

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).

