

**UTT/19/2993/OP (HENHAM)**

(Referred to Committee as the applicant is a Councillor)

**PROPOSAL:** Outline application for the demolition of existing dwelling and outbuildings and erection of 4 no. new dwellings with all matters reserved except access

**LOCATION:** Cott Moor, Old Mead Road, Henham

**APPLICANT:** Mr Le Count

**AGENT:** Mr M Hibbs

**EXPIRY DATE:** 30<sup>th</sup> January, 2020 (Extension of time until 21<sup>st</sup> February)

**CASE OFFICER:** Jonathan Doe

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**1. NOTATION**

1.1 Outside Development Limits

**2. DESCRIPTION OF SITE**

2.1 The site consists of the curtilage of a detached bungalow and paddocks to the rear. The site is on the southern side of Old Mead Road.

2.2 The property has two vehicular accesses onto the highway forming an “in and out” driveway arrangement and an access, to the western side of the frontage to the site, to the paddocks associated with the property.

2.3 A railway is to the rear, to the south.

2.4 To the west is another residential property, Chestnut Rise. To the east is a paddock in another ownership.

2.5 The site is within a cluster of houses in countryside to the northwest of Henham. The railway station at Elsenham is less than a mile and a half away as the crow flies to the south.

**3. PROPOSAL**

3.1 Outline application for the demolition of existing dwelling and outbuildings and erection of 4 no. new dwellings with all matters reserved except access.

3.2 An indicative block plan shows detached dwellings with attached double garages set out in line from west to east generally following a front building line or distance of set back from the road conforming with that of the built form of Chestnut Rise. The indicative block plan shows two of the dwellings sharing the western vehicular access and the other two dwellings sharing the eastern vehicular access.

3.3 A personal statement forming part of the Design & Access Statement refers to the dwellings being one-and-a-half storeys.

#### **4. ENVIRONMENTAL IMPACT ASSESSMENT**

- 4.1 Town and Country Planning (Environmental Assessment):  
The proposal is not a Schedule 1 development, nor does it exceed the threshold criteria of Schedule 2, and therefore an Environmental Assessment is not required.

#### **5. APPLICANT'S CASE**

- 5.1 The application documentation includes a Design & Access Statement; a map illustrating local bus route nos. 7 and 7a; and, a Preliminary Ecological Appraisal.
- 5.2 The Design & Access Statement makes the following points:
- Site is behind a belt of mature trees; all boundaries are screened by mature trees
  - Existing property is expensive to upkeep due to heating system running on oil and the dwelling being thermally poor
  - Existing property has a septic tank with an outfall which leads into the River Cam
  - No new vehicular access proposed
  - Layout of proposed dwellings would form an approximate "building line" with dwelling to west, Chestnut Rise
  - Proposal meets requirement for sensitive infilling in small settlements
  - Site is close to a regular bus service and railway station at Elsenham within easy cycling distance
  - Shops at Henham and Elsenham are 2km and 3.2 km away respectively
  - Would contribute to five-year housing land supply
  - Redevelopment of existing residential land
  - Proposal was discussed with Henham Parish Council
  - Proposal was discussed with close neighbours
- 5.3 A personal statement forms part of the Design & Access Statement. The personal statement explains that one of the proposed dwellings is intended for occupation by the applicants, allowing them to downsize from the existing dwelling which requires extensive maintenance. The applicants have lived in Henham for over 35 years and wish to remain. It is intended that the proposed dwellings would be constructed to have low maintenance/low energy requirement, meeting Lifetime Homes standards and would be suitable for a possible decline in health by options for wheel chair access.

#### **6. RELEVANT SITE HISTORY**

- 6.1 UTT/2205/11/FUL - Creation of a new vehicular access to side of property – Approved with conditions 19.01.2012

#### **7. POLICIES**

##### **Uttlesford Local Plan (2005)**

S7 – The Countryside  
GEN1 – Access  
GEN2 – Design  
GEN3 – Flood Protection  
GEN4 – Good Neighbourliness

GEN7 – Nature Conservation  
GEN8 – Vehicle Parking Standards  
ENV10 – Noise Sensitive Development and Disturbance from Aircraft  
ENV14 – Contaminated Land  
H10 – Housing Mix

### **Supplementary Planning Documents/Guidance**

Accessible Homes and Play Space

### **National Policies**

National Planning Policy Guidance (NPPF) (February 2019)

### **Other Material Considerations**

UDC Parking Standards  
ECC Parking Standards  
Essex Design Guide (2018 version)  
Strategic Housing Market Housing Assessment (September 2015)

## **8. PARISH COUNCIL COMMENTS**

8.1 No response at time of drafting report.

## **9. CONSULTATIONS**

### **Environmental Health**

9.1 No objection subject to the imposition of conditions to address potential noise and land contamination impacts.

This is an outline application for the development of an existing residential site, proposing the demolition of the existing dwelling and outbuildings on site and erection of 4 new dwellings. The site lies to the east of an existing railway line, with the M11 some 340m to the west of the site.

No contaminated land assessment has been submitted in relation to this site. Although the site has been used for residential purposes, the adjacent railway line is a potential historic source of contamination. The indicative layout suggests that the gardens of the proposed dwellings will run up to and adjoin the made ground for the railway line. There are also areas of made ground of unknown constituents and a swimming pool on site, all of which may need to be removed as part of the development process.

In view of the contamination-sensitive proposed end residential use with gardens over the whole site, it is essential to ensure that any contamination risks (both on-site and off-site) are identified and assessed, and where necessary remediated, to render the site suitable for its intended use. At the very least, a Phase I Desk Study to identify any potential contamination risks, and the need or otherwise for further site investigations, needs to be undertaken. I would therefore recommend that a condition is attached to any consent granted.

The site lies to the east of an existing railway line which will be an intermittent noise source, as will noise from the more distant M11 which will provide a more

pervasive contribution to the ambient noise environment. Old Mead road itself will also be a source of transport noise, from road traffic. Transport noise tends to be a more anonymous noise source than say commercial noise sources. As such, they are not usually seen as a barrier to development as long as adequate mitigation measures are incorporated into the design, layout and construction of the development.

Whilst it is always preferable to consider and assess potential noise impacts and proposed mitigation measures in advance of the granting of planning consent, this is not always achieved. It is also noted that the proposed dwellings will be no closer to the railway line & M11 than the existing and neighbouring dwellings at this location. As such, I do not think an objection on noise grounds at this location is likely to be sustainable and I would therefore recommend that a condition is attached to any consent granted.

## **Ecology**

### 9.2 No objection subject to securing biodiversity mitigation and enhancement measures.

We have reviewed the Preliminary Ecological Appraisal (ECCOS, October 2019) relating to the likely impacts of development on designated sites, protected species and Priority species & habitats.

We are satisfied that there is sufficient ecological information available for determination.

This provides certainty for the LPA of the likely impacts on protected and Priority species & habitats and, with appropriate mitigation measures secured, the development can be made acceptable.

We note that the development site is situated within the Impact Risk Zone for Hatfield Forest Site of Special Scientific Interest (SSSI)/National Nature Reserve (NNR) as shown on MAGIC map ([www.magic.gov.uk](http://www.magic.gov.uk)). Therefore, Natural England's revised interim advice to Uttlesford DC (ref: HatFor Strategic Interim LPA, 5 April 2019) should be followed to ensure that impacts are minimised to this site from new residential development. As this application is less than 50 or more units, Natural England do not, at this time, consider that is necessary for the LPA to secure a developer contribution towards a package of funded Strategic Access Management Measures (SAMMs) at Hatfield Forest.

The mitigation measures identified in the Preliminary Ecological Appraisal (ECCOS, October 2019) should be secured and implemented in full. This is necessary to conserve and enhance Protected and Priority Species.

However, limited biodiversity enhancement measures are identified in the Preliminary Ecological Appraisal (ECCOS, October 2019). We recommend that, to secure measurable net gains for biodiversity, as outlined under Paragraph 170d of the National Planning Policy Framework 2019, reasonable biodiversity enhancement measures will need to be provided. A Biodiversity Enhancement Strategy for protected and Priority Species should be secured as a condition of any consent. It is recommended that this could include provision of bird and bat boxes, native species planting and wildlife friendly fencing.

This will enable LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006.

Impacts will be minimised such that the proposal is acceptable subject to conditions.

### **Network Rail**

9.3 Please see below informative Network Rail would like to attach to any planning permission.

The developer must ensure that their proposal, both during construction and after completion of works on site, does not:

- encroach onto Network Rail land
- affect the safety, operation or integrity of the company's railway and its infrastructure
- undermine its support zone
- damage the company's infrastructure
- place additional load on cuttings
- adversely affect any railway land or structure
- over-sail or encroach upon the air-space of any Network Rail land
- cause to obstruct or interfere with any works or proposed works or Network Rail development both now and in the future

The developer should comply with the following comments and requirements for the safe operation of the railway and the protection of Network Rail's adjoining land.

In view of the nature of the development, it is essential that the developer provide (at their own expense) and thereafter maintain a substantial, trespass proof fence along the development side of the existing boundary fence, to a minimum height of 1.8 metres. The 1.8m fencing should be adjacent to the railway boundary and the developer/applicant should make provision for its future maintenance and renewal without encroachment upon Network Rail land. Network Rail's existing fencing / wall must not be removed or damaged and at no point either during construction or after works are completed on site should the foundations of the fencing or wall or any embankment therein, be damaged, undermined or compromised in any way. Any vegetation on Network Rail land and within Network Rail's boundary must also not be disturbed. Any fencing installed by the applicant must not prevent Network Rail from maintaining its own fencing/boundary treatment.

Where trees/shrubs are to be planted adjacent to the railway boundary these shrubs should be positioned at a minimum distance greater than their predicted mature height from the boundary. Certain broad leaf deciduous species should not be planted adjacent to the railway boundary as the species will contribute to leaf fall which will have a detrimental effect on the safety and operation of the railway. We would wish to be involved in the approval of any landscaping scheme adjacent to the railway. Where landscaping is proposed as part of an application adjacent to the railway it will be necessary for details of the landscaping to be known and approved to ensure it does not impact upon the railway infrastructure. Any hedge planted adjacent to Network Rail's boundary fencing for screening purposes should be so placed that when fully grown it does not damage the fencing or provide a means of scaling it. No hedge should prevent Network Rail from maintaining its boundary fencing. Lists of trees that are permitted and those that are not permitted are provided below and these should be added to any tree planting conditions:

Permitted: Birch (Betula), Crab Apple (Malus Sylvestris), Field Maple (Acer Campestre), Bird Cherry (Prunus Padus), Wild Pear (Pyrus Communis), Fir Trees – Pines (Pinus), Hawthorne (Cretaeagus), Mountain Ash – Whitebeams (Sorbus), False Acacia (Robinia), Willow Shrubs (Shrubby Salix), Thuja Plicatata “Zebrina”  
Not Permitted: Alder (Alnus Glutinosa), Aspen – Poplar (Populus), Beech (Fagus Sylvatica), Wild Cherry (Prunus Avium), Hornbeam (Carpinus Betulus), Small-leaved Lime (Tilia Cordata), Oak (Quercus), Willows (Salix Willow), Sycamore – Norway Maple (Acer), Horse Chestnut (Aesculus Hippocastanum), Sweet Chestnut (Castanea Sativa), London Plane (Platanus Hispanica).

## 10. REPRESENTATIONS

- 10.1 A site notice was posted. 8 letters were sent to occupiers of neighbouring properties. No written response has been received.

## 11. APPRAISAL

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

- A The effect of the proposal on the character and appearance of the area and the quality of the design in relation to the indicated positioning and layout (Policy S7)
- B Whether the site is an appropriate location for new housing development, having regard to the principles for sustainable development (Policy S7; NPPF)
- C Impact to neighbours (Policies GEN2 and GEN4)
- D Whether the dwelling would provide sufficient amenity to future occupiers (Policies GEN2 and ENV10)
- E Car parking and highway access (Policies GEN1 and GEN8)
- F Flood protection (Policy GEN3)
- G Biodiversity (Policy GEN7)
- H Contaminated land (Policy ENV14)
- I Housing mix (Policy H10)

### **A The effect of the proposal on the character and appearance of the area and the quality of the design in relation to the indicated positioning and layout (Policy S7)**

- 11.1 The application site is located outside the development limits for Henham and falls within open countryside where Policy S7 operates a policy of restraint. Policy S7 states that planning permission will only be granted for development that needs to take place there, or is appropriate to a rural area. It will only be permitted if its appearance protects or enhances the character of the countryside within which it is set or there are special reasons why the development in the form proposed needs to take place there.
- 11.2 A review of the policies in the adopted Local Plan has been carried out to check their compatibility with the NPPF. Policy S7 is partially consistent with the NPPF in that, whilst the protection and enhancement of the natural environment is an important part of the environmental dimension of sustainable development, the NPPF takes a positive approach, rather than a protective one, to appropriate development in rural areas.
- 11.3 The NPPF states, at paragraph 117, that planning decisions should promote an effective use of land in meeting the need for homes, while safeguarding and improving the environment and ensuring safe and healthy living conditions. The same paragraph refers to making as much use as possible of previously-

developed or 'brownfield' land. Paragraph 122 of the NPPF states that planning decisions should support development that makes efficient use of land, whilst taking into account other planning matters.

- 11.4 The NPPF describes the importance of maintaining a five-year supply of deliverable housing sites. The latest update of Uttlesford District Council's five-year housing land supply indicates a figure of 2.68 years. Therefore, contributions towards housing land supply must be regarded as a positive effect.
- 11.5 This is a 'brownfield' site; consisting of an existing dwelling and a horse paddock, a non-agricultural use.
- 11.6 The proposal for four dwellings, a net increase of three dwellings, would contribute to housing land supply.
- 11.7 The site is visually contained. There is existing residential development and vegetation on the boundaries of these properties which screen views of the site from the road to the west. To the east is a paddock with mature hedging then another residential property, Meadside. Vegetation on boundaries screens the site from views from the east. Old Mead Road turns a corner just past Meadside to run north/south. Along this part of Old Mead Road the site is not visible in views from the road to the northwest due to a combination of distance and vegetation on boundaries and along the road side. Where Old Mead Road changes direction there is a junction with Dark Lane. Dark Lane leads to the northeast. The site is not visible from Dark Lane due to a combination of distance and vegetation. The embankment of a railway to the rear of the site screens the site in views from the southwest. The nearest non-vehicular public rights of way are some 360m to the south and some 500m to the north.
- 11.8 Given the setting in the landscape of the site, as described above, it is considered that the proposed development would protect the particular character of the part of the countryside within which it would be set. In terms of the pattern of neighbouring development, the site is at one end of a cluster of development running from a commercial site to the west, a wood yard, and then four other residential properties then the site itself. There are two other residential properties nearby to the east, Meadside and The White House. Given its setting the proposal is considered acceptable in principle with regard to Policy S7 and with regard to guidance in the NPPF to conserve the natural environment.
- 11.9 An indicative plan forming part of the application shows that a generous set back from the road would be maintained by the proposed dwellings; the dwellings themselves being set back by the same distance as that to the existing dwelling, some 30m. Attached double garages would be set in front of part of the main forms of the dwellings though a detached garage to the property to the west, Chestnut Rise, would be set further forward. The positioning and layout of the proposed dwellings as indicated reinforces that the development would not be noticeable in its rural setting.

**B Whether the site is an appropriate location for new housing development, having regard to the principles for sustainable development (Policy S7)**

- 11.10 Outline planning permission (UTT/15/1868/OP) was granted on 11th August 2015 for a dwelling and garage at the plot immediately to the west of the application site, now known as Chestnut Rise. As the site is accessed via rural lanes with no footpaths or street lighting it is unlikely that occupiers would walk to services.

Henham is 2km away, the centre of Elsenham is 3.2km away and the nearest frequently used bus stop is 900m to 1.5km away. However, occupiers may choose to cycle these distances. There is also the opportunity to access train services from Elsenham Station, 2.4km away, without using a car. Overall, it is considered that alternatives to the car would be encouraged by this development as it may lead to occupiers using a bicycle to reach Henham and Elsenham and occupiers are likely to use the railway station at Elsenham.

**C Whether the dwelling would provide sufficient amenity to future occupiers (Policies GEN2 and ENV10)**

- 11.11 The proposed dwellings would have ample sized private rear gardens facing southwest. The proposed dwellings would be laid out in line and with principle windows set to front and rear elevations the four dwellings would provide an environment which would meet the reasonable needs of all potential users.
- 11.12 At the ends of the rear gardens is a railway line. Environmental Health has been consulted and a written response received expressing specialist advice that a condition should be imposed on any planning permission. It is considered that an objection on noise grounds at this location is unlikely to be sustainable.
- 11.13 The proposal is considered acceptable with regard to Policy GEN2 in relation to amenity of future occupiers and, subject to an appropriate condition, the proposal is considered acceptable with regard to Policy ENV10.

**D Car parking and highway access (Policies GEN1 and GEN8)**

- 11.14 At least three car parking spaces could be accommodated within the plot of each proposed dwelling. The proposal is considered acceptable with regard to Policy GEN8.
- 11.15 The site has two accesses to the highway and these would be used for the proposal; each existing access serving two dwellings. The local highway authority has been consulted on the application with a request for a response by 27<sup>th</sup> December. No response has been received to date.
- 11.16 In the absence of any objection from the local highway authority, the proposal is considered acceptable with regard to Policy GEN1.

**E Flood protection (Policy GEN3)**

- 11.17 Policy GEN3 requires development outside flood risk areas to not increase the risk of flooding through surface water run-off. The NPPF requires development to be steered towards areas with the lowest probability of flooding. In addition, it should be ensured that flood risk is not increased elsewhere. However, as the proposal is not a 'major development', national policy does not require the use of a sustainable drainage system.
- 11.18 Although a water course forming an upper reach of the River Cam is nearby on the far side of the road, the site is within flood zone 1 and accordingly considered acceptable with regard to flood protection.
- 11.19 As such the proposal is considered acceptable with regard to Policy GEN3.

## **F Biodiversity (Policy GEN7)**

- 11.20 Local Plan Policy GEN7 requires applicants to show that the development would not have a harmful effect on wildlife unless the need for the development outweighs the importance of the feature to nature conservation. Applicants also have a legal duty towards legally protected species or habitats.
- 11.21 Essex County Council's Place Services is the ecology consultant for the local planning authority. A written consultation response has been received from this body to the effect that there is no objection subject to securing biodiversity mitigation and enhancement measures. Conditions have been recommended by the specialist advisor and it is considered both necessary and reasonable to impose the conditions recommended by Place Services' ecological advice.
- 11.22 Subject to appropriate conditions, the proposal is considered acceptable with regard to Policy GEN7.

## **G Contaminated land (Policy ENV14)**

- 11.23 Paragraphs 178-180 of the NPPF require that planning decisions should ensure that a site is suitable for its proposed use based on any potential risks from contamination (amongst other factors), and this factor is particularly true for residential development. Where land is suspected to be contaminated then the applicant is obliged to carry out an assessment to determine the risk and proportionate measures to mitigate against such risk.
- 11.24 The made ground of the railway line, the embankment of the railway, is a potential historic source of contamination. Environmental Health has stated in its written consultation response that it is essential to ensure that any contamination risk is identified and assessed. It is recommended that a condition is imposed on any planning permission.
- 11.25 Subject to an appropriate condition, the proposal is considered acceptable with regard to Policy ENV14.

## **H Housing mix (Policy H10)**

- 11.26 Design is a reserved matter. However, the response to question 15 of the planning application form indicates that the dwellings would have four or more bedrooms.
- 11.27 Policy H10 states that all developments of three or more dwellings will be required to include a significant proportion of market housing comprising small properties. Explanatory text to this policy indicates that 2 and 3 bedroomed homes comprise small properties.
- 11.28 However, as stated at paragraph 4.10 of the emerging Local Plan, the 2015 Strategic Housing Market Assessment (SHMA) concluded that the majority of the need for market housing is for 3 and 4+ bedroom houses.

## **12. CONCLUSION**

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

- A** This is a 'brownfield' site amongst a cluster of existing development and would be very well screened in the landscape.

- B** The site is in a relatively sustainable location.
- C** The dwellings would provide a good standard of amenity to future occupiers.
- D** The site is of an adequate size to provide parking as required. Existing vehicular accesses would be used and the local highway authority has not objected to the proposals.
- E** The proposal is considered acceptable with regard to flood protection.
- F** Subject to condition the proposal is considered acceptable with regard to nature conservation.
- G** Subject to condition the proposal is considered acceptable with regard to any ground contamination.
- H** The indicated type of accommodation is considered acceptable with regard to housing mix.

## **RECOMMENDATION – APPROVAL WITH CONDITIONS**

### **Conditions**

1. Approval of the details of layout, scale, landscaping and appearance (hereafter called "the Reserved Matters") must be obtained from the Local Planning Authority in writing before development commences and the development must be carried out as approved.

REASON: In accordance with Article 5 of The Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended) and Section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Application for approval of the Reserved Matters must be made to the Local Planning Authority not later than the expiration of three years from the date of this permission.

REASON: In accordance with Section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

3. The development hereby permitted must be begun no later than the expiration of two years from the date of approval of the last of the Reserved Matters to be approved.

REASON: In accordance with Section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

4. Prior to first occupation of any dwelling hereby permitted, an electric car charging facility shall be installed at the property and retained as such unless the written consent of the local planning authority is given to any alteration.

REASON: In the interest of sustainable development and in accordance with Policy GEN2 of the adopted Local Plan; Policies TA 2 and TA 3 of the emerging Local Plan; and, the provisions of the National Planning Policy Framework.

