

UTT/17/2241/FUL - (HENHAM)

(Referred to Committee by Cllr LeCount and Cllr Lees. Reason: Due to the wide public interest concerning the impact of the development on the Henham Conservation Area and its Listed Buildings'. That the land is outside the village envelope).

PROPOSAL: Retention of lamp posts/external lights reduced in height to 2m, and reduction in number from 20 to 10

LOCATION: Hill Top Yard, Mill Road, Henham

APPLICANT: Mr M Maloney

AGENT: Mr P Brown

EXPIRY DATE: 8 November 2017

CASE OFFICER: Mrs M Jones

1. NOTATION

1.1 Outside development limits

2. DESCRIPTION OF SITE

2.1 The application site is a long narrow piece of land which is approximately 0.2 ha in area and approximately 500 metres south of the settlement of Henham and 1 kilometre from Eisenham. The lawful use of the land is a haulage yard with the stationing of two residential mobiles on the land. The adjoining properties to the northern boundary are a residential property and a commercial nursery. The land which adjoins the southern and eastern boundaries is open agricultural land. The site is in an elevated position from the land to the south. There are 20 no. lamp posts on the site at a height of 5m. There is also a fenced in area at the rear of the site with chain link fencing.

2.2 Apart from the two existing mobile homes, the haulage yard contains a large industrial building, together with a building containing sanitary accommodation and restroom.

2.3 The haulage yard is completely hard surfaced, and is enclosed by palisade fencing to all boundaries. There is a conifer hedgerow between the haulage yard and the adjacent dwelling to the north, known as Hill Top.

2.4 The site is also currently being used for commercial car parking for which an enforcement notice and a stop notice has been issued on 29th September.

3. PROPOSAL

3.1 The proposal is for the retention of 10 no. lamp posts at a height of 2m. It should be noted that there are 20 existing lamp posts (unauthorised) on the site at a height of 5m. If approved 10 of the existing lamp posts would be reduced in height to the proposed height of 2m.

4. APPLICANT'S CASE

- 4.1 As you will be aware, an appeal inspector has recently refused to grant planning permission for retention of the existing lamp posts located along the boundaries of Hill Top Yard. This was due to the number and scale of the proposed lights. There are 20 street lights illuminating the existing haulage yard, which are each 5m high. Clearly, it is extremely important for the haulage yard to be illuminated during the hours of darkness, particularly when there are children living in the associated residential accommodation. With working hours falling within the hours of darkness during the winter, it is imperative for worker safety for the yard area to be adequately lit. With commercial vehicles manoeuvring within a yard where children may be playing, it is particularly important for the safety of my client's children that the yard is adequately lit.
- 4.2 The Inspector's findings are accepted, and my client proposes to reduce the scale of the existing lamp posts by lowering their height from 5m to 2m. The lamp posts are fitted with hoods which direct light downwards, and avoid sky-glow. At their reduced height, these lights will not be visible above the height of the existing boundary fence and will only illuminate the adjacent ground within the haulage yard. It is difficult to see how the number of lights can be reduced without creating areas of darkness within the site. The intensity of illumination is a matter which can be controlled by condition. It is intended that the lamp posts would be fitted with 60 Watt bulbs.
- 4.3 I trust that you will appreciate the health and safety concerns which my client has, both as a father and an employer and will support my clients' application. The adjoining garden nursery has external floodlighting which is at a higher level and greater intensity, than that proposed for Hill Top Yard.

5. RELEVANT SITE HISTORY

- 5.1 UTT/16/3393/FUL - Proposed erection of 20 no. lamp posts at a height of 2m. Refused.
- 5.2 UTT/15/0623/FUL - Proposed change of use from haulage yard to gypsy site for 5 no. pitches with toilet block. Refused and dismissed at appeal.
- 5.3 UTT/15/0231/FUL - Installation no. 2 no. Portacabins in conjunction with yard and retrospectively for the installation of 20 no. street lights. This application was refused on the 26th March 2015.
- 5.4 UTT/0099/11/OP - Outline planning application with all matters reserved for the erection of 11 no. dwellings was refused on the 21st April 2011.
- 5.5 UTT/0889/03/FUL - Erection of dwelling to replace existing yard was refused on the 2003.
- 5.6 UTT/0180/02/FUL - Resitting of two mobile homes and erection of replacement building for storage and repair of commercial vehicles was approved conditionally on the 26th July 2002.
- 5.7 UTT/0082/01/FUL - Change of use from haulage/plant hire yard to residential and erection of two detached dwellings and associated garaging was refused on the 20th March 2001.

- 5.8 UTT/0927/96/CL - Proposal: Application for certificate of lawfulness for haulage yard and plant hire issued on the 25th March 1997.
- 5.9 UTT/0575/93/CL - Application for Certificate of Lawfulness for the stationing of two existing mobile homes for residential was issued on the 20th July 1993.
- 5.10 UTT/0021/88 - Outline application for conversion of a redundant barn into residence and alteration of an existing access was refused on the 21st Mar 1988.
- 5.11 UTT/0633/86 - Outline application for erection of a dwelling and alteration of an existing access was refused on the 30th July 1986.
- 5.12 SWR/0669/72 - Demolition of existing house and construction of 5 detached houses and garages was refused on the 14th December 1972.
- 5.13 SWR/0024/69 - Development of land for 3 dwellings was refused on the 6th March 1969
- 5.14 SWR/0187/68 - for a dwelling was refused on the 15th August 1968.

6. POLICIES

6.1 National Policies

- National Planning Policy Framework

6.2 Uttlesford Local Plan (2005)

- ULP Policy S7: The Countryside
- ULP Policy GEN2: Design
- ULP Policy GEN5 - Light Pollution
- ULP Policy GEN4: Good Neighbourliness

7. PARISH COUNCIL COMMENTS

- 7.1 The planning application is described as 'retention' but because the proposed development has not been carried out this should be factually described as 'erection of 10 lamp posts/external lights' - notwithstanding that the existing lamp posts remain on the site illegally.
- 7.2 As you know, this site has a long history of planning contraventions. The lights were erected without permission in 2014/15, an enforcement notice was served on 13.10.15 and an appeal was dismissed on 13.9.16. A subsequent application for 20 x 2m lights (16/3363) was refused permission on 7.4.17. Legal action has been taken to achieve removal and the owner has been fined. The lights have remained and continue to light up the sky. The submission (undated statement by Philip Brown Associates Ltd) is that this latest proposal will overcome previous objections by UDC and the Inspector's decision letter. It is said that the lights are required for the following reason:

Clearly, it is extremely important for the haulage yard to be illuminated during the hours of darkness, particularly when there are children living in the associated residential accommodation. With working hours falling within the hours of darkness during the winter, it is imperative for worker safety for the yard area to be adequately

lit. With commercial vehicles manoeuvring within a yard where children may be playing, it is particularly important for the safety of my client's children that the yard is adequately lit. It is also stated that 10 lights will overcome the refusal of permission for 20 lights of the same height. The reason for refusal was: The proposed development, due to the excessive number and impact of the illumination of the lights would be harmful to the character and appearance of the rural surroundings. The development fails to meet the requirements of Uttlesford Local Plan Policies S7, GEN2, GEN5 (adopted 2005) and paragraph 125 of the NPPF.

The Inspector's letter, dismissing the appeal against the Enforcement Notice, stated as follows:

To address the level of light pollution, in my assessment a completely and radically different lighting scheme to what is before me is likely to be necessary. I therefore find that the erection of 20 street lights causes significant harm to countryside interests including the appeal site and wider vicinity, due to the amount and scale of lighting infrastructure contrary to Local Plan policies S7, GEN2 and GEN5, which seeks to minimise light pollution, and national policy found in paragraph 125 of the NPPF.

7.3 The revised scheme is regarded by the EHO in her response of 8.9.17 as "*has to an extent addressed the objections*". This is not a satisfactory endorsement and the further alteration to the scheme (reduced hours, lower power rating) would not overcome the basic objections. Moreover, there must be some doubt, on the evidence of the actions of the applicant to date, that any amendments would be implemented or conditions met. The only practical way to remove the objections of UDC, the Inspector, the adjoining residents and local community (over 100 letters) is to refuse permission and escalate legal action.

The scheme for 10 lighting columns as proposed, in the same locations and with the same light fittings, albeit reduced in height, does not in any way overcome these objections. The proposed light columns would still:

- be of the same construction and light fitting, with a regimented layout and urbanising effect on the skyline
- cause significant light pollution to the area generally and the adjoining dwelling
- cause significant harm to the countryside

7.4 The Inspector could have granted permission with a condition to reduce height. He refused the appellant's request to conditionally allow the appeal, saying that any alternative would need to be a "*completely and radically different lighting scheme*". The proposals in no way fit that description.

The proposal therefore remains '*contrary to Local Plan policies S7, GEN2 and GEN5, which seeks to minimise light pollution, and national policy found in paragraph 125 of the NPPF*' quoted by the Inspector and contained in the previous reason for refusal.

Policy S7 is to protect the countryside, the appearance of lighting columns proposed would not '*protect or enhance the particular character of the part of the countryside within which it is set*', quite the reverse. Moreover, the claims made in the submission about children's safety - possibly seeking to make the case that '*there are special reasons why the development in the form proposed needs to be there*' - are unsubstantiated.

Policy GEN2 – Design. The lighting columns would:

- not be '*compatible with the scale, form, layout, appearance and materials of surrounding building*'
- not '*safeguard important environmental features in its setting, enabling their retention and helping to reduce the visual impact of new buildings or structures where appropriate*'

- not '*minimise the environmental impact on neighbouring properties by appropriate mitigating measures*'
- have a '*materially adverse effect on the reasonable occupation and enjoyment of a residential or other sensitive property, as a result of loss of privacy, loss of daylight, overbearing impact or overshadowing*'.

Policy GEN5 – Light pollution. The lighting columns would fail the tests of:

- *The level of lighting and its period of use is the minimum necessary to achieve its purpose, and*
- *Glare and light spillage from the site is minimised.*

The development would precisely be contrary to NPPF Paragraph 125:

- *By encouraging good design, planning policies and decisions should limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.*

7.5 The July 2017 Draft Local Plan includes the following policy (emphasis added in bold):

Policy EN19 - Light Pollution

Proposals for external lighting will be permitted where all the following criteria are met:

- *It does not have an unacceptable adverse impact on neighbouring uses or the wider landscape;*
- *The level of lighting and its period of use is the minimum necessary for security and operational purposes;*
- *Low energy lighting is used in conjunction with features such as movement sensors, daylight sensors and time controls;*
- *The alignment of lamps and provision of shielding minimises spillage, glare and glow, including into the night sky;*
- *There is no loss of privacy or amenity to nearby residential properties and no danger to pedestrians and road users; and*
- *There is no harm to local ecology, intrinsically dark landscapes and/ or heritage assets.*

The Council will seek to control the times of illumination including limiting the hours of use for external lighting of all the development.

Despite the need for "all" of these criteria to be met, I submit that none of them are.

The proposed update of Adopted Local Plan policies gives no support or justification for the approval of the latest submission.

7.6 The site does not appear to be in use as a 'haulage yard' but rather appears to involve some form manufacturing and storage facility. There does not seem to be any evidence of children roaming freely on the site even in daylight. Even if children are present in the single 'mobile home' on site, the solution is surely to provide adequate fencing to prevent them roaming across the site.

7.7 The lighting columns covered by the Enforcement Notice should have been removed by 13 December 2016, 3 months after the appeal was dismissed. The submission of planning applications and non-compliance with enforcement action and court judgements must be seen as delaying tactics which are clearly unacceptable. The lights have caused considerable harm to the locality for over 2 years. The lights continue to burn brightly every night. A refusal of planning permission could be result in further 'revised' submissions, and possible appeals, dragging out this already long period, which would be an abuse of process with no legal basis.

The proposals are clearly contrary to the Development Plan1, principally Policies S7 GEN2, and GEN5; clearly contrary to NPPF para 125, and clearly contrary to the

emerging policy EN19. The terms of the recent Inspector's decision to dismiss the appeal against the 2015 Enforcement Notice, thus endorsing removal of the existing columns, clearly point to the wholly unacceptable nature of the proposals. Planning permission for this new scheme should now be refused, and legal action escalated to secure removal of the structures.

8. CONSULTATIONS:

Aerodrome Safeguarding

- 8.1 The proposed development has been examined for aerodrome safeguarding; at a maximum height of 2m this proposal does not conflict with any safeguarding criteria. Accordingly, Stansted Airport has no safeguarding objections to the proposal.

Essex County Council Ecology

- 8.2 No objections. The site is clearly of low ecological value due to its existing use as a haulage yard and its position within an intensive agricultural landscape. While light does have the potential to adversely affect wildlife, including legally protected species and those of conservation concern, the mitigation measures proposed – low height, low intensity, hooded luminaires and time limits – if rigorously enforced, should be sufficient to avoid such effects considering the likely ecological value of the site and its surroundings. While supporting ecological information would have been helpful to this application, I consider that the likelihood of an adverse ecological impact is insufficient to delay its determination.

NATS Safeguarding

- 8.3 The proposed development has been examined from a technical safeguarding aspect and does not conflict with our safeguarding criteria. Accordingly, NATS (En Route) Public Limited Company ("NERL") has no safeguarding objection to the proposal.

Environmental Health

- 8.4 The proposed reduction in number of lighting columns has to an extent addressed the objections raised in my response to UTT/16/3393/FUL in terms of reducing the likelihood of glare impacting on occupiers of the residential properties adjacent to and opposite the site.
- There remains the risk of spread of light reflected from the yard surface into an area of otherwise low level of artificial lighting risking loss of amenity. The risk can be minimised by restriction to the hours of operation, combined with controls on the lamp power rating and provision of hoods as proposed.
- The lamps are stated to be for the protection of safety of children on the site, and if this is the case, an earlier switch off time than the proposed 22.00hrs should be considered, for example to normal hours of working 18.30h to 07.00rs.

9. REPRESENTATIONS

- 9.1 236 neighbouring properties have been notified and 147 representations objecting to the proposal have been received and one representation supporting the application. Expiry date: 11th September 2017.
A summary of the comments received are: (please see main file for full details)
- 9.2 The application is not an application for retention of lights. There are no lights of 2m

height erected at the site.

- 9.3 It is blatant delaying tactic by the applicant.
- 9.4 The existing lights have caused severe harm to the rural area day and night for over 2 years.
- 9.5 The site is not being used as a haulage site.
- 9.6 The planning Inspectorate said that only a completely and radically lighting scheme may be necessary. The proposal fails to meet that test.
- 9.7 The site is being used illegally as a car park with in excess of 200 vehicles completely covering the site – there is no need for this lighting as the site is not being used as a haulage yard or residential and it is therefore not possible for children to be playing on this site.
- 9.8 This is not an application to retain lights – there are no lights of 2m height erected at the site. As the council is well aware, there are 20 lights of 5m height at the site which were erected without planning permission and which have been subsequently refused on retrospective application. Planning permission was also refused for lights of 2.5m and there is an enforcement notice to remove the lights in place plus the Planning Inspector’s comprehensive rejection of the appeal against this notice over a year ago on 13 September 2016.
- 9.9 The proposed lighting scheme is contrary to all planning policies quoted by the Inspector in dismissing the appeal and would continue to cause significant harm to this rural area. It does not constitute a “completely and radically different” lighting scheme. It is the same lights reduced in number and height. The Planning Inspector could have allowed the lights to stay, albeit at a reduced height but he did not. No attempt is made to address the Inspectorates rejection decision based on Local Plan policies S7, GEN2 and GEN5, which seek to minimise light pollution, and national policy found in paragraph 125 of the NPPF.
- 9.10 The reason for the lighting is claimed to be safety for children living on a site which is also a haulage yard. If children’s safety is the reason, why is all the lighting left on after the operational hours of any business and after the time that children are in bed? Children should not be roaming across the commercial site, a fenced area could be provided without all the harm the lights cause.
- 9.11 There is no evidence that the site is a haulage yard. Previously there seemed to be only some minor workshop and storage use but since the summer school holidays, the site is totally full with parked cars on a daily basis giving the impression that this is a car park for Stansted Airport passengers.
- 9.12 This application would appear to be yet another delaying tactic on the part of the applicant who has ignored the legal actions that UDC has taken so far to ensure compliance with the enforcement notice. Avoiding action by repeated submission of slightly different schemes seems to be attempting to make a mockery of the planning system.
- 9.13 A reduction in height and limiting the number of light posts will not overcome the harm that is and would be caused in this dark rural area.

- 9.14 The justification that the lights are needed to make the 'haulage yard' safe for children living on site is inexplicable - children should not be roaming across the commercial site, a fenced area could be provided without all the harm the lights cause.
- 9.15 The proposals are contrary to all the planning policies quoted by the Inspector when dismissing the appeal.
- 9.16 UDC has already taken legal action to ensure compliance with the enforcement notice and the site owner has been prosecuted and fined, yet the lights remain on site illegally - the submission of a new planning application is a further delaying tactic, which could be repeated for 9 lights, 8 lights etc, then if permission is again refused an appeal could be lodged so dragging matters out for up to a year - and making a mockery of the planning system - this principle of avoiding action by submitting slightly different schemes could mean that action is postponed for years.
- 9.17 Inappropriate development and seem to serve no useful purpose.
- 9.18 Reducing the height and number of the lamps will not substantially reduce the harm that is caused to the local area.
- 9.19 This process has been going on long enough and it is time the planning process is enforced.
- 9.20 Because of the illegal airport parking any children living on the site is incomprehensible.
- 9.21 The existing 5m lights remain on the site illegally.
- 9.22 Because of the lights, he now has the ability to facilitate illegal airport parking.
- 9.23 The site makes the village look like an industrial site and is causing extensive light pollution to an otherwise unlit area.
- 9.24 The current owner has lately turned this site into a parking yard so the lighting seems to be required to facilitate a purpose that is not permitted itself.
- 9.25 The lights are unsightly and a nuisance providing unwarranted light pollution an disturbance, even by reducing the height such lights are not merited for general and residential occupancy.
- 9.26 It seems given the number of cars parked there that some kind of airport car parking is going on and the only purpose I can see is to continue/make this a 24 hour operation.
- 9.27 Vernons Close about 56 houses has only 4 or 5 lights, one property cannot need 10.
- 9.28 This is a large site resembling a military compound on a prominent hilltop location visible from a long distance away, surrounded by an 8 foot metal palisade fence and with no vegetation at all. Most of the immediate surrounding land is agricultural fields. As Henham has no street lights at all the erection of 10 or 20 5 metre high or 2m high street lights is totally out of character with the surrounding area, the orange glow and the lights themselves are/will still be visible from many miles away.

- 9.29 The lighting currently illegally erected and subsequently revised proposals are very invasive and can in no way be deemed to enhance or protect the character of the countryside in any way which is contrary to policy S7 and this further proposal does not address this.
- 9.30 Ten or twenty 5m or 2m high street lights where there are no street lights is poor design, is certainly not energy efficient, it has a large environmental impact on neighbouring properties, it has materially adverse effect on the reasonable enjoyment of a residential property, there are no mitigating circumstances that can be introduced to lessen the impact on my property due to the size and position of the lights. This is therefore contrary to policy GEN2.
- 9.31 Unauthorised development already not being controlled.
- 9.32 Local opinion is being ignored.
- 9.33 It is not acceptable to be able to delay enforcement by re-submitting essentially an identical proposal to an already illegal development.
- 9.34 There has been no ecological report and the lights are disruptive to the local bat, badger and potential hedgehogs.
- 9.35 There were no proposals to offset the increase in carbon use in the original application whilst a reduction helps this does not recognise the obligation from the previous use.
- 9.36 This whole area is rural and ancient. The infrastructure is not, in my view, sufficient to support the increase in the traffic you are allowing and which is increasing the danger and destroying our tiny roads and ancient verges.
- 9.37 The applicant has already removed a considerable length of hedge – an important habitat and replaced with open metal fencing. This seems to have been forgotten.
- 9.38 The application form describes the site as a haulage yard and residential caravan site. There is no permission for the latter so misleading to describe as such.
- 9.39 It is inaccurate to say site cannot be seen from public highway. It is clearly visible by day and lit up at night, along a major length of the road leading into Henham. As such it impacts significantly on the rural setting of our village.
- 9.40 By removing the original hedge without permission, applicant has removed a windbreak to adjoining farmland and removed the significant visual barrier to the haulage yard that Henham residents once benefited from.
- 9.41 The extra cars on that part of Mill Road will undoubtedly cause more potholes and such in an already badly tarmacked area.
- 9.42 Ordinary infra-red sensor security lighting is all that is needed.
- 9.43 We need you to act for us to retrieve our village unlit each night fall by this second runway at the top of the rise, visible in all directions.
- 9.44 The applicant should secure the commercial site from the domestic site and as such no need for lights.

- 9.45 The owner of Mill Pond Nurseries is extremely concerned with regard to the significant impact that this development will undoubtedly have on his business and the environmental impacts of the development on the local area.
- 9.46 The application has been described as 'retention of lamp posts/external lights reduced to 2.0 metres and reduction in number from 20 to 10'. Given the significance of the changes, we do not consider that the word 'retention' is appropriate as very little, if anything would be retained.
- 9.47 Even on an urban industrial estate the number of lights in such a small space would be deemed unnecessary for small scale haulage uses.
- 9.48 The application contains no justification for the amount of lighting or the type of lights that is proposed. Are these flood lights, halogen, LED? – The resultant energy efficiency levels and light pollution will be considerably different from each different type of light fitting. The original application suggested that the lighting was required for security purposes however on the last application and this, it is said to be required due to children living in associated residential accommodation. This argument would seem weak as it would be far more sensible for some post and rail fencing to be erected within the site to separate the residential and commercial uses. This separation would be far more appropriate than children playing in a haulage yard. Indeed even if the significant lighting now proposed was implemented, a haulage yard would still be a very dangerous place for children to play. Drivers of large reversing vehicles operating at the site would struggle to see a small child in daylight, let alone in the dark.
- 9.49 There is insufficient information contained within the application to properly determine the impact and whether the lighting proposed is genuinely the minimum necessary to achieve its purpose, which seems highly unlikely. The application contains no details of the times of operation and how this would be controlled, and details of the fixings, plans of the light distribution and light spill/potential glare and the energy efficiency of the lighting. Neither does it explain clearly the precise purpose of the lighting.
- 9.50 No efforts have been made to minimise the impact of the lighting on the countryside, such as mature hedge planting. On the contrary, a large conifer hedge which would have shielded the lighting from the B1051 has been removed, exposing the site and the lighting which, in turn, exacerbates the impacts upon the rural area. Because the land slopes down to the south, the site sits prominently when viewed from Mill Road and the B1051, further increasing the impacts, resulting in an urbanisation of the site which is visible from a considerable distance.
- 9.51 10 street lights on the edge of a small village, outside of the development boundary, could not be described as protecting or enhancing the character of the countryside.
- 9.52 No details are provided justifying the proposal or advising of the hours of operation, so that energy is not wasted when the site is not in operation. Approving the development in its current form unconditionally could see excessive luminance levels 24/7 which must be seen as detrimental to the rural area and the natural environment. The NPPF section 10 is concerned with meeting the challenge of climate change, flooding, and coastal change. The details submitted with this planning application do not meet the challenges of climate change and would be contrary to central governments drive towards a zero carbon future.

9.53 The proposed lighting does, on many columns, allow for electrical connection (see attached photograph). It is presumed that this will allow some form of power supply to be generated from the lighting columns. Again, no details have been provided as to what these may be used for. Local residents have speculated that this may be used as an illegal gypsy and traveller site in the near future and this would certainly explain the power supply.

One application has been received in support of the application

9.54 The site has always been kept in a neat and tidy way with the exception of the lamp posts not being in keeping with the area. The reduction in height and number will be welcome.

10.00 COMMENTS ON HISTORY

The site has planning approval for the use of the land as a haulage yard and for the stationing of two mobile homes for residential purposes.

11.00 PLANNING CONSIDERATIONS

The main issues are:

11.01 The impact of the development on the open countryside setting and neighbour residential amenity (ULP Policies S7, GEN2, GEN4 and GEN5 and paragraph 125 of the NPPF)

11.02 The application site is located outside the development limits within close proximity to the village of Henham. The surrounding area is characteristically open rural land with a dwelling and a nursery to the north of the application site. Policy S7 of the ULP states that the development will only be permitted within the countryside setting where it is needed to take place there, or is appropriate to the rural location. The policy then continues to say that the development will only be permitted where its appearance protects or enhances the particular character of the part of the countryside in which it is set or there are special reasons why the development in the proposed form needs to take place there.

11.03 GEN2 of the ULP states that the design of the development should be of compatible scale, form, layout, appearance and materials of the surrounding location, it would not have a materially adverse effect on the reasonable occupation and enjoyment of a residential or other sensitive property as a result of loss of privacy, loss of daylight, overbearing impact or overshadowing.

11.04 Policy GEN4 of the ULP states that development will not be permitted where pollutants including light would cause material disturbance or nuisance to occupiers of surrounding properties.

11.05 GEN5 of the ULP states that development that includes a lighting scheme will not be permitted unless the level of lighting and its period of use is the minimum necessary to achieve its purpose, and glare and light spillage from the site is minimised.

11.06 Paragraph 125 of the NPPF states: "By encouraging good design, planning policies and decisions should limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation".

- 11.07 The Parish Council have made reference to policy EN19 within the draft Local plan, however this policy currently has low weight.
- 11.08 The proposal relates to the reduction in height of 10 of the existing street lights from their current 5 metres in height to 2 metres. The supporting letter states that the lamp posts would be fitted with the equivalent of 60 Watt bulbs producing 700 lumens. The applicant has stated that they would be agreeable to the lighting being controlled by sensors.
- 11.09 This application follows previous refused applications and an application dismissed on appeal. It is therefore necessary to assess whether this application overcomes the previous reasons for refusal and the reasons for the appeal being dismissed.
- 11.10 The reason for refusal of UTT/16/3393/FUL was: "The proposed development, due to the excessive number and impact of the illumination of the lights, would be harmful to the character and appearance of the rural surroundings. The development fails to meet the requirements of Uttlesford Local Plan Policies S7, GEN2, GEN5 (adopted 2005) and paragraph 125 of the NPPF."
- 11.11 Within the appeal decision for application UTT/15/0623/FUL the Inspector stated "turning to the lighting infrastructure, there are existing columns in the village and adjoining nursery site. However, street lighting is limited in scale reflecting the authority's attempt to control light pollution vis its dark sky policy. In contrast 20 tubular style street columns 5 m tall have been erected at Hill Top Yard. They form a line of metal light columns with bulky light fittings and have a regimented layout. I consider that the amount and extent of the columns have an intrusive urbanising effect on the skyline, which is accentuated by the slightly elevated positioning of the site. The street lights are lit from dusk to dawn for security reasons and to see their effect I carried out an unaccompanied site visit during the night, with the agreement of the appeal parties. I observed that the lighting scheme causes significant light pollution due to the number of columns, the intensity of light and level of illumination. The lighting infrastructure draws attention to the site when seen from Mill Road. In addition, there is considerable light spill which affects the occupiers of Hill Top Cottage given the proximity of columns to first floor window. I find that the lighting scheme causes light pollution contrary to the purpose of Local Plan policy GEN4. The Appellant would accept a condition requiring the submission of a different lighting scheme. He argues that stipulations could be imposed to limit intensity of illumination and operation of the lights. I consider that requiring a lighting scheme to be submitted by a condition alone would not sufficiently overcome my concern about the nature and scale of the subject lighting infrastructure. To address the level of light pollution, in my assessment a completely and radically different lighting scheme to what is before me is likely to be necessary.
- 11.12 I therefore find that the erection of 20 street lights causes significant harm to countryside interests including the appeal site and wider vicinity, due to the amount and scale of lighting infrastructure contrary to Local Plan policies S7, GEN2 and GEN5, which seeks to minimise light pollution, and national policy found in paragraph 125 of the NPPF".

- 11.13 It is therefore necessary to judge whether the current proposal is a “completely and radically different lighting scheme” and whether the proposal now would cause significant harm to countryside interests and wider vicinity.
- 11.14 Numerous comments have also been raised in relation to the current illegal use of the site being used for airport parking and that the 5m lights should have been removed following enforcement action. Additionally concerns that the application is not for retention of lighting as the lamp posts are not 2m high.
- 11.15 The site is currently being used for commercial parking which has taken place since the application being made. The Council has now issued an enforcement notice and a stop notice regarding these unauthorised activities.
- 11.16 The ten lamp posts that relate to this application are 5m high at the current time; however these posts will be retained in their existing locations at a height of 2m. (It is therefore considered that the description of the proposal is correct)
- 11.17 This application has halved the number of the proposed lights, removing the lighting closest to the neighbouring residential property and reduced their height from 5m to 2m. The lights also would not be illuminated twenty four hours a day and the illumination levels controlled. It is considered that this proposal represents a completely and radically different lighting scheme.
- 11.18 There is no boundary screening adjacent to the southern and eastern boundaries of the site. The yard is hard surfaced to the boundary and there is palisade fencing erected along the boundary which does not shield the site. There is no opportunity to provide landscaping to minimise the impact of the development.
- 11.19 Obtrusive light is generally a consequence of poorly designed, poorly installed or insensitive lighting schemes. The three main problems associated with obtrusive light are:
- Sky glow – the brightening of the night sky seen around urban areas, caused by a scattering of artificial light by dust particles and water droplets in the sky
Glare – the uncomfortable brightness of a light source when viewed against a darker background and
Light trespass – light spilling beyond the boundary of the property on which a light is located.
- Specialist Environmental Health Officers comments have been received and they state: “The proposed reduction in number of lighting columns has to an extent addressed the objections raised in my response to UTT/16/3393/FUL in terms of reducing the likelihood of glare impacting on occupiers of the residential properties adjacent to and opposite the site.
There remains the risk of spread of light reflected from the yard surface into an area of otherwise low level of artificial lighting risking loss of amenity. The risk can be minimised by restriction to the hours of operation, combined with controls on the lamp power rating and provision of hoods as proposed”.
- 11.20 The lamp posts at 2m would reduce the visual impact of the lighting, as would their design. They are fitted with hoods so that the light is directed downwards to avoid sky glow. Whilst only limited justification for the lights has been submitted, the site does have authorised residential use as well as for a haulage yard. It is therefore recognised that some lighting is required and reasonable for security and safety purposes. With the use of appropriate planning conditions to restrict the intensity

and timing of the lights it is considered that, on balance, the proposal would not be harmful to the character and appearance of the rural surroundings to such an extent to warrant refusal of the scheme. The development would broadly now meet the requirements of Uttlesford Local Plan Policies S7, GEN2, GEN5 (adopted 2005) and paragraph 125 of the NPPF.

- 11.21 It is also a material planning consideration that on most dwellings artificial light is not classed as development e.g. security lights. The site has permission for two mobile homes on the site.
- 11.22 It is not considered that the proposal would represent significantly different to what could be erected without the requirement for planning permission. On most dwellings artificial light is not classed as development, for example security lights. With regards to the impact on neighbour's amenity, the neighbouring residential property has windows facing the site. The lamp posts closest to this property have been removed from this proposal. Provided the illuminance levels and timings of the lighting are controlled by an appropriate planning condition the proposal is considered to be acceptable.
- 11.23 Although not directly related, the guidance of the Institute of Lighting Engineers for illuminated advertisements, is that luminance should be limited to 600cd/m² in a Zone E2 (rural or small village location) for an area upto 10m² and 300 cd/m² in an illuminated area over 10m²

11. CONCLUSION

Due to the design, reduction in height, reduction in number and level of illumination of the lights, the previous reasons for refusal have been overcome and that on balance the development is considered to be acceptable in this rural location in accordance with ULP policies S7, GEN2, GEN5 and GEN4 and paragraph 125 of the NPPF.

RECOMMENDATION: CONDITIONAL APPROVAL

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 The lighting hereby permitted shall only be illuminated between the hours 07.00 and 22.00 hours. A restricted hours' time clock shall be installed and permanently retained so that the lights are automatically turned off outside these times.

REASON: In the interests of residential amenity in accordance with ULP policies GEN4 and GEN5.

- 3 Each light hereby permitted shall be fitted with lights that result in maximum illumination levels of 1000 lumens and that light shall be directed downwards and fitted with a hood.

REASON: In the interests of residential amenity in accordance with ULP policies

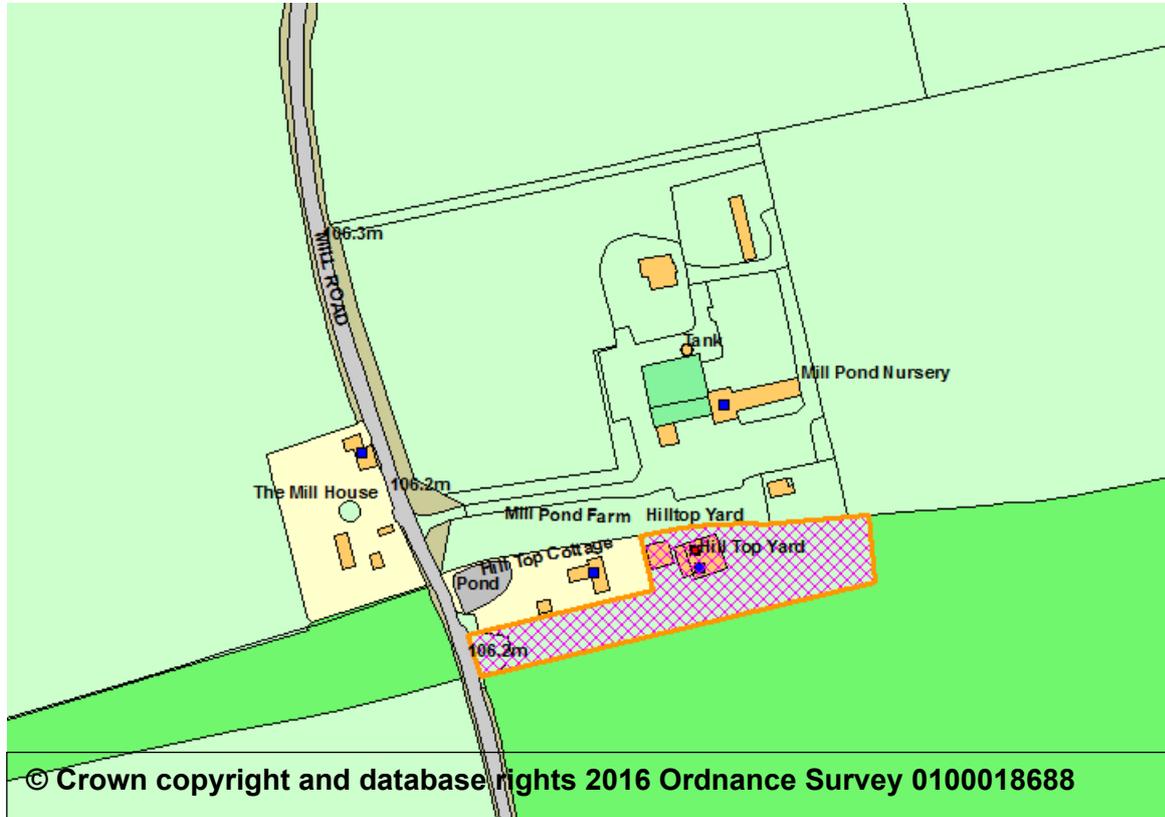
GEN4 and GEN5.

- 4 The poles above the height of 2m (of the ten lamp posts to be retained hereby permitted) shall be removed within two months of this decision.

REASON: To ensure that the posts cannot return to the unacceptable height of 5m in the interests of visual and residential amenity in accordance with ULP policies GEN4 and GEN5

Application: UTT/17/2241/FUL

Address: Hill Top Yard, Mill Road Henham



Organisation: Uttlesford District Council

Department: Planning

Date: 12 October 2017