

UTT/13/0909/OP (HENHAM)

(Major Application)

PROPOSAL: Outline application for the erection of No.14 dwellings with all matters reserved except access

LOCATION: Land at Chickney Road, Chickney Road, Henham

APPLICANT: Mr Tim Smith

AGENT: Ian Abrams

GRID REFERENCE: TL 408-708

EXPIRY DATE: 18 July 2013

CASE OFFICER: Miss S. Wellard

1. NOTATION

1.1 Outside Development Limits

2. DESCRIPTION OF SITE

2.1 This application relates to a parcel of land to the north west side of Chickney Road which is currently used as agricultural land (Grade 2). The site area is approximately 0.7 hectares, with a frontage to Chickney Road of 88m and a depth of 75m. The field is level. There are residential dwellings to either side of the site and open agricultural fields to the rear. The front of the site is bound by existing hedging as well as a mature ash tree and a ditch runs along the side of the highway. On the opposite side of Chickney Road are allotments and a cemetery.

3. PROPOSAL

3.1 This application seeks outline permission for the erection of 14 dwellings on the site with all matters reserved except for access.

3.2 An access would be formed to the front of the site with a width of 6m. It would be located off-centre to the eastern part of the frontage in order to enable the existing mature ash tree to be retained and protected. A new footpath would be created to the site frontage within the highway boundary. The existing 30mph speed limit sign would be relocated to the east of the development so that the new access falls within this speed restriction zone.

3.3 Whilst all other matters are reserved, indicative plans have been submitted which show that 14 dwellings would be arranged in two rows, each with individual parking provision and private amenity areas. The development would provide four dwellings with 2 bedrooms, six dwellings with 3 bedrooms and 4 dwellings with 4 bedrooms. All dwellings would be two-storey, some detached and some semi-detached. 36 car parking spaces would be provided.

4. APPLICANT'S CASE

- 4.1 Planning Supporting Statement and Design and Access Statement, dated April 2013. Gives a description of the site and its surroundings, the proposal, relevant national and local plan policies and planning considerations.
- 4.2 Tree report, Landscape Strategy and Ecology, dated April 2013. Outlines tree protection measures relating to the Ash tree to the site frontage

5. RELEVANT SITE HISTORY

- 5.1 SWR/0052/69 Residential development. Refused
- 5.2 SWR/0338/69 Development of land for dwelling. Refused

6. POLICIES

6.1 National Policies

National Planning Policy Framework (2012)

6.2 Uttlesford District Local Plan 2005

Policy S7 – The Countryside
Policy GEN2 – Design
Policy GEN1 – Access
Policy GEN8 – Vehicle Parking Standards
Policy GEN7 – Nature Conservation
Policy H9 – Affordable Housing
Policy H10 – Housing Mix

SPD Accessible Homes and Playspace
SPD Renewable Energy

6.3 Uttlesford Draft Local Plan Consultation Document, June 2012

7. PARISH/TOWN COUNCIL COMMENTS

- 7.1 Henham Parish Council objects to this application based on the following:-
The natural eastern boundary of the village development area is the well defined boundaries of the existing housing (Lodge Cottage) to the north of Chickney Road, and the dwellings to the south of Chickney Road. East of that boundary there is farming land to the north of Chickney Road and allotments to the south. If development of this site were permitted it would act as precedent for further ribbon development to the east or for development of land to the north. The Parish Council has offered an alternative site at Blossoms Hill Farm to the south of Chickney Road which meets the housing requirements of Henham. The site, although just outside of the development area would be a far better proposition than this site. It would cause a minimum of disruption to residents, has good access and could provide all the housing required for Henham under the Local Plan; including the affordable housing identified by the recent Housing Needs Appraisal. This preference was clearly shown as the preferred option by residents of Henham under the Consultation on Proposals for a Draft Local Plan in June 2012.

8. CONSULTATIONS

Essex County Council Highways

- 8.1 The Highway Authority do not wish to raise an objection subject to planning conditions. All housing developments in Essex which would result in the creation of a new street (more than five dwelling units communally served by a single all-purpose access) will be subject to The Advance Payments Code, Highways Act, 1980. The Developer will be served with an appropriate Notice within 6 weeks of building regulations approval being granted and prior to the commencement of any development must provide guaranteed deposits which will ensure that the new street is constructed in accordance with acceptable specification sufficient to ensure future maintenance as a public highway.

Essex County Council Ecology

- 8.2 No objection subject to conditions. This site comprises an intensively managed arable field with a bordering ditch and hedgerow, with a mature tree, for which protection has been proposed. Due to the nature of the site and proposals, there is not a reasonable likelihood of protected or priority species being affected. We therefore accept the protection proposed in the Tree Survey and the agent's conclusion that a survey is not currently necessary. However, should the site be left undeveloped and unmanaged for a period of time, it may develop ecological interest. We would also expect the proposals to include measures to enhance the biodiversity value of the site in line with paragraph 109 and 118 of the NPPF, especially as it is a Major development. Conditions are recommended to protect the boundary hedgerow and animals that may forage along it, and to secure enhancement of the site and any future surveys that may become necessary.

Essex County Council Education

- 8.3 With regards to early years and childcare provision, Essex County Council's Sufficiency Assessment published in November 2012, found that nursery provision in Elsenham and Henham ward was 85% full and that there was no pre-school provision. Essex County Council's Sufficiency Team are exploring opportunities for developing additional childcare in the area to meet this need.

With regards to primary and secondary school provision forecasts show that there is likely to be sufficient provision to meet the needs of the proposed development.

In view of the above I request on behalf of Essex County Council that any permission for this development is granted subject to a section 106 agreement to mitigate its impact on early years and childcare provision. The formula for calculating contributions is outlined in our Developers' Guide to Infrastructure Contributions, 2010 Edition. Our standard s106 agreement clauses that give effect to this formula are stated in our Education Contribution Guidelines Supplement, published in July 2010. For information purposes only, should the final development result in the suggested new increase of 14 houses with two or more bedrooms, the early years and childcare contribution sum would be £14,950 index linked to April 2013 costs.

Thames Water

- 8.4 No objection with regards to sewerage infrastructure. With regard to surface water drainage it is the responsibility of a developer to make proper provision for drainage to ground, water courses or a suitable sewer.

9. REPRESENTATIONS

- 9.1 Site Notice displayed and the occupiers of 27 neighbouring properties notified via letter. 12 letters of objection received which are summarised as follows;
- The site is outside the village development boundary on agricultural land.
 - The proposal will spoil the overall balance and aesthetics of one of the most picturesque villages in the area.
 - The development will overlook Nos 13, 15 and 17 Chickney Road
 - Loss of visual amenity
 - Concern of structural problems to our property
 - Increase in traffic on a narrow busy road. Extra access would compromise highway safety
 - Heavy vehicles regularly get stuck on the road to Debden yet no provision has been made for them to turn around safely
 - Construction traffic will have to travel through the entire village
 - No pathway for pedestrians which will therefore increase the use of the car
 - The school in Henham is full
 - There is no doctor's surgery in Henham. The shop is basic need run by volunteers and post office only open after investment by local residents
 - Will set precedent for further such development
 - The land floods regularly and drainage is poor
 - The need for these houses cannot be justified
 - Benefit to landowners without any benefit to village residents
 - Disproportionate amount of development at this end of the village
 - There is no street lighting at this end of the village
- 9.2 1 letter from Lodge Cottage neither objecting or supporting – No objection in principle as Henham should take its share in the housing burden. We request a landscape strip is retained by the farm access, that windows are located to prevent overlooking and that enough parking is provided to retain highway safety.
- 9.3 1 representation received from Uttlesford Area Access Group - The Design and Access Statement recognises the relevance of accessibility but does not positively state that all homes will be built to Lifetime Homes Standards nor does it recognise the requirement to provide 1 unit that is readily adaptable to meet Wheelchair Accessible Housing criteria. The Access Group would like to see a firmer commitment to these elements within the statement.

10. -APPRAISAL

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

- A The principle of the development of this site (ULP Policy S7, NPPF);
- B Access to the site (ULP Policy GEN1);
- C Vehicle Parking Standards (ULP Policy GEN8 and ECC Parking Standards);
- D Design (ULP Policies H9, H10, GEN2, GEN8 & SPD Accessible Homes and Playspace);
- E Nature Conservation (ULP Policy GEN7)

A The principle of the development of this site

- 10.1 The site is located on the edge of (outside) the development limits of the village of Henham. As such the site is located within the open countryside whereby Policy S7 of the Local Plan states that the countryside will be protected for its own sake and planning permission will only be given for development that needs to take place there or is appropriate to a rural area. There will be strict control on new building. Development will only be permitted if its appearance protects or enhances the

particular character of the part of the countryside within which it is set or there are special reasons why the development in the form proposed needs to be there.

- 10.2 Whilst there is a strong local policy objection against development in the countryside, the Council is currently unable to demonstrate a five year land supply of deliverable sites for residential development. In such circumstances the NPPF specifies that "Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites".
- 10.3 Paragraph 14 of the NPPF states;
'Where the development plan is absent, silent or relevant policies are out of date (permission should be granted) unless;
- *Any adverse impact of doing so would significantly and demonstrably outweigh the benefits when assessed against policies in this Framework taken as a whole,*
or
- *Specific policies in this Framework indicate development should be restricted.'*
- 10.4 This is a clear statement from the Government that a development making a contribution to achieving a five year land supply of housing should be considered as a significant material consideration in the determination of any application and that local planning authorities should look favourably on applications that increase supply.
- 10.5 In recent decisions on appeals across the district, inspectors are considering the lack of five year land supply as a key issue which weighs strongly in favour of granting consent.
- 10.6 This site has been identified in the Draft Local Plan dated June 2012 as a site for residential development; however this has not yet been adopted and as such has very little weight. The Draft Local Plan allocates Henham as a Key Village and such villages are considered suitable for a scale of development which reinforces their basic role of providing services to a rural area. The Council's recent 'Position Statement', dated March 2013 confirms the Council's intention to allocate this site. The site has also been assessed as part of the Strategic Housing Land Availability Assessment (SHLAA) which concluded that the site was suitable, available and achievable for 10 units. The figure of 10 reflected the owner's assessment of yield at that time. At 0.7ha there is the potential for 14 houses on this site at an acceptable density.
- 10.6 The NPPF encourages sustainable development. The site does not appear to have any particular physical impediments which would prevent residential use. The land is Grade 2 agricultural land and adjoins the settlement boundary. It is not Green Belt.
- 10.7 The proposed site is located on the edge of the village, just outside of the development limits. The village of Henham is served by a primary school and post office which are within 600m of the site. There is a bus stop within 400m of the site. The nearest schools, albeit at a distance away, would be able to accommodate the size of development in terms of capacity. It is considered that in this instance that the site has a relatively sustainable location.
- 10.8 In terms of environmental sustainability, it is acknowledged that development on any greenfield site would have an impact on the landscape character of the area. Paragraph 17 of the NPPF requires that planning decisions should recognise the intrinsic character of the countryside.

- 10.9 This site is used as agricultural land. There are existing residential buildings to either side. There is a hedge to the site frontage and the rear of the plot is open, as the site forms part of a large field. The site is located on the edge of the settlement limits and when viewed as part of the wider landscape, the development would sit within a gap between existing residential dwellings. These existing dwellings are two-storey. The properties to the west erected in the 1970's are of a modern design and appearance. Lodge Cottage to the east is of a most traditional appearance and forms a natural end to the village on the northern side of Chickney Road in terms of built development. This site provides a suitable gap for residential use. Given the adjacent land uses, in this particular instance it is considered that its impact on the rural character of this particular location would not be so great as to recommend refusal of the application. Such development could be provided relatively unobtrusively. The access has been located to ensure that the existing mature ash tree to the front boundary can be retained and protected in accordance with British Standard 5837:2012. It is not considered that the impact on the character of the countryside in this instance would outweigh the need to provide additional housing, which is a strong material consideration.
- 10.10 The site is away from any AQMA, outside of any groundwater protection zone, and unlikely to be affected by noise and contamination. The site is outside of flood risk zones 2 or 3.
- 10.11 In conclusion, the requirement for the Council to identify additional appropriate sites for housing within the district to meet its current housing shortfall is a significant material factor which weighs heavily in favour of development at this site. The site is considered to have a relatively sustainable location and the impact on the character of the landscape would not be so great as to inhibit the development on this site.

B Access to the site

- 10.12 Access is a matter to be considered as part of this outline application. The development would include the formation of a new access onto Chickney Road. The access would have a width of 6m and the submitted plans indicate that visibility splays of 90m could be provided. The existing 30mph speed limit sign is proposed to be relocated to the east of the access so that the access falls within the 30mph zone. A footpath will be provided along the front of the site (within the highway boundary) to enable pedestrian access to the existing residential development to the west of the site.
- 10.13 Essex County Council Highways Authority do not raise any objection to the development subject to the imposition of highways conditions.
- 10.14 The proposed pedestrian footpath would be located within Highway Authority land and therefore the provision of the footpath will need to be subject to agreement with Essex County Council.

C Vehicle parking standards

- 10.15 Whilst layout is a reserved matter, the indicative drawings demonstrate that there is ample space within the site for the parking of vehicles off road. Locally Adopted Parking Standards require that dwellings of up to 3 bedrooms should have provision for the parking of two vehicles off road and dwellings of 4+ bedrooms should have provision for the parking of three vehicles off road. This provision is indicated on the plans and there are also appropriate spaces indicated within the site for visitor parking.

D Design

- 10.16 Appearance, scale and layout are reserved matters. Indicative plans have been provided which show 14 dwellings, 4 x 2 bedroom and 6 x 3 bedroom and 4 x 4 bedroom, arranged as a mix of detached and semi-detached buildings. The dwellings would be two-storey. Indicative street scene elevational drawing suggests the buildings would have a height of approximately 8.6m (excluding chimneys).
- 10.17 The indicative layout demonstrates that this number of dwellings could easily be accommodated within the site. The density equates to approximately 20 dwellings per hectare which is relevantly low but would be in keeping with the character of this part of the village. The proposal accords with Policy H10 which requires developments on sites of 0.1 hectares and above or 3+ dwellings to include a significant proportion of market housing comprising small properties of 2 or 3 bedrooms. Ten of the fourteen properties fall within this requirement.
- 10.18 Whilst indicative only, each plot has more than adequate private amenity space to accord with the requirements of the Essex Design Guide. Below is a table which gives a breakdown of each plot in terms of number of bedrooms, amount of private amenity area and number of car parking spaces.

Plot No.	No. of Bedrooms	Private amenity area (sqm)	No. of car parking spaces
1	4	235	3
2	3	145	2
3	3	125	2
4	3	128	2
5	3	118	2
6	2	119	2
7	2	119	2
8	4	228	3
9	4	400	3
10	4	280	3
11	3	157	2
12	3	170	2
13	2	195	2
14	2	150	2

- 10.19 Landscaping is another reserved matter however the Supporting Planning Statement says that the frontage vegetation will be supplemented with additional planting and it is also proposed that significant planting will take place along the eastern side and northern rear boundary. This will help to soften the development from views from the open countryside.
- 10.20 Impact on neighbouring residential properties - As stated above the plans are only indicative but they show that the number of dwellings proposed can easily be accommodated on the site and provide an ample amount of private amenity area. The plans indicate that housing would be erected in close proximity to the western side boundary. No.13 Chickney Road adjacent to the rear of the site has a large rear garden and this garden has a mature vegetation screen to the side boundary which would mean that development adjacent to this boundary could be provided without having any adverse impact on the amenity of this property. No's 15 and 17 Chickney Road are situated on smaller plots and have rear elevations which face the application site and rear gardens that would abut it. Plot 8 as indicated would be situated adjacent to the rear of these properties. Careful consideration should be given to the position of the dwelling on this plot and its design to ensure that the

proposal would have no adverse impact on the amenities of the adjacent dwellings by way of being unduly overbearing or causing any loss of light or privacy. There is space within the application site to enable the layout to be altered to achieve this. A track would be retained between the application site and the dwellings to the east. Given their location within their plots, the proposal could be accommodated without causing any adverse impact to these properties. Loss of a view is not a material planning consideration.

- 10.21 With regards to Lifetime Homes Standards, a wheelchair accessible dwelling needs to be identified to meet the requirements of Appendix 2 of the Supplementary Planning Document Accessible Homes and Playspace. This should be addressed in any forthcoming reserved matters application.
- 10.22 On sites of more than 0.5 hectares, Policy H9 of the Uttlesford Local Plan requires that an element of affordable housing of 40% of the total provision of housing should be provided. This amounts to 6 units and it is expected that these properties will be delivered by one of the Council's preferred Registered Providers. The applicant has agreed to enter into a Section 106 agreement for the provision of affordable housing.

E Nature Conservation

- 10.23 Policy GEN7 of the Local Plan states that development that would have a harmful effect on wildlife will not be permitted unless the need for the development outweighs the importance of the feature of nature conservation. Where the site includes protected species, measures to mitigate and/or compensate for the potential impacts of development must be secured.
- 10.24 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.
- 10.25 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:
- 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
 - There must be "no satisfactory alternative"; and
 - 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".

- 10.26 The application highlights that internally the site has no features of ecological value and that the development provides an opportunity to improve landscape diversity with new native hedges and trees to the boundaries.
- 10.27 Essex County Council Ecologists have no objection to the proposal. This site comprises an intensively managed arable field with a bordering ditch and hedgerow, with a mature tree, for which protection has been proposed. Due to the nature of the site and proposals, there is not a reasonable likelihood of protected or priority species being affected. Essex County Council therefore accept the protection proposed in the Tree Survey and the agent's conclusion that a survey is not currently necessary.

11. CONCLUSION

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

- A The lack of five year land supply of housing in the district is a significant material consideration. The site is considered to be in a relatively sustainable location and the proposed development would not have such an adverse impact on the character of the landscape that overcomes the need for housing provision.
- B The access and parking provision are acceptable.
- C The proposal can be designed to have no adverse impact on the amenity of any neighbouring residential property.
- D With the imposition of conditions, no protected species would be affected by the development.

RECOMMENDATION – CONDITIONAL APPROVAL WITH S106 AGREEMENT

- (I) The applicant be informed that the committee would be mindful to refuse planning permission for the reasons set out in paragraph (III) unless by 16 July 2013 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) Affordable Housing provision
 - (ii) Education contribution
 - (iii) 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:
 - (i) Lack of affordable housing provision
 - (ii) Lack of education contribution

CONDITIONS:

1. Approval of the details of the layout, scale, landscaping and appearance (hereafter called "the Reserved Matters") shall be obtained from the Local Planning Authority in writing before development commences and the development 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.

2. (A) Application for approval of the Reserved Matters shall be made to the Local Planning Authority not later than the expiration of 3 years from the date of this permission.
- (B) The development hereby permitted shall not be begun later than the expiration of 2 years from the date of approval of the last of the Reserved Matters to be 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. Prior to the commencement of development, details of the access to the site shall be submitted to and approved in writing with the local planning authority in consultation with the Highway Authority. The access shall be formed at right angles to Chickney Road and shall include but not be limited to:

- a) minimum 4.8 metre carriageway width with a 2 metre wide footway on the western side
- b) visibility splays with dimension of 90 metres x 2.4 metres x 90 metres as measured from and alongside the nearside edge of the carriageway, such visibility splays shall be retained free of any obstruction in perpetuity.

The development shall accord with the approved details and be implemented prior to occupation of any dwelling.

REASON: In the interests of highway safety and providing adequate inter-visibility between the users of the access and the existing public highway for the safety and convenience of users of the highway and of the access in accordance with Policy GEN1 of the Uttlesford Local Plan (adopted 2005).

4. Prior to the commencement of development, details of the pedestrian footway shall be submitted to and approved in writing with the local planning authority in consultation with the Highway Authority. The footway shall have a minimum width of 1.8 metres from the site access in a westerly direction to tie in with the existing footway in front of No.17 Chickney Road. The development shall accord with the approved details and be implemented prior to occupation of any dwelling.

REASON: In the interests of highway safety and accessibility in accordance with Policy GEN1 of the Uttlesford Local Plan (adopted 2005).

5. No fixed lighting shall be erected or installed until details of the location, height, design, sensors, and luminance have been submitted to and approved in writing by the local planning authority. The details shall ensure the lighting is designed in such a way to minimise any potential impacts upon nocturnally mobile animals. The lighting shall thereafter be erected, installed and operated in accordance with the approved details.

REASON: To make appropriate provision for conserving and enhancing the natural environment within the approved development in the interests of biodiversity and in accordance with Policy GEN7 of the Uttlesford Local Plan (adopted 2005).