

Uttlesford District Council  
Council Offices  
London Road  
Saffron Walden CB11 4ER

Attn. Simon Pugh, Interim Head of Legal Services

(Copy by email)

Your ref: UTT/16/3255/FUL

Our ref: HAN1-002/LF

Email: [lfoster@richardbuxton.co.uk](mailto:lfoster@richardbuxton.co.uk)

13 March 2017

### URGENT LETTER

Dear Sirs

#### Little Maypole, Thaxted

We write further to our letter of 1 March. Please ensure a copy of this letter is presented in full to the committee prior to its consideration.

#### (1) Exception site issue

The present application is unlawfully presented as development on an exception site. The first point we note is that previous consent only applied to approximately 2/3s of the present red line boundary. In any event your attention is drawn to the previous decision UTT/0302/09/FUL, which exceptionally granted development consent to provide a community social respite care facility contrary to policy S7. The basis for the grant of consent was the community need for a facility in this general location. The relevant text (no para number is given but it is the 3<sup>rd</sup> and 7<sup>th</sup> full paras on pg 8):

*"Having established that the development would be technically contrary to Policy S7 it is necessary to assess whether there are special reasons why the development in the form proposed needs to be there. If special reasons exist they may justify accepting the principle of development.*

....  
*[I]t is considered that the clear shortfall of current and predicted future respite care would justify an exception to established countryside policies in this instance."*

The developer maintains that there was a material start on the site (trench footing dug by Rescu) to implement the community facility consent and that the 2009 development consent has not lapsed. We disagree for reasons set out in our letter of 1 March 2017 and supplemented by the information provided to this letter as explained in (2) below. However if that is the position, the site is now a community facility site and is therefore protected from change to residential use. See e.g. NPPF

70. On this basis the Council is required to safeguard the community use of the site and it would be unlawful to grant a change of use for residential development that would see the loss of community facilities deemed only a few years ago to be so essential to the district as to justify treating the site as an exception site.

## **(2) Brownfield Site**

Further to our 1 March letter, we provide a photograph of the so-called concrete foundation which the developer relies on as a material start. This strip, measuring no more than 7 metres in length with a small return of about 3 metres, is not in accordance with the approved plans as can be seen in the enclosed overlay. The position of the concrete trench does not lie on the land where the foundations are to be placed. It is also *de minimis* as a matter of law and cannot in any sense constitute a material start. The Council officer is therefore wrong in law to treat the application site as brownfield land as set out in the Officer' Report to Committee for the meeting scheduled for 8 March 2017 (OR) at para 2.2 (deferred to 3 April 2017)

## **(3) Landscape Sensitivity**

Your attention is drawn to the appeal decision concerning Land at Walden Road, Thaxted (ref: APP/C1570/A/14/2222958). Inspector Dudley considered the landscape harm on an adjacent site which was also on the approach to the village. He observed (at para 17) ***"I am unable to envisage how even a small number of houses could be acceptably located on the site."*** Although the present application is a different site, that principle holds in terms of the visibility of housing on this site for the reasons expressed by Hands Off Thaxted and others in their formal objections. Indeed at para 10.31 the Officer acknowledges that the site "would erode into the open countryside". The problem is exacerbated by the lack of a formal LVIA report, as we have previously explained, contrary to the Officer's assertion that he has an LVIA to inform his report to committee. The short point is that there is no assessment of landscape sensitivity or harm of edge of settlement development and therefore the Officer's comments at paras 10.29 - 10.30, 10.34 and 10.35 are simply speculation and cannot lawfully inform the decision.

Further, as the Council will know, the Parish Council has commissioned a formal Landscape Character Assessment from Liz Lake which covers this site. It is accepted by the Council as part of the local plan evidence base and is therefore a material consideration. The Liz Lake document has previously been presented to the Planning Department and Planning Committee and given its status within the context of the Local Plan development (see minutes of the Planning Policy Working Group meeting 28<sup>th</sup> November 2016 – Agenda item 5), the basis upon which it is dismissed in the OR is flawed.

Finally we also note that when the Rescu centre scheme was approved the heights were limited to reduce the visual impact (see reference to revised plans, pg 1 para 5). In this instance it will be appreciated that the proposed houses are 8.4m high.

## **(4) Housing need**

At OR para 10.70, the Officer records a highly misleading statement (derived from the developer's misleading planning statement (para 31)) about housing need in Thaxted. The mix of housing need in Thaxted is plainly a material consideration in determination of the application for housing, at least to the same extent as housing in the district and no reference has been made to that need. The correct position recorded in the recent Thaxted Housing Needs Survey (extracts enclosed) reveals a



limited need for housing, but what need there is is significantly (73%) for 1 and 2 bedroom properties. Therefore a mix of 3 and 4 bedroom dwellings is not in accordance with housing need.

#### **(5) Design**

The external cladding is described as black weatherboarding which the Officer records at para 10.40 to be "in keeping with the local vernacular pallet". This is a misleading statement given the comments made by LUC in the English Heritage commissioned study, *Evaluating the Impact of Housing Development on the Historic Environment – National Heritage Protection Plan Project NHPP 2A1:6172*. In this document Bellrope Meadow, just the other side of the B184 from the Maypole site, was selected as a case study to show how development in a historic setting can go wrong. The design of this scheme, which relied on black weatherboarding, was considered to be entirely inappropriate to the Thaxted vernacular.

#### **Deferred committee meeting**

Because the committee meeting has been deferred we anticipate sight of an updated report to committee and reserve our position to respond to that report.

Yours faithfully

*Richard Buxton*

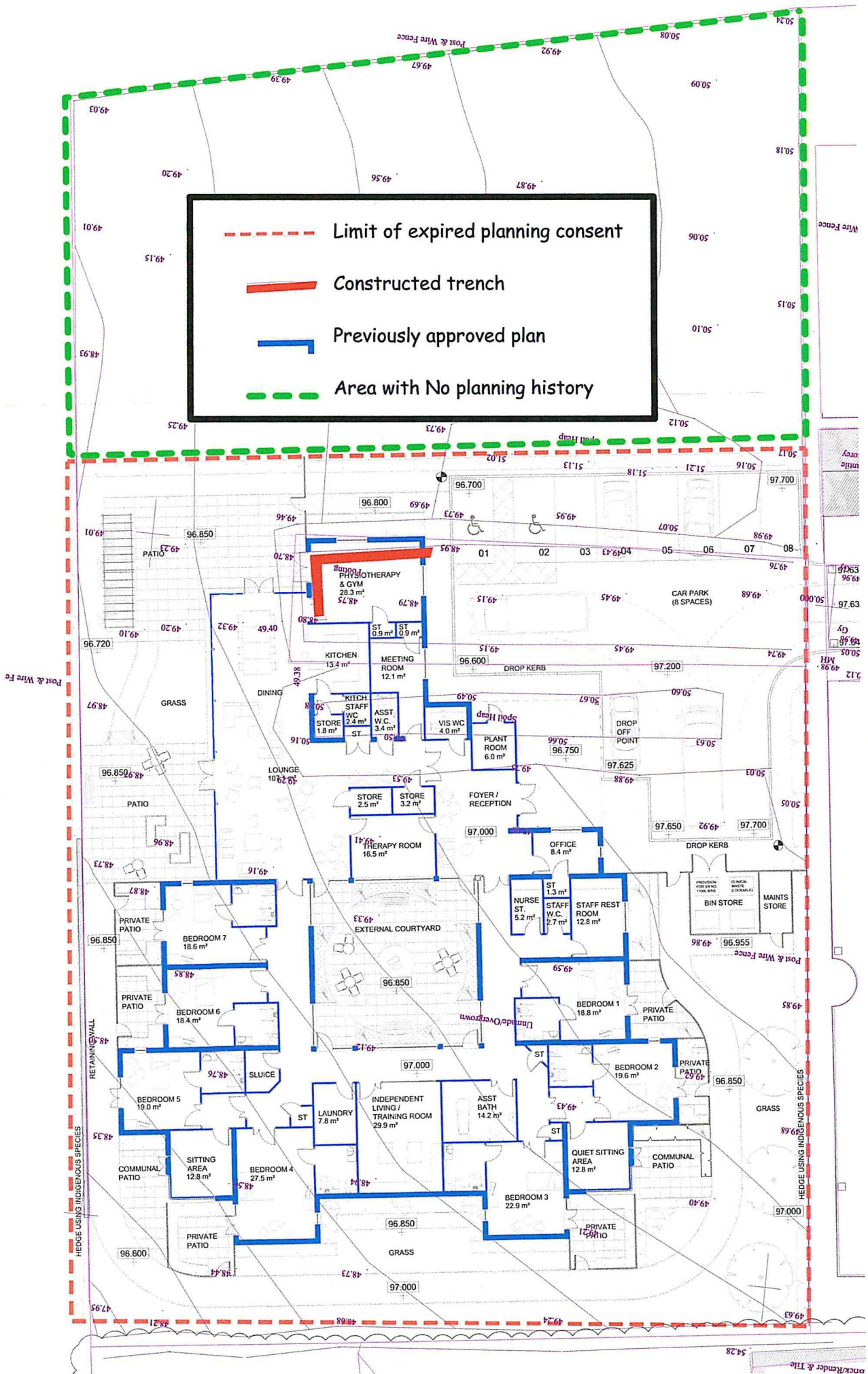
**Richard Buxton Environmental & Public Law**







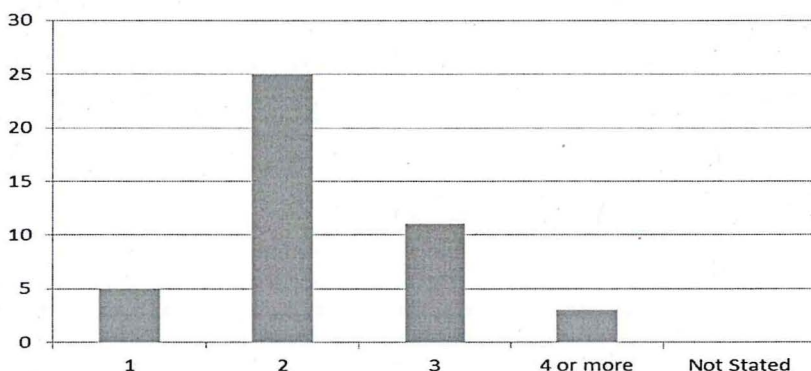
- - - Limit of expired planning consent  
▬ Constructed trench  
▬ Previously approved plan  
- - - Area with No planning history



### Number of bedrooms required

Five (11%) respondents indicated that they require a 1 bedroom property, the majority of respondents at twenty five (57%) require two bedrooms, eleven (25%) require three and three (7%) require 4 or more.

*Figure 18: Number of bedrooms required*



### Special needs & adaptations

When asked if they had any specific housing needs or special adaptations made to the property three (7%) respondents said yes, forty one (93%) said no.

The below comments were made by household members indicating that they would require adaptations to the property in order to live independently. Comments are written as they appear on the completed survey.

- "Ground floor living likely to be needed"
- "Ground floor toilet & bathroom"
- "My M Sclerosis means I need ground floor + wheelchair access to property please, I don't want to leave Thaxted."

*Figure 19: Special needs & adaptations*

