

UTT/13/3368/FUL (LITTLE EASTON)

(MAJOR APPLICATION)

PROPOSAL: Removal of condition 11 (The plans and particulars submitted shall achieve a "code for sustainable homes" rating of "level 4") and condition 12 (Onsite renewable or low-level carbon energy technologies to provide 10% of the annual energy needs) of planning permission UTT/2507/11/OP.

LOCATION: Sector 4 Woodlands Park, Great Dunmow

APPLICANT: Wickford Development Company Ltd

AGENT: Melville Dunbar Associates

EXPIRY DATE: 21 March 2014

CASE OFFICER: Katherine Mathieson

1. NOTATION

1.1 Outside Development Limits

2. DESCRIPTION OF SITE

2.1 The site is former agricultural land and has a quoted area of 11.1 hectares. The land is enclosed by the approved route of the bypass and 5.5 hectares is proposed for residential development. It has a curving, almost crescent shape and its northern and western edges are defined by the line of the uncompleted North-West ByPass (NWBP).

2.2 From the line of the NWBP the site slopes down towards Hoglands Brook on the south eastern boundary and there is an overall slope down from west to east. The changes in level are significant. For example, along the line of the bypass the existing levels rise up from the south west by about three metres to the point of the proposed T-junction into the residential part of the site before descending by fourteen metres to the roundabout on the B184. From the line of the bypass to the south eastern corner of the site there is a drop of about ten to twelve metres. To the south and outside the site are areas of woodland and the playing fields of the Helena Romanes secondary school.

2.3 Since the outline planning permission was granted works to complete the NWBP have continued and the bypass is substantially complete and anticipated to open in February 2014.

3. PROPOSAL

3.1 This application seeks the removal of conditions 11 and 12 attached to planning permission UTT/2507/11/OP. The full wording of the conditions are:

Condition 11

The plans and particulars submitted in accordance with condition 1 above shall include details as to how the proposed dwellings as designed specified and built shall achieve a "Code for Sustainable Homes" rating of "Level 4". The details to be submitted will include a Code for Sustainable Homes design-stage assessment of the rating of the

proposed development carried out by an accredited assessor. The developer will provide a Code for Sustainable Homes post-construction assessment of the rating of the as-built development within four weeks following its completion also carried out by an accredited assessor.

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 and in accordance with Policy GEN2 of the Uttlesford Local Plan (adopted 2005).

Condition 12

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 plans and particulars submitted in accordance with condition 1 above shall include a design SAP or SBEM rating of the proposed development carried out by an accredited assessor as well as technical details and estimated annual energy production of the proposed renewable or low carbon technologies to be installed. 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 in accordance with Policy ENV15 of the Uttlesford Local Plan (adopted 2005)

4. APPLICANT'S CASE

- 4.1 It is acknowledged by the Council that no other housing development within the District has been subject to a condition that requires proposed dwellings to be design and specified to a standard that will achieve Code for Sustainable Homes rating Level 4. It is unreasonable, therefore, that Condition 11 should be applied to Sector 4.
- 4.2 In respect of Condition 12, it is understood that the Council considers improvements in sustainable forms of development and construction and the use of renewable or low-carbon energy technologies can, in the future, be best secured through the Building Regulations rather than by the imposition of planning conditions. In the circumstances, it is also considered unreasonable that Condition 12 should be attached to the permission.

5. RELEVANT SITE HISTORY

5.1 UTT/2507/11/OP

- 5.2 Outline planning application for "Demolition of derelict former Brookfield Farmhouse and construction of up to 125 No. dwellings and associated estate roads, garages, car parking spaces, footpaths, cycleways, cycle stores, refuse storage, public open space, landscaping and foul and surface water drainage with pumping station, foul sewer along the B184 and dry balancing pond.

Access to the development will be obtained from the un-constructed northern section of the Great Dunmow North West By-pass of approximately 0.55km in length (approved under Ref.No. UTT/0084/01/FUL but amended by this application to incorporate a right hand turn lane). Removal of existing spur from roundabout" approved subject to conditions and a S106 agreement August 2012.

5.3 UTT/13/1663/DFO

5.4 Details following outline application UTT/2507/11 for demolition of derelict former Brookfield Farmhouse and construction of up to 125 No. dwellings and associated estate roads, garages, car parking spaces, footpaths, cycleways, cycle stores, refuse storage, public open space, landscaping and foul and surface water drainage with pumping station, foul sewer along the B184 and dry balancing pond. Access to the development will be obtained from the un-constructed northern section of the Great Dunmow North West By-pass of approximately 0.55km in length (approved under Ref.No. UTT/0084/01/FUL but amended by this application to incorporate a right hand turn lane). Removal of existing spur from roundabout - Details of appearance, landscaping, layout and scale conditionally approved 31 October 2013.

6. POLICIES

6.1 National Policies

- National Planning Policy Framework

6.2 Uttlesford District Local Plan 2005

- GEN2 - Design

7. TOWN COUNCIL COMMENTS

7.1 Great Dunmow Town Council

The Town Council objects to the removal of this condition as it would be detrimental to the sustainability of the development.

8. CONSULTATIONS

None

9. REPRESENTATIONS

9.1 Two objections have been received. Period expired 23 January.

Main points:

- No justification that these conditions should be removed on the grounds that there are no other housing developments within Uttlesford District with these conditions imposed.
- These conditions are a significant step in the right direction and hopefully they will be used on future planning applications.
- This improvement in planning policy needs to be started somewhere and rejection of it is not substantiated by resentment at being the first to be required to comply.
- There is ample scope within the Building Regulations to provide for the requirements of these conditions.
- These conditions are in accordance with the needs now widely acknowledged to improve energy efficiency and in the use of renewable or low carbon energy.
- It is not reasonable for a developer to seek to influence UDC planning policy or to criticise the parameters within which policy is decided.
- Oppose the removal of these conditions on the grounds that they promote sustainability and energy efficiency.

10. APPRAISAL

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

A Whether there are any implications for the removal of the conditions

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- 10.1 The Council has previously imposed conditions requiring residential development to be built to Level 3 of the Code for Sustainable Homes with renewable technologies to provide 10% of the energy requirements of the development. Application ref UT/2507/11/OP was unusual in that the permission requires the development to be built to Code Level 4.
- 10.2 The Code Level 3 and 10% renewable energy conditions were imposed prior to changes to the Building Regulations which now mean that residential development must be built to standards equivalent to Code Level 3 without the need for a condition attached to a planning permission. Conditions requiring Code Level 3 build standards are no therefore longer imposed as they would be replicating the requirements of other legislation and would be unnecessary. The Council has not been imposing conditions requiring residential development to be built to Code Level 4 since 2012 as indicated in the Supplementary Planning Document “Energy Efficiency and Renewable Energy” in recognition of the additional financial burden that would result for developers during a financial downturn and the Government’s anticipated relaxation of moves for developments to be zero carbon by 2016 for the same reason.
- 10.3 In light of the above and because this is the only development within the District that is subject to a condition requiring houses to be built to Code Level 4 standards, it is an unreasonable condition that fails the 6 tests for conditions set out in Circular 11/95 – Use of conditions in planning permission.
- 10.4 The condition requiring 10% renewable energy technologies to be incorporated into the development is also no longer imposed on planning permissions as the revisions to the Building Regulations result in a better energy efficiency standard of the fabric to dwellings. This outweighs the benefits that would otherwise be achieved by the renewable technologies and as such the condition is no longer beneficial or necessary. In light of this, it is recommended that the condition be removed.

11. CONCLUSION

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

- A The retention of condition 11 is unnecessary and would fail to comply with the 6 tests for conditions set out in circular 11/95. The retention of condition 12 is also unnecessary and would result in a lesser energy efficient scheme than one that purely meets Building Regulations.

RECOMMENDATION – CONDITIONAL APPROVAL and S106 LEGAL OBLIGATION

- 1 The applicant be informed that the committee would be minded to refuse planning permission for the reasons set out in paragraph (III) unless 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 obligation to secure the following:

- (i) All provisions set out in the S106 legal obligation attached to application ref UTT/2507/11/OP**
- (ii) Pay the Council’s reasonable costs**
- (iii) Pay monitoring charge**

2 In the event of such an obligation being made, the Assistant Director Planning and Building Control shall be authorised to grant permission subject to the conditions set out below

3 If the freehold owner shall fail to enter into such an obligation by 21 March 2014 the Assistant Director Planning and Building Control shall be authorised to refuse permission in his discretion at any time thereafter for the following reasons:

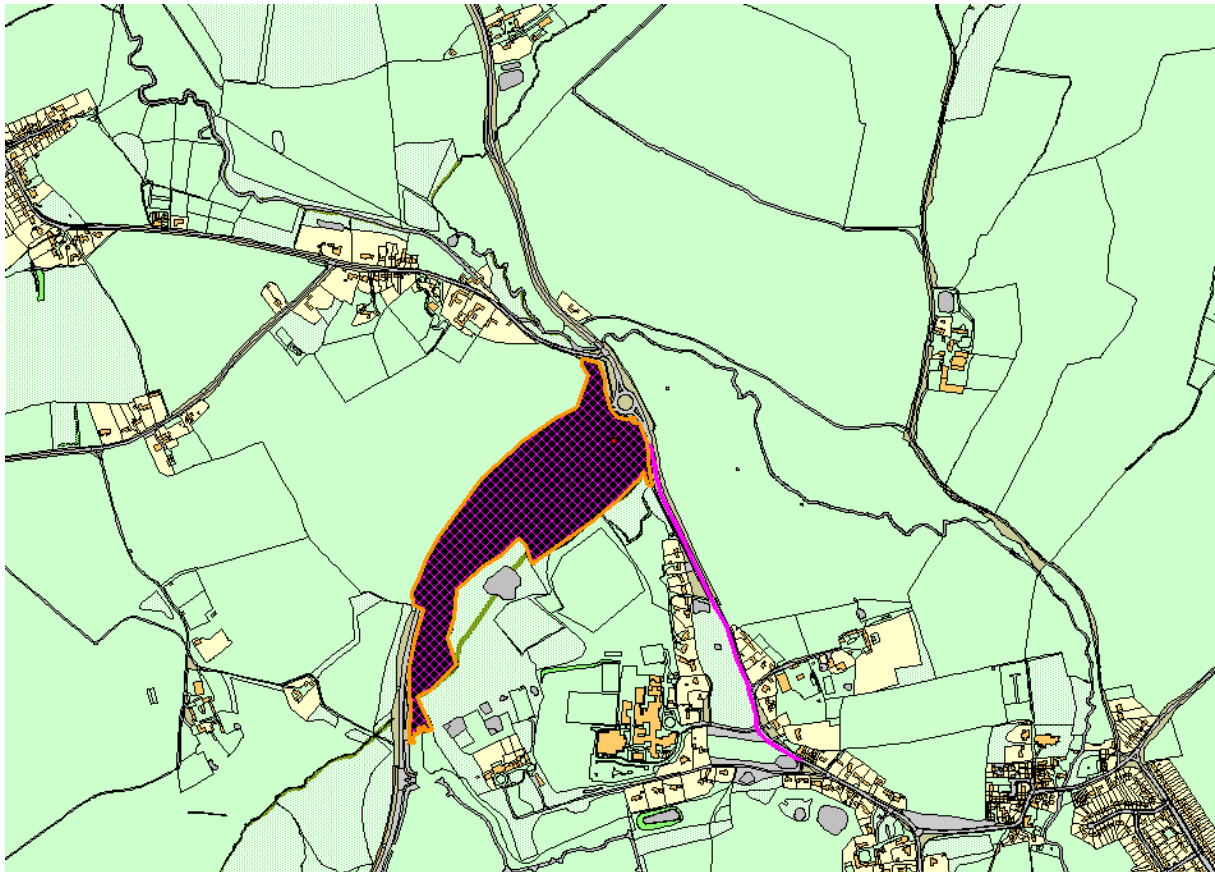
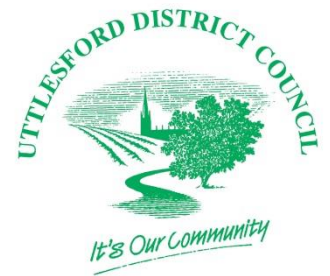
- (i) Lack of provisions set out in the S106 legal obligation attached to application ref UTT/2507/11/OP**

The permission will be subject to updated conditions that were imposed on the outline consent with Conditions 11 and 12 removed – Details of conditions to be reported in full to the Meeting.

Application no.: UTT/13/3368/FUL

Address: Sector 4 Woodlands Park, Parsonage Downs

Little Easton/Gt Dunmow



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Organisation: Uttlesford District Council

Department: Planning

Date: 3 February 2014

SLA Number: 100018688