



Uttlesford District Council

Chief Executive: John Mitchell

Planning

Date: Wednesday, 20 August 2014
Time: 14:00
Venue: Council Chamber
Address: Council Offices, London Road, Saffron Walden, CB11 4ER

Members

L Wells - Member, K Eden - Member, J Salmon - Member, J Menell - Member, C Cant - Member, J Loughlin - Member, J Cheetham - Chairman, E Godwin - Member, E Hicks - Member, D Perry - Member, J Davey - Member, R Eastham - Member, K Mackman - Member, V Ranger - Member

AGENDA PART 1

Open to Public and Press

- 1 Apologies for absence and declarations of interest.
- 2 Minutes of the meeting held on 23 July 2014 5 - 13
- 3 Matters arising.
- 4 Planning Applications
- 4.1 UTT-14-0122 FUL Little Canfield 14 - 23
- 4.2 UTT-14-0779-FUL Aythorpe Roding 24 - 39

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MEETINGS AND THE PUBLIC

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The agenda is split into two parts. Most of the business is dealt with in Part 1 which is open to the public. Part II includes items which may be discussed in the absence of the press or public, as they deal with information which is personal or sensitive for some other reason. You will be asked to leave the meeting before Part II items are discussed.

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For information about this meeting

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**PLANNING COMMITTEE held at COUNCIL OFFICES LONDON ROAD
SAFFRON WALDEN at 2.00 pm on 23 JULY 2014**

Present: Councillor K Eden – Vice Chairman.
Councillors C Cant, J Davey, R Eastham, E Godwin, E Hicks, K
Mackman, J Menell, D Perry, V Ranger and J Salmon.

Officers in attendance: N Brown (Development Manager), M Cox (Democratic
Services Officer), M Perry (Solicitor), M Jones (Planning Officer), M
Shoesmith (Development Manager Team Leader) K Mathieson
(Senior Planning Officer) and A Taylor (Assistant Director Planning
and Building Control).

Councillor Godwin left the meeting after the consideration of item 4.5
Councillor Mackman left the meeting after the consideration of Item 6.

PC15 APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST

Apologies for absence were received from Councillors J Cheetham, J Loughlin
and L Wells.

Councillor Ranger declared a non-pecuniary interest in application
UTT/14/1445/FUL Barnston as a member of Barnston Parish Council.

PC16 MINUTES OF THE PREVIOUS MEETINGS

The minutes of the meeting held on 26 June 2014 were received, confirmed
and signed by the Chairman as a correct record subject to an amendment in
relation to Councillor Menell's interest in that it was her grandchildren and not
her children who attended the local school.

PC17 PLANNING APPLICATIONS

(a) Approvals

RESOLVED that the following applications be approved, subject to the
conditions set out in the officer's report.

UTT/14/0356/DFO Saffron Walden – details following application
UTT/1252/12/OP (outline application for the demolition of existing buildings and
erection of 24 dwellings) – details of layout, appearance, scale and landscaping
– Tudor Works, Debden Road for Croudace Homes Ltd.

UTT/1445/FUL Barnston erection of 2 workshop storage buildings to replace
buildings 1 & 2 on extant scheme reference UTT/1667/07/FUL – Mawkinherds
Farm, High Easter Road for Anglian Land Drainage.

UTT/1709/FUL Great Chesterford – erection of dwelling with triple detached garage (alternative scheme to that approved under planning permission UTT/1615/12/FUL) – site adjacent to The Delles, Carmen Street for Mr A Redfern.

The Assistant Director Planning and Building Control left the meeting for the consideration of this item.

(b) Refusals

RESOLVED that the following application be refused.

UTT/14/0585/FUL Takeley – erection of 4 terraced houses and 2 detached garages – land west of the White House, Dunmow Road and De Vere Homes Ltd

Reason: The development of this site would result in additional built form in the countryside which would be detrimental to the open and rural character of the surrounding countryside.

The proposed development does not need to take place there and is not appropriate to the rural area. There are no material considerations which would justify the development of this site outside of the Development Limits. The proposal is contrary to advice contained with the National Planning Policy Framework (2012) and to Policies S7 and S8 of the Uttlesford Local Plan (adopted 2005).

Parish Cllr Bagnall spoke against the application.

(c) Deferral

UTT/14/0122/FUL Little Canfield – Demolition and removal of existing buildings and structures. Redevelopment of site to form 15 dwellings, formation of vehicular access, hardstanding etc – Ersamine, Dunmow Road, Little Canfield for Banner Homes and Bush family.

Reason: for further information on the education contribution and the provision of school places.

Mr Bagnall spoke against the application. Neil Cottrell spoke in support of the application.

(c) Planning Agreements

UTT/14/0138/FUL Great Hallingbury – erection of 6 employment units within 3 buildings for B1, B2 and B8 use. Associated access, parking and turning facilities. Removal of spoil from site – land south of Dunmow Road, Great Hallingbury for Warbury Limited.

RESOLVED that conditional approval be granted for the above application subject to the conditions set out in the report and additional

condition to remove permitted development rights and a legal obligation as follows:

- (I) 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 agreement to secure the following:
 - (i) The translocation of reptiles to Stow Maries
 - (ii) Council's reasonable legal costs
 - (iii) Monitoring contribution
- (II) 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.
- (III) If the freehold owner shall fail to enter into such an obligation by 30 July 2014, the Assistant Director Planning and Building Control shall be authorised to refuse permission in his discretion any time thereafter for the following reasons:
 - (i) The lack of facility to secure the translocation of reptiles to Stow Maries

UTT/14/0749/OP Debden – outline application with all matters reserved for erection of 2 dwellings with associated access and garaging – Land south – west of Wisteria House Debden Green for Mr H Palmer.

RESOLVED that conditional approval be granted for the above application subject to the following conditions and a legal agreement to secure a contribution toward affordable housing

- 1) Approval of the details of the layout, access, 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 be begun no 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 erection of the development hereby approved (not including footings and foundations) samples of the materials to be used in the construction of the external surfaces of the development hereby permitted shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

REASON: In the interests of the appearance of the development in accordance with Policy GEN2 of the Uttlesford Local Plan (adopted 2005).

4) Prior to the erection of the development hereby approved (not including footings and foundations) full details of both hard and soft landscape works shall be submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include [for example]:-

- i. proposed finished levels or contours;
- ii. means of enclosure;
- iii. car parking layouts;
- iv. other vehicle and pedestrian access and circulation areas;
- v. hard surfacing materials;
- vi. minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting, etc.);
- vii. proposed and existing functional services above and below ground (e.g. drainage power, communications cables, pipelines etc. indicating lines, manholes, supports.); retained historic landscape features and proposals for restoration, where relevant.
- viii. Soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; implementation programme.

REASON: The landscaping of this site is required in order to protect and enhance the existing visual character of the area and to reduce the visual and environmental impacts of the development hereby permitted, in accordance with Policies GEN2, GEN8, GEN7, ENV3 and ENV8 of the Uttlesford Local Plan (adopted 2005).

5) All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out before any part of the development is occupied or in accordance with the programme agreed with the local planning authority.

REASON: In the interests of the appearance of the site and area in accordance with Policies GEN2, GEN7, ENV3 and ENV8 of the Uttlesford Local Plan (adopted 2005).

6) The development hereby permitted shall be implemented in accordance with the mitigation recommendations made within the Extended Phase 1 Habitat Survey undertaken by t4 ecology Limited dated June 2014.

REASON: In the interest of the protection of the bio-biodiversity value of the site in accordance with Policy GEN7 of the Uttlesford Local Plan (adopted 2005)

Lucy Carpenter spoke in support of the application

UTT/14/1549/FUL Stansted – erection of 2 semi-detached and 1 detached dwelling with associated access, parking and landscaping – Yuva, 21 Cambridge ROAD FOR Mr Harun Khan.

RESOLVED that conditional approval be granted for the above application subject to the conditions set out in the report and

1. The following amendments to conditions

4. Before development commences details of materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall thereafter be implemented in accordance with the approved details.

REASON: To ensure a satisfactory standard of development in the interests of visual amenity in accordance with Policies GEN2 and ENV2 of the Uttlesford Local Plan adopted 2005.

6. Prior to commencement of the development, the areas within the curtilage of the site for the purpose of loading/unloading/reception and storage of building materials and manoeuvring of all vehicles, including construction traffic shall be identified clear of the highway. Details of which shall be to be submitted to and approved in writing by the Local Planning Authority, and thereafter the scheme shall be implemented in accordance with the approved details.

REASON: To ensure that appropriate loading/unloading facilities are available so that the highway is not obstructed during the construction period in the interest of highway safety in accordance with Policy GEN1 of the Uttlesford Local Plan adopted 2005

2. The following additional conditions

11. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order with or without modification), no extensions shall be constructed (other than any expressly authorised by this permission or any

other grant of express planning permission) without the prior written permission of the local planning authority.

REASON: The gardens for these plots are the minimum size that would be acceptable and extensions or outbuildings may result in an unacceptable reduction in their size in accordance with Policy GEN2 of the Uttlesford Local Plan (adopted 2005).

12. Before the development hereby permitted commences, an accessibility statement/drawing shall be submitted to and approved in writing by the local planning authority. The details submitted shall set out measures to ensure that the building is accessible to all sectors of the community. The 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 ensure that the district's housing stock is accessible to all and to meet the requirements contained in adopted SPD Accessible Homes and Playspace Adopted November 2005 and in accordance with Policies GEN1 and GENM2 of the Uttlesford Local Plan (adopted 2005).

3. A legal obligation as follows

- (I) The applicant be informed that the committee would be minded to refuse planning permission for the reasons set out in paragraph (III) unless the freeholder 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) secure contribution towards affordable housing
 - (ii) pay Council's reasonable costs
 - (iii) pay monitoring costs
- (II) 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
- (III) If the freehold owner shall fail to enter into such an obligation by 7 August 2014, the Assistant Director of Planning and Building Control shall be authorised to refuse permission in his discretion anytime thereafter for the following reasons:
 - (i) lack of contribution towards affordable housing

PC18

APPLICATION UTT/13/2917/FUL ELSENHAM

Members were reminded that at the meeting on 12 February 2014, application UTT/13/2917/FUL for the redevelopment of the site adjacent to Hailes Wood, Elsenham for 32 dwellings had been approved subject to conditions and a Section 106 Obligation, which had now been sealed.

Since the resolution to approve, there had been various representations to the local authority from third parties related to the decision of Planning Committee and whether certain issues had been properly considered.

The first issue related to the meeting following the deferral and the redesign and alteration of Plot 22 and its relationship to the existing property 59 Hailes Wood. The affordable units were relocated to reduce a cluster of thirteen and two of the units were relocated adjacent to the garden of 59 Hailes Wood.

The second issue related to the impact of the amenity of the existing residents from the increased traffic flow from the proposed units through Hailes Wood.

These two issues had not been explicitly mentioned in the report and it could not therefore be demonstrated whether this point had been considered by members, although officers recollected that it had been discussed. In the light of ongoing comments it was considered appropriate to seek confirmation from members that they had taken these issues into account in making their decision.

Statements were read from Councillors Morson and Parr asking the committee to reconsider its decision on this application.

Robert Bailey spoke to the meeting. In his opinion the committee had not addressed the significant impact on number 59 and the redesign had not been discussed. There was loss of privacy to the rear of the property. He said that with the one point of access through Hailes Wood there would be a loss of amenity, particularly as the properties closely abutted the road. He said the development failed to meet the guidance set out in the Essex Design Guide and asked the committee to recognise the detrimental impact of the development.

The agent, Nicky Parsons, believed that the committee had considered the effect on the property and the access arrangements. She warned against revisiting the principle of the development as this had already been agreed.

Members of the committee said that all aspects of this application had been discussed in detail. Councillors remembered discussing plot 59 being affected at the first meeting and this being addressed when the item came back to the February meeting. The traffic implications had also been assessed. It was also pointed out that the site visit coach had dropped the members off at the turning head of Hailes Wood and members had walked the whole length of the site and so were fully aware of what was proposed.

RESOLVED that the planning permission be issued in accordance with the details previously agreed by the Planning Committee.

APPLICATION UTT/14/0480/FUL ELSENHAM

At the meeting on 9 April 2014 the committee had approved an application at the Elsenham sawmill site, Fullers End Tye, Green Road for redevelopment to provide 5 dwellings subject to conditions and a S106 obligation requiring a financial contribution for affordable housing and the provision of a footpath link.

Network rail had raised an objection because it would lead to an increased use of the crossing. Its aim in respect of this crossing was to reach agreement with all landowners to divert the right of way to the underpass.

The District Council had recommended that the application be refused on the grounds of sustainability as it would encourage the use of an unmanned railway crossing or a remote private access via an underpass under the railway line.

At the meeting the proposal had been supported by local residents, district and parish councillors, partly because of the public benefit gained by the footpath link to the underpass. There had been a lengthy debate and the application had been approved subject to a S106 obligation to be agreed with the Chairman.

The applicant had subsequently submitted a letter querying the need to provide a 'public right of way' and stating his intention to only provide pedestrian access for the occupiers of the development. However, it was explained that the council was not requiring the creation of public right of way, rather a permissive path which would be available for the residents of Tye Green to use.

The applicant, Mr Collins spoke to the meeting. He felt that the requirement to provide this path was disproportionate for the size of the development. There were only 5 houses on this site whereas a new development of 130 houses north of the sawmill site had no such requirement for an alternative means of crossing. The provision of this path would not result in the closure of the crossing as this matter was part of a negotiation between other land owners and network rail.

Mr Purcell addressed the committee and said that the main reason he supported the development was to clear up this unsightly site and the footpath link was a secondary issue.

Members said that the provision of the permissive path had been seen as a public benefit and this was key to the approval of the application. The committee was clear that the intention had been to provide a footpath that was available for use by the public and not just for the residents of the new development.

The Legal Officer said that Network Rail would need to legally divert the footpath to the underpass in order to close the crossing, but the establishment of permissive path would not prevent the right of way being diverted to that route at a later date.

RESOLVED that the application be approved subject to conditions and a S106 Legal Obligation as previously, with clarification that the footpath link would be a permissive path open for use by the public.

PC20 **APPEAL DECISIONS**

The committee noted the appeal decisions which had been received since the last meeting.

PC21 **PLANNING AGREEMENTS**

Members noted the schedule of outstanding section 106 agreements.

The meeting ended at 4.45 pm

UTT/14/0122/FUL (TAKELEY)

(Reason for presentation to Planning Committee: Recommendation is for approval of an application of five dwellings or more)

PROPOSAL: Demolition and removal of existing buildings and structures. Redevelopment of site to form 15 dwellings, formation of vehicular access, hardstanding etc.

LOCATION: Ersamine, Dunmow Road, Little Canfield, Great Dunmow

APPLICANT: Banner Homes and the Bush family

EXPIRY DATE: 25 July 2014 (Extension of time until 22 August 2014)

CASE OFFICER: Luke Mills

1. NOTATION

1.1 Countryside; County Wildlife Site (adjacent).

2. DESCRIPTION OF SITE

2.1 The application site is located off Dunmow Road in Little Canfield. It accommodates a single dwelling, several outbuildings and an extensive area of rough grassland, scrub and trees.

3. PROPOSAL

3.1 The application is for planning permission to demolish the existing buildings on the site, and to erect 15 dwellings with associated access roads, driveways, garages and gardens.

4. APPLICANT'S CASE

4.1 The applicant's case is presented in the submitted Design and Access Statement, which concludes that the development would be attractive, and that it would represent an efficient use of land in a sustainable location in accordance with the National Planning Policy Framework.

5. RELEVANT SITE HISTORY

5.1 No recent, relevant history.

6. POLICIES

6.1 National Planning Policy Framework (NPPF) 2012

- 6. Delivering a wide choice of high quality homes

6.2 Uttlesford District Local Plan 2005

- Policy S7 The Countryside
- Policy GEN1 Access

- Policy GEN2 Design
- Policy GEN6 Infrastructure Provision to Support Development
- Policy GEN7 Nature Conservation
- Policy GEN8 Vehicle Parking Standards
- Policy ENV4 Ancient Monuments and Sites of Archaeological Importance
- Policy ENV7 The Protection of the Natural Environment – Designated Sites
- Policy ENV8 Other Landscape Elements of Importance for Nature Conservation
- Policy H1 Housing Development
- Policy H9 Affordable Housing
- Policy H10 Housing Mix

6.3 **Guidance**

- SPD Accessible Homes and Playspace
- The Essex Design Guide
- Developer Contributions Guidance Document
- Developers' Guide to Infrastructure Contributions
- Parking Standards: Design and Good Practice
- Local Residential Parking Standards

7. **PARISH COUNCIL COMMENTS**

- 7.1 Takeley Parish Council objects to the planning application. It states that the site is in neither the existing or proposed Local Plan, and that the development represents an over-intensification of the site and provides unnecessary additional housing. It also states that the appearance of the dwellings is incompatible with the village.

8. **CONSULTATIONS**

Aerodrome Safeguarding (Stansted Airport)

- 8.1 No objection.

ECC Community Infrastructure Planning Officer

- 8.2 A financial contribution, secured using a S106 agreement, is required to mitigate the impact of the development on primary education provision.

ECC Ecology

- 8.3 No objection.

ECC Highway Authority

- 8.4 No objection subject to conditions.

ECC Historic Environment Officer

- 8.5 No objection subject to a condition.

ECC Minerals and Waste Planning

- 8.6 No comment.

Environment Agency

8.7 No objection.

Natural England

8.8 No objection.

NERL Safeguarding Office

8.9 No objection.

Sport England

8.10 No comment.

Thames Water

8.11 No objection.

UDC Access and Equalities Officer

8.12 One of the proposed dwellings must be wheelchair-accessible, in accordance with the SPD entitled 'Accessible Homes and Playspace'.

UDC Housing Enabling Officer

8.13 No objection. Two of the affordable houses should be 'Affordable Rent', and one 'Shared Ownership'.

UDC Landscape Officer

8.14 No objection subject to conditions.

9. REPRESENTATIONS

9.1 Neighbours were notified of the application by letter and a notice was displayed near the site. Two representations have been received, which raise the following concerns:

1. Too many houses crammed onto a small site.
2. Most of the important trees on the site have been felled prior to the application.
3. The Draft Local Plan should not be applied because it has not been adopted.
4. The distances between the new dwellings and existing boundaries are below the minimum required by 'The Essex Design Guide'.
5. Loss of privacy at Spinney Lodge.
6. The roof form of Plots 12 – 15 would appear over-dominant from the garden of Spinney Lodge and from the Flitch Way.
7. A recreational area should be provided to compensate for the small garden sizes and lack of existing facilities in the area.
8. The affordable housing is segregated from the main development.
9. The proposed landscaped buffer adjacent to the Flitch Way should be protected.
10. No consideration has been given to refuse collection.
11. The area has become one large building site, to the detriment of existing residents.
12. The proposed car park to the front of Plots 1 – 3 is ill-conceived.
13. Errors on the plans regarding brick and plinth detailing.

9.2 Points 1 to 10 have been considered in the below appraisal. The impacts of construction alluded to by Point 11 are not material planning considerations, and are instead controlled by separate legislation. The proposed car park mentioned in Point 12 is considered to be workable and likely to be used for its intended purpose. It is considered that the errors/ambiguities mentioned in Point 13 are not so significant as to affect whether the appearance of the buildings would be appropriate.

10. APPRAISAL

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

- A Spatial strategy (ULP Policy S7)
- B Housing land supply (NPPF)
- C Access (ULP Policy GEN1)
- D Design (ULP Policy GEN2; SPD Accessible Homes and Playspace; The Essex Design Guide; Urban Place Supplement to The Essex Design Guide)
- E Infrastructure provision (ULP Policy GEN6; Developer Contributions Guidance Document; Developers' Guide to Infrastructure Contributions)
- F Nature conservation (ULP Policies GEN7, ENV7 and ENV8)
- G Vehicle parking (ULP Policy GEN8; Parking Standards: Design and Good Practice; Local Residential Parking Standards)
- H Impact on archaeological remains (ULP Policy ENV4)
- I Provision of affordable housing (ULP Policy H9)
- J Housing mix (ULP Policy H10)

A Spatial strategy (ULP Policy S7)

- 10.1 Policy S7 seeks to protect the character of the countryside. The application site is located outside the Little Canfield Development Limit, such that a development of the proposed nature and scale would normally be considered inappropriate. However, two material considerations indicate that residential development on the site would be acceptable.
- 10.2 Firstly, other developments have been approved in nearby locations which are also outside the Development Limit. These ensure that residential development is permitted to extend to the east and west of the application site, constrained by Dunmow Road which runs along the northern boundary and the Flitch Way along the southern boundary. Residential development on the application site would therefore be compatible with the character of the surrounding area because it would merely fill a gap within clearly defined boundaries.
- 10.3 Secondly, Takeley/Little Canfield Policy 3 of the Draft Local Plan allocates an area of land for residential development which includes the application site. It is acknowledged that the Draft Local Plan has not yet been examined by a Planning Inspector, and therefore limited weight may be given to its policies. However, together with the above consideration, its support for residential development on the site ensures that the policy objection under Policy S7 is outweighed.

B Housing land supply (NPPF)

- 10.4 Paragraph 49 of the NPPF states that 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. While the Council has at

times been unable to demonstrate a five-year supply, the supply currently exceeds six years.

C Access (ULP Policy GEN1)

- 10.5 Policy GEN1 requires development to meet a number of criteria in relation to access. The proposed dwellings would be accessed via a new junction with Dunmow Road. Taking into account the comments of the Highway Authority, it is considered that, subject to the use of appropriate planning conditions, the proposed access arrangements are acceptable and in compliance with Policy GEN1.

D Design (ULP Policy GEN2; SPD Accessible Homes and Playspace; The Essex Design Guide)

- 10.6 Policy GEN2 requires development to meet a number of criteria in relation to design, and further guidance is contained within the SPD entitled 'Accessible Homes and Playspace' and 'The Essex Design Guide'.
- 10.7 The proposed houses would be laid out along two cul-de-sacs in a mixture of detached, semi-detached and short-terraced arrangements. There is no strong building line or uniform street scene along Dunmow Road so the staggered layout along the site's frontage is considered appropriate. A range of house types have been built and approved in the surrounding area so the slightly different design of the proposed houses would not appear out of keeping.
- 10.8 A tree survey has been submitted with the application, which states that there is only one tree on the site of any notable value. Taking into account the comments of the Landscape Officer, it is considered that the existing vegetation on the site is generally of poor quality and limited amenity value, although the mature oak tree to be retained on the road frontage (labelled in the submitted tree survey as T1) should be protected during construction. A condition could be used to secure appropriate tree protection measures, together with an appropriate landscaping scheme for the whole site.
- 10.9 The SPD entitled 'Accessible Homes and Playspace' indicates that the proposed development should include one wheelchair accessible dwelling. Taking into account the comments of the Access & Equalities Officer, it is considered that Plot 4 would be appropriate for a wheelchair user provided that a number of alterations are made to the internal layout. It is acknowledged that a wheelchair user may not purchase the dwelling, in which case it would be unreasonable to require the internal alterations to be implemented. It is therefore considered appropriate to use a S106 agreement to secure a financial contribution of £8,500 towards making the alterations, which would only be payable in the event that a wheelchair user purchases the property.
- 10.11 All dwellings with three or more bedrooms are served by rear gardens which meet or exceed the minimum standard of 100 square metres, and all two-bedroom dwellings are served by rear gardens which exceed the minimum standard of 50 square metres.
- 10.12 The nearest neighbours to the application site are the dwellings of Spinney Lodge to the west and New Cambridge House to the east. The first floor windows on the rear elevations of Plots 14 and 15 would have a view of a play room at Spinney Lodge, approximately 22 metres away. 'The Essex Design Guide' recommends a minimum separation distance of 25 metres. However, as the actual distance falls only slightly short of the standard, and the play room is also served by south-facing French doors which could be relied upon for daylight if the curtains were to be drawn at the window, it is considered that the harm to the living conditions of neighbours is not significant in

this respect. While Plots 6 and 7 would be positioned adjacent to New Cambridge House, any views of the side-facing play room and study would be oblique because the windows would be approximately at right angles to each other. It is therefore considered that no significant harm would be caused to the living conditions of neighbours.

E Infrastructure provision (ULP Policy GEN6; Developers' Guide to Infrastructure Contributions)

10.13 Policy GEN6 requires development to provide, or contribute towards, infrastructure improvements which it necessitates. Taking into account the comments of the Community Infrastructure Planning Officer, it is considered that the proposed development would contribute to an increase in demand for primary education that must be met by increasing the current level of provision. A financial contribution of £43,789 should therefore be secured using a S106 agreement to ensure that the infrastructure can be improved, in accordance with 'Developers' Guide to Infrastructure Contributions'. Subject to this agreement, there is no conflict with Policy GEN6.

F Nature conservation (ULP Policies GEN7, ENV7 and ENV8)

10.14 Policy GEN7 seeks the protection of wildlife. The site would be cleared of existing buildings and vegetation, and two ecological reports have been submitted with the application. Taking into account the comments of the Ecological Consultant, it is considered that the development is unlikely to cause harm to protected species. A condition would be appropriate to ensure adherence to the recommendations relating to the clearance of the site, and an informative should be placed on the decision notice to ensure the applicant is aware of their legal responsibilities in relation to nesting birds. A number of enhancements have been identified in the ecology survey, which can be secured using a condition.

10.15 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. Regulation 9(3) of the Conservation of Habitats and Species Regulations 2010 states, "A competent authority, in exercising any of their functions, must have regard to the requirements of the Habitats Directive and Birds Directive so far as they may be affected by the exercise of those functions". Recent case law (Morge, 2011) has established that European Protected species only present a ground for refusal where (i) Article 12 is likely to be offended; and (ii) a Natural England Licence is unlikely.

10.16 Article 12 of the Habitats Directive contains 4 main offences for European Protected Species:

1. Deliberate capture or killing or injuring of an EPS
2. Deliberate taking or destroying of EPS eggs
3. Deliberate disturbance of an EPS
4. Damage or destruction of an EPS breeding site or resting place

10.17 Taking into account the above assessment in relation to Policy GEN7, it is considered unlikely that the development would result in a European Protected Species offence being committed.

G Vehicle parking (ULP Policy GEN8; Parking Standards: Design and Good Practice; Local Residential Parking Standards)

10.18 Policy GEN8 requires development to make appropriate provision for vehicle parking, and the current standards are contained within 'Parking Standards: Design and Good Practice' and 'Local Residential Parking Standards'. Each dwelling would be provided with off-street parking in accordance with the standards, and the necessary four visitor spaces would be provided at the side of Plot 3. It is therefore considered that there is no conflict with Policy GEN8.

H Impact on archaeological remains (ULP Policy ENV4)

10.19 Policy ENV4 seeks the preservation or investigation of important archaeological remains as appropriate. The site fronts the Roman road from Braughing to Colchester, while to the rear lies the historic railway line of the Flitch Way. Taking into account the comments of the Historic Environment Officer, it is considered appropriate to require by planning condition that appropriate archaeological investigation is carried out before development commences. Subject to this condition, it is considered that there is no conflict with Policy ENV4.

I Provision of affordable housing (ULP Policy H9; Developer Contributions Guidance Document)

10.20 Policy H9 seeks appropriate affordable housing provision, and the 'Developer Contributions Guidance Document' indicates that this should account for 20% of the total number of dwellings proposed in this application on the basis that there would be a net increase of 14 dwellings. The application makes provision for the necessary three affordable units. Taking into account the comments of the Housing Enabling Officer, it is considered that the proposed provision is appropriate and that the tenure mix should be: two affordable rent houses and one shared ownership house. This should be secured using a S106 agreement.

J Housing mix (ULP Policy H10)

10.21 Policy H10 seeks a significant proportion of small market houses. Two 2-bed market houses and four 3-bed market houses would be provided, accounting for 40% of the total number of proposed dwellings. This is considered to be a significant proportion, in accordance with Policy H10.

11. CONCLUSION

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

A Taking into account existing and approved development in the surrounding area, and the allocation of the site for residential development in the Draft Uttlesford Local Plan, it is considered that any conflict with the spatial strategy of the adopted Local Plan is outweighed.

B The proposal does not conflict with relevant policies on access, design, infrastructure provision, nature conservation, vehicle parking, archaeological remains, affordable housing provision or housing mix.

C There are no considerations that weigh against granting planning permission.

It should be noted that this report is an update to the report presented to Planning Committee on 23 July 2014. At that meeting, Members decided to defer a decision until further information could be provided regarding contributions towards education provision. Officers will report this information verbally.

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 the freeholder 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) secure contribution towards affordable housing**
 - (ii) secure contributions towards education**
 - (iii) secure contribution towards wheelchair adaptations**
 - (iv) pay the Council’s reasonable costs**
 - (v) pay monitoring charges**
- (II) 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.**
- (III) If the freehold owner shall fail to enter into such an obligation by 21 August 2014 by the Assistant Director of Planning and Building Control shall be authorised to refuse permission in his discretion anytime thereafter for the following reasons:**
- (i) Lack of contribution towards affordable housing**
 - (ii) Lack of contributions towards education**
 - (iii) Lack of contribution towards wheelchair adaptations**

Conditions/reasons

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this decision.

REASON: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Prior to occupation of any dwelling, the provision of an access formed at right angles to Dunmow Road to include but not limited to: minimum 4.8 metre carriageway width with 2 metre wide footways on both sides and 8 metre junction radii. 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.

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.

3. Prior to the commencement of development, details of hard and soft landscaping (including planting, hard surfaces and boundary treatment) shall be submitted to and approved in writing by the Local Planning Authority. The details shall indicate the trees to be retained and describe the measures to be taken to protect the trees during construction.

All hard and soft landscape works shall be carried out in accordance with the approved details. All planting, seeding or turfing and soil preparation comprised in the above details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings, the completion of the development, or in agreed phases whichever is the sooner, and any plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation. All landscape works shall be carried out in accordance with the guidance contained in British Standards, unless otherwise agreed in writing by the local planning authority.

REASON: To ensure a satisfactory appearance for the development, in accordance with Policy GEN2 of the Uttlesford Local Plan (adopted 2005).

4. Prior to commencement of the development, a schedule of the type and colour of all external materials to be used in the construction of the dwellings shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved schedule.

REASON: To ensure a satisfactory appearance for the development, in accordance with Policy GEN2 of the Uttlesford Local Plan (adopted 2005).

5. Prior to commencement of the development, samples of the materials to be used for the external walls and roofs shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved samples.

REASON: To ensure a satisfactory appearance for the development, in accordance with Policy GEN2 of the Uttlesford Local Plan (adopted 2005).

6. Prior to commencement of the development, a programme of archaeological investigation and recording shall be carried out in accordance with a written scheme of investigation submitted to and approved in writing by the Local Planning Authority.

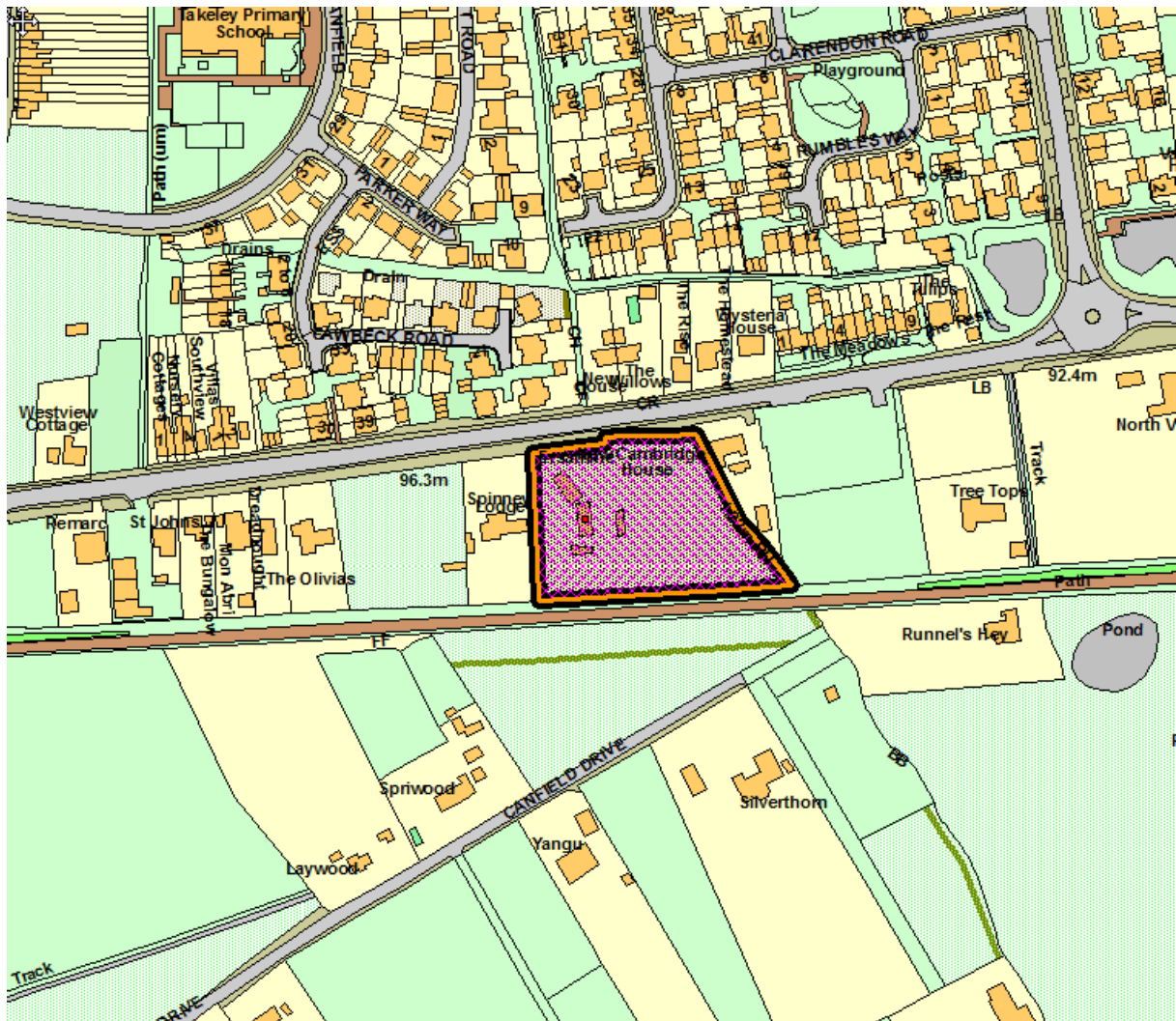
REASON: To ensure that appropriate archaeological investigation is carried out, in accordance with Policy ENV4 of the Uttlesford Local Plan (adopted 2005).

7. The development shall be carried out in accordance with the recommendations on pages 8 and 16 of the submitted 'Protected Species Survey & Report' (June 2014) and 'Ecology Survey and Report' (December 2013) respectively.

REASON: To protect and enhance protected species and their habitats, in accordance with Policy GEN7 of the Uttlesford Local Plan (adopted 2005).

Application no.:UTT/14/0122/FUL

Address: Ersamine Dunmow Road Little Canfield



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Organisation: Uttlesford District Council
Department: Planning
Date: 5 August 2014
SLA Number: 100018688

UTT/ 14/0779/FUL (AYTHORPE RODING)

(MAJOR APPLICATION)

PROPOSAL: Demolition of Existing Buildings and Redevelopment of Site to provide 11 Residential Units (Class C3) comprising 9 x 5 Bed Units, 1 x 2 Bed Units and 1 x 3 Bed Unit together with Associated Highways and Landscaping Improvements.

LOCATION: Windmill Works, Aythorpe Roding

APPLICANT: Crest Nicholson Eastern

AGENT: G.L. Hearn

EXPIRY DATE: 24 June 2014

CASE OFFICER: Nigel Brown

1. NOTATION

1.1 The site lies outside of any defined Development Limits.

2. DESCRIPTION OF SITE

2.1 The site is approximately 0.9 ha as is located adjacent to Dunmow Road (B184) to the west of Keers Green, a small hamlet located between the villages of Aythorpe Roding and Leaden Roding.

2.2 The site, which is broadly triangular in shape, operates as a medium-sized commercial industrial unit, and more specifically as a paper merchant. Its lawful use is a general industrial (Use Class B2). In addition, vacant office buildings are also located to the north-west corner of the site however these are now derelict and suffer from significant fire damage. A large proportion of the site is covered by an industrial warehouse building, ancillary storage and a significant area of hardstanding.

3. PROPOSAL

3.1 The application is a full application for the erection of eleven dwellings. The proposal consists of 9 x five bedroom houses, and two affordable housing units.

3.2 The proposal consists of nine five bedroom dwellings accessed from the existing road to the north of the site. The two affordable housing units, which are now confirmed as shared ownership properties will have their own dedicated access onto the same road but closer to its junction with Dunmow Road. The proposed development would include a footpath access onto Dunmow Road.

3.3 Each of the nine market dwellings on this site have been individually designed.

4. APPLICANT'S CASE

4.1 As requested by UDC, this addendum provides further clarification regarding two planning considerations; namely, the change in the planning and political context since the 2007 appeal, and the proposed housing mix.

4.2 The planning and political context since the 2007 appeal decision

It is considered that the planning and political context has sufficiently changed since 2007 to result in support for the principle of the site's redevelopment for residential use. In 2007, the Inspector stated that *"the site is in employment use and the development plan policy indicates that redevelopment for other uses may be permitted if the employment use has been abandoned or the present use harms the character and amenity of the area. Here, whilst industrial use may have developed by default, it is an established industrial location and the site is on the market. Thus, it cannot be said that the site has been abandoned. Moreover, there is no objective evidence before me to show that the current use has resulted in unacceptable harm to neighbours' living conditions."*

4.2 Post 2007, during the recession, the industrial operations gradually decreased resulting in the dereliction of the office buildings to the north-west corner of the site. In addition, the site suffered significant fire damage in 2013 as a result of vandalism. It is therefore considered that, since 2007, the site has had a greater impact on the sensitive surrounding environment characterised by three adjacent listed buildings.

Despite decreasing operations, the activity that does still exist creates undesirable transport and noise impacts. If the site does not obtain a residential consent, the operators, with the benefit of a certificate of lawful use (obtained in 2011) will need to consider intensification of commercial activity which would further exacerbate issues associated with visual impact, transport, noise and pollution.

Since the appeal in 2007, there is now evidence to demonstrate that the current use (and the potential for intensification) has raised concerns in the local community. Over the last 18 months we have engaged closely with both local residents and the Parish Council regarding the principle of the site's redevelopment.

As outlined in the SCI submitted as part of the planning application, there has not been a single objection to the principle of development. Comments from the local community include:

"We would like to show our support for this development 100%. We feel it can only enhance the area and is much more preferable over other options for this land which would be detrimental to the village life."

- *"This development would be an asset to Aythorpe Roding. The plans look very exciting and would improve the area."*

4.3 More specifically, the residents who live in the Grade 2 Listed cottages next to the site have written letters of support, stating:

- *"We clearly prefer a well-designed housing scheme to any industrial activities on this site"*
- *"I would like to say that this proposed redevelopment of this site has my 100% support. I feel it will be very much more in keeping with the surrounding area, and be a big improvement on the derelict and unsightly industrial buildings that exist on the site at the moment."*

4.4 In 2007, the Inspector also stated *"I consider that the development would conflict with the objectives of national and development plan policy in that it would not be a sustainable form of development given the almost total dependence on the private car*

to satisfy the day to day needs of prospective residents. This conflict is not outweighed by any other material considerations."

- 4.5 Since 2007, there has been a clear shift in national policy to boost significantly the supply of housing following adoption of the NPPF (2012). In addition, the NPPF seeks *"the effective use of land by re-using land that has been previously developed (brownfield land), provided it is not of high environmental value"* and encourages *"local authorities to approve planning applications for change to residential use and any associated development of commercial buildings (currently in the B use classes) where there is an identified need for additional housing in that area (para 51)"*. The NPPF also promotes high quality design in keeping with local characteristics to enhance the immediate environment (paras 55, 63 etc.).
- 4.6 There have been numerous post-NPPF decisions where these considerations have outweighed a site's rural, car-dependent location. At a local level, the former nursery site opposite to Windmill Works obtained planning consent (UTT/13/0571/FUL) for three dwellings in May 2013. The officer's report recognises that *"the site is located outside of any defined development limits in the adopted local plan and previous applications for residential development have been dismissed at appeal...However, the applicant is offering a financial contribution to ensure the provision of local affordable housing. There is a deficit of affordable housing at Aythorpe Roding in addition to a lack of suitable sites for affordable housing. In light of the applicant's willingness to contribute to £120,000 towards local affordable housing and the support for the scheme from the Parish Council and neighbours, it is considered that this is a material consideration which would outweigh the policy objections to the scheme"*.
- 4.7 In other words, the former nursery site's rural, car-dependant location was outweighed by 1) a contribution towards local affordable housing and 2) support from the Parish and local residents.
- 4.8 This decision sets a precedent for the release of Windmill works opposite where its rural location should be outweighed collectively by 1) the provision of onsite affordable housing to meet the need identified in the local housing needs survey 2) support from the Parish and local residents and 3) removal of a non-conforming use that has a detrimental impact on the surrounding environment. This approach was agreed by UDC officers at the two pre-application meetings.
- 4.9 Justification for housing mix
Policy H10 of the adopted 2005 Local Plan states that *"All developments on sites of 0.1 hectares and above or of 3 or more dwellings will be required to include a significant proportion of market housing comprising small properties."*
The NPPF's emphasis on both viability (para 173) and quality of design to enhance immediate surroundings (para 55, 63 etc.) have informed UDC's more up-to-date Pre-Submission Local Plan Policy HO2 (April 2014).
Given the advanced stage of the emerging Local Plan, Policy HO2 (soon to replace Policy H10) should be afforded significant weight in decision making. Policy HO2 states that *"All proposals for new housing developments of 5 dwellings or more or 0.17 hectares and above will be required to provide a mix of dwelling types and size to meet the needs of the local area and the district as a whole as evidenced by the most recent Strategic Housing Market Assessment and local character considerations and viability."*
- 4.10 As outlined within the officer report on the former nursery site opposite Windmill Works, GL Hearn's planning statement, and a number of recent residential consents in UDC, there is a recognised need for additional housing across the District, including at

Aythorpe Roding. As referred to previously, the two affordable units will meet an identified local need.

- 4.11 The remaining units comprise of larger family houses. This is the result of a detailed consideration of both the local character and site specific spatial constraints, in addition to viability (as outlined in Pre-Submission Local Plan Policy HO2). The D&A submitted as part of the application outlines the iterative design process undertaken over the last year which originated with a scheme of 16 units including a greater proportion of smaller properties. However, after assessment of the site's irregular shape, technical requirements, policy standards (garden sizes, parking etc.), and most importantly, the distinct immediate rural character (containing three adjacent listed buildings), this was reduced to a lower density scheme of 11 high quality, bespoke units. This approach was also supported through engagement with the Parish and local community who considered that 16 units represented overdevelopment of the site.
- 4.12 The other necessity to incorporate larger family units relates to viability. The viability report prepared by Strutt and Parker identifies the site's high existing use value in addition to the high remediation and other abnormal costs. Even with this proposed housing mix (and the acceptance of a shared equity product), the scheme is only just viable.
- 4.13 It is therefore considered that local housing need, community feedback, local character considerations, physical and technical constraints, and viability, collectively form a robust justification for the housing mix proposed.

5. RELEVANT SITE HISTORY

- 5.1 Various historical planning applications related to business uses. Recent relevant planning applications to this planning application.

UTT/0832/06/OUT, Outline application for residential development, Refused 13 May 2006, Appeal dismissed 26 April 2007

UTT/0149/08/FUL, Change of use of office to residential dwelling, Refused 26 March 2008

UTT/1699/11/CLP, Certificate of Lawfulness of Existing Use for use of building for B2 use with ancillary storage, Approved 19 December 2011.

6. POLICIES

6.1 National Policies

- National Planning Policy Framework

6.2 Uttlesford District Local Plan 2005

- S3 Other Settlement Boundaries
- S7 The Countryside
- GEN1 Access
- GEN2 Design
- GEN6 Infrastructure Provision to Support Development
- GEN7 Nature Conservation
- GEN8 Vehicle Parking Standards

- ENV14 Contaminated Land
- H1 Housing Development
- H9 Affordable Housing
- H10 Housing Mix

- Supplementary Planning Document; Accessible Homes and Playspace

- Uttlesford's Car Parking Standards

- Essex Design Guide

6.3 Uttlesford Pre-Submission Local Plan April 2014

- SP2 Development within Development Limits
- SP6 Meeting Housing Need
- SP7 Housing Strategy
- SP9 Protection of Countryside
- SP11 Protecting Natural Environment
- SP12 Accessible Development
- SP14 Infrastructure
- DES1 Design
- TA1 Vehicle Parking Standards
- EN3 Contaminated Land
- HO2 Housing Mix
- HO7 Affordable Housing

7. PARISH COUNCIL COMMENTS

7.1 Aythorpe Roding Parish Council support this application but ask for the following to be considered before any decision is made:

- If there is any change to affordable housing allocation please can the parish council please be notified as soon as possible?
- Can extensions to speed limit of Aythorpe Roding be put in place on the Dunmow Road to include the area of the proposed along the main road?
- Surface water must be adequately dealt with to avoid recurrence of the problems that occur during heavy rain.
- A need for clearly visible signs to prohibit construction traffic using Keers Green Lane.
- Broadband reception in the Aythorpe area is very poor has any consideration been given to enhance the broadband capabilities.

8. CONSULTATIONS

UDC Environmental Health

8.1 No objection subject to recommendation of noise and site investigation being conditioned.

Natural England

8.2 No objection subject to standing advice

Place Services Ecology

- 8.3 Initially objected to lack of bat survey and requested emergency bat survey. Following further discussions with regards the context of the buildings, and the fact that they were fire-damaged, unlikely that bats would be presence. Therefore removed initial objection and requested mitigation conditions.

Essex County Council-Minerals and Waste

- 8.4 No comments on this application

Essex County Council Highways

- 8.5 Raises no objection subject to conditions

Environment Agency

- 8.6 We have reviewed the application and supporting documents, as submitted, and would advise the Council that we have no objection to the development proposal. However, the following advisory comments are offered.

Land Contamination

- 8.7 We consider that the previous use(s) of the development site may have caused, or have the potential to cause contamination as discussed in the Site Investigation & Risk Assessment Report dated October 2012 prepared by Southern Testing. In line with the advice given in the report we consider that the following condition should be appended to any planning permission granted.

Environment Agency position

- 8.8 We consider that planning permission could be granted to the proposed development as submitted subject to conditions without these conditions, the proposed development on this site poses an unacceptable risk to the environment and we would object to the application.

Sustainable Design and Construction

- 8.9 Climate change is one of the biggest threats to the economy, environment and society. New development should therefore be designed with a view to improving resilience and adapting to the effects of climate change, particularly with regards to already stretched environmental resources and infrastructure such as water supply and treatment, water quality and waste disposal facilities. We also need to limit the contribution of new development to climate change and minimise the consumption of natural resources. In the light of the above comments, we recommend conditions be appended to any planning permission granted.
- 8.10 Further advice provided to the applicant with regards the developer's duties with regards demolition and removal of waste

Essex County Council-Sustainable Drainage

- 8.11 The site falls below the threshold of 1 hectare and therefore unable to comment.

Essex County Council Education

- 8.12 According to our forecasts, there should be sufficient early years and childcare provision and primary school provision to meet the needs of the development.
- 8.13 With regard to secondary provision the priority admissions area school for this development would be The Helena Romanes School and Sixth Form Collage (HRS) which has a bet capacity of 1,563 pupils. Forecasts show that by 2019-20 there is likely to be 1,578 pupils on the roll rising to 1,627 pupils the following year. Further, the school is in excess of the statutory walking distance from the proposed development and therefore ECC is obliged to provide free transport to the school resulting in a long term cost to ECC. The cost estimated is to be £3.90 per pupil per day for 195 days per year; a standard academic year. It is the practice of ECC to seek costs for a 5 year period.
- 8.14 In view of the above I request on behalf of ECC 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 our Developers' Guide to Infrastructure Contributions, 2010 Edition. Our standard S106 clauses that give effect to this formula are stated in our Education Contributions Guidelines Supplement, published in June 2010. I also request that the S106 agreement include a contribution towards secondary school transport costs as outlined above. For information purposes only, on the unit mix referred to above the secondary school contribution would be £36,205 and school transport sum would be £8,366. Both costs would be index linked to April 2014 costs.
- 8.15 If your council were minded to turn down the application, I would grateful if the lack of education and transport provision in the area can be noted as an additional reason for refusal and we are automatically consulted on any appeal or further application relating to the site.

Anglian Water

- 8.16 Anglian Water have no sewers in the area and therefore have no comments to make on this application.

9 REPRESENTATIONS

- 9.1 Four representations received have registered **support** for the development for the following reasons:

- Development in keeping with the area
- Improvement to area with removal of existing unsightly buildings
- Positive extension to the hamlet

Whilst supporting the application some comments made:

- Questioning the removal of mature trees from the site prior to the submission of the planning application.
- Questioning capacity of utilities
- Concerns over broadband capacity in area

- 9.2 One representation indicated neither support or objection but made comments

- Inadequate school spaces in the area
- Questioned how affordable housing will be delivered
- Dubious about contaminated land submission
- Traffic problems from increased traffic
- Drainage problems
- Possible convergence of Aythorpe Roding with Leaden Roding.

10 APPRAISAL

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

- A Principle of Residential Development (Local Plan Policies S3, S7 & H1)
- B The Design and Layout of the Proposal (Local Plan Policies GEN8, UDC Car Parking Standards & Essex Design Guide)
- C Housing Mix (Local Plan Policy H10)
- D Traffic and Transport (Local Plan Policy GEN1)
- E Provision of Affordable Housing (Local Plan Policy H9)
- F Education & Infrastructure (Local Plan Policy GEN6)
- G Natural Conservation Issue (Local Plan Policy GEN7)
- H Contamination and Drainage (Local Plan Policy ENV14)

A Principle of Residential Development (Local Plan Policies S3, S7 & H1)

- 10.1 The application site lies outside of any defined Development Limits, and therefore technically lies in the open countryside. The site is not located in a sustainable location and in essence is in a location where residential development would not normally be supported and would be contrary to Policies S3, S7 and H1 of the Adopted Local Plan
- 10.2 In June 2014 the Council published its Housing Trajectory and 5 Year Land Supply Statement. This Statement evidences that the Council can now demonstrate a housing land supply in excess of the five year supply. In June this stood at 6.2 years' supply. As such there is no onus to approve planning permission for this site in light of Paragraph 49 of the NPPF.
- 10.3 Reference has been made to the 2007 dismissed appeal for residential development on this site. At the time of this dismissed appeal the site was occupied by an existing business operator. The Inspector considered that it had not been demonstrated that the employment use had been abandoned and there was not an obligation to consider alternative uses. Since the 2007 decision, following the recession, the business operations on site have decreased and the site has fallen into some degree of dereliction through a fire on the site. In 2011 although the use had ceased a Certificate of Lawfulness of Existing Use was achieved establishing a B2 (General Industrial Use) on the site. Although dereliction should never be a reason to allow residential use, the establishing of a B2 use on the site could constitute a non-conforming use, in what is a modest hamlet with some minimal residential units adjacent and in close proximity.

- 10.4 There has been considerable support from the parish council and from the few residential properties in the vicinity. This support is fundamentally based around the removal of the potential of a non-conforming B2 that could be re-established on this site, which by the nature of general industrial uses could cause amenity issues to neighbouring properties from noise, fumes and heavy traffic movements.
- 10.5 One additional policy shift since the 2007 dismissed appeal is specifically Paragraph 51 of the NPPF, within which it emphasises the changing of business buildings and land into residential use, where there is no economic impediment to reject such a change. Although the encouragement of the reuse of brownfield land should still be considered on the basis of the sustainability of the site.
- 10.6 Although the site is located in the countryside, and in an unsustainable location, it is considered on balance that this is outweighed by the removal of a non-conforming use through its redevelopment with housing which has considerable support locally from local residents and the Parish Council.

B The Design and Layout of the Proposal (Local Plan Policies H10, GEN8, UDC Car Parking Standards & Essex Guide)

Plot	Bedrooms	Garden Sizes	Car Parking
1	5	220sq. m	4
2	5	275sq. m	4
3	5	600sq. m	4
4	5	560 sq.m	4
5	5	625 sq.m	4
6	5	295 sq.m	4
7	5	405 sq.m	4
8	5	410 sq.m	4
9	5	560 sq.m	4
10	2	120 sq.m	2
11	3	175 sq.m	2

- 10.7 The application site has a total area of 0.9 hectares. The development of the site with 11 dwellings constitutes a very low density of 12 dwellings per hectare.
- 10.8 The development does constitute a development of bespoke five bedroom market units with the provision of two shared ownership affordable housing units. The development provides a development as the table above demonstrates with a consistent over provision of garden sizes across the site. All the five bedroom units provide over double the required 100 sq. m garden sizes, with the smallest being 220 sq. m and largest being 625 sq. m. The affordable housing units also have garden sizes in excess of what is required under the Essex Design Guide.
- 10.9 The development accords with the separation distances within the Essex Design Guide.
- 10.10 The development is fully compliant with the Essex Design Guide. The proposed dwellings have been designed on a bespoke basis to a high quality and would be provide an attractive form of development on the site. All units have adequate car parking provision in accordance with this Council's adopted standards.

C Housing Mix (Local Plan Policy H10)

- 10.11 The proposed development constitutes development of totally five bedroom market units on the site. This initially appears to be non-compliant with Policy H10 of the Local Plan, which calls for the provision of a suitable proportion of smaller dwellings
- 10.12 The applicant has provided a viability appraisal in support of the application. The applicant has demonstrated that the site's value as a B2 site requires the need to generate a higher income to make the proposal viable. This coupled with the local opposition and the considerable unsustainability problems with this site which would question more dwellings on the site. The choice was clearly a decision between 16-20 smaller units or the provision of nine large market units and two affordable units. The viability assessment has been validated by the Council's engaged validator, who has confirmed that the argument to provide 9 five-bedroom units as the only viable market provision on this site.
- 10.13 The housing mix discussion should also be considered in light of the changing policy situation around this issue. The emerging Policy HO2 of the Draft Local Plan does indicate that discussions on matters of housing mix should be considered around local need as demonstrated within the Council's Strategic Housing Market Assessment (SHMA). Although the emerging Local Plan has minimal weight at this stage, evidenced based policies such as this should be given more weight. The Council's latest SHMA does actually indicate that there has been considerably high provision of smaller units in recently delivered developments. As such there is no longer a marked shortage of smaller units, this indicates that Policy H10 has been successfully implemented since adoption of the 2005 Local Plan.
- 10.14 In this instance without this demonstrated shortage of smaller units within the SHMA and the specific viability argument on this site it is not considered defensible to insist upon smaller units.

D Traffic and Transport (Local Plan Policy GEN1)

- 10.15 In support of the application the applicant has submitted a Transport Statement. Essex County Council as the Highway Authority have raised no objections to the proposal subject to conditions.

E Provision of Affordable Housing (Local Plan Policy H9)

- 10.16 As the site constitutes development of more than 0.5 hectares the normal requirement for affordable housing provision on the site would be 40%. For a development of 11 units this would usually equate to four units.
- 10.17 The applicant has provided a viability assessment that questions the viability of the provision of four affordable units on this site. This is based upon the same viability argument based on the housing mix consideration (See C above); and the fact that due to the nature of the development, i.e. the provision of five bedroom units. The provision of two units in lieu of two larger units or even a single larger unit was not viable. The Council's Viability Validator has agreed with this stance.
- 10.18 Initially the developer was not prepared to provide two traditional affordable housing units, but they have now agreed to provide two shared – ownership units which is considered more appropriate in this rural location.

F Education & Infrastructure (Local Plan Policy GEN6)

10.19 Essex County Council as the Education Authority have raised no objection to this proposal. They have indicated that there is sufficient primary and early year's provision in the vicinity.

10.20 However, they have indicated that a financial contribution of £36,205 for secondary provision at Helena Romanes School should be sought. Due to the distance between this site and the Helena Romanes School they have also requested a provision of £8,366 towards school transport. This will be secured through a Section 106 Obligation.

G Natural Conservation Issue (Local Plan Policy GEN7)

10.21 The Council's retained ecologist initially raised objections to this proposal due to the lack of an up to date bat survey, and subsequently requested an emergency bat survey. Following discussions between them and the applicant's ecologist, this original objection has been withdrawn. Due to the fire damaged nature of buildings on the site, it was considered unlikely that bats would be present on the site.

10.22 The Council's ecologist raises no objection subject to conditions to secure mitigation.

H Contamination and Drainage (Local Plan Policy ENV14)

10.23 Both the Council's Environmental Health Officer and the Environment Agency have raised no objection to this proposal, subject to suitable contamination conditions to address the inevitable contamination issues on the site.

10.24 The applicant has submitted the required Flood Risk Assessment with this application. The Environment Agency has raised no objection to the proposal, but has requested specific conditions to secure sustainable drainage systems on site.

11 CONCLUSION

11.1 The principle of development on this site is finely balanced. Although the site is located in an unsustainable location, in the open countryside, the development does achieve the removal of a non-conforming use. The principle of development is therefore, on balance considered acceptable.

11.2 The proposed development accords fully with the Essex Design Guide, with all units achieving at least double the required garden sizes. The proposal is fully compliant with the Council's car parking standards,

11.3 The provision of larger five bedroom units, is considered acceptable, and in line with the Council's SHMR which no longer shows a demonstrated need for smaller dwellings.

11.4 The Council's Viability Validator has confirmed that submitted viability assessment suitably demonstrates that the provision of four affordable housing units on this site would be unviable. The provision of two units is considered an appropriate provision on this site.

11.5 The proposal is technically acceptable, with no objections being raised by the Local Highway Authority with respect of highways safety. The Council's retained ecologist is content on matters related to ecology. Matters related to drainage and contamination has also been demonstrated as acceptable by consultees.

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 the freeholder 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) Secure contribution towards affordable housing
 - (ii) Secure contributions towards education
 - (iii) Meet Council’s legal costs
 - (iv) Monitoring Charge
- (II) 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
- (III) If the freehold owner shall fail to enter into such an obligation by 20 September 2014 by the Assistant Director of Planning and Building Control shall be authorised to refuse permission in his discretion anytime thereafter for the following reasons:
- (i) Lack of contribution towards affordable housing
 - (ii) Lack of contributions towards education

RECOMMENDATION –CONDITIONAL APPROVAL

Conditions/reasons

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this decision.

REASON: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004

2. Prior to occupation of any dwelling, the improvement of the existing accesses as shown in principle on Ardent Drawing No. R590-008 to include visibility splays with dimensions of 61 metres x 2.4 metres x 45 metres to the Windmill Works and 2 metres x 35 metres to the offices as measured from and alongside the nearside edge of the carriageway, such visibility splays shall be retained free of any obstruction in perpetuity. 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.

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 and Policy GEN1 of the Uttlesford Local Plan 2005.

3. Prior to the erection of the development hereby approved (not including footings and foundations) full details of both hard and soft landscape works shall be submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include [for example]:-
 - i. proposed finished levels or contours;
 - ii. means of enclosure;
 - iii. car parking layouts;
 - iv. other vehicle and pedestrian access and circulation areas;
 - v. hard surfacing materials;
 - vi. minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting, etc.);
 - vii. proposed and existing functional services above and below ground (e.g. drainage power, communications cables, pipelines etc. indicating lines, manholes, supports.); retained historic landscape features and proposals for restoration, where relevant.
 - viii. Soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; implementation programme.

REASON: The landscaping of this site is required in order to protect and enhance the existing visual character of the area and to reduce the visual and environmental impacts of the development hereby permitted, in accordance with Policies GEN2, GEN8, GEN7, ENV3 and ENV8 of the Uttlesford Local Plan (adopted 2005).

4. All hard and soft landscape works shall be carried out in accordance with the approved details. All planting, seeding or turfing and soil preparation comprised in the above details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings, the completion of the development, or in agreed phases whichever is the sooner, and any plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation. All landscape works shall be carried out in accordance with the guidance contained in British Standards, unless otherwise agreed in writing by the local planning authority.

REASON: to ensure proper implementation of the agreed landscape details in the interest of the amenity value of the development in accordance with policy GEN2 of the Uttlesford Local Plan (adopted 2005)

5. The development shall be carried out in accordance with the material stipulated within the application, no changes shall be made to these materials without the prior written approval of the Local Planning Authority

REASON: To ensure that the development accords with the design principles of the application in accordance with Policy GEN2 of the Uttlesford Local Plan 2005.

6. No development shall take place until a detailed scheme of mitigation and a monitoring strategy for bats has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved scheme of mitigation and approved monitoring strategy and shall be retained as such thereafter. To discharge this condition a copy of the EPS bat licence and method statement will be submitted to Uttlesford DC.

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

7. The development hereby permitted shall be implemented in accordance with the 'recommendations and biodiversity enhancement measures' submitted with the application as detailed in the approved Ecological Assessment report, dated 2014 (Section 6) and shall be completed in full according to the timings in the report. The development hereby permitted shall subsequently be implemented in accordance with the approved details and thereafter the mitigation / enhancement measures shall be permanently maintained and retained in accordance with the approved details, unless otherwise approved in writing by the Local Planning Authority.

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

8. 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 County 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.

9. Prior to each phase of development approved by this planning permission no development / No development approved by this planning permission> (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), shall take place until a scheme that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

- 1) A preliminary risk assessment which has identified: all previous uses potential contaminants associated with those uses a conceptual model of the site indicating sources, pathways and receptors potentially unacceptable risks arising from contamination at the site.

- 2) A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

- 3) The results of the site investigation and detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken. 4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these components require the express written consent of the local planning authority. The scheme shall be implemented as approved.

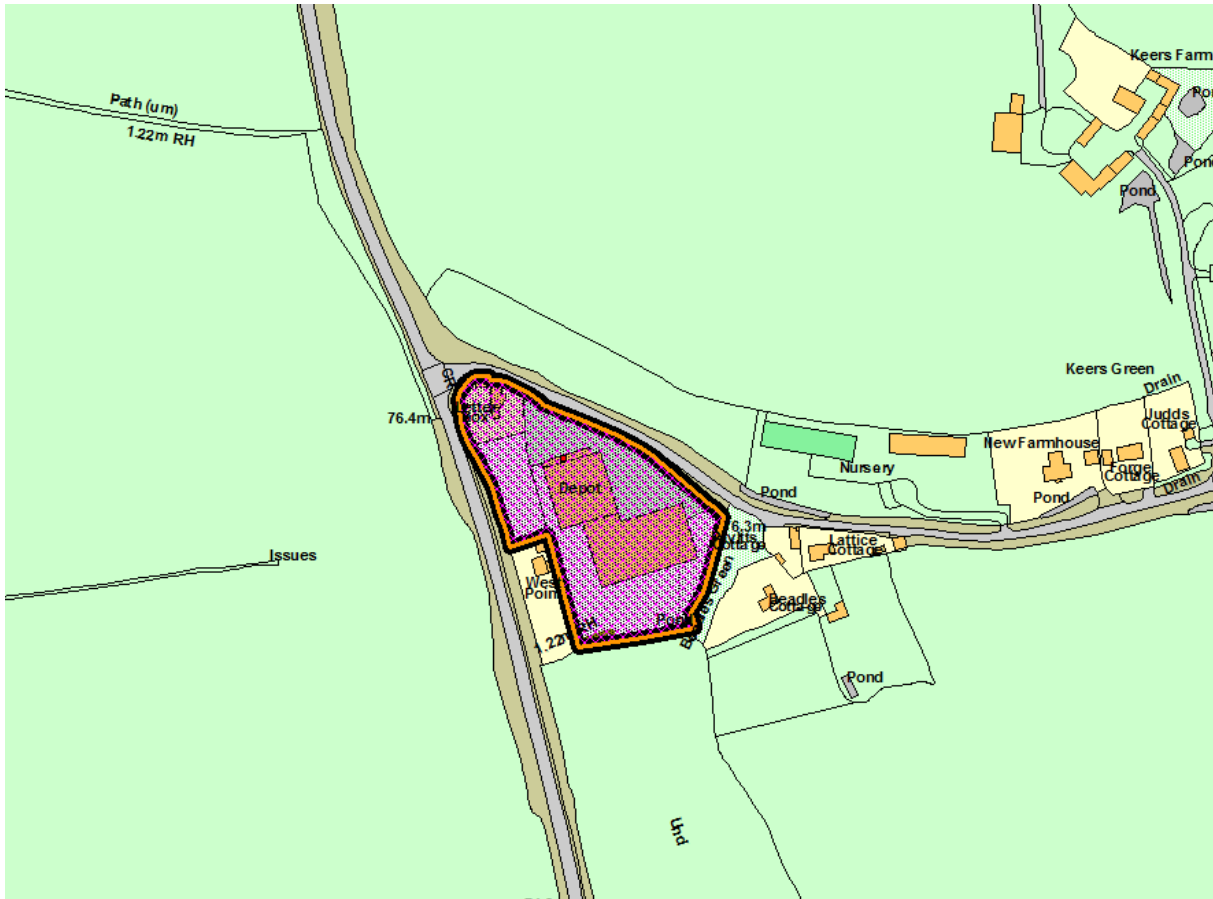
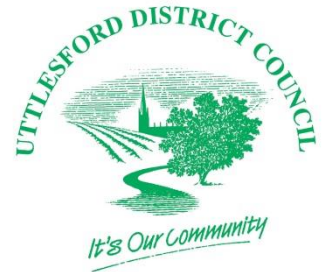
REASON: For protection of the water environment and to address potential contamination on the site in accordance with Policy EN14 of the Uttlesford Adopted Local Plan 2005.

10. No occupation of any part of the permitted development / of each phase of development shall take place until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved.

REASON: For protection of the water environment and to address potential contamination on the site in accordance with Policy EN14 of the Uttlesford Adopted Local Plan 2005.

Application no.: UTT/14/0779/FUL

Address: Windmill Works Aythorp Roding



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Organisation: Uttlesford District Council
Department: Planning
Date: 5 August 2014
SLA Number: 100018688

UTT/ 14/1688/FUL (WIMBISH)

(MAJOR APPLICATION)

PROPOSAL: **Erection of Affordable Housing Development consisting of 11 dwellings, 3 of which to be “open market”.**

LOCATION: **Land at Mill Road, Mill Road, Wimbish, Essex**

APPLICANT: **Hastoe Housing Association.**

AGENT: **Mr John Retchless**

EXPIRY DATE: **10th August 2014**

CASE OFFICER: **Emmanuel Allanah**

1. NOTATION

1.1 Exception Sites; Archaeological Site and within Debden Radar Area.

2. DESCRIPTION OF SITE

2.1 The application site is located adjacent to Mill Road in Wimbish. It is situated in the south-east of an arable field with residential properties and gardens to the east and the site of the Old Corn Mill to the south. And access is through an existing field entrance to the south, and a new residential access/highway will be formed utilising the existing access position. The boundaries consist of an existing ditch and tree belt along the south-western boundary, with an existing hedge and close boarded fence to the north-eastern boundaries. Where the site abuts the existing development along Mill Road, the northern boundary which is defined with post and wire fencing.

3. PROPOSAL

3.1 The erection of affordable Housing Development consisting of 11 dwellings, 3 of which to be “open market”.

3.2 Given that this is an exception site the Council have commissioned KIFT Consulting for the validation of the financial viability assessment for the proposed development of 11 residential dwellings; eight as affordable rent and three as open market sale. This is because Hastoe Housing Association (HHA) has indicated that the scheme is not viable without the three open market sale units to cross subsidise the affordable housing.

4. APPLICANT'S CASE

4.1 Applicant's supporting statement include that the proposed 11 residential dwellings of which eight would be for affordable rent and three for open market sale is not considered to be viable; in addition with design and access statement.

5. RELEVANT SITE HISTORY

- 5.1 UTT/12/5473/OP – Outline proposal for the erection of 11 no. detached and semi-detached, dwellings of which 6 are affordable with all matters reserved except access. The proposed planning application was withdraw.
- 5.2 UTT/1469/01/OP – Erection of one house and garage and creation of vehicle access. Refuse.
- 5.3 UTT/1474/01/OP – Erection of two houses with garages and creation of vehicular. Refuse.

6. POLICIES

6.1 National Policies

- National Planning Policy Framework

6.2 Uttlesford District Local Plan 2005

- GEN1 -Access
- GEN2-Design
- GEN6-Infrastructure Provision to Support Development
- GEN7-Nature Conservation
- GEN8-Vehicle Parking Standards
- S7-The Countryside
- ENV4-Ancient Monuments and Sites of Archaeological Importance
- ENV5-Protection of Agricultural Land
- ENV8-Other Landscape Elements of Importance for Nature
- H4-Backland Development
- H9-Affordable Housing
- H11-Affordable Housing on “Exception Sites”

6.3 Uttlesford Local Plan-Pre-Submission Consultation, April 2014

- SP6- Meeting Housing Need
- HO2-Housing Mix
- HO8-Affordable Housing on “Exception Sites”
- SP12-Accessible Development
- TA1-Vehicle Parking Standards
- SP14-Infrastructure

- 6.4 **Uttlesford Council Housing Land Supply for 6.2 Years** undergoing public consultation since June 2014.

7. PARISH COUNCIL COMMENTS

- 7.1 Comments to be reported.

8. CONSULTATIONS

Environment Agency

- 8.1 As this application is for a site under a hectare in size, located in Flood Zone 1, no comment to make.

SuDS

8.2 No comment to make.

NERL Safeguarding Office

8.3 Proposal did not have conflict with their safeguarding criteria.

ECC Archaeology

8.4 No objection although recommended appropriate archaeological trial trench and excavation planning condition.

ECC Education

8.5 The above pre-application enquiry has been passed to me to comment on any possible s106 contributions for pre-school and school purposes. We understand that the development is to be 100% affordable, therefore exempt in terms of our policy Education Contributions Guidelines. No education contribution would be required on the understanding that the development would be on a 'not for profit' basis, however if this is to change in the future please contact me to discuss.

ECC Highways

8.6 No objection and recommended appropriate planning conditions

Ecological Consultant

8.7 I note that the ecology report states that a 'Phase 2 botanical survey' should be undertaken. We would currently object to the application on the basis that this information is absent. Please let us know when this survey has been undertaken and we will send a formal response.

9. REPRESENTATIONS

9.1 The application has been advertised on site and within the local press. Neighbouring occupiers have been consulted of the application. As a result one letter of concern and one letter of support have been received raising the following points:

- The Parish Council fully approve and support this application as there is a proven affordable housing need in the village, which was proven by a recent housing survey that was carried out.
- We draw your attention to the issue of surface drainage water being dealt with properly and as the adjacent farmer we would prefer there is a ditch dug along the north boundary.

10. APPRAISAL

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

- A The principle of the proposed development.
- B Whether the proposed residential dwelling houses in terms of their scale, form, layout, appearance and design would harm the character of the area or the living condition of the adjoining occupiers.

- C The ecological impact
- D Impact on heritage asset
- E Traffic Impact
- F And the impact on local infrastructure

A The principle of the proposed development.

10.1 In land use terms the application site is an existing arable field which can be described as part of the open countryside or outside development limits which policy S7 applies and it has also been current considered as an exception site where the development of affordable housing will be permitted outside settlements on a site where housing would not normally be permitted subject to the evaluation of the following policy criteria.

10.2 *Affordable Housing on "Exception Sites" affirms that "development of affordable housing will be permitted outside settlements on a site where housing would normally be permitted, if it would meet all the following criteria:*

- (a) 100% of the dwellings are to be affordable and provided through a Registered Social Landlord;
- (b) The development will meet a particular local need that cannot be met in any other way;
- (c) The development is of a scale appropriate to the size, facilities and character of the settlements; and
- (d) The site adjoins the settlement.

10.3 Policy S7 seeks to protect the Countryside for its own sake and strictly controls development there. Paragraph 215 of the NPPF advises that due weight should be given to relevant policies according to their degree of consistency with it. A review of the Council's adopted policies advised that Policy S7 is only partly consistent with the NPPF. Nevertheless, it is your Planning Officer's view that the aim within Policy S7 of protecting or enhancing the character of the countryside is consistent with the NPPF, which at paragraph 7 seek to protect and enhance the natural, built and historic environment.

10.4 In policy terms 100% of the dwellings proposed within this exception site would be secured for affordable housing through a local registered social landlord (ie, Hastoe housing Association) subject to the completion of Section 106 Agreement. At the time of assessing the proposed development applicant supporting statement argued that if all the proposed dwellings are secured for affordable housing it would not make the proposed scheme viable. As a result the Council have commissioned KIFT Consulting to validate the Financial Viability Assessment for the development involving the construction of 11 residential dwellings; eight as affordable rent and three as open market sale. Such report findings would be reported in the addendum. As the proposal would provide opportunity in addressing local housing need it is therefore welcome as a benefit to rural housing needs. The immediate surroundings is characterised by open farmland, arable field, tree belt, two storey detached and semi-detached properties, Listed Building occupying different scales of plot sizes evidently shows that there is no dormant architectural character in the area with the exception of the modern two storey detached and semi-detached residential properties with their rear garden adjoining to some of the proposed two storey detached residential properties rear garden. Hence, the principle of the proposed affordable housing is not considered to be in conflict with Policy H11.

B Whether the scale, form, layout, appearance and design of the proposed development would harm the character of the area.

- 10.5 The existing houses which abut the rear limb of the application site comprised of modern two-storey detached and semi-detached brick-built houses, under tiled roofs. And with their back gardens with hedges abuts the rear limb of the application site. There is a single point of access with parking to the front of the dwellings and there is a public footpath from the access running in an easterly direction into the village. And opposite the site are the ends of gardens belonging to a pair of cottages, situated opposite the existing affordable housing which are rendered and tiled and adjacent to the water tower. The northern extremity of the site abuts rear gardens, and beyond which are the village hall and the recreation ground.
- 10.6 *Policy GEN2 affirms that development will not be permitted unless its design meets all the policy criteria to Policy GEN1 ...and has regard to adopted Supplementary Design Guidance and Supplementary Planning Documents...*
- 10.7 *And Policy H4 Backland Development) states that development of a parcel of land that does not have a road frontage will be permitted subject to the evaluation of this policy criterion...*
- 10.8 The application site is located at the rear of existing two storey semi-detached two storey residential building built in brick and tile roofing materials. The location of the proposed site does not have a road frontage as it is considered as an arable field and identified as an exception site. And the impact of such backland would be assessed whether they would harm the living conditions of the adjoining properties facing onto Mill Road. As the area is characterised by both detached and semi-detached two storey residential buildings in addition with other types and form of residential buildings and nearby listed building and water tower helped in shaping the form, height, plot sizes, appearance and design details of the proposed semi-detached residential houses so that they would be sympathetic to the character of the area. In order to ensure that the proposed external materials that would be used in constructing these proposed houses are satisfactory details of such external materials would be condition. The proposed residential buildings are designed to be easily accessible as they provide an environment which meets the reasonable needs of all potential users. The open amenity space on each individual plot provided a defensible space and helps to reduce the potential for crime including the boundary treatment. The principle approach of constructing the houses to the Passivhaus standards demonstrated measures of making the buildings to be very low in energy consumption through the use of very high levels of insulation and air tightness, controlled with mechanical ventilation and heat recovery system. Overall, the design approach when compared with the immediate built environment is considered compatible to the surrounding buildings.
- 10.9 The configuration, layout and the distance of the proposed scheme to adjoining properties are considered sufficient for example ranging from the front of the proposed scheme to the rear wall of the existing buildings directly facing Mill Road is approximately more than 40m between proposed dwelling houses identified as no. 6, 7, 8 and 9 respectively. They are considered sufficient to overcome any overlooking, overbearing, overshadowing or loss of sunlight. In addition, with new proposed boundary treatment it would assist to protect and safeguard the amenities of the existing adjoining residential buildings. In order to ensure that the proposed scheme would be easily accessible to those with disabilities details of the proposed scheme has been considered in light of the above advice and it can be confirmed that both the proposed internal layout, and circulation space of the individual proposed houses have

been designed to meet the needs of those with disabilities. Hence, in design terms the proposed development therefore is considered that it would not harm the living condition of the adjoining occupiers, and in policy terms it is not in conflict with Policy GEN2.

C Ecological impact

10.10 As the site is considered to be an arable with other features such as hedgerows and some trees the applicant is required to carry out an effective ecological report and phase 2 Botanical survey which would help to assess the ecological impact of the proposed development in accordance with Policy GEN7.

10.11 *Policy GEN7 states that development that would have a harmful effect on wildlife or geological features will not be permitted unless the need for the development outweighs the importance of the feature to nature conservation. Where the site includes protected species or habitats suitable for protected, a nature conservation survey will be required. Measures to mitigate and / or compensate for the potential impacts of development, secured by planning obligation or condition, will be required. The enhancement of biodiversity through the creation of appropriate new habitats will be sought.*

10.12 In consultation with the Ecological Consultant at Place Services, advised that “the ecology report states that a ‘Phase 2 botanical survey’ should be undertaken. As a result of the absence of such botanical survey the Ecological Consultant have raised an objection and the applicant has been notified at the time of assessing this proposed development and they have come back to say that they are currently looking into such request of the Phase 2 Botanical Survey. The arrival of such survey details would be reported in the addendum.

D Impact on heritage asset

10.13 The historic environment record shows that the proposed development lies within where nationally important archaeological remains which policy ENV4 applies.

10.14 *Policy ENV4 Ancient Monuments and Sites of Archaeological Importance affirm that “where nationally important archaeological remains, whether scheduled or not, and their settings are affected by proposed development there will be a presumption in favour of their physical preservation in situ....”*

10.15 The Historic Environment Advisor has identified the application site among the list of heritage asset site with some archaeological remains. Given the location and configuration of the layout of the proposed development adequate mitigation measures are required to put in place to preserve the archaeological remains within the site. Hence, appropriate planning condition has been recommended to protect and safeguard any likely archaeological remains and findings within the site. This is therefore in accordance with Policy ENV4. And in consultation with the Sustainable Places [Planning Advisor, they have advised that the site is under a hectare in size, located in Flood Zone 1, therefore they have no comment to make.

E Traffic impact

10.16 One of the constraint to this application site is lack of existing approved access road via Mill Road and one of the opportunities that the proposed development would bring is to create an acceptable access road from Mill Road to access the proposed

affordable housing which could also provide means of improving the existing footpath and highway safety in the vicinity.

10.17 *Policy GEN1 states that development will be permitted if it meets all the following criteria:*

- Access to the main road network must be capable of carrying the traffic generated by the development safely.
- The traffic generated by the development must be capable of being accommodated on the surrounding transport network.
- The design of the site must not compromise road safety and must take account of the needs of cyclists, pedestrians, public transport users, horse riders and people whose mobility is impaired.
- It must be designed to meet the needs of people with disabilities...
- The development encourages movement by means other than driving a car.

10.18 The proposed access to the site is located close to the western boundary to achieve the greatest degree of visibility in both directions considering the site is situated within a 30mph zone and visibility splays of 85 metres are shown in both directions (as deemed acceptable in the previous application for this site registered as (UTT/12/5473/OP). Applicant confirmed that they have negotiated with the Highway Authority regarding the necessary technical advice that would be required to create an acceptable access which would not compromise road safety. And in consultation with the Highway Authority they have advised that they did not object to this proposal subject to the implementation of the recommended appropriate planning conditions in order to protect and safeguard traffic in the area in accordance with Policy GEN1. As the site is easily accessible to other means of transportation such as through local rural bus services to reach nearby services and schools; overall the proposed development can be considered to have the same correspondence of mind with the creation of sustainable development.

F Impact on local infrastructure

10.19 The development of 11 affordable housing within this location of Wimbish could add more pressure to local infrastructure such as education capacity.

10.20 *Policy GEN6 affirms that development will not be permitted unless it makes provision at the appropriate time for community facilities, school capacity, public services, transport provision, drainage and other infrastructure that are made necessary by the proposed development. In localities where the cumulative impact of developments necessitates such provision, developers may be required to contribute to the costs of such provision by the relevant statutory authority...*

10.21 As the proposed development would be 100% affordable Housing an exception would be made for not contributing towards financially for pre-school education capacity as the proposed scheme is not for profit. Although, it should be noted if such situation changes as the applicant is arguing that three of the houses are required for open market sale in order to make the proposed development viable. In consideration to such argument the Council have commissioned KIFT Consulting to validate the Financial Viability of Hastoe Housing Association. The outcome result of such viability validation would be reported in the addendum and if there Financial Viability Validation is considered to be acceptable the situation would revert for the Council to ensure that following three of the houses to be sold in the open market, the applicant would be required to make financial contribution towards the pre-school capacity in order to

mitigate the pressure of the proposal on such local infrastructure in accordance with Policy GEN6.

11. CONCLUSION

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

- 11.1 The development of 11 affordable housing within this exception site located outside development limits in policy terms is the type of location where the Council would allowed 100% of affordable housing in order to meet the housing needs in this part of the rural area in accordance with Policy H11 subject to the evaluation of its impact on the character, amenities, highway implication and local infrastructure. And the evaluation of the aforesaid planning issues have been carefully considered along with all representation and on balance the principle of the proposal is therefore considered acceptable.
- 11.2 The scale, form, layout, appearance, bulk, height, width, length and design of the two storey semi-detached two storey affordable housing are considered to be sympathetic to the character of the area and they would not detract from scale and character of the existing built environment. And the proximity, scale and design approach would not harm the living condition of the adjoining properties in terms of overlooking, overbearing, overshadowing or loss of sunlight. Hence the proposal is in accordance with Policy GEN2.
- 11.3 Given that the proposed site is an exception site which is also a backland development because it has no frontage access to an established road and situated at rear far end garden of existing two storey detached residential properties directly facing Mill Road. In order to safeguard the traffic in the area, the proposed access would be constructed towards the westerly frontage facing Mill Road in order to achieve adequate visibility splay. And details of the proposed access is considered acceptable subject to the implementation of the planning conditions recommended by the Highway Authority whom have also not raised objection to this proposal subject to their recommended planning conditions in order to protect and safeguard traffic in the area and other road users in accordance with Policy GEN1.
- 11.4 The scale of the proposed 11 affordable housing in terms of their location and position would not adversely harm the likelihood of any wildlife and trees that might be found following the result of the botanical survey and assessment of the existing local landscape character. Having assessed the character of the existing arable field it can be concluded that the proposal would not adversely harm the character, prominence and openness of the remaining part of open countryside situated at the northern part of the proposed site. On balance the proposal is not considered to be in significant conflict with policies S7, GEN7 and ENV8.
- 11.5 As the proposed site falls within exception sites, 100% of affordable housing would be secured. Although at the time of assessing this proposed development the applicant argued that such 100% affordable housing would not make the proposed scheme viable. Hence, the Council have commissioned KIFT Consulting to validate such financial viability details. For example; if the applicant financial viability details are considered to be acceptable; the Council would seek a financial contribution towards pre-school capacity due to the pressure of the scale of such development on local infrastructure.

RECOMMENDATION – CONDITIONAL APPROVAL SUBJECT TO THE COMPLETION OF LEGAL AGREEMENT:

- (I) The applicant be informed that the committee would be minded to refuse planning permission for the reasons set out in paragraph (III) unless the freeholder 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) secure suitable provision of affordable housing
 - (ii) pay Council's reasonable legal costs
- (II) 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
- (III) If the freehold owner shall fail to enter into such an obligation by 8 September 2014 by the Assistant Director of Planning and Building Control shall be authorised to refuse permission in his discretion anytime thereafter for the following reasons:
- (i) Lack of suitable provision of affordable housing

This is in accordance with Policy H11 of the adopted Local Plan (2005); because development of affordable housing will be permitted outside on a site where housing would not normally be permitted

Conditions/reasons

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this decision.

REASON: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Details of the materials to be used in the construction of the external surfaces of the development hereby permitted shall be submitted and approved in writing by the Local Planning Authority prior to the implementation of the approved development.

REASON: In the interests of the appearance of the development and the visual amenities of the area in accordance with Policy GEN2 of the adopted Local Plan.

3. Prior to commencement of the development, the areas within the curtilage of the site for the purpose of loading/unloading/reception and storage of building materials and manoeuvring of all vehicles, including construction traffic shall be identified clear of the highway. Details to be submitted to and approved in writing by the Local Planning Authority.

REASON: To ensure that appropriate loading/unloading facilities are available so that the highway is not obstructed during the construction period in the interest of highway safety in accordance with Policy GEN1 of the adopted Local Plan (2005).

4. Prior to occupation of any dwelling, the provision of an access formed at right angles to Mill Road as shown in principle on Drawing No. 3128.04 Rev D. Details to be submitted to and agreed in writing with the Local Planning Authority in consultation with the Highway Authority, prior to commencement of development.

REASON: To provide highway safety and 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 adopted Local Plan (2005).

5. Prior to occupation of any dwelling, the provision of a footway from the newly created site access north east across the site frontage to join up with the existing footway outside 38 Mill Road to facilitate a safe pedestrian route to the nearby primary school, recreation ground and village hall. 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.

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

6. Prior to the implementation of the hereby development scheme details of 'Phase 2 botanical survey' shall be submitted and approved in writing by the Local Planning Authority.

REASON: In order to protect and safeguard wildlife within the site in accordance with Policy GEN7 of the adopted Local Plan (2005).

7. No development or preliminary groundwork's of any kind shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant, and approved by the planning authority.

REASON: The Essex Historic Environment Record shows that the proposed development lies immediately adjacent the site of a Corn Mill (EHER 251). The mill itself is identified on cartographic evidence back to the Chapman and Andre maps of 1777. Other mill sites excavated in Uttlesford and elsewhere in Essex have been found with associated medieval settlement, with the example at Stansted Airport dating back to the 13th century.

8. The details of the landscaping of the site required to be submitted shall include details of a scheme for the preservation or laying out of that part of the application site shown drawing no. 3128.10 REV C; 3128.11 REV. C and 3128.12 REV.D on the submitted/attached plan as amenity land.

REASON: To ensure quality of development and to safeguard local amenity and the environment, in accordance with Policies GEN2, [AIR6], ENV8, [ENV7], GEN7 and ENV3 of the Uttlesford Local Plan (adopted 2005).

Application no.: UTT/14/1688/FUL

Address: Land at Mill Road Wimbish



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Organisation: Uttlesford District Council

Department: Planning

Date: 4 August 2014

SLA Number: 100018688

UTT/ 14/1108/FUL (Saffron Walden)

(Cllr Perry referred to Committee

:Reason: Number of objections from local community and Town Council)

PROPOSAL: Change of use from Class A1 (retail) to Class A5 (hot food take-away), installation of 1 no. compressor unit, 1 no. extract grill and 1 no. fresh air intake grill.

LOCATION: 1 – 2 Market Walk Saffron Walden, Essex, CB10 1JZ

APPLICANT: DPGS Ltd

AGENT: Pegasus Planning Group Ltd

EXPIRY DATE: 12 June 2014

CASE OFFICER: Emmanuel Allannah

1. NOTATION

1.1 Within Development Limits, Conservation Area and Saffron Walden Town Centre.

2. DESCRIPTION OF SITE

2.1 The application site relate to the ground floor unit of a two storey building which is located between Market Row and Hill Street with the western boundary forming an alleyway onto Market Walk. As a result of the frontages, there is a shop front which fronts both on the Hill Street and Market Walk.

3. PROPOSAL

3.1 Change of use from retail to hot food take-away; installation of one extract grille in the elevation fronting Hill Street and one fresh air intake fronting Hill Street; and alterations to existing shop front.

4. APPLICANT'S CASE

4.1 Applicant submitted Planning, Heritage and Design and Access Statement in addition with Land use survey of Saffron Walden Town Centre dated 14th July 2014 to support the proposed application.

4.1 The Land use survey is to enable the applicant to demonstrate that the proposed change of use would not adversely reduce the number of retail outlets within this part of Saffron Walden Centre.

5. RELEVANT SITE HISTORY

5.1 UTT/13/0410/FUL-Change of use from Class A1 (retail) to Class A3 (hot food take-away). Withdrawn.

6. POLICIES

6.1 **National Policies**

- National Planning Policy Framework

6.2 Uttlesford District Local Plan 2005

- GEN1 – Access
- GEN2-Design
- GEN4-Good Neighbours
- ENVI-Design of development within Conservation Area
- ENV11-Nopise generators
- RES2-Town and Local Centres
- SW1-Town Centre

6.3 Uttlesford District Local Plan – Pre-Submission Consultation, April 2014

- RET1- Town and Local Centres and Shopping Frontages

7. TOWN COUNCIL COMMENTS

7.1 The Committee objected to Planning Applications UTT/14/1108/FUL - 1-2 Market Walk for the following reasons, as stipulated in the UDC Adopted Local Plan 2005: The application contravened Policy Gen 1 (Access) as the traffic congestion generated by this development will severely impact the transport network on George Street and Hill Street. It is a takeaway establishment and by its nature will encourage people to park on that road while they collect their meal. This will be very dangerous.

The application contravened Policy Gen 2 (Design) in that it is incompatible with the layout and appearance of the surrounding buildings in that area and it will severely reduce the visual impact there. The application contravened Policy Gen 2 (Design) in that it will exacerbate the production of waste in an already much criticised area, already very difficult to keep clean and healthy. There is real concern that it will contravene Policy Gen 4 (Good neighbourliness) in that the business will increase the noise levels, smells, and exposure to other pollutants and thus create an environmental hazard.

7.2 Further comments following consultation on amended and additional information will be verbally reported.

8. CONSULTATIONS

Conservation Officer

8.1 Object to the initial proposed plan for the following reasons:

8.1.1 Number 1-2 Market Walk is a retail unit located within modern development in the heart of Saffron Walden Conservation Area. The buildings in question are of traditional design in terms of their architectural concept.

8.1.2 The proposal subject of this application is for change of use from retail to hot food takeaway facility which would require number of alterations to the fabric of the unit. The obvious planning problems relating to the loss of retail outlet and the new use now proposed is a planning issue, I am concern however with the suggested external alterations to the building and resulting impact on the character of the conservation area.

8.1.3 The above retail premises present to the public view a selection of shop windows which add interest to the street scene and entice the passer-by to stop and browse. The proposed alterations would aim at blocking some of the windows internally, removal of one shop front completely and insertion of louvered timber doors. In addition the existing facias would also be removed and air extraction grills introduced. I consider that blocked up shop fronts and substantial timber doors would give the unit blind and vacant appearance destroying the established rhythm of void to solid and the concept of thriving shopping area. The introduction of extraction grills would represent a messy elements unrelated to the architectural elevation treatment. And finally I predict that the loss of shop facias would call for introduction of signage which frequently in case of takeaway premises can be crass and visually jarring with the historic setting.

Conservation Officer's comments on revised proposed scheme:

8.1.4 The applicant decided to take into account the objection raised by the Conservation Officer and addressed the issues raised by revising the proposed elevation and floor plan of the proposed ground floor unit by opening the bay window along market walk.. The revised scheme has ever since been considered by the Conservation Officer and suggested that final decision should be based on planning assessment and any relevant objections from the local community.

UDC Environmental Health Officer

8.2 The development has the potential to cause loss of amenity to occupiers of residential and business premises in the vicinity due to cooking odour and noise.

Cooking fume extraction

8.2.1 Information has been provided with the application on the proposed extract ventilation system from the cooking area, including odor control in the form of carbon filters which if installed as specified will reduce odors to an acceptable level, however no system is capable of eliminating 100% of odors. The details include measures to reduce vibration from the system which may otherwise impact on the offices above. No details have been submitted on the expected sound power level of the extract fan.

8.2.2 The following condition is therefore recommended:

“Notwithstanding the information submitted with the application, a scheme for the installation of equipment to control the emission of fumes and odours from the premises, to include noise rating of the equipment, shall be submitted to and approved in writing by the local planning authority. The system shall be installed, operated and maintained in accordance with the submitted scheme, and any changes shall be submitted to and approved by the local planning authority prior to installation.

8.2.3 If the approved equipment becomes inadequate because of changes in the cooking operations on the premises details of new or modified equipment shall be submitted to and approved in writing by the local planning authority”

Noise

8.2.4 There is the potential for additional noise in the adjacent streets from customers and delivery drivers accessing the premises. A condition is recommended to restrict opening hours to 11.00 to 23.00, and to prevent deliveries of goods to the premises outside of these hours.

Air Quality

8.2.5 The site is within the Saffron Walden air quality management area, and the lack of parking space outside the premises may lead to inappropriate parking in Hill Street which has the potential to worsen congestion, notably during the evening peak period.

9. REPRESENTATIONS

9.1 Eight objection letters received from neighbouring properties raising the following issues:

- Object to change of use to A5 because it is inappropriate and will increase the number of food outlets to an unviable level.
- The parking of customers does not exist at all in Hill Street and has non topping or parking restriction as the fire station is less than 50 metres from the location.
- It lead to obstruction of emergency vehicles
- It would generate illegal parking
- It would affect other pedestrians
- It would attract infestation of feral pigeons through the increase of inevitable food waste and risk of health.
- Increased of late activity which would disrupt residents.
- It would generate traffic to double yellow lines
- Proposed alterations to the shop front would ruin the beauty of the town
- Lead to loss of another retail outlets
- It would generate anti-social behaviour and litter
- The proposed alterations to the unit will destroy the character of the building, replacing an attractive frontage with an ugly, generis fascia.
- The proposal contravened Policies GEN1 (Access), GEN2 (Design) and GEN4 (Good neighbouring).

10. APPRAISAL

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

- A The principle of the policy context of the proposal.
- B Whether the principle of change of use from retail (ClassA1) to hot food-take-away (Class A5) within this part of Saffron Walden Town Centre is acceptable.
- C The impact on residential amenities in terms of generation of cooking odour and noise.
- D Impact on the appearance and character of the Conservation Area.
- E And the traffic impact.

A The principle of the policy context of the proposal.

10.1 *National Planning Policy Framework(NPPF)* states in paragraph 7 focuses on the following objectives:

- Paragraph 7 confirms there are three dimensions to achieving sustainable development namely, economic, social and environmental. The Economic role of this proposal is to bring back a vacant retail shop to a beneficial use to support local economic development.

- The proposal in the social context would provide services to diverse communities;
- The environmental role in terms of the proposed change of use; it is seen as locating such proposal in an area that would not rely too much on the use of private cars and there by encouraging low carbon economy within the town centre.

10.2 *Policy RET1 affirms that “along primary shopping frontages ...change of use of the ground floor to non A1 uses will only be permitted if the applicant is able to demonstrate that the units is not viable as A1 shop use..”*

The applicant site has been vacant for more than 10 months and the applicant has marketed it ever since and there is no interest from a new retail occupier and applicant. A land use survey for the proposed application site in July 2014 has been undertaken and submitted for consideration. It has been evidently demonstrated that the proposed site is not viable as a retail shop and the only opportunity to bring such vacant shop to beneficial use would be through the current amended proposed change of use to non retail use. In view of this evidence, the proposal therefore is in accordance with Policy RET1. The land use survey shows the proposal would not adversely reduce the percentage of retail outlets within this part of Saffron Walden Town Centre because if this proposal is allowed there would be 60.2% of other occupied retail outlets. Hence, with the support of the above land use survey evidence, the principle of the proposed change use can be considered acceptable subject to the evaluation of other planning issues that has been identified within this Report.

B Whether the proposed change of use would adversely reduce the commercial units (for example retail units Class A1) within Saffron Walden Town Centre.

10.3 *Policy SW1 states that the town centre is defined on the proposals map inset. Change of use of the ground floor of existing shops, restaurants, public houses and hot food take-away to residential uses will not be permitted, unless both the following criteria are met:*

- (a) *the existing use is surplus to current and foreseen future requirements and;*
- (b) *the property has been widely advertised for at least six months on terms reflecting its use... and;*

10.4 *Given that Policy RS2 can be applied to town centre; it is therefore worth considering this proposal in light of Policy RS2; which states that retail, commercial and community uses or mixed –use development including a residential element will be permitted in the centres of Saffron Waldenif it meets all the following criteria:*

- *it maintains or enhances their role as retail and service centres;*
- *it does not harm their historic and architectural character;*
- *it contributes to the diversity of retail and other commercial activity;*
- *it does not result in significant loss of houses or flats in the centres;*
- *it does not prejudice the effective use of upper floors as living or business accommodation.*

10.5 The proposed application is not relating to change of use from a shop to residential use instead it is a change of use from retail to hot food take away. In policy terms an element of the policy criteria that would be useful in assessing this proposal is whether the existing use is surplus to current and foreseen future requirement so that the current proposal can be considered acceptable. The acid test to such criteria can be determined through an evidence base of the survey of the area although which the above policy did not suggest directly. The applicant therefore needs to demonstrate with evidence why such proposal would not lead to loss of vital retail outlet within this part of the Town Centre. Hence, in policy terms the applicant failed to demonstrate with

evidence how the site has been advertised and marketed with no interest to a new retailer coming forward. Such evidence would help the applicant to claim surplus of such types of retail outlets within this part of the Town Centre.

- 10.6 In order to demonstrate with evidence that the proposed change of use would not adversely reduce retail outlets within this part of Saffron Walden Town Centre; a land use survey of commercial units within the Town Centre was undertaken. And on 18th July 2014, a detailed land use survey of Saffron Walden Town Centre was submitted based upon the land use survey of the commercial units in the area 10th July 2014 as shown below.

Use Class	No. of Units	Percentage of total units
Class 1	140	60.6%
Class A2	15	6.5%
Class A3	18	7.8%
Class A4	5	2.2%
Class A5	6	2.6%
Other (including B1, D1 and D2)	47	20.3%
Total	231	100%

- 10.7 It is therefore evidently clear that having assessed and evaluated the land use survey of the existing commercial units the proposed change of use would lead to loss of one Class A1 retail unit. This equates to 60.2% of the commercial units within Town Centre remaining in Class A1 use, which would only lead to 0.4% reduction. It is therefore acceptable because the proposed change of use from retail to hot food take-away would not adversely reduce the number of commercial units or retail outlets. Hence, the proposal is not in conflict with Policies SW1 and RS2 of the adopted Local Plan (2005) and Policy RET1 of the Uttlesford Local Plan-Pre-Submission Consultation, April 2014.

C. The impact of the proposal on residential amenities in terms of generation of noise and cooking odour.

- 10.8 *Policy GEN4 affirms that development and uses; whether they involve the installation of plant or machinery or not, will not be permitted where;*

- *noise or vibration generated or*
- *smell, dust, light, fumes, electromagnetic radiation, exposure to other pollutants;*
- *would cause material disturbance or nuisance to occupiers of surrounding properties.*

- 10.9 The application site area is characterised by different land use activities such commercial, office, retail, Public House and residential properties. The proposed change of use is only at the ground floor level while the upper floor would remain in office use. The Environmental Health Officer raised some concerns that the initial details of proposed ventilation and extraction equipment did not adequately demonstrate that the proposal would not harm the living condition of the adjoining occupiers in terms of generation of noise and odour. As a result the applicant appointed Philip Acoustics Ltd to carry out the impact assessment of the proposed ventilation and extraction equipment in order to verify whether such ventilation scheme would be able to achieve the required noise levels particularly to the nearest sensitive receptors, including the upper floor of 1-2 Market Walk. A copy of the assessment was sent to the Council on 15th July 2014.

10.10 Following re-consultation with Environment Health Officer they have recommended a planning condition in order to protect and safeguard the amenities of the adjoining occupiers due to the likely potential of noise generation as a result a condition restricting the opening hours to 11:00 to 23:00 and to prevent deliveries of goods to the premises outside of these hours. Having considered the representations from adjoining occupiers; it is considered to restrict the opening hours as follows, should planning permission be granted;

Monday to Friday from 11:00am to 10:30pm

Saturday and Sunday from 11am to 10:00pm including Bank Holidays.

D. The impact on the character and appearance of the Conservation Area.

10.11 *Policy ENV1 states that “development will be permitted where it preserves or enhance the character and appearance of the essential features of a Conservation Area...” And Policy GEN2 affirms that development will not be permitted unless its design is compatible with the character and appearance of the area... minimises the environmental impact on neighbouring properties... “*

10.12 The initial proposed elevation and location of the proposed ventilation scheme to the application site or building was not considered appropriate because it would not preserve or hence the character and appearance of the Conservation Area as advised by the Conservation Officer. As a result the applicant has revised proposed elevation and floor plans to overcome the issues and objection raised by the Conservation Officer. It can therefore be concluded that the revised proposed elevation and plan in design terms do not conflict with Policy ENV1.

E. Traffic impact

10.13 Part of the application site fronts onto Hill Street which lies within a restrictive parking zone area.

10.14 *Policy GEN1 affirms that “development will only be permitted if it meets all the policy criteria to Policy GEN1...for example “access to the main road network must be capable of carrying the traffic generated by the development safely. The traffic generated by the development must be capable of being accommodated on the surrounding transport network...”*

10.15 Part of the issues raised through the third party objection letters received relate to traffic generation associated to the proposed change of use. The application site has easy access to local bus services, and given the existing restriction of parking management in the area any illegal parking as a result of the use of the application site would be penalised through the issuing of parking fines enforcement locally. It is therefore anticipated that such parking restriction would deter those visit the site to come by means of private car. And as it easily pedestrianized it would encourage those visiting the premises to walk. On balance, the proposal is not necessarily in conflict with Policy GEN1.

11. CONCLUSION

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

- A The principle of the proposal is acceptable as it would enable a vacant retail shop which is not currently viable to contribute to the local economy and services to the local

community and to visitors by providing another type of hot food take-away within the Town Centre. And as the site is easily accessible through local bus services and easily reached by those that chose to walk it is therefore considered sustainable.

- B It is considered through revised proposed plans that the proposal would not adversely harm the living condition of the adjoining occupiers in terms of noise and odour generation by securing extraction equipment details. In addition, by restricting the opening hours of the premises in order to protect and safeguard the amenities of the adjoining occupiers. And with the revised plan in place the proposal would also not harm the character and appearance of the conservation area.
- C Given that the site is located within a restrictive parking zone area within the town centre, on balance it is unlikely that the proposal would generate adverse traffic to the area, and as town centre location it would be highly visited by those visiting the Town Centre and those within the walking distance. The proposal therefore is sustainable. Overall, the proposal is recommended for approval subject to the recommended planning conditions.

RECOMMENDATION – APPROVE WITH CONDITION.

Conditions/ reasons

1. The development hereby permitted shall be begun before the expiration of years from the date of this decision.

REASON: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Notwithstanding the information submitted with the application, a scheme for the installation of equipment to control the emission of fumes and odours from the premises, to include noise rating of the equipment, shall be submitted to and approved in writing by the local planning authority. The system shall be installed, operated and maintained in accordance with the submitted scheme, and any changes shall be submitted to and approved by the local planning authority prior to installation.

If the approved equipment becomes inadequate because of changes in the cooking operations on the premises details of new or modified equipment shall be submitted to and approved in writing by the local planning authority"

The hereby permitted change of use shall be implemented in accordance with the approved plans.

REASON: In order to protect and safeguard the amenities of the adjoining occupiers in terms of generation of noise and cooking odour associated with the approved use of the premises in accordance with Policies GEN2 and ENV11 of the adopted Local Plan and Policies EN1 and EN5 of the Uttlesford Local Plan- Pre-Submission Consultation, April 2014.

3. The use hereby permitted shall not open outside the following hours: Monday to Friday: 11:00am until 10:30pm; Saturday and Sunday: 11:00am until 10:00pm including Bank holidays.

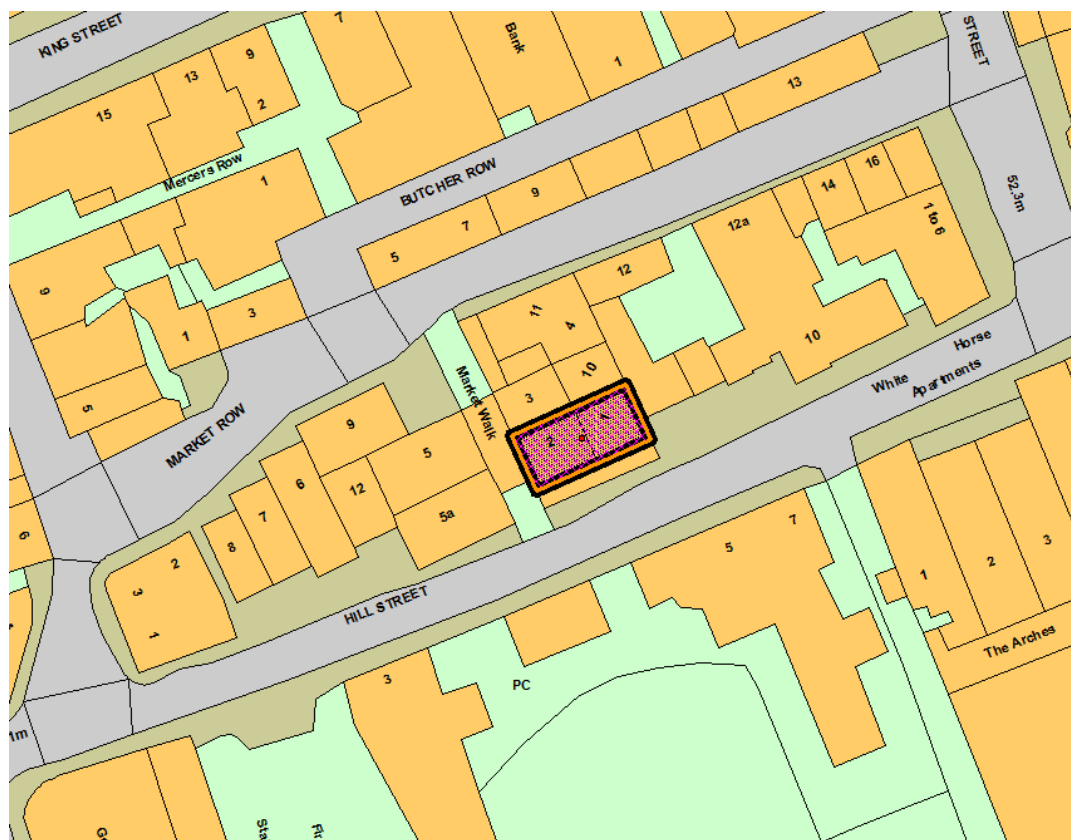
REASON: In order to protect and safeguard the amenities of the adjoining properties from generation of nuisance, cooking odour and noise in accordance with Policies GEN2, ENV11 of the adopted Local Plan (2005) and Policies EN1 and EN5 of the Uttlesford Local Plan - Pre-Submission Consultation, April 2014.

4. The development shall be carried out in accordance with the submitted details for equipment specification, construction and other noise mitigation measures contained in report 14131-002 by Philip Acoustics Ltd dated July 2014. The scheme shall be maintained thereafter in accordance with the submitted details.

REASON: In order to protect and safeguard the amenities of the adjoining occupiers in terms of noise generation in accordance with Paragraph 123 of the National Planning Policy Framework and Policy ENV11 of the adopted Local Plan (2005).

Application no.: UTT/14/1108/FUL

Address: 1 – 2 Market Walk Saffron Walden



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Organisation: Uttlesford District Council

Department: Planning

Date: 4 August 2014

SLA Number: 100018688

UTT/14/1879/FUL (Great Dunmow)

(Councillor Ranger has an interest in the development)

PROPOSAL: **Erection of entrance porch and installation of 2 no. roof lights**

LOCATION: **The Old Police Station, Stortford Road, Great Dunmow**

APPLICANT: **West Essex Mind**

EXPIRY DATE: **29th August 2014**

CASE OFFICER: **Chris Tyler**

1. NOTATION

1.1 Within Development Limits/ Within Conservation Area/ Grade II Listed Building/ Listed Building Adjacent.

2. DESCRIPTION OF SITE

2.1 The application site occupies a prominent position on the corner of Stortford Road and Chequers Lane and comprises the former Dunmow Police Station building. The building has two storey principle frontage consisting of two staggered adjoining blocks set behind the pavement and a single storey range to the rear. Both the principle elevations and the single storey range are clad in slate and red bricks and have sash windows. A car park exits at the rear of the building, which is enclosed by high brick walls to a new housing development built behind.

3. PROPOSAL

3.1 This application relates to the erection of a porch at the new disabled entrance and installation of 2 no. roof lights. The porch would be to the front of the site providing shelter to the new disabled access within the existing converted garage. The porch would have a foot print of 2.2m by 1.3m, eaves height of 2.4m and overall height of 3m. The porch would be of an open design and include materials that would match the existing building and normally used in this type of development. The roof lights would be inserted into the existing converted garage and will provide additional light within the new entrance area.

4. APPLICANTS CASE

4.1 Design and Access Statement;
A design and access statement has been submitted by the applicant and includes:

Consent has been granted for the use as offices for local and district volunteer groups. The previously approved works do not involve changes to the style and formation of the building. None of the features noted on the register are being removed. This application seeks to protect users of the new access from the inclement weather

The new porch is subservient in scale and proportion to the existing single storey addition to which it will be attached. The ridge of the porch will be set below the existing ridge line.

The porch is designed to allow wheelchair users to approach the new entrance and be under cover while announcing their arrival to counsellors.

The materials for the porch are identical to those already found within the original construction; red bricks (mainly reclaimed from alterations to the building previously approved) black slate and painted timber.

5. RELEVANT SITE HISTORY

- 5.1 UTT/14/1023/LB (Formation of disabled access and internal and external alterations (alternative scheme to that approved under Listed Building Consent Formation of disabled access and internal and external alterations (alternative scheme to that approved under Listed Building Consent UTT/1490/11/LB)

UTT/1490/11/LB (Conversion of police station (Sui Generis) to offices (B1). Proposed window on south elevation. New disabled access into reception. Internal and external alterations)

UTT/0567/11/FUL (Change of use from police station (Sui Generis) to offices (B1)

UTT/0568/11/LB (Conversion of police station (Sui Generis) to offices (B1). Internal and external alterations)

These applications relate to the schemes previously approved for the ongoing conversion of the site.

6. POLICIES

6.1 National Policies

- National Planning Policy Framework (2012)

6.2 Uttlesford District Local Plan 2005

- S1 – Main Urban Areas
- GEN2- Design
- ENV1- Design of development within Conservation Areas
- ENV2- Development affecting Listed Buildings
- GEN7- Nature Conservation

7. TOWN COUNCIL COMMENTS

- 7.1 Supports the application

8. CONSULTATIONS

Essex Wildlife Trust

- 8.1 No comments received reply due date 30/07/2014

ECC Ecology

8.2 No comments received reply due date 30/07/2014

Natural England

8.3 No objections

Conservation Officer

8.4 No objections

9. REPRESENTATIONS

9.1 27 Neighbouring properties- No comments received reply due date (30/07/2014)
The application has been advertised and no representations have been received as yet. Expiry date 7th August 2014

10. APPRAISAL

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

- A Whether the proposed uses are appropriate in the location and whether there would be any detrimental impact on neighbour's amenity (ULP Policy S1, GEN2, ENV1, and ENV2)
- B Whether the proposed development would have a harmful effect on wildlife (ULP Policy GEN7)

A Whether the proposed uses are appropriate in the location and whether there would be any detrimental impact on neighbour's amenity (ULP Policy S1, GEN2, ENV1, and ENV2)

10.1 The development is within the development limits and therefore being defined as being a main urban area in the Uttlesford Local Plan. Policy S1 states that in urban the main urban areas planning permission would be given, if compatible with the character of the settlement. The proposal would be to the front of the building and will include works that would be in character with the existing urban area

The building is Grade II listed and is set within a conservation area. The proposal would only include minor alterations to the building and the erection of a porch. The porch would be of a subservient scale and would not have a detrimental impact on neighbouring properties amenity. It is considered to not have an adverse impact to the setting of the listed building and that the character of the conservation area would be preserved. The materials to be used in the development would match the existing building. Uttlesford District Councils Conservation Officer has no objections to the proposal.

B Whether the proposed development would have a harmful effect on wildlife (ULP Policy GEN7)

10.2 In addition to biodiversity and protected species being a material planning consideration, there are statutory duties imposed on local planning authorities. Regulation 9(3) of the Conservation of Habitats and Species Regulations 2010 requires regard to the requirements of the Habitats Directive and Birds Directive so far as they may be affected by the exercise of those functions". European Protected species (EPS)

only present a ground for refusal only where (i) Article 12 is likely to be offended; and (ii) a Natural England Licence is unlikely.

Article 12 relates to:

1. Deliberate capture or killing or injuring of an EPS
2. Deliberate taking or destroying of EPS eggs
3. Deliberate disturbance of an EPS
4. Damage or destruction of an EPS breeding site or resting place

It is not considered that the proposal affects any European Protected Species, its amenity value or its biodiversity. Essex County Council Ecology Advice and Natural England have no comments, objections or recommendations regarding the proposal.

11. CONCLUSION

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

- 11.1 The proposal would not have any material detrimental impact on the character and setting of the conservation Area or Listed Building
- 11.2 The proposed design of the development would not have an adverse impact to the character of the property and street scene. There would be no harm to the neighbouring properties in terms of over shadowing and overlooking
- 11.3 The proposal will not have a detrimental impact on Nature Conservation

RECOMMENDATION – CONDITIONAL APPROVAL

Conditions

1. The development to which this consent relates shall be begun before the expiration of 3 years from the date of this decision.

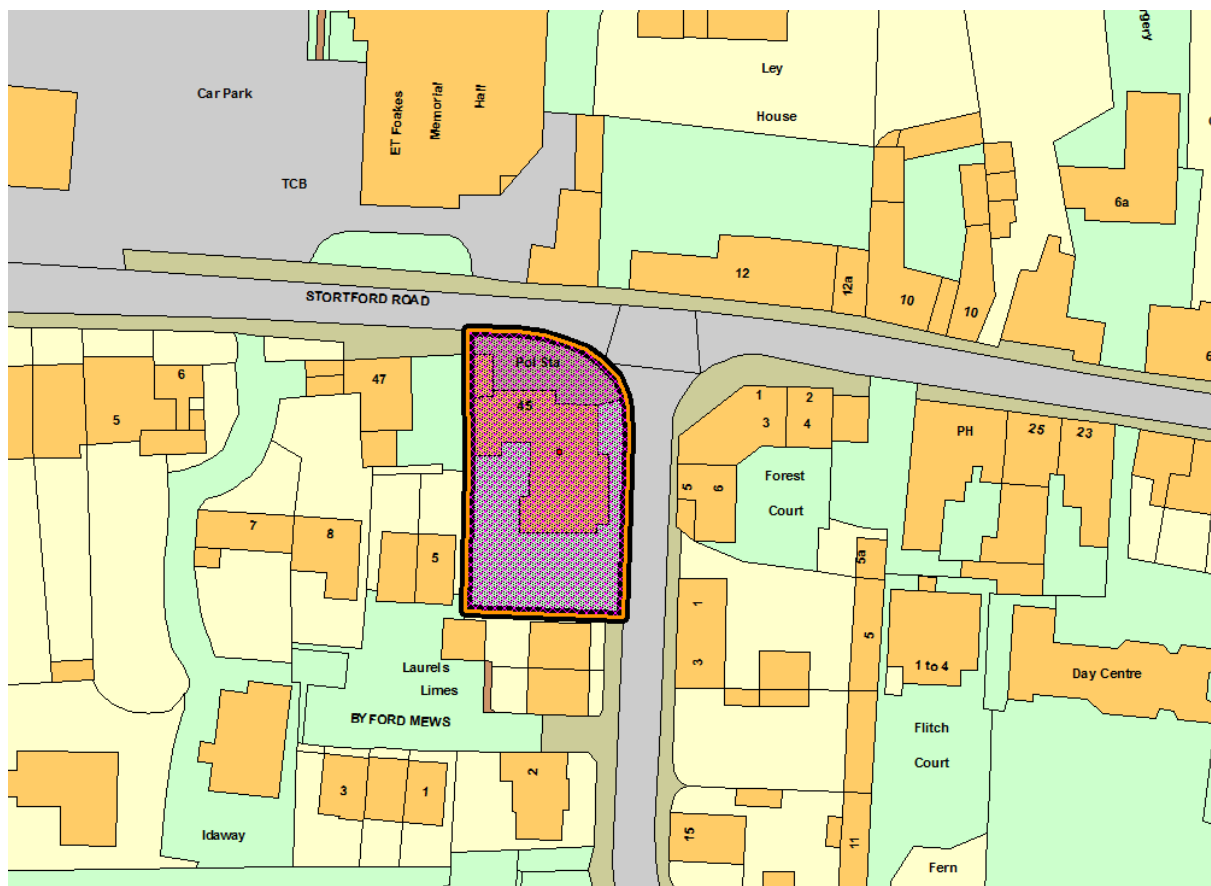
REASON: To comply with the requirements of Section 18 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004..

2. The development hereby permitted shall be constructed entirely of the materials details of which are shown on plan no 1445/9-01 REV D, 1445/14 REV B and as shown on the schedule of materials on the planning application form unless otherwise agreed in writing by the Local Planning Authority.

REASON: In the interests of the appearance of the development, in accordance with Policy GEN2 of the Uttlesford Local Plan (adopted 2005).

Application no.: UTT/14/1879/FUL

Address: The Old Police Station Gt Dunmow



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Organisation: Uttlesford District Council
 Department: Planning
 Date: 4 August 2014
 SLA Number: 100018688

UTT/14/1880/LB (Great Dunmow)

(Councillor Ranger has an interest in the development)

PROPOSAL: **Erection of entrance porch and installation of 2 no. roof lights**

LOCATION: **The Old Police Station, Stortford Road, Great Dunmow**

APPLICANT: **West Essex Mind**

EXPIRY DATE: **29th August 2014**

CASE OFFICER: **Chris Tyler**

1. NOTATION

1.1 Within Development Limits/ Within Conservation Area/ Grade II Listed Building/ Listed Building Adjacent.

2. DESCRIPTION OF SITE

2.1 The application site occupies a prominent position on the corner of Stortford Road and Chequers Lane and comprises the former Dunmow Police Station building. The building has two storey principle frontage consisting of two staggered adjoining blocks set behind the pavement and a single storey range to the rear. Both the principle elevations and the single storey range are clad in slate and red bricks and have sash windows. A car park exits at the rear of the building, which is enclosed by high brick walls to a new housing development built behind.

3. PROPOSAL

3.1 This application relates to the erection of a porch at the new disabled entrance, installation of 2 no. roof lights and internal works. The porch would be to the front of the site providing shelter to the new disabled access within the existing converted garage. The porch would have a foot print of 2.2m by 1.3m, eaves height of 2.4m and overall height of 3m. The porch would be of an open design and include materials that would match the existing building and normally used in this type of development. The roof lights would be inserted into the existing converted garage and will provide additional light within the new entrance area. The new entrance area would include the construction of new screened partitioned doorway.

4. APPLICANTS CASE

4.1 Design and Access Statement;
A design and access statement has been submitted by the applicant and includes: Consent has been granted for the use as offices for local and district volunteer groups. The previously approved works do not involve changes to the style and formation of the building. None of the features noted on the register are being removed. This application seeks to protect users of the new access from the inclement weather

The new porch is subservient in scale and proportion to the existing single storey addition to which it will be attached. The ridge of the porch will be set below the existing ridge line.

The porch is designed to allow wheelchair users to approach the new entrance and be under cover while announcing their arrival to counsellors.

The materials for the porch are identical to those already found within the original construction; red bricks (mainly reclaimed from alterations to the building previously approved) black slate and painted timber.

5. RELEVANT SITE HISTORY

- 5.1 UTT/14/1023/LB (Formation of disabled access and internal and external alterations (alternative scheme to that approved under Listed Building Consent Formation of disabled access and internal and external alterations (alternative scheme to that approved under Listed Building Consent UTT/1490/11/LB)

UTT/1490/11/LB (Conversion of police station (Sui Generis) to offices (B1). Proposed window on south elevation. New disabled access into reception. Internal and external alterations)

UTT/0567/11/FUL (Change of use from police station (Sui Generis) to offices (B1)

UTT/0568/11/LB (Conversion of police station (Sui Generis) to offices (B1). Internal and external alterations)

These applications relate to the schemes previously approved for the ongoing conversion of the site.

6. POLICIES

6.1 National Policies

- National Planning Policy Framework (2012)

6.2 Uttlesford District Local Plan 2005

- ENV2- Development affecting Listed Buildings

7. TOWN COUNCIL COMMENTS

- 7.1 Supports the application

8. CONSULTATIONS

- 8.1 Uttlesford District Council Conservation Officer - No objections subject to conditions

9. REPRESENTATIONS

- 9.1 27 Neighbouring properties- No comments received reply date (30/07/2014)
The application has been advertised and no representations have been received.
Expiry date 7th August 2014

10. APPRAISAL

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

A Whether the proposal would have an adverse effect to the listed building uses are ULP Policy ENV2

10.1 The building is Grade II listed and is set within a conservation area. The proposal would only include minor alterations to the building and the erection of a porch. It is considered the proposal would not have an adverse impact to the setting of the listed building and that the character of the conservation area would be preserved. The materials to be used in the development would match the existing building. Uttlesford District Councils Conservation Officer has no objections to the proposal subject to conditions regarding the construction materials.

11. CONCLUSION

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

11.1 The proposal would not have any material detrimental impact on the character and setting of the conservation Area or Listed Building

RECOMMENDATION – LISTED BUILDING CONSENT WITH CONDITIONS

Conditions

1. The development to which this consent relates shall be begun before the expiration of 3 years from the date of this decision.

REASON: To comply with the requirements of Section 18 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be constructed entirely of the materials details of which are shown on plan no 1445/9-01 REV D, 1445/14 REV B and as shown on the schedule of materials on the planning application form unless otherwise agreed in writing by the Local Planning Authority.

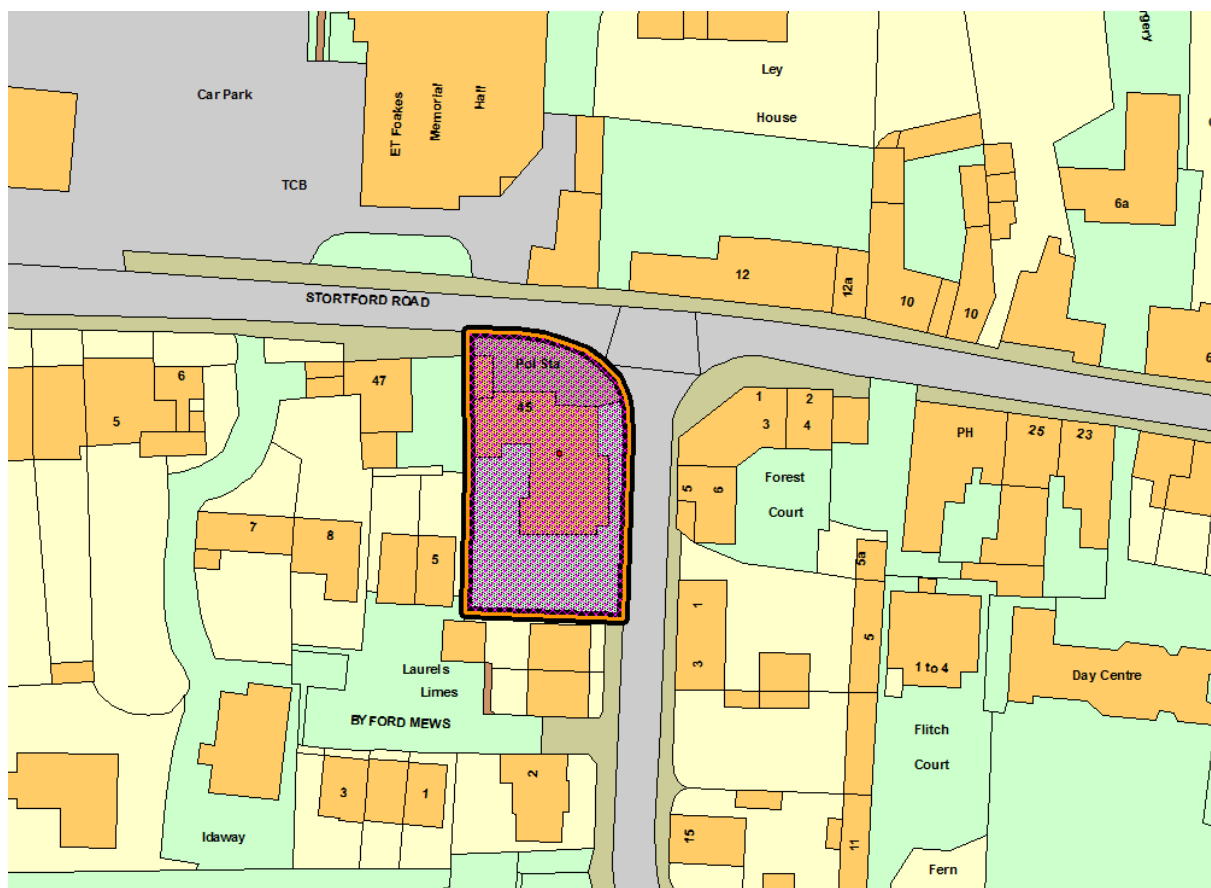
REASON: In the interests of the appearance of the development, in accordance with Policy GEN2 of the Uttlesford Local Plan (adopted 2005).

3. All new rooflights to be of Conservation range unless otherwise agreed in writing by the Local Planning Authority.

REASON: In the interests of the historical importance of the building in accordance with Policy ENV2 of the Uttlesford Local Plan (adopted 2005)

Application no.: UTT/14/1880/LB

Address: The Old Police Station Gt Dunmow



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Organisation: Uttlesford District Council

Department: Planning

Date: 4 August 2014

SLA Number: 100018688

UTT/14/1938/FUL (STANSTED)

(Application interest by Uttlesford District Council)

PROPOSAL: **Erection of floodlight on a pole with aerial extension.**

LOCATION: **Stansted Bowls Club, Recreation Ground, Stansted.**

APPLICANT: **Stansted Bowls Club.**

EXPIRY DATE: **25 August 2014.**

CASE OFFICER: **Clive Theobald**

1. NOTATION

1.1 Within Development Limits / Conservation Area.

2. DESCRIPTION OF SITE

2.1 The site comprises the Stansted Bowls Club, an established bowls club situated on the western side of Recreation Ground within the middle of the existing built up area of Stansted village. The club pavilion and car parking area are located at the front of the site, whilst the bowling green is situated at the rear. The site is bordered along its northern flank boundary by residential properties fronting onto Chapel Hill and along its southern flank boundary by the recreation ground. The site is bordered along its rear (western) boundary by additional residential properties (Spencer Close), whilst further residential properties line Recreation Ground opposite the site along its eastern side. The village fire station, including training structure is located onto the site's north-west corner.

3. PROPOSAL

3.1 This proposal relates to the erection of a 10 metre high column lighting pole with 425w (50w equivalent) halogen floodlight to be positioned along the site's southern flank boundary for use by Stansted Bowls Club in connection with essential evening green maintenance when required with the additional placing onto the pole of an aerial signal relay device (wireless outdoor bridge) to be used in connection with Uttlesford District Council's developing community CCTV system for Stansted where it is in the process of upgrading the current CCTV coverage for the village.

3.2 The proposed floodlight would be affixed at or near the top of the lighting pole, whilst the aerial relay device would be affixed on top of this for optimal operational reasons.

4. APPLICANT'S CASE:

4.1 None submitted with the application, although subsequent details received from applicant (Stansted Bowls Club) on 2 August 2014 in response to consultation comments expressed by the Council's Environmental Health Officer and comments made by local residents as follows:

- The existing 4 No. floodlights are positioned behind the clubhouse and directed towards the rear of the green, although are set at a lower level (3m) on a frame at

an oblique angle thereby reducing lighting intensity and effectiveness for proper ground maintenance (watering/feeding etc) if this needs to be done in the evening; The proposed floodlight would be positioned so that it would be directed towards the clubhouse on the lighting pole at a higher level and set at a more acute angle thereby spreading light more evenly over the green to enable more effective green maintenance, whilst also containing light within this area of the site;

- The floodlight would be switched on for approximately two to three times a month for a period of up to just an hour for this purpose;
- The floodlight would be of the normal switch type and would not be of the sensor security type as this is not required or intended;
- The floodlight would be of the softer halogen bulb type (50w equivalent watt) and can be reduced in wattage strength if considered necessary;
- The floodlight would not be used to facilitate artificially illuminated evening matches where such conditions are not conducive to bowling (matches normally finish around 8pm in natural daylight);
- Light deflectors/cowling can be fixed to the floodlight if required by the Council to contain light spread, whilst the light can be lowered on the pole if considered necessary.

5. RELEVANT SITE HISTORY

- 5.1 Extension to existing clubhouse approved in 1999. Removal of frontage closeboarded fence and resurfacing of front car parking area to bowls club approved in 2013. Erection of CCTV pole (retrospective) at top end of the recreation ground in front of Spencer Close (alternative scheme to that approved under UTT/13/0092/FUL) approved in 2013. Pole subsequently removed.

6. POLICIES

6.1 National Policies

- National Planning Policy Framework (NPPF).

6.2 Uttlesford District Local Plan 2005

- ULP Policy GEN2 – Design
- ULP Policy GEN4 – Good Neighbourliness
- ULP Policy GEN5 – Light Pollution
- ULP Policy ENV1 – Design of development within Conservation Areas

6.3 Uttlesford Local Plan – Pre-submission Local Plan, April 2014

- Policy DES1 – Design
- Policy HE1 - Design of Development within Conservation Areas

- 6.4 Stansted Mountfitchet Parish Plan (2011), Stansted Conservation Area Appraisal.

7. PARISH COUNCIL COMMENTS

- 7.1 The height of the pole, including the aerial should be the minimum needed to meet the needs of the CCTV signal, whilst the light should be lowered if possible.

8. CONSULTATIONS

ECC Highways

8.1 No highway issues.

UDC Environmental Health Officer

8.2 UDC Policy GEN5 states that development that includes a lighting scheme will not be permitted unless:-

- a) The level of lighting and its period of use is the minimum necessary to achieve its purpose, and
- b) Glare and light spillage from the site is minimised.

8.3 This application provides insufficient information to assess these criteria. The proposed luminaire appears to be a symmetrical type which can cause light pollution and spill light onto adjacent residential properties. The applicant should provide details of the following:

- (i) The proposed lighting level and any potential light spill outside the club premises, including vertical luminance (if any) at the facades of the nearest residential properties on Chapel Hill and Spencer Close.
- (ii) The proposed hours of operation and switching mechanisms.
- (iii) The aim angle and light distribution of the luminaire as to be installed.
- (iv) Any proposed shielding or screening.

9. **REPRESENTATIONS:** 4 received. Neighbour consultation period expired 24 July 2014. Advertisement expired 31 July 2014. Site notice expired 1 August 2014.

9.1 Summary of representations:

- Will the flood light be operated by a sensor? If this is the case, it may be activated at anytime during the night, which may disturb the sleep of the residents in the local vicinity. Or will it in fact be turned off once the bowls club is closed for the evening?
- Would ask for consideration as to the direction of the flood light. We enjoy relaxing in our garden and listening to the bowls being played, but would be unhappy if it meant that we would have to shield our eyes from a flood light.
- From the documentation provided it is unclear as to the dimensions and overall size of the ariel (a number of variants are provided), but these do not correlate with the description of an extension; the forms indicate the ariel is an extension to the pole, yet the pictures provided do not appear to depict any extension to the fixed structure. Therefore it is unclear what the final height of the pole, including the ariel, will be and as such difficult to determine how intrusive it will be.
- This is an application being made on behalf of Uttlesford District Council and is not for facilities to be used by Stansted Bowls Club. I therefore ask the committee why the application has not been made by UDC?
- A 10m high post placed in the position proposed is not in keeping with the aesthetics of the recreation ground. If light is required in this area, it should be provided in the form of a normal lamp post like other areas of the ground.
- A high powered floodlight will be a problem for us and for other neighbours of the recreation ground, especially those living on Recreation Ground road.
- A post of this height placed in the position proposed will destroy the views of the Recreation Ground, which amidst a lot of change in recent years has been kept as a rural open area and will be an eyesore from all aspects.
- The final height of the post has not been made clear and even at 10 metres will be oppressive.
- There is no clear indication of what type of aerial will be fixed at the top.

- Nothing should be erected in this area that is any taller than the existing bowls club flag pole as this is a conservation area.
- If an aerial is required, it should be placed near Grafton Green, the old School or even just off Chapel Hill and not on the Recreation Ground.
- This application should be heard by the full planning committee and not at delegated officer level.

10. APPRAISAL

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

- A Design / impact of development on the character and appearance of the conservation area (ULP Policies GEN2 and ENV2);
- B Whether the development would have a detrimental impact on residential amenity by reason of overbearing effect, loss of privacy or light pollution (ULP Policies GEN2, GEN4 and GEN5).

A Design / impact of development on the character and appearance of the conservation area (ULP Policies GEN2 and ENV2).

- 10.1 ULP Policy GEN2 of the adopted local plan states that development will not be permitted unless amongst other design criteria in the case of the current application it helps to reduce the potential for crime and minimises the environmental impact on neighbouring properties by appropriate mitigating measures, whilst ENV2 states that development will be permitted where it preserves or enhances the character and appearance of the essential features of a conservation area.
- 10.2 Dealing with the lighting column pole and floodlight first, the proposed 10m high lighting pole with floodlight would be erected on the inside of the southern flank boundary of the bowls club adjacent to the recreation ground, where this comprises a mature and managed continuous hedge screen approximately 3m in height with a large mature tree located along this boundary adjacent to the position of the intended pole/light. The club's existing 8m high flagpole stands immediately behind the clubhouse on this side, whilst the fire station training structure is clearly visible behind the club premises. Whilst it is understood from the applicant that the lighting pole could be set at a lower height to facilitate the floodlight for the bowls club, the pole is required to be 10 metres high for the proposed CCTV aerial relay device to be able to receive an adequate and unobstructed signal. The existence of the boundary trees within close proximity of the lighting column where it has previously been ascertained that these would not interfere with the signal would help screen the column from public view within this part of the conservation area where the pole would be read alongside the existing 8m high flagpole. It is considered from this that the lighting pole and floodlight would not have a significant visually detrimental impact upon the character and appearance of the essential features of this part of the conservation area and would not therefore be contrary to ULP Policies GEN2 and ENV1.
- 10.3 Paragraph 69 of the NPPF requires planning policies and decisions to promote safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion, whilst ULP Policy GEN2 promotes development which helps to reduce the potential for crime. The CCTV aerial relay device would serve as an essential wireless bridge from the previously Council approved CCTV location at the Lower Street Car Park up to the top end of Chapel Hill and the inclusion of the aerial extension on the proposed lighting pole at the Stansted Bowls Club is considered to be the only presently available practical alternative site positioning on intermediate ground between the two sites following the previously

unsuccessful attempt by the Council to locate the aerial on top of the existing fire training structure for signal path reasons. Thus, a genuine operational and technical need for the aerial in its proposed location exists.

B Whether the development would have a detrimental impact on residential amenity by reason of overbearing effect, loss of privacy or light pollution (ULP Policies GEN2, GEN4 and GEN5).

10.4 The site is surrounded on three sides by residential properties and due regard has to be had as to whether the proposal would be detrimental to residential amenity. Whilst the pole by reason of its height would likely to be visible from some adjoining residential properties, it is considered that it would not by reason of its slender form cause a significant obstruction to longer views afforded across into the recreation ground where the site's southern boundary already contains boundary trees. The pole would be located approximately 20 metres from the nearest dwellings (Spencer Close) and would not by itself have an overbearing or oppressive effect upon the reasonable amenities of these adjacent properties.

10.5 The comments expressed by the Council's Environmental Health Officer and those of local residents relating to the potential for light pollution from the proposed floodlight have been noted. However, the applicant has stated in its response to a request for further information that the floodlight will be of the conventional switch variety and not of the movement sensor type, would point downwards onto the bowling green and not across over the site boundaries and could be fitted with light deflectors/cowlings and positioned lower down the lighting column pole if deemed necessary.

10.6 It is considered from the applicant's response that the floodlight in the position and at the height proposed is unlikely to cause undue glare or light spillage beyond the site boundaries into adjacent residential properties where the club has stated that the floodlight would only be used for the minimum time necessary in order to carry out evening green maintenance when required. In the circumstances, it is the view of officers that the proposal would not give rise to significant harm to residential amenity and would comply with ULP Policies GEN2, GEN4 and GEN5, although it is considered as an amenity precaution by way of condition that light reflectors/cowling should be fitted so as to reduce the incidence of light spillage when the light is switched on.

11. CONCLUSION

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

- A The proposal would be acceptable in terms of design and siting where the light pole and floodlight would not detract from the character and appearance of the conservation area, whilst the aerial extension is needed as a relay bridge in connection with the Council's CCTV upgrade coverage for the village to reduce the incidence and fear of crime.
- B The floodlight by reason of its positioning, height and frequency of use is considered unlikely to cause significant residential amenity harm to adjoining residents by way of light pollution, although it is considered that a condition requiring details of light reflectors/cowling measures to be approved and fitted to the floodlight prior to the commencement of the approved development and kept in place should be imposed as an amenity safeguard.

RECOMMENDATION – CONDITIONAL APPROVAL

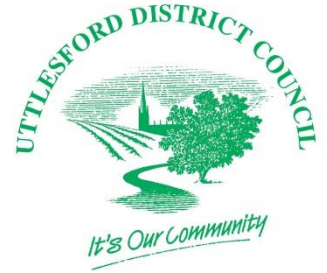
Conditions/reasons

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this decision.

REASON: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Details of light reflectors/cowling for the floodlight to reduce the potential for light spillage outside of the boundaries of the application site shall be submitted to the Council for approval prior to commencement of the development hereby permitted. The reflectors/ cowling shall be securely affixed to the floodlight prior to its installation and first use on the site and shall be so kept securely affixed whilst the floodlight is operational for its intended and stated purpose.

REASON: In the interests of the protection of residential amenity in accordance with ULP Policies GEN2, GEN4 and GEN5.



Application no.: UTT/14/1938/FUL

Address: Stansted Bowls Club Recreation Ground Stansted



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Organisation: Utlesford District Council

Department: Planning

Date: 4 August 2014

SLA Number: 100018688

UTT/14/1999/FUL (STANSTED)

(Referred to Committee by District Councillor Salmon as flooding, turning circle and TPO issues, discrepancy in plans, loss of privacy and overlooking)

PROPOSAL:	Erection of 1 no. detached dwelling
LOCATION:	Land at 40 Bentfield Road, Stansted Essex CM24 8HP
APPLICANT:	Mrs L Luther
AGENT:	Philip Livings Ltd
EXPIRY DATE:	3 September 2014
CASE OFFICER:	Samantha Heath

1. NOTATION

- 1.1 Within development limits; TPO in neighbouring adjacent garden.

2. DESCRIPTION OF SITE

- 2.1 This application relates to an area of existing garden land to the east of No.40 Bentfield Road. The land is currently grassed with a large shed on the southern boundary with the neighbour. The site is bounded by 1.8m close boarded fencing and tall leylandii trees on the eastern boundary, 1.8m close boarded fencing on the southern boundary (there is a TPO beech tree in the neighbouring garden close to the boundary) and 1.8m close boarded fencing with established hedging on the northern boundary. The application site measures approximately 28m along the rear eastern boundary, 23m along the front western boundary, 14.5m along the northern side and 16m along the southern, totalling approximately 410sqm. No.40 is a detached 1½ storey dwelling set at back from the road on the eastern side, it is located within an established residential area, and there is a mix of housing sizes and designs in the near vicinity with two storey dwellings and bungalows.

3. PROPOSAL

- 3.1 It is proposed to erect one detached dwelling on this site. The detached single storey dwelling would be rectangular shaped, have two bedrooms and have dimensions of 10m in width and 8.7m in depth. It would have an eaves height of 2.3m and a maximum ridge height of 4.5m. The external materials of the building would be brick with concrete tiles and timber fenestration. It would have approximately 120sqm of rear and side gardens. The existing dwelling would have approximately 140sqm of rear garden remaining.
- 3.2 Access to the site will be from Bentfield Road via a new shared driveway (the existing would be closed) running along the southern side of the plot. Two parking spaces are proposed for the new dwelling and three for the existing dwelling at 2.9 x 5.5m.

3.3 This application follows a previously approved outlined application, UTT/13/3345/OP.

4. APPLICANT'S CASE

4.1 See Design and Access Statement.

5. RELEVANT SITE HISTORY

5.1 UTT/0180/05/FUL Erection of a single storey dwelling. Refused 05.09.05. Dismissed at appeal – harm to neighbouring properties, cramped and out of character, safety hazard to pedestrians and vehicle drivers due to lack of turning space.

5.2 UTT/13/3345/OP Outline application for the erection of 1 no. dwelling with all matters reserved except appearance and landscaping. Approved 17.01.14

6. POLICIES

6.1 National Policies

- National Planning Policy Framework (2012)

6.2 Uttlesford District Local Plan 2005

- Policy S1 – Development limits for the Main Urban Areas
- Policy GEN1 – Access
- Policy GEN2 – Design
- Policy GEN7 – Nature Conservation
- Policy GEN8 – Vehicle Parking Standards
- Policy H3 – New houses within development limits
- UDC Parking Standards
- SPD Accessible Homes and Playspace

7. PARISH COUNCIL COMMENTS

7.1 Concerns remain as to the adequacy of this backland site for housing. Following the application being called in, the site visit should consider the issues surrounding a tree with a TPO, the impact of using the long drive on the amenity and living conditions in neighbouring properties (noise and light pollution), the adequacy of the proposed turning circle, possible flooding concerns and the site lines onto Bentfield Road.
Expired 06.08.14

8. CONSULTATIONS

Thames Water

8.1 Surface Water Drainage - 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. In respect of surface water it is recommended that the applicant should ensure that storm flows are attenuated or regulated into the receiving public network through on or off site storage. When it is proposed to connect to a combined public sewer, the site drainage should be separate and combined at the final manhole nearest the boundary. Connections are not permitted for the removal of groundwater. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. They can be contacted on 0845 850 2777.

Reason - to ensure that the surface water discharge from the site shall not be detrimental to the existing sewerage system.

Thames Water would advise that with regard to sewerage infrastructure capacity, we would not have any objection to the above planning application.
Expired 30.07.14.

ECC Highways

- 8.2 The Highway Authority would not wish to raise an objection to the above application as shown in principle on Drawing No. 7114 subject to conditions.
Expired 30.07.14.

Landscape Officer

- 8.3 Proposal is acceptable subject to condition.

9. REPRESENTATIONS

- 9.1 51 Neighbours were notified. Consultation expired 30.07.14.
6 letters of objection received– Roof is higher than previously approved application, TPO tree and hedge not shown on drawings, impact on TPO tree, not in keeping with local area, access to site is limited, turning area too small, may cause flooding to neighbouring gardens, impact on enjoyment of neighbouring garden, measurements not correct on plan, loss of amenity privacy due to noise, vibration from vehicles, light pollution, overlooking, cramped, out of character, highway safety, access does not conform to conditions required by ECC Highways, could be made into three bedroom dwelling, devalue property.

10. APPRAISAL

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

- A The principle of development of the site. (NPPF and ULP Policies S1 and H3).
- B Design and visual impact (ULP Policies H3 and GEN2).
- C Impact on residential amenity (ULP Policies H3 and GEN2)
- D Whether parking provision and access is satisfactory (ULP Policies GEN1 and GEN8 and UDC Parking Standards)
- E Impact of the proposal on Protected Species (ULP Policy GEN7)
- F Impact on TPO tree (ULP Policy ENV3)

A The principle of development of the site

- 10.1 The site is located within the development limits for Stansted and as such ULP Policies S1 and H3 apply. These are permissive policies where planning permission will be granted for development that is compatible with the settlements character. The land in question is garden land. Policy H3 of the Local Plan states that infilling with new houses will be permitted if the development would be compatible with the character of the settlement and, depending on the location of the site, its countryside setting. This is considered below.

B Design and visual impact

- 10.1 The character of this area of the village is not uniform; there is a mixture of single and two storey dwellings of differing size, scale and design. There are dwellings either side and to the rear of this plot.
- 10.2 The outlined application indicated a single storey L-shaped dwelling located approximately 1.5m from the eastern boundary of the site; it had a footprint of 10.5m in width and 10m in depth, totaling 87sqm and 4.2m to the ridge. This application remains the same footprint but is 0.3m taller in height, it is rectangular shaped and is 2.5m away from the eastern boundary. The neighbouring properties in the immediate vicinity are two storeys in height and this proposed dwelling is single storey, however there are other bungalows in the near vicinity, it is considered therefore that the building would not be of uncharacteristic scale. The materials proposed are appropriate in relation to the character and appearance of the area and can be controlled by condition if necessary. The erection of this dwelling on this site would be compatible with the settlements character.
- 10.3 The proposed design is relatively small in scale with a footprint of approximately 87m². It is not considered that the proposal would be unduly out of keeping with the character of the existing dwellings in this locality. The existing dwelling on the site has a slightly larger footprint but there are other dwellings in the near vicinity with a similar footprint. However the proposed footprint is considered to be the maximum that could be satisfactorily accommodated on this site and for this reason permitted development rights will be removed to prevent overdevelopment and in the interests of the amenity of the occupiers of adjoining dwellings.
- 10.4 Parking provision for the proposed dwelling is proposed to be to the side of the new dwelling and to the front of the host dwelling, this is not considered to be out of keeping with the local area. Garden sizes are in accordance with recommended 100sqm for three bedroom dwellings (host dwelling) and 50smq for the two bedroomed new dwelling and is in fact in excess of the requirement within the Essex Design Guide. The design of the proposed dwelling is typical of a bungalow of this region and uses traditional materials commonly seen in Essex.
- 10.5 Taking all of the above into account, in this instance, it is not considered that the impact of the proposal on the visual amenities of the locality would be so great that permission could be refused on this basis.

C Impact on residential amenity

- 10.6 With regard to impact on residential amenity, the proposal has been revised from the outlined application and is sited further away (2.5m) from the eastern boundary; the height of the dwelling has increased by 0.3m.
- 10.7 It is considered that the amenity of the neighbouring properties is protected in terms of overbearing and overshadowing impact. Whilst the height of the proposed dwelling has increased from outlined stage (by 0.3m), there would be approximately 15m between the front elevation of the proposed dwelling and the rear of No.40 (1.8m close boarded fencing is proposed on the boundary), approx. 17m between the rear elevation of the new dwelling and those of the properties in Bentfield Gardens and approximately 18m from the rear elevation of 38A Bentfield Road. The plot is wide and deep enough so that the building would not be unduly overbearing or have a significantly detrimental impact regarding overshadowing to neighbouring properties.

- 10.8 At outlined stage the proposed dwelling did not propose any windows in the eastern elevation, this was considered to be acceptable in order to protect the amenity of properties in Bentfield Gardens which back on to the proposal site as any windows in this elevation would overlook the rear gardens. This proposal has two windows on the eastern elevation serving the bedroom and lounge. It is considered that these could give rise to an unacceptable level of overlooking and for this reason a condition will be imposed requiring the removal of these and preventing any windows or rooflights being inserted at a later date. Both the bedroom and lounge have a window remaining in north and south elevations respectively so daylight to these rooms will be sufficient.
- 10.9 The proposal does include windows on the side and front elevations however as these are at ground floor level and any potential overlooking would be mostly at an oblique angle and more than 10m away therefore not significant enough to warrant refusal. It is therefore considered that there will be no significant overlooking impact to immediate neighbours.
- 10.10 In consideration of the above therefore, it is believed that there would be no material significant overlooking, overshadowing or over bearing effect.
- 10.11 The amenity of neighbouring residents is to be considered with regard to traffic movement, associated noise and disturbance. The land is currently garden land and has the normal associated domestic activity and disturbance. The introduction of one new dwelling would result in vehicle movements close to the neighbouring property (38A) however, vehicle movements associated with one dwelling is not considered to be significantly detrimental enough to warrant refusal.
- 10.12 With regard to neighbours' concerns regarding flooding, the site is not located within a flood zone and the issue regarding potential surface water run-off is an issue that is controlled by Building Regulations.

D Whether parking provision and access is satisfactory

- 10.13 A new access is proposed to run along the southern boundary and would be used to serve the existing dwelling and the new dwelling. The access would be approximately 5m wide. Essex County Council Highways Authority has no objection subject to conditions to the proposal as it is not contrary to the relevant transportation policies contained within the Highways Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011 and Local Plan Policy GEN1. The use of the proposed access would not have any harmful impact on highway safety in this location. The submitted details show that there would be adequate space within the site for the parking of three vehicles off road for the existing dwelling and two spaces for the proposed new dwelling. The indicated spaces are of a number and size that complies with current adopted standards.
- 10.14 The site is sustainable with regard to the availability of public transport and services within walking distance. The erection of one dwelling would not generate a volume of traffic that would impact on the surrounding transport network.

E Impact of the proposal on Protected Species

- 10.15 With regard to ecology, the answers to the submitted biodiversity checklist and the Officer's site visit have shown that the proposed development would not have any impact on any protected species. Whilst there are hedges on the boundaries of the site

these are not proposed to be removed and a condition regarding proposed landscaping will be imposed.

F Impact of the proposal on TPO tree

10.16 A beech tree with a TPO is situated in the neighbouring garden of No.38A Bentfield Road close to the boundary with the site. The Council's Landscape Officer has been consulted and is satisfied that subject to the imposition of a condition regarding a "no-dig" solution that the health of the tree will be protected.

11. CONCLUSION

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

The proposal is considered to be in accordance with the relevant Uttlesford Local Plan policies and the application is recommended for approval.

RECOMMENDATION – CONDITIONAL APPROVAL

Conditions/reasons

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this decision.

REASON: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Before development commences full details of both hard and soft landscape works shall be submitted to and approved in writing by the local planning authority. Subsequently, these works shall be carried out as approved. The landscaping details to be submitted shall include:-

- a) proposed finished levels [earthworks to be carried out]
- b) means of enclosure
- c) hard surfacing, other hard landscape features and materials
- d) existing trees, hedges or other soft features to be retained
- e) planting plans, including specifications of species, sizes, planting centres, number and percentage mix

REASON: The landscaping of this site is required in order to protect and enhance the existing visual character of the area and to reduce the visual and environmental impacts of the development hereby permitted in accordance with Policy GEN2 of the Uttlesford Local Plan adopted 2005.

3. Before development commences full details of a no dig solution in respect of the driveway and parking areas shall be submitted to and approved in writing by the local planning authority. Subsequently, these works shall be carried out as approved.

REASON: To ensure that the TPO tree in the adjacent garden shall be protected in accordance with Policy ENV3 of the Uttlesford Local Plan adopted 2005.

4. Prior to occupation of the development the vehicular access shall be constructed at right angles to the highway boundary and to the existing carriageway. The width of the access at its junction with the highway shall not be less than 5 metres, shall be retained at that width for 6 metres within the site and shall be provided with an appropriate dropped kerb vehicular crossing of the footway.

REASON: To ensure that vehicles can enter and leave the highway in a controlled manner in the interest of highway safety in accordance with Policy GEN1 of the Uttlesford Local Plan adopted 2005.

5. Prior to occupation of the development a 1.5 metre x 1.5 metre pedestrian visibility splay, as measured from and along the highway boundary, shall be provided on both sides of the vehicular access. Such visibility splays shall be retained free of any obstruction in perpetuity. These visibility splays must not form part of the vehicular surface of the access.

REASON: To provide adequate inter-visibility between the users of the access and pedestrians in the adjoining public highway in the interest of highway safety in accordance with Policy GEN1 of the Uttlesford Local Plan adopted 2005.

6. No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary of the site.

REASON: To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with Policy GEN1 of the Uttlesford Local Plan adopted 2005.

7. Any gates provided at the vehicular access shall be inward opening only and shall be set back a minimum of 6 metres from the back edge of the carriageway.

REASON: To enable vehicles using the access to stand clear of the carriageway whilst gates are being opened and closed in the interest of highway safety in accordance with Policy GEN1 of the Uttlesford Local Plan adopted 2005.

8. The existing access shall be suitably and permanently closed to the satisfaction of the Local Planning Authority, incorporating the reinstatement to full height of the footway and kerbing, to the satisfaction of the Highway Authority immediately the proposed new access is brought into use. Reason: To ensure the removal of and to preclude the creation of unnecessary points of traffic conflict in the highway in the interests of highway safety.

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

9. Prior to commencement of the development, the areas within the curtilage of the site for the purpose of loading/unloading/reception and storage of building materials and manoeuvring of all vehicles, including construction traffic shall be identified clear of the highway. Details to be submitted to and approved in writing by the Local Planning Authority.

REASON: To ensure that appropriate loading/unloading facilities are available so that the highway is not obstructed during the construction period in the interest of highway safety in accordance with Policy GEN1 of the Uttlesford Local Plan adopted 2005.

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order with or without modification), no development within Classes A to F of Part 1 of Schedule 2 and Class A of Part 2 of Schedule 2 of the Order shall take place without the prior written permission of the local planning authority.

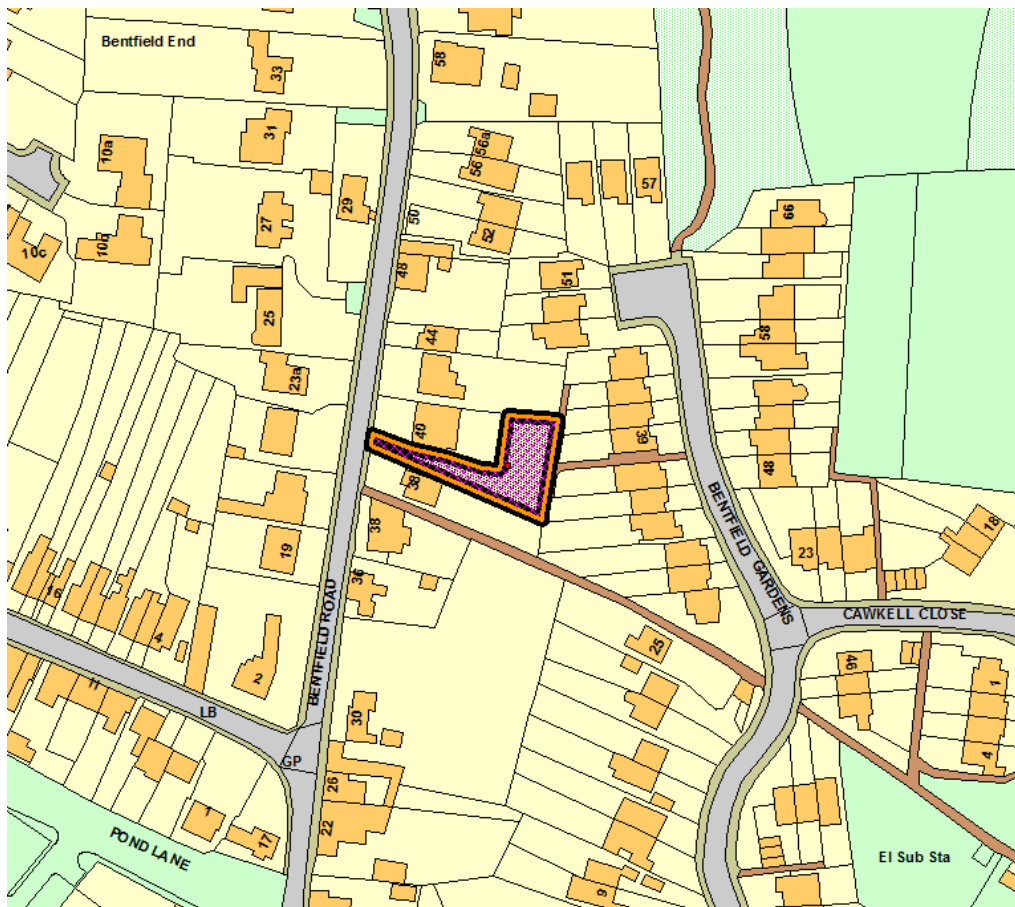
REASON: To prevent the site becoming overdeveloped and in the interests of the amenity of the occupiers of adjoining dwellings/buildings in accordance with the Policy GEN2 of the Uttlesford Local Plan (adopted 2005) and the NPPF.

11. The proposed ground floor windows on the eastern rear elevation as shown on submitted drawing 7114 shall be omitted and no further windows [rooflights, or other form of opening] shall be inserted into this elevation without the prior written consent of the local planning authority.

REASON: To avoid overlooking of the adjacent property in the interests of residential amenity in accordance with ULP Policy GEN2 of the Uttlesford Local Plan (adopted 2005)

Application no.: UTT/14/1999/FUL

Address: Land adj 40 Bentfield Road Stansted



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Organisation: Uttlesford District Council
 Department: Planning
 Date: 4 August 2014
 SLA Number: 100018688

Committee: Planning

Agenda Item

Date: 20th August 2014

5

**Title: Town and Country Planning Act 1990,
Section 249: Application to Remove Public
Rights of Way for Motor Vehicles along
Byway 25 (Jacks Lane), Takeley and Little
Canfield.**

**Author: Jeremy Pine, Planning Policy /
Development Management Liaison Officer
(01799 510460)**

Item for decision

Summary

1. This report is about an application that the District Council is proposing to make to the Secretary of State for Transport for an Order under Section 249 of the Town and Country Planning Act 1990. The effect of the Order will be to restrict the use of Byway 25 to private vehicular rights and exclude the public from using any mechanically propelled vehicles, inclusive of cars and motorbikes.
2. The report explains the procedure which has to be followed, and gives details of the initial statutory local consultation that has been undertaken. The report incorporates guidance that the Council has received to help the Committee understand the likely timescale and the application process.

Recommendation

3. That the District Council, via the Planning Committee, in its capacity as the local planning authority resolves:
 - i) to improve the amenity of this part of the Parishes of Takeley and Little Canfield by the length of Byway 25 shown between points A to E on the attached plan ceasing to have any public right of way for mechanically propelled vehicles, inclusive of cars and motorbikes, and
 - ii) to make an application to the Secretary of State for Transport for an appropriate Order, with the provision for any necessary structures, under Section 249 of the Town and Country Planning Act 1990.

Financial Implications

4. The District Council does not have any funding for this proposal. The proposal will have to compete for funding from the Highways Panel unless alternative sources can be found.

Background Papers

5. None.

Impact

6.

Communication/Consultation	The Council has carried out initial consultation with the local highway authority and parish councils as required under Section 249(8) of the 1990 Act. Further statutory consultation will be carried out by the Secretary of State once the application for the Order has been lodged.
Community Safety	There are local concerns that Byway 25 is not safe for use by pedestrians, cyclists and horse riders due to the condition of its surface.
Equalities	The current condition of Byway 25 does not make it suitable for use by people with disabilities.
Health and Safety	There are local concerns that Byway 25 is not safe for use by pedestrians, cyclists and horse riders due to the condition of its surface.
Human Rights/Legal Implications	If the Order is made, it will become an offence for anyone to drive a motor vehicle along the byway.
Sustainability	The purpose of the Order will be to improve local connections for pedestrians, cyclists and horse riders.
Ward-specific impacts	Takeley and The Canfields.
Workforce/Workplace	Officer time in preparing this report, including liaison with colleagues at Essex County Council.

Situation

7. A request has been made to the District Council in its capacity as the local planning authority to apply to the Secretary of State for Transport for an Order under Section 249 of the Town and County Planning Act 1990. The effect of

the Order will be to restrict the use of Byway 25 to private vehicular rights and exclude the public from using any mechanically propelled vehicle, inclusive of cars and motorbikes. Although referred to commonly as a “pedestrianisation” order, the local planning authority can specify in its application what rights should exist. The Order can be repealed at a later date. Under Section 249(1) of the 1990 Act, the local planning authority has to have resolved to adopt a proposal for improving the amenity of part of their area before making the application. The proposal has to involve the public ceasing to have any right of way with vehicles over a highway in that area which is neither a trunk road nor a principal road.

8. The application is submitted to the National Transport Casework Team (NTCT), which acts on behalf of the Secretary of State.

Location

9. Byway 25 (Jacks Lane) runs from Smiths Green Lane in Takeley (north of Maggotts Cottages) south-east to Jacks Green, from where it runs east through the Priors Green housing development, crossing Burgattes Road in two locations. The byway then continues eastwards past open fields ending at Frogs Hall Road. A plan which the County Council has prepared showing Byway 25 and its relationship to Priors Green is attached to this report.

Reason for applying for the Order

10. Byway 25 dates from the Middle Ages, and is of local environmental and historical interest. The byway used to be used for farm access, but is now part of the local route network at Priors Green, crossing Burgattes Road at points C and D on the plan. The community centre, primary school and a number of houses are located close to the byway. Byway 25 is frequently used by 4x4 motor vehicles and scrambler / quad motorcycles, making its surface unsuitable for use by local pedestrians, cyclists and horse riders. The byway surface is heavily rutted, leading to pooled standing water in places. At crossing points C and D it is possible to walk only a few metres along the byway in either direction before it becomes unsafe to continue.

Consultations

11. Before making the application, Section 249(8) of the 1990 Act requires that the local highway authority and parish councils are notified. This has been done, and the following representations have been received:

Essex County Council: There are various products on the market that can help reduce certain users from accessing the lane, however they cannot be made fool proof to prevent complete unavailability to one user whilst allowing access by another. Advice given on these products.

Stress that the County Council’s budget for Public Rights of Way (PROW) works inclusive of byway maintenance and improvements will be limited. No guarantee that, following a successful application, the County Council would

be in a position to carry out works that would be deemed necessary to the District Council, as any works would be in keeping with the maintenance strategy of the County Council regarding PROW across the whole of the County.

Takeley Parish Council: Fully supports for the reasons explained in the report. Includes 7 Emails from local residents in support of the Order, and one from the local County Council member, Councillor Susan Barker. The residents' representations refer to instances of noise disturbance, to the churning up of the surface of the byway and to near misses between motor vehicles and pedestrians. The Parish Council says that it has also received support from local cycling, riding and walking groups and from Countryside Properties (the developer of Priors Green).

Little Canfield Parish Council: Due to the development of Priors Green, Jacks Lane now runs through a heavily populated area. It would potentially be a useful resource for walkers and the community but the surface is unsuitable for pedestrians due to rutting by quad bikes and 4x4s. The byway is not required or utilised for access purposes by any user. The Parish Council would, therefore, welcome the closing of the byway to vehicles.

Takeley Primary School: Support the application. Believe that it is vital to restrict vehicle access to Jacks Lane to make it safe for pedestrians and therefore our school children. This route would create a safe alternative route for children to walk to / from school.

12. Once the application has been submitted to the NTCT there will be a further 28 day consultation period on any draft Order that is issued, plus a six week High Court challenge period.

Timescale

13. The Council has been provided with guidance notes from the NTCT on how to make the application. The notes advise that once the details of an application have been agreed it can take a minimum of 5 months to make an Order provided there are no objections.
14. If objections are received that cannot be resolved within a reasonable timescale, it will normally be necessary for the Secretary of State to hold a local inquiry. In such cases the period before a decision is taken will be considerably longer, possibly a year or even longer in some cases. Any objections that the Secretary of State receives will be copied to the District Council so that it may negotiate with the objector if it wishes with a view to resolving the objections.

Risk Analysis

15.

Risk	Likelihood	Impact	Mitigating actions
That the application for the Order is not successful.	2. There is some risk as the Secretary of State will have to weigh up any objections to the Order against the environmental case for making the Order.	2. It is unlikely that the surface condition of Byway 25 would improve if motor vehicles continue to use it.	Work closely with the County Council in its capacity as the local highway authority in drawing up and submitting the application for the Order.

1 = Little or no risk or impact

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

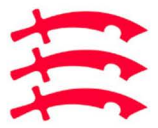
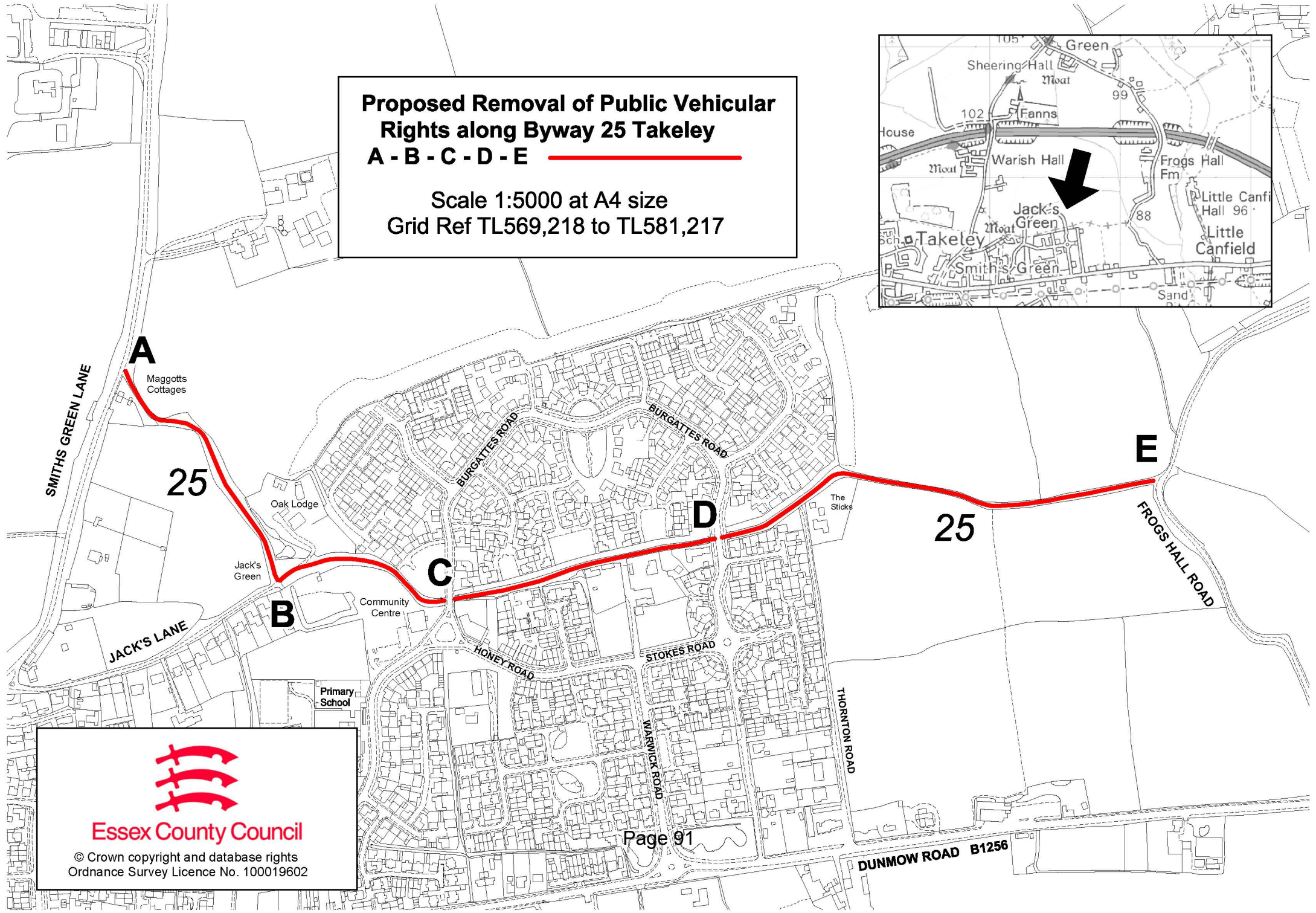
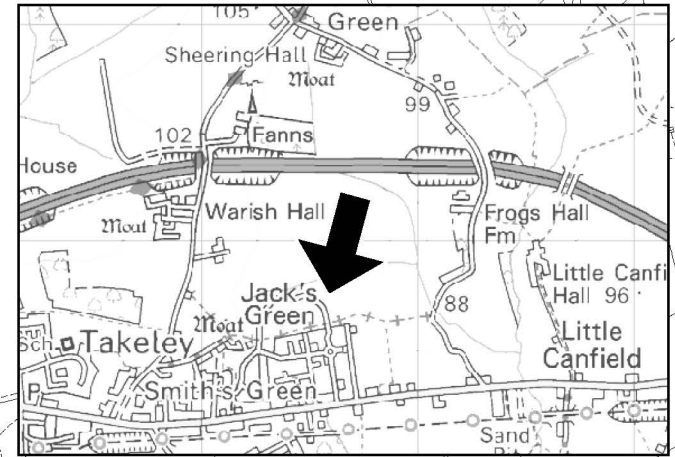
3 = Significant risk or impact – action required

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

**Proposed Removal of Public Vehicular
Rights along Byway 25 Takeley**

A - B - C - D - E 

Scale 1:5000 at A4 size
Grid Ref TL569,218 to TL581,217



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Title: Appeal Decisions

Item 6

Author: Nigel Brown –

SITE ADDRESS	APPLICATION NO	DESCRIPTION	APPEAL DATE & DECISION	SUMMARY OF DECISION	DECISION BY OFFICER/OVERTURNED BY COMMITTEE
Land West Of 1 Chestnut Cottages Burton End Stansted	UTT/13/3436/OP	Outline application for the erection of 2 no. dwellings with all matters reserved	Dismissed 22 July 2014	<p>The Inspector concluded that the site was located in an unsustainable location away from services, although facilities in Stansted were only a mile away, he concluded that the nature of the road and absence of a footpath, still meant that there would be an over reliance on the motor car and that the site constituted an unsustainable location. The Inspector did consider that the development of the site would result in the clearing of what was currently an untidy site; however he did conclude that the lack of sustainability of the site outweighed this gain. Notwithstanding this view, the Inspector questioned whether the site constituted previously developed land as there are minimal structures on the site.</p> <p>Due the lack of evidence provided by the appellant, the Inspector took a precautionary approach regarding the potential impact of the occupants of the proposed dwellings from noise from aircraft traffic from Stansted Airport.</p>	Refused

<p>Plot 10 Goddards Yard Thaxted Road Saffron Walden</p>	<p>UTT/13/2395/FUL</p>	<p>1 no. new dwelling</p>	<p>Approve 23 July 2014</p>	<p>In allowing the appeal the Inspector questioned the general contribution the character of the area from the open space function of this railway embankment. She concluded that the development of this site would afford an opportunity for further tree planting that would improve the character of the area.</p> <p>She concluded that due to the lack of any significant overlooking windows, the development would not cause material harm to the living conditions of the occupants of neighbouring properties on Prospect Place, with regard to outlook, privacy and light.</p>	<p>Refused and upheld at Committee</p>
<p>Land Adj Grind Hall Wood End Green Henham</p>	<p>UTT/13/1952/OP</p>	<p>Change of use of land from agricultural to residential, and erection of four dwellings and associated garages and alteration of access with all matters reserved except access.</p>	<p>Dismissed 28 July 2014</p>	<p>The Inspector concluded that the site's position relates more to the countryside than the existing settlement, and as such is considered an unjustified intrusion into the countryside.</p> <p>The Inspector also considered that the absence of required ecological surveys could not be addressed by the imposition of a planning condition. She stated that "Circular 6/2005 indicated that a survey should be carried out before permission is granted where there is a reasonable likelihood of a protected species being present and affected". The likelihood of reptiles and newts being present was high due to the proximity of the Elsenham Woods SSSI.</p> <p>She was content that the affordable housing contribution was justified based upon the Council's Housing Strategy and SHMAA.</p>	<p>Refused</p>

<p>Land Rear Of The Nest Goose Lane Little Hallingbury</p>	<p>UTT/13/2844/OP</p>	<p>Outline application, with some matters reserved, for the erection of 1 no. one and a half storey dwelling including demolition of existing double garage</p>	<p>Dismissed 11 July 2014</p>	<p>In dismissing the appeal the Inspector considered that the proposed development would not achieve the necessary separation distances stipulated within the Essex Design Guide. Even more pertinent was her concerns that the development of the garden with a dwelling would be out of character of this part of the village, which is characterised by spacious layout, this development would appear cramped within this area.</p> <p>Although the access would meet the technical requirements of the highway authority, "its position in close proximity to both the exiting dwelling and adjacent dwelling, and the need to run the whole length of the site in order to access the proposed garage would prejudice the living conditions of the occupants of the adjacent properties due to noise and disturbance.</p>	<p>Refused</p>
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