

UTT/0303/09/FUL - ELMDON	3
UTT/0395/09/FUL - HENHAM.....	7
UTT/0341/09/FUL - TAKELEY	14
UTT/0327/09/FUL - HATFIELD BROAD OAK.....	18

PLANNING APPLICATIONS AWAITING DECISIONS WHICH HAVE ALREADY BEEN INCLUDED ON A PREVIOUS SCHEDULE AS AT 10 JUNE 2009

APPL NO: **UTT/0303/09/FUL**
PARISH: **ELMDON**
DEVELOPMENT: Change of use from shrubland to garden land. Retention of replacement stables/storage and proposed addition of open-sided firewood store and photo voltaic array. Retention of commenced drive and gateway and proposed completion and surfacing, retention of commenced pond excavation and bridge. Proposed undertaking of landscaping works to include pond completion, orchard hedgerows and tree planting. Proposed building of folly/owl box structure, greenhouse and walled kitchen garden enclosure

APPLICANT: Mr R Wilson
LOCATION: Highwood House Formally Windrush Langley Road
D.C. CTTE: 20 May 2009 (see report attached)
REMARKS: Deferred for Site Visit
RECOMMENDATION: **Refusal**
Case Officer: Mr N Ford 01799 510629
Expiry Date: 09/06/2009

UTT/0303/09/FUL - ELMDON

Change of use from shrubland to garden land. Retention of replacement stables/storage and proposed addition of opensided firewood store and photo voltaic array. Retention of commenced drive and gateway and proposed completion and surfacing, retention of commenced pond excavation and bridge. Proposed undertaking of landscaping works to include pond completion, orchard hedgerows and tree planting. Proposed building of folly/owl box structure, greenhouse and walled kitchen garden enclosure

Location: Highwood House Formally Windrush Langley Road. GR/TL 453-359

Applicant: Mr R Wilson

Agent: Mr R Wilson

Case Officer: Mr N Ford 01799 510629

Expiry Date: 09/06/2009

Classification: MAJOR

NOTATION: Outside Development Limits.

DESCRIPTION OF SITE: Highwood House (formally named Windrush Kennels) is located to the south west of Dudenhoe End on the western side of the road to Langley within the countryside and isolated from any neighbouring properties.

The house is set back around 60 metres from the highway and is single storey and appears to be of brick and render construction with a glazed conservatory. To its rear is a detached building with a garage and ancillary space that appears to be used for domestic storage. Adjacent are 2 no. steel containers, a building describe as a kennel block and a static caravan and further a modest building described as an old isolation kennel. This land and buildings comprise the area stated by the applicant as curtilage to Highwood House. South beyond a bank of trees and hedge lies agricultural land. To the west is a dense tree plantation with a preservation order named Highwood. Agricultural land also lies to the east beyond the highway.

To the north is land owned by the applicant subject of the planning application. Part of the land has been excavated to form a lake around an island with wooden bridge and garden seat. At the time of the site visit this appeared to have been recently formed due to bare graded earth surrounding. The submitted application form states that the work began on 1 July 2007. There is a concrete bridge with brick piers and metal railings running over part of the excavated land to the west. Over this bridge and sweeping round the north of the lake east is a gravel formed access road which adjoins the original access close to the highway. Either side of this junction are brick walls and piers with metal gates between. At this junction between the original and new access road is a blockwork and brick building under a corrugated roof. To the north beyond a timber boundary fence lies agricultural land.

DESCRIPTION OF PROPOSAL: The planning application is in part retrospective relating to the retention of the change of use to residential of the land described above described by the applicant as shrubland and associated engineering work for the land associated with the lake excavation, new access road, and development of the bridge and gateway.

It is also proposed to retain the store building adjacent the entrance to the site as a store and energy hub with photovoltaics. Also proposed is a folly to replace the isolation kennel, a kitchen garden wall and a greenhouse.

APPLICANT'S CASE including Design & Access statement: See Design and Access Statement received 10 March 2009. Sets out the site history, design methodology and future plans for the site.

You reviewed elements which you felt were too 'Urban'. The overlay drawings show the effect of the landscaping, diminishing their impact to be typical of their rural location. We do propose not to complete the brick pillars to the gateway and also propose the demolition of the bridge buttresses, replacing them with a minimal steel structure that will have little visual impact. There are only two "off the property locations" where the Bridge and part of the drive may be viewed, with the proposed modification and completed landscaping these elements will not be visible.

Of far greater detriment to the countryside location are the hideous buildings and open vehicle parking that exists behind.

RELEVANT HISTORY: A single storey side extension was granted planning permission on 21 May 1981 (UTT/0553/81). A double kennel was granted planning permission on 12 May 1994.

CONSULTATIONS: Landscape Officer: Verbally indicated that the gates, wall, bridge and access drive are urbanising features harmful to the fabric of the countryside.

Energy Efficiency Surveyor: The ambition of this proposal and future stages is to reduce negative environmental impacts (e.g. from use of fossil fuel energy, imported food) and create positive environmental impacts (e.g. improve biodiversity), an aim I wholeheartedly support. The proposed combination of solar PV, wood fuel, ground source heat and (in the final phase) wind energy will be an effective way to provide the site's energy needs without fossil fuels. From my point of view, I recommend that approval is granted.

PARISH COUNCIL COMMENTS: To be reported.

REPRESENTATIONS: One. Notification period expired 31 March 2009. Site Notice and Advert expired 16 April 2009.

Greenleas, Langley Upper Green – Has noticed considerable changes to the site in recent months. What was once a small bungalow, with kennels, a large garden area and paddock seems to have become a substantial development with additional roadways, gates and work on the paddock. My concern is that a small rural property is becoming a substantial development out of keeping with its immediate environment and that there is a potential loss of the paddock which may once have been agricultural land. Would recommend to the Local Planning Authority that it does not become over – developed with buildings and associated structures so converting a rural property into a major property.

Further comment – Having seen the application field I am even more convinced that this widely spread development of numerous buildings, functional and ornamental structures and landscaping is totally out of keeping with the plot and setting and leaves too much scope for further development. I can recall from personal experience that about 20 years ago the northern area was a productive hay meadow with grazing, presumably agricultural.

COMMENTS ON REPRESENTATIONS: Discussion surrounding issues of effect on the character and appearance of the countryside and erection of buildings and structures is discussed below.

PLANNING CONSIDERATIONS including Design & Access statement:
The main issues are

1) Whether the change of use to garden results in a material harm to the character and appearance of the surrounding countryside (PPS7, ULP Policies S7, ENV6 and GEN2 of the Uttlesford Local Plan adopted 2005).

1) The existing dwelling and its curtilage as well as land outside the curtilage to the north of the dwelling subject to change of use lies outside of development limits for the purposes of the Uttlesford Local Plan adopted 2005. Policy S7 requires that the countryside is protected for its own sake. Planning permission will only be granted for development that needs to take place there or is appropriate to a rural area. There will be a strict control on new building. Development will only be permitted if its appearance protects or enhances the particular character of the countryside in which it is set or there are special reasons why the development in the form proposed needs to be there.

Policy ENV6 states that "change of use of agricultural land to domestic garden will be permitted if the proposal, particularly its scale, does not result in a material change in the character and appearance of the surrounding countryside. Conditions regulating development rights associated with the proposal may be necessary".

In relation to the most recent planning history the kennels approved in 1981 clearly show on that application drawing that the land subject of the change of use within this application to garden lies outside of the contemporary curtilage. Furthermore, the extension application of 1981 also shows the land outside of that application site. The land to the north is indicated was paddock. In the absence of evidence to the contrary it is considered the land is has not had any domestic use that would be immune from planning control. The work began on 1 July 2007 and the applicant has accepted that a planning application is necessary. The previous use was likely agricultural.

The accompanying text to Policy ENV6 interprets how the policy should be interpreted. It explains that proposals to change agricultural land to domestic garden are not likely to change the character and appearance of the surrounding countryside which for instance use unworkable corners of fields and do not create wedges of domestic features intruding into an agricultural landscape. Appropriate planting, boundary treatment and removal of permitted development rights should be considered where approval is granted.

The form and size of this change of use to garden does not relate to an unworkable field corner. The land does (and could potentially further following completion) intrude a more formal domestic landscape north into an otherwise relatively flat agricultural landscape. From the north looking south it is presently difficult to see the altered character of the site. However, the changes to the character to the site are significant. In the context of surrounding land and the indicated site levels it is apparent that the gradient of the land did not change significantly prior to the excavations to form the lake. On this land, formerly described as scrubland, this does provide a formal appearance at odds with the character of the countryside particularly to the north.

In particular however, the bridge combined with gate piers, access road and associated walls intrude a domestic urban form into the agricultural landscape to the north. These features are not development that needs to take place in the countryside such that would protect it for its own sake. The rural character of the area has been eroded.

There is no objection to the proposed buildings and structures within the existing garden curtilage of the dwelling. These include a garden wall indicated as extending south from the existing dwelling towards the southern boundary and is between 2 and about 2.4 metres high, a folly structure in the north west corner of the site which is 2.7 sqm and around 5 metres high and a greenhouse extending west from the side elevation of the dwelling and

adjacent the annexe. Similarly there is no objection to the stable building located between the dwelling and the highway.

Harm has been identified as a result of the excavations and the extent of domestic intrusion into the agricultural landscape and therefore it is considered that the application fails to comply with Policies S7 and ENV6 relation to the protection of the character and appearance of the countryside.

RECOMMENDATION: REFUSAL REASONS

This proposal is unacceptable because the use of the land as garden with its domestic urban features including bridge, gates, gate piers, wall and access drive and potential for further erection of sheds, greenhouses, garages and other outbuildings has and would have the effect of adding to the urbanization in the area. Such features result in the erosion of the existing open rural character and appearance of the countryside contrary to Policies S7 and ENV6 of the Uttlesford Local Plan adopted 2005.

Background papers: see application file.

UTT/0395/09/FUL - HENHAM

Erection of sheltered housing development comprising 12 no. one bed bungalows, 8 no. two bed bungalows, communal facilities and parking. Creation of new vehicular and pedestrian access

Location: Land adjacent Grind Hall Wood End Green. GR/TL 553-283

Applicant: Mr Lee Bowden

Agent: Architecture & Design Services

Case Officer: Mrs A Howells 01799 510468

Expiry Date: 29/06/2009

Classification: MAJOR

NOTATION: Outside Development Limits; Access along a public footpath; public footpath surrounds three sides of the site; access would be along a footpath and an avenue of Trees with Tree Preservation Orders on

DESCRIPTION OF SITE: Henham is a pleasant, attractive village characterised by a series of road side ponds, wide grass verges and open green areas. These open spaces, along with abundant mature trees and planting, serve to give the village a particularly verdant appearance.

The application site is a field laid to grass, surrounded on three sides by a mature, mainly deciduous hedgerows. This has the affect of screening views into the site. It is located on the edge of the village accessed from a narrow lane with a public footpath looping around its boundaries. There are a few properties located to the east and south east of the field, but the site is more closely related to the open, gently undulating farmland landscape, than to the houses, cottages and bungalows of the adjoining village conservation area.

DESCRIPTION OF PROPOSAL: The proposal is to provide a 12No. one bedroom and 8No. two bedroom bungalows for older people together with communal rooms. The bungalows will be offered for sale on a leasehold basis through a Housing Association. The communal rooms are to include a general purpose meeting hall, accessible WC, store room, ICT room, quiet room and kitchen. The communal rooms would be available for the delivery of 'well being' activities for the benefits of both the residents and the wider community.

APPLICANT'S CASE: A full design and access statement has been submitted and is summarised:

The individual bungalows are designed so that they meet the general needs of the elderly, many of whom will have varying degrees of infirmity or disability. Steps are avoided whenever possible. General gradients on roads and walkways do not exceed 1 in 40. Space within the home allows for wheelchair access and the storage of mobility buggies. The scheme exists specifically to enable people to remain within their own community whilst living within a home that more precisely meets their foreseeable needs.

There is a pressing and growing need to provide designated homes for the elderly in Essex particularly in rural areas such as Uttlesford District.

The development would provide facilities that can be used by the wider local community.

The development would qualify as an 'exception site' on the basis that:

- a) 100% of the dwellings are to be affordable and provided through a Registered Social Landlord
- b) The development will meet a particular need that can not be met in any other way.
- c) The development is of a scale appropriate to the size, facilities and character of the settlement and
- d) The site adjoins the settlement.

The design complies with the standards set for Lifetime Homes.
The development would include adequate provision for vehicle parking.

RELEVANT HISTORY: The erection of four detached dwellings – refused 2006 and dismissed at appeal 2007

CONSULTATIONS: Essex County Highways: Recommends refusal. The application site is set in a rural location with no immediate access onto a traffic distributor as defined in the County Council's road hierarchy. The proposed access is to be taken off a public right of way, which is considered to be totally unsuitable for additional vehicular use, by reason of its narrow width, poor alignment and lack of footway. Furthermore, the surrounding road network is also considered to be totally unsuitable for additional vehicular use by reason of its narrow width.

Facilities within easy walking distance for the mobility impaired are minimal with no public transport facilities within easy walking distance of the site. The lack of facilities and public transport will mean that virtually all journeys to and from the development site will be car borne. The proposal is not considered to be sustainable due to the reliance on the use of vehicular transport.

Furthermore, there is insufficient information on the expected traffic flows generated as a result of this application and subsequent traffic impact on the surrounding highway network, especially in relation to the provision of a 'communal hub' for the local community, in order to determine the application.

Water authority: With regard sewerage infrastructure – no objection

Surface Water drainage – with regard to surface water drainage it is the responsibility of a developer to make a proper provision for drainage to ground, water courses or a suitable sewer.

Note – The site is adjacent to an existing operational sewage pumping station. There are likely to be odour and noise issues associated with the operation and maintenance of the pumping station.

Specialist Archaeological Advice: The applicant should be required to conduct an archaeological assessment to establish the nature and complexity of the surviving Historic Environment assets. This should be undertaken prior to a planning decision being made. This work would enable due consideration to be given to the historic environment impact and would lead to proposals for preservation in situ and/or the need for further investigation or recording.

Three Valleys Water: reply due 23rd April 2009

Drainage Engineer: The application states that foul water disposal is unknown and that surface water disposal is to be soakaway/sustainable but no details given.

Housing and Enabling Officer: As this is a rural exception site, a local housing needs survey would have to be carried out in order to prove there is a housing need in Henham. This survey would then be used to determine the type and size of housing required on the site.

The tenure of the scheme proposed is for outright sale rather than for affordable housing, which is against current planning policy for a rural exception site.

Planning Policy: The site is outside the development limits where planning permission would not normally be granted for housing. The only way this site would be considered for housing would be as an exception site for affordable housing which meets the policy requirements of Policy H11 in the Uttlesford Local Plan – set out below;

- 100% of the dwellings are to be affordable and provided through a Registered Social Landlord.

There is no information in the supporting statement on affordability. The information suggests that the housing will be managed by the Springboard Housing Association and a number of criteria are suggested for occupancy but it is not clear whether the housing will be for rent or some form of shared ownership and at what level of cost.

- The development will meet a particular local need that cannot be met in any other way.

For an exception site the Council would expect some form of survey to have been undertaken on local housing needs, and this would normally involve the Parish Council. There is no evidence of such a survey having been carried out in this instance. It could be that such a survey would show that the primary need in this village is not for elderly person's accommodation at all but for affordable family housing so this is an important omission which must be addressed.

- The development is of a scale appropriate to the size, facilities and character of the settlement

In terms of its impact on the settlement it is not considered that a development of 20 units in the type of courtyard arrangement planned in this location would be detrimental to the character of the settlement. But in relation to the comments above the size of the development should also be relevant to the needs for this type of accommodation and at the moment there is insufficient evidence provided that this is the case.

- The site adjoins the settlement.

In Henham the development limits were drawn right back to protect the attractive open character of the village which is recognised by its designation as a conservation area. The site is not immediately adjacent to the development limit but it is on the edge of the village and so meets this criteria of the policy.

In addition to the policy requirements of the District Plan the Council has adopted supplementary planning guidance on Accessible Homes. This would require one wheelchair accessible home to be provided in a development of 20 units, in addition to the requirement to meet lifetime homes standards.

Sustainability: The applicants state that they will achieve Code Level 4 and they are proposing ground source heating and solar panels but they are not shown on the elevation plans.

Lifetime Homes: The design would meet Lifetime Homes Standards and also comply with the requirements set down in the Supplementary Planning Guidance for Wheelchair Housing. As there are 20 bungalows on this site, one would need to meet the requirements of this (Appendix 2 within the Standard) and fortunately the overall layout in each bungalow complies.

PARISH COUNCIL COMMENTS: A very thorough and detailed report has been submitted but can be summarised as follows:

The site is outside the Development Limits defined in the Local Plan and its development would be contrary to PPS7, the East of England Plan and Local Plan S7.

The form of development is not '*compatible with the scale, form, layout appearance and materials of surrounding buildings*' as required by LP Policy GEN2.

The application is not for 'affordable housing', which may be an exception to the above, and to which Local Plan Policy H11 (Rural Exception Sites) may apply, but not in this case. In any event the requirements of that Policy have not been met. The proposal is not supported by the Parish Council.

The applicants claim that there is a need for sheltered housing although no survey has been carried out or submitted. In any event, the District need suggested by Springboard Housing

could and should be accommodated in the larger settlements (proposed or existing) in the District which have a full range of facilities, better public transport and would be altogether more sustainable.

The development is therefore contrary to the development plan and should be refused permission in accordance with the Planning and Compulsory Purchase Act 2004.

REPRESENTATIONS: This application has been advertised and 50 representations have been received.

Objections - 46 Supporters - 4

Period expired 6th May 2009.

Objections:

Loss of agricultural land;

Ruin the view;

Light Pollution – required for security and safety of the residents;

Lane would not withstand industrial vehicles or the increase in vehicular movements to and from the site; the lane has not been shown to scale on the submitted plans;

The field has never been the victim of fly tipping;

The village and community hall have recently been refurbished and are not run down;

Out of character due to the size;

Would leave the elderly residents isolated;

Out of character with the surrounding properties;

The applicant has not consulted the local residents;

The proposed development is within 20metres of a watercourse;

Outside Development Limits;

Increase of danger of users of the private lane;

Loss of habitat will have significant impact on the birdlife;

Two long blocks of houses would be out of character;

Mature preserved trees so lane could not be widened;

Concentrated development is out of keeping with the area;

Long way from public transport;

Use of agricultural land as housing would set a precedent;

Only one village shop approx. 1 mile from the proposed site;

The foul sewage system in the area is already struggling;

The bus service is infrequent;

No housing need survey has been submitted;

The introduction of a wind turbine would be noisy;

The identification that there is a need for sheltered housing in Essex and not specifically Henham;

There is no surgery;

Ghetto for the old and infirm;

Access is poor and privately owned;

The existing properties would have a loss of privacy and be overlooked;

Overdevelopment of the land;

Lack of parking provision – for staff, visitors and residents;

Support:

Has been assured that there will be many facilities available for use by the whole community;

The elderly can remain in the village without the cost of running a large house;

The site is unseen from the main road;

The residents can walk to the bus stop which runs through the village;

Any new residents to the village may mean support for the local facilities i.e. the pub, shop etc which have all been fighting off closure;

A well though through scheme which can't be seen;

As people live longer there needs to be suitable accommodation and providing it can be ensured that the site is not sold on to a bigger developer then support the scheme.

COMMENTS ON REPRESENTATIONS: The concerns raised in the representations which are material to the consideration of this application will be outlined in the planning consideration section of this report.

PLANNING CONSIDERATIONS:

The main issues are

- 1) **Development within the Countryside/Rural Area (ULP Policy S7; Planning Policy Statement 7 – Rural Areas);**
- 2) **Affordable housing on exception sites (ULP Policy H11; PPS3);**
- 3) **Highway Safety (ULP Policy GEN1; County Council Highways and Transportation Development Control Policies – P1.2 Functional Route Hierarchy, P3 Accessibility, P3.3 Cycling, P3.4 Walking, P4 Sustainability; PPS1 – Delivering Sustainable Development and East of England Plan T9);**
- 4) **Neighbouring amenity (ULP Policy GEN2);**
- 5) **Design (ULP Policy GEN2 and East of England Plan Policy ENV7) and**
- 6) **Other material planning considerations – Appeal Decision UTT/1031/06/FUL.**

1) PPS7 and ULP Policy S7 (The Countryside) all state that in principle development within the countryside, outside development limits should be strictly controlled. This is in order to ensure that new developments are sited in sustainable locations and to enable the protection of the countryside for its own sake. Any additional housing outside development limits requires exceptional justification. While the applicant has argued that the site is an appropriate for development, on the basis of the site being an exceptions site for affordable housing – the supporting information does not agree with this. The information supplied indicates the site is for sheltered accommodation which is to be sold via Springboard Housing Association Ltd on a leasehold basis but does not demonstrate affordability.

2) ULP Policy H11 allows residential development outside development limits on 'exceptions' sites. This is however based on the requirements for the provision of 100% affordable housing within the development. The applicant in their statement advised that the accommodation will be available for sale leasehold and does not indicate that any will be affordable. Therefore allowing an exception in this instance is contrary to the policy. Comments received from both the Council Policy Department and the Housing and Enabling Officer indicate that there has not been a local housing need survey carried out and therefore there is no justification for this proposal to be given consent as it does not meet the local plan policy, PPS3 or the East of England Plan.

3) Essex County Highways - The application site is set in a rural location with no immediate access onto a traffic distributor as defined in the County Council's road hierarchy. The proposed access is to be taken off a public right of way, which is considered to be totally unsuitable for additional vehicular use, by reason of its narrow width, poor alignment and lack of footway. Furthermore, the surrounding road network is also considered to be totally unsuitable for additional vehicular use by reason of its narrow width.

Facilities within easy walking distance for the mobility impaired are minimal with no public transport facilities within easy walking distance of the site. The lack of facilities and public transport will mean that virtually all journeys to and from the development site will be car borne. The proposal is not considered to be sustainable due to the reliance on the use of vehicular transport.

There is a regular bus service which runs every hour between Henham and both Bishops Stortford and Stansted Airport; however the bus stop is at some distance from the site and therefore for the vulnerable users this would be a hurdle.

Furthermore, there is insufficient information on the expected traffic flows generated as a result of this application and subsequent traffic impact on the surrounding highway network, especially in relation to the provision of a 'communal hub' for the local community, in order to determine the application.

The proposal therefore fails the Uttlesford Local Plan Policy GEN1 as well as the relevant Essex County Highways Development Control Policies.

4) Neighbouring amenity – ULP Policy GEN2 states that development will not be permitted unless its design meets a criteria which includes:

It would not have a materially adverse effect on the reasonable occupation and enjoyment of a residential or other sensitive property, as a result of a loss of privacy, loss of daylight, overbearing impact or overshadowing.

Although the site slopes slightly away from the north east down towards the south east edge of the site the properties immediately adjacent to the north east of the site, which has a four foot close boarded fence with trellis on top at the boundary may have some loss of privacy. The proposal is for single storey buildings and the adjacent properties (to the north west) are also single storey; however due to the lack of boundary screening there is a potential for overlooking into the living accommodation of the existing buildings.

5) Design - Council has several policies relating to design of new residential developments. ULP Policy GEN2 requires development to be designed appropriately, respect conversation areas and minimise off site amenity impacts. It is considered that the layout of the proposed bungalows is very intensive and not in keeping with the surrounding dwellings which are a mix of designs but all tend to be detached set in their own plots. Although the proposal information states that there will be solar panels, these have not been shown on any of the drawings. Therefore because there are no special reasons why the development should be located on this site the proposal does not meet the requirements of Policy.

ULP ENV15 encourages the inclusion of small scale renewable energy developments. The applicant has submitted that there will be provision for renewable energy generation of the site which is consistent with the policy objectives. Comments have been provided by Council's Sustainability officer who commented support but the plans do not show the solar panels.

6) Appeal decision of planning application UTT/1031/06/FUL was dismissed in 2007. The proposal was for four detached dwellings on the same site. The Inspector concluded that *the proposed development would not respect the housing strategy for the area. It would be contrary to the aims and objectives of both national and local plan policy, with reference to matters relating to the **promotion of sustainable patterns of development and would be harmful to the character and appearance of the surrounding area.***

The current application does not include any justification by way of a housing need survey which may have shown a need and therefore the proposal does not overcome this fundamental reason for refusal.

CONCLUSIONS: Fundamentally the development fails to meet key objectives of national, regional and local policy relating to development within the countryside and the provision of sustainable new housing. The lack of provision for affordable housing and the design of the buildings it is considered that there is no justification for a variation to policy. Rather it is considered on balance that there is a strong case for refusal of the application.

RECOMMENDATION: REFUSAL REASONS

1. The application site is set in a rural location with no immediate access onto a traffic distributor as defined in the County Council’s road hierarchy. The proposed access is to be taken off a public right of way, which is totally unsuitable for additional vehicular use, by reason of its narrow width, poor alignment and lack of footway

Facilities within easy walking distance for the mobility impaired are minimal and there is no public transport within easy walking distance of the site. The lack of facilities and public transport will mean that virtually all journeys to and from the development site will be car borne. The proposal is not considered to be sustainable due to the reliance on the use of cars.

Furthermore, there is insufficient information on the expected traffic flows generated as a result of this application and subsequent traffic impact on the surrounding highway network, especially in relation to the provision of a ‘communal hub’ for the local community, in order to determine the application.

Therefore the proposal fails to meet requirements of Uttlesford Local Plan Policies GEN1 and GEN8; County Council Highways and Transportation Development Control Policies – P1.2 Functional Route Hierarchy, P3 Accessibility, P3.3 Cycling, P3.4 Walking, P4 Sustainability; PPS1 – Delivering Sustainable Development and East of England Plan T9

2. The application does not include any archaeological assessment to establish the nature and complexity of the surviving Historic Environment assets. This should be undertaken prior to a planning decision being made. This work would enable due consideration to be given to the historic environment impact and would lead to proposals for preservation in situ and/or the need for further investigation or recording. Therefore the proposal does not meet the requirements of Uttlesford Local Plan Policy ENV4.

3. The application does not include any details with regard foul water disposal or surface water disposal and therefore the local authority are unable to make an informed decision that the details would be sustainable and meet the requirements of PPS25 and Uttlesford Local Plan Policy GEN3.

4. The application fails to justify why it is an exception site. There is no information in the supporting statement on affordability and there is no information on housing needs survey or that the development will meet a particular local need that cannot be met in any other way.

For an exception site the Council would expect a survey to have been undertaken on local housing needs, and this would normally involve the Parish Council. There is no evidence of such a survey having been carried out in this instance or that the primary need in this village is for elderly person’s accommodation rather than affordable family housing.

Therefore the proposal fails to meet the requirements of Uttlesford Local Planning Policy H11 and PPS3.

Background papers: see application file.

UTT/0341/09/FUL - TAKELEY

(Referred to request of Cllr Jones)

Variation of condition 4 of planning application UTT/1344/91/FUL to read ' The Premises shall not be used for the purposes hereby permitted other than between 11.30 hours and 14.30 hours and 16.30 hours and 22.30 hours, Monday to Saturdays and between 11.30 hours and 14.30 hours and 16.30 hours and 22.00 hours on Sundays

Location: Red Chilli Takeway Rookies Dunmow Road. GR/TL 562-212

Applicant: Mr Abdul Manik Makmed Miah

Agent: Mr James Keir

Case Officer: Ms K Hollitt 01799 510495

Expiry Date: 19/06/2009

Classification: MINOR

NOTATION: Within Development Limits.

DESCRIPTION OF SITE: The application site is located in close proximity to and just to the east of the Four Ashes crossroads in Takeley. It is adjacent to a small row of shops including a general stores/post office. To the rear of the site are a large parking area and a garden centre. To the south (across the B1256) and east of the site are residential properties. The premises have the appearance of being a bungalow, similar in character to Sunnydene to the east.

DESCRIPTION OF PROPOSAL: The proposal relates to the variation of a condition imposed at appeal in relation to UTT/1344/91 (PI reference T/APP/C1570/A/92/199761). The condition reads:

"The premises shall not be used for the purpose hereby permitted other than between 1100 hours and 1430 hours, and 1730 hours and 2200 hours, Monday to Saturdays, and not at all on Sundays." The business hours were amended in 1993 to slightly reduce lunchtime hours and allow the evening session to start at 16.30.

It is proposed to amend the hours of operation of the Red Chilli takeaway to 1130 hours to 1430 hours and 1630 hours and 2230 hours, Monday to Saturdays and between 1130 hours and 1430 hours and 1630 hours and 2200 hours on Sundays. Consequently the business would stay open at lunchtime later by half an hour the original permitted closing time for the lunchtime period. Evening hours would begin as now and continue later by half an hour. Sunday would be an entirely new day for the business.

APPLICANT'S CASE including Design & Access statement: The application has been submitted accompanied by a petition with 550 signatures. The head of the petition reads:

"We want Red Chilli Indian Takeaway and fish and chips to be open Sundays and closing time later than 10pm every evenings because there are no food places in this area which resulting we have to drive too far for a meals. We want the Uttlesford District Council to help them getting this permission regarding these issues."

Supporting statement: Seek to vary the restriction on hours of opening to allow an extra 30 minutes at lunchtime and 30 minutes in the evening. This relatively modest increase of 1 hour per day on weekdays and Saturdays and opening on Sunday will meet demands from customers and ensure the continued survival and future wellbeing of this local service. It is anticipated that opening on Sundays and later in the evening will, as well as meeting customer demand, stabilize the viability of the business. The occupiers of the premises are

finding it increasingly difficult to continue to provide a valuable facility to the people of Takeley because of the restrictions on trading hours and the inability to open on Sundays. There are no other takeaways in Takeley and the operation on site with fish and chips and Indian takeaways provides a sustainable local service. Their main competitors in Bishop's Stortford and Great Dunmow open on Sundays and the applicant is being constantly reminded by his customers of this fact. It should be recalled that the restriction to preclude opening on Sundays was imposed nearly 20 years ago and when very few shopping premises opened on a Sunday. Nowadays Sundays are busier than most weekdays in shopping areas and it is normal for restaurants and shopping premises to be open on Sundays. Whilst some may regret the demise of Sundays as a 'day of rest', working and shopping on such days is a fact of modern life. It is also an established fact of modern life that the rise in single households and modern demands on time has fuelled an increased demand for takeaway and restaurant facilities. The Inspector who considered this matter initially identified two main issues – disturbance through smells and fumes and secondly general noise and disturbance caused by customers arriving and leaving the premises by car. The Inspector considered both could be overcome by acceptable conditions relating to approval of the mechanical extraction filtration and ongoing use of the system. Noise and disturbance was controlled by limiting hours of opening. Opening until 2230 hours does not impose a severe hardship on neighbours bearing in mind their close proximity to the busy Takeley crossroads junction with cars stopping and starting throughout the day and evening. Any additional disturbance from this source is unlikely to be apparent against the background traffic noise levels, albeit traffic has reduced now because of the new route of the A120. Opening on Sundays was initially considered to require special control because "of the higher level of amenity that might reasonably be expected by the occupiers of nearby residential properties on Sundays". However, as indicated earlier, Sunday is no longer considered to have such special significance in this regard. Applicant is not aware of any complaints to the Council arising from its current periods of use. It is therefore logical to assume that the proposed extended evening opening hours are satisfactory and adequately balance the business requirements with the amenity requirements. Changes to trends over past 20 years are now an accepted fact of modern living and commercial opening on Sundays is to be expected. Therefore it is reasonable to believe that people now living within or adjacent to such small local centres may not reasonably anticipate the same degree of peace and quiet as those living in a wholly residential area, or indeed the same degree of peace and quiet they had many years ago.

RELEVANT HISTORY: UTT/1344/91: Change of use from cleaning services to takeaway fish and chip shop – refused 1992 and allowed on appeal 1992.
UTT/0667/93/FUL – Variation of condition 4 relating to planning permission UTT/1344/91 (change of opening hours) – Approved 1993 (Mon-Sat 11.30-1400; 16.30-2200 closed Sundays).

CONSULTATIONS: Environmental Services: Raise concerns about extended opening hours at night and in particular opening on Sundays. Appreciate why they are applying in these economic times but granting this is likely to cause great annoyance and disturbance to immediate neighbouring properties. Had serious issues with operator to get them to install even basic odour and noise reducing equipment. Recent complaint that cooking odour is as bad as it used to be, probably due to a lack of maintenance. Complainants have always moaned about patrons depositing rubbish anywhere but in the bins, along with noise from persons talking/shouting and idling/revving cars in the associated car park. I feel extending the hours of operation will lead to serious tension between the neighbours and Red Chilli operatives, this has occurred in the past and is likely to lead to further noise, odour and rubbish complaints.

PARISH COUNCIL COMMENTS: To be reported. Consultation period expires 29 May 2009.

REPRESENTATIONS: Three. Notification period expires 20 May 2009.

Strongly object to this application. Sunday is the Sabbath and our only day that we can have peace and quietness in our home and garden, free of car doors banging and customers coming and going in and out of the adjoining car park. Also the noise of the extractor fan, and smells of the food cooking. Operating times have been abused by 9 hours per week and we are fed up of complaining about this.

This was a pleasant place to live until we had to endure the strong smell of fish and chips which was so bad at times that we could not hang out washing, work or sit in our garden. After a great deal of stress for our neighbour a special chimney was put in place which to some extent did help but the smell of Indian food is stronger than fish and chips. Sunday is a heavenly day free of stink and rubbish. Strongly object to opening on Sundays its our only day of quiet, free of smell and rubbish.

Nearby residents would lose the 1 day during the week when they are not subjected to cooking smells. Peace & quiet and general tranquility of a Sunday will be disturbed by extra vehicle movements and noisy customers.

COMMENTS ON REPRESENTATIONS: The religious beliefs of the objector are noted, but these are not a material planning consideration.

PLANNING CONSIDERATIONS The main issue is whether the extended operating hours would result in a significant loss of residential amenity through noise, smells and fumes (ULP Policy GEN4).

The application site is close to residential properties and as such there is always a potential for conflict between the operation of a business and residential amenity. The use of the premises as a takeaway has the potential to have an adverse effect on residential amenity through noise from vehicles and customers calling at the site and smells and fumes from the cooking processes. In some instances the potential impacts from smells and fumes can be mitigated by the use of suitable ventilation and odour control mechanisms. However, in other instances the use of such mechanical solutions cannot resolve the conflict and this appears to be the case on this particular site resulting in a loss of amenity. Policy GEN4 does not aim to prevent uses that would result in statutory nuisances, which would be dealt with under other legislation, but rather aims to ensure the residential amenity of neighbouring properties would not be adversely affected by development proposals. Residential amenity can be adversely affected at a level below a statutory nuisance.

Planning permission was granted on appeal for the original change of use to a takeaway in 1992. It was noted that due to the location neighbouring properties therefore may not reasonably anticipate the same degree of peace and quiet as those living in a wholly residential area. Since that date there have been two significant changes in circumstances. Firstly the trend for Sunday opening has grown significantly and, secondly, the A120 has now been re-routed and the amount of traffic using the former A120, now the B1256, has decreased. The applicant argues that the trend in Sunday opening means that, neighbours do not anticipate the same degree of peace and quiet they had in 1992. However, the occupiers of nearby properties do have the right to have their residential amenity protected to a reasonable degree. The issue is whether or not the proposed extended opening hours would significantly reduce the amenity to a degree that warrants refusal of the application.

Turning to the issue of smell and fumes, these were envisaged by the Inspector as being mitigated through the use of mechanical ventilation. It is apparent that this has not been successful and as a result neighbouring properties have suffered a loss of residential amenity. Whilst it is not possible to rescind the original planning consent, it is necessary to

consider whether the proposed increase in operating hours would result in a decrease in amenity. The current authorised operating hours are between 1130 and 1400 hours and 1630 hours and 2200 hours Monday to Saturdays and it is proposed to increase these by half an hour for each session (ie closing at 1430 and 2230). It is also proposed to open on Sundays between 1130 and 1430 hours and 1630 and 2200 hours. In principle, the increase in the Monday to Saturday lunchtime opening hours is unlikely to have such a significant impact on residential amenity. However, the increase in evening hours would extend the period of time that neighbours would be affected late into the evening. A significant impact on amenity would arise from the proposed opening on Sundays. This entirely new day of business would erode the respite that neighbours have from the operations being carried out on the site. Likewise, the extension to evening opening and the Sunday evening opening in particular would also result in a loss of amenity due to noise from customers and vehicles calling at the site. These increases in noise, particularly vehicular noise, are likely to be more noticeable now that the A120 has been re-routed and traffic volumes have decreased on the B1256. This loss of amenity would be sufficient to warrant a refusal, particularly as it is apparent that neighbours are already suffering a loss of amenity. Whilst there are commercial operations within the immediate vicinity, they are of a nature that does not result in significant fumes and noise issues, and certainly not into the evening on Sundays. In a similar situation where a relaxation of the Sunday trading restriction was requested at a fast food outlet an inspector found that it was clear that nearby residents were suffering severe disturbance by customers coming and going and consuming their purchases in their cars. Residents should be accorded some respite on one day per week. It is considered that this case is similar to the situation at Takeley and therefore the application should fail.

The applicant's comments about offering a sustainable facility within the village of Takeley are noted. Likewise the support offered by existing customers as demonstrated by the number of signatures on the accompanying petition is also noted. Many of the signatories are from Takeley, others from neighbouring villages and some from further afield. As tends to be the case with petitions those who sign are those who may appreciate the service but are remote enough not to suffer its effects. It is a planning principle that it is not material the number of people for or against a development but the issues themselves. However, these are not considered to be sufficient to outweigh the harm to residential amenity.

CONCLUSIONS: The proposal is considered unsatisfactory as the respite that neighbours currently have from the noise and fumes from the premises later into the evening and on Sunday would be lost due to the extended opening hours and this loss of amenity would be unacceptable.

RECOMMENDATION: REFUSAL REASON

The intensification of use by the increase in operating hours would result in a loss of residential amenity for longer periods of time and result in the loss of one day of respite from the smell and fumes arising from the takeaway operations. The use of conditions has failed to adequately protect the neighbour's amenity and there are no suitable conditions that could ensure that amenity could be adequately protected during extended operating hours. The loss of amenity would be contrary to the provisions of ULP Policy GEN4.

Background papers: see application file.

UTT/0327/09/FUL - HATFIELD BROAD OAK

(Applicants related to District Councillor: Cllr Jones)

Proposed two storey side extension
Location: 10 Dukes Orchard. GR/TL 548-165
Applicant: Mr & Mrs M Haddon
Agent: Mr M Bradley
Case Officer: Consultant South 2 telephone: 01799 510478/605
Expiry Date: 04/06/2009
Classification: OTHER

NOTATION: Within the settlement limits.

DESCRIPTION OF SITE: application site comprises a two-storey end of terraced dwelling and its curtilage. It is located at the southern end of this short cul-de-sac. It is part of a short terrace of similar properties that have pedestrian access from the front. There is a car-parking area to the north, at the head of public highway leading from the main road through the village. The dwelling has previously been extended by way of the conservatory on the south facing side elevation. This is notable for being at an elevated level from the adjoining ground.

DESCRIPTION OF PROPOSAL: Application seeks planning permission to erect a two-storey side extension. It will continue the profile of the existing dwelling with flush walls and front and rear roof slope. It is proposed to surface the extension with brickwork to match the existing property. The extension would replace the existing conservatory and would provide additional habitable accommodation.

APPLICANTS CASE: An amphibian report was submitted with the application.

RELEVANT HISTORY: None

CONSULTATIONS: Natural England: no objection. However, the applicant should be advised that the grant of any planning permission does not absolve them of any responsibilities in connection with statutory protection of wildlife.

PARISH COUNCIL COMMENTS: To be reported (due 14/5).

REPRESENTATIONS: None. Period for representations expired 5 May 2009

PLANNING CONSIDERATIONS: The main issues are

- 1) design (ULP policies: H8, GEN2 including Supplementary Planning Document "Home Extensions");
- 2) neighbour's amenity (ULP policies: H8, GEN2) and

1) With regard to the design and appearance of these extensions, and the impact upon the existing dwelling, both the adopted local plan policies and the Supplementary Planning Document "Home Extensions" indicate that extensions should respect the appearance of the existing dwelling. Extensions should also have regard to the street scene that exists.

This extension would substantially increase the volume of the existing property - approximately by two-thirds more. In some circumstances this would be unacceptable as the extension would fail to be visually subservient to the existing property and it would be a significant element in its own right. However the extension would sit at the end of a linear

terrace of properties and in that context would simply continue the existing character of the main street scene. Furthermore, there are no dwellings adjoining to the south (where there is recreational land) and therefore the open and spacious character of this immediate locality would also be safeguarded. The use of the wholly brick surface to the walls would also be satisfactory provided the materials matched the existing property. This could be dealt with by way of a planning condition.

In these circumstances it is considered that the proposed extension would be of a satisfactory appearance and the character of the street scene would be safeguarded.

2) In terms of neighbour impact, although this would be a large extension it would nonetheless have no noticeable impact on the living conditions of adjoining occupiers. It would not cause any loss of light or outlook. Although there would be additional front and rear windows these would not result in a material increase in overlooking of the adjoining properties. This is due to the position of the extension and the layout and position of adjoining dwellings and their curtilages.

With regard to car parking, this would remain a family dwelling where parking is provided within the communal area on the main vehicular carriageway to the north of this short terrace of properties.

CONCLUSION: The design and appearance are acceptable and there would not be a noticeable impact on the amenities of adjoining occupiers.

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.5.3. Matching materials.
4. C.8.28. Cost Effective Energy Efficiency Measures.

Background papers: see application file.
