

**UTT/1302/12/FUL – (STANSTED MOUNTFITCHET)**

**PROPOSAL:** Removal of condition C.90B and condition C.90D and variation of condition C.90C on planning consent UTT/2285/10/FUL

**LOCATION:** Linden House, 1 Silver Street, Stansted Mountfitchet

**APPLICANT:** Hill House Associates - Ms S Foster

**AGENT:** HJL Planning

**GRID REFERENCE:** TL 509-250

**EXPIRY DATE:** 21 August 2012

**CASE OFFICER:** Nicholas Ford

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**1.0 NOTATION**

1.1 Within Development Limits. Conservation Area.

**2.0 DESCRIPTION OF SITE**

2.1 Linden House is a two storey hotel, restaurant and drinking establishment centrally located in Stansted Mountfitchet at the junction of Silver Street (B1383) and Chapel Hill (B1051), close to the war memorial with parking and service area to the rear.

**3.0 PROPOSAL**

3.1 Condition C.90B requires that vehicle parking, including that for mobility impaired is laid out for use and retained for use related to the development. REASON - To ensure that on street parking in adjoining streets does not occur.

It is proposed to remove this condition.

3.2 Condition C.90C restricts parking on site to that of disabled drivers, powered two-wheelers and bicycles. REASON - To protect the amenities of the occupiers of adjoining properties.

It proposed to vary this condition - "No parking shall be provided except for powered two wheeler vehicles and bicycles".

3.3 Condition C.90D requires that the car park be closed between 11pm and 7am by means of a barrier at the Chapel Hill entrance with no entry sign to Silver Street. REASON - To protect the amenities of occupiers of adjoining properties.

It is proposed to remove this condition.

**4.0 APPLICANTS CASE**

4.1 See agent's covering letter, and in response to representations:

Despite clearly marking the bays, they have proved unworkable, concerns about unfettered parking are shared - hence the need to remove parking from the site. A service bay and

manoeuvring area would be retained on the site. All suppliers to the business currently use this area and only courier's park on the road.

The barrier was not installed for operational reasons but has not resulted in complaints - if a barrier were put in place at 11 pm this would mean that taxis and cars collecting guests would park on the main road.

It is the successful operation of the business over the past year which has identified the practicalities of the conditions. My client is not aware of any complaints from the Council. The event that took place was to celebrate the Olympic torch and was finished by 6pm.

The condition of the pavement is a matter for Essex County Council as Highway Authority. The Highway Authority has no objection to this planning application to remove conditions. The options cannot be interpreted as discriminatory as there are options available to visitors as an alternative to the on-site spaces.

## **5.0 RELEVANT SITE HISTORY**

- 5.1 UTT/2285/10/FUL granted 9 February 2011 - Change of use from residential (C3) and shop (A1) to restaurant (A3), hotel (C1) and drinking establishment (A4).  
Erection of single storey side extension and rear extensions and rear porch.

## **6.0 POLICIES**

### **6.1 National Policies**

National Planning Policy Framework

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

- Policy GEN1 (Access)
- Policy GEN2 (Design)
- Policy GEN4 (Good Neighbourliness)
- Policy GEN8 (Vehicle Parking Standards)

## **7.0 PARISH COUNCIL COMMENTS**

- 7.1 Object to the removal of blue badge parking spaces - signage to be made clearer - does not seek enforcement of the car park barrier at the car park entrance

## **8.0 CONSULTATIONS**

- 8.1 Highway Authority: No objections. Not contrary to transportation policies or Uttlesford Local Plan Policy GEN1.

- 8.2 Environmental Health: No objections.

8.3 Access and Equalities Officer: Agrees with the Chair of the Uttlesford Access Group's comments: It strikes me that it is primarily motivated by the applicant's inability to manage the legitimate condition imposed in the original approval. I would suspect this is a matter of not wanting to 'bother' about managing it.... There are obvious solutions which could be tried, probably not ideal, but infinitely better than a complete abandonment of the requirement, e.g. to rope off the bays and make them available 'by prior appointment' &/or by displaying the restaurant's reception phone number which a visiting, ad hoc disabled driver could call from their mobile for access to a Blue badge bay...

UDC was clearly correct in its initial decision, not least in pursuit of its obligations under the General Duties of its Public Sector Duty: to promote social inclusion – this has not been changed with the introduction of the NPPF.

The applicant's agent makes great play about the NPPF's references to economic sustainability, but chooses to ignore the equal importance places on SOCIAL SUSTAINABILITY – the local planning authority is charged with the task of achieving a balance as was previously the case, and continues to be so - nothing has been changed in this regard by the NPPF despite what the application seeks to suggest.

The NPPF clearly seeks to require 'high quality design', which very much includes the principles of inclusive design. The existing arrangement is not flawed in itself by any design failings or impracticalities – it is flawed solely as a consequence of the applicant's decision not to bother...

## 9.0 REPRESENTATIONS

### 9.1 Notification period expired 10 August 2012.

2 Greenfields - Request for change seems to arise from applicant's failure to manage the present situation. Additional outdoor seating would increase noise for neighbours. A reduction in turning space would increase risk of cars backing onto the road. Lack of a barrier probably contributes to the unwelcome parking complained about. Availability of parking at Crafton Green is questionable and the implication that customers can be accompanied and dropped off is discriminatory. Economic growth should not be to the disadvantage of the disabled or local residents.

High Trees - Oppose. It is important that mobility impaired bays as agreed at Planning Committee. Marked bays help these drivers to know where they are permitted to park. There should not be unrelated parking. There should be parking facilities to enable delivery vehicles to off-load. From time to time delivery vehicles restrict pedestrians and traffic on Silver Street. The management had agreed that a barrier is necessary.

## 10.0 APPRAISAL

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

**Whether the removal and variation of conditions proposed would result in an environment which meets the needs of all potential users in accordance with the National Planning Policy Framework and Policies GEN2 and GEN8 of the Uttlesford Local Plan adopted 2005, if highway safety would be maintained in accordance with Policy GEN1 of the Uttlesford Local Plan adopted 2005 and residential amenity preserved in accordance with Policies GEN2 and GEN4 of the Uttlesford Local Plan adopted 2005.**

10.1 The parking arrangement for the mobility impaired has, according to the applicant, caused considerable problems of non-eligible visitors using these spaces, being difficult to resolve when visitors are eating or not available to the casual visitor. It is intended that the blue badge spaces be removed, surface landscaped and decked for seating whilst ensuring space remains for drop off and deliveries. The applicant contends that the removal of all spaces would negate potential for conflict so that visitors parking in the nearby car park. Parking for powered two wheelers and cycles would remain so the applicant suggests that Condition C.90C be varied thus:

"No parking shall be provided except for powered two wheeler vehicles and bicycles".

10.2 This is considered to accord with policies. The new parking standard states that the Local Planning Authority will consider Blue Badge Parking on a case by case basis, taking into account the quantity of available Blue Badge parking in the vicinity. Public parking provision is available nearby at Crafton Green and this includes disabled parking provision. The Highway Authority has assessed this proposal and has no objection to the removal and variation of conditions as proposed. The disabled parking provision was proposed by the applicant rather than being a requirement here owing to the central location of the site with public parking and alternative transport choice. The original committee report concluded that, in relation to parking provision, maximum figures mean that there is no requirement to provide any on site car parking other than that which is proposed.

10.3 It would continue to provide a drop-off/pick up point for users with restricted mobility. It would remove spaces which are difficult to monitor, and so blue badge holders would no longer arrive at the site expecting parking on site and finding it blocked.

10.4 It is also evident that the mobility parking condition is difficult to enforce and leads to the view that it is not a reasonable condition to retain. Disabled parking spaces are available at Crafton Green car park, a short distance to the north. It is evident that businesses in the village operate on the basis of public car park and public transport provision to cater for all sections of the community.

10.5 The suggested amendments would address a problem that the business experiences and removing a condition both difficult to enforce for use by the mobility impaired and its hours of operation. The comments of the Access and Equalities Officer have been considered. The NPPF does promote inclusive design for all development but the aforementioned reasons indicate on site disabled parking provision is unnecessary.

10.6 Environmental Health originally sought only disabled parking is provided so that harm through noise is limited. They also requested a barrier to keep the parking closed between 11pm and 7am. No barrier has been provided. The omission of parking in any form would mean that there would be no requirement for condition C.90D (barrier closure of parking) as there would only be parking for cycles and four powered two wheeler spaces. The reason given for the condition related to amenity of neighbouring properties and the removal of parking would assist this.

10.7 Environmental Health has not raised any objection to this application in relation to noise or disturbance or the sitting out area. The condition restricting the hours of use for the sitting out area would remain.

10.8 As the grant of this planning application would result in a fresh planning permission it is necessary to re-apply all relevant previous planning conditions. There is no longer considered a need for a condition controlling on site burning or dampening down since the greater part of alterations have been completed through the original planning permission.

## **7.0 CONCLUSION**

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

7. The omission of disabled parking spaces would still allow disabled users to access the business via drop off facilities and similar parking available nearby at Crafton Green. Removal of parking would remove the requirement to provide a barrier to restrict parking during unsociable hours to protect amenity.

## **RECOMMENDATION – CONDITIONAL APPROVAL**

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 the Policies of the Uttlesford Local Plan (adopted 2005) as shown in the Schedule of Policies.

3. 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 [earthworks 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) details of planting or features to be provided to enhance the value of the development for biodiversity and wildlife
- i) details of siting and timing of all construction activities to avoid harm to all nature conservation features
- j) location of service runs
- k) management and maintenance details

REASON: 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 Policy GEN2 of the Uttlesford Local Plan adopted 2005.

4. All hard and soft landscape works shall be carried out in accordance with the approved details. All planting, seeding or turfing and soil preparation comprised in the above details of landscaping shall be carried out in the first planting and seeding seasons following

the occupation of the buildings, the completion of the development, or in agreed phases whichever is the sooner, and any plants 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. All landscape works shall be carried out in accordance with the guidance contained in British Standards, unless otherwise agreed in writing by the local planning authority.

REASON: To ensure proper implementation of the agreed landscape details in the interest of the amenity value of the development in accordance with Policy GEN2 of the Uttlesford Local Plan adopted 2005.

5. Before development commences samples of materials to be used in the construction of the external surfaces of the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The development shall be implemented using the approved materials. Subsequently, the approved materials shall not be changed without the prior written consent of the local planning authority.

REASON: To ensure a satisfactory standard of development in the interests of visual amenity in accordance with the Uttlesford Local Plan adopted 2005.

6. Before the commencement of the development 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 in accordance with Policy GEN1 of the Uttlesford Local Plan adopted 2005.

7. No parking shall be provided on site except for powered two-wheeler vehicles and bicycles.

REASON: To ensure adequate parking and turning is available for deliveries and vehicle drop off in accordance with Policy GEN1 of the Uttlesford Local Plan adopted 2005.

8. No deliveries shall be taken to or despatched from the site between 7pm and 7am Mondays to Saturdays or at any time on Sundays and Bank or public holidays.

REASON: To protect the amenities of the occupiers of adjoining properties in accordance with Policy GEN2 of the Uttlesford Local Plan adopted 2005.

9. No external area shall be used for dining or drinking between 9pm and 7am.

REASON: To protect the amenities of the occupiers of adjoining properties in accordance with Policy GEN2 of the Uttlesford Local Plan adopted 2005.

10. Prior to the commencement of the use hereby permitted, a noise management plan shall be submitted to and approved in writing by the local planning authority. The plan agreed shall be effectively implemented for as long as the proposed use continues.

REASON: To protect the amenities of the occupiers of adjoining properties in accordance with Policies GEN2 and GEN4 of the Uttlesford Local Plan adopted 2005.

11. Before the commencement of the use hereby permitted, a scheme for the extraction and filtration of cooking fumes shall be implemented in accordance with details submitted to and agreed in writing by the local planning authority. The implemented scheme shall be effectively operated and maintained in accordance with manufacturer's instructions for as long as the proposed use continues.

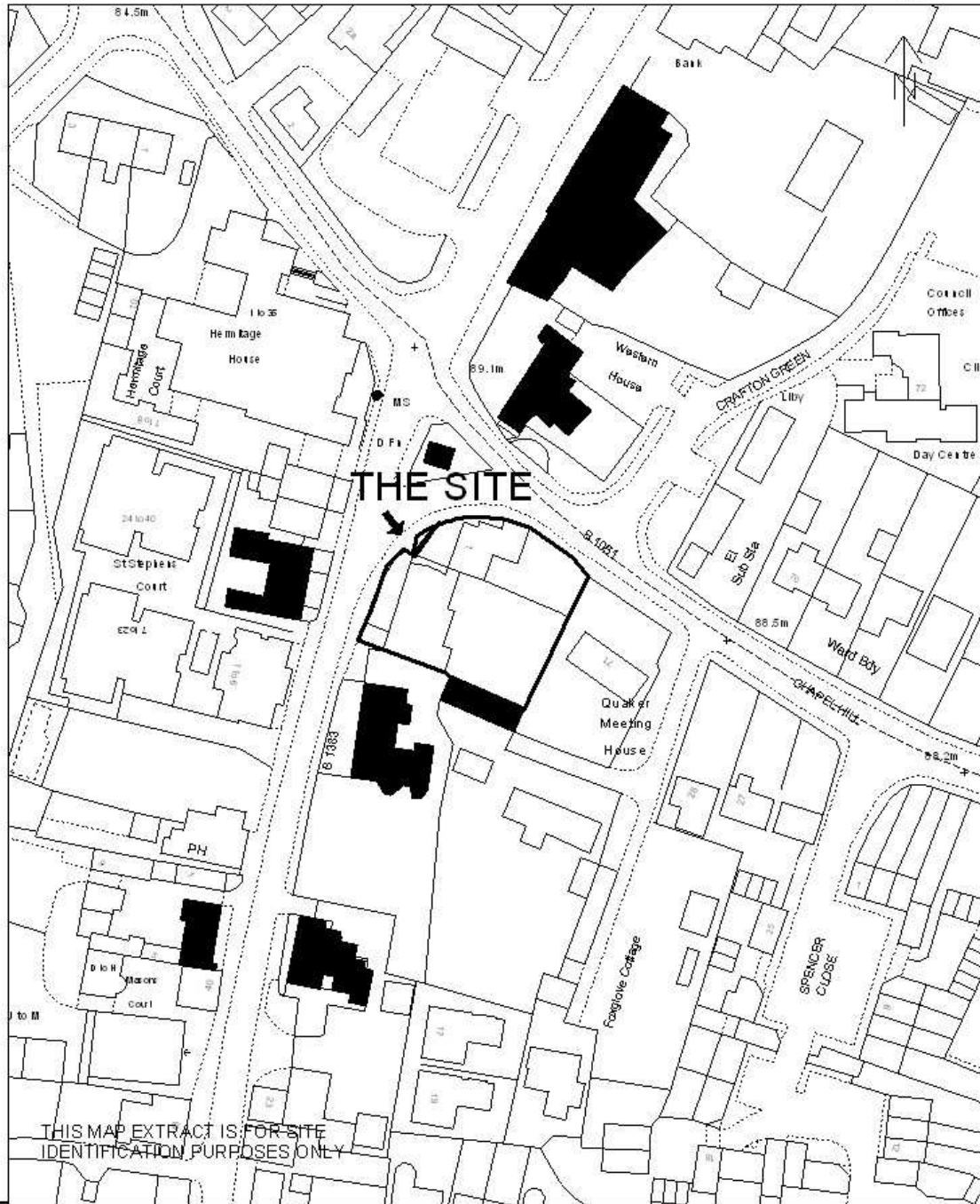
REASON: To protect the amenities of the occupiers of adjoining properties in accordance with Policies GEN2 and GEN4 of the Uttlesford Local Plan adopted 2005.

12. No external lighting shall be installed until details have been submitted to and approved in writing by the local planning authority. Subsequently the development shall be implemented in accordance with the approved details. Any subsequent alterations shall be submitted to the local planning authority for approval prior to installation and shall be implemented in accordance with the approved details.

REASON: To protect the amenities of the occupiers of adjoining properties in accordance with Policies GEN2 and GEN4 of the Uttlesford Local Plan adopted 2005.

13. No construction work shall be carried out on, nor machinery operated on, nor materials be delivered to, the site at any time on Sundays or Public Holidays, or before 8.00am or after 6.00pm on Monday to Friday or before 8.30am or after 2.00pm on Saturdays. All building or construction material shall be stored within the site and no materials deposited on the public highway.

REASON: To protect the amenities of the occupiers of adjoining properties in accordance with Policies GEN2 and GEN4 of the Uttlesford Local Plan adopted 2005.



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