

## UTT/1473/11/FUL (ELSENHAM)

**PROPOSAL:** Demolition of existing office and car park. Construction of three interlinked buildings (7 storeys, 6 storeys, 5 storeys) containing 6,978 sqm of offices and 1,394 sqm floorspace of ancillary mixed retail, Café/restaurant and health/spa facilities with underground parking, landscaping and ancillary works. Creation of new access onto Hall Road & alterations to existing access (Green Street)

**LOCATION:** Tri Sail Water Circle Elsenham Meadows.

**APPLICANT:** Cheergrey Properties Ltd

**AGENT:** Halcrow (Mr M Parsons)

**GRID REFERENCE:** GR/TL 549-253

**EXPIRY DATE:** 11 November 2011

**CASE OFFICER:** Mr M Ovenden

**APPLICATION TYPE:** MAJOR

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### **1. NOTATION**

- 1.1 Outside Development Limits/Part site designated as Employment Land to be Safeguarded (Policy E2)/Part within Countryside Protection Zone.

### **2. DESCRIPTION OF SITE**

- 2.1 The application site is situated on the southern side of Hall Road, Elsenham. To the west of the site is a small complex of commercial buildings and to the south is the Water Circle building. Beyond the commercial elements in this locality there are residential properties including Old Dairy Farm fronting Hall Road and 1, 2 and 3 Gaunts End and The Orchards. To the north of Hall Road are De Salis Hotel and the complex of buildings that are or were formerly associated with Home Farm, including Home Farm Cottage, Home Farm Bungalow and Home Farm House. The front and side boundaries of the site have low level hedging and the area outside of the existing built form is predominantly open fields. There are two ponds in the field to the east of the building, on the eastern boundary and one adjacent to the highway boundary. The application site extends through the car park and access road serving the existing industrial buildings and into a field to the west. Green Street runs down from Hall Road between the commercial parts of the site and provided access to a number of properties to the south. The committee visited the site in December 2008 at the time of a previous application.

### **3. PROPOSAL**

- 3.1 The proposal has been revised having had regard to the refusal of two previous applications for more substantial development. This application relates to the erection of three interlinked buildings being 7, 6 and 5 storeys in height. These are referred to by the applicant as Trisail West (TSW – 6 floors), Trisail Centre (TSC – 7 floors) and Trisail East (TSE – 5 floors). The heights would be 23, 27 and 19 metres tall respectively. Each building would be set into the ground by between two and three storeys i.e. 7 to 9 metres due to changes in levels. The lowest tower would be lower than the tallest part of the Molton Brown building, to the west, the next would be slightly higher with the central tower being one floor higher still. Each tower would

have an oval footprint of around 490 sqm, 35 metres long by 17.6 metres wide and the total floor area in the three towers would be 8370 sqm. The ground floor of each tower would incorporate a mix of uses included a food retail outlet, a café, dentist and health spa. The first floor (level 2) of each building would be reception space. The remainder of the floors would be office space with flexible letting options due to connecting tunnels from the second level up to level five and a further link between TSW and TSC at level six. Level 2 would have direct access from the frontage drop-off point.

- 3.2. A car park to serve the development and the existing Water Circle building would be provided. This would be a completely underground car park with a green roof. The car park would have 3 floors but the split level design would result in 5 floors of parking. It would provide a total of 350. This represents a reduction of approximately 50 spaces in comparison to the larger schemes previously proposed. However in contrast to the last proposal all spaces meet the current requirement for larger spaces.
- 3.3 Access from the car park to the buildings would be via tunnels at level 1 which would lead into the retail/café areas. Lifts are on each level, except level 2, of the car park as well as staircases.
- 3.4 To the front of the site, adjacent to the car park it is proposed to erect two 12m diameter 'sun chasers'. These are photovoltaic panels that rotate to follow the sun in order to maintain maximum exposure to the sun.
- 3.5 It is proposed to construct a new access to the site to enable Green Street to be closed off to vehicular traffic except to maintain access to Old Dairy Farm. A new roundabout junction would be formed opposite the entrance to the Elsenham Golf Course/Quarry access the access would then pass through a field and would then pass through the existing car park and rejoin Green Street. The recently constructed access to the industrial estate, to the west of Molton Brown, would also be closed off and some of the parking would be relocated to this area. A new parking area would be created on land to the west of the ABF (also known as Aero Inv) building. Additional parking would be provided to the front of Molton Brown, Hytek and to the front and rear of the ABF building.
- 3.6 As part of the development it is proposed to construct a number of earth bunds which would then be planted with trees. One bund would be located to the north of the proposed buildings adjacent to the highway. Further bunds are proposed to the east of the proposed new access road. Other bunds are proposed to the west of the new access road and a further two bunds proposed to the south of the existing industrial estate and the proposed application site.

#### **4. APPLICANT'S CASE**

- 4.1 The following documents have been submitted with the application:

An Environmental Statement incorporating the following reports:

- Design and Access statement
- Traffic and Transportation Assessments
- Ecology Assessment
- Landscape and Visual Assessments
- Sustainability Appraisal including:
  - Energy
  - Building Design Performance
  - Renewable Energy
  - Sustainable Materials in Construction
  - Micro-climate
  - Lighting

- Land Use
- Ecology
- Flood Risk and Damage
- Sustainable Waste Management
- Water Resources
- BREEAM report
- Air Quality Assessment
- Archaeology Assessment
- Water Resources
- Contaminated Land Assessment
- Noise Assessment

A non-technical summary of the Environmental Statement is available.

In addition the following reports have been submitted with the application:

- Planning Statement
- Bird Management Plan
- Travel Plan
- Economic Impact Assessment
- Retail Impact Assessment
- Inclusive Access Design Statement

## 5. RELEVANT SITE HISTORY

5.1 UTT/2222/10/FUL - Three interlinked buildings (11 storeys, 9 storeys and 7 storeys) containing 11,148 sqm of offices & 1,393.5 sqm of ancillary retail & restaurant floor space with underground parking, renewable energy infrastructure & landscaping. Creation of new access onto Hall Road & alterations to existing access (Green Street). Reasons for refusal:

- Provision of large area of retail and restaurant (town centre uses) remote from a centre. Inadequate information to justify provision or indicate lack of harm to other centres.
- Erection of development in a rural area close to the Countryside Protection Zone which is a landscape sensitive to change. The access road, car parking, buildings and bunds would be harmful to their rural location.
- Detrimental affect on setting of listed buildings
- No demonstration that there would be inclusive access for all people
- Inadequate ecological survey information

5.2 UTT/1699/08/FUL: Three towers (11 storeys, 9 storeys and 7 storeys) containing 9290 square metres of offices and 3252 square metres of retail space and underground parking and landscaping. Refused 25 February 2009).

UTT/0094/06/FUL: Increase service road to Elsenham Industrial Estate. Approved 15 March 2006.

UTT/1437/05/FUL: Increased service road to Elsenham Industrial Estate. Refused 7 November 2005.

UTT/1184/02/FUL: Erection of building to house water bottling plant and offices. Creation of 30 parking spaces and new access. Approved 23 December 2002.

UTT/0988/85: New access road with new entrance and exit. Approved 16 October 1985.

## 6. POLICIES

### 6.1 National Policies

- PPS1 Sustainable development,
- PPS4 Planning for Sustainable Economic Growth,
- PPS5 Planning for the Historic Environment,

- PPS7 development in Rural Areas,
- PPS9 Biodiversity and Geological Conservation,
- PPG24 Planning and Noise,
- PPS25 Development and Flood risk

## 6.2 East of England Plan 2006

- SS1
- SS4
- E7
- ENV1
- ENV7
- T14

## 6.3 Essex Replacement Structure Plan 2001

NA

## 6.4 Uttlesford District Local Plan 2005

S8	Countryside protection zone
GEN1	Access
GEN2	Design
GEN4	Good neighbourliness
GEN5	Light pollution
GEN6	Infrastructure provision to support new development
GEN8	Vehicle Parking Standards
ENV2	Development affecting the setting of listed buildings
ENV4	Development affecting sites of archaeological importance
ENV8	Other landscape elements of importance for nature conservation
ENV9	Historic landscapes
ENV10	Noise sensitive developments
ENV12	Protection of water resources
ENV15	Renewable energy
E2	Safeguarding Employment Land
E3	Access to workplaces
RS1	Access to retailing and services
SPD	Energy Efficiency and renewable energy

## 7. PARISH/TOWN COUNCILS' COMMENTS

7.1 **Elsenham Parish Council:** Confirmed no comment

7.2 **Stansted Parish Council:** Reiterate previous objections. We still believe that the proposals are out of keeping in this rural location and the highway infrastructure is inadequate.

7.3 **Birchanger Parish Council:** Object. Contrary to Policy S8 on CPZ. Despite the reduction in height it would still be totally inappropriate for this rural location; it will be highly visible particularly at night and in the winter. The built form would overwhelm the existing buildings. It is assumed that the majority of employees would travel in from a wider area. It is naïve to assume that high earners would travel in by bus. The number of parking spaces indicates that cars would be the expected mode of travel. Access to Elsenham is difficult already with no safe routes for cyclist or pedestrians.

7.4 **Takeley Parish Council:** Despite the reduction in height we maintain an objection. The design is totally inappropriate for a rural area; the height would make it visible in

Takeley; night time illumination would make it visible for miles; access is difficult from villages. Surrounding roads are unsuitable for extra traffic.

## **8. CONSULTATIONS**

### **UDC Environmental Health**

- 8.1 Recommend conditions relating to demolition/construction phase and operation of completed development

### **UDC Project Officer (Accessibility)**

- 8.2 The Uttlesford Access Group has been involved in discussions with the applicant. This group welcomes the opportunity set out in the Design and Access Statement to work with the applicant. No objections.

### **UDC Policy and Housing Strategy**

- 8.3 The proposed development is acceptable in policy terms subject to:-
- an informed opinion that the scale and bulk of the proposed inter-linked buildings would respect the character of this rural area;
  - conditions being applied to the retail space to enforce its intended function; and
  - the previous reasons for refusal relating to listed buildings, accessibility and ecology numbered being satisfactorily overcome.

### **UDC Building Control**

- 8.4 No comments

### **UDC Climate Change Manager**

- 8.5 Request condition C8.33 – achievement of BREEAM 'very good'.

### **UDC Drainage Engineer**

- 8.6 See Environment Agency comments.

### **ECC Archaeology**

- 8.7 Request condition requiring no development until secured programme of investigation and recording.

### **ECC Urban Design**

- 8.8 It does not suit its immediate context which is formed of small scale houses on individual plots or its wider rural context. Suggest two conditions to show details of building.

### **CABE (Commission for Architecture and the Building Environment)**

- 8.9 Unable to comment.

### **East Herts District Council**

- 8.10 No comments

### **Highways Agency**

- 8.11 Assessments indicate that the development will add less than 2% to predicted traffic levels by 2019 at M11 junction 8. Additionally analysis shows that whether Coopers End roundabout remains open or is closed the development will not adversely affect the operation of the surrounding strategic highway network. The applicant has included a letter with a Travel Plan which would contain corrective steps should traffic levels exceed predicted flows. This should be part of a S106 Agreement.

#### **Thames Water**

- 8.12 The developer has the responsibility to make proper provision with regard to surface water drainage. No objections to the planning application.

#### **Environment Agency**

- 8.13 Permission should only be granted if the planning conditions details in our letter are attached. Without these conditions the development would be unacceptable and we object. Conditions relate to:

- Drainage scheme based on sustainable drainage principles
- Protection of controlled waters from contamination
- Protection of ground water by requiring details of ground source heat pumps
- Drainage details

- 8.14 We confirm that we have no objection from an ecological perspective. Various advisory remarks are made concerning the development.

#### **Natural England**

- 8.15 No object provided it is carried out in strict accordance with the terms of the application.

#### **Stansted Airport Ltd (STAL)**

- 8.16 No objections. We withdraw our previous concerns about impact on airport road network due to further information having been provided in this application. We note the travel plan and support public transport initiatives.

#### **NATS**

- 8.17 No safeguarding objections

#### **BAA**

- 8.18 It is important to apply all requested conditions or you should notify BAA and CAA first.

- Bird strike Hazard management plan required by condition.
- Planting scheme to comply with measures to discourage birds
- Restriction on height of vegetation (146.25 m OD)
- Control over lighting

Advice about height of cranes during construction.

#### **Essex Police (Architectural liaison)**

- 8.19 No objections. Applicant has been working with the police and we will continue to achieve a positive outcome.

### **9. REPRESENTATIONS**

- 9.1 On behalf of Elsenham Water I confirm our support. As individuals we support the application which can only be good in terms of jobs and facilities which we would be able to share in.
- 9.2 The Water Circle fully supports the application. It is a sympathetic development and will significantly boost the local economy.
- 9.3 Although the scheme has been scaled down it remains totally out of keeping with its surroundings. Object because it would spoil the rural area due to its imposing presence and traffic generated. It would be reliant on motor vehicles and therefore be unsustainable. Traffic information concentrates on unused capacity of Hall Road but a proper assessment has not been extended to other roads e.g. Elsenham level crossing, Ugley Green's windy lanes, Gove Hill Stansted and Coopers End roundabout which is not certain to remain open. Airport traffic is a major factor in traffic generation and with the airport only operating at 50% capacity local roads would be significantly greater at 35 million passengers per annum, adding to the traffic from estates at Forrest Hall Park and Takeley. The transport statements contain many generalised, vague and unjustified statements. The creeping development of the old jam factory site is insidious and should not be allowed to creep on bit by bit.
- 9.4 This design is no more suitable than the last application. Had the design any merit it might be worth damaging the surrounding views. It is faux modern and totally without merit. If there really was any interest from financial institutions the extra traffic would be impossible to cope with. Further urbanisation is regrettable.
- 9.5 This is clearly airport related. You have up till now opposed airport related development off airport. It will leave the surrounding areas in obvious and immediate danger of being turned into Heathrow.
- 9.6 Stunning contemporary design with great local, national and international transport links (Cambs based property consultant).
- 9.7 It will be a further enhancement to the site. The estate provides employment for many local people. The new development will be an asset (writer gives a Henley address).
- 9.8 On behalf of Aero we support the application.
- 9.9 A really exciting scheme which will enhance the area (Peterborough address).
- 9.10 We have been involved pre planning as structural engineers for Trisail. This is a truly exciting opportunity for state of the art eco office development.
- 9.11 It does not represent a sufficient revision to remove objections. The proposal is still unacceptable development in the countryside. The fact that the building would not be as high does not make it any less unacceptable. The landscaping would not mitigate a development of such height. The office floorspace has been reduced by 40% but the retail remains the same. It shows that the objective is to achieve a new retail park in the countryside. Concerns about vehicle movements. The bus service is pitiful. The transport plan does not 'hold water'. The delay in growth at the airport and the failure of opportunist major housing proposals in Elsenham shows there is no justification for the development. If approved the employment and use of retail space would be imported into the area and not meeting a local need. Any relaxation on issues relating to the Countryside Protection Zone (CPZ) would lead to a dangerous precedent and piecemeal erosion thereof. It must be refused.
- 9.12 We consider that it would fit in very well' would provide jobs; would improve road safety with a new access and roundabout. Support the application.
- 9.13 We have seen office development cluster around transport hubs. Gatwick and Heathrow being prime examples. An exciting development (London address).
- 9.14 My wife and I moved here (100 metres from the site) 45 years ago. The Jam factory site has been expanded to accommodate new business. For the past 20 years we've had to suffer the threat of losing out home to a new runway. We are now facing another threat from development. The proposed seven storey structure with a massive footprint would too over powering in close proximity to our house. The bus stop would be relocated outside of our house. Previous landscaping schemes have never materialised and future promises may fall by the wayside. Sewage treatment is locally poor and further pressure would be created on existing infrastructure. Petitions are not an option in tiny communities as a small number of signatures would

- carry little weight. Too often developers rise roughshod across the countryside with complete disregard to local people, build eyesores and then move on.
- 9.15 An unique and iconic design which will appeal to many corporate customers. Fantastic career opportunities for local people. Good communications (Coventry address).
- 9.16 I fully support this application and believe that the area will benefit economically and aesthetically. The design has the potential to become iconic yet subtle enough to blend in. Perhaps the almost symbiotic relationship between buildings and nature will be an example of the way forward with architectural projects.
- 9.17 We are happy for the project as it will create more jobs in the area and put Elsenham on the map.

## 10. APPRAISAL

- 10.1 The application is a revision of an application that was refused in April 2011. The report relating to the last application was comprehensive and all issues were found to be acceptable except for five matters with each forming a reason for refusal. **Therefore the issue to consider in the determination of this application is whether the application overcomes those reasons for refusal:**

- A Inappropriate location for retail floorspace**
- B Inappropriate development within the Countryside Protection Zone (CPZ)**
- C Damage to setting of listed buildings**
- D Failure to provide a development that would be inclusive and accessibility to all**
- E Inadequate ecological surveys**

- 10.2 An additional item that requires consideration is whether there are any new material considerations that have arisen since the determination of the last application.

### **A Inappropriate location for retail floorspace**

- 10.3 The first reason for refusal of the last application was:

*"The proposals incorporate the provision of 1393.5sqm of retail and restaurant/café uses, classified as town centre uses, in an area remote from a centre. Policy EC15 of PPS4 requires a sequential test to be carried out and Policy EC16 requires an impact on town centre vitality and viability. The Retail Impact Assessment demonstrates that there would be no requirement for the proposed floorspace provision and no impact assessment or sequential test have been carried out. The proposals are therefore contrary to Policies EC15 and EC16 of PPS4."*

- 10.4 The retail facilities at the proposed development, though open to the public, will mainly aim to accommodate the needs of people working at Tri Sail and the existing estate. Their primary purpose is to meet the daily top-up convenience shopping needs of the on-site workforce, not to compete with existing retailers for the main weekly shopping trip. It is proposed that the retail provision at Tri Sail will only be open from Monday to Friday, during normal working hours, and closed at the weekend. This focus will be reflected in the marketing of the development as a business location rather than a retail attraction.

- 10.5 One of the previous reasons for refusal was that no Retail Impact Assessment or sequential test has been carried out as required by of Policies EC15 and EC16 in PPS 4. That assessment has now been undertaken and submitted as part of the application. The study defines the local catchment area and estimates current and future expenditure for people living within this area. Current and future expenditure is assessed against existing supply to evaluate whether there is a niche that the proposed development can fill or whether there will be negative impacts to existing retail providers. The report finds that the retail element of the proposed development



is expected to contribute towards meeting future requirements rather than having a negative impact on the currently existing facilities.

- 10.6 However, the validity and relevance of the detailed technical assessment may be questioned. This is because the statement made as to the primary purpose of this floorspace being to meet the daily top-up convenience shopping needs of the on-site workforce, which is reinforced by the limited opening hours, will mean that the retail space will not be available to compete with existing facilities at key shopping times. Hence it will not form an equivalent element of the retail floorspace to the remainder available in surrounding settlements.
- 10.7 The retail assessment points out that the larger, high value companies like the ones targeted for Tri Sail require supporting amenities (including retail, leisure and catering). Furthermore, it is unlikely the development would be successful in attracting such tenants without appropriate retail provision. Hence, the provision of the retail and associated ancillary space would be an essential element of this overall development if it is to go ahead and reach fruition.
- 10.8 The retail assessment also states that the retail elements of the scheme are only intended to come forward with the employment uses. Given the intended role and function of the retail space, it would be beneficial to enforce that by the inclusion of conditions to any approval limiting both the opening hours to those indicated and the occupancy of any retail space until a specified percentage of the office space is occupied.

Taking this into account no objection with regard to a conflict with retail policy is raised. The issues of concern raised previously have been overcome.

## **B Inappropriate development within the Countryside Protection Zone (CPZ)**

- 10.9 The development has been scaled down since the last application.

The second reason for refusal of the last application was:

*"The application site is located within a rural area and largely within or adjacent to land designated as Countryside Protection Zone (CPZ). Development in this area is restricted to development that is required to be there with a strict control on new development, particularly development which would promote coalescence between the airport and surrounding development and would adversely affect the open characteristics of the zone. The scale and bulk of the proposed inter-linked buildings would fail to respect the character of the rural area, particularly given the site lies within Landscape Character Assessment Area B10 - Broxton Farmland plateau, which has a moderate to high sensitivity to change. Furthermore, the proposed access road and car parking area on the existing access road, together with the buildings, would result in a form of development which would promote coalescence with the airport. The proposed landscaping bunds, aimed to mitigate the scale of the proposed buildings would in themselves result in harm to the rural area by the introduction of artificial landscape features out of character with the plateau area. The proposals are therefore contrary to ULP Policies S8 and GEN2. Furthermore it would be contrary to the sustainable development principles seeking to ensure that developments are of an appropriate scale and reflect their rural location as set out in PPS1, Policy EC10.2c) in PPS4 and PPS7."*

- 10.10 The applicant has pointed out that Trisail west and central are within the employment zone and therefore not within the Countryside Protection Zone (CPZ) and Trisail east straddles it with the majority of the footprint being outside the CPZ. The buildings have been reduced in height to a level where they are approximate to that of an adjacent building. To some degree the western access road has been simplified and is an improvement on the previous version, while the visual impact of the

underground car park remains the same. The application includes photo montages from a variety of positions which indicate that the buildings would now have limited impact on the surrounding landscape. When comparing the cross sections submitted with this application and those submitted as part of the last one, this development would be much lower and not have the tall earth bunds which formed part of the last scheme. The changes made have resulted in smaller building within the site, reduced earth building and improved the access way. These changes mean that the proposal has overcome the reason for refusal of the last application.

### **C Damage to setting of listed buildings**

10.11 The third reason for refusal of the last application was:

*Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act, 1990 states that a planning authority shall have special regard to the desirability of preserving a listed building or its setting. The proposal would be unacceptable because the scale and character of the proposals would not respect the rural setting of the listed buildings and would result in a significant detrimental impact, contrary to adopted Uttlesford Local Plan Policy ENV2 and PPS5.*

10.12 The listed buildings in the vicinity are those of Old Dairy Farm, approximately 80 metres from the proposed towers; 1 & 2 Green Street, approximately 140 metres from the towers, and Home Farm Barn and Home Farm House which would be 145 and 160 metres away respectively. The 'sun chaser' towers would be closer to the listed buildings listed above (except 1 & 2 Green Street, to the south) but would be of the order of 60, 110 and 80 metres from listed buildings. There is considerable distance between the proposed buildings and the nearby listed buildings. The changes in the proposal, especially the reduction in height and bulk of the buildings is considered to significantly reduce the overall sphere of influence the buildings have. Because of this reduction in scale it is no longer considered that the proposals harm the setting of the listed buildings and therefore the previous reason for refusal has been overcome and no objection is raised.

### **D Failure to provide a development that would be inclusive and accessibility to all**

10.13 The fourth reason for refusal of the last application was:

*"The proposals fail to demonstrate that the development would achieve a high quality and inclusive design, providing equal access to all. Access into and through level 1 and the main reception area on level 2, particularly from the car park would be unclear and would result in those requiring lift access arriving behind the reception desk(s). Furthermore, details relating to how disabled toilet facilities would be provided have not been made clear. In addition, access to the Water Circle building from the car park would be difficult for those with limited mobility. On the basis of the information submitted the proposals are therefore contrary to Policy EC10.2c) of PPS4 and ULP Policies RS1 and E3."*

The applicant has worked with the Uttlesford Access Group which welcomes the opportunity set out in the Design and Access Statement to work with the applicant. This reason for refusal has therefore been overcome by way of changes to the access to the car park, additional information and general improvements throughout the scheme. No objection is therefore raised.

### **E Inadequate ecological surveys**

10.14 The fifth reason for refusal of the last application was:

*"The application is accompanied by out-of-date and/or incomplete ecological surveys. The inadequate or outdated surveys do not allow a proper assessment of the*

*potential impacts on protected species, as required by PPS9, Section 40(1) of the Natural Environment and Rural Communities Act, Regulation 3(4) of the Conservation (Natural Habitats &c) Regulations 1994, Section 74 of the Countryside and Rights of Way Act 2000 and Regulation 9(5) of the Conservation of Habitats and Species Regulations 2010. Furthermore, the local planning authority is unable to determine whether Article 12(1) of the 2010 Regulations would be offended and whether the proposals would comply with the 3 tests set out in Regulation 53 of the Habitats Regulations 2010. The proposals are therefore contrary to ULP Policies GEN7 and ENV9 and PPS9."*

10.15 For this application new and revised ecological surveys have been submitted and the Environment Agency and Natural England raise no objections subject to conditions. It is therefore considered that this reason for refusal has therefore been overcome and no substantive objection on this ground could be sustained.

## **F Other material considerations which has arisen since the last application**

10.16 In July the Secretary of State (DCLG) issued a draft National Planning Policy Framework for consultation. The Consultation period expired on 17 October 2011. The applicant has drawn attention to this document. The Chief Planning Inspector has issued guidance to Inspectors that the document is capable of being a material consideration. Indeed from the day it was published we have received appeal decisions referring to the document as a material consideration. Officers have had regard to this document when considering the application and given it some weight in making a recommendation. However as stated above the key issue is whether the proposal has addressed the reasons for the refusal of the last application.

10.17 Many of the representations relate to highway issues. However these did not form part of the reasons for refusal and therefore cannot be raised with this application. Furthermore the development has been scaled down and therefore in this respect must be considered to be at least acceptable if not more so than the last one. The Highways Authority raises no objections. Various highway matters are proposed to be addressed by planning condition.

## **11. CONCLUSION**

11.1 In conclusion the applicant has held detailed discussion with Officers following the previous refusal. The applicant has significantly altered and amended the scheme to address concerns raised previously. The additional information submitted with this application helps to further substantiate the proposal. It is considered that on balance this proposal will be a benefit to the district as a whole, broaden the economic base, while not causing any material harm to acknowledged planning interests.

11.1 The following is a summary of the main reasons for the recommendation:

- A The revised application has demonstrated that the retail floorspace proposed would meet the requirements of PPS 4 and has overcome that reason for refusal.
- B The revised proposal has reduced the impact of the proposal on the countryside protection zone to the extent that it is acceptable.
- C The revised proposal has reduced the impact of the proposal on the listed buildings in the locality to the extent that it is acceptable.
- D The revised application demonstrates that it would be inclusive and accessible to all
- E Appropriate and acceptable ecological information has been submitted.

## **RECOMMENDATION – CONDITIONAL APPROVAL WITH S106 AGREEMENT**

- (I) The applicant be informed that the committee would be minded to refuse planning permission for the reasons set out in paragraph (III) unless within 5 months of being invited to do so the freehold owner enters into a binding agreement to cover the

matters set out below under Section 106 of the Town and Country Planning Act 1990, as amended by the Planning and Compensation Act 1991, in a form to be prepared by the Assistant Chief Executive – Legal, in which case he shall be authorised to conclude such an agreement to secure the following:

- (i) Travel Plan to be submitted and approved together with monitoring fee.
  - (ii) Car park management scheme to be implemented and revised
  - (iii) Funding additional cost of diverting 7/7A bus route along Hall Road into site
  - (iv) Facilities for vehicle monitoring and remedial action if required (this is imposed on the direction of the Highways Agency)
  - (v) Pay Council's reasonable costs
- (II) In the event of such an agreement being made, the Assistant Director Planning and Building Control shall be authorised to grant permission subject to the conditions set out below
- (III) If the freehold owner shall fail to enter into such an agreement, the Assistant Director Planning and Building Control shall be authorised to refuse permission for the following reasons:
- (i) No travel Plan or monitoring fee.
  - (ii) No car park management scheme
  - (iii) No funding of additional cost of diverting 7/7A bus route along Hall Road into site
  - (iv) No vehicle monitoring facilities or remedial action if required

1 The development hereby permitted shall be begun before the expiration of 3 years from the date of this decision.

REASON: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2 The development hereby permitted shall be carried out in accordance with the approved plans as set out in the Schedule.

REASON: For the avoidance of doubt as to the nature of the development hereby permitted, to ensure development is carried out in accordance with the approved application details, to ensure that the development is carried out with the minimum harm to the local environment, in accordance with Policies of the Uttlesford Local Plan (adopted 2005).

3. ENV9 Demolition or construction works (including deliveries) shall not take place outside 07:30 hours to 18:00 hours Mondays to Fridays and 07:30 hours to 13:00 hours on Saturdays and at no time on Sundays or Bank Holidays.

REASON: In the interests of the amenity of the area in accordance with Policies GEN2 and GEN4 of the Uttlesford Local Plan (adopted 2005)

4 ENV12 The retail floorspace shall not be open to the public other than between 07:30 hours to 18:00 hours Mondays to Fridays.

REASON: In the interests of the amenity of the area in accordance with Policies GEN2, GEN4 of the Uttlesford Local Plan (adopted 2005) and to avoid the site becoming a retail destination that would affect the vitality of other local shopping facilities.

5 No retail floorspace shall be first used until fifty percent of office space in that building has been occupied.

REASON: To ensure that the retail space is ancillary to the office activities and is not provided without occupation of a significant percentage of the office floorspace to which it is proposed to support.

6 ARC3 No development shall take place within the area indicated until the applicant or their agents or successors in title have secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved programme.

REASON: In the interests of archaeological protection in accordance with Policy ENV4 of the Uttlesford Local Plan (adopted 2005) and Planning Policy Statement 5. Previous archaeological evaluation has uncovered features consistent with the edge of a prehistoric settlement.

7 Before development commences, a Bird Hazard Management Plan shall be submitted to and approved in writing by the local planning authority. The submitted plan shall include details of the management of any flat / shallow pitched / green roofs on buildings within the site which may be attractive to nesting, roosting and loafing birds. The plan shall comply with Advice Note 8 "Potential Bird Hazards from Building Design" available at [www.aoa.org.uk/publications/safeguarding.asp](http://www.aoa.org.uk/publications/safeguarding.asp).

8. The Bird Hazard Management Plan shall be implemented as approved on completion of the development and shall remain in force for the lifetime of the buildings. No subsequent alterations to the plan shall take place unless the alterations have first been submitted to the local planning authority and approved in writing.

REASON: It is necessary to manage the site in order to minimise its attractiveness to birds which could endanger the safe movement of aircraft and the operation of Stansted Airport.

8 Prior to the erection of the development hereby approved (not including footings and foundations) full details of hard, soft and any water landscape works shall be submitted to and approved in writing by the local planning authority. The submitted details shall comply with Advice Note 3 "Potential Bird Hazards from Amenity Landscaping and Building Design" available at [www.aoa.org.uk/publications/safeguarding.asp](http://www.aoa.org.uk/publications/safeguarding.asp) The works shall be carried out as approved. These details shall include :-

- i. proposed finished levels or contours;
- ii. means of enclosure;
- iii. car parking layouts;
- iv. other vehicle and pedestrian access and circulation areas;
- v. hard surfacing materials;
- vi. minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting, etc.);
- vii. proposed and existing functional services above and below ground e.g. drainage and power. All drainage shall comply with Advice Note 6 "Potential Bird Hazards from Sustainable Urban Drainage Schemes" available at [www.aoa.org.uk/publications/safeguarding.asp](http://www.aoa.org.uk/publications/safeguarding.asp)
- viii. communications cables, pipelines etc. indicating lines, manholes, supports;
- ix. retained historic landscape features and proposals for restoration, where relevant;
- x. details of any water features

Soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants noting species, plant sizes, spacing and proposed numbers/densities where appropriate, and an implementation programme.

REASONS: The landscaping of this site is required in order to protect and enhance the existing visual character of the area and to reduce the visual and environmental impacts of the development hereby permitted, in accordance with Policies GEN2, GEN8, GEN7, ENV3 and ENV8 of the Uttlesford Local Plan (adopted 2005).

To avoid endangering the safe movement of aircraft and the operation of Stansted Airport through the attraction of birds and an increase in the bird hazard risk of the application site.

9. No existing individual trees, shrubs or stands of trees and shrubs on the application site and no trees and shrubs planted on the application site as part of the approved landscaping works shall be permitted to grow above a height of 146.25 metres AOD.

REASON: If trees or shrubs exceed this height they will penetrate the Obstacle Limitation surface surrounding Stansted Airport and endanger the movement of aircraft and the safe operation of the aerodrome.

10 LA4 All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out before any part of the development is occupied or in accordance with the programme agreed with the local planning authority.

REASON: In the interests of the appearance of the site and area in accordance with Policies GEN2, GEN7, ENV3 and ENV8 of the Uttlesford Local Plan (adopted 2005).

11 LA5 No development shall take place until details of earthworks have been submitted to and approved in writing by the local planning authority. These details shall include the proposed grading and mounding of land areas including the levels and contours to be formed, showing the relationship of proposed mounding to existing vegetation and surrounding landform. Development shall be carried out in accordance with the approved details.

REASON: In the interests of the appearance of the site and area in accordance with Policy GEN2 of the Uttlesford Local Plan (adopted 2005).

12 Details of any lighting required during construction and for the completed development shall be submitted to and approved in writing by the local planning authority before the use hereby permitted commences. All lighting shall be of a flat glass, full cut off design, mounted horizontally, and shall ensure that there is no light spill above the horizontal. Development shall be carried out in accordance with the approved details.

REASONS: In the interests of the appearance of the site and area in accordance with Policies GEN2, GEN4 and GEN5 of the Uttlesford Local Plan (adopted 2005).

To avoid endangering the safe operation of aircraft through confusion with aeronautical ground lights or glare.

13 SUS3 The applicant shall incorporate on-site renewable or low-carbon energy technologies to provide 10% of the annual energy needs of the approved development in-use.

The applicant will provide the planning authority with a design SAP or SBEM rating of the proposed development carried out by an accredited assessor before work commences on-site, as well as technical details and estimated annual energy production of the proposed renewable or low carbon technologies to be installed.

Within four weeks following its completion, the applicant will provide a SAP or SBEM rating of the as-built development and details of the renewable or low carbon technologies that were installed.

REASON: In the interests of the promotion of sustainable forms of development and construction and construction to meet the requirements contained in adopted SPD Energy Efficiency and Renewable Energy Adopted October 2007.

14 SUS4 The development as designed, specified and built shall achieve BREEAM rating of 'very good'. The applicant will provide the planning authority with a BREEAM design-stage assessment of the rating of the proposed development, carried out by an accredited assessor, before work commences on-site. The developer will provide a BREEAM post-

construction assessment of the rating of the as-built development within four weeks following its completion, also carried out by an accredited assessor.

REASON: In the interests of the promotion of sustainable forms of development and construction and construction to meet the requirements contained in adopted SPD Energy Efficiency and Renewable Energy Adopted October 2007.

15 Before development commences, the following details shall be submitted to and approved in writing by the local planning authority:

- a) elevational drawings and sections at 1:100 scale of all the buildings
- b) typical sections through the façade elements at 1:20 scale
- c) elevational details at 1:10 scale
- d) sample elevations, and
- e) samples of all external materials relevant to wall cladding and curtain walling including glass, rainwater goods and other elements

REASON: In the interests of the appearance of the site and area in accordance with Policy GEN2 of the Uttlesford Local Plan (adopted 2005).

16 Before development commences, roof plans at 1:100 scale, including all mounted plant, access points and equipment, shall be submitted to the local planning authority and approved in writing. Subsequently, the development shall be carried out in accordance with the approved details.

REASON: In the interests of the appearance of the site and area in accordance with Policy GEN2 of the Uttlesford Local Plan (adopted 2005).

17 Before development commences, details of a scheme to permanently prevent vehicular access between Hall Road and the existing and proposed development via Green Street shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to commencement of development.

REASON: In the interests of highway safety and efficiency.

18 Before development commences, the provision of highway works as shown on 690321-SK71 rev. F to include a roundabout on Hall Road and access road to join up with Green Street south of the development to adoptable standards, details of the road and footways (including layout, levels, gradients, surfacing and means of surface water drainage) shall be submitted to and approved in writing by the Local Planning Authority.

REASON: To ensure roads/footways are constructed to an appropriate standard in the interests of highway safety.

19 Before development commences, a Construction Traffic Management Plan, which shall be adhered to during the construction phase of development, shall be submitted to and approved in writing by the Local Planning Authority.

REASON: In the interests of highway safety and efficiency.

20 Before development commences details of the provision of suitable temporary construction access arrangements, including appropriate visibility splays, adequate access width and radii to accommodate the simultaneous entry and exit of vehicles using the temporary access, temporary traffic management/signage and wheel cleaning facilities for the duration of the construction phase to prevent the deposition of mud or other debris onto the highway network/public areas, turning and parking facilities for delivery/construction vehicles within the limits of the application site together with an adequate parking area for those employed in developing the site shall be submitted to and approved in writing by the

Local Planning Authority. The measures shall subsequently be implemented as approved.

REASON: In the interests of highway safety and efficiency.

21 Before development commences, details showing the means to prevent the discharge of surface water from the development onto the highway shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in its entirety prior to the access becoming operational and shall be retained at all times.

REASON: To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety.

22 Before first occupation of the development, the existing private access at the junction with Hall Road as shown on drawing number 690321 SK71 rev F shall be suitably and permanently closed in a manner which shall previously have been agreed in writing with the Local Planning Authority, including the reinstatement to full height of the highway verge.

REASON: To ensure the removal of and to preclude the creation of unnecessary points of traffic conflict in the highway in the interests of highway safety.

23 Before first occupation of the development hereby permitted, secure parking spaces for powered two wheeler vehicles and secure and covered cycle parking facilities together with details of a clear route for cyclist to the cycle parking area through the development shall be provided and retained at all times. The approved facilities shall be provided in accordance with details submitted to and approved in writing by the Local Planning Authority. The provision shall accord with the requirement of the Parking Standards Design and Good Practice guide dated September 2009 unless otherwise agreed in writing with the Local Planning Authority.

REASON: To ensure appropriate powered two wheeler and cycle parking is provided.

24 Before first occupation of the development hereby permitted, details of the vehicle parking areas shall be submitted to and approved in writing by the Local Planning Authority. The provision shall accord with the requirements of the Parking Standards Design and Good Practice guide dated September 2009 unless otherwise agreed in writing with the Local Planning Authority. The approved scheme shall be hard surfaced and marked out with parking bays to include parking spaces for the mobility impaired prior to the first occupation of the development hereby permitted. The vehicle parking area shall be retained in this form at all times. The vehicle parking area shall not be used for any purpose other than the parking of vehicles that are related to the use of the development.

REASON: In the interests of highway safety, efficiency and accessibility.

25 Before first occupation of the development hereby permitted, details of a bus stop together with shelter, raised kerb, flag and pole together with a turning area to accord with Essex County Council Passenger Transport Standards shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to first occupation of the development.

REASON: In the interest of sustainability and accessibility.

26 Any new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay.

REASON: To ensure that the future outward growth of the planting does not encroach upon the highway or interfere with the passage of users of the highway, to preserve the integrity of the highway and in the interests of highway safety



The above measures set out in Conditions 17 - 26 are required to ensure that the development accords with the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011 and Uttlesford Local Plan Policy GEN1, GEN2, GEN6 and GEN8.

27 The mitigation measures set out in the application to protect residential properties in Green Street and Hall Road from dust and fine particulate matter shall be implemented in full and retained for the duration of the construction works. Before development commences, a scheme of air quality management during the construction and demolition phases shall be submitted to the local planning authority and approved in writing. The approved scheme shall be implemented and maintained until completion of the works.

REASON: To protect residential amenity in accordance with Policy GEN4 of the Uttlesford Local Plan (adopted 2005).

28 Before development commences, a surface water drainage scheme for the site based on the principles in the flood risk assessment by MLM (2 September 08 Rev A) incorporating sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, shall be submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

The following details shall be included in order to check that the proposed stormwater system meets the requirements of the Environment Agency:

- a) a clearly labelled drainage layout plan showing pipe networks and any attenuation ponds, soakaways and other SUDS features. The plan shall show any pipe "node numbers" that have been referred to in network calculations and shall also show invert and cover levels of manholes
- b) confirmation of the critical storm duration
- c) soakaway test results and test locations in accordance with BRE digest 365 where infiltration forms part of the proposed stormwater system such as infiltration trenches and soakaways
- d) the volume of any attenuation ponds required to achieve on-site attenuation
- e) the location of any outfall discharge control device, with the rate of discharge
- f) calculations to demonstrate how the system operates during a 1:100 year critical duration storm event, with an appropriate allowance for climate change in line with PPS25. If overland flooding occurs in this event, a plan shall be submitted detailing the location of overland flow paths.

REASON: To prevent the increased risk of flooding, to improve and protect water quality and improve habitat and amenity in accordance with Policy GEN3 of the Uttlesford Local Plan (adopted 2005).

29 No infiltration of surface water drainage into the ground shall take place unless previously agreed in writing with the local planning authority, which agreement may be given for those parts of the site where it has been demonstrated that there is no unacceptable risk to controlled waters. The development shall be carried out in accordance with the approved details.

REASON: The site may be contaminated and infiltration of surface water would create a potential pathway for contamination at the surface to migrate contrary to Policy ENV12 of the Uttlesford Local Plan (adopted 2005).

30 Ground source heat pump systems using penetrative methods shall not be permitted unless previously agreed in writing with the local planning authority, which agreement may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

REASON: Deep boreholes from these systems could extend into the principal aquifer in the chalk contrary to Policy ENV12 of the Uttlesford Local Plan (adopted 2005).

31 Prior to being discharged to any soakaway, watercourse or surface water sewer, all surface water drainage from impenetrable vehicle parking areas shall be passed through trapped gullies with an overall capacity compatible with the site being drained. Any areas susceptible to oil contamination shall be passed through a petrol / oil interceptor designed and constructed in accordance with details which shall previously have been agreed in writing with the local planning authority. The scheme shall be constructed and completed before occupancy of any part of the development.

REASON: To ensure an appropriate scheme is implemented to manage the additional increase in on-site vehicle parking in order to protect the water environment in accordance with Policy ENV12 of the Uttlesford Local Plan (adopted 2005).

32 BIO1 No demolition or site clearance works or removal of hedgerows or trees shall be carried out on site between the 1st March and 31st August inclusive in any year, unless otherwise approved in writing by the local planning authority.

REASON: To protect roosting birds which use the site in accordance with Policy GEN7 of the Uttlesford Local Plan (adopted 2005).

33 BIO2 The development hereby permitted shall be implemented in accordance with the scheme of mitigation/enhancement submitted with the application in all respects and any variation thereto shall be agreed in writing by the local planning authority before such change is made.

REASON: In the interest of the protection of the wildlife value of the site in accordance with Policy GEN7 and PPS9 of the Uttlesford Local Plan (adopted 2005)

34 BIO3 If the development hereby approved is not commenced within one year of the date of this consent a further wildlife survey of the site shall be carried out to update the information on the species and the impact of development and the survey, together with an amended mitigation strategy as appropriate, shall be submitted to and be approved in writing by the local planning authority and implemented as agreed.

REASON: To comply with the requirements of the Habitats Regulations and to protect species of conservation concern in accordance with Policy GEN7 and PPS9 of the Uttlesford Local Plan (adopted 2005).

35 Before development commences, details of any air treatment plants and extract ventilation systems which will be incorporated into the final design, and the controls on noise from the plant and systems shall be submitted to and approved in writing by the local planning authority. Subsequently, the development shall be carried out in accordance with the approved details.

REASON: In the interests of the amenity of neighbouring residents in accordance with Policy GEN4 of the Uttlesford Local Plan (adopted 2005).



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