

## Countryside Properties condition C.90E UTT/0555/06/DFO

### Development Control, item 6

**Committee:** Development Control

**Agenda Item**

**Date:** 22 November 2006

**6**

**Title:** Consideration of details submitted by Countryside Properties in response to the requirements of condition C90E pursuant to reserved matters approval UTT/0555/06/DFO for infrastructure to include spine road, landscaping and drainage details.

**Author:** Martin Ranner, Principal Planning Officer, South Area, (01799) 510556

Item for decision

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### Summary

This item seeks Members authorisation to disapprove of the details submitted in response to condition C90E of reserved matters approval reference UTT/0555/06/DFO. The condition requires the submission and approval of details pertaining to screen planting in the interests of the appearance of the development and to safeguard the amenities of surrounding residential properties.

### Background

Members resolved to approve the reserved matters, reference UTT/0555/06/DFO, for the phase five spine road and landscaping, at the Development Control Committee on 28 June 2006. The approval was granted subject to a number of conditions including condition C90E, which is subject to this report. The condition reads:

'No development shall take place until full details of screen planting and earth bunding have been submitted to and approved in writing by the local planning authority. The landscaping details to be submitted shall include planting plans, including locations of planting, specifications of species, sizes, planting centres, number and percentage mix, proposed finish levels (earthworks to be carried out) and management and maintenance details. All soft landscape works shall be carried out in accordance with the approved details and all planting shall take place during the next available planting season of November 2006 unless otherwise agreed in writing by the local planning authority. Any trees or shrubs which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the local planning authority consent to any variation.'

Reason: In the interests of the appearance of the development and to safeguard the amenities of surrounding residential properties.

In order to comply with this condition the applicants submitted details for consideration by letter dated 14 September 2006. This included a continuous landscaped belt comprising a four metre wide tree belt running along the eastern and northern boundaries of phases seven

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and eight of the Priors Green development immediately to the east of properties in Smiths Green and to the south of properties in Jacks Lane, including Warren Close. This belt was proposed to be incorporated within the gardens of the new residential properties associated with phases seven and eight of the development. Existing residents whose properties back onto the proposed landscaping were subsequently notified of the submission as was Little Canfield and Takeley Parish Councils. Subsequently eight letters of objection were received from six neighbouring households. A concurring theme of these letters was that residents were particularly concerned with the proposal to incorporate the landscape belt within the new properties rather than forming a separate belt between the two due to the uncertainty of long term retention and maintenance.

Following this, discussions took place between officers and Countryside properties and a number of revised submissions were made culminating in the submission now put before committee dated 23 October 2006. This details a revised strategy again proposing a continuous landscaping belt along the eastern and northern boundaries to phases 7 and 8 of the Priors Green development. The main difference with the current submission is that the section of the buffer strip along the boundary to phase eight will comprise a separate strip between both the new and existing properties. This is proposed to be maintained by the developers for the first five years following initial planting where after it is envisaged that the Council would adopt the landscaping strip after this period. The section of the strip adjacent to the phase 7 boundary is proposed, as previously, to be incorporated within the new residential properties and maintained by the respective purchasers. The developer suggests that they will be responsible for the initial three years maintenance with the residents taking on responsibilities after this period as part of the covenant to the plot sale agreement. Countryside Properties have proposed to impose a covenant on each of the new residential properties to secure and maintain the planting for 10 to 15 years. The Deed is proposed to contain provisions requiring successors to enter into a similar direct covenant directly against the owners in order to ensure that the landscaping scheme is maintained according to the Council's wishes.

The section of landscaping proposed to be adopted that borders phase 8, is to comprise a 4 metre wide tree belt with a 1 metre wide access strip for maintenance purposes. The lower section adjacent to phase 7 will comprise a 3 metre integrated tree belt. No new boundary treatments are proposed to the existing properties backing onto the landscape strip and a new one metre high mesh fence will physically separate the landscape strip from the rear gardens of the new properties associated with phases 7 and 8. Planting details are included on the plan attached at the end of this report.

Again neighbouring residents and parish councils were consulted with regard to the submitted details. At the time of writing, five letters of objection have been received. The main points of concern can be summarised as follows:

- The buffer zone has been reduced in size from 6.6 metres in the previous September submission to 5 metres as now proposed. It should be reinstated to 6.6 metres.
- A 1 metres maintenance strip either side of the buffer zone would be more appropriate.

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- The wire fence proposed is inadequate as this would not provide sufficient screening or security and neither will it prevent its misuse e.g. fly tipping. This should be changed to a 1.8 – 2.0 metres high close boarded fence.
- The planting is insufficient to provide adequate screening. Many more trees should be planted, including evergreens. Planting should also be reasonably mature and trees of a decent height at the planting stage so as to avoid waiting years for screen planting to be effective. The screen has to be improved to provide an instant impact.
- If residents are to take the opportunity to connect to mains drainage, then the pipe work will need to go in before the construction of the buffer zone otherwise the buffer zone will have to be dug up at a latter date.
- Two metre high fencing was previously proposed along the rear of existing properties. Its exclusion is unacceptable.
- The proposal does not constitute a continuous landscaping belt and buffer zone between the existing and new properties. This is because the landscaping at phase 7 will be integrated within the new residential back gardens/plots. The phase 7 planting will be effectively split into small parcels which would result in the landscaping not then acting as a continuous wildlife corridor.
- The two phases will be subject to different standards of maintenance and management regimes which will make it impossible to consistently manage the two phases.
- The covenant on the new properties in phase 7 should not be limited to a 10 -15 year period. At the end of this period, no one will be obliged to maintain and manage the landscaping. That part of the buffer zone will disappear and its function and purpose for which it has been created would no longer exist. The existing property at Chadhurst would not be screened and the continuous wildlife corridor will disappear into the gardens of the new properties.
- On page 1 (Para 6) of the proposal it is mentioned that there is an existing landscaped boundary with relatively mature planting with regard to the property known as Chadhurst. There is no such planting and the boundary consists of a fence.
- The adoption by the Council of the phase 8 buffer zone is supported as the best way for ensuring a consistent approach to the planting, cultivation, maintenance and control of the landscaping screen.

### **Recommendations**

That Members disapprove of the submitted details pursuant to condition C90E of approval UTT/0555/06/DFO.

Turning to the details of the submission, following advice from the Council's landscape officer, officers are satisfied that the planting belt on phase 8 of the Priors Green development will provide effective structural planting. The detailing is considered acceptable, with the exception that the mesh fencing on the boundary with the new properties, which should be increased in height and constructed of 'forestry' graduated wire as apposed to 'pig' wire as detailed in the submission. The condition does refer to bunding, which is not included in the submission, however the landscaping advice concerning this matter is that this could compromise the ability of the landscaping to successfully establish itself within the strip and so this has not been designed into the proposals. Perhaps most importantly, the adoption of this strip by the Council is considered essential as this will secure its long term maintenance

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and ensure its retention as a permanent feature of the development. This is justified in the view of officers, as although it will not form part of a public open space for the public's benefit, its provision and permanent retention can act in creating a wildlife corridor within the development.

The area for adoption does however only extend to phase 8. The southern section of landscaping forming part of phase 7 is instead proposed to be integrated into the new properties, although separated by mesh fencing. In assessing these details officers have had to examine the practicalities and ability of the Council to be able to successfully enforce the covenants on each individual property as proposed by the developers. The legal advice received however is that the Council should not enter into such an arrangement due to significant difficulties likely to be encountered in both setting this up and more importantly in enforcing the covenants. Also the developers are proposing that the phase 7 landscaping is to be maintained only for a period of 10 to 15 years. Under these circumstances and based on the legal advice received, officers consider that the mechanisms proposed for the future maintenance of the phase 7 landscaping are inadequate and would not ensure that the landscaping belt will remain as a permanent feature in the years to come following its implementation. This would jeopardise the ability of the landscape belt to act as a wildlife corridor and fail to fulfil the purpose of imposing the condition if the southern section of the un-adopted landscape belt were to become fragmented.

Officers would however be minded to recommend that Members approve the condition if the proposals were to be amended so that the proposed landscape strip for adoption on phase 8 were to be extended to the entire length of the western boundary of phase 7.

Copies of the submitted drawings are attached.

### Background Papers

Planning application file UTT/0555/06/DFO, including the report to the Development Control Committee meeting on 28 June 2006.

### Impact

Communication/Consultation	Neighbours and the Parish Councils have been notified
Community Safety	No impacts
Equalities	No impacts
Finance	None based on recommendation
Human Rights	No impacts
Legal implications	Would preclude development until a scheme is agreed and may be subject to appeal
Ward-specific impacts	Takeley/Little Canfield
Workforce/Workplace	None