

**UTT/1310/10/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 (Not more than 650 dwellings shall be occupied on the former sugar beet works site until a doctor's surgery, 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 664 206

**EXPIRY DATE:** 13.9.2010

**CASE OFFICER:** Joe Mitson

**APPLICATION TYPE:** Other

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**1. NOTATION**

1.1 Within 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 proposal comprises a variation of condition C90I. This condition required the provision of a doctor's, a public house and shopping facilities to have been constructed, but not fitted out, prior to the occupation of more than 650 dwellings. The proposed replacement condition reads: "Not more than 750 dwellings shall be occupied on the former sugar beet site until a Class D1 non-residential institution or D2 assembly or leisure facility 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".

3.2 The application therefore seeks to carry out the remainder of the development on the site without providing the public house.

**4. APPLICANT'S CASE**

4.1 The permission has been implemented but the doctor's surgery, public house and shopping facilities remain outstanding. Whilst the D1/D2 use and retail units have always been welcomed by the residents of Flitch Green, the public house has proved a more controversial element of the residential development, and was

considered unpopular when discussed as part of the consultation event for the housing scheme in 2008. Consequently a public house was omitted from the latest residential schemes.

- 4.2 It is not considered that a public house is a necessity to create a sustainable community and as such this is a request that the obligation to provide a public house is removed from condition C90I.
- 4.3 There are a number of other public houses in surrounding villages at Little Dunmow and Felsted; as such residents have the option of walking to existing public houses in the locality. Operators are not currently looking to develop community pubs and the likelihood of finding a suitable operator is significantly reduced. Such a public house would not be located on a main road and therefore would not have any passing trade which would limit the catchment area with the consequence that it would be reliant on local trade which would impact on profit.
- 4.4 There is also significant concern about the possibility of anti social behaviour as a result of the public house due in part to its position at the centre of the settlement. Such a position could result in significant disruption to surrounding residents as a result of noise, litter and associated anti social behaviour. As such the police would be likely to place restrictive conditions relating to closing times resulting in a potential operator finding it even harder to operate effectively. Such significant impacts on the likely profitability of the site, and therefore the attractiveness to potential operators, may result in the unit becoming vacant in the coming years leading to the site becoming an eyesore.
- 4.5 Furthermore, a survey of residents undertaken by Flitch Green Parish Council in 2009 indicated that only 49% wanted a public house compared to 41% who did not. Whilst only 157 residents felt strongly enough to respond to the survey out of 650 surveys issued the result supports the claim that a public house is not needed.
- 4.6 Responses from Marstons and Charles Wells Pubs were submitted stating the demographics will not be strong enough to justify a new build and the site does not have a main road frontage or a retail park location.
- 4.7 The Agent has also commissioned, at the request of the Local Planning Authority, an independent report into the potential demand for a public house on the site. This provided information on the current pub market and assessed alternative methods of running a public house, e.g. tied lease, managed house companies etc. The conclusion was that the possibility of a purchaser being found for a public house on the site is considered to be very remote as it is highly unlikely there would be any demand. The proposed site does not appear to meet the criteria set out by four of the largest operators in terms of site acreage, communication links and population numbers. Furthermore, funding for a sole operator would be difficult due to the lack of historic/proven trade.

## **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/1211/09/FUL for the variation of the same condition to include community facilities such as D1 non residential institution or D2 assembly and leisure facilities, a public house and shopping facilities. No decision has been made on that application.

## **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  
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/TOWN COUNCIL COMMENTS**

- 7.1 Flitch Green Parish Council agreed the pub was part of the master plan for the development and therefore should remain. They do not consider that the view of residents has altered since the August 2009 survey and a majority expressed support for the provision of a pub. It was also highlighted that there is no bar provision within the community hall.

## **8. CONSULTATIONS**

None.

## **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 loss of the pub would not add to the genuine community atmosphere and spirit, the applicants are trying to renege on their responsibilities, the community facilities were the deciding facilities 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, support from the Council for existing

village pubs at odds with allowing a relaxation of this requirement, adjacent villages do not have the services to support Fritch Green, provision of facilities on the site would reduce the number of journeys.

## 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. Furthermore, no objection is raised to a higher trigger figure of dwellings of 750 as requested by the applicant.
- 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 public house. Policies GEN6 and Oakwood Park Local Policy 1, together with the Masterplan for the site, required the provision of a public house on the site. The trigger for the erection of the public house was the occupation of 650 houses and this has now been reached.
- 10.3 The Council are committed to the provision of community facilities to achieve thriving and sustainable communities hence the requirement of the public house. However, such facilities must be achievable and the applicant has made a case to state the public house would not be deliverable on the site. The views of two large pub operators demonstrated that the site would not meet their operational requirements.
- 10.4 The independent report commissioned into the feasibility of providing a public house concluded that it is unlikely an operator would be found. The report provided background information to the current market stating that in line with other consumer led markets the pub industry continues to experience difficult trading conditions through a fall in consumer confidence and a lack of liquidity. The sector also continues to be threatened by consideration from Government to impose minimum pricing. The report concludes that difficult trading conditions are likely to continue with rental income and sales volumes under pressure and supermarkets selling alcohol at relatively low prices. Furthermore, until the economy recovers and with that an increase in employment levels and disposable income the sector will continue to struggle.
- 10.4 Specifically in relation to the site and the issue of a public house the report stated that whilst there was the possibility of a purchaser being found for a public house on the site it is considered the possibility to be very remote as it is highly unlikely there would be any demand. The proposed site does not appear to meet the criteria set out by four of the largest operators in terms of site acreage, communication links and population numbers. Furthermore, funding for a sole operator would be difficult due to the lack of historic/proven trade.
- 10.5 The level of support for a public house in the resident's survey and the letters of objection are noted. However, whilst the provision of a public house on the site remains desirable a convincing case has been made to demonstrate that such a provision is not financially feasible. It is acknowledged that the current economic climate is not conducive to finding an operator; however, it is highly questionable that a public house would be feasible even in less challenging times. As such, it is considered that the case made to demonstrate that a public house cannot be

delivered outweighs the intentions of Local Plan policies the Masterplan and the objections received.

## 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. Whilst it is considered the provision of a public house would be beneficial on the site a convincing case has been submitted to demonstrate the viability and feasibility of a public house on the site is extremely limited and as a result an operator is unlikely to be found.

### 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 19<sup>th</sup> 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 and retained 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 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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