

UTT/14/3770/FUL LITTLE CANFIELD

PROPOSAL: Removal of condition 8 from planning permission UTT/14/1819/FUL for demolition of existing buildings and erection of 13 dwellings.

LOCATION: Stansted Motel & 2 Hamilton Road, Little Canfield, Essex

APPLICANT: Bushmead Homes Ltd

AGENT: Cerda Planning Ltd

EXPIRY DATE: 16 February 2015

CASE OFFICER: Lindsay Trevillian

1. NOTATION

1.1 Takeley/Little Canfield Local Policy 3 – Priors Green

2. DESCRIPTION OF SITE

2.1 The application site is located on the edge of the village of Takeley on the northern side of Dunmow Road. The site is rectangular in shape, with the longest side adjacent to the main Road. Hamilton Road and Thornton Road adjoin the eastern and western boundaries of the site which lead to dead ends. The site contains approximately 0.43 of a hectare and is relatively level.

2.2 At the time of the officer's site inspection, works had commenced to implement planning permission UTT/14/1819/FUL which was for the demolition of existing buildings and the erection of 13 dwellings. The once existing residential dwelling and motel have now been demolished and the site cleared of any hard paving or vegetation. Apart from building materials stacked up within the site for future development, the only recognisable structure is the security fencing erected around the perimeter of the site.

2.3 Residential properties consisting of a mixture of sizes and scales are located to the north, west and south of the site.

3. PROPOSAL

3.1 Planning permission is sought to remove Condition 8 that was imposed on planning permission UTT/14/1819/FUL which was for the demolition of existing buildings and the erection of 13 dwellings. Condition 8 states:

3.2 *The metal railings to the front of Plots 1, 2 and 3 fronting Hamilton Road; Plots 10 and 11 fronting Thornton Road and Plots 4, 5, 6, 7, 8 and 9 fronting Stortford Road shall not have access gates which give direct access on to the aforementioned Roads. This is to prevent vehicles being parked on the carriageway near to the houses and potentially creating a safety hazard.*

REASON: In the interests of Highway safety In accordance with ULP Policy GEN1

4. APPLICANT'S CASE

- 4.1 The applicant states within the submitted application form that condition 8 is unnecessary and prevents access to dwellings by pedestrians, visitors and postal delivers.

5. RELEVANT SITE HISTORY

- 5.1 UTT/0924/08/OP - Demolition and replacement of existing dwelling and demolition of motel, erection of 13 No. dwellings and alterations to vehicular access (refused)
- 5.2 UTT/0929/08/OP - Outline application for the demolition of existing dwelling and erection of a maximum of 7 no. dwellings with all matters reserved (refused)
- 5.3 UTT/0930/OP - Demolition of existing dwelling and motel, and erection of a maximum of 14 no. dwellings with all matters reserved (refused)
- 5.4 UTT/0240/12/OP - Demolition of motel/restaurant, associated outbuildings and no 2 Hamilton Road. Erection of No. 13 dwellings with associated access (approved with conditions)
- 5.5 UTT/13/2083/FUL Variation of condition 2 (Application for approval of the Reserved Matters shall be made to the Local Planning Authority not later than the expiration of 12 months from the date of this permission) of planning application UTT/0240/12/OP to extend the time limit to be made not later than 24 months from the date of the outline permission (approved with conditions)
- 5.6 UTT/14/3770/FUL - Demolition of Former motel/restaurant, associated outbuildings and No. 2 Hamilton Road. Erection of 13 Dwellings with associated access off Dunmow Road (approved with conditions)
- 5.7 UTT/14/3778/NMA - Non Material Amendment to UTT/14/1819/FUL - Amendments to layout (refused)

6. POLICIES

6.1 National Policies

- National Planning Policy Framework

6.2 Uttlesford District Local Plan 2005

- Policy S2 - Development Limits
- Policy GEN1 – Access
- Policy GEN2 – Design
- Policy GEN3 – Flood Protection
- Policy GEN4 – Good Neighbourliness
- Policy GEN6 – Infrastructure provision to support development
- Policy GEN7 – Nature Conversation
- Policy GEN8 – Vehicle Parking Standards
- Policy H1 – Housing Development
- Policy H9 – Affordable Housing
- Policy H10 – Housing Mix
- Takeley/Little Canfield Local Policy 3 – Priors Green

6.3 Supplementary Planning Documents

- Accessible Homes and Playspace (November 2005)
- ECC Parking Standards (September 2009)
- Uttlesford Local Residential Parking Standards (February 2013)
- Urban Place Supplement to the Essex Design Guide (March 2007)
- Energy Efficiency and Renewable Energy (October 2007)

7. PARISH COUNCIL COMMENTS

7.1 Little Canfield Parish Council: - No comments received.

8. CONSULTATIONS

Essex County Council Highways:

- 8.1 From a highway and transportation perspective the Highway Authority has no comments to make on this proposal as it is not contrary to the relevant transportation policies contained within the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011 and Uttlesford Local Plan Policy GEN1.
- 8.2 Condition 8 of planning consent UTT/14/1819/FUL was not requested by the Highways Authority although this Authority has in the past had concerns that the frontage development could lead to parking on Stortford Road, this current scheme has an on-site parking provision in excess of current parking standards and it is considered unreasonable therefore to object to the removal of condition 8 of UTT/14/1819/FUL.

9. REPRESENTATIONS

- 9.1 The application was notified to 95 surrounding occupiers and a site notice displayed. Four objection letters has been received at the time of writing this report. The main concerns of objection are as follows:
- Thornton Road and Hamilton Road are dead end roads with no turning points. The roads are not up to a highway standard, width or condition. Both these roads are badly pot holed and are uneven and at times waterlogged.
 - Additional parking on these roads would lead to further obstructions to surrounding highways resulting harm to health and safety.
 - Removal of Condition 8 and introducing gates into the security fence in unnecessary and will cause security and health and safety issues for the new residents and existing residence of Thornton and Hamilton Road.
 - Removing condition 8 would lead to more parking on surrounding highwyas leading to more congestion and no room for emergency and refuse vehicles to operate.

10. APPRAISAL

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

- A. Whether it was appropriate for the Local Planning Authority to impose the condition on the approved planning permission in accordance Circular 11/95 of the Town and Country Planning Act 1990 and the National Planning Policy Guidance.**

- 10.2 The main powers relating to local planning authority use of conditions are in Sections 70, 72, 73, 73A, and Schedule 5 of the Town and Country Planning Act 1990.
- 10.3 Section 70(1)(a) of the Act enables the local planning authority in granting planning permission to impose “such conditions as they think fit”. This power must be interpreted in light of material factors such as the National Planning Policy Framework, and the supporting guidance on the use of conditions within circular 11/95.
- 10.4 Paragraph 203 of the National Planning Policy Framework states “Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions”
- 10.5 When used properly, conditions can enhance the quality of development and enable development proposals to proceed where it would otherwise have been necessary to refuse planning permission, by mitigating the adverse effects of the development. The objectives of planning are best served when the power to attach conditions to a planning permission is exercised in a way that is clearly seen to be fair, reasonable and practicable. It is important to ensure that conditions are tailored to tackle specific problems, rather than standardised or used to impose broad unnecessary controls.
- 10.6 Paragraph 206 of the National Planning Policy Framework states “Planning conditions should only be imposed where they are:
1. necessary;
 2. relevant to planning and;
 3. to the development to be permitted;
 4. enforceable;
 5. precise and;
 6. reasonable in all other respects.”
- 10.7 The policy requirement above is referred to in this guidance as the six tests. As a matter of policy, conditions should only be imposed where they satisfy all the tests described.
- 10.8 Although officers consider that Condition 8 imposed on the planning permission satisfies tests 2, 3, 4 and 5 as indicated above, it is however regarded that the condition imposed does not satisfy the requirements of tests 1 and 6.
- 10.9 In considering whether a particular condition is necessary, authorities should ask themselves whether planning permission would have been refused if that condition were not imposed. As a matter of policy, a condition ought not to be imposed unless there is a define need for it. The same principles must be applied in dealing with applications for the removal of a condition under section 73 or section 73A where it states that a condition should not be retained unless there are sound and clear cut reasons for doing so.
- 10.10 It should be noted that members imposed condition 8 to be included as part of the planning permission in order to prevent vehicles being parked on the carriageway near to the houses and potentially creating a safety hazard in the interests of Highway safety.

- 10.11 However it should also be noted that at the time of the assessment of the application, the highways authority had no objection to the proposal as the development was in accordance with the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011 and Uttlesford Local Plan Policy GEN1.
- 10.12 As such given that the highways authority had no concerns upon highway safety, it is considered that there was not a definite need to impose condition 8 in the first instance.
- 10.13 The highways authority was consulted under the current scheme in relation to the removal of condition 8. Once again the authority stated that they had no objection to the proposal and that the scheme has an on-site parking provision in excess of current parking standards. It was thereby considered by the highways authority to be unreasonable to object to the removal of condition 8 of UTT/14/1819/FUL.
- 10.14 Once again there is no further evidence or policy background in the reasoning to retain condition 8 as there are no sound or clear cut reason for doing so in accordance with Town and Country Planning Act 1990.
- 10.15 Given that there was not a defined need to impose the condition in the first instance and that there is no clear-cut reasons to retain the condition on the planning permission, it is considered that the need for imposing the condition is not necessary.
- 10.16 In addition to the above, a condition may be found to be unreasonable because it is unduly restrictive. Although a condition may in principle impose a continuing restriction of the use of the land, such a condition should not be imposed if the restriction effectively nullifies the benefit of the permission. It is agreed that the main benefit of the permission is the construction of the dwelling houses themselves however it is considered that Condition 8 restricts the reasonable needs of future occupiers of those dwellings. In particular, it would restrict pedestrian access to the frontage of the dwellings in question such as postal service, home deliveries and visitors to name but a few.
- 10.17 In fact the imposing of Condition 8 on the planning permission is argued that it would be contrary to both local policies GEN1 and GEN2 rather than meeting the criteria of them. Any building that may be used by the public including housing will be required to provide safe, easy and inclusive access for all people regardless of disability, age or gender. In addition a new development should provide an environment which meets the reasonable needs of all potential users. Restricting access to the dwellings would be contrary to the above and also fail to be in compliance with Life Time Home Standards.
- 10.18 The imposing of condition 8 is therefore regarded as being unduly restrictive and thereby is unreasonable.

11. CONCLUSION

- 11.1 The imposing of condition 8 on planning permission UTT/14/1819/FUL fails to meet the guidance of the tests set within the Nation Planning Policy Framework and Circular 11/95. In particular, it is considered that the condition is not necessary and is unreasonable and it would also be contrary to the criteria set within the local policies GEN1 and GEN2. It is therefore recommended that the application be approved subject to the same conditions as previously imposed on planning permission UTT/14/1819/FUL apart from condition 8 which shall be removed.

12. **RECOMMENDATION – CONDITIONAL APPROVAL**

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 contributions towards education**
 - (ii) Pay Council reasonable legal 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 30 April 2015 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 contributions towards education****

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. The development hereby permitted shall be carried out in accordance with the approved plans and submitted documents as set out in the Schedule.

REASON: For the avoidance of doubt as to the nature of the development hereby permitted, to ensure development is carried out in accordance with the approved application details, to ensure that the development is carried out with the minimum harm to the local environment, in accordance with the Policies of the Uttlesford Local Plan (adopted 2005) as shown in the Schedule of Policies.

3. The works hereby approved shall be carried out in accordance with the Archaeological Evaluation report prepared by Trial Trenching dated December 2012 as approved under planning application UTT/14/3343/DOC.

REASON: In the interests of archaeological protection in accordance with Policy ENV4 of the Uttlesford Local Plan (adopted 2005)

4. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing by the local planning authority) shall be carried out until the developer has submitted and obtained

written approval from the local planning authority for a remediation strategy detailing how this unsuspected contamination shall be dealt with.

REASON: To ensure that the proposed development does not cause pollution of Controlled Waters and that development complies with approved details in the interests of protection of Controlled Waters and in accordance with ULP Policy ENV14 of the Uttlesford Local Plan (adopted 2005).

5. The works hereby approved shall be constructed in accordance with plan number B5806 (PL) 100 titled Contractor Site Set up unless otherwise agreed in writing by the Local Planning Authority.

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

6. The vehicular accesses 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 5.5metres, shall be retained at that width for 10metres within the site and shall be provided with 7.5 metre radius and 2 x 2 metre footways.

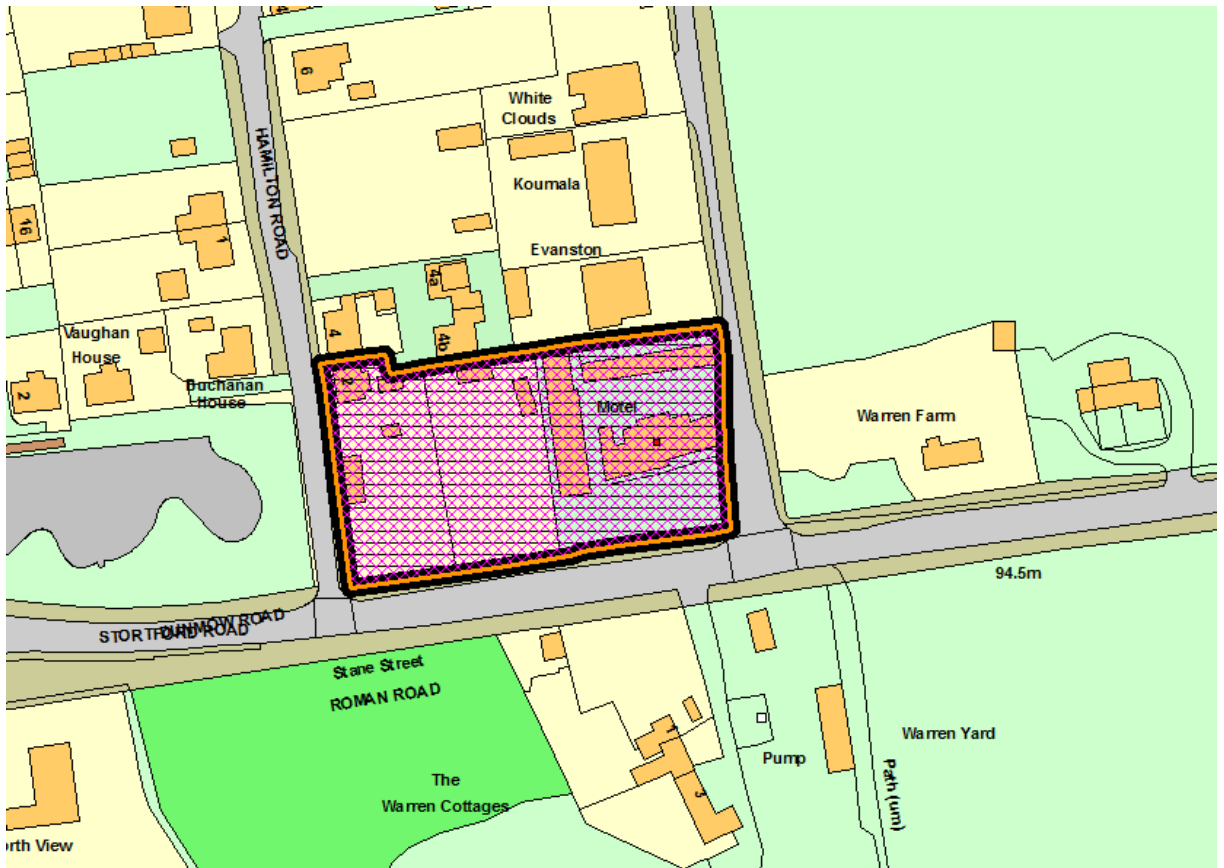
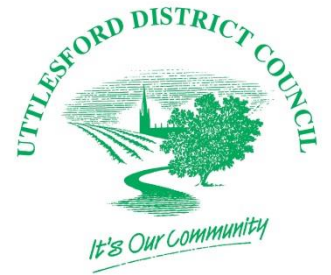
REASON: To ensure that vehicles can enter and leave the highway in controlled manner in the interest of highway safety In accordance with ULP Policy GEN1

7. Such access to provide visibility splays with dimensions of 2.4 metres by 90 metres to the east and west, as measured from and along the nearside edge of the carriageway. The area within each splay shall be kept clear of any obstruction exceeding 600mm in height at all times, Details to be submitted to and agreed with the Local Planning Authority in consultation with Highway Authority.

REASON: To provide 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 ULP Policy GEN1.

Application no.: UTT/14/3770/FUL

Address: Stansted Motel and 2 Hamilton Road Little Canfield



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Organisation: Uttlesford District Council

Department: Planning

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