

Committee: Planning

Agenda Item

Date: 1 July 2015

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Title: UTT/14/0127/FUL; Planning application for the erection of 99 dwellings, including 40 percent affordable housing, facilitated by new vehicular and pedestrian access from the roundabout junction of Ongar Road and Clapton Hall Lane, public open space including a children's' play area, green corridors, associated parking and landscaping. Land South of Ongar Road, Ongar Road, GREAT DUNMOW

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Summary

1. The above planning application was reported to Planning Committee on 7 May 2014. Members resolved to grant planning permission. A Section 106 Obligation was completed and a decision notice was issued on 31 July 2014.
2. The Report to Planning Committees of 7 May 2014 is appended as Appendices A. The minutes of this are appended as Appendix B.
3. Subsequent to the issuing of the decision notice, a Judicial Review was received challenging the decision on the basis that the Council failed to carry out an appropriate EIA Screening of the application. The Council accepted this and the decision was duly quashed and has been returned to the Council to re-determine.
4. A final revised Screening Opinion has been provided under Reference UTT/15/0460/SCO dated 8 June 2015.
5. The purpose of this report is to reconsider Planning Application UTT/14/0127/FUL

Recommendations

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 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 provision of 40% affordable housing split 70:30 between rented units and shared equity units**
 - (ii) to provide public open space and a LEAP before first occupation and offer it to the Town Council for adoption with a contribution to ongoing maintenance for 20 years**
 - (iii) Primary education contribution of £294,013.00**
 - (iv) Secondary education contribution of £289,854.00**
 - (v) Highway contribution of £27,183 toward improvements of the Hoblings junction**
 - (vi) Bus stop improvement works to the Gatehouse Villas and Chelmsford Road stops**
 - (vii) Healthcare contribution of £16,800.00**
 - (viii) Travel Plan**
 - (ix) Council's reasonable legal costs**
 - (x) Monitoring contribution**
- (II) In the event of such an agreement 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 agreement by 3 August 2015 the Assistant Director Planning and Building Control shall be authorised to refuse permission in his discretion any time thereafter for the following reasons:**
- (i) Lack of contributions to essential healthcare and primary and secondary education facilities**
 - (ii) Lack of provision of 40% affordable housing**
 - (iii) Lack of open space and play equipment**
 - (iv) Lack of improvements to Hoblings junction, local bus stops**
 - (v) Failure to provide a Travel Plan**

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 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. 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).

JUSTIFICATION: It is imperative that the appropriate materials are agreed before the use of materials on the site.

4. Prior to the erection of the development hereby approved full details of both hard and soft landscape works consistent with the approved Landscape Strategy Plan 13.1705.01E and the Soft landscaping proposals Plan 13.1705.02 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:-
 - 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,
 - viii. communications cables, pipelines etc. indicating lines, manholes, supports.);
 - ix. retained historic landscape features and proposals for restoration, where relevant.

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).

JUSTIFICATION: Development prior to the agreement of landscaping could prejudice appropriate landscaping being secured on the site.

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 permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA), prepared by Hannah Reed & Associates, reference C211058/MH/January 2014, and the following mitigation measures:
 1. Limiting the surface water run-off generated by the 1 in 100 year storm event, inclusive of an allowance for climate change, so that it will not exceed the current run-off from the site of 10.76l/s.
 2. Provide surface water attenuation on site for a volume of 1200m. in accordance with drawing number C-211058/110P3.

REASON: To accommodate storm events up to and including the 1 in 100 year with climate change AND To mimic the current discharge rates to ensure flood risk is not increased off site.

7. No development shall take place until details of the implementation, adoption, maintenance and management of the sustainable drainage system have been submitted to and approved in writing by the local planning authority. The system shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include a timetable for its implementation and a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the effective operation of the sustainable drainage system throughout its lifetime.

REASON: To ensure suitable drainage for the development in accordance with Policies GEN2 and GEN3 of the Uttlesford Local Plan (adopted 2005).

JUSTIFICATION: Development prior to the agreement of the sustainable drainage system could seriously prejudice the delivery of an appropriate sustainable drainage scheme.

8. No building hereby permitted shall be occupied until the sustainable drainage system for the site has been completed in accordance with the submitted details. The sustainable drainage system shall be managed and maintained thereafter in accordance with the agreed management and maintenance plan.

REASON: To ensure suitable drainage for the development in accordance with Policies GEN2 and GEN3 of the Uttlesford Local Plan (adopted 2005).

9. Construction work shall not begin until a scheme for protecting the proposed dwellings from noise from the A120 has been submitted to and approved in writing by the local planning authority; all works which form part of the scheme shall be completed before any dwelling is occupied.

REASON: In the interests of the amenity in accordance with Policies GEN2, and GEN4 of the Uttlesford Local Plan (adopted 2005).

10. The development hereby permitted shall be implemented in accordance with the scheme of mitigation/enhancement submitted with the application in all respects and any variation thereto shall be agreed in writing by the local planning authority before such change is made.

REASON: In the interest of the protection of the wildlife value of the site in accordance with Policy GEN7 and PPS9 of the Uttlesford Local Plan (adopted 2005).

11. No development or preliminary groundworks can commence until a programme of archaeological trial trenching has been secured and undertaken in accordance with a written scheme of investigation which has been submitted by the applicant, and approved by the planning authority. A mitigation strategy detailing the excavation/preservation strategy shall be submitted to the local planning authority following the completion of this work.

REASON: In the interests of archaeological protection in accordance with Policy ENV4 of the Uttlesford Local Plan (adopted 2005) and Planning Policy Statement 5.

JUSTIFICATION: Any works prior the necessary archaeological works could prejudice and heritage asset.

12. No development or preliminary groundworks can commence on those areas containing archaeological deposits until the satisfactory completion of fieldwork, as detailed in the mitigation strategy, and which has been signed off by the local planning authority through its historic environment advisors.

REASON: In the interests of archaeological protection in accordance with Policy ENV4 of the Uttlesford Local Plan (adopted 2005) and Planning Policy Statement 5.

JUSTIFICATION: Any works prior the necessary archaeological works could prejudice and heritage asset

13. The applicant will submit to the local planning authority a post-excavation assessment (to be submitted within six months of the completion of fieldwork, unless otherwise agreed in advance with the Planning Authority). This will result in the completion of post-excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.

REASON: In the interests of archaeological protection in accordance with Policy ENV4 of the Uttlesford Local Plan (adopted 2005) and Planning Policy Statement 5.

14. Development shall not commence until a Bird Hazard Management Plan has

been submitted to and approved in writing by the Local Planning Authority. The submitted plan shall include confirmation of:

- planting and plant maintenance in the perimeter of waterbodies;
- measures to limit access during the development stage e.g. goose proof fencing surrounding all waterbodies;
- signs deterring people from feeding the birds;
- access to the site for representatives of Stansted Airport as required for the purposes of monitoring bird activity.

The Bird Hazard Management Plan shall be implemented as approved, prior to the start of development and remain in force for the life of the development. No subsequent alterations to the plan are to take place unless first submitted to and approved in writing by the Local Planning Authority.

REASON: It is necessary to manage the development in order to minimise its attractiveness to birds which could endanger the safe movement of aircraft and the operation of Stansted Airport.

JUSTIFICATION: All matters including construction facilities can seriously prejudice the operations of the Stansted Airport.

15. A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than small, privately owned, domestic gardens, shall be submitted to and approved in writing by the local planning authority before occupation of the development or any phase of the development, whichever is the sooner, for its permitted use. The landscape management plan shall be carried out as approved.

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

16. No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with Clause 7 of British Standard BS5837 - *Trees in Relation to Construction - Recommendations* has been submitted to and approved in writing by the local planning authority. The scheme shall include:
- (a) All tree work shall be carried out in accordance with British Standard BS3998 - *Recommendations for Tree Work*.
- (b) No retained tree shall be cut down, uprooted, destroyed, pruned, cut or damaged in any manner within [1-5 years] from [*the date of the occupation of the building for its permitted use*], other than in accordance with the approved plans and particulars, without the prior written approval of the local planning authority.
- (c) If any retained tree is cut down, uprooted or destroyed or dies another tree shall be planted at the same place and that tree shall be of such size and species and planted, in accordance with condition (), at such time as may be specified in writing by the local planning authority,.
- (d) No fires shall be lit within 10 metres of the nearest point of the canopy of any retained tree.

(e) No equipment, machinery or structure shall be attached to or supported by a retained tree.

(f) No mixing of cement or use of other contaminating materials or substances shall take place within, or close enough to, a root protection area that seepage or displacement could cause them to enter a root protection area.

(g) No alterations or variations to the approved works or tree protection schemes shall be made without prior written consent of the local planning authority.

The development shall be carried out in accordance with the approved details.

REASON: To ensure the protection of trees within the site in accordance with Policies GEN2, GEN7 and ENV8 of the Uttlesford Local Plan (adopted 2005).

JUSTIFICATION: Protected and Retained trees can be harmed and prejudiced at the site clearance stage and as such tree protection measures do need to be in place at this early stage.

17. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no fences, gates or walls shall be erected within the curtilage of any dwellinghouse forward of any wall of that dwellinghouse which fronts onto a road.

REASON: In the interests of protecting the character and amenities of the locality in accordance with Policy GEN2 of the Uttlesford Local Plan (adopted 2005).

18. The applicant shall incorporate on-site renewable or low-carbon energy technologies to provide 10% of the annual energy needs of the approved development in-use.

The applicant will provide the planning authority with a design SAP or SBEM rating of the proposed development carried out by an accredited assessor before work commences on-site, as well as technical details and estimated annual energy production of the proposed renewable or low carbon technologies to be installed.

Within four weeks following its completion, the applicant will provide a SAP or SBEM rating of the as-built development and details of the renewable or low carbon technologies that were installed.

REASON: In the interests of the promotion of sustainable forms of development and construction and construction to meet the requirements contained in adopted SPD Energy Efficiency and Renewable Energy Adopted October 2007.

19. The dwellings shall not be occupied until a means of vehicular, pedestrian and/or cyclist access has been constructed in accordance with the approved plans.

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

20. The garages and car parking spaces hereby permitted and shown on Planning Layout Plan 12/030/111E shall be kept available for the parking of motor vehicles at all times. The garage/car spaces shall be used solely for the benefit of the occupants of the dwelling of which it forms part and their visitors and for no other purpose and permanently retained as such thereafter.

REASON: In the interests of the highway safety and ease of movement and in accordance with Policies GEN1, GEN2 and GEN8 of the Uttlesford Local Plan (adopted 2005) and the ECC Parking Standards (adopted 2009).

21. Before development commences, a Construction Management Plan including any phasing arrangements and which includes:

- a. adequate turning and off loading facilities for delivery/construction vehicles within the limits of the site
- b. an appropriate construction access
- c. an adequate parking area clear of the highway for those employed in developing the site
- d. wheel cleaning facilities
- e. dust suppression measures
- f. visitors and contractors parking facilities
- g. secure on site storage facilities

shall be submitted to and agreed in writing by the Local Planning Authority. The approved details shall be implemented on commencement of development and maintained during the period of construction.

REASON: In the interests of amenity and highway safety

JUSTIFICATION: As matters relate to construction, the details need to be placed before the commencements of works.

22. Before development commences the highway works as shown in principle on drawing number ITB6214-GA-010 Rev. G, to provide an appropriate access into the site from the Ongar Road/Clapton Hall Lane/Lukin's Drive Roundabout along with amendments to the access arrangements for 1-7 Clapton Hall Lane shall be implemented in accordance with details that shall first have been submitted to and approved in writing by the Local Planning Authority.

REASON: To provide safe access 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.

JUSTIFICATION: The delivery of these highway works could be prejudiced if general construction works commenced before the agreement of the details.

23. Before occupation of any dwelling, the bridleway as shown in principle on Architect's drawing number 12/030/11A running from Ongar Road along the western and southern boundaries shall be provided in accordance with details

that shall have been submitted to and approved in writing by the Local Planning Authority prior to commencement of development.

REASON: In the interests of highway safety, efficiency and accessibility

Financial Implications

1. None. There are no costs associated with the recommendation.

Background Papers

Planning Application Reference UTT/14/0127/FUL; and report to Planning Committee 7 May 2014.

Impact

- 1.

Communication/Consultation	None
Community Safety	None
Equalities	None
Health and Safety	None
Human Rights/Legal Implications	None
Sustainability	None
Ward-specific impacts	None
Workforce/Workplace	None

Situation

1. This application was considered by Planning Committee on 7 May 2014. Members resolved to grant Planning Permission subject to the completion a S106 Legal Obligation and certain conditions. The Section 106 Obligation was completed and planning permission was issued on 31 July 2014.
2. The planning permission was subsequently legally challenged on the following grounds:

- a. Failure to carry out an Environmental Impact Assessment (EIA) Screening but relied instead upon screening opinions from previous similar applications;
 - b. Failure to consider the cumulative effects of planned developments in Great Dunmow;
 - c. The EIA Screening we relied upon was flawed,
3. The Council accepted the failure on Ground a, but not on Grounds b & c. On this basis the Council did not contest the challenge.
4. The planning permission was quashed by the High Court on Ground a, alone, and the application has been returned to the decision maker, i.e. the Council, to be re-determined.

Updated Decision

5. In response to quashed planning permission, the applicant's submitted a formal request for an EIA Screening Opinion, registered as UTT/15/0460/SCO on 30 March 2015. An officer's screening opinion was provided on 20 February 2015; with a further revised opinion provided on 7 April 2015. Both concluded that the Environmental Impact (including Cumulative) was not significant; so an EIA was not required.
6. On 15 May 2015; a letter was received from legal representatives of local residents raising various concerns over the robustness of the Screening Opinion of 7 April 2015. In response to this a further Screening Opinion was provided on 10 June 2015; accepting some and addressing other points raised. It was concluded that the Environmental Impact (including Cumulative) was not significant; so an EIA was not required.

Further Consultations.

7. In light of the quashed planning permission, the applicant also submitted a revised Transport Statement. All residents notified originally of the application, Great Dunmow Town Council and ECC Highways were notified of the revised application on 12 May 2015. The purpose of the notification was to inform members of the public that the application had been returned to the Council for determination, and the likely Planning Committee date (initially 3 June 2015). The matter was not reported to Planning Committee on 3 June 2015 due to the ongoing discussions around the Screening Opinion of 7 April 2015.
8. Great Dunmow Town Council have made direct representations by way of letters dated 29 May 2015 and 3 June 2015; both are attached as Appendices C & D.
9. Nine further representations have been received from local residents objecting to the proposal. No new issues are raised by the representations that were not previously raised by representations reported to Planning Committee on 7 May 2014. Members are requested to refer to the Committee Report for 7 May 2014 appended as Appendix A. Previous consultation responses received,

including representations made. need to be considered when determining this planning application.

Changes in Planning Circumstances since 7 May 2014

10. Since the report to Planning on 7 May 2014, the Emerging Local Plan has been withdrawn following the Local Plan Inspector's Decision in December 2014. This has no bearing on the determination of this application as the Emerging Local Plan had very minimal weight at the time of the previous determination.
11. The situation regarding the five-year land supply is fundamentally unchanged since the 7 May 2014 consideration
12. One matter that was clarified at the meeting on 7 May 2014 does require clarification. The officer's report (Appendix A), at Paragraph 10.20, does indicate that the previous challenged planning permissions are a material planning consideration, they are not. The fact that this Committee has previously approved this application is also not a material planning consideration.

Conclusion

13. It is concluded that the sole reason for the quashed planning permission has been addressed through the provision of an appropriate Screening Opinion. No other policy circumstances have changed, and no further representations have been received to reverse the original recommendation for approval of this application.

Risk Analysis

14.

Risk	Likelihood	Impact	Mitigating actions
1	1	1	None

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.