

UTT/13/ 1937/OP- SAFFRON WALDEN

(MAJOR APPLICATION)

PROPOSAL: Outline application for up to 52 dwellings with all matters reserved except access.

LOCATION: Land behind the Old Cement Works, Thaxted Road, Saffron Walden

APPLICANT: Tamcourt Ambit Ltd

AGENT: Peter Court Associates

EXPIRY DATE: 22 October 2013

CASE OFFICER: Nigel Brown

1. NOTATION

1.1 Key Employment Area

2. DESCRIPTION OF SITE

2.1 The proposal is for housing development beyond the development limits of Saffron Walden within land formerly used as cement works, lime kiln and scrap yard with utilitarian buildings. The land is bounded by agricultural field in part with hedges and trees to the north and east together with unmanaged scrub to its south alongside High Bank and Hill View Cottages with a field hedge adjacent the Byway

2.2 The site is located set back from Thaxted Road from which access would be taken behind the mixed use (B1 business live/work) commercial and residential Kilns development (28 units of 60 approved), which are three and four storey. The land is visible from public vantage points including Thaxted Road, a public right of way Byway (open to all traffic) to the south and occupiers of the Kilns, High Bank and Hill View (vacant dwellings) adjacent Thaxted Road and properties located off Rylstone Way to the north

3. PROPOSAL

3.1 This is an outline application for residential development of up to 52 dwellings. Access is the only matter not reserved for consideration. The applicant has provided an illustrative layout for this number of dwellings with access taken from Thaxted Road via the existing access which serves Kiln Court.

4. APPLICANT'S CASE

4.1 See Design and access Statement and Planning Statement

5. RELEVANT SITE HISTORY

5.1 Erection of 8 blocks for class B1 business 'live/work' purposes and creation of new vehicular access granted planning permission subject to conditions on 21 July 2003 (UTT/1382/01/FUL).

- 5.2 Known as the Kilns development 2 no. three and four storey blocks have been constructed comprising 28 of the 60 approved units
- 5.3 UTT/13/0750/OP, Outline application with all matters reserved except access for residential development of up to No. 55 dwellings, application withdrawn

6. POLICIES

6.1 National Policies

- National Planning Policy Framework

6.2 Uttlesford District Local Plan 2005

- Policy SW6 - Safeguarding of Existing Employment Areas
- Policy E2 - Safeguarding Employment Land
- Policy H10 - Housing Mix
- Policy GEN1 - Access
- Policy GEN2 - Design
- Policy GEN6 - Infrastructure Provision
- Policy GEN7 - Nature Conservation
- Policy GEN8 - Vehicle Parking Standards
- Policy ENV5 - Protection of Agricultural Land
- Policy ENV8 - Other Landscape Elements of Importance for Nature Conservation

- SPD Energy Efficiency and Renewable Energy
- SPD Accessible Homes and Play space
- Parking Standards: Design and Good Practice Guide

7. PARISH/TOWN COUNCIL COMMENTS

SUMMARY

Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

The development plan comprises the Uttlesford Local Plan. The only material consideration is the National Planning Policy Framework (i.e. the Framework)

Extent to which the proposed development is in accordance with the development plan

Significant weight should be given to the relevant policies in the existing local plan because of their high degree of consistency with the policies in the Framework.

The proposed development is contrary to the adopted local plan for the following 4 reasons.

1. The proposed development is unacceptable in principle by virtue of it:-
 - Being contrary to Policy E2- "Safeguarding Employment Land";
 - Being contrary to Policy SW5- "Thaxted Road Employment Site"; and
 - Being contrary to Policy SW6- "Safeguarding of Existing Employment Areas"All of which safeguard this "key" employment site from redevelopment or change of use to other land-uses;

2. The proposed development fails to comply with Policy GEN`-“Access” by virtue of the fact that it fails to encourage “movement by means other than driving a car” because the site is well removed from employment opportunities in the town and from shops, schools and other services and is not well located with regard to existing bus routes and stops;
3. The proposed development fails to comply with Policy GEN6 “Infrastructure Provision to Support Development because, whilst the developer may contribute to the costs of such provision, that may not be sufficient to ensure that the infrastructure is provided to support the development at the appropriate time and in a satisfactory manner;
4. The proposed development fails to comply with Policy GEN2- “Design” by not providing an adequate area; or indeed areas, of open space for residents and their visitors and for children, or youngsters, to play.

Extent to which the proposed development is in accordance with the Framework

The Framework refers to the “presumption in favour of sustainable development...” and goes on to explain that:-

“For decision-taking this means:

- Approving development proposals that accord with the development plan without delay: and
- Where the development plan is absent, silent or relevant policies are out-of-date, granting planning permission unless:
 - Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole...”

The foregoing section has clearly demonstrated that the proposed development is not in accordance with the development plan. The second bullet point therefore applies

The development plan is neither absent nor silent and it is clear that the proposed development is contrary to it. But, according to the Framework (at para.49), the local plan policies for the supply of housing should not be considered up-to-date. That is because Uttlesford District Council cannot demonstrate a 5 year supply of deliverable housing sites.

The adverse impacts of granting permission are identified as being:-

1. The loss of a site previously safeguarded for employment use for which no convincing evidence has been provided to demonstrate that there is “no reasonable prospect” of the site being used for the allocated employment use;
2. The development of the site for residential use site [sic] will not minimise the need to travel but, in fact, do the exact opposite by virtue of its location on the eastern side of town, the main transport facilities being on the western side and the problems in seeking to travel across town during peak periods;
3. The proposed development does not have “access to high quality public transport facilities”;

4. The local state secondary school (Saffron Walden County High School) is currently over-subscribed and operating over capacity. This situation is forecast to continue into the foreseeable future with no obvious solutions available that are likely to prove acceptable and can be guaranteed to be delivered; and
5. The proposed development would contribute to unacceptable levels of pollution in the Air Quality Management Area which covers the town centre. Long term trend analysis undertaken by the Highways Agency has shown that the improvements in nationwide air quality previously predicted by DEFRA are unlikely to materialise.

The benefits of the proposed development are that:-

- The provision of additional housing would contribute to meeting the district council's housing land supply deficit;
- It would contribute towards the provision of the affordable housing requirement;
- It would bring forward a previously developed (i.e. brownfield) site back into beneficial use.

Whilst there is a need to bring the site back into some form of beneficial use, it is concluded from the above that the adverse impacts of granting planning permission would both significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework. This applies despite it being acknowledged that the development of the site for the approved uses would serve to generate additional road traffic, congestion and associated air pollution.

It is therefore agreed that the district council be informed that this Council objects to the principle of the site being developed for residential purposes.

It is also appropriate to point out that this response may have been different if there was convincing evidence that there was "no reasonable prospect" of the site being used for the allocated employment use but, at the moment, that is not the case.

8. CONSULTATIONS

ECC Highways

- 8.1 The Highway Authority has assessed the above planning application including the requested Transport Statement and a comparison has been made between the consented proposal UTT/1382/01/FUL and this proposal. It is noted that this proposal would result in a total of 80 residential units compared with 60 units with the consented proposal. It is also noted that the traffic generation for the previous proposal for 60 live/work units was assessed on the basis that these units would generate a similar number of movements to residential units as there was no independent data available on the likely traffic generation of live/work units. The net increase in trip generations resulted from this proposal would therefore be those movements attributed to the additional 20 residential units which would generate a negligible increase in traffic on the highway network at this location and will not have any capacity or safety issues as a result.
- 8.2 Taking the above into account the Highway Authority would not wish to raise an objection to the above application subject to the following:
 1. The obligations contained within the Section 106 Legal Agreement made under the Town and Country Planning Act 1990 and dated the 21 July 2003 between

Kilncourt 2 Developments Ltd, Brightport Ltd, Uttlesford District Council and Essex County Council, in connection with this site to be fully completed. This includes, but is not restricted to the following:

- provision of a ghosted right turn junction at the entrance to the site on Thaxted Road
- such physical measure as the engineer consider necessary to implement the closure to vehicular traffic to a section of the access road adjacent to Thaxted Road whilst retaining usage to pedestrians, cyclists and horse riders
- the improvement of the existing footway from the site access in a north westerly direction
- the provision of improvements to the existing bus stops on both sides of Thaxted Road to the north of the site
- the provision of minor improvements to the southern junction of the access road with Thaxted Road.

2 Prior to occupation of any dwelling, the provision of a crossing facility on Thaxted Road in the vicinity of the Peaslands Road junction. Details to be submitted to and approved in writing with the Local Planning Authority in consultation with the Highway Authority, prior to commencement of development.

Highway Agency

- 8.3 The proposal is unlikely to have a material effect upon the M11 Junction 8, on its own however, Junction 8 is near capacity and the cumulative impact of this and other small developments could be enough to result in the junction going over capacity in the near future.
- 8.4 The Highway Agency therefore raises no objection.

NATS Safeguarding

- 8.5 The proposed development has been examined from a technical safeguarding aspect and does not conflict with our safeguarding criteria. Accordingly, NATS (En Route) Public Limited Company (“NERL”) has no safeguarding objection to the proposal.

UDC Environmental Health

- 8.6 The AQA has modelled the impact of an additional 23 dwellings on nitrogen dioxide levels at 33 points around the town, including Thaxted Road, Radwinter Road, Peaslands Road, Debden Road and High Street. The model was based on increases in traffic flow of around 1% and an agreed methodology. It is noted that the present application is for 3 fewer additional dwellings
- 8.7 Increases in nitrogen dioxide levels of 0.01% to 0.16% are predicted at all the locations modelled, including sites in the AQMA where the legal limit of 40µg/m³ is already exceeded. Using EPUK criteria, the increases are classified as imperceptible and the impact as negligible. It is noted that these increase are relative to the impact of the 32 units already approved, the comparison is not against a “no further development” scenario.
- 8.8 Draft Local Policy EN6 states that development affecting AQMAs will be expected to contribute to a reduction in levels of air pollution.

- 8.9 Dust emissions during construction would be expected to have a moderate impact on neighbouring properties unless appropriate mitigation is in place. Mitigation measures have been proposed in the AQA. Notwithstanding this, a condition is recommended to require the submission and approval, before on site development commences, of a detailed scheme of measures to protect air quality during the construction phase, to prevent loss of amenity to nearby residents.

NHS Property Services

- 8.10 I refer to your consultation letter on the above application dated 24th July 2013 and advise that, following a review of the applicant's submission, including the Planning Statement, NHS Property Services Ltd (NHSPS) wishes to raise a "Holding Objection" to the application for the reasons outlined below.
- 8.11 The proposal comprises a residential development of up to 52 dwellings, which is likely to have an impact on the NHS funding programme for the delivery of healthcare provision within this area, and specifically within the health catchment of the development. NHSPS would, therefore, expect these impacts to be fully assessed and mitigated by way of a developer contribution secured through a Section 106 planning obligation
- 8.12 It is noted that planning permission was previously granted for a live-work development comprising 60 units in 2002 (Reference UTT/1382/FULL). This permission has been partly implemented and 28 dwellings were completed by 2007. The remaining 32 dwellings that were consented have not been built.
- 8.13 It is also noted that a previous application for the current proposed development (albeit including 55 dwellings) was withdrawn by the applicant earlier in 2013 (Reference UTT/13/0750/OP).
- 8.14 It appears that the NHS was not consulted on either of these planning applications and no healthcare mitigation was secured for the approved development.
- 8.15 The current planning application does not include a Healthcare Impact Assessment (HIA) of the proposed development or propose any mitigation of the healthcare impacts arising from the proposed development.
- 8.16 An HIA has therefore been prepared by NHSPS to provide the basis for a developer contribution towards capital funding to increase capacity within the GP Catchment Area.
- 8.17 There is a capacity deficit in the catchment surgeries and a developer contribution of £9,600 would be required to mitigate the 'capital cost' to the NHS for the provision of additional healthcare services arising directly as a result of the development proposal is sought.
- 8.18 NHSPS therefore requests that this sum be secured through a planning obligation linked to any grant of planning permission, in the form of a Section 106 Agreement.
- 8.19 Notwithstanding the above, NHSPS would be content to lift its objection in the event that an appropriate level of mitigation is proposed by the applicant and secured through a Section 106 Agreement. In this respect, it is considered that a developer contribution of £9,600 would fairly and reasonable address the identified healthcare impacts

UDC Access and Equalities Officer

- 8.20 There is no mention within the Design and Access Statement to confirm adherence to the SPD on Accessible Homes and Playspace. Not only is there a commitment to design and build to Lifetime Homes Standard but also that there three dwellings will need to meet the requirements of Appendix 2 in that document on the Wheelchair Housing Standard. This must be met across all tenure types not just affordable housing. Bungalows would be acceptable to meet this standard but need to be discussed.

ECC Education

- 8.21 The development falls in the priority admissions area of R. A. Butler Infant and Junior Schools. The infant school has a net permanent capacity of 240 places and according to the latest forecasts published in the document "Commissioning School Places in Essex 2012-2017", it is forecast that by 2017 there will be 243 children on roll. The junior school has permanent net capacity of 300 places and it is forecast that by 2017 there will be 324 children on roll.
- 8.22 With regard the secondary provision, the Priority Admissions Area School for this development would be Saffron Walden County High School. The school has a permanent net capacity of 1,882 places. As at January 2012 there were 2,043 children on roll and it is forecast that by 2017 there will be 2,068 children on roll.
- 8.23 With regards to early years and childcare provision, the latest Essex County Council's Sufficiency Audit indicates that there will be sufficient early years and childcare provision to serve the needs of the development.
- 8.24 It is thus clear that additional provision will be needed at primary and secondary level and that this development will add to that need. I must therefore 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 education. The formula for calculating education contributions is outlined in the 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 June 2010. For information purposes only, should the final development result in 52 houses all with 2 or more bedrooms the primary contribution would be £162,646 and the secondary contribution would be £164,726 giving a total of £327,372 index linked to April 2013 costs.
- 8.25 If your Council were minded to turn down the application, I would be grateful if the lack of education provision in the area can be noted as an additional reason for refusal.

ECC Archaeology

- 8.26 The Historic Environment Record shows that the proposed development lies within the remains of a lime making site (HER 15007). The surviving limekilns were destroyed during the construction of the first phase of development on this site. The remaining area has been extensively disturbed by activity associated with the production of lime including extraction. Any archaeological deposits would have been badly disturbed. Therefore, no archaeological recommendations are being made on this application

ECC Ecology

- 8.27 The applicant has caused a net loss of important biodiversity. The applicant was aware of the value of the site as it was highlighted in the PEA submitted as part of the withdrawn application UTT/13/0750/OP. The applicant has cleared the site without carrying out the ecological work known to be required under the withdrawn application UTT/13/0750/OP. I refer you to my response to that application dated 3rd July 2013 for details of the work required and to the photographs of the site in the PEA, dated May 2013 and in the Ecological Statement dated July 2013 that accompanies this application, for evidence of the loss of Priority habitat.
- 8.28 This site was highly valuable, with the potential to be of County importance. It was a Priority habitat under Section 41 of the Nerc Act 2006 (Open Mosaic Habitat on Previously Developed Land), and an Essex BAP habitat. It probably supported Priority invertebrate species. The applicant was aware of this, but cleared the site with no further survey work and no mitigation. This is an example of extremely bad practice.
- 8.29 We would therefore expect and strongly recommend that the applicant is required to re-create what has been lost, as part of this application.
- 8.30 The site was a Priority habitat, of importance for the conservation of biodiversity in the UK. Priority habitat should be re-created at a ratio of greater than 1:1, usually 1:2. The site was of Neighbourhood importance with the potential, if it supported Priority species, to be of District or County importance. The re-created habitat should therefore be located within the vicinity of Saffron Walden to restore Neighbourhood biodiversity. We expect a worst-case scenario to be assumed – that is, that the site supported Priority invertebrates. All possible measures to re-create the habitat on-site should be taken. However, as the entirety of the site was Priority habitat and all of it has been cleared, with 52 dwellings proposed, there is likely to be little room for this so off-site compensation is likely to be needed to deliver the replacement.
- 8.31 I refer you particularly to following paragraphs from my response dated 3rd July 2013, which refer to the Preliminary Ecological Appraisal (PEA), carried out by Elmaw Consulting in May 2013. This PEA was submitted by the applicant as part of withdrawn application UTT/13/0750/OP.

8.32 Importance of the Site

Paragraph 4.3.1 of the PEA stated:

“The application site is a post-development brownfield site, formerly a cement works and light industrial site, now demolished, Whilst the ecological components of the site are yet to be qualified, brownfield sites are generally ecologically valued: there is a local (Essex) Biodiversity Action Plan (BAP) for “Urban and Brownfield Sites and Open Mosaic Habitats on previously developed Land”. Also, open mosaic habitats on previously developed land are Habitats of Principal Importance under the NERC Act 2006 and a UK BAP Priority Habitat. The specific values of such habitats are determined by the rarity of such habitats locally and the ecological components therein. The valued components of the application site are likely to be invertebrates and common lizards; the status of such is yet to be determined.”

8.33 Paragraph 4.3.2. stated that

“If the application site supports species of insects and/or reptiles of principle importance, or is found to have intrinsic value, the site could be of District or County Importance.”

8.34 Need for Invertebrate Survey

Paragraph 5.15 of the Preliminary Ecological Appraisal stated:

“To be in a position to accurately assess the ecological value of the application site, and to specify appropriate mitigation measures and biodiversity enhancements to support the planning application, a number of species specific surveys will be required; the application site will have to be surveyed for invertebrates and common lizards.”

8.35 Paragraph 5.1.6 explained

“The results of these surveys will qualify the relative importance of the application site for invertebrates and influence the level of compensation (biodiversity enhancement) needed to comply with planning policy and the NERC Act 2006.”

8.36 Planning Policy, Legislation and Natural England Standing Advice

The applicants' ecologist was quite correct that the invertebrate survey was necessary to comply with the NPPF, Nerc Act 2006 and Natural England advice.

8.37 NPPF

Under paragraphs 109 and 118 of the NPPF, the planning system is required to demonstrate no-net-loss of biodiversity and to provide net gains in biodiversity where possible. We therefore expect all adverse impacts to be fully mitigated, and in cases of Major development such as this we would expect additional enhancements to be provided to result in a net gain in biodiversity. We would not expect the site to be cleared, especially in the knowledge that it was ecologically valuable, resulting in a net loss of biodiversity.

Paragraph 109 of the NPPF states that:

8.38 *The planning system should contribute to and enhance the natural and local environment by... minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity....*

8.39 Paragraph 118 of the NPPF demonstrates the mitigation hierarchy which needs to be followed when determining planning applications:

118. When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles: if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused...

Nerc Act 2006 and Priority Habitats and Species

Priority habitats and species are those habitats and species listed as 'of principal importance' for the conservation of biodiversity in England under Section 41 of the

8.40 Nerc Act 2006. This Act states that *'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'*.

8.41 Section 40(3) of the same Act also states that *'conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat'*.

8.42 The Section 41 list is used to guide decision-makers such as public bodies, including local and regional authorities, in implementing their duty under section 40 of the

Natural Environment and Rural Communities Act 2006, to have regard to the conservation of biodiversity in England, when carrying out their normal functions.

8.43 The site clearance has resulted in the loss of Priority habitat, and potentially Priority species. To comply with the requirements of the Act, we strongly recommend that the local authority requires creation or restoration of the Priority habitat as part of this application.

8.44 Natural England Advice

Natural England recommends that surveys are carried out and mitigation is secured for Priority species prior to determination of an application. Invertebrate surveys were not carried out and no mitigation has been proposed. The clearance was therefore contrary to Natural England advice.

8.45 Summary

An invertebrate survey was not carried out and no mitigation for loss of Priority habitat has been proposed. After the withdrawal of the previous application I understood the intention was to carry out the required invertebrate survey, and to draw up a mitigation plan for the loss of Priority habitat. Instead, the site was cleared and the biodiversity has been lost.

8.46 No attempt has been made to avoid the loss of Priority habitat and, potentially, Priority species at this site. This site was already of Neighbourhood value and had the potential to be of County value, but no mitigation whatsoever has been proposed for its deliberate loss. It has resulted in a net loss, rather than gain, in biodiversity.

8.47 For these reasons we expect retrospective mitigation to be carried out.

Anglian Water

8.48 Our records show that there are no assets owned by Anglian Water or those subject to an adoption agreement within the development site boundary.

8.49 The foul drainage from this development is in the catchment of Saffron Walden STW that at present has available capacity for these flows.

8.50 Development will lead to an unacceptable risk of flooding downstream and mitigation will be required before any properties can connect. The drainage strategy for the site should cover the procurement of the improvement works. We will request a condition requiring the drainage strategy covering the issue(s) agreed.

8.51 The surface water strategy/flood risk assessment submitted with the application is not relevant to Anglian water and therefore is outside our jurisdiction for comment and the Planning Authority will need to consider which the appropriate body to comment is. We request that the agreed strategy is conditioned in the planning approval.

8.52 Appropriate conditions recommended.

ECC Sustainable Drainage

8.53 Standing advice

Natural England

8.54 Standing advice

ECC Archaeology

- 8.55 The Historic Environment Record shows that the proposed development lies within the remains of a lime making site (HER 15007). The surviving limekilns were destroyed during the construction of the first phase of development on this site. The remaining area has been extensively disturbed by activity associated with the production of lime including extraction. Any archaeological deposits would have been badly disturbed. Therefore, no archaeological recommendations are being made on this application.

Airside OPS Limited

- 8.56 The proposed development has been examined from an aerodrome safeguarding perspective and does not conflict with safeguarding criteria. We therefore have no objection to the proposal.

Sport England

- 8.57 No objections

Saffron Walden Skate Group

- 8.58 The Saffron Walden Skate Group would respectively suggest that some S106 funding from this application should be spent on youth facilities or youth workers in the town.
- 8.59 We believe that there is little open space or recreational land offered with the application and new residents will use the skatepark and adjacent land for recreation. This is particularly true of the Kilns application.
- 8.60 The youth service in the town is now particularly dependent upon the voluntary sector and this situation will only become worse with the closure of Fairycroft in Spring 2014. It is extremely difficult to access funding for salaries for youth workers.

We Are Residents.Org

Summary

- 8.61 We object to the Application for the reasons set out below.
- 8.62 In summary, the Application is in direct breach of the relevant Local Plan provisions, and is unsustainable for the purposes of the NPPF, and should therefore be rejected. Our principal reasons for objecting are as follows:
- a. The Applicant site forms part of Policy Area SW5, and is specifically identified as employment land to be safeguarded;
 - b. Paragraph 15.11 of the Local Plan provides that Policy E2 applies to the Applicant land as it falls within the areas identified under Policy SW6. Policy E2 and paragraph 4.11 note the pressures on employment land from the greater profits to be made from residential development, and specifically provide that the Applicant site should be protected from such pressures so that there continue to be employment opportunities available locally. The Applicants' letter in support of the Application confirms that the only significant marketing efforts in relation to the site

were for live/work units, and the most recent marketing was conducted in September 2008 – little effort has been made to market the property since then and virtually no effort appears to have been made to market the property publicly for general industrial purposes within Policy E2 permitted use classes. As the Applicants' Planning Statement shows, at Section 5, extremely limited marketing efforts have been made, and the Applicants' case essentially rests on a claim that Saffron Walden can't attract employers – if this were true, then it is clearly unsustainable to build housing at the Applicant site;

- c. There is virtually no evidence from the Applicants as to their marketing efforts, and they clearly fail the requirements set out in UDC's recent Employment Land review for permitting change of use of designated employment land;
- d. For the same reason, the Application is in breach of the draft policy EMP2 in the latest draft of the Local Plan (June 2012), which specifies the circumstances in which consents to non-employment use may be given;
- e. Both the ELR and the draft policy EMP2 clearly spell out the requirements for a change of use from designated employment land, and these have been completely ignored by the Applicant;
- f. The application site is outside the development limits of Saffron Walden, as the Screening Opinion makes clear;
- g. The proposal is in contradiction of policy GEN1 in that it will undoubtedly increase use of the motor car. Given the location of the site, the nature of the roads connecting it to the town centre and the location of most main services, there will be heavy reliance on the private motor vehicle. The application site is extremely poorly placed for residential development, being outside the town boundary, outside the development limits of Saffron Walden, on the wrong side of town for easy access to most main services, and a considerable distance from the town centre. There is no suggestion that the development "encourages movement by means other than driving a car" as paragraph e) of GEN1 requires;
- h. Under the NPPF, development should be sustainable, socially, economically and environmentally. The location of the proposed development makes this impossible – it is a large stand-alone development at the furthest extremity of the town, and indeed outside the town boundary; as we say above, the residents would inevitably be heavily dependent on private motor vehicle use. The development is socially unsustainable and environmentally unsustainable. Its location also means that the Application breaches the NPPF requirements in paragraphs 17 and 30 to manage development to maximise non-car travel;
- i. The Application would be contrary to paragraph 124 of the NPPF which requires that development should take into account the objectives of complying with EU and national air pollution limit values taking account of cumulative developments, for the reasons set out below;
- j. As the Applicants state explicitly in paragraph 3.4 of their Planning Statement, there is no intention to provide any public open space, and any residents would be expected to negotiate the busy Thaxted Road to get to either the Lord Butler Leisure Centre or even further to the very small leisure area on the old Bell Language School site. Again, this lack of provision must fail the NPPF requirement for social and environmental sustainability.

8.63 Even if the principle of residential development is accepted for this site, which we do not believe that it should be, the proposed housing density is unacceptably high.

9. REPRESENTATIONS

9.1 The Council has received 241 letters of representation objecting to this application. 232 of these letters are standard letters. They raise the following issues

- Inadequate transport Infrastructure
- Impact on the schools
- The development is located in the wrong end of town
- Loss of employment land
- Incomplete highway analysis
- Impact on air quality
- Unsustainable development
- No information regarding the mix of dwellings provided
- Unsustainable waste water treatment capacity
- Outside development limits
- Sewage capacity
- Impact on the character of the town
- Lack of passive housing
- Congestion
- State of the current development unsightly entrance to the town
- No reference to wheelchair accessible dwellings

10 APPRAISAL

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

- A Whether development of the land for housing is acceptable in principle having regard to policy seeking protection of employment areas (NPPF, ULP SW6).
- B Whether an appropriate proportion of affordable housing would be provided (ULP Policy H9).
- C Whether the proposed housing would be acceptable in detail having regard to highway safety (NPPF and ULP Policies GEN1).
- D Whether the proposed development would sufficiently take account of site contamination and impact on air quality of the Air Quality Management Area (NPPF and ULP Policy ENV14).
- E Whether there would be harm to wildlife and protected species (NPPF and ULP Policy GEN7).
- F Other matters including impact on infrastructure (NPPF and ULP GEN6)

A Whether development of the land for housing is acceptable in principle having regard to policy seeking protection of employment areas (NPPF, ULP SW6).

10.1 The application site is subject to Policy SW6 as an employment area to be safeguarded from redevelopment or change of use to other land uses. Nevertheless, the NPPF (Para 22) advises that planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Land allocations should be regularly reviewed. Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support

sustainable local communities. Paragraph 49 goes on to state 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.

- 10.2 Despite some live-work units coming forward, the site has stagnated over the previous plan period and employment use has not come forward. Planning permission was granted for 8 blocks comprising 60 units of 'live/work' units under UTT/1382/01/FUL. 28 live work units have been constructed and these are the two blocks which front Thaxted Road. A further 32 units are outstanding and these are taken into the account in the current Housing Trajectory and five year land supply calculations. So, despite the designation as safeguarded employment land, because of the development which has taken place, and in view of the surrounding housing allocation, and NPPF advice, a pragmatic view is taken that this site is unlikely to ever come forward for employment and in principle residential use of the site is supported.
- 10.3 In the draft plan published for consultation in June 2012 the site was not specifically allocated. It was surrounded by, but excluded from Saffron Walden Policy 1, which allocated an area of 79 hectares between Thaxted Road and Radwinter Road for 800 dwellings and associated facilities. Following consultation and further discussions officers are recommending that the application site be shown as a committed residential site, as set out in the Position Statement which the Council published in March 2013. The previous permission restricted the use of the site to live work units but, in view of the difficulties in securing mortgages on this type of property in the current economic conditions, it is considered that this would be unnecessarily restrictive on the availability of this housing to the market and the site should be released for non-live work housing. The principle of residential development is accepted.
- 10.4 Layout, scale, appearance and landscaping are reserved matters. Consequently, these matters of detail are not for consideration here. The applicant has not submitted any illustrative drawing indicating a layout of 52 residential units. The fact that the application proposes 'up to' 52 dwellings will mean that a reserved matters applicant will need to demonstrate that detailed matters can be accommodated for the quantum of development proposed.

B Whether an appropriate proportion of affordable housing would be provided (ULP Policy H9).

- 10.5 The Council will seek to negotiate on a site to site basis an element of affordable housing of 40% of the total provision of housing on appropriate allocated and windfall sites, having regard to the up-to-date Housing Needs Survey, market and site considerations. The emerging policy framework would also require 40% affordable housing to be provided on this site. The quantum of 40% total provision is set by the policy as a compromise between the proportion justified by the scale of need and what the housing industry can reasonably be expected to provide. The percentage and type of affordable housing on any given site will be subject to negotiation to allow issues of site size, sustainability and economics of provision to be considered. Whilst the level of affordable housing sought on a site should have regard to the Council's target for housing provision, it should not make a development unviable.
- 10.6 The applicant has confirmed in writing that 40% of the total units be affordable housing. 40% is therefore the starting point for any application and therefore the application is in accordance with Policy H9.

C Whether the proposed housing would be acceptable in detail having regard to highway safety (NPPF and ULP Policies GEN1).

- 10.7 The proposal would result in a total of 80 residential units compared with 60 units with the consented proposal. It is also noted that the traffic generation for the previous proposal for 60 live/work units was assessed on the basis that these units would generate a similar number of movements to residential units as there was no independent data available on the likely traffic generation of live/work units. The net increase in trip generations resulted from this proposal would therefore be those movements attributed to the additional 20 residential units which would generate a negligible increase in traffic on the highway network at this location and will not have any capacity or safety issues as a result.
- 10.8 The applicant proposes to improve pedestrian linkage to nearby open space and Lord Butler leisure centre. A footpath already exists between the Kilns and Peaslands Road alongside Thaxted Road. A plan illustrating a traffic island with pedestrian refuge has been submitted to indicate how this might be achieved by provision of a pedestrian crossing at the junction of Thaxted with Peaslands Road. This has been made subject of a condition in accordance with the advice of the Highway Authority.

D Whether the proposed development would sufficiently take account of site contamination and impact on air quality of the Air Quality Management Area (NPPF and ULP Policy ENV14).

- 10.9 Policy ENV14 requires that where a site is known or strongly suspected to be contaminated, and this is causing or may cause significant harm or pollution of controlled waters (including groundwater), a site investigation, risk assessment, proposals and timetable for remediation will be required.
- 10.10 The applicant has submitted an Air Quality Assessment (AQA) The Council's Environmental Health Officer has responded that the impact of the current proposal must be considered against the amount of unit already consented on this site. She concludes that the increase in nitrogen dioxide levels is classified as imperceptible and the impact is negligible.

E Whether there would be harm to wildlife and protected species (NPPF and ULP Policy GEN7).

- 10.11 Concerns have been raised by the Council's retained ecologist regarding the removal of the existing habitats from the application site. It should be noted that within the previously withdrawn planning application UTT/13/0750/OP existing important habitats were identified on the site. There was an outstanding matter regarding the lack of invertebrate survey.
- 10.12 Between the withdrawal of the original and the submission of the current planning application, the applicant has removed all habitats from the site and has in effect sterilised the site. The Council's retained ecologist has correctly stated that this does constitute bad practice; it is not an illegal practice.
- 10.13 As a result of the above matter there is currently no matter of ecological importance on the site, and therefore no ecological reason to refuse planning permission. There is also no requirement for there to be any requirement to replace the lost habitat.

F. Other matters including impact on infrastructure (NPPF and ULP GEN6)

- 10.14 Essex County Council Education have indicated that there is a shortfall in primary and secondary school provision within Saffron Walden and have requested a total of £327,327 towards education provision within the town (£162,646 Primary and £164,726 Secondary).
- 10.15 NHS Property Services have also requested a contribution of £9,600 towards health facilities within the Saffron Walden Catchment.
- 10.16 The applicant has agreed to meet these contributions.

11 CONCLUSION

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

- 11.1 It is considered that the weight to be given to the requirement to provide a 5 year land supply and the housing provision which could be delivered by the proposal outweighs retention of the land for employment use. Therefore, in balancing planning merits, it is considered that planning permission should be granted for the development.

RECOMMENDATION – CONDITIONAL APPROVAL – SUBJECT TO S106 LEGAL OBLIGATION

- (I) **The applicant be informed that the Committee would be minded to refuse planning permission for the reasons set out in paragraph (III) unless by 18 October 2013 the freehold owner 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) **payment of contributions towards Education provision**
 - (ii) **provision of 40% for affordable housing**
 - (iii) **payment of contribution toward Health Provision**
 - (iv) **pay monitoring costs**
 - (v) **pay Councils reasonable costs**
- (II) **In the event of such an agreement being made, the Assistant Director Planning and Building Control shall be authorised to grant 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) **No contribution to education provision**
 - (ii) **No affordable 40% housing provision**
 - (iii) **No contribution to health provision**

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. 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.

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. The development hereby permitted shall be begun not 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.

4. The applicant shall incorporate on-site renewable or low-carbon energy technologies to provide 10% of the annual energy needs of the approved development in-use.

The applicant will provide the planning authority with a design SAP or SBEM rating of the proposed development carried out by an accredited assessor before work commences on-site, as well as technical details and estimated annual energy production of the proposed renewable or low carbon technologies to be installed.

REASON: In the interests of the promotion of sustainable forms of development and construction to meet the requirements contained in adopted SPD Energy Efficiency and Renewable Energy Adopted October 2007.

5. Within four weeks following its completion, the applicant will provide a SAP or SBEM rating of the as-built development and details of the renewable or low carbon technologies that were installed.

REASON: In the interests of the promotion of sustainable forms of development and construction to meet the requirements contained in adopted SPD Energy Efficiency and Renewable Energy Adopted October 2007.

6. The Reserved Matters application shall include an accessibility drawing. The details submitted shall set out measures to ensure that buildings are accessible to all sectors of the community. Buildings shall be designed as 'Lifetime Homes' and shall be adaptable for wheelchair use. All the measures that are approved shall be incorporated in the development before occupation.

REASON: To meet the requirements of Supplementary Planning Document – Accessible Homes and Playspace – Adopted November 2005.

7. The Reserved Matters application shall contain details of the mix of house sizes for written approval. The mix shall provide a significant proportion of small two and three bedroom homes. The development shall be carried out in accordance with the approved mix unless otherwise agreed in writing by the local planning authority.

REASON: To meet the requirements of housing mix in Policy H10 of the Uttlesford Local Plan adopted 2005.

8. (a) No development shall take place until the submitted Phase II Geoenvironmental Assessment has been reviewed by a competent person in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR11' and taking into account the existing development of part of the site. The reviewed report shall be submitted to and approved in writing of the local planning authority before development commences.

(b) No development shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been submitted to and approved in writing by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, an appraisal of remedial options, and proposal of the preferred option(s), and a timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

(c) The remediation scheme shall be implemented in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the local planning authority. The local planning authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of the measures identified in the approved remediation scheme, a validation report (that demonstrates the effectiveness of the remediation carried out) must be submitted to the Local Planning Authority.

(d) In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported immediately to the local planning authority and once the local planning authority has identified the part of the site affected by the unexpected contamination development must be halted on that part of the site.

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)

9. An assessment must be undertaken in accordance with the requirements of part (a) of this condition, and where remediation is necessary a remediation scheme, together with a timetable for its implementation, must be submitted to and approved in writing by the Local Planning Authority in accordance with the requirements of part (b). The measures in the approved remediation scheme must then be implemented in accordance with the approved timetable. Following completion of measures identified in the approved remediation scheme a validation report must be submitted to and approved in writing by the Local Planning Authority in accordance with part (c).

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).

10. No development shall commence unless a crossing facility has been provided on Thaxted Road in the vicinity of the Peaslands Road junction in accordance with details

which shall previously have been submitted to and approved in writing by the Local Planning Authority.

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

UTT/13/1937/OP

Land behind the Old Cement Works, Thaxted Road, Saffron Walden



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Organisation	Uttlesford District Council
Department	Planning and Building Control
Comments	
Date	12 September 2013
SLA Number	Not Set