

UTT/16/2597/FUL (Elmdon & Wendon Lofts)

(Referred to Committee by Councillor Robert Chambers. Reason: to allow the committee to assess any impact on the Conservation Area, listed buildings, compliance with the Uttlesford Local Plan (2005) policy relating to the retention of services in rural areas and other associated planning matters)

PROPOSAL: Change of use from public house to licensed cafe, shop/delicatessen and hairdressers, alterations and repairs, and erection of cartlodge.

LOCATION: Elmdon Dial, Heydon Lane, Elmdon, Saffron Walden, Essex CB11 4NH

APPLICANT: H E Stringer Flavours Ltd

AGENT: Mrs Julie Barnes

EXPIRY DATE: 10.02.2016

CASE OFFICER: Philip Freeman Bentley

1. NOTATION

1.1 Elmdon Conservation Area; Grade II listed building – The King’s Head Inn; Asset of Community Value – The Elmdon Dial PH.

2. DESCRIPTION OF SITE

2.1 The site is located to the southwest of Heydon Lane and comprises a two-storey public house. The Public House, known as the Elmdon Dial or The King’s Head, is a Grade II listed building and is timber framed with a tiled, pitched roof and is faced with weather-boarding and plaster; it has been previously extended.

2.2 The total area of the site is approximately 0.23 hectares and includes gardens as well as an area of hardstanding that is used for car parking.

2.3 The site is within the Elmdon Conservation Area, at the centre of Elmdon village. It is located close to a number of other listed buildings, including the Grade II* listed Church of St. Nicholas. The immediate neighbouring properties are residential.

3. PROPOSAL

3.1 The proposal is primarily for a change of use of the public house to a licensed café, shop/delicatessen and hairdressers. This would be a change from the existing A4 use to an A3 use, which would also include ancillary A1 uses. The upper floors would be retained as residential accommodation.

3.2 There would be alterations and repairs to the fabric of the building and landscaping. These are numerous and detailed within the application documents.

3.3 It is also proposed that a new cartlodge and store is constructed.

4. APPLICANT'S CASE

- 4.1 The applicant has submitted a Heritage, Design & Access Statement, a justification statement, a statement of biodiversity, a short statement on flood risk, the Premises Licence Register entry for the public house, a report on the public house's kitchen's extraction system, and photographs of the public house. Confidential information relating to the public house's viability and marketing was also submitted.

5. RELEVANT SITE HISTORY

- 5.1 There is no relevant, recent planning history, aside from the associated application for Listed Building Consent (reference number UTT/16/2598/LB).

6. POLICIES

6.1 National Policies

- National Planning Policy Framework (NPPF).

6.2 Uttlesford Local Plan (2005)

- Policy S7 – The Countryside.
- Policy GEN1 – Access.
- Policy GEN2 – Design.
- Policy GEN4 – Good neighbourliness.
- Policy GEN7 – Nature Conservation.
- Policy GEN8 – Vehicle Parking Standards.
- Policy ENV1 – Design of Development within Conservation Areas.
- Policy ENV2 – Development affecting Listed Buildings.
- Policy ENV8 – Other landscape elements of importance for nature conservation.
- Policy ENV11 – Noise generators.
- Policy RS1 – Access to Retailing and Services.
- Policy RS3 – Retention of retail and other services in rural areas.

6.3 Supplementary Planning Policy

- The Essex County Council Parking Standards Design and Good Practice (September 2009).

7. PARISH COUNCIL COMMENTS

- 7.1 Elmdon & Wenden Lofts Parish Council objects to the proposed development for the following reasons:

- It has not been demonstrated that the public house has been marketed in a way that is consistent with the Uttlesford Local Plan (2005) policy relating to the retention of services in rural areas.
- There are potential purchasers that would wish to continue operating the premises as public house and restaurant.
- The public house passes CAMRA's viability test and the other services that are proposed alongside the licensed café could be offered alongside a public house.
- There have been 'issues' with the public house's past management.
- There is a risk that the proposed change of use could be the first step in the conversion of the public house to a dwellinghouse.

- The public house is an Asset of Community Value, which highlights its importance to the community.

8. CONSULTATIONS

Highway Authority (ECC)

- 8.1 No objections, subject to a condition requiring adequate cycle and powered two wheeler parking.

Historic England

- 8.2 No comments.

UDC Environmental Health

- 8.3 No objection in relation to noise, subject to a condition preventing late night and early morning deliveries. No objection in relation to odour, subject to a condition requiring the ongoing maintenance of the kitchen's existing extraction system.

ECC Ecology Consultant

- 8.4 No objections, subject to an informative relating to bats.

North-west Essex CAMRA

- 8.5 Objection, because the public house is the last such business in Elmdon and would pass CAMRA's Public House Viability Test (updated November 2015). It is noted that other facilities could be run alongside a public house and that a licensed café is not the same as a public house.

Conservation Officer (UDC)

- 8.6 It is also noted that comments were made in relation to the associated application for Listed Building Consent. The proposal is supported. It is considered that the repairs and alterations would either have an insignificant impact on the fabric of the listed building, or be in keeping with its character; the cartlodge is considered acceptable in its context. Eight conditions are suggested, subject to which there would be no undue impact on the heritage assets' special architectural or historic interest.

9. REPRESENTATIONS

- 9.1 Twenty nine representations have been received from neighbours. All are objections. The site notice expired 28/10/2016, the press advert expired 20/10/2016 and the letters to neighbours expired 10/10/2016. One of the letters stated that it was from a representative of the Elmdon Community Group. The comments are summarised as follows:

- The proposal would not constitute sustainable development.
- The proposed cartlodge would increase the built footprint on the site.
- The use of the building as a public house would be viable, subject to proper management.
- There are no other pubs within walking distance of the village.

- A public house is a community hub; a licensed café would not be the same.
- The proposal is contrary to Paragraph 70 of the NPPF.
- The building has not been marketed in accordance with the Council's requirements.
- The proposed uses would not be viable and are not needed.
- The proposal would lead to the conversion of the building to a dwellinghouse.
- The proposals would cause harm to the listed building and the Conservation Area.
- There is no objection to repairs to the fabric of the listed building.
- There would be a negative impact on neighbouring amenity; in particular, the proposed hedge and the use of the outside area would have a undue effect on 1 Cross Hill.
- There would be an increase in traffic that would have a negative impact on road safety.
- There would be insufficient car parking.
- The cycle parking layout would be poor.
- The proposal would cause harm to bats.
- The proposal would cause 1 Cross Hill to have damp problems.
- The proposed internal layout is poor.
- The Asset of Community Value process has not been followed correctly.
- No public consultation has taken place.
- There are a number of mistakes within the application materials including that the submitted biodiversity questionnaire does not mention nearby hedgerows and trees, the application form does not mention trade waste and the inclusion of a windows within the existing elevations that is not there.
- It is noted that the Council's description of the development incorrectly mentions residential use.

9.2 It is noted that some of the comments made are relevant to the associated application for Listed Building Consent, and are considered through the assessment of that application. Comments made in relation to the association application for Listed Building Consent that are relevant to this application have been considered below.

9.3 Specific comments on matters that are not addressed in the appraisal section are set out below:

- Some of the representations claim that the proposed use would not be viable and is not needed. Notwithstanding the points made, it is clear that the applicant believes that the proposed use would generate custom and be viable. Moreover, it would be unusual for an assessment of viability to be required in relation to such a proposal and it is not considered that it would be reasonable to refuse the application on such grounds.
- The conversion of the public house to a dwellinghouse would require separate planning permission, irrespective of whether this application is granted or not. As such, it is not considered that the proposal would necessarily lead to the conversion of the building to a dwellinghouse
- It is noted that the occupiers of 1 Cross Hill have claimed that the proposed use of the site would cause damp problems at their site, and that these problems were previously experienced when the site was used as a public house. It is claimed that the damp problem was caused by a foul drain. This is a private matter that should be resolved by the two neighbouring property owners concerned; moreover, it is not considered that the proposed use

would cause any material impact over and above the lawful use in this respect.

- It is noted that some concerns have been expressed regarding the practicality of the proposed internal layout and its suitability for the proposed use; however, whilst the impact of the proposed internal changes has been considered in relation to the associated Listed Building Consent application, the suitability of the internal layout for the proposed use is not relevant to the assessment of whether the proposal is acceptable in planning terms.
- Although the value of the public house to the local community has been considered below in the appraisal, it is noted that the Asset of Community Value process is separate to the planning process and that there is no planning policy basis for refusing planning consent on such grounds.
- It is noted that the Council does not have any requirement for public consultation.

9.4 With specific reference to the alleged mistakes within the application materials and the Council's description of the development, it is noted that:

- The application has been assessed by the Council's Ecology Consultant, who has considered the surrounding environment, including any hedgerows and trees, notwithstanding the submitted biodiversity questionnaire.
- Notwithstanding the submitted application form, it is noted that the Heritage, Design & Access Statement sets out that waste storage would be within the proposed cartlodge. Whilst it is not considered that there would be any impact in terms of waste over and above that caused by the lawful use, it is noted that the use of the cartlodge to store waste would constitute an improvement.
- It is noted that a window has been incorrectly included in the existing and proposed ground-floor plans for the kitchen, facing out of the building's front elevation onto the grassed area. Revised plans have been requested.
- The application description (alongside the associated Listed Building Consent application description) has been amended to remove any erroneous reference to a proposed residential use.

9.5 Otherwise, where relevant, comments on representations are included in the planning considerations text below

10. APPRAISAL

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

- A Whether the principle of the proposal within the countryside is acceptable (ULP Policy S7 and the NPPF).
- B Whether the proposed change of use is acceptable (ULP Policies RS1 and RS3, and the NPPF).
- C Whether the visual impact of the proposal is acceptable and whether it would cause undue harm to the Conservation Area and listed buildings (ULP Policies S7, GEN2, ENV1 and ENV2, and the NPPF).
- D Whether the proposal would adversely affect amenity values of neighbouring residents (ULP Policies GEN2, GEN4 and ENV11, and the NPPF).
- E Whether the proposal would have an acceptable impact on the operation and safety of the public highway and provide appropriate levels of parking (ULP Policies GEN1 and GEN8, and the NPPF).
- F Whether the proposal would have a harmful effect on wildlife (ULP Policies GEN7 and ENV8, and the NPPF).

A Whether the principle of the proposal within the countryside is acceptable (ULP Policy S7 and the NPPF).

- 10.1 The subject site is located within the countryside. Local Plan Policy S7 protects the countryside for its own sake and places strict control on new building. It only permits development that either needs to take place in the countryside or is appropriate to rural areas, and requires that the appearance of development protects or enhances the particular character of the part of the countryside within which it is set or that there are special reasons why the development in the form proposed needs to be there.
- 10.2 The NPPF generally supports sustainable development in rural areas. In particular, paragraph 28 supports sustainable growth and the expansion of business through well designed new buildings and the expansion of tourist and visitor facilities.
- 10.3 The proposed development is considered appropriate in the countryside and a sustainable form of development in this respect. For the most part, the proposal includes a change of use and alterations and repairs to an existing building. The proposed use would be similar to the lawful use in terms of its impact on the countryside; and it would continue to deliver similar benefits in terms of it being a business that would serve the local community and visitors alike. The proposed alterations and repairs to an existing building in the subject location are an entirely appropriate form of development, with no scope for material harm to the countryside.
- 10.4 The proposed cartlodge would lead to additional built form within the countryside; however, this would be a relatively modest outbuilding, which would be located centrally within a village and support the proposed use of an existing building.
- 10.5 As such, subject to the impact of the appearance of the development on the rural character of the area, which is discussed below, it is considered that the proposal is acceptable in terms of impact on the countryside.

B Whether the proposed change of use is acceptable (ULP Policies RS1 and RS3, and the NPPF).

- 10.6 Local Plan Policy RS3 relates to the change of use of community facilities and sets out criteria that must be satisfied before a change of use is supported.
- 10.7 NPPF paragraph 28 also promotes the retention and development of local services and community facilities in villages; paragraph 70 requires the provision, and protects against the loss, of community facilities, but also states that such facilities should be able to develop and modernise in a way that ensures that they are retained for the benefit of the community.
- 10.8 Whilst the proposed use is not explicitly mentioned as a protected community facility, unlike public houses, it is considered that the proposed use is not materially different to the lawful use in terms of the benefits that would be offered to the community. Indeed, Local Plan Policy RS3, like the NPPF, only sets out a sample list of uses that are considered to be community facilities in rural areas, rather than an exhaustive list. Therefore, it is considered that the proposed use would also fall within the scope of the range of uses that could be protected as community facilities.
- 10.9 Notwithstanding that the two uses are in different use classes and the

representations that state that the two uses are different, it is considered that there is not a significant enough difference to cause harm through the loss of a community facility, specifically a public house, in a rural area. Indeed, the proposed licensed café would offer food and drink in a similar way to a public house and also include some additional facilities, in the form of a shop/delicatessen and hairdressers.

- 10.10 As such, notwithstanding claims that a well-run public house would be viable, there is demand for a public house in the village and there are no other public houses within walking distance, it is not considered that there is any requirement for the proposal to satisfy the criteria in Local Plan Policy RS3 in order to be considered acceptable. It is noted that the applicant has submitted some information seeking to address these criteria, in confidence. This material, including details of the public house's marketing, is not considered sufficiently robust to satisfy Policy RS3; however, as already stated, this is not considered necessary, in any case.
- 10.11 CAMRA's Public House Viability Test (updated November 2015) is not considered to be relevant, given the comments set out above; in any case, it is considered that the Test only allows for a subjective assessment.
- 10.12 It is noted that a change of use from a public house to a café could be permitted by virtue of the General Permitted Development Order. However, the public house's status as an Asset of Community Value would prevent this from taking place without separate planning permission.
- 10.13 Local Plan Policy RS1 requires that all retail and service development proposals, where there is public access, need to be accessible to all. The proposal does not include any measures to enhance accessibility and the current level of accessibility is unclear. However, it is considered that the proposal is acceptable in this respect, given that the proposed use would be similar to the lawful use. Also, it is considered that alterations to enhance accessibility could potentially cause unacceptable harm to the listed building.

C Whether the visual impact of the proposal is acceptable and whether it would cause undue harm to the Conservation Area and listed buildings (ULP Policies S7, GEN2, ENV1 and ENV2, and the NPPF).

- 10.14 Local Plan Policy GEN2 sets out general design criteria for new development and in particular requires that development is compatible with the scale, form, layout, appearance and materials of surrounding buildings. Paragraph 64 of the NPPF complements this policy by resisting poor design.
- 10.15 Local Plan Policy ENV1 states that the design of development within conservation areas should preserve or enhance the character of the essential features of the conservation area. Local Plan Policy ENV2 requires that development affecting a listed building is in keeping with its scale, character and surroundings, and states that alterations that impair the special characteristics of a listed building will not be permitted. The NPPF generally requires that the significance of heritage assets not be harmed.
- 10.16 The proposed alterations and repairs would be minor and would not have a significant visual impact. The cartlodge would be in proportion to the main building. It is therefore considered that the proposals would be acceptable in terms of their design and scale. With reference to the list entry for The King's Head Inn, the Elmdon Conservation Area Appraisal and Management Proposals (2014) and the Conservation Officer's advice in respect of the related Listed Building Consent

application, it is considered that the proposal would not result in any harm to important features of the listed building or the Conservation Area. In particular, the Conservation Officer has advised that the repairs and alternations would either have an insignificant impact on the fabric of the listed building, or be in keeping with its character; the cartlodge is considered acceptable in its context. However, it is advised that this would be subject to conditions. A number of conditions should be attached to any Listed Building Consent – this is discussed in relation to the associated application for Listed Building Consent – however, given that some matters can only be controlled through this application it is recommended that conditions requiring the submission and approval of materials for the cartlodge and a scheme of landscaping are attached, should the consent be granted.

D Whether the proposal would adversely affect amenity values of neighbouring residents (ULP Policies GEN2, GEN4 and ENV11, and the NPPF).

- 10.17 Local Plan Policy GEN2 sets out general design criteria for new development and, in particular, requires that development minimises the environmental impact on neighbouring properties by appropriate mitigating measures and does not cause an unacceptable loss of privacy, loss of daylight, overbearing impact or overshadowing to neighbouring residential properties. Local Plan Policy GEN4 requires that development does not cause material disturbance or nuisance, in terms of noise or vibrations. Local Plan Policy ENV11 states that noise generating development will not be permitted if it would be liable to adversely affect the reasonable occupation of existing or proposed noise sensitive development nearby, unless the need for the development outweighs the degree of noise generated.
- 10.18 Generally, the proposal relates to alterations and repairs to an existing building and, therefore, there is very little scope for impact on the amenity values of neighbouring residents on account of new built form. Indeed, it is noted that the proposed new windows would not create any sensitive views and that the cartlodge would be single-storey and located away from neighbouring buildings.
- 10.19 With regard to the proposed use is noted that this would be very similar to the lawful use. As such, it is not considered that there would be any scope for harm to neighbouring amenity over and above that which would arise from the lawful use. The Council's Environmental Health Officer has advised that the scheme would be generally acceptable in terms of noise and odour impact, subject to conditions. It is not considered that conditions preventing deliveries at unsociable hours or requiring that of the kitchen's existing extraction system be maintained would be reasonable, as both of these issues could and should be controlled through separate environmental legislation.
- 10.20 Concerns have been expressed over the use of the garden and the impact that this could have on neighbouring amenity. Given that the fallback position is that the garden could be used for customers of the public house, rather than customers of a licenced café, it is considered that the proposal would be acceptable in this respect. Moreover, any impact could be controlled through separate environmental legislation.
- 10.21 Finally, the residents of 1 Cross Hill have stated that they are worried that the hedge that is intended to provide screening between their dwellinghouse and the front garden of the proposed licensed café would harm their amenity. Whilst it is noted that the planting of a hedge is not development, it is also noted that the landscaping condition proposed above could be used to ensure that any hedge is appropriate.

E Whether the proposal would have an acceptable impact on the operation and safety of the public highway and provide appropriate levels of parking (ULP Policies GEN1 and GEN8, and the NPPF).

- 10.22 Local Plan Policy GEN1 sets out requirements for access to new development and generally states that the surrounding transport network should not be overburdened and that road safety should not be unduly affected, taking into account the needs of those using forms of transport other than motorised vehicles.
- 10.23 The proposed use would not be materially different to the lawful use in terms of its impact on the operation and safety of the public highway. As such, it is considered that the proposal would be acceptable in this respect. It is noted that the Highway Authority has not objected to the proposal in relation to its impact on the public highway.
- 10.24 Local Plan Policy GEN8 only supports development that would provide for vehicle parking places that are appropriate for the location in terms of number, design and layout. The Essex County Council Parking Standards Design and Good Practice (September 2009) has been adopted by the Council to provide further guidance.
- 10.25 As already stated, the proposed use is not considered to be materially different to the lawful use, despite the two being within different use classes. Moreover, the adopted car parking standards for the two use classes (A3, excluding transport cafes, and A4) are identical. In this context, and given that the proposal includes two additional car parking spaces and improved cycle storage in the form of the cartlodge, but only a very small increase in floorspace through the creation of a mezzanine floor, it is considered that the proposal is acceptable in respect of the levels of parking that would be provided.
- 10.26 It is noted that the Highway Authority has suggested a condition relating to cycle and powered two wheeler car parking. Given the above, and that details have already been submitted showing proposed cycle parking with the cartlodge, it is not considered that this condition is necessary to make the scheme acceptable in terms of the proposed levels of parking.

F Whether the proposal would have a harmful effect on wildlife (ULP Policies GEN7 and ENV8, and the NPPF).

- 10.27 Local Plan Policy GEN7 does not permit development that would have a harmful effect on wildlife. Local Plan Policy ENV8 provides protection for landscape elements of importance for nature conservation.
- 10.28 The development includes alterations and repairs to an existing building and the construction of a new cartlodge. The Council's Ecology Consultant has not objected to the proposal. However, whilst unlikely to have any undue impact on wildlife, it is considered that an informative should be added to alert the applicant to their responsibilities in relation to bats, as recommended by the Ecology Consultant, should the application be approved.

11. CONCLUSION

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

- A The principle of the proposal within the countryside is acceptable and would accord with ULP Policy S7 and the NPPF.

- B The proposed change of use would be acceptable and accord with ULP Policies RS1 and RS3, and the NPPF.
- C The visual impact of the proposal is acceptable and would not cause undue harm to the Conservation Area and listed buildings, in accordance with ULP Policies S7, GEN2, ENV1 and ENV2, and the NPPF.
- D The proposal would not adversely affect amenity values of neighbouring residents and would accord with ULP Policies GEN2, GEN4 and ENV11, and the NPPF.
- E The proposal would have an acceptable impact on the operation and safety of the public highway and provide appropriate levels of parking, in accordance with ULP Policies GEN1 and GEN8, and the NPPF.
- F The proposal would have an acceptable impact on wildlife and accord with ULP Policies GEN7 and ENV8, and the NPPF.

RECOMMENDATION – APPROVAL WITH CONDITIONS

Conditions

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. Notwithstanding the approved details, no development shall take place until the external finishing materials for the cartlodge hereby permitted are submitted and approved in writing by the Local Planning Authority. The works development permitted shall be constructed in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.

REASON: In the interests of the appearance of the development and the character of the Conservation Area and listed building in accordance with Policies S7, GEN2, ENV1 and ENV2 of the Uttlesford Local Plan (adopted 2005) and the National Planning Policy Framework.

JUSTIFICATION: Details are required prior to commencement to ensure that the scheme would be acceptable in respect of the character of the Conservation Area and listed building.

3. Prior to commencement of the development, details of hard and soft landscaping (including retained features, planting, hard surfaces and boundary treatment) must be submitted to and approved in writing by the Local Planning Authority. All hard and soft landscape works must be carried out in accordance with the approved details.

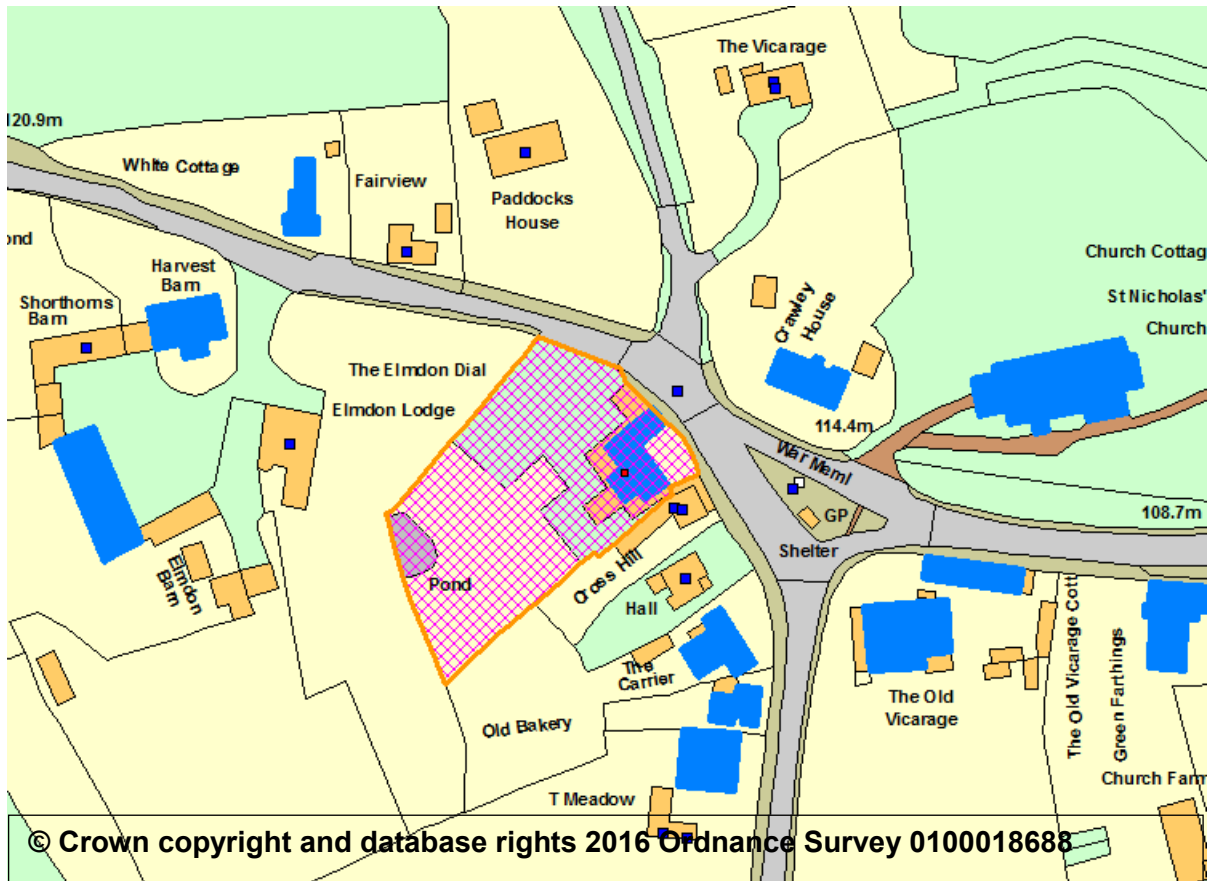
All planting, seeding or turfing and soil preparation comprised in the above details of landscaping must be carried out in the first planting and seeding seasons following the occupation of the buildings, the completion of the development, or in agreed phases whichever is the sooner, and any plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased must 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 must be carried out in accordance with the guidance contained in British Standards, unless otherwise agreed in writing by the local planning authority.

REASON: In the interests of the appearance of the development and the character of the Conservation Area and listed building in accordance with Policies S7, GEN2, ENV1 and ENV2 of the Uttlesford Local Plan (adopted 2005) and the National Planning Policy Framework.

JUSTIFICATION: Details are required prior to commencement to ensure that the scheme would be acceptable in respect of the appearance of the development.

Application number: UTT/16/2597/FUL
Address: Elmdon Dial Heydon Lane Elmdon



Organisation: Uttlesford District Council

Department: Planning

Date: 26 January 2017