

UTT/1211/09/FUL (Felsted)
(Reason: s.106 agreement required).

PROPOSAL: Outline application for reclamation of despoiled land and redevelopment for up to 216 dwellings (being a net addition of up to 160 dwellings following appeal decision), public house, associated highway, engineering works and landscaping. (Variation of condition 90I planning approval UTT/0023/03/OP to read: "Not more than 650 dwellings shall be occupied on the former sugar beet works site until a class D1 non residential institution or D2 assembly or leisure facility, a public house and shopping facilities have been constructed (but not fitted out) thereon, in accordance with schemes submitted to and approved in writing by the Local Planning Authority").

LOCATION: Flitch Green.

APPLICANT: Enodis Property Development Ltd.

AGENT: G L Hearn.

GRID REFERENCE: TL 664-207

EXPIRY DATE: 13.9.2010

CASE OFFICER: Joe Mitson

APPLICATION TYPE: Other

1. NOTATION

1.1 Outside Development Limits/Part of Oakwood Park Residential Site.

2. DESCRIPTION OF SITE

2.1 Flitch Green is located less than 1km north-west of Little Dunmow and the settlement comprises land formerly used by the Felsted Sugar Beet Works, now a residential development.

3. PROPOSAL

3.1 The residential development of the site is ongoing and two applications have been submitted to increase the number of residential units at the site (UTT/0355/09/OP and UTT/0365/09/OP) and to provide various community facilities. These applications include the provisions of a doctor's surgery. However, following consultation with West Essex Primary Healthcare Trust it has transpired that a doctor's surgery is no longer desired and it is therefore proposed to amend the above applications. In order to do this it is necessary to vary the most recent condition that required the provision of this surgery.

3.2 The approved condition C.90I of permission UTT/0023/03/OP stated: Not more than 650 dwellings shall be occupied on the former sugar beet works site until a doctor's, a public house, and shopping facilities have been constructed (but not fitted out) thereon, in accordance with schemes submitted to and approved in writing by the local planning authority.

- 3.3 It is proposed to amend this condition to allow similar community type uses such as a dentist surgery or leisure use to enable potentially a wider variety of uses for the building. The proposed condition states:

“Not more than 750 dwellings shall be occupied on the former sugar beet works site until a D1 non-residential institution or D2 assembly and leisure unit, a public house and shopping facilities have been constructed (but not fitted out) thereon, in accordance with schemes submitted to and approved in writing by the local planning authority”.

4. APPLICANT'S CASE

- 4.1 The Design & Access Statement states that the D1 or D2 unit would be the same size as the doctors surgery shown on the Colonnade Village Centre development which received a resolution to grant in 2007. This established the principle of a community facility of this scale on the site. The impact of the doctor's surgery has already been considered and approved; the inclusion of a similar unit within a similar use class is not considered to have a detrimental impact on the amenity of surrounding residential properties.

5. RELEVANT SITE HISTORY

- 5.1 There is a detailed history on the site. UTT/0023/03/OP granted outline consent for the reclamation of despoiled land and redevelopment for up to 216 dwellings (being a net addition of up to 160 dwellings following appeal decision), public house, associated highway, engineering works and landscaping.
- 5.2 UTT/1110/07/FUL is pending and relates to the provision of mixed development to comprise 42 flats, 4 houses, 2 retail units, doctors surgery, public house and related parking.
- 5.3 A recent, relevant application is UTT/1310/10/FUL for the variation of the same condition to exclude the provision of a public house.

6. POLICIES

6.1 National Policies

PPS3 - Housing
PPS7 – Sustainable Development in Rural Areas

6.2 East of England Plan 2006

SS1 – Achieving Sustainable Development.

6.3 Essex Replacement Structure Plan 2001

No policies relevant.

6.4 Uttlesford District Local Plan 2005

Policy GEN1 – Access
Policy GEN2 – Residential Amenity
Policy GEN3 – Flooding and Drainage
Policy GEN4 – Residential Amenity
Policy GEN6 – Infrastructure Provision to Support Development
Policy GEN7 – Nature Conservation
Policy ENV3 – Open Space & Trees
Policy ENV14 – Contaminated Land Page 2

Policy S2 – Policy Area for Oakwood Park
Policy H1 – Housing Development
Policy H9 – Affordable Housing
Policy H10 – Housing Mix
Policy LC3 – Community Facilities
Oakwood Park Local Policy 1

7. PARISH COUNCIL COMMENTS

- 7.1 Felsted Parish Council had no comments.
- 7.2 Little Dunmow Parish Council made no comment.

8. CONSULTATIONS

- 8.1 Environmental Services made no comment.

9. REPRESENTATIONS

- 9.1 Seven letters received from neighbours and letters from Saffron Walden Friends of the Earth and CPR Essex objecting on the grounds of the applicants trying to renege on their responsibilities, the community facilities were the deciding factors for many to live at Flitch Green, there is no policy supporting the proposal and no material considerations to warrant a change from the original permission, contrary to the Masterplan, meant to have been a sustainable village, it will be an estate rather than a village, adjacent villages do not have the services to support Flitch Green, provision of facilities on the site would reduce the number of journeys, the doctors are needed by a growing community, the nearest surgery is Great Dunmow via a car and the surgery at Felsted does not accept Flitch Green patients.

10. APPRAISAL

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

A The principle of development (ULP policies S2, GEN1, GEN2, GEN3, GEN4, GEN6, GEN7, GEN8, ENV3, ENV14, H1, H9, H10, Oakwood Park Local Policy 1) and whether the principle of amending the condition is acceptable.

- 10.1 The site has outline approval for residential development together with infrastructure and community facilities. There have been no material changes since the original outline approval to revisit the general principle of development.
- 10.2 Permission has been granted on the site for large scale residential development together with community, retail, education and recreation facilities. The consents include the provision of a doctor's surgery. However, the applicant's have consulted with West Essex Primary Healthcare Trust (PCT) and it transpires that the location for a doctor's surgery is not desirable at Flitch Green. The applicant's remain committed to providing a community facility but wish to broaden the potential uses to all falling within classes D1 (non residential institution) or D2 (assembly and leisure). Therefore the only issue under consideration is whether it is acceptable to widen the potential use of the building.
- 10.3 A doctor's surgery falls within Class D1. As the provision of a surgery is not now supported by the PCT it would be reasonable to consider alternative community uses for the building. D1 uses include clinics, crèches, day care, museums, galleries, libraries and training centres. D2 uses include cinemas, concert halls, swimming baths, gyms and recreation. Therefore, the nature of use of D1 and D2 facilities would potentially have similar impacts in terms of noise and disturbance,

hours of use, traffic generation etc. as a doctors surgery. It is considered that an alternative use within these classes would be acceptable and would not have an undue adverse impact on residential amenity, highway safety etc. As such it is considered that the suggested revision to the condition is acceptable and should be approved.

10 CONCLUSION

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

- A There have been no material changes since the original approval to warrant revisiting the principle of the overall development. The PCT has stated that the site is no longer sought to provide a doctor's surgery. Alternative community uses within Classes D1 and D2 would be beneficial to the settlement and would have similar impacts. The circumstances since the original approval have not materially altered and it is therefore recommended that permission be granted.

RECOMMENDATION – CONDITIONAL APPROVAL SUBJECT TO A S106 LEGAL OBLIGATION

- (I) The applicant be informed that the committee gives delegated powers to the Assistant Director Planning and Building Control in his discretion to refuse planning permission for the reasons set out in paragraph (III) unless by 19th October 2012 the freehold owner(s) enters into a binding obligation 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) provision of affordable housing
 - (ii) pay the 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 planning 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:
- 1) The required affordable housing provision has not been forthcoming and as such the proposal would be contrary to policy H9 of the Uttlesford Local Plan 2005 which requires an element of affordable housing on such schemes.

1. Approval of the details of the layout, scale, appearance, access and landscaping (hereinafter called 'the reserved matters') shall be obtained from the local planning authority in writing for each phase before any development of that phase is commenced.

REASON: To comply with the provisions of Article 3 of the Town and Country Planning (General Development Procedure) Order 1995 and Section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Plans and particulars of the reserved matters referred to in condition 1 above, relating to the layout, scale, appearance, access and landscaping, shall be submitted in writing to the local planning authority and shall be carried out as approved.

REASON: To comply with the provisions of Article 3 of the Town and Country Planning (General Development Procedure) Order 1995 and Section 92 of the Town and Country

Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

3. Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.

REASON: To comply with the provisions of Article 3 of the Town and Country Planning (General Development Procedure) Order 1995 and Section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

4. The development hereby permitted shall be begun before the expiration of three years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

REASON: To comply with the provisions of Article 3 of the Town and Country Planning (General Development Procedure) Order 1995 and Section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

5. Before development commences a revised Masterplan setting out a comprehensive scheme for the redevelopment of the former sugar beet works site shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved Masterplan subject only to any amendments that have been approved in writing by the Local Planning Authority.

REASON: To ensure a satisfactory standard of future development and to comply with policy Oakwood Park Policy 1 of the Uttlesford Local Plan 2005.

6. Before development commences full details of proposed reclamation works (including associated landscaping requirements) relating to the development and a programme for the implementation of those works (including removal of any contaminated material for disposal off site and measures for the elimination of any landfill or other gas) shall be submitted to and approved in writing by the Local Planning Authority. Such works shall be carried out in accordance with the approved details, unless agreed in writing by the Local Planning Authority.

REASON: In the interests of safety, residential amenity and proper planning of the area, in accordance with Policies GEN2, GEN4 and ENV14 of the Uttlesford Local Plan (adopted 2005).

7. Before development commences full details of both hard and soft landscape works shall be submitted to and approved in writing by the Local Planning Authority. Subsequently, these works shall be carried out as approved. The landscaping details to be submitted shall include a) proposed finished levels (earth works to be carried out, b) means of enclosure, c) car parking layout, d) vehicle and pedestrian access and circulation areas, e) hard surfacing, other hard landscape features and materials, f) existing trees, hedges or other soft features to be retained, g) planting plans, including specifications of species, sizes, planting centres, number and percentage mix, h) location of service runs, i) contours and soil spreading, j) minor artefacts and structures.

REASON: To ensure quality of development and to safeguard local amenity and the environment, in accordance with Policy GEN2 of the Uttlesford Local Plan (adopted 2005).

8. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with a programme agreed with the Local Planning Authority. All planting, seeding or turfing of each phase comprised in the above details of landscaping shall be carried out in the first planting and seeding seasons following the

occupation of any of the building(s) or the completion of each phase of the development, whichever is the sooner. Any trees or shrubs which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation.

REASON: To ensure quality of development and to safeguard local amenity and the environment, in accordance with Policy GEN2 of the Uttlesford Local Plan (adopted 2005).

9. No retained tree or shrub shall be cut down, uprooted or destroyed, nor shall any retained tree or shrub be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the Local Planning Authority. Any topping or lopping approved shall be carried out in accordance with British Standard 3998 (Tree Work).

If any retained tree or shrub is removed, uprooted or destroyed or dies, another tree or shrub shall be planted at the same place and that tree or shrub shall be of such size and species and shall be planted at such time, as may be specified in writing by the Local Planning Authority.

The erection of fencing for the protection of any retained tree, shrub or hedge shall be undertaken in accordance with details approved in writing by the Local Planning Authority before any equipment, machinery or materials are brought onto the site for the purposes of that development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the Local Planning Authority. In this condition "retained tree or shrub" means an existing tree or shrub, as the case may be, which is to be retained in accordance with the approved plans and particulars; and paragraphs a) and b) above shall have effect until the expiration of five years from the date of the occupation of the building for its permitted use.

REASON: To ensure quality of development and to safeguard local amenity and the environment, in accordance with Policy GEN2 of the Uttlesford Local Plan (adopted 2005).

10. Within twelve months after the date of this permission a fully detailed programme of works, with timetable, relating to nature conservation and management, shall be submitted for the written approval of the Local Planning Authority. The works and management shall be carried out in accordance with the approved programme, subject only to any amendments that have been approved in writing by the Local Planning Authority and shall thereafter be implemented as agreed.

REASON: To ensure the protection of the natural environment and to comply with policy ENV7 of the Uttlesford Local Plan.

11. No works, in relation to the development hereby permitted, shall be undertaken on the land to the south of Stebbing Brook until the Felsted Fen site of importance for Nature Conservation has been protected through the erection of fencing in accordance with BS5837 and the approved plans. The fencing shall be maintained until all equipment, machinery and surplus materials associated with these works have been removed from the area to the south of Stebbing Brook. In relation to these works, nothing shall be stored or placed in the fenced area and the ground levels within that area shall not be altered or any excavation made, or any tree cut down, uprooted, damaged or destroyed without the prior written consent of the Local Planning Authority.

REASON: To ensure the protection of the natural environment and to comply with policy ENV7 of the Uttlesford Local Plan.

12. No works on any phase shall be commenced until details of a dust suppression scheme relating to construction work on that phase have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved scheme.

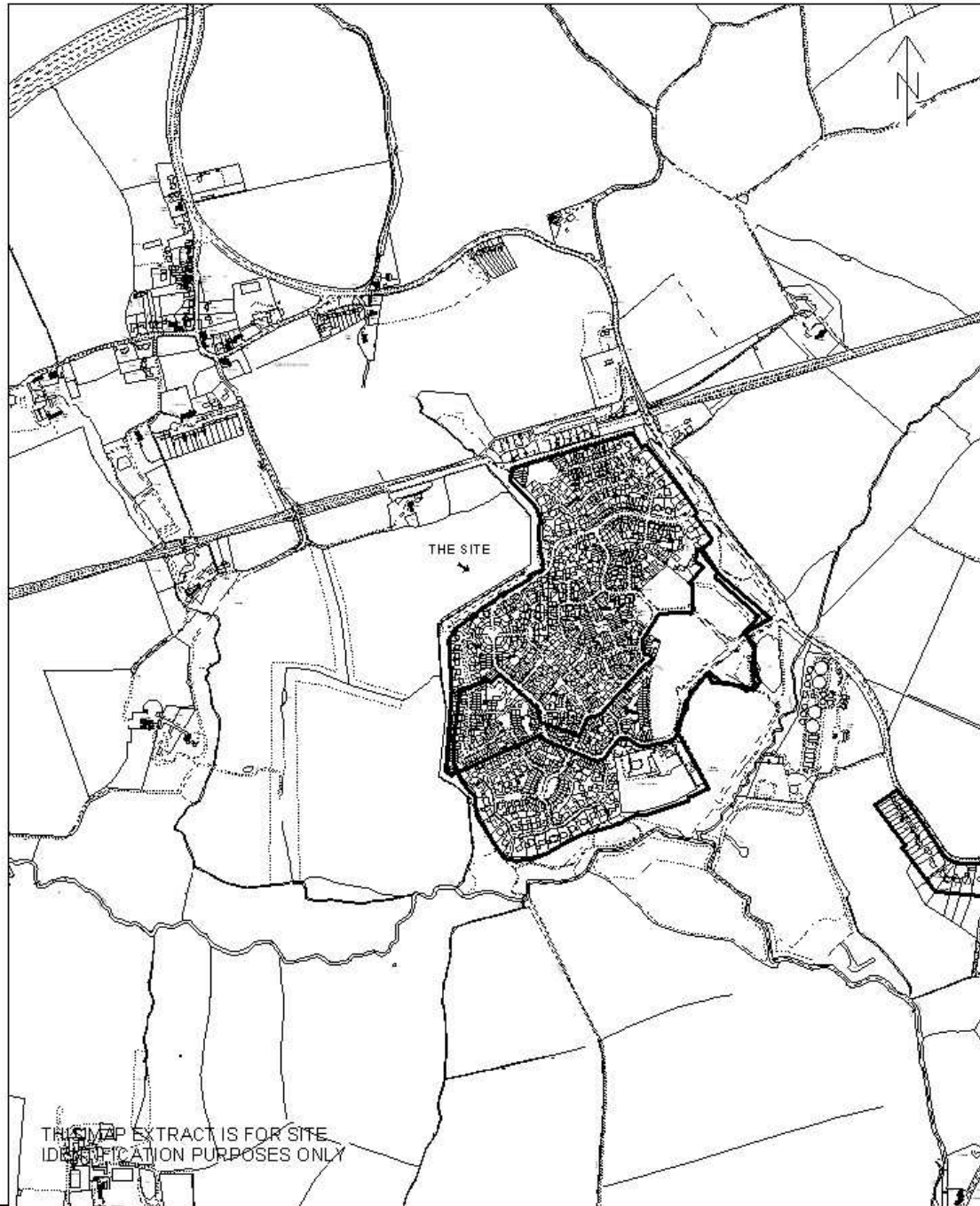
REASON: To protect the residential amenity of existing and future residents and to comply with policies GEN2 and GEN4 of the Uttlesford Local Plan 2005.

13. No phase shall be commenced until a scheme for the provision and phased implementation of surface water and foul drainage systems (including associated landscaping requirements) for that phase has been submitted to and approved in writing by the Local Planning Authority. The drainage works shall be constructed in accordance with the approved scheme.

REASON: To protect the surrounding countryside and to prevent pollution of the water environment and to comply with policy GEN3 of the Uttlesford Local Plan 2005.

14. Not more than 750 dwellings shall be occupied on the former sugar beet works site until a D1 non-residential institution or D2 assembly and leisure unit, a public house and shopping facilities have been constructed (but not fitted out) thereon, in accordance with schemes submitted to and approved in writing by the local planning authority.

REASON: To enable the provision of services in accordance with the Masterplan and to comply with Oakwood Park Policy 1 of the Uttlesford Local Plan.



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