

Committee: Planning

Agenda Item

Date: 23 July 2014

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Title: UTT/14/0480/FUL Elsenham

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Item for decision

Development Management Team Leader

Summary

1. At their meeting on 9 April 2014 Members considered planning application UTT/14/0480/FUL relating to a site known as Elsenham Sawmill, Fullers End, Tye Green Road, Elsenham. Members resolved to approve the application subject to conditions and a S106 requiring a financial contribution for affordable housing and the provision of a footpath link. Subsequently the Council has received a letter querying the need to provide a “public right of way”. This report seeks clarification as to what basis Members required the provision of the footpath link.

Recommendations

2. It is recommended that the application be approved subject to conditions and S106 Legal Obligation as previously with clarification as to whether the footpath link is for public use or private use for the occupiers of the dwellings approved under UTT/14/0480/FUL.

Financial Implications

3. None.

Background Papers

4. The following papers were referred to by the author in the preparation of this report and are available for inspection from the author of the report.

Report to Planning Committee on 9 April 2014 for UTT/14/0480/FUL

Planning file UTT/14/0480/FUL

Letter from Trowers and Hamlins dated 13 June 2014

Impact

- 5.

Communication/Consultation	
Community Safety	
Equalities	

Health and Safety	
Human Rights/Legal Implications	
Sustainability	
Ward-specific impacts	
Workforce/Workplace	

Situation

6. Planning application reference UTT/14/0480/FUL relates to a “full application for demolition of all existing buildings and change of use of site from B2 light industrial to residential. Proposed erection of 5 dwellings and 2 cartsheds to replace existing commercial buildings, uses and external parking/storage. Provision of new vehicular access to one dwelling. Provision of new pedestrian access to site” for a site known as Elsenham Sawmill, Fullers End, Tye Green Road, Elsenham.
7. The application site is located at the end of Tye Green Road adjacent to the railway line. In order to access the services and facilities in the village it is required to cross the railway line via a pedestrian crossing. This crossing does not have locking gates but does have lights and audible warnings when trains are approaching.
8. The application stated the following in relation to the provision of the new pedestrian access:
 - The path will sweep outward to the right on the final approach to the underpass
 - A stainless steel or other durable, vandal resistant mirrored surface treatment to the underpass entrance, to eliminate any blind spots
 - The underpass to be fully rendered inside and painted white
 - A decision was made not to light the footpath
 - The underpass should be lit from dusk to dawn using LED lighting operating at around 50% until movement is detected, whereupon it switches to 100% brightness
 - Path to be demarked by post and rail fencing with a gate at the entrance
 - Signs saying “no admittance” and “private property”
9. Network Rail made the following comments in respect of the application:

“The safety of the operational railway and of those crossing it is of the highest importance to Network Rail and railway crossings are of a particular interest in relation to safety. The most effective way of reducing level crossing risk is to eliminate the crossing completely. Where required, alternative ways of

crossing the railway can be provided. This development will lead to an increase in usage at Fullers End public footpath level crossing. Accordingly, while Fullers End level crossing remains open, Network Rail objects to the planning application 14/0480/FUL. However, the Council should be aware that Network Rail is currently working with the developer and other landowners in an attempt to create a public footpath diversion underneath the railway line, to the south of the level crossing. If a diversionary pedestrian route underneath the railway line and the closure of Fullers End crossing is agreed to by all parties (Network Rail, the developer, and the highway authority), Network Rail would look to remove its current objection.”

10. The application was recommended for refusal for the following reason:

“The proposal, in order to be considered as a sustainable site, encourages the use of an unmanned railway crossing as a primary pedestrian route or the use of a remote, un-overlooked private access via an underpass under the railway line. The Design and Access Statement indicates that the footpath would not be lit. These routes would fail to provide an environment which meets the reasonable needs of all potential users or would fail to reduce the potential for crime, or the fear of crime. The introduction of lighting, as shown on drawing no 1132/23B, would be harmful to the character of the rural area and would be likely to increase the risk of or the fear of crime. The proposals would fail to provide a safe route to access services and facilities and therefore would not encourage movement by means other than driving a car. The development is therefore contrary to Uttlesford Local Plan Policies GEN1 and GEN2.”

11. The proposal was fully supported by local residents and Members may recall during the site visit residents had banners stating that they wanted the underpass. The proposal was also supported by Councillor Morson and Elsenham Parish Council who spoke at the Committee meeting. During the public speaking it was apparent that the support for the application was partially on the basis of the provision of the underpass.

12. After lengthy debate Members resolved to grant planning permission subject to conditions and a S106 Legal Obligation, to be agreed with the Chairman. The S106 Legal Obligation required the provision of a financial contribution for affordable housing and the provision of a footpath link and, if appropriate, the payment of a maintenance fee (eg if it is considered appropriate for the Parish Council to take over responsibility for this.”

13. The drafting of the S106 Legal Obligation has a requirement for the pedestrian access to be available for public use. However, we have received a letter from Trowers and Hamlins (see attached) stating that this is not the intention of the application and that the proposal only relates to a pedestrian access for the occupiers of the development.

14. The provision of a “private” pedestrian access would result in Network Rail maintaining their objection to the proposal. However, if the pedestrian access were available to the public to use then the level crossing could be closed and Network Rail would lift their objection.

15. It would appear that there is confusion as to the requirements of the Council. The applicant appears to believe that we are requiring the diversion and creation of a public right of way. What we are requiring is the provision of the pedestrian access which is available for public use so that residents of Tye Green and other pedestrians requiring to cross the railway line can do so in safety.
16. The letter also refers to the fact that planning permission was granted under reference UTT/13/0177/OP for the erection of up to 130 dwellings on land to the north east of the Sawmill site. It is considered that this development would significantly increase the use of the level crossing but has no requirement to provide alternative means of crossing the railway line. It should be noted however that this development has an alternative means of accessing facilities via Hall Road. Indeed access via the level crossing would be considerably longer than the Hall Road route.
17. It is therefore requested that Members clarify the basis for the approval in relation to the pedestrian access. There are two options:
- a. The pedestrian access is for the occupiers of the site only, which would mean that Network Rail would maintain their objection and approval would be contrary to the advice of a statutory consultee.
 - b. The pedestrian access is available for use by the public, but is not a designated public right of way, which would enable Network Rail to close the level crossing and lift their objection.

Risk Analysis

18.

Risk	Likelihood	Impact	Mitigating actions
1	N/A	N/A	N/A

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.