remain. There will

therefore be no encroachment into the undeveloped countryside beyond the premises distinct boundaries and the change of use itself will not in the view of officers, subject to the imposition of appropriate conditions, have any greater impact on the countryside than its existing authorised use for lorry turning/parking and lorry maintenance.

Members should be aware that the premises have been subject to enforcement investigations in recent years. The applicant has failed to comply with the conditional requirements of the previous permission UTT/1760/02/FUL; most notably the landscaping of the site, which to date has not been carried out in accordance with the agreed details. This is essential for the site and if carried out as agreed will provide effective screening and significantly mitigate the visual impact of the existing commercial use on the surrounding rural area. For avoidance of doubt, a landscaping condition is also recommended to be imposed in respect of the current application. Officers intend to pursue enforcement action if the applicant continues to fail to comply with the conditional landscaping requirements of the site (next available planting season starts in November) to ensure that the existing use on the site and that proposed is assimilated into the countryside successfully. Although a concern at present, it would be unreasonable of the Council to either withhold determining this application or refuse it in light of this outstanding breach of planning control pertaining to the previous permission on the site.

Also of material importance is that the supporting information accompanying the application outlines the need and purpose of the development which is to allow for increased rates of recycling as required by Government. This accords with policy WM1 of the ERSP and Policies W3A and W7E of the Essex and Southend-on-Sea Waste Local Plan, which seek to promote increased recycling rates.

2) With regard to residential amenity, the existing use of the site has the potential to cause disturbance to nearby properties. However officers are satisfied that the change of use proposed in this case will not have any greater impact on local residents than the current authorised use of the site for the parking, turning and maintenance of lorries and other vehicles. It will not encourage any activities or lorry movements to take place any closer to existing residential properties. Also it is not anticipated that the proposal will give rise to an increase in lorry movements generated by the site as the enlarged waste transfer area will allow for more of the imported materials brought onto site to be recycled rather than encourage the importation of larger volumes of materials. The aforementioned landscaping of the site will also help to mitigate the affects of the development in terms of noise, dust etc on surrounding properties.

3) The proposal will result in the loss of nine lorry parking spaces. The applicant has indicated that the four remaining lorry spaces and the other general parking spaces within the site will be sufficient to accommodate the Lorry movements associated with the site. As vehicle numbers are not expected to change and in light of recent site inspections officers have no reason to question this presumption.

In all other respects officers consider the application acceptable and in accordance with development plan policies.

CONCLUSIONS: Officers therefore recommend that the application is approved subject to the imposition of the suggested conditions.

RECOMMENDATION: APPROVAL WITH CONDITIONS

1. C.2.1. Time limit for commencement of development.
2. C.3.1. To be implemented in accordance with approved plans.
3. C.4.1. Scheme of landscaping to be submitted and agreed.

4. C.4.2. Implementation of landscaping.
5. Prior to the commencement of the development hereby permitted details of surface water storage and run off shall be submitted to and approved in writing by the local planning authority.
REASON: In order to protect the water environment and public health.
6. There shall be no vehicle movements within, to or from the site outside the hours 0700 to 1800 Monday to Friday and 0730 to 1300 Saturdays, with no movements on Sundays, Bank or Public Holidays.
REASON: In order to protect the amenity of nearby residential properties.
7. The development hereby permitted shall not commence until a detailed Amenity Management Plan including dust suppression and noise abatement has been submitted to and agreed in writing by the local planning authority. Before the site is first used for the purposes hereby permitted this plan should be fully adhered to in perpetuity unless a variation has been agreed in writing by the local planning authority.
REASON: In order to protect to the amenity of surrounding residential properties.
8. No heavy goods vehicles leaving the application site shall turn right (south) through Felsted except for local access.
REASON: In order to protect and safeguard the amenities of local residents.
9. The storage of skips within the site shall when stacked on top of each other shall be restricted to a maximum height that shall be agreed in writing with the local planning authority prior to the commencement of the development hereby permitted.
REASON: To safeguard the visual amenities of the area.

Background papers: see application file.

UTT/0705/06/FUL - SEWARDS END

Demolish steel frame barn/workshop. Erection of 16 no houses and 8 no flats, construction of new vehicular and pedestrian access and alteration to existing access to highway. Installation of balancing pond and change of use from B2 (general industrial) to residential.

Location: Land at Swards End Farm Redgates Lane. GR/TL 571-385.

Applicant: Agricultural Land Investments

Agent: Brewer Payne & Associates

Case Officer: Mr T Morton 01799 510654

Expiry Date: 18/09/2006

ODPM Classification: MAJOR

NOTATION: Outside Development Limit.

DESCRIPTION OF SITE: The site is an area of land to the east side of Redgates Lane to the north of Swards End, and comprises part of the farmyard of Swards End Farm, broken up and sold off in lots in 2004. The remnants of a metal Dutch barn stand on the site in a very dilapidated condition, and the application site includes part of an arable field to the north of the original farmyard. The yard had access to the lane at a point where the lane makes a right angled turn.

DESCRIPTION OF PROPOSAL: The proposal is to demolish the steel frame barn/workshop, and erect 16 houses and 8 flats. This would be in the form of two 'U' shaped courtyards, each containing eight houses and four flats. The breakdown would be 2 x 4-bed houses, 14 x 3-bed houses, and 8 x 2-bed flats. The houses would be two-storey, and the flats would be in 3-storey sections. Building heights would range between 7.7m (+ chimneys) and 11.3m for the flats. Each would be provided with its own garden and parking, with a communal area for the flats.

The proposals include provision for photovoltaics for energy.

A new vehicular access point would be created, with a new 6m wide road running alongside the southern boundary of the site.

A balancing pond is to be constructed in the south east corner of the site connected to a surface drainage ditch running across the southern boundary.

APPLICANT'S CASE: The applicants have submitted a considerable amount of material in support of their proposals, which is available for inspection. Most of it appears to be based upon the demand that the applicant perceived for residential development in the south east. They describe the site as brownfield derelict agricultural buildings, but also as former industrial land. "Backyard Industry engaged with the storage, repair, breaking and sale of sundry machinery parts which activity ceased September 2004". They suggest that their development would give better form to the settlement. They think that as Swards End is now a separate ward it must be suitable for more development. Much material culled from the press is included, which consists of commentary rather than substantive policy. A document from the ODPM called Sustainable Communities Building for the Future is copied and some material from a website called 'upmystreet'. The Uttlesford Local Plan is quoted and reproduced in parts. The Treasury Housing Supply review March 2004 is reproduced. A 2001 DETR report on Structure Plan. Green Wedge polices is reproduced. Some parliamentary debates are reproduced.

A design statement is submitted describing the form of the development as a courtyard and preferable to detached sprawl. There are 8 flats and 16 houses proposed. The south boundary ditch is described as a communal landscape and a wildlife corridor. The building forms have 45 degree roofs stepping down from north to south. Facing material would be brick and tile hanging. Solar electric panels would be incorporated.

An ecological statement is included which confirms the arable status of most of the site, and records the hedges trees and scrub on the site. It concludes that no Protected Species are involved with the site. It concludes that no negative impacts upon biodiversity would result from this development. Enhancements include a balancing pond, restoration and laying of boundary hedges and new hedgerow planting. Further surveys are proposed on Crested Cow-wheat which grows on the Special Verge to the north in Redgates Lane.

RELEVANT HISTORY: No previous planning application history. The application asserts that the previous use of the land was Class B2 General Industrial however the Council believes that this is not so; the land was part of an agricultural holding and used in connection with agricultural use of the wider lands belonging to Swards End Farm. Local residents have also testified to this in the comments that they have submitted.

CONSULTATIONS: Government Pipelines and Storage System: Our apparatus is not located within the vicinity of the application and we therefore have no further comments to make.

ECC Historic Environment Branch: The proposed development lies in a sensitive archaeological area. The historic environment record shows medieval occupation in the area. It is recommended that a full archaeological condition be attached to any planning consent. This should state:

"No development, or preliminary groundworks, of any kind shall take place until the applicant has secured the implementation of a programme of archaeological work and recording in accordance with a written scheme of investigation which has been submitted by the applicant, and approved by the planning authority". A letter will follow.

English Nature: Advise that the proposals are unlikely to adversely affect a Site of Special Scientific Interest (SSSI).

Protected Species: The presence of protected species is a material consideration in a planning application (PPS9 paragraphs 15 - 16). English Nature understands from the Ecological Statement that bats, Badgers, Great Crested Newts, native reptiles, and nesting birds were identified as being potentially at risk from the proposed development, but that there was considered to be no evidence to suggest that there will be any negative impacts to biodiversity. It is the opinion of English Nature that legislative issues concerning protected species may remain to be adequately addressed; please find our comments set out below.

Great Crested Newts Great crested newts are protected under the Wildlife and Countryside Act 1981 (as amended) and the Conservation (Natural Habitats, &c.) Regulations 1994. The legislation also specifies that advice should be sought from English Nature on any works that might affect them. English Nature understands that no evidence of Great Crested Newts' was found at the time of the extended Phase 1 habitat survey (21 March 2006). We note that a refuge search was the sole survey method, and further note that this method was carried out at a suboptimal time of year. We advise that Great Crested Newts utilise terrestrial habitat up to 500m from any breeding pond, and that although terrestrial habitat within the site was considered to be poor, we advise that hedgerows on the site offer linear habitat features which may be used by newts for migration to or from breeding ponds. We further advise that refuge searching, although a recognised survey method, should not be relied upon as the sole method, and is considered to be inefficient in its own right. Refuge searching can only reliably indicate presence, and should not be used to indicate likely absence. Given the proximity of the nearest water body to the application site (<30m), the number of water bodies within 250m of the site (9), and the lack of survey data or suitability assessment of these water bodies to support populations of Great Crested

Newts, it is the view of English Nature that the presence of Great Crested Newts on the application site cannot be ruled out at this time. We therefore recommend that a survey for Great Crested Newts is requested of the applicant, carried out at an appropriate time of year, using appropriate techniques, to fully assess the likely impact to this species. We advise that legislative issues surrounding Great Crested Newts may remain to be adequately addressed.

Native Reptiles: Common lizards, slow worms, adders and grass snakes are protected from killing and injuring under the Wildlife and Countryside Act 1981 (as amended). The legislation also specifies that advice should be sought from English Nature on any works that might affect them. The application site was assessed in the Ecology Statement as having very limited potential for reptiles, however it is the opinion of English Nature that hedgerows may offer potential hibernaculum, and their presence should not be discounted at this stage. A precautionary approach is recommended, and without further survey information, efforts should be made to undertake works to hedgerows outside of the period of hibernation (November - March).

Nesting Birds: Wild birds are protected under the Wildlife and Countryside Act 1981, as amended, against intentional killing and injuring. This includes damage, destruction or taking of a nest, eggs or young while it is in use or being built during the breeding season. The timing of any works on habitats that may support birds, particularly those breeding, should take this into account. English Nature is satisfied that the mitigation suggested in relation to nesting birds is adequate to avoid breach of the above legislation. We welcome efforts to minimise the impact upon nesting Skylarks in the adjoining fields by restricting recreational access, and additionally welcome the provision of bird boxes in the area.

Badgers: Badgers and their setts are protected under the Protection of Badgers Act 1992. Any works that may have a detrimental effect on these setts require a licence from English Nature's licensing department. The law emphasises prevention of cruelty to badgers; English Nature will therefore focus on related welfare issues rather than conservation ones. However, key elements to consider are the effects of development on the setts and obstruction of routes to, and availability of, foraging habitat. English Nature understands that the Ecology Statement found no evidence of Badgers using the site, and considered it to offer sub-optimal foraging habitat. We do, however, note reference to a report of a Badger sett in fields to the east of the site, and recommend that such reports be qualified by an appropriate Badger survey of the site and surrounding areas. The Council should ensure that any submitted Badger survey should address the potential loss of foraging habitat, and that access routes to and from setts and foraging areas are not obstructed by the proposals. English Nature is satisfied that legislative issues surrounding bats have been adequately addressed by the Ecology Statement. The barn on the site was considered to be unsuitable for bats, and although a short section of hedgerow will be lost, the planting of new native hedgerows and trees is adequate compensation for this loss. Further, the provision of a balancing pond and bat boxes will provide additional foraging and roosting habitat for bats. Should you wish clarification of the above advice, or require English Nature to comment further regarding this application, please get in touch.

Environment Agency: Site Contamination

We consider that the previous use(s) of the site as may have caused, or have the potential to cause, contamination of controlled waters. Therefore, in accordance with PPS23 we OBJECT to the proposed development until such a time as a site investigation has been carried out.

Surface Water: Within Flood Zone 1, primary flood risk from new development is that posed either to the site or others by increases in surface water runoff. Development of this size can generate significant volumes of water. Flood risk information submitted in support of the application is not acceptable to the Environment Agency for the following reasons:

- More information is required on the capacity of the pond.

- That it will be feasible to balance surface water run-off to the greenfield run-off rate for all events up to the 1 in 100 year storm (including climate change) and set out how this will be achieved.
- How sustainable drainage system techniques (SUD) will be used with any obstacles to their use clearly justified.
- Local Authority must ensure receiving watercourse has sufficient capacity to take off site discharge.

The Agency therefore OBJECTS to the proposed development.

Ecological Assessment: We support the proposals contained within the Ecology Statement to incorporate wildlife features into the design of the balancing pond. We recommend that the following condition be appended to any planning permission granted. Condition: Any vegetation removal required must be undertaken outside the bird breeding season, March - August inclusive.

Reason: To ensure satisfactory protection is afforded to any breeding birds that may use the site.

Sustainable Construction: We fully support the proposals to incorporate solar energy systems into the construction of these properties. In addition to the above, in order to minimise the use of resources and the production of waste, the Agency suggests the development incorporates principles of sustainable construction and design. These include passive systems using natural light, air movement and thermal mass, as well as solutions involving energy produced from renewable sources. There is the opportunity to install water efficiency and water saving devices in buildings on the proposed development. Water butts, low flush toilets and efficient appliances would be obvious measures, but there may be opportunities for more innovative techniques such as grey water recycling.

Council's Engineer: Object to this proposal as it stands on the grounds that not enough information on surface water disposal is contained.

This is an area where there are a number of existing flooding problems and there is a risk of these being exacerbated by the proposed development unless this is managed adequately.

ECC Highways: Recommends that permission be refused for the following reasons: The location, lack of footways and limited access to public transport would mean that virtually all journeys generated by the proposal would be by private vehicles. The proposal is not considered to be sustainable due to the reliance on the use of private car which is contrary to the aims and objectives of Policy T1 (sustainable Transport) and Policy T3 (accessibility) in the Essex and -Southend Replacement Structure Plan 2001.

Having regard to the existing traffic use and the additional traffic which this proposal is likely to generate or attract, the road which connects the proposed access to the nearest traffic distributor is considered to be inadequate to cater for the proposal while providing reasonable safety and efficiency for all road users owing to its unsatisfactory width alignment / construction. This proposal would therefore be contrary to Policy T8. –

Contrary to ECC Structure Plan Policy – T1 Sustainable Transport Strategy T3 Promoting Accessibility T8 Safety & Efficiency

ECC Schools Service: Formally request a developer contribution prior to commencement of £87,095 which is in line with our adopted Supplementary Planning Guidance.

CPREssex: Object to the above application for the following reasons:

1. The application site is outside development limits - The site is in the countryside outside the development limits for Swards End. Government guidance, county and local plan policy all seek to protect undeveloped countryside for its own sake. Development of the site would irretrievably damage the open aspect of the site and the surrounding area, which is detached from any of the existing housing in the settlement. It would be contrary to PPS7, Essex Structure Plan (ESP) Policy C5 and Local Plan Policy S7.

2. The site is not sustainably located - It is relatively isolated from any facilities (other than the village hall) and access to, for example, jobs and shops is only practically possible by private car. Development would therefore be contrary to PPS7 & PPG3 and ESP Policy CS4.

3. Housing need - The Local Plan has made provision in Policies HI & H2 for district housing need over the plan period on sites that have been subject to capacity studies and following a search sequence which prioritises previously used and urban land with good transport links and other sustainable features. There is therefore no need to bring forward this unsustainable site for housing.

4. Previously developed land - Agricultural buildings are specifically excluded in Annex C of PPG3 and Annex 1 of draft PPS3 from the definition of previously developed land. We are not aware of any evidence that the structure on the site falls into any other use category. Even if the applicant is able to show a B2 use has legitimately taken place there, the proposed blocks of flats and houses represent an excessive development of the site relative to the footprint of the barn and are of a density, nature (flats) and urban appearance that is highly inappropriate in a rural location outside development limits, such that it would fail to meet the criteria of Local Plan Policy GEN2.

PARISH COUNCIL COMMENTS: Strongly object to the above planning application for the following reasons:

1. The proposed development is outside of the development limits.
2. The application details the land as 'general industrial' but the Parish Council would like to clarify that the land has always been agricultural. A number of local residents who have lived in Swards End for many years have clarified that the land has never been used for anything other than agriculture. The land was used as arable up until autumn 2004 when the land was sold following the death of the farm owner. A contractor up until the sale of the property farmed the land.
3. The design of the proposed development is totally out of keeping with the area, especially the mass of a three-storey dwelling.
4. The access to the proposed development is off a single-track protected lane, which is quite unsuitable for a development of 24 houses. The proposed access to the properties is off a dangerous bend and there wouldn't be room to provide any passing places.
5. The proposed development is against the following Local Plan policies: H1 Housing Development S7. The Countryside GEN 1 Access GEN2 Design GEN 6. Infrastructure provision to support development ENV 9 Historic Landscapes

The Parish Council would like to stress the importance of refusing the planning application.

REPRESENTATIONS: This application has been advertised and 80 representations have been received. Period expired 18 July 2006.

The responses are too numerous to report individually, so the replies have been analysed and the comments grouped together. They cover the following issues;

Many write to state that the application is incorrect in that the land was never used for industry as claimed by the applicants, it has been in the ownership of the same farming family for over 100 years, the land was a part of the farm used for the parking and storage of farm machinery, this is attested to by people who have lived near and even worked on the farm for periods of 25 to 35 years. much of the machinery stored here was redundant, but there was never any trade in machinery or equipment, and the applicants claim that this is a change of use from Class B2 General industrial is wrong.

Several point out that the application site has been enclosed from the adjacent arable field, which was in cultivation until 2004, and did not form a part of the barn area or the area used for storage of farm machinery.

A common thread is the lack of local services, with no shop, school, doctor, dentist or regular public transport service, and point to the overstressed services in Saffron Walden particularly for dentists.

This is too large a development for Swards End, representing an increase of 10% to 13% in the size of the village.

The site is outside of the Development Limit of the village, where no development should take place. This is unspoilt countryside, a historic landscape, on agricultural land, some describe it as 'Green Belt' [Comment: This is not within the designated Green Belt]

Access and traffic issues are a universal theme of the objections; Redgates Lane is a narrow lane with a tight 'S' bend where there is a 20 MPH speed limit, there have been accidents where vehicles have ended up in ditches, and one where the driver went through the windscreen. The recent Water Company works that closed Radwinter Road to all traffic resulted in a large increase in traffic on Redgates Lane, with many conflicts between vehicles trying to pass in the single track width available and over-running the verges. That traffic has now subsided, but the lane is still used as a rat run in rush hours. The lane is unsuitable for people to walk with a pram, but it is much used by local residents as a place for walking cycling and horse riding. The proposed 24 dwellings imply 192 additional journeys per day based upon County Highway Authority estimates of 8 movements per house per day. This is a Protected Lane, a 'little treasure' one of few rural lanes in the area and not suitable for extra traffic. Verges would become even more damaged than at present. The junction of Redgates Lane with Radwinter Road is often blocked by parked cars and is used as the stopping pint by school buses. [NOTE: The 20MPH speed is an advisory speed sign on the approach to the bends and is not a speed limit]

This is too large a development for Swards End, and an unsuitable urban design for this rural area including three storey buildings, out of character with the rest of the village. Flats are completely inappropriate here. The density is very high whereas the village is low density. The height scale and appearance is out of keeping with the village and the adjacent Listed Buildings, and would be an eyesore, visible across the fields.

Development would reduce enjoyment of our local environment.

Is there an adequate drainage provision and water supply for more development? Provision of mains drainage to the village does not justify more development.

The car parking provision is inadequate.

Development could disturb wildlife habitat.

The plans are inaccurate as to the boundary with the adjacent land to the south and have included part of that land which they do not own.

It means infilling an ancient ditch that has a preservation order on it. [Comment; there is no such order]

The field, 'Scutcheons Field', may have been the site of an old battle has this been researched? [Comment: Nothing is known about this.]

Development would be in breach of the Article 4 Direction that the Council served on this land. [Comment: Several people have assumed that the Direction prevents all development, whereas it only prevents the erection of fences and temporary structures that would otherwise have been 'Permitted Development'.]

The proposals should not be decided upon the basis of alleged comments by government ministers.

Housing need is being met in Saffron Walden and Great Dunmow in a planned manner.

Solar panels are an attempt to add weight to a weak case for sustainable development.

This is motivated by sheer greed of speculators in making a huge return on their investment. The directors of the applicant company have at least one director in common with the company that bought adjacent fields to split into plots for sale. Approval of development here would open the door for further applications for development on those fields.

Proposals contravene Policies ENV5, ENV8, ENV9, GEN1, GEN2, GEN6, H1, S7,

The land should be returned to cultivation.

The proposals have caused the village community much upset and concern and will seriously affect the wellbeing of the community.

A petition signed by 212 individuals has also been submitted striking the same common themes as submitted in individual letters.

COMMENTS ON REPRESENTATIONS: Whilst it is the issues that are raised, rather than the number of responses *per se*, which are relevant for planning, the strength of the local response, and the strength of the objections is evident. This is clearly a strong local rural village community that value their local environment, and are outraged by the proposals for development. They criticise the proposals not only on sound planning grounds but also as a greedy attempt by outsiders to make profits at the expense of the quality of life of the existing community. Whilst many of the comments are not relevant to planning, they are understandable. Many local people have known the area for decades and greatly respect and value it for its current qualities.

PLANNING CONSIDERATIONS: The main issues are

- 1) **principle of development outside of designated Development Limits. (ERSP Policy CS2, C5 & ULP Policy S7);**
- 2) **housing provision (ERSP Policies H1, H2, H3. & ULP Policy H1, H9, H11);**
- 3) **design (ERSP Policy CS2 & ULP Policy GEN2);**
- 4) **traffic highway and parking issues (ERSP Policy T1, T3, T7, T8, T11.& ULP Policy GEN1);**
- 5) **protected Lane (ULP Policy, ENV9);**
- 6) **wildlife / biodiversity issues and Special Verge (ULP Policy ENV7, ENV8);**
- 7) **flood prevention (ULP Policy GEN3);**
- 8) **Contaminated Land (ULP Policy ENV14) and**
- 9) **other material planning considerations.**

1) The overarching policy consideration is the principle of development Outside of defined Development Limits. The site lies outside of the defined Development Limit of Swards End and therefore falls to be evaluated against the provisions of those policies concerned with the control of development in the open countryside.

Essex & Southend on Sea Replacement Structure Plan Policy C5, Rural Areas Not in the Green Belt, states that:

“Within the Rural Areas outside the Metropolitan Green Belt the countryside will be protected for its own sake, particularly for its landscapes, natural resources and areas of ecological, historic, archaeological, agricultural and recreational value. This will be

achieved by the restriction of new uses to those appropriate to a rural area, and the strict control of new building in the countryside outside existing settlements to that required to support agriculture, forestry or other rural uses or development in accordance with Policies H5, RE2 and RE3.

Development should be well related to existing patterns of development and of a scale, siting and design sympathetic to the rural landscape character.”

Essex & Southend on Sea Replacement Structure Plan Policy CS2 Protecting the Natural and Built Environment, states;

“The quality of the natural and built environment will be maintained and conserved by:-

1. Safeguarding and enhancing the character and townscape of the urban environment;
2. Giving priority to protecting and enhancing areas designated as having intrinsic environmental quality at international, national and strategic level;
3. Sustaining and enhancing the rural environment, including conserving the countryside character and the protection of the countryside for its own sake;
4. Protecting and enhancing the landscape, wildlife and heritage qualities of the coastline;
5. Enhancing and managing by appropriate use, land in the Metropolitan Green Belt and urban fringe;
6. Retaining the best and most versatile land for agriculture;
7. Preserving and enhancing the biodiversity of the area;
8. Managing the demand for water resources by controlling the location, scale and phasing of development so as to protect environmental and nature conservation interests.”

Uttlesford Local Plan Policy S2 and S3 together with the Proposals Map, set out the boundaries of Development Limits in the District

Uttlesford Local Plan Policy S7, The Countryside, states that;

“The countryside to which this policy applies is defined as all those parts of the Plan area beyond the Green Belt that are not within the settlement or other site boundaries. In the countryside, which will be protected for its own sake, planning permission will only be given for development that needs to take place there, or is appropriate to a rural area. This will include infilling in accordance with paragraph 6.13 of the Housing Chapter of the Plan. There will be strict control on new building. Development will only be permitted if its appearance protects or enhances the particular character of the part of the countryside within which it is set or there are special reasons why the development in the form proposed needs to be there.”

The Development Limits of the settlements within the District are set out in the Local Plan and were chosen to reflect the need for limited additional development, including housing, but steering that growth to those settlements that have the existing services in place to support further development and population. This is consistent with the Governments policies for Sustainable Communities, placing housing where daily needs can be met within close distance of residents so that they are not dependant upon the private car to meet every basic need. Planning Policy Statement 7 Sustainable Development in Rural Areas sets down general objectives and key principles to promote sustainable development by strengthening villages and market towns. Paragraph 3 encourages planning authorities to focus most new development in or near to local service centres where employment, housing (including affordable housing), services and other facilities can be provided close together.

This should help to ensure these facilities are served by public transport and provide improved opportunities for access by walking and cycling.

Settlements such as Swards End, lacking all service facilities like shops, health services, school, and having only a minimal public transport service are deliberately designated with no provision for expansion, as such expansion would only consolidate an unsustainable community. The applicant cites the Sustainable Communities plan but fails to substantiate the claim that the proposal would be a sustainable form of development.

The applicant makes a rather confused reference to the existing barn on the site and replacement of redundant agricultural buildings with new development, however Policy only provides for the conversion of existing buildings without substantial reconstruction. Paragraph 17 of PPS7 sets out the principles for the re-use of existing rural buildings, the Government's policy is to support the re-use of appropriately located and suitably constructed existing buildings in the countryside where this would meet sustainable development objectives. Re-use for economic development purposes will usually be preferable, but residential conversions may be more appropriate in some locations, and for some types of building.

Essex & Southend-on-Sea Replacement Structure Plan Policy (Rural Economy) RE2 Re-Use of Rural Buildings states that;

“The re-use and adaptation of existing rural buildings in the countryside, within the Metropolitan Green Belt and beyond, will be permitted provided that:-

1. The buildings are of a permanent and substantial construction, and if in the open countryside, they are capable of conversion without major or complete reconstruction
 2. They do not damage the amenity of the countryside, or introduce additional activity likely to materially and adversely change the character of local area or place unacceptable pressure on the surrounding rural road network (in terms of traffic levels, road safety, and amenity); and,
 3. Conversion does not result in economic activity on such a scale as to prejudice town and village vitality.
- To promote rural enterprise and economic activity, preference will be given to the business after-use of any conversions subject to the above criteria.

The residential conversion of listed farm buildings and the re-use of other rural buildings for residential use on isolated sites within the countryside located well away from existing settlements, will not be permitted.”

There is no question of the current buildings being suitable for any further use, and in any case the proposal is for wholly new buildings of much larger size than ever existed, and largely on land that was cultivated arable field.

None of the material submitted by the applicant in support of the application offers any sound planning reason for the proposal to be considered as an exception to planning policy.

2) The most recent analysis of the provision of housing in the District was carried out in April 2005. This showed that dwelling completions to 2005, plus dwellings with permission on large sites and potential dwellings on large sites without permission, would provide 5203 dwellings, against an identified Local Plan target of 5052 in the period 2000-2011. There is therefore no shortfall of housing provision within the District, and no need to consider the unplanned development of sites that are not within areas allocated for development in the

Local Plan. The sequential approach of Structure Plan Policy would place this site well down the hierarchy of sites to be considered.

Where housing development is acceptable in principle, Policy H9 of the Uttlesford Local Plan seeks a 40% content of affordable housing from the development, but this proposal contains no affordable housing provision. Policy H11 for “Exception Sites” outside of defined settlements requires housing schemes to be 100% affordable, and delivered through a Registered Social Landlord, but the development still has to be appropriate to the size, facilities and character of the settlement and must meet an identified local need. The site would not be considered suitable as an “Exception Site” given the lack of services available to the village.

3) Where development is acceptable in principle, it must be designed to be compatible with the scale, form, layout, appearance and materials of surrounding buildings. Policy GEN2 sets out a range of factors to be addressed. Essex & Southend-on-Sea Replacement Structure Plan Policy CS2 makes similar requirements. The proposed development makes no attempt to draw design cues from the locality or even from Essex. The applicant's supporting statement is critical of the existing pattern and style of development in the area, and imposes their design in an arbitrary manner on the site. Materials are proposed, specifically tile hanging, that are not an Essex vernacular material. The development is higher density in nature and form than the surrounding pattern of houses, which are predominantly detached and set in substantial gardens. The density equates to approximately 30 dwellings per hectare, but that figure would be appropriate to the infill of an urban site, not a rural village edge location. It is taller than other buildings in the vicinity, it would be visually intrusive in the countryside and it would detract from the rural character of the settlement. This is a very poor design for this site.

4) The County Highway Authority have advised that the road which connects the proposed access to the nearest traffic distributor is considered to be inadequate to cater for the proposal while providing reasonable safety and efficiency for all road users owing to its unsatisfactory width, alignment and construction, and that the proposal would intensify the use of an access onto a highway where the main function is that of carrying traffic freely and safely between centres of population, and it would lead to a deterioration in the efficiency of the through road as a traffic carrier and be detrimental to highway safety. They also object that virtually all journeys generated by the proposal would be by private vehicles due to the lack of public transport. This proposal would therefore be contrary to Policy T8. - Contrary to ECC Structure Plan Policy – T1 Sustainable Transport Strategy T3 Promoting Accessibility T7 Road Hierarchy T8 Safety & Efficiency T11 Traffic Management.

This aspect has also been the subject of considerable concern and objection from residents who have mentioned a record of accidents and problems from existing vehicle usage of the lane.

Eight of the three bedroom houses appear to have only one parking space, though there are inconsistencies between the 1:500 site layout plan and the 1:100 Ground Floor Plan, with the more detailed plan showing insufficient room to the front of these houses' garages to park a second car. The location of the development would make it a car dependant development, and under-provision of parking spaces is unacceptable. There is no separate provision for cycle parking.

5) It is clear that this attractive rural lane offers one of the few tranquil old lanes in the area, and this in itself forms an amenity for the village. Existing traffic levels are already causing damage to the verges of the lane, threatening its character and condition as a 'Protected Lane'. Development attracting more traffic to the area would be wholly unsuitable.

6) English Nature have objected that the survey for Great Crested Newt was carried out at a suboptimal time of year and cannot be relied upon to demonstrate that Great Crested Newt does not use the site, which is in close proximity to a number of ponds. They raise similar concerns about reptiles and conclude the survey is not reliable. They note reference to a report of a Badger sett in fields to the east of the site, and recommend that such reports be qualified by an appropriate Badger survey of the site and surrounding areas. That survey has not been submitted with this application.

The farmyard was up to the time of its sale, covered in developing scrub, and that would have had considerable value for wildlife. Much of that has now been bulldozed from the site, so the nature conservation value of the land has already suffered. Building houses and flats on it offers no gain for biodiversity. The gardens of the houses would be too small to provide worthwhile habitat and the so-called wildlife corridor and balancing pond is such a narrow strip that it would offer no appreciable quantity or quality of habitat, and would be heavily disturbed by all of the passing traffic to and from the development. Redgates Lane has a section of Special Verge to the north of this site, which is already suffering from over-running vehicles on the one side and encroaching hedges on the other. Any addition to traffic flow along the lane can only be seen as threatening the 'Special Verge' designated for Crested Cow-wheat.

7) The Environment Agency has objected to the flood risk assessment that has been submitted. Their concern is with run-off from the site onto other land or the highway, and it is not considered that the application has demonstrated that this issue would be dealt with in a satisfactory manner.

8) The Environment Agency raise concern about the contaminated nature of the land and have objected, in accordance with PPS23 to the proposed development until such a time as a site investigation has been carried out. At the time of drafting this report the contaminated land survey has not been submitted.

9) No other issues are considered to arise.

CONCLUSIONS: This is a wholly unwelcome and poorly conceived proposal that can only be viewed as contrary to planning policy at national, county and local level. It can only be recommended for refusal.

RECOMMENDATION: REFUSAL REASONS

1. The site lies outside of the defined Development Limit of Swards End where planning polices are concerned to control development in the open countryside. Essex & Southend-on-Sea Replacement Structure Plan Policies C5 and CS2 and Uttlesford Local Plan Policy S7 seek to protect the countryside for its own sake, particularly for its landscapes, natural resources and areas of ecological, historic, archaeological, agricultural and recreational value. This will be achieved by the restriction of new uses to those appropriate to a rural area, and the strict control of new building in the countryside outside existing settlements to that required to support agriculture, forestry or other rural uses. This is supported by Uttlesford Local Plan Policy S7 which states that planning permission will only be given for development that needs to take place there, or is appropriate to a rural area, and there will be strict control on new building. The proposed development does not represent the re-use of redundant buildings, neither is it considered to be necessary or appropriate in this location, and it would be harmful to the aims of planning policy.
2. The proposed development would be contrary to the principles of Policies H1, H2 and H3 of the Uttlesford Local Plan, which make provision to meet the housing needs of the District. At the latest review in April 2005 the housing targets for the District were being

exceeded, and it is not accepted that sites beyond defined Development Limits are required to provide additional new housing.

3. Policy H9 of the Uttlesford Local Plan seeks a 40% content of affordable housing from all housing development to meet the identified need for low cost affordable housing, but this proposal contains no affordable housing provision, and would therefore fail to meet the housing needs of the District and be contrary to the aims of Policy.
4. The Proposed Development would be located in an area which lacks education provision, health service provision, retail provision and adequate public transport provision, and thereby fails to promote the development of Sustainable Communities in accordance with the aims of PPS1 and PPS7, and the aims of Essex & Southend-on-Sea Replacement Structure Plan Policy CS1. The proposals would therefore be an unsustainable form of development harmful to the aims of planning policy.
5. The submitted application fails to provide sufficient information on the likely impact upon protected species, in particular Great Crested Newt, reptiles and badgers, and is contrary to the guidance contained in PPS9 that this information should be made available to the Local Planning Authority at the time of the application so that the impact of the development may be properly considered. The development is therefore considered to be contrary to the aims of Uttlesford Local Plan Policy GEN7 to avoid harmful effects upon wildlife and to provide a mitigation enhancement and compensation strategy appropriate to the impact of the development.
6. The proposal fails to provide a satisfactory Flood Risk assessment and strategy contrary to the aims of Policy GEN3 of the Uttlesford Local Plan and the aims of PPG25, and poses the risk of increased run-off from the site onto adjacent lands.
7. The location, lack of footways and limited access to public transport would mean that virtually all journeys generated by the proposal would be by private vehicles. The proposal is not considered to be sustainable due to the reliance on the use of private car which is contrary to the aims and objectives of Policy T1 (sustainable Transport) and Policy T3 (accessibility) in the Essex and -Southend Replacement Structure Plan 2001. Having regard to the existing traffic use and the additional traffic which this proposal is likely to generate or attract, the road which connects the proposed access to the nearest traffic distributor is considered to be inadequate to cater for the proposal while providing reasonable safety and efficiency for all road users owing to its unsatisfactory width alignment / construction. This proposal would therefore be contrary to Policy T8.
8. The proposal fails to provide a Contaminated Land Study in accordance with PPS23 and contrary to the aims of Policy ENV14 of the Uttlesford Local Plan, as it is considered that the previous use of the site may have caused, or have the potential to cause, contamination of controlled waters.
9. The proposed development is considered to be likely to have a harmful effect upon a designated Protected Lane contrary to the aims of Uttlesford Local Plan Policy ENV9 and contrary to the aims of Uttlesford Local Plan Policy ENV8 to protect a designated Special Verge by the pressure placed upon the lane from increased traffic leading to over-running of the verges.
10. The proposed development is considered to be contrary to the principles of Policy GEN2 of the Uttlesford Local Plan and Essex & Southend-on-Sea Replacement Structure Plan Policy CS2, by failing to be compatible with the scale, form, layout, appearance and materials of surrounding buildings, by failing to reduce the visual impact of new buildings, and by failing to sustain the rural environment by conserving its countryside character.

Background papers: see application file.

UTT/0832/06/OP - AYTHORPE RODING

Outline application for residential development. Demolition of existing buildings and removal of hardstandings

Location: Windmill Works. GR/TL 592-142.
Applicant: Page & Co Paper Merchants Ltd
Agent: Lucy Carpenter
Case Officer: Miss G Perkins 01799 510467
Expiry Date: 01/09/2006
ODPM Classification: MAJOR

NOTATION: Outside Development Limits.

DESCRIPTION OF SITE: The subject site comprises 0.7146ha and is currently used by a paper processing, storage and distribution business. The land is commonly known as the Windmill works and is developed with several warehouse buildings, outside storage areas and there are mature trees that provide a screen around the site.

The site is approximately 1.1km from the periphery of Leaden Roding and 1km to the south of Aythorpe Roding. The site does not currently have access to drainage or sewerage infrastructure.

The land is irregular in shape and has vehicular access from Keers Green. Immediately to the east and west of the site are dwellings, some of which are Listed Buildings. Further west along Keers Green is a nursery which has been the subject of two unsuccessful appeals for residential development.

DESCRIPTION OF PROPOSAL: It is proposed to demolish the existing buildings on the site, remove the hard standing surfaces and develop the land for residential purposes. This is an outline application with all matters reserved, however indicative plans show fifteen dwellings in a suburban style layout. The written material submitted with the application also indicates that five (i.e. 33%) of the dwellings would be allocated as affordable housing.

APPLICANT'S CASE: Detailed supporting statements and documents accompany the application. The main arguments submitted in support of the application are summarised as follows:

- The existing site is no longer required by the operators of the paper works and in order to fund the relocation of the business it is proposed to develop the brownfield site for residential purposes.
- The current business does not provide valuable employment for local people, as the eight people working there drive to work.
- The proposed redevelopment of the site represents an improvement to the character and amenity of the area, given the intensity of the current use. The residential development will reduce the amount of built form on the site, reduce the number of heavy vehicle movements and reduce noise. The contribution of this site to the surrounding countryside would be enhanced and improved.
- The location of the site for residential development is consistent with the requirements of PPG3 (Housing), which includes sites in rural areas and makes provision for development of brownfield sites.
- The site is within walking distance of village shops (800m), the primary school (500m), 480m of the bus stop on the B184 and within 960m of the nearest bus stop in Leaden Roding.

- The proposal includes an affordable housing component and is the only opportunity to provide affordable housing without the need for release of exception sites.

RELEVANT HISTORY: There are several previous applications on the land and all of these relate to the commercial operation of the site. Most recently in 2000 two retrospective applications were refused for change of use. Based on a site inspection by officers it appears that the business is currently being scaled back.

Although not relating to this site, there have been two recent appeal decisions on land at the nursery closer to this site. The Planning Inspectorate dismissed both appeals and upheld the Council's decision to refuse residential development on the land. These decisions will be discussed in more detail in the Planning Consideration section of this report.

CONSULTATIONS: Essex County Council (Schools): Have commented that there would be sufficient primary school places at the local school however the local high school, St Helena's is oversubscribed. They requested that if the development was approved, the applicant enter into an agreement under Section 106 of the Town and Country Planning Act for an education contribution.

The response also noted that if the application was refused, the lack of educational provision should be included as a ground of refusal.

Essex County Council (Highways): Objected to the proposal because the location, lack of footpaths and limited access to public transport would mean that virtually all journey's generated by the proposal would be private vehicles. The proposal is not considered to be sustainable due to the reliance on the use of the car and is contrary to the aims and objectives of ERS Policy T1 (Sustainable Transport) and Policy T3 (Accessibility).

The agent comments in a letter received on 13 July 2006 that they had undertaken negotiations with the highway authority and they no longer objected. Council officers have not received this advice from the highway authority, however a letter dated 17 July 2006 stated that their position was unchanged. Officers contacted the highways authority to confirm their position and were verbally advised on 19 July 2006 that the authority's position has not changed.

Environment Agency: Objected to the proposal in accordance with PPS23 until such time that a site investigation have been carried out. PPS23, Annex 2 Paragraph 2.43 states that as a minimum a desktop study should be submitted.

Environmental Heath (internal): Commented that due to current and past uses of the site it is recommended that a potential contaminated land site investigation be required as per the Essex Contaminated Land Consortium (PPS23).

Building Surveyor (internal): Advised that they had no adverse comments however a thorough site study has revealed that there may be possible site contamination and drainage issues that will need to be addressed.

PARISH COUNCIL COMMENTS: Object on the following grounds:

- The site is outside development limits
- Drainage there is no main drainage and there are already problems with foul sewage in Keers Green and problems with rainwater flooding in Keers Green Road.
- Traffic the application proposes three exits onto an unclassified road and this considered to be excessive.
- Social- the factory employs local people including a part time fireman and the local Leaden Roding School cannot guarantee places. The increase in population would be from 178 to approximately 230 (25% increase) and this is too large an increase for Aythorpe Roding and Keers Green.
- Future Development- if outline planning permission was granted in the area owned by the applicant then other developers could apply for more housing.

In summary they stated that they would not object to five or six smaller houses but not this scale of development.

The Parish also raised a concern that paper is stored outside the factory and the business operates outside the hours allowed. The Parish has requested that this matter be followed up and Council officers have notified the Planning Enforcement officer.

REPRESENTATIONS: This application has been advertised and two representations have been received. The period expired on 5 July 2006.

The two representations received do not raise strong objection to the proposed outline plan, however the concerns raised are summarised as follows:

- The paper works are run down and in need to refurbishment/replacement and therefore in principle appropriately design housing should be supported.
- Incorrect statements were included in the submission and would like to clarify the following (a) the works open from 8am until 5.30pm and lorries do not appear outside these hours; (b) the only public bus is accessed at Leaden Roding, there is a school bus opposite the site; (c) heavy industry would not be permitted without further approval.
- Concern about the increase in population and suggest that 5 or 6 houses may be more appropriate.
- The proposal would be detrimental to the character of the rural area and conflict with policies
- Concerns about the scale and retaining the rural character and privacy in the area.

COMMENTS ON REPRESENTATIONS: The points raised that are material to the consideration of the application will be addressed in the planning consideration section of this report.

PLANNING CONSIDERATIONS: The main issues are whether

- 1) residential development is appropriate in the countryside at an unsustainable location (ERSP Policies C5 and H2, & ULP Policy S7 and paragraph 6.14);
- 3) the proposed residential development would result in improved amenity for the surrounding properties (ULP Policy GEN2);
- 4) the residential development is appropriate from a traffic management perspective (ERSP Policies T1 and T3 & ULP Policy GEN1);
- 5) there was any local employment benefits at the existing paper mill (ULP Policy E2) and
- 6) there are any other material considerations.

1) Appropriateness of residential development in the countryside

National, regional and local policy state that fundamentally any development should be strictly controlled in the countryside unless it is appropriate for rural purposes. More specifically ERSP policy C5 (Rural areas not in the Green Belt) states that there will be 'restriction of new uses to those appropriate to the rural area, and the strict control of new buildings in the countryside'. ERSP policy H2 (Housing Development- The sequential approach) states that 'sporadic housing development in the countryside will be resisted'. The ULP Policy S7 (The Countryside) and paragraph 6.14 support the structure plan policies and any development outside development limits would need exceptional justification. The policy direction is abundantly clear that this type of isolated residential development at an unsustainable location should not be permitted.

The applicant has submitted that a variation from these fundamental policy objectives is warranted based on the following key reasons:

- i) This is a sustainable location and has good access to facilities and services
- ii) The residential land use would represent a less intrusive form of development compared with the existing industrial land use
- iii) The development includes a component of 'affordable' housing, thus will provide benefits to the community
- iv) The site is a brown field site and PPG3 (Housing) promotes the development of such sites for residential purposes over other locations.
- v) There are no significant local employment benefits from the existing paper mill that warrant its retention in the local area.

Officers do not consider any of the above arguments justify a variation from the fundamental policy objectives to discourage residential development in the countryside. A response to each point is provided below:

i) Sustainability

As part of the Council's strategic planning process, sites are identified to be included within development limits. The main test of inclusion within development limits is the sustainability of the site for development. This process allows service and infrastructure providers to concentrate their resources to those areas to ensure that transport, social infrastructure and business can be concentrated to provide efficiencies. The development limits have been reviewed and the latest version has been adopted in the Local Plan as recently as November 2005.

Officers consider that the subject site is an unsustainable location for development as it is located well outside development limits. The applicant has submitted that the site has good access to services (i.e. village school, village shop and a bus stop); however the ability for residents to walk to limited local facilities is not the only requirement for a site to be sustainable. Other considerations include the availability of infrastructure services, the probability of private vehicle reliance and the cost of providing services (both physical infrastructure and social services such as schools).

Essex County Council's School Department has commented that there are insufficient high school places in the local school. Other internal departments have also indicated that there is a lack of drainage and sewer infrastructure to service the site. These issues are an indication of the poor sustainability of the site for development.

The Planning Inspectorate has agreed with the Council's view that Keers Green is an unsustainable location for development on two occasions. Appeals against the Council's refusal to grant planning permission (references APP/C1570/A/05/1193538 and APP/C1570/A/1151756) for residential development at Keers Green Nursery were both dismissed.

In APP/C1570/A/05/1193538 the inspectorate stated 'Even if the design and layout of the houses were to be significantly improved, there remains a fundamental policy objection to three dwellings in this isolated rural location. It is not a sustainable form of development in terms of the provision of services and the inevitable dependence on private transport for day to day living. There is a conflict with the advice in government planning guidance (PPS7) and development plan policy.'

In APP/C1570/A/1151756 pertinent comments were made about a brownfield site 'I agree that there is scope for visual improvement to the site, but the Council has powers to deal with unauthorised development and untidy land. I recognise that PPG3 advocated the reuse of brownfield sites. However the use of land in the countryside outside defined settlements has a low priority in the search sequence for housing sites, and PPS7 indicates

that the focus should be on existing towns and identified service centres. It supports that replacement of buildings in the countryside for economic development purposes, but states that replacement for residential purposes should be treated as new housing development in accordance with the policies set out in PPG3. New house building in the countryside, away from the settlements should be strictly controlled. Although the appellants argued that the hamlet is an established settlement, there is nothing in the evidence before me, or which I observed on my site visit, to suggest that it offers the services and facilities that would make new residential development a sustainable option of a high priority.'

ii) Amenity

The site currently operates as a paper mill where paper products are processed, stored and distributed. While generally such a land use would not be encouraged in close proximity to dwellings, this is an established use that is considered to be reasonably unobtrusive within the countryside. The warehouses on the site are not very apparent from the road due to the screening afforded by the thick vegetation around the perimeter of the site.

It is also important to note that dwellings within the hamlet are already in a rural location and are subject to other rural amenity issues. Noise impacts from tractors and agricultural machinery would be fairly typical in this location.

Council Officers do not consider that debatable potential amenity improvements resulting from the conversion of the paper mill to residential land use justify the variation from policy requirements to discourage residential development in unsustainable locations.

iii) Affordable Housing

The applicant has indicated that a component of the development would be allocated as affordable housing. It has been indicatively stated that five of the fifteen houses would be affordable.

Local policy and PPG3 makes provision for affordable housing outside development limits. This however is permitted specifically where sites are adjacent to existing settlements and are in sustainable locations. This site is not adjacent to an existing settlement, nor is the location considered to be sustainable.

Affordable housing should be provided in a location that has good access to schools and a range of facilities so that residents who may not be able to afford cars can access services relatively easily.

iv) Brownfield site

One of the key principles of PPS7 (Sustainable Development in Rural areas) is to give priority to re-use of brown field sites, however this is unless these brownfield sites perform so poorly in terms of sustainability considerations. As outlined in detail above the site is not considered to be sustainable and therefore is very low priority for residential development based on the criteria in PPS7 and PPG3.

v) Local Employment Benefits

A key issue facing the district is the lack of local employment opportunities. ULP Policy E2 (Safeguarding Employment Land) is applicable and states that development of employment land for other uses will be permitted if the employment use has been abandoned or the present use harms the character or amenities of the surrounding area.

The paper mill is still in operation and according to representations submitted to Council from neighbours, the business employs some local people. It is considered that at the current scale the business presents an opportunity for providing local employment.

Highways comments

Essex County Council's Highway and Transportation section have raised concerns about the development and have objected to the proposal. Their main concerns relate to the unsustainable nature of the site due to the reliance on the use of the car. They considered that the development was contrary to the aims and objectives of ERS Policy T1 (Sustainable Transport) and Policy T3 (Accessibility).

Officers share their concerns and consider that such a development would rely very heavily on private transport.

Contaminated Land

The Environment Agency, Council's Building Surveyor and Council's Environmental Health Department have also raised concerns about the potential land contamination. The applicant has failed to demonstrate that the land is suitable for sensitive uses in accordance with the requirements of PPS23 (Planning and Pollution Control). Given there are fundamental policy issues with the location officers have not required the applicant to address this matter, as officers will be recommending refusal.

Indicative layout of the Development

Although the layout plans are only indicative at this stage, officers do note that the layout poses some issues at this preliminary stage. Keers Green is a loose-knit hamlet and contains several listed buildings.

The scale and form of the proposed residential development does not respond well to the rural character of the area. The applicant has argued that the development would represent an improvement to the existing commercial appearance of the land. Nonetheless Members still have to consider any new development against current design standards and it is not considered that the proposed layout responds to the character and setting of the site. Again the Inspector when discussing the appeal on the nursery site stated that three dwellings would not reflect the character of the area and this scheme would respond even more poorly.

CONCLUSIONS: National, regional and local policy does make some allowances for residential developments in rural areas, in exceptional circumstances, in the main development outside development limits in unsustainable locations is strongly discouraged. Council's fundamental concern with the application is that the land is not a sustainable or appropriate location for residential development. Although priority can be given for the re-use of brownfield sites, other sustainability policy tests still apply. It is not considered that the benefits of re-using the site outweigh all other policy requirements that apply in regard to the establishment of residential development.

RECOMMENDATION: REFUSAL REASONS

1. The proposed residential development is considered to represent inappropriate development in the countryside where its character should be protected for its own sake and be unsustainable due to the remoteness of the site from services, facilities and infrastructure contrary to PPG 3, PPS7, ERSP C5 and ULP Policy S7, GEN1. It is not

considered that other matter warrant a variation from the fundamental policy objective to discourage development in unsustainable locations.

2. Any potential amenity improvements that may exist by removing the business are considered to be marginal, and contrary to policy objectives in the ULP E2 relating to retention of locally based business within the district.
3. The location, lack of footways and limited access to public transport would mean that virtually all journeys generated by the proposal would be by private vehicles. The proposal is not considered to be sustainable due to the reliance on the use of private car which is contrary to the aims and objectives of Policy T1 (Sustainable Transport) and Policy T3 (Accessibility) in the Essex and Southend Replacement Structure Plan 2001.
4. The proposal would constitute unacceptable development inconsistent with the surrounding scale and character of nearby Listed Buildings and as such would detrimentally affect their setting due to the density of the indicative layout contrary to Policies GEN1 & ENV2 and ERSP Policy HC3.
5. The land is potential contaminated and insufficient information has been provided that the land is suitable for development in accordance with PPS23.
6. Essex County Council's Schools department states there is a lack of sufficient high school places in the local area to service the number of potential new residents contrary to ERSP Policy H2.

Background papers: see application file.

UTT/0911/06/FUL - STANSTED

Development of 9 flats with associated parking and amenity space.
Location: Stoner House Silver Street. GR/TL 509-248.
Applicant: Inwood Properties
Agent: HPS
Case Officer: *Mr S Kuschel 01799 510629*
Expiry Date: 26/07/2006
ODPM Classification: MINOR

NOTATION: Within Development Limits and Conservation Area.

DESCRIPTION OF SITE: The site the subject of this application is located on the east side of the B1383 (Silver Street) and is approximately 180 metres south of the junction with Chapel Hill. The existing building is four-storey in height with a ground floor shop unit and is currently standing empty. Attached to the building is a wooden lean-to, which is in poor condition. Adjacent to the site is 43 Silver Street, which is a residential conversion of 6 flats with parking to the rear. The street is narrow in character at this point along Silver Street and there are a wide variety of different building styles in the immediate area. There is currently access to the rear of the site is via Sanders Close across land associated 43 Silver Street.

DESCRIPTION OF PROPOSAL: The application proposes a four storey building to provide 9 flats with 10 parking spaces on the ground floor, set into the ground at the rear of the site. The development would comprise 6no. 2 bedroom units and 3no. 1 bedroom units.

RELEVANT HISTORY: The site was given approval for residential redevelopment in 2001 (UTT/0231/01/FUL) for six flats and seven parking spaces. An application for 8 flats with 11 parking spaces was refused planning permission on 26 April 2004 and a subsequent appeal was dismissed. The main issue was identified as the effect the proposed development would have on the living conditions of neighbours and on neighbours' safety, and whether the proposal would result in an unsatisfactory form of development with respect to the provision of residents amenity space. The Inspector concluded that the environmental quality of the area adjacent to The Cedars would be compromised by the likelihood of increased hazards for residents. With regard to amenity space the Inspector concluded that the site would be very convenient for to the neighbouring recreation ground and that this would represent satisfactory amenity space for one bedroom flats. He was not however satisfied that there would be satisfactory amenity provision for the two bedroom flats.

CONSULTATIONS: ECC Highways: No objections to the proposals subject to conditions.

PARISH COUNCIL COMMENTS: No comment.

REPRESENTATIONS: Notification period expired on the 3 July 2006. Two letters have been received with objections relating to such matters as follows:-

Strongly oppose the plans which will mean at least nine more vehicles back on this already extremely busy road.

Will result in the new residents being able to overlook onto back gardens and houses, thus limiting our privacy.

If balconies are to be constructed feel that this would severely restrict privacy.

The car park should be built no higher than the existing ground level for privacy reasons.

Any automatic security lighting should be directed away from neighbouring premises.

The development height should be no higher than the existing building on the site.

COMMENTS ON REPRESENTATIONS: The proposed plans show protective railings on the windows. Balconies are not proposed. Other points are dealt with in the following section.

PLANNING CONSIDERATIONS: The main issues are whether

- 1) residential use on this site is considered acceptable (PPG3, ERSP POLICY BE1, H3, HC2, ULP Policy S1, H1),
- 2) the impact of the development on the Conservation Area would be acceptable (PPG15, ERSP Policies HC2, ULP Policy ENV1),
- 3) adequate amenity space is provided for the units. (ULP Policy GEN2)
- 4) the impact of the development on adjoining neighbours would be acceptable (ERSP Policies H3, ULP Policy GEN2 and GEN4),
- 5) the scale of the development is acceptable (ERSP Policies H3, ULP Policy GEN2, ENV1, and GEN4) and
- 6) the highway access and parking arrangements are acceptable (ERSP Policies T3, T12, ULP Policy GEN8).

1) The site lies within the development limits of Stansted Mountfitchet and, as such, is considered to be an appropriate location for residential development subject to meeting other policy criteria.

2) The site lies within the Conservation Area of Stansted Mountfitchet and therefore the overall character and appearance of the development should be of the highest quality so as to preserve and enhance the character of the area. The overall height of the proposed development is identical to the scheme approved in 2001. This will not be visible from public space and therefore will have minimal impact on the Conservation Area. On balance it is considered that the proposed development will not have a detrimental impact on the character and appearance of the Conservation Area.

3) The layout indicates a garden area extending to 216 sq metres. The Essex Design Guide refers to a provision of 25 sq metres per unit, equating to a requirement of 225 sq metres. Against this guideline the provision is therefore adequate, having regard also for the fact that 3 of the units would be 1 bedroom.

4) The proposed development shows a larger block than previously approved and will extend to the rear by another 3 metres, therefore projecting further beyond the rear wall of the adjoining property. The proposed development of greater depth on the boundary will have a much greater impact on the adjoining residential property. It is considered that this relationship would have an overbearing impact and lead to the loss of light and aspect.

5) The scale and intensity of the development can be measured in terms of the density of the site following redevelopment. The site measures 500 square metres and therefore if 9 flats are built on this site the density will be 180 dwellings per hectare. The minimum urban density recommended by Government is 30 dwellings per hectare and therefore this proposal more than exceeds this requirement. The 2001 consent for 6 flats had a density of 127 dwellings per hectare. On balance, the density is acceptable provided that other policy criteria can be met, particularly those relating to parking.

6) Unlike the previous scheme dismissed at appeal the development seeks to use the ground floor for parking with access directly from Silver Street. In terms of parking requirement for the proposed development, PPG3 would recommend that 14 spaces be provided based on 150% provision, the Essex Design Guide recommends 1.5 spaces per unit to take account of visitor parking and the Essex Planning Officers Association

recommends 1 space per unit for main urban areas where there is good access to public transport. The 2001 application provided 1.16 spaces per unit. Ten spaces would provide 1.25 per unit. Although the parking provision is below recommended levels, the site is located within an urban area that has good rail links and reasonable bus links to reach employment and shopping facilities, which could help reduce the dependence on the car.

Officers are of the opinion that the proposed access and parking arrangements would be satisfactory in this instance, subject to conditions.

CONCLUSIONS: The application will have an unacceptable impact on the adjoining occupiers and should be refused planning permission.

RECOMMENDATION: REFUSAL REASON

It is the policy of the Development Plan Policies (PPG3, Structure Plan Policies BE1 and H3, Adopted Local Policies S1 and GEN2), to ensure that proposed residential development does not cause detriment to the amenity of adjoining neighbours. In this instance the proposed development, by virtue of the depth of the block at the rear, would result in the loss of light and aspect to neighbours, and have an overbearing impact to the detriment of amenity and contrary to the above policies.

Background papers: see application file.

UTT/0669/06/FUL - STANSTED

Proposed development of 6 No flats with associated parking and amenity space.

Location: Stoner House Silver Street. GR/TL 509-248.

Applicant: Inwood Properties Ltd

Agent: HPS

Case Officer: *Mr S Kuschel 01799 510629*

Expiry Date: 19/07/2006

ODPM Classification: MINOR

NOTATION: Within Development Limits and Conservation Area.

DESCRIPTION OF SITE: The site the subject of this application is located on the east side of the B1383 (Silver Street) and is approximately 180m south of the junction with Chapel Hill. The existing building is four-storey in height with a ground floor shop unit and is currently standing empty. Attached to the building is a wooden lean-to, which is in poor condition. Adjacent to the site is 43 Silver Street, which is a residential conversion of 6 flats with parking to the rear. The street is narrow in character at this point along Silver Street and there are a wide variety of different building styles in the immediate area. There is currently access to the rear of the site is via Sanders Close across land associated 43 Silver Street.

DESCRIPTION OF PROPOSAL: The application proposes a four-storey building to provide 6 flats with 7 parking spaces on the ground floor.

RELEVANT HISTORY: The site was given approval for residential redevelopment in 2001 (UTT/0231/01/FUL) for six flats and seven parking spaces. An application for 8 flats with 11 parking spaces was refused planning permission on 26 April 2004 and a subsequent appeal was dismissed. The main issue was identified as the effect the proposed development would have on the living conditions of neighbours and on neighbours' safety, and whether the proposal would result in an unsatisfactory form of development with respect to the provision of residents amenity space. The Inspector concluded that the environmental quality of the area adjacent to The Cedars would be compromised by the likelihood of increased hazards for residents. With regard to amenity space the Inspector concluded that the site would be very convenient for to the neighbouring recreation ground and that this would represent satisfactory amenity space for one bedroom flats. He was not however satisfied that there would be satisfactory amenity provision for the two bedroom flats.

CONSULTATIONS: ECC Highways: No objections to the proposals subject to conditions.

PARISH COUNCIL COMMENTS: No comment.

REPRESENTATIONS: One letter has been received. Notification period expired on the 3 July 2006.

The traffic on the road is terrific, and it is difficult to cross the road as it is. With the proposed building there will be at least another 12 motors. The road will be more dangerous than it already is.

COMMENTS ON REPRESENTATIONS: Discussed in the report below.

PLANNING CONSIDERATIONS: The main issues are whether: -

- 1) residential use on this site is considered acceptable (PPG3, ERSP POLICY BE1, H3, HC2, ULP Policy S1, H1),

- 2) **the impact of the development on the Conservation Area would be acceptable (PPG15, ERSP Policies HC2, ULP Policy ENV1),**
- 3) **adequate amenity space is provided for the units. (ULP Policy GEN2)**
- 4) **the impact of the development on adjoining neighbours would be acceptable (ERSP Policies H3, ULP Policy GEN2 and GEN4),**
- 5) **the scale of the development is acceptable (ERSP Policies H3, ULP Policy GEN2, ENV1, and GEN4) and**
- 6) **the highway access and parking arrangements are acceptable (ERSP Policies T3, T12, ULP Policy GEN8).**

1) The site lies within the development limits of Stansted Mountfitchet and, as such, is considered to be an appropriate location for residential development subject to meeting other policy criteria.

2) The site lies within the Conservation Area of Stansted Mountfitchet and therefore the overall character and appearance of the development should be of the highest quality so as to preserve and enhance the character of the area. The overall height of the proposed development is the same as the scheme approved in 2001. On balance it is considered that the proposed development will not have a detrimental impact on the character and appearance of the Conservation Area.

3) The layout indicates a garden area extending to 320 sq metres. The Essex Design Guide refers to a provision of 25 sq metres per unit, equating to a requirement of 150 sq metres. Against this guideline the provision is therefore adequate, having regard also for the fact that 3 of the units would be 1 bedroom.

4) The proposed development will have minimal detrimental impact to surrounding neighbours and is similar to the top three floors approved in 2001. There is therefore no justification for refusal on overlooking grounds based on the 2001 consent.

5) The scale and intensity of the development can be measured in terms of the density of the site following redevelopment. The site measures 500 square metres and therefore if 6 flats are built on this site the density will be 120 dwellings per hectare. The minimum urban density recommended by Government is 30 dwellings per hectare and therefore this proposal more than exceeds this requirement. On balance, the density is acceptable provided that other policy criteria can be met, particularly those relating to parking.

6) Unlike the scheme that was dismissed at appeal the development seeks to use the ground floor for parking with access directly from Silver Street. In terms of parking requirement for the proposed development, PPG3 would recommend that 9 spaces be provided based on 150% provision, the Essex Design Guide recommends 1.5 spaces per unit to take account of visitor parking and the Essex Planning Officers Association recommends 1 space per unit for main urban areas where there is good access to public transport. The current proposal makes the same provision as the 2001 application at 1.16 spaces per unit. Although the parking provision is below recommended levels, the site is located within an urban area that has good rail links and reasonable bus links to reach employment and shopping facilities, which could help reduce the dependence on the car.

Officers are of the opinion that the proposed access and parking arrangements would be satisfactory in this instance, subject to conditions.

CONCLUSIONS: The application proposes an acceptable form of development and should be granted planning permission.

RECOMMENDATION: APPROVAL WITH CONDITIONS

1. C.2.1. Time limit for commencement of development.
2. C.3.3. To be implemented in accordance with original and revised plans.
3. C.5.1. Samples of materials to be submitted agreed and implemented.
4. C.7.1. Details of external ground and internal floor levels to be submitted agreed and implemented – extension.
5. C.19.1. Avoidance of overlooking.
6. Prior to the first residential occupation of the building hereby permitted, all the car parking spaces shown on drawing 7917 P002A shall be completed and made available for use. Thereafter, all the spaces shall be retained in perpetuity for the parking of domestic vehicles.
REASON: In the interests of highway safety.
7. The new building hereby permitted shall be constructed from soft red hand-made bricks, laid in Flemish bond.
REASON: To ensure that the proposed replacement building will be in keeping in this prominent location within the conservation area.
8. All new windows shall be of painted timber with vertically sliding sashes with slender glazing bars.
REASON: To ensure that the proposed replacement building will be in keeping in this prominent location within the conservation area.
9. All new window heads shall be of natural stone.
REASON: To ensure that the proposed replacement building will be in keeping in this prominent location within the conservation area.
10. All new roofs shall be constructed from natural slate.
REASON: To ensure that the proposed replacement building will be in keeping in this prominent location within the conservation area.
11. C.8.30. Bin stores.
12. C.8.31. Demolition of recycling.
13. C.8.29. Sustainable construction.
14. The access be increased in width to 5 metres and construction by way of dropped kerb crossing. Where the surface finish of a private access is intended to remain in unbound materials, the first 6m as measured from the highway boundary should be treated with an approved bound material to prevent any loose material from entering the highway.
15. Space should be provided within the site to accommodate the parking and turning of all vehicles regularly visiting the site, clear of the highway and properly laid out and paved as may be agreed with the local planning authority and such space should be maintained thereafter free of any impediment to its designated use.
16. Arrangements should be made whereby surface water run-off from the accessway is intercepted within the site thereby avoiding water entering the highway.
REASONS 14-16: In the interests of road safety.

Background papers: see application file.

UTT/0743/06/OP - BARNSTON

Demolition of existing buildings (total 7 including portacabins) and erection of workshop and storage buildings

Location: Mawkinsherd Farm Wellstyle Green. GR/TL 639-187.

Applicant: Mr H Jaggard

Agent: *Smart Planning Limited*

Case Officer: *Mr M Ranner 01799 510556*

Expiry Date: 01/09/2006

ODPM Classification: MAJOR

NOTATION: Outside of Development Limits.

DESCRIPTION OF SITE: The application site is located adjacent to the hamlet of Wellstyle Green and forms part of Mawkinherds Farm, which comprises extensive agricultural land with associated buildings. The site has established non-agricultural uses re. land drainage, gritting and landscaping business. These are sited in a group immediately to the south of the site and comprise a grade II listed farmhouse in addition to a number of buildings of varying types including substantial farm buildings of modern construction, a couple of portable cabins and some older timber framed farm buildings. The area subject to this application accommodates a single building occupying a foot print of approximately 10 x 5 metres and forms part of a larger area currently used to store farm machinery and vehicles. Further external storage also takes place to the north, which comprises largely stock piles of materials e.g. topsoil, hardcore, timber etc in association with the commercial uses operating from the Farm.

A mature belt of trees borders the western boundary of the site beyond which lays an open green and High Easter Road. Three properties surround the green, a bungalow known as 'Greenview', 'Wellstyle Farm' and 'Tye Green Farm'. The eastern boundary of the site is formed by an open raised bank beyond which is an area of 'set aside grassland' and open countryside. The site can be accessed from the south via a vehicular entrance adjacent to Mawkinherds farmhouse or by a smaller unmade access track, which accesses the northern part of the site opposite Wellstye Farm. Members visited the site last summer in connection with the previous application.

DESCRIPTION OF PROPOSAL: The application seeks outline planning permission with all matters reserved except for siting for the erection of two buildings comprising an industrial workshop/storage building (25mx30m) and an open Cart Shed (9m x 40m) comprising a gross floor area of 1,110m². As part of the proposal the applicant also intends to demolish seven buildings totalling 724m² of floor space, which are largely located within the main group of buildings to the south of the application site. They comprise an open timber cart shed currently used to accommodate gritting Lorries, a workshop building of modern construction currently used to repair farm machinery, a storage shed, general storage buildings and two portable cabins, one used as an office and the other as staff welfare accommodation.

APPLICANT'S CASE: For a full supporting case please refer to the letter dated 27 April 2006 from the applicant's professional advisors Smart Planning Ltd which is appended to this report.

RELEVANT HISTORY: This application represents a revised proposal following the previous refusal of outline planning permission on 18 May 2005 for the erection of buildings on site (UTT./0172/05/OP). The application was refused by Committee for a single reason.

“The site is located within countryside beyond development limits as defined in the adopted Uttlesford Local Plan wherein permission will not normally be given for development unless the proposals relate to agriculture, forestry, appropriate outdoor recreational uses, or appropriate changes of use of existing buildings compatible with a rural area. The proposed development would be prejudicial to this policy, set out at S7 within the Local Plan and also policy C5 of the Essex Replacement Structure Plan and if permitted would detract from the character and appearance of the countryside.”

This is currently subject to an appeal, which is to be heard at an informal hearing during November of this year.

Prior to that application and also of relevance to this case was the issue of a certificate of lawfulness on 4 October 2001 (LPA Ref: UTT/1764/00/CL) in respect to the application site and the area accommodating the group of buildings associated with Mawkinherds Farm directly to the south. This related to the use of the aforementioned land and buildings for the purposes of agricultural storage, agricultural contracts, forestry (sale of logs), amenity landscaping, land drainage works and road gritting, which have been proven to have occurred on site for many years.

CONSULTATIONS: English Nature: State that the proposal is not likely to affect a Site of Special Scientific Interest, although offers advice on protected species.

ECC Highways: No objections to the proposal, and state that it is not contrary to the relevant transportation policies contained within the ECC Structure Plan.

Environment Agency: No objections to the proposal although offers advice on details of drainage as outlined in Circular 03/99.

Building Surveying: Has responded to internal consultation although make no comments.

PARISH COUNCIL COMMENTS: None received. Consultation period expired 5 July 2006.

REPRESENTATIONS: None. Notification period expired 26 June 2006.

COMMENTS ON REPRESENTATIONS: N/A.

PLANNING CONSIDERATIONS: The main issues for consideration in this case are

- 1) the appropriateness of the proposed development within the rural area and its likely effects on the character and appearance of the countryside (ERSP Policy C5 & ULP Policy S7.) and
- 2) other material planning considerations.

1) The application site is situated outside of development limits within the countryside where policies C5 of the ERSP and S7 of the ULP apply. Policy S7 states that planning permission will only be given for development that protects or enhances the particular character of the part of the countryside within which it is set, or there are special reasons why the development in the form proposed needs to be there. Furthermore the countryside will be protected for its own sake and there will be a strict control on new building. Policy C5 of the ERSP stipulates that new building within the countryside will be restricted to that required to support agriculture, forestry and other uses appropriate to the rural area.

It is apparent from the information submitted as part of the previous refused scheme that agricultural crop growing still takes place on the majority of the land associated with the farm and the existing buildings currently provide storage for equipment in association with this agricultural use. The general purpose for the proposed buildings is to improve the existing facilities for the other uses that lawfully take place at the site. These include agricultural

contracting for third parties; forestry, including the sale and storage of timber at the site generated by forestry clearance and coppicing work undertaken outside of the agricultural holding; amenity landscaping and land drainage works ranging from grass cutting to the implementation of complete landscaping schemes associated with developments and road gritting for the likes of Essex County Council and the British Airports Authority. It is apparent therefore that the development is not required for agricultural or forestry purposes and so as a consequence the proposal represents inappropriate development within the countryside in light of policy C5 of the Structure Plan.

Officers are of the view however that material considerations exist in this case to justify some redevelopment on site to better serve lawful activities on the site. The current proposal differs in a number of ways from the previously refused scheme (UTT/0172/05/OP). In line with officer's advice, the proposed workshop building has been re-sited to a position further south, closer to the existing nucleus of farm buildings. This enables the building to relate far more successfully to the existing development on the farm and minimise the building's impact on the surrounding countryside as it no longer represents an incursion into an open and more exposed area to the north. The footprint of the proposed cart shed has been reduced in size by a third from 9m x 60m to 9m x 40m thus reducing its visual impact, and as this building is intended to be of an open design and set against existing hedge line, its reduction in size reduces the visual impact of the building. Other revisions include the omission of the office building and staff welfare buildings as proposed as part of the previous scheme and the demolition of seven as apposed to five outbuildings. As a consequence the proposed new floor space has been reduced from 1500m² as previously proposed to 1,110m² and the amount of floor space removed increased from 425m² to 724m² so that additional floor space created on the site will be kept to 386m² rather than 1075m².

Taking into account the reduced extra built form now proposed and the reduced visual impact that the development is likely to have on its countryside setting, the benefits afforded by the scheme which were considered as part of the previous application can now be afforded more weight in terms that justify the proposal in light of prevailing Development Plan policies. Particular weight should be given to the improvements to the visual amenities of the site afforded by the proposal. The buildings to be removed, which include two portacabins are of poor appearance and fail to respect the setting of the existing listed buildings on the farm. Their removal as part of this scheme is therefore desirable as it will improve the setting of these buildings. The applicant's agent has also indicated that it is his client's intention to utilise the vacant listed barn for offices and staff welfare purposes, which should ensure the long term retention of the building, although this will of course have to be subject to a separate application. The new cart shed should also allow equipment currently stored externally to be stored within the building, which will help to tidy up the central area currently used for commercial purposes. The area directly to the north will however continue to be used to store materials. Proposed tree and hedgerow planting is also indicated on the submitted drawings, which will aid in reducing the impact of the development and the existing built form on the site when viewed from surrounding areas, which can be secured by any subsequent reserved matters application.

In summary, although the proposed development does not readily conform with the appropriate uses as advocated by policy C5 of the Structure Plan, officers consider that the amendments incorporated into this revised scheme now before members are sufficient to ensure that the development will enhance the particular character of the countryside within which it is set, in accordance with Policy S7 of the Uttlesford Local Plan. In this respect the proposal therefore addresses the reason for refusal pertaining to the previous scheme.

2) Turning to other matters of material importance, with regard to residential amenity, it is the understanding of officers that the purpose of the proposed development is simply to rationalise the existing business as apposed to intensifying the uses. The hours of business,

vehicle movements to and from the site and numbers of staff employed are expected to remain unchanged. Consequently there is unlikely to be any significant affects on existing levels of amenity afforded to residents in the vicinity of the site however the applicant is not restricted with regard to any of these matters by condition.

Other matters such as design, external appearance, landscaping and access are for consideration at the reserved matters stage only.

CONCLUSIONS: For the aforementioned reasons officers recommend that the application is approved subject to the following conditions.

RECOMMENDATION: APPROVED WITH CONDITIONS

1. C.1.1. Submission of Reserved Matters: 1.
2. C.1.2. Submission of Reserved Matters: 2.
3. C.1.3. Time Limit for submission of Reserved Matters.
4. C.1.4. Time Limit for commencement of Development.
5. C.6.8. Excluding Permitted Development extensions or alterations to industrial [warehouse] premises.
6. C.8.27. Drainage Details to be submitted agreed and implemented.
7. C.20.3. If Protected Species discovered get licence from DEFRA.
8. C.8.28 Measures for dwelling house
9. C.8.31. Demolition recycling of materials

Background papers: see application file.

UTT/1042/06/FUL - SAFFRON WALDEN

(Member's Application)

Erection of second floor extension with velux rooflight to front elevation. Installation of velux rooflight to rear elevation. Erection of single storey rear extension.

Location: 2 The Maynards Museum Street. GR/TL 537-386.

Applicant: Dr R F Freeman

Agent: Dr R F Freeman

Case Officer: Mrs K Hollitt 01799 510495

Expiry Date: 16/08/2006

ODPM Classification: OTHER

NOTATION: Within Development Limits/Conservation Area.

DESCRIPTION OF SITE: The site is located on the south western side of Museum Street and forms the middle of a terrace of dwellings constructed in the 1980s. The dwellings are constructed with a red brick at the lower level, render finish at the upper levels and a slate roof.

DESCRIPTION OF PROPOSAL: There are 4 elements to the proposals:

- a) the insertion of a velux window to the rear roof slope
- b) The increase in size of an existing rear window, the insertion of inward opening French doors and the erection of a balcony railing for safety reasons
- c) The erection of a single storey rear extension
- d) The raising of the roof to the 2 storey element of the property and the insertion of a velux window to the front roofslope.

RELEVANT HISTORY: Erection of dwellings approved 1984. Insertion of rear second floor window and replacement of first floor window with door and balustrade approved 2000 – not implemented.

CONSULTATIONS: Archaeology: No archaeological recommendations.

TOWN COUNCIL COMMENTS: To be reported (due 22 July 2006).

REPRESENTATIONS: This application has been advertised and one representation has been received. Period expired 26 July 2006.

Concerned about the erection of the second floor extension. Newer buildings of The Maynards are already substantially higher than older buildings in Museum Street. Amount of light we receive is affected by present height of buildings. Proposals will affect the amount of natural light coming into our property.

PLANNING CONSIDERATIONS: The main issues are whether the proposals are considered acceptable in this urban area located in a conservation area (ERSP Policies BE1, HC2, ULP Policies S2, H7, ENV1) and whether any amenity issues are raised (ULP Policy GEN2).

The property is located within the built-up area of Saffron Walden where proposals to extend properties would be considered appropriate, subject to satisfactory design and no adverse amenity issues being raised. Each aspect of the proposals are considered separately:

- a) The proposed roof light to the rear elevation: It is not considered that this would have a detrimental impact on the character of the conservation area. No amenity issues would be raised by the proposals.
- b) Increase in size of window in rear elevation and erection of a balustrade: These proposals have been considered acceptable in the past with consent being granted in 2000. The earlier consent has not been implemented. Whilst the proposals could increase the degree of overlooking, it is not considered that this would be so severe as to warrant a refusal of the application.
- c) Single storey rear extension: The proposed extension would have a depth of 1.5m and a width of 3.3m. This proposal would have a degree of impact on the small rear courtyard garden which serves this property. However, the property is located within a town centre location and has significant public amenity space within a short walking distance. It is not considered that the proposals would result in a detrimental loss of amenity space as to warrant a refusal of the scheme. The proposed extension would be constructed in brick and would have a slate roof to match the existing property. The design of the proposals is considered acceptable.
- d) First floor extension: The proposals to raise the first floor roof to create an additional bathroom would reflect the character of historic properties in this location which were adapted and altered in order to accommodate changing circumstances. The proposals should not have an adverse impact on the character of the conservation area. However, it is considered that the proposed velux window to the front roofslope would increase the impact of the proposals and would be likely to have a detrimental impact on the character of the conservation area. The applicant has agreed verbally to a condition requiring the removal of this element of the proposals should consent be granted for the scheme overall. The proposed window to the rear elevation would introduce an element of overlooking. However, this would serve a bathroom and could therefore be conditioned to be obscure glazed in order to reduce the overlooking issues. Concerns have been raised regarding the potential loss of natural light should these proposals be permitted. The proposals more than satisfy the BRE standards in relation to daylight and sunlight, as set out on page 30 of the Essex Design Guide. Therefore, it is considered that any potential impact should not be so significant as to warrant a refusal of the proposals.

CONCLUSIONS: Subject to the removal of the proposed velux window to the front roofslope, the proposals are considered acceptable.

RECOMMENDATION: APPROVAL WITH CONDITIONS

- 1. C.2.1. Time limit for commencement of development.
- 2. C.3.1. To be implemented in accordance with approved plans.
- 3. C.17.1. Revised plans to be submitted and approved – Removal of front rooflight.
- 4. C.5.1. Samples of materials to be submitted agreed and implemented.
- 5. C.5.8. Joinery details.
- 6. C.19.1. Avoidance of overlooking – obscure glazing to rear bathroom window.
- 7. C.5.7. Rear rooflight to be Conservation range.

Background papers: see application file.

UTT/0827/06/DFO - LITTLE CANFIELD

Temporary construction of crossing through Jack's Lane.

Location: Land North of Dunmow Road Priors Green. GR/TL 574-212.
Applicant: Countryside Properties
Agent: Countryside Properties
Case Officer: Mr M Ranner 01799 510556
Expiry Date: 24/08/2006
ODPM Classification: MAJOR

NOTATION: Takeley/Little Canfield Local Policy 3 – Priors Green.

DESCRIPTION OF SITE: The site comprises a section of Jack's Lane, which is a public bridleway, bordered on both sides by trees and hedgerows, which enclose the bridleway from the neighbouring fields to the north and south. A bungalow, which is accessed via Hamilton Road, is located immediately to the west of the site and is separated by hedging and close boarded fencing.

DESCRIPTION OF PROPOSAL: The application seeks approval of reserved matters to construct a temporary (Maximum of two years) access road across Jack's Lane to provide access for construction vehicles onto the northern section of the site in order to carry out screen planting along the northern boundary to the residential phases as approved under the landscape strategy for Priors Green and to excavate the balancing ponds as recently approved (UTT/0556/06/FUL). The crossing will comprise a small section of haul road (about 15m long) of 6.5m in width to continue the route of the spine road approved under application UTT/1054/05/DFO (phase 1) which when constructed will abut the southern side of the Bridleway. This application will merely extend this road across the width of the bridleway to allow access to the north. The crossing point will be at a slightly higher level than the existing bridleway and so as a consequence it will be ramped at both sides to meet the road at gradients of 1 in 20. Hedge clearance will be required along a line of approximately 6.5m in order to provide a clear route across the bridleway. A young Oak tree, several metres in height is proposed to be removed on the northern side of the Lane, as shown on the drawings accompanying the application.

APPLICANT'S CASE: A supporting letter dated 3 May 2006 accompanies the application and is replicated in part as follows:

"The application is accompanied by a site plan demonstrating the location of the crossing and adjoining land ownership. The location of the crossing is the exact location proposed for the drainage works that forms part of the full planning application for balancing pond 2 and is also the same crossing point as demonstrated within the approved master plan for road crossings associated with the development of latter phases north of Jack's Lane.

The application is for a **temporary** period only and will be for the duration of the construction of the structural landscaping only. These proposals intend to cross a public byway (Jack's Lane) though rights of way would be maintained throughout construction through careful construction traffic management."

RELEVANT HISTORY: The site is situated within the area that benefits from outline planning permission for the development of Priors Green site (UTT/0816/00/OP). Approval of reserved matters has been granted for the spine road to a point abutting Jack's Lane and the current application site (UTT/1054/05/DFO – Phase 1) and for the residential

development of the field abutting the southern side of the bridleway (UTT/1066/05/DFO – Phase 3A).

CONSULTATIONS: Essex County Council: State that the road cuts across an ancient green lane and so recommend the imposition of a full archaeological condition.

ECC Highway Authority: Raise a number of questions in respect of the proposal. These are as follows:

- Will the proposed works require a temporary closure of the byway, Jack's Lane?
- How long are the proposed works and the temporary crossing expected to be in operation for?
- Further details on the surfacing for the byway are required. The surface material must be suitable for both horses and vehicular use.
- Past discussions have recognised the need for some sort of rumble strips, suitable for equestrians, cyclists and walkers, in order to reduce mud being carried onto the byway. These should be detailed on the drawings.

The Environment Agency raises no objections to the proposal.

PARISH COUNCIL COMMENTS: Little Canfield Parish Council raises three main points in respect of the proposal, which are replicated as follows:

1. The East Boundary to Almaro should have a close boarded fence and planting should be in place before work commences, to cut down on noise and dust etc.
2. Access on and off the Priors Green site from Jack's Lane crossing must be adequately gated to stop vehicular and pedestrian access when crossing is not in use.
3. Access for Jack's Lane users past the gates when the crossing is open must be in place and adequate signage to be used on approach to crossing in Jack's Lane to warn users of crossing traffic etc. Adequate warning signs should also be put on the approach from North and South of the Prior's Green site to warn construction traffic of possible pedestrians and riders etc.

Takeley Parish Council raises no objections to the application subject to the imposition of the following conditions:

1. Permission is granted for these works to be undertaken by the owner/custodian of Jack's Lane.
2. Prior to any works a full archaeological dig is undertaken where the proposed drainage pipe is to cut across Jack's Lane Bridleway. This bridleway is believed to date back to medieval times.
3. The extent of hedge and tree removal either side of Jack's Lane appears to be somewhat excessive (18m) in order to facilitate pipe laying. The minimum width necessary must be established and justified along with the need for a 1:20 ramp either side of the crossing.
4. A date to be agreed and published for the reinstatement of the hedgerows and bridleway surface.
5. Countryside Properties must ensure that all users of the bridleway are not inconvenienced or exposed to any dangers as a result of these works.

REPRESENTATIONS: None received (expired 15 June 2006).

COMMENTS ON REPRESENTATIONS: N/A.

PLANNING CONSIDERATIONS: The main issues are

- 1) the affects of the crossing on the character of Jack's Lane and the surrounding area. (ULP Policies GEN2, ENV3, ENV8, ENV9 & Local Policy 3);

- 2) **public safety for pedestrians and other users of Jack's Lane (ULP Policies GEN1, GEN2 & Policy 3);**
- 3) **neighbouring residential amenity (ULP Policies GEN2 & GEN4) &**
- 4) **other material planning considerations.**

1) The site is located within the Priors Green development area as covered by Local Policy 3 and is positioned where Jack's Lane is to be crossed by the estate spine road in accordance with the approved Master Plan, Phasing Plan and reserved matters approval for phase one. Planning permission also exists at this point for the lane to be crossed by drainage infrastructure associated with the approved balancing ponds to the north east (UTT/0556/06/FUL), which involves raising the levels in Jack's Lane at this point to accommodate the pipe work and clearance of hedging along a section either side of the lane. The principle of a crossing at this point has already therefore been accepted by the Council and it's the details of the proposal that need to be considered in this case.

This proposal now at hand for the construction crossing will result in the removal a section of hedgerow along both sides of the lane of about 6.5m in width and most noticeably a young Oak Tree. This is regrettable; however officers consider that the need for the development and the benefits it will afford the area will outweigh the harm caused in this instance. This will be the only point of access for vehicles to enter the northern section of the Priors Green development area and will allow advance landscape screening to be implemented in accordance with the approved Landscape Strategy for the site. This will be of benefit to the countryside setting of the area and help mitigate the visual impacts of the northern phases of the development on the surrounding rural area. It should also be realised at this stage that the point of the construction crossing now proposed is likely to be occupied in time by the estates spine road which will occupy a greater area of the lane than now proposed. Nevertheless, a condition is recommended requiring compensatory planting be undertaken along Jack's Lane in a position to be agreed close to the application site.

2) With regard to public safety, the developers have indicated that the right of way will be maintained throughout construction through careful construction traffic management. An appropriately worded condition is suggested at the end of this report to ensure that details of such a management plan are submitted and agreed in order to ensure public safety at the crossing. Conditions are also recommended requiring details of surfacing, warning signage etc in the interests of public safety.

3) Turning to neighbouring residential amenity, a residential property is situated close to the western side of the proposed site of the crossing. At present the east facing boundary of this property is formed by low close boarded fencing and an area of taller hedging. A condition is recommended to ensure suitable screening is provided between the construction route and the property for noise attenuation purposes. Conditions attached to the outline planning permission also limit the times that construction works can take place and the maximum noise levels permissible. Finally of material importance to this case is that an extant planning permission exists for the phase one spine road (UTT/1054/05/DFO) which is approved in the same positing as the construction route up to a point abutting the southern side of Jack's Lane.

4) With regard to nature conservation, the proposal will not affect an SSSI and there is no evidence of protected species being present on or near to the site, however as a precautionary measure a condition is recommended to ensure that a license is obtained from DEFRA if protected species are discovered at any time.

The possible implications of the development on archaeological deposits can also be mitigated by the imposition of an appropriately worded condition, as recommended at the end of this report in accordance with Essex County Council advice.

CONCLUSIONS: For the above reasons, officers consider that the proposed development is essential for the development of the Priors Green development and does not prejudice the aims and objectives or the local plan policy or any other matters of material consideration.

RECOMMENDATION: APPROVAL WITH CONDITIONS

1. C.2.1. Time limit for commencement of development.
2. C.16.2.Full archaeological excavation and evaluation (A).
3. C.20.3.If Protected Species discovered get licence from DEFRA.
4. C.20.4.Condition for Restricting Construction Works to a Specified Season to Protect Breeding Birds etc.
5. Prior to the commencement of the development hereby permitted, details outlining the safety measures to be put into place on Jack's Lane, e.g. warning signs etc, which shall be submitted to and approved in writing by the Local Planning Authority and thereafter the approved safety measures shall be retained throughout the duration of the use of the construction crossing. Reason: In the interests of the safety of pedestrians and other users of Jack's Lane.
6. Prior to the commencement of the development hereby permitted, a construction traffic management plan shall be submitted to and approved in writing by the local planning authority and thereafter adhered to throughout the use of the construction crossing. Reason: In the interests of the safety of pedestrians and other users of Jack's Lane.
7. Upon the cessation of the use of the construction crossing hereby approved, for the purpose of accommodating construction traffic associated with the implementation of the Landscape Strategy and the construction of approved balancing pond two, the crossing shall be removed and the land shall be reinstated to the satisfaction of the local planning authority. Reason: The development is a temporary expedient only.
8. A fence of a height, type, materials, design and in a position to be agreed in writing by the local planning authority, shall be erected prior to the use of the construction crossing and thereafter retained until such a time as the use of the construction crossing ceases. Reason: To safeguard neighbouring residential amenity.
9. Prior to the commencement of the development hereby permitted all materials to be used for hard surfaced areas within the site shall be submitted to and approved in writing by the local planning authority and the construction crossing shall not be used by vehicular traffic until such a time as the approved hard surfacing has been laid to the satisfaction of the local planning authority. Reason: To safeguard the amenities of neighbouring residential properties.
10. No development shall take place until details of compensatory planting have been submitted to and approved in writing by the local planning authority. Subsequently, these works shall be carried out as approved. The landscaping details to be submitted shall include planting plans, including specifications of species, sizes, planting centres, number and percentage mix. Reason: (As per standard C.4.1.)
11. C.4.2. Implementation of landscaping.

Background papers: see application file.

UTT/1058/06/FUL - NEWPORT

(Referred by Cllr Yarwood)

Erection of 1 no. detached dwelling.

Location: Land adj. 161 & 163 Cherry Garden Lane. GR/TL 518-336.

Applicant: Frogmore Properties Ltd

Agent: Poole & Pattle

Case Officer: Mr H Laird 01799 510464

Expiry Date: 17/08/2006

ODPM Classification: MINOR

NOTATION: Inside Development Limits.

DESCRIPTION OF SITE: The site comprises an area of overgrown amenity land between the rear aspect of 2-storey semi-detached dwellings at 42 – 50 Frambury Lane and the side aspects of 2-storey dwellings at 161 and 163 Cherry Garden Lane. To the west of the site is a garage court and parking area with access adjacent to 56 Frambury Lane. The site is also bounded to the west by an electricity substation. A substantial hedge marks the southern site boundary with the dwellings at 42 – 50 Frambury Lane. A footpath running alongside No. 163 Cherry Garden Lane links Cherry Garden Lane with the garage court and Frambury Lane.

The site lies within the development limits for Newport. The surroundings are residential.

DESCRIPTION OF PROPOSAL: The proposal is to erect a 2-storey, 3-bedroomed detached dwelling with parking spaces and access derived from the garage court with access from Frambury Lane. Pedestrian access is also derived from Cherry Garden Lane.

A letter and revised plans received 21 July 2006 advises that the proposed dwelling complies with the Council's published Supplementary Planning Document on Lifetime Homes.

APPLICANT'S CASE: A covering letter and supporting statement accompanies the application. Drawings also show a new substation enclosure. The present footpath link to the side of 163 Cherry Garden Lane would be removed. The present public footpath to the rear of 42 – 50 Frambury Lane, would be re-instated.

RELEVANT HISTORY: UTT/0466/74/A – Detailed application for residential development – approved 16/12/75. This covers the site in question.

UTT/0544/90/FUL – OPP for a detached 3 bed dwelling and garage refused 28/6/90. Appeal dismissed – 15/3/91.

CONSULTATIONS: Water Authority: None received.

Environment Agency: No objections subject to safeguarding advice.

ECC Highways: Comments awaited. Any received will be reported at the meeting.

Essex Wildlife Trust: No comments received.

English Nature: No objections.

H & B Services: No objections.

PARISH COUNCIL COMMENTS: No planning objection to the proposal. However, it points out that:

- 1) The proposed vehicular access to the site crosses Land owned by the District Council and that it is not a public right of way.
- 2) There are significant drainage ways under the site.
- 3) The proposal conflicts with a footpath to the rear of houses off Frambury Lane.

The Parish Council has also received three letters of objection from neighbours mainly pointing out that the area was reserved as an amenity area in the original development. Moreover, the developer has failed in his obligation to maintain the site and is now using this as justification for developing the site with a property.

REPRESENTATIONS: 9 letters posted to neighbours. Notification period expired on 14 July 2006.

Four letters received from the occupants of dwellings at 50 and 52 Frambury Lane, and 161 and 163 Cherry Garden Lane have been received. All OBJECT to the application, and the reasons for their objection are summarised as follows:

- Loss of light and privacy to No. 161 as the new house will be sited directly in front of their property.
- There is no right of way through the area.
- The care of the official existing grass pathway is non-existent.
- Lack of street lighting.
- Proposal will create a further precedent for infilling of green areas within the Cherry Garden Estate, and Newport generally.
- These pieces of land provide green space and amenity areas, contribute to the character of the village and provide haven for wildlife.
- Developers have allowed the site to become overgrown and deteriorate to improve their case for development.
- Land owners should have provided a grassed, fenced and maintained area of land for young people to play on.
- Building a dwelling as shown will block an access that has been used for many years by people walking between the garages and Cherry Garden Lane.
- Loss of trees on southern site boundary.
- Proposed vehicular access will impact on current parking arrangements in the garage court and lead to a loss of parking available for existing residents.

PLANNING CONSIDERATIONS: The main considerations with this application are

- 1) **whether the principle of development is acceptable in that an area of designated amenity land would be lost;**
- 2) **whether the siting, design, scale and appearance of the dwelling is acceptable;**
- 3) **whether the dwelling would have an adverse impact on the character of the area generally;**
- 4) **whether the proposal would cause harm to neighbour amenities enjoyed by occupants of adjoining dwellings;**
- 5) **whether there would be implications for highway safety;**
- 6) **whether the existing footpath would need to be diverted and**
- 7) **proposed works to the substation to provide a new enclosure.**

(See Structure Plan Policies CS4, BE1, H2 and H3 & Uttlesford Local Plan Policies GEN2, ENV1, and H3)

- 1) The issue of the loss of the amenity land was first considered in the Inspectors decision relating to the 15 March 1991 appeal decision letter when planning permission for

the erection of a 3-bed detached house and garage on the land was dismissed. With regard to this appeal, the principle issues were; whether the proposed dwelling detracted from the amenity enjoyed by occupants of surrounding dwellings due to overlooking or overshadowing, or represented a cramped form of development; and, whether the loss of the play area would result in children playing in the road, and hence represent an unacceptable loss of an important facility.

The Inspector concluded that the relationship of the proposed dwelling to its surroundings was acceptable, and that there would be no harm to the standard of amenities enjoyed by neighbouring properties. The Inspector did, however, conclude that the loss of the play space was the only sustainable objection as this could lead to older children playing in the roadway, and that this would set a precedent for the development of other play spaces on the estate. The Inspector further considered that this threat was so compelling that even in isolation it justified a refusal to grant planning permission. The appeal was dismissed.

The appeal was dismissed in 1991 - 15 years ago, and the amenity area has not been maintained or used for such purposes in the interim. It has since become overgrown with bushes, thorn and scrub and cannot be used as a play area without being cleared, nor does it provide an amenity function. It does, however, provide an informal footpath link running adjacent to the side boundary of 163 Cherry Garden Lane around the electricity substation to link this arm of Cherry Garden Lane with the garage court accessed off Frambury Lane. However, on the grounds that it is not used for its designated function as an amenity area/playspace, it is considered that the Inspectors reason for dismissing the previous appeal application in 1991 no longer applies, and therefore, the principle of development of the site by the erection of a dwelling is acceptable.

2) & 3) The siting, design, scale and appearance of the proposed dwelling is considered acceptable. The design is neutral in respect of adjoining dwellings particularly those at 161 and 163 Cherry Garden Lane. The dwelling would be set back on site to provide space between it and the dwelling to the east at 161 Cherry Garden Lane. It is proposed to retain the hedge adjacent to the southern site boundary which abuts the public footpath that runs along the rear boundary of the neighbouring dwellings fronting onto Frambury Lane. The proposed car parking spaces sited to the rear of the dwelling would be accessed from the District Council's garage court, vehicular/pedestrian access to which is derived from between 54 and 56 Frambury Lane.

4) The applicants have taken into account the extant planning permission for an as yet undeveloped two-storey extension to the side of 163 Cherry Garden Lane. It is considered that there would be no undue loss of light to the rear aspect of this neighbouring property once extended. At present (without the extension) there is considered to be sufficient separation between the present (No. 163) and proposed dwelling to avoid causing harm to this neighbour's amenities.

In respect of the relationship between the application dwelling and No. 161 Cherry Garden Lane to the east, the front elevation of the proposed dwelling will directly face this existing dwelling. The distance between the two dwellings scales at 13.6 metres (44 feet 8"). The application dwelling proposes a ground floor living room window and first floor bathroom and stairway windows. Any opportunity for overlooking from the new dwelling would be limited to the ground floor living room window only. This is considered acceptable.

5) In respect of highway safety, the comments of Essex County Council are awaited. Any comments received will be reported at the meeting. In their absence, it is considered that the proposed access across the garage court/parking area; and, the provision of two parking spaces to the rear of the garden area is acceptable. The parking spaces proposed do not work as laid out owing to the relationship of the electricity substation. However, there

is scope within the site to allow for the spaces to be moved through 90 degrees to allow easier access. This can be conditioned as part of any permission granted.

6) The present footpath link running adjacent to the side boundary of 163 Cherry Garden Lane and around the electricity substation to link this arm of Cherry Garden Lane with the garage court is not a designated public footpath. It has over time, become an informal footpath link as the (site) amenity area has become overgrown resulting in a tarmac strip remaining to the side of the existing dwelling. Access to the public footpath that runs along the rear boundary of the Frambury Lane dwellings which back onto the site has not been maintained. However, this latter path remains as the statutory public footpath and would not be affected by the development. The hedge along its boundary with the site is shown as being retained, and this can be conditioned as part of any permission granted. There is no requirement for the footpath to be diverted to enable the development, and it can be conditioned that an adoptable link across the site frontage between Cherry Garden Lane and the existing public footpath must be provided prior to the commencement of any development on site.

7) The proposed works to the substation to provide a new enclosure represent 'General Permitted Development' as outlined in Schedule 2, Part 17, Class G, of the Town & Country Planning (General Permitted Development) Order 1995.

COMMENTS ON REPRESENTATIONS: The comments received from neighbours are noted and have been covered in the above planning comments.

CONCLUSIONS: The proposal is considered acceptable. The site does not function as an amenity area, and any argument for its retention after 15 years of neglect cannot be sustained. The development can be controlled through the application of conditions to secure a footpath link to an adoptable standard, the provision of parking spaces, and to retain control over any future additions/alterations to the dwelling. Overall, the proposal should result in a form of development that is in keeping with the present pattern of development in Cherry Garden Lane, and which results in a high quality development that respects the site, its surroundings and neighbours amenities.

RECOMMENDATION: APPROVAL WITH CONDITIONS

1. C.2.1. Time limit for commencement of development.
2. C.3.3. To be implemented in accordance with original and revised plans.
3. C.5.1. Samples of materials to be submitted agreed and implemented.
4. C.8.29. Details of sustainable construction required.
5. C.7.1. Details of external ground and internal floor levels to be submitted agreed and implemented – buildings.
6. The boundary hedge to the southern and eastern site boundaries as indicated on drawing no. 1548/1 Rev. D shall be retained unless the local planning authority gives its written consent to its removal or variation. Should any part of this hedge die, be removed or become seriously damaged or diseased, it shall be replaced during the following planting season by a hedge planted in accordance with a specification previously approved in writing by the local planning authority.
REASON: The retention of the hedges is required in order to protect and enhance the existing visual character of the site and to reduce the visual impact of the development hereby permitted
7. C.6.2. Excluding all rights of permitted development within the curtilage of a dwelling house without further permission.
8. Prior to the commencement of development on the site a footpath link across the site frontage linking the existing adopted footpath in Cherry Garden Lane and the public footpath running adjacent to the rear boundary of dwellings at 46 – 48 Frambury

Lane, Newport inclusive, shall be provided to an adoptable standard. The footpath shall be provided at the expense of the developer and shall be offered for adoption by Essex County Council within six months of the first occupation of the dwelling, with all the reasonable costs associated with its adoption being met by the developer.

REASON: To ensure that continuous public pedestrian access between Cherry Garden Lane and the garage court to the rear of the site is provided and thereafter maintained

- 9. C.11.3. Parking scheme required.
- 10. C.8.32. Accessibility – Implementation.
- 11. C.8.30. Provision of bin storage.

Background papers: see application file.
