

**UTT/1861/11/FUL – (STANSTED )**

*(Referred to Committee by Cllr Rich. Reason: highly sensitive application)*

**PROPOSAL: Conversion of stables to dwelling**

**LOCATION: The Stables, High Lane, Stansted Mountfitchet**

**APPLICANT: Mr and Mrs D Butterfield**

**AGENT: Mr Brian Christian**

**GRID REFERENCE:**

**EXPIRY DATE: 21 November 2011**

**CASE OFFICER: Nicholas Ford**

**1.0 NOTATION**

1.1 Outside development limits.

**2.0 DESCRIPTION OF SITE**

2.1 The Stables is an H shape plan single storey brick building on the eastern side of High Lane, Stansted Mountfitchet. This side of the road has a rural character with little built form other than a barn conversion and a couple of cottages to the south beyond a public footpath that runs between High Lane and North End House further east (meeting with Gall End Lane). Land to the north is open with a tree belt along a stream valley to the east beyond an existing wall. On the opposite side of the road to the west are single or two storey houses either fronting onto or with rear gardens backing onto the highway adjacent which are mature trees (16 Meadowcroft).

2.2 The building is single storey with a courtyard facing the public footpath to the south. Within which are a number of stable doors and window openings. It appears that there was formerly a lean-to to the eastern elevation that has since been removed. There is a field access and gate onto High Lane just north of the building.

**3.0 PROPOSAL**

3.1 The application proposes conversion of the building to a four bedroom dwelling. It would have a garden in the courtyard and parking adjacent the east elevation. Access would be taken from an existing field gate from High Lane. A scheme of plating is submitted to include reinforcing hedges to boundaries.

**4.0 APPLICANTS CASE**

4.1 The application is accompanied by a Design and Access Statement, planning statement, bat survey, structural survey, commercial viability report, precedent report, local evidence, letters from estate agents related to demand for commercial use and domestic use evidence.

**5.0 RELEVANT SITE HISTORY**

5.1 The building has been subject to previous applications for residential conversion both refused and dismissed at appeal and also approvals for conversion to commercial use.

5.2 In 1978 planning permission was refused for conversion to a dwelling as it was considered that the works necessary for conversion would harm rural character and did not relate to permitted exceptions for development.

5.3 In 1981 an appeals Inspector considered residential use would result in sporadic extension of development that would be to the detriment of the rural character of the area.

5.4 In 1991 planning permission was granted for change of use for light industrial. This permission was renewed in 1996.

5.5 In 1995 planning permission was refused for conversion to two dwellings. It was considered that subdivision to two dwellings and resultant erection of extensions and two garages would detract from rural character. It was also considered that the building would not merit conversion.

5.6 In February 2011 planning permission was refused for conversion of stables to dwelling (UTT/2252/11/FUL) and later this year, on 31 August 2011, a similar application for conversion was withdrawn by the applicant (UTT/1364/11/FUL).

## **6.0 POLICIES**

### **6.1 National Planning Guidance**

PPS4 - Planning for Sustainable Economic Growth  
PPS9 - Biodiversity and Geological Conservation

### **6.2 Uttlesford District Local Plan 2005**

- Policy S7 - The Countryside
- Policy H6 - Conversion of rural buildings to residential use
- Policy ENV3 - Open spaces and trees
- Policy GEN1 - Access
- Policy GEN2 - Design
- Policy GEN7 - Nature Conservation
- Policy GEN8 - Vehicle Parking Standards

## **7.0 PARISH COUNCIL COMMENTS**

7.1 No objection as long as it follows the existing footprint and permitted development rights are withdrawn.

## **8.0 CONSULTATIONS**

8.1 Ecological Officer: Object. A bat survey has been provided as part of the application. A bat survey has been provided as part of the application and this advises that no evidence of bats was found using the stables and that it did not consider that the planning proposal would have a detrimental effect on protected species. Please note that this survey was undertaken nearly a year ago and does recommend that a further survey should be undertaken should time elapse.

It may be possible for bats to roost under the tiles of the stables and the report does not explicitly discount this. The description indicates that there is close boarding on the ceiling (although it is rather unclear from the description and lack of photographs or diagrams in the report) and there is no indication as to the condition and type of the tiles.

If the consultant has considered this possibility in the active bat season and still found no evidence then it would be reasonable not to do any follow up surveys. However, the survey took place in late November and the possibility of evidence having been lost (blown away and / or cleaned up) does not seem to have been taken into consideration in the report.

I therefore recommend that the complexity of the buildings and season of the daytime visit should prompt follow up survey work to be made in the active season, i.e. May to September. This should be undertaken prior to the granting of planning permission: Government Circular: *Biodiversity and geological conservation – Biodiversity obligations and their impact within the*

planning system provides clear guidance that protected species surveys should be completed prior to the granting of planning permission:

<http://www.communities.gov.uk/documents/planningandbuilding/pdf/147570.pdf>

*Following an updated survey the ecologist maintains the objection. Evidence has been found that bats are using the building for roosting. We know that bats are using the building to roost. The status of the roost has not been determined and there is no consideration within this survey as to the time of day or time of year that the bats may be roosting e.g. for day or night visits, or for hibernation or maternity roosting. Without this information it is difficult to determine the appropriate level of mitigation. The status of the roost is not known but the updated bat survey does not explain why further surveys are not required to ascertain this information.*

*At this stage it is difficult to see how there is sufficient information to determine the correct level of mitigation. Therefore, I do not believe potential mitigation can be conditioned until further information is provided regarding the status of the roost. I maintain a holding object until this information is provided.*

8.2 Drainage Engineer: No comment.

8.3 Veolia Water: The development site is located within an Environment Agency defined Groundwater Protection Zone. Provides advice for construction best practice.

8.4 Thames Water: Surface Water Drainage is the responsibility of the developer. No objection to sewerage infrastructure.

8.5 Highway Authority: No objection subject to conditions.

## 9.0 REPRESENTATIONS

9.1 None received.

## 10.0 APPRAISAL

The issues to consider in the determination of the application are:

**Whether it is demonstrated that there is no significant demand for economic re-use, the building is in sound structural condition, it has historic, traditional or vernacular form that enhances the character and appearance of the rural area, the conversion works respect and conserve the characteristics of the building, unobtrusive private garden areas are provided and development is acceptable with regard highway safety. Furthermore, there would be no harm to protected species (ULP Policies S7, H6, ENV3, GEN1, GEN2, GEN7, GEN8 - ECC Parking Standards Design and Good Practice, SPD Lifetime Homes and Accessible Playspace, PPS7, PPS9).**

10.1 The building is located outside the development limits of Stansted Mountfitchet and is therefore countryside for the purposes of development control. Here, in accordance with Policy S7 of the Uttlesford Local Plan adopted 2005 planning permission will only be granted for development that needs to take place there or is appropriate to a rural area. There will be strict control on new building and development will only be permitted if its appearance protects or enhances the particular character of the part of the countryside in which it is set or there are special reasons why the development in the form proposed needs to be there.

10.2 Policy H6 of the Uttlesford Local Plan adopted 2005 follows only allows the conversion or rural buildings to residential use if certain criteria are met. Substantial building reconstructions or extensions are not permitted nor is conversion to residential uses on isolated sites in the open countryside located well away from existing settlements.

10.3 The building is one that could be considered convertible as it is a traditional building rather than a modern one and has some visual merit. The structural report confirms the building

is in sound structural condition. The alterations proposed would conserve the characteristics of the building. The garden area proposed, largely within the courtyard, would be of appropriate size for such a dwelling. Parking and access would be appropriate.

10.4 Criterion A requires that it be demonstrated that there is no significant demand for business uses, small scale retail outlets, tourist accommodation or community uses. This criterion therefore primarily deals with the principle of residential use. PPS4 also requires that local planning authorities should support the conversion and re-use of appropriately located and suitably constructed existing buildings in the countryside for economic development (particularly those adjacent or closely related to towns or villages as is the case here). Small scale economic development is particularly promoted where it involves the re-use of existing buildings in the countryside where adjacent towns and villages.

10.5 The applicant has submitted information, including a report from a local estate agent. These documents refer to an over supply of office accommodation, low take up of tourist accommodation and high ratio of conversion cost to income, that no community use facilities are required in the village, that the building is not appropriate for retail use or business/light industrial uses due to disturbance to residential properties and the access not being acceptable for other uses.

10.6 The applicant considers that whilst no marketing has taken place, there is a lack of demand for these uses. They refer to the creation of employment in Uttlesford as not being a priority with over supply of office space and no significant demand for business, retail, tourist or community use that would be reflected in commercial take up or development. Different agents have supported this view. The applicant considers that there is no need for marketing as information has been received from local agents and there is no such requirement in Policy H6.

10.7 There is no clear reason why the building could not be used for commercial use and B1 or retail use would unlikely cause harm to neighbouring properties. Discussion with the Highway Authority indicates that access for such uses would likely be appropriate. Local agents have provided views that there is lack of commercial demand in the District but this may reflect no more than a recession and does not give enough confidence as to whether there is specifically any commercial demand for this building which is what marketing can provide the evidence to inform demand. It might be that this location suits a business requirement but this is unknown unless tested by marketing. Officers do not consider that the applicant has demonstrated that there is a lack of demand for non residential uses.

10.8 Details of a number of other planning applications have been submitted that the applicant considers lend support to the case for conversion without a requirement to test demand by marketing. However, these are not relevant and many are either within development limits where there is no such requirement or relate to buildings that been granted permission for residential following a marketing exercise demonstrating no demand.

#### Protected species

10.9 The applicant has submitted a bat survey which has found evidence of bats using the building for roosting. The ecologist therefore recommends a further visit in the active season May to September to assess for any evidence before a decision is made. The status of the roost has not been determined and there is no consideration within this survey as to the time of day or time of year that the bats may be roosting e.g. for day or night visits, or for hibernation or maternity roosting. Without this information it is difficult to determine the appropriate level of mitigation. The status of the roost is not known but the updated bat survey does not explain why further surveys are not required to ascertain this information. At this stage it is difficult to see how there is sufficient information to determine the correct level of mitigation. Therefore, potential mitigation cannot be conditioned until further information is provided regarding the status of the roost.

10.10 The presence of protected species is a material consideration in the consideration of a development proposal that is likely to harm a protected species or its habitat. In such circumstances, and in accordance with Government Circular 06/2005 'Biodiversity and Geological Conservation' it is essential the presence or otherwise of a protected species, and the

extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been taken into account. Government guidance in PPS9 advises planning authorities to refuse permission where harm to species or their habitat would result. Applying the precautionary principle it has not been demonstrated that there would be no harm to protected species.

*10.11 In addition to biodiversity and protected species being a material planning consideration, there are statutory duties imposed on local planning authorities. Section 40(1) of the Natural Environment and Rural Communities Act 2006 states “Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity.” This includes local authorities carrying out their consideration of planning applications. Similar requirements are set out in 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. Recent case law has established that local planning authorities have a requirement to consider whether the development proposals would be likely to offend Article 12(1), by say causing the disturbance of a species with which that Article is concerned, it must consider the likelihood of a licence being granted.*

*10.12 The tests for granting a licence are required to apply the 3 tests set out in Regulation 53 of the Habitats Regulations 2010. These tests are:*

*10.13 The consented operation must be for “preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment”; and*

*10.14 There must be “no satisfactory alternative”; and*

*10.15 The action authorised “will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range”. At the present time this test cannot be agreed.*

## **11.0 CONCLUSION**

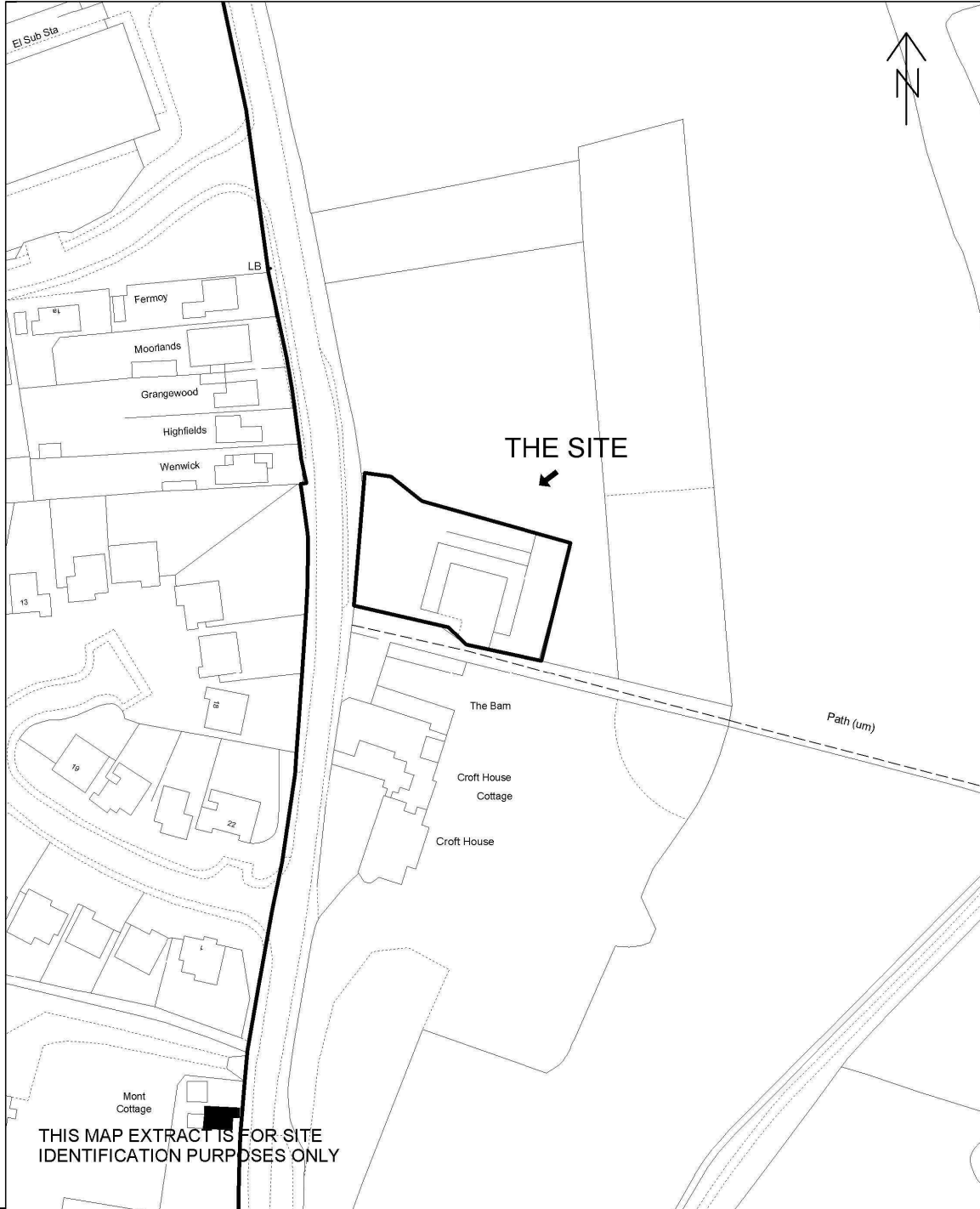
11.1 The following is a summary of the main reasons for the recommendation:

A: It has not been adequately demonstrated that there is no significant demand for the possible uses identified in Policy H6 (a). The application would also be contrary to Policy GEN7 and Government guidance contained in PPS9.

## **RECOMMENDATION – REFUSAL**

1. The proposed conversion of this stable building to a dwelling is unacceptable by virtue of there being no demonstration or sound justification that there is no significant demand for economic re-use including business uses, small scale retail outlets, tourist accommodation or community uses in accordance with Policy H6 of the Uttlesford Local Plan adopted 2005.

2. The presence of protected species is a material consideration in the consideration of a development proposal that is likely to harm a protected species or its habitat. In such circumstances, and in accordance with Government Circular 06/2005 ‘Biodiversity and Geological Conservation’ it is essential the presence or otherwise of a protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been taken into account. Policy GEN7 of the Uttlesford Local Plan adopted 2005 also states that a survey will be required where a site includes protected species or habits suitable for protected species. Government guidance in PPS9 advises planning authorities to refuse permission where harm to species or their habitat would result. Applying the precautionary principle it has not been demonstrated that there would be no harm to protected species.



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