

Committee: Planning

Date: 19 August 2020

Title: UTT/19/1219/FUL: A full application for Refuse Lorry Depot, Classic Car storage and restoration business, flexible office space, enhanced public open space, cycle and pedestrian uses and associated development. Land East of Braintree Road (B1256) GREAT DUNMOW

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Summary

1. The above planning application was reported to Planning Committee on 20 May 2020. The application report (appended) recommended the matter for refusal
2. Members considered that the employment opportunities and the potential provision of a depot facility outweighed the considered negative impacts of the proposal.
3. On advice from officers, members, whilst resolving to approve planning permission, requested that the suggested conditions and heads of terms of any Section 106 Obligation be brought back to Committee for consideration.
4. During the interim period officers have been in discussions with the applicant's agent and Great Dunmow Town Council with regards the Conditions and Heads of Terms.
5. The purpose of this report is not to re-open discussions on the matter but to clarify the agreed conditions and Section 106 Heads of Terms
6. It is considered that all the requirements of the proposed Section 106 are appropriate and reasonable for the delivery of the public realm elements that form part of the planning application.
7. It should be highlighted that the Secretary of State has been approached to call the matter in for his determination. Whilst not confirming any call in of any decision, his offices have requested that we do not issue any decision notice until the Secretary of State confirms that a decision can be released.

Recommendations

That Planning Committee confirm the resolution from Committee of 20 May 2020 to APPROVE planning application reference UTT/19/1219/FUL

RECOMMENDATION – APPROVAL WITH CONDITIONS SUBJECT TO S106 LEGAL OBLIGATION:

(I) The applicant be informed that the Planning Committee would be minded to refuse planning permission for the reasons set out in paragraph (III) unless the freehold owner enters into a binding obligation to cover the matters set out below under Section 106 of the Town and Country Planning Act 1990, as amended by the Planning and Compensation Act 1991, in a form to be prepared by the Head of Legal Services, in which case he shall be authorised to conclude such an obligation to secure the following:

- Prior to the first occupation of either the depot or office element of the scheme (whichever is first) the construction of the public car park and footbridge will be completed and transferred to Great Dunmow Town Council;
- A commuted sum agreed for maintenance of car park and footbridge;
- Prior to first occupation, the Developer shall submit a workplace travel plan to the Local Planning Authority for approval. Such approved travel plan shall be actively implemented for a minimum period of 5 years. It shall be accompanied by a monitoring fee of £6,000 (plus the relevant sustainable travel indexation) to be paid before occupation to cover the 5 year period; and
- Pay councils reasonable costs.
- Monitoring Charge
- Meet the Council's Reasonable Costs

(II) In the event of such an obligation being made, the Assistant Director Planning shall be authorised to grant permission subject to the conditions set out below:

(III) If the freehold owner shall fail to enter into such an obligation by 16 October 2020, the Assistant Director Planning shall be authorised to refuse permission in his discretion at any time thereafter for the following reason:

- (i) Lack of Public Car Park and Access to Community Land**
- (ii) Lack of provisions for ongoing maintenance of Car Park and Bridge to Community Land**
- (iii) Lack of travel plan**

SUBJECT TO THE FOLLOWING 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 development hereby permitted shall be carried out in accordance with the approved plans as set out in the Schedule.

REASON: For the avoidance of doubt as to the nature of the development hereby permitted, to ensure development is carried out in accordance with the approved

application details, to ensure that the development is carried out with the minimum harm to the local environment, in accordance with the Policies of the Uttlesford Local Plan (adopted 2005) as shown in the Schedule of Policies

3. Prior to the commencement of works of the development hereby permitted a phasing plan shall be submitted to and approved in writing by the local planning authority. The plan shall identify the phases and sequence of development comprising the areas of the depot, office, classic car business, public car park and footbridge respectively.

REASON: To ensure that development takes place in an ordered and agreed methodology. This condition allows the development to proceed in a flexible manner whilst the permission itself ensures the Local Planning Authority retain control over the overall delivery of the development.

4. Prior to commencement of the development hereby permitted, details of the materials to be used in the construction of the buildings shall be submitted to and approved in writing by the Local Planning Authority and the works carried out in accordance with the approved details.

REASON: In the interest of the character and appearance of the development in accordance with Uttlesford Local Plan Policies S7 and GEN2 (adopted 2005), and Great Dunmow Neighbourhood Plan Policies DS1 and LSC3 (made 2016).

5. Notwithstanding the details submitted (Drawing Nos: 1882/01), no development can commence until full details of the proposed bridge (including siting, full dimensions and construction method) shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

REASON: To conserve Protected and Priority species and allow the Local Planning Authority to discharge its duties under the UK Habitats Regulations 2017, the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species), in the interests of preserving the rural characteristics of the area and to protect the ecological sensitivities of the site and provide suitable public access in accordance with Uttlesford Local Plan Policies S7, GEN1 and GEN7 (adopted 2005), and Great Dunmow Neighbourhood Plan Policies DS1 and LSC3 (made 2016).

6. Prior to commencement of the development, details of all hard and soft landscaping (including planting, hard surfaces and boundary treatment) shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

All planting, seeding or turfing and soil preparation comprised in the above details of landscaping shall 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 shall 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 shall be carried out in accordance with the guidance contained in British Standards, unless otherwise agreed in writing by the local planning authority.

REASON: The use of this pre commencement condition is required to ensure compatibility with the character of the area in accordance with Uttlesford Local Plan Policies S7 and GEN2 (adopted 2005), and Great Dunmow Neighbourhood Plan Policies DS1 and LSC3 (made 2016).

7. A lighting design scheme for biodiversity shall be submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate technical specification) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory.

All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

REASON: To allow the Local Planning Authority to discharge its duties under the UK Habitats Regulations 2017, the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species), and in the interests of preserving the rural characteristics of the area and to protect the ecological sensitivities of the site, in accordance with Uttlesford Local Plan Policies S7, GEN2 and GEN7 (adopted 2005), and Great Dunmow Neighbourhood Plan Policies LSC1, LSC3 and NE2 (made 2016), and the National Planning Policy Framework.

8. No development approved by this permission shall take place until a Phase 2 investigation report, as recommended by the previously submitted Geosphere Environmental report dated 26th March 2019 (Ref: 3779, DS, DESK,GF,TP,26-03-2019,V2), has been submitted to and approved in writing by the Local Planning Authority. Where found to be necessary by the phase 2 report a remediation strategy to deal with the risks associated with contamination of the site shall also be submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall include an options appraisal giving full details of the remediation measures required and how they are to be undertaken. The strategy shall include a plan providing details of how the remediation works shall be judged to be complete and arrangements for contingency action.

REASON: To protect human health and the environment and to minimise and prevent pollution of the land and the water environment in accordance with national planning policy guidance set out in section 11 of the National Planning Policy Framework, and in accordance with Uttlesford Local Plan Policy ENV14 (adopted 2005).

9. Prior to first use of the development a validation report shall be submitted and approved in writing by the Local Planning Authority to demonstrate the effectiveness of any agreed Remediation Strategy. Any such validation shall include responses to any unexpected contamination discovered during works.

REASON: To protect human health and the environment and to minimise and prevent pollution of the land and the water environment in accordance with national planning policy guidance set out in section 11 of the National Planning Policy Framework, and in accordance with Uttlesford Local Plan Policy ENV14 (adopted 2005).

10. Noise resulting from the operation of any external fixed plant, machinery & equipment in connection with the uses hereby approved shall not exceed the existing background level inclusive of any penalty for tonal, impulsive or other distinctive acoustic characteristics when measured or calculated according to the provisions of BS4142:2014.

REASON: To protect the amenity of existing residential occupiers neighbouring the development, in accordance with Uttlesford Local Plan Policies GEN4 and ENV11 (adopted 2005).

11. No washing of refuse lorry vehicles shall take place except between 0800 hours and 1900 hours Monday – Friday and at no time on Saturdays, Sundays, Bank or Public Holidays, without the prior agreement in writing of the Local Planning Authority.

REASON: To protect the amenity of existing residential occupiers neighbouring the development, in accordance with Uttlesford Local Plan Policies GEN4 and ENV11 (adopted 2005).

12. Prior to first use of the Refuse Lorry Depot hereby permitted, a scheme for protecting neighbouring dwellings from noise arising from vehicles washing operations shall be submitted to and approved in writing by the local planning authority. No vehicle washing operations shall commence until such a scheme has been implemented in accordance with the approved details, and shown to be effective, and it shall be retained in accordance with those details thereafter.

REASON: To protect the amenity of existing residential occupiers neighbouring the development, in accordance with Uttlesford Local Plan Policies GEN4 and ENV11 (adopted 2005).

13. In respect of the Refuse Lorry Depot and Classic Car Repair Workshops hereby approved, no vehicle maintenance or repair works shall take place at any time in any external area to the premises.

REASON: To protect the amenity of existing residential occupiers neighbouring the development, in accordance with Uttlesford Local Plan Policies GEN4 and ENV11 (adopted 2005).

14. Prior to the commencement of the development, a detailed Construction Management Plan (CMP) shall be submitted to and approved in writing by the Local Planning Authority, and the plan shall include the following:

- a) The construction programme and phasing
- b) Hours of operation, delivery and storage of materials
- c) Details of any highway works necessary to enable construction to take place
- d) Parking and loading arrangements
- e) Details of hoarding
- f) Management of traffic to reduce congestion
- g) Control of dust and dirt on the public highway
- h) Details of consultation and complaint management with local businesses and neighbours
- i) Waste management proposals
- j) Mechanisms to deal with environmental impacts such as noise and vibration, air quality and dust, light and odour.

- k) Details of any proposed piling operations, including justification for the proposed piling strategy, a vibration impact assessment and proposed control and mitigation measures.

All works shall be carried out in accordance with the approved CMP thereafter.

REASON: In the interests of highway safety and the control of environmental impacts, in accordance with Uttlesford Local Plan Policies GEN1 and ENV13 (adopted 2005).

15. a) No development or preliminary groundworks can commence until a programme of aerial photographic rectification and archaeological trial trenching has been secured and undertaken in accordance with a written scheme of investigation which has been submitted by the applicant, and approved by the planning authority prior to reserved matters applications being submitted.
- b) A mitigation strategy detailing the rectification and excavation/preservation strategy shall be submitted to the local planning authority following the completion of this work.
- c) No development or preliminary groundworks can commence on those areas containing archaeological deposits until the satisfactory completion of fieldwork, as detailed in the mitigation strategy, and which has been signed off by the local planning authority through its historic environment advisors.

REASON: In the interests of protecting archaeological deposits in accordance with Uttlesford Local Plan Policy ENV4 (adopted 2005) and the National Planning Policy Framework.

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

REASON: In the interests of protecting archaeological deposits in accordance with Uttlesford Local Plan Policy ENV4 (adopted 2005) and the National Planning Policy Framework.

17. No works shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme should include but not be limited to:

- Verification of the suitability of infiltration of surface water for the development. This should be based on infiltration tests that have been undertaken in accordance with BRE 365 testing procedure.
- Limiting discharge rates to 1 in 1 year greenfield rate for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change.
- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.
- Demonstrate that all storage features can half drain within 24 hours
- Final modelling and calculations for all areas of the drainage system.
- Detailed engineering drawings of each component of the drainage scheme.

- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The scheme shall subsequently be implemented prior to occupation.

REASON: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site; to ensure the effective operation of SuDS features over the lifetime of the development; to provide mitigation of any environmental harm which may be caused to the local water environment, in accordance with Uttlesford Local Plan Policy GEN3 (adopted 2005) and the National Planning Policy Framework.

Failure to provide the above required information before commencement of works may result in a system being installed that is not sufficient to deal with surface water occurring during rainfall events and may lead to increased flood risk and pollution hazard from the site.

18. No works shall take place until a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works and prevent pollution has been submitted to, and approved in writing by, the local planning authority. The scheme shall subsequently be implemented as approved.

REASON: The National Planning Policy Framework paragraph 163 and paragraph 170 state that local planning authorities should ensure development does not increase flood risk elsewhere and does not contribute to water pollution, in accordance with Uttlesford Local Plan Policy GEN3 (adopted 2005) and the National Planning Policy Framework.

Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore the removal of topsoils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development. Construction may also lead to polluted water being allowed to leave the site. Methods for preventing or mitigating this should be proposed.

19. No works shall take place until a Maintenance Plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority.

Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

REASON: To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk, in accordance with Uttlesford Local Plan Policy GEN3 (adopted 2005) and the National Planning Policy Framework.

20. The applicant or any successor in title must maintain yearly logs of maintenance which should be carried out in accordance with any approved Maintenance Plan. These must be available for inspection upon a request by the Local Planning Authority.

REASON: To ensure the SuDS are maintained for the lifetime of the development as outlined in any approved Maintenance Plan so that they continue to function as intended to ensure mitigation against flood risk, in accordance with Uttlesford Local Plan Policy GEN3 (adopted 2005) and the National Planning Policy Framework.

21. All mitigation measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (Ecology Solutions, August 2018), Aerial Tree Bat Inspection (Tim Moya Associates, September 2019), Reptile Survey Report Reptile Mitigation Strategy (Tim Moya Associates, October 2019), Otter Scoping Assessment & Water Vole Survey (Tim Moya Associates, updated November 2019) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

This includes due diligence regarding badgers, hedgehogs, nesting birds, removal of Himalayan balsam, retention of mature Oak tree, Reptile Mitigation Strategy including compensatory habitat, precautionary mitigation strategy for Otters and Water Voles, precautionary avoidance and mitigation measures for the Ash tree with moderate bat roosting potential, and a wildlife sensitive lighting scheme.

REASON: To conserve Protected and Priority species and allow the Local Planning Authority to discharge its duties under the Wildlife & Countryside Act 1981 and s40 of the NERC Act 2006 (Priority habitats & species), and in accordance with Uttlesford Local Plan Policy GEN7 (adopted 2005) and the National Planning Policy Framework.

22. Prior to the commencement of the development hereby permitted, a construction environmental management plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the local planning authority.

The CEMP (Biodiversity) shall include the following.

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of "biodiversity protection zones".
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

REASON: To conserve Protected and Priority species and allow the Local Planning Authority to discharge its duties under the UK Habitats Regulations 2017, the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats

& species), and in accordance with Uttlesford Local Plan Policy GEN7 (adopted 2005) and the National Planning Policy Framework.

23. Prior to the slab level of any element the development hereby permitted, a Biodiversity Enhancement Strategy for Protected and Priority species shall be submitted to and approved in writing by the local planning authority.

The content of the Biodiversity Enhancement Strategy shall include the following:

- a) Purpose and conservation objectives for the proposed enhancement measures;
- b) detailed designs to achieve stated objectives;
- c) locations of proposed enhancement measures by appropriate maps and plans;
- d) timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
- e) persons responsible for implementing the enhancement measures;
- f) details of initial aftercare and long-term maintenance (where relevant).

The works shall be implemented in accordance with the approved details and shall be retained in that manner thereafter.”

REASON: To enhance Protected and Priority Species/habitats and allow the Local Planning Authority to discharge its duties under the s40 of the NERC Act 2006 (Priority habitats & species), in accordance with Uttlesford Local Plan Policy GEN7 (adopted 2005) and the National Planning Policy Framework.

24. Prior to the first occupation of any element of the development hereby permitted, a Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority prior occupation of the development.

The content of the LEMP shall include the following:

- a) Description and evaluation of features to be managed.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- g) Details of the body or organisation responsible for implementation of the plan.
- h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

REASON: To allow the Local Planning Authority to discharge its duties under the UK Habitats Regulations 2017, the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species), in accordance with Uttlesford Local Plan Policy GEN7 (adopted 2005) and the National Planning Policy Framework.

25. Prior to the first occupation of any element the development hereby permitted, the access, as shown in principle on submitted drawing IT1947/SK/01C rev B shall be provided, including all visibility splays which are to be clear to ground and provision of two crossing points on the on the northern and western arms of the roundabout and a cycleway minimum width 3m.

REASON: To ensure that vehicles can enter and leave the highway in a controlled manner in forward gear with adequate inter-visibility between vehicles using the access and those in the existing public highway in the interest of highway safety in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011, and Uttlesford Local Plan Policy GEN1 (adopted 2005).

26. The Cycle parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to occupation and retained at all times.

REASON: To ensure appropriate cycle parking is provided in the interest of highway safety and amenity in accordance with Policy DM8 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011, and Uttlesford Local Plan Policy GEN1 (adopted 2005).

27. Prior to first occupation of the site the provision of a footway/cycleway between the site and Braintree Road, as shown in principle on drawing number IT1947/TA/05 it shall tie into the existing highway and include appropriate dropped kerb crossing points. The off road footway/cycleway (marked in blue) to be a minimum width of 2.5m and surfaced with hardened, permeable surface to be agreed with the highway authority, and include all appropriate works and orders. Section of footway/cycleway (marked in red) to be a minimum width of 3m where not constrained and for the avoidance of doubt widening to include full depth construction/reconstruction of the new footway/carriageway, tie in the existing footway/cycleway and surfacing of the carriageway as appropriate to the satisfaction of the Local Planning Authority.

Financial Implications

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

Background Papers

Planning Application Reference UTT/19/129/FUL; Planning Committee Report 20 May 2020

Impact

1.

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

Risk Analysis

1.

Risk	Likelihood	Impact	Mitigating actions
1	1	1	None

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.