



**ITEM NUMBER:** 10

**PLANNING COMMITTEE DATE:** 02 August 2023

**REFERENCE NUMBER:** UTT/23/0945/FUL

**LOCATION:** Land Opposite To Nos 1-5, Debden Drive, Wimbish

**SITE LOCATION PLAN:**



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Organisation: Uttlesford District Council      Date: 13 July 2023

**PROPOSAL:** S73 application to vary condition 6 (timer switch) of UTT/22/2982/FUL (Section 73A Retrospective application for a package sewage treatment plant and associated infrastructure including underground plant and chambers with a biofilter unit standing approximately 2.382m above surrounding ground level, 1 no. 4m high floodlight, pipework, kiosk, access platform, water booster set and laurel hedging approximately 2.5m above ground level to screen the new apparatus) – The variation refers to a standard manual switch instead of a timer switch.

**APPLICANT:** Mr N Christie (Annington Property Ltd)

**AGENT:** Mr T Woods (NIC Ltd)

**EXPIRY DATE:** 08 June 2023

**EOT EXPIRY DATE:** 04 August 2023

**CASE OFFICER:** Mr Avgerinos Vlachos

**NOTATION:** Outside Development Limits.  
Contaminated Land Historic Land Use Area.  
Within Areas A and B of Debden Radar.  
Road Classification (Debden Drive – Private Road).  
Road Classification (Elder Street – Class III).  
Public Right of Way (Footpath – East).

**REASON THIS APPLICATION IS ON THE AGENDA:** Call In (Cllr Luck)

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## **1. EXECUTIVE SUMMARY**

**1.1** This is a section 73 planning application to vary the wording of condition 6 of the planning permission granted under reference UTT/22/2982/FUL. The variation refers to a standard manual switch instead of a timer switch.

**1.2** The proposal has been found to be acceptable by Environmental Health as it will not materially harm the residential amenity of any neighbouring occupiers. Notwithstanding this, pursuant to section 73 of the Town and Country Planning Act 1990 (as amended), the whole last sentence of condition 6 should be omitted as it fails to comply with paragraph 56 of

the NPPF. The conditions attached in UTT/22/2982/FUL remain relevant and shall be repeated.

## 2. **RECOMMENDATION**

That the Director of Planning be authorised to **GRANT** permission for the development subject to those items set out in section 17 of this report.

## 3. **SITE LOCATION AND DESCRIPTION:**

3.1 The application site comprises previously developed land, located outside development limits on the south-eastern edge of Wimbish. The site includes an existing building and a package sewage treatment plant and associated infrastructure, including underground plant and chambers with a biofilter unit, floodlights, pipework, kiosk, access platform, water booster set and hedging. To the east of the site there is a public footpath and to the north a block of garages. Residential properties are located across the private road (Debden Drive) to the west. The overall area contains mostly dwellings of varying architectural styles, sizes, ages and materials.

## 4. **PROPOSAL**

4.1 This is a section 73 planning application to vary the wording of condition 6 of the planning permission granted under reference UTT/22/2982/FUL. The variation refers to a standard manual switch instead of a timer switch.

4.2 The application includes the following documents:

- Application form
- UTT/22/2982/FUL – decision notice.

## 5. **ENVIRONMENTAL IMPACT ASSESSMENT**

5.1 The development does not constitute 'EIA development' for the purposes of The Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

## 6. **RELEVANT SITE HISTORY**

6.1

<b>Reference</b>	<b>Proposal</b>	<b>Decision</b>
UTT/23/0949/DOC	Application to discharge condition 2 (external lighting details) attached to UTT/22/2982/FUL.	Discharged in full (07.06.2023)
UTT/23/0443/DOC	Application to discharge condition 3 (odour management plan) and condition 4 (biodiversity enhancement layout) of UTT/22/2982/FUL.	Only condition 4 discharged in full (02.05.2023)

UTT/22/2982/FUL	Section 73A Retrospective application for a package sewage treatment plant and associated infrastructure including underground plant and chambers with a biofilter unit standing approximately 2.382m above surrounding ground level, 1 no. 4m high floodlight, pipework, kiosk, access platform, water booster set and laurel hedging approximately 2.5m above ground level to screen the new apparatus.	Approved with conditions (28.12.2022)
UTT/20/1676/FUL	Proposed package sewage treatment plant, new compound bounded by a 1.8m high steel fence. Underground plant and chambers with a biofilter unit standing approximately 1.66m above the surrounding ground level. 2 floodlights (4m high) and a telemetry aerial (6m high) and vehicle cross over. An existing building which is currently used to house the control equipment of a sewage pumping station will be retained and used to house the control equipment associated with the sewage treatment plant.	Approved with conditions (18.12.2020)

## **7. PREAPPLICATION ADVICE AND/OR COMMUNITY CONSULTATION**

- 7.1 No pre-application advice was sought prior to the submission of the application.
- 7.2 No consultation exercise was carried out and no Statement of Community Involvement was submitted with the application.

## **8. SUMMARY OF STATUTORY CONSULTEE RESPONSES**

### **8.1 Environment Agency**

- 8.1.1 No comments.

## **8.2 Manchester Airport Group**

**8.2.1** No objections unconditionally (see Appendix 1 for full response).

## **8.3 National Air Traffic Services ('NATS En Route')**

**8.3.1** No objections unconditionally (see Appendix 2 for full response).

## **9. PARISH COUNCIL COMMENTS**

**9.1** No comments.

## **10. CONSULTEE RESPONSES**

### **10.1 UDC Environmental Health**

**10.1.1** No objections, as the information submitted for the discharge of condition 2 shows that the floodlighting complies with guidance. This means that although the floodlighting will be visible, the light levels should not be such that they cause an adverse impact on nearby residents even when on during the night.

## **11. REPRESENTATIONS**

**11.1** A site notice was displayed on site and notification letters were sent to nearby properties. The application has also been the subject of a press notice in the local newspaper and representations have been received.

### **11.2 Call In**

**11.2.1** Cllr Luck wrote:

- GEN2 Design – Visual impact, and general impact on the countryside by the installation and operation of floodlights, and odours emitted by the facility.
- Various conditions have been set on two planning applications for this site when previously approved which may still be relevant or be outstanding.
- Unreasonable and unfair for residents to suffer the stress and health impacts caused by the repeated applications “with Conditions” if the conditions cannot be met and then for the applicant to just submit another application to cover the previous shortfalls.

### **11.3 Object**

- 11.3.1**
- Conditions should not be wavered.
  - Easily turned off on a manual switch.
  - No stated time for the timer.
  - Can be reset in the next dark period if needed.
  - Lights and alarms running for days.
  - 12-hour timer would mean zero health and safety.

- Northern light points directly to residents' homes.
- No shades fitted on the floodlights.
- Environmental Health picked up matters of illumination and odours.
- Odour and noise disturbances.
- Tank is underground but filter is above.
- Site smells on certain times.
- Poorly managed site.
- Communication concerns between Anglian Water and the developer.
- Application must be refused.
- Conditions were set to protect the interests of residents.
- Developer had more than enough time to make conditions work.

#### **11.4 Comment**

**11.4.1** All material planning considerations raised have been taken into account when considering this application. Land ownership issues, issues around the discussions between the developer and third parties, issues around the deliverability of a planning permission are not planning issues, as they refer to civil matters. The application does not request to waver conditions but to change the wording of condition 6 to replace the phrase 'timer switch' with the phrase 'manual switch'. The development benefits from planning permission granted fairly recently; some of the conditions have been discharged in full and some others are pending. Odour, noise and other disturbances are not part of the planning matters that can be considered as part of the current section 73 application for condition 6.

### **12. MATERIAL CONSIDERATIONS**

**12.1** In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, The Development Plan and all other material considerations identified in the "Considerations and Assessments" section of the report. The determination must be made in accordance with the plan unless material considerations indicate otherwise.

**12.2** Section 70(2) of the Town and Country Planning Act requires the local planning authority in dealing with a planning application, to have regard to

- a) The provisions of the development plan, so far as material to the application,
  - (aza) a post-examination draft neighbourhood development plan, so far as material to the application,
- b) any local finance considerations, so far as material to the application, and
- c) any other material considerations.

#### **12.4 The Development Plan**

**12.4.1** Essex Minerals Local Plan (adopted July 2014)

Essex and Southend-on-Sea Waste Local Plan (adopted July 2017)  
Uttlesford District Local Plan (adopted 2005)  
Felsted Neighbourhood Plan (made February 2020)  
Great Dunmow Neighbourhood Plan (made December 2016)  
Newport, Quendon and Rickling Neighbourhood Plan (made June 2021)  
Thaxted Neighbourhood Plan (made February 2019)  
Stebbing Neighbourhood Plan (made July 2022)  
Saffron Walden Neighbourhood Plan (made October 2022)  
Ashdon Neighbourhood Plan (made December 2022)  
Great & Little Chesterford Neighbourhood Plan (made February 2023)

## **13. POLICY**

### **13.1 National Policies**

13.1.1 National Planning Policy Framework (2021)

### **13.2 Uttlesford District Local Plan 2005**

13.2.1 S7 - The Countryside  
GEN2 - Design  
GEN4 - Good Neighbourliness  
GEN5 - Light Pollution

### **13.3 Neighbourhood Plan**

13.3.1 No 'made' Neighbourhood Plan for the area.

### **13.4 Supplementary Planning Document or Guidance**

13.4.1 No relevant supplementary planning documents or guidance.

## **14. CONSIDERATIONS AND ASSESSMENT**

14.1 The issue to consider in the determination of this application are:

### **14.2 A) Principle of variation**

14.2.1 The Environmental Health officer raised **no objections** to the proposal as the external illumination details submitted for the discharge of condition 2 (UTT/23/0949/DOC) shows that the floodlights comply with the relevant guidance. Following thorough review of the concerns raised by third parties and ward members, compliance with the relevant guidance means that despite the floodlights being visible outside the site, the light levels would not be such that would harm the residential amenity of neighbouring occupiers (even when on during the night)<sup>1</sup>. The application supports that the condition prohibits the use of the floodlights in case of an emergency,

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<sup>1</sup> The concerns expressed by Environmental Health regarding the relaxation of control, the management systems to ensure the floodlights are off, the potential for an override switch and the definition of an 'emergency' fall outside the scope of this application.



raising health and safety concerns if the site was to be attended outside the prescribed hours (9am – 6pm). This is true; the latter part of the condition would conflict with its first part, not allowing the emergency use of the floodlights and failing the preciseness test of paragraph 56 of the NPPF. In a subsequent response, Environmental Health confirmed that the proposal is acceptable.

- 14.2.2** Under the powers conferred to the local planning authority by section 73 of the Town and Country Planning Act 1990 (as amended) it is recommended that the following phrase is omitted from the wording of condition 6 with the rest of the condition remaining intact (with a further clarification on the days to which the condition applies): “A timer switch shall be installed to ensure compliance with these hours”. The rest of the conditions from the planning permission under UTT/22/2982/FUL shall be repeated unless already discharged (in which case they are re-worded into compliance conditions). The proposal complies with policies S7, GEN2, GEN4, GEN5 of the Local Plan, and the NPPF.

## **15. ADDITIONAL DUTIES**

### **15.1 Public Sector Equalities Duties**

- 15.1.1** The Equality Act 2010 provides protection from discrimination in respect of certain protected characteristics, namely: age, disability, gender reassignment, pregnancy and maternity, race, religion or beliefs and sex and sexual orientation. It places the Council under a legal duty to have due regard to the advancement of equality in the exercise of its powers including planning powers.

- 15.1.2** The Committee must be mindful of this duty inter alia when determining all planning applications. In particular, the Committee must pay due regard to the need to: (1) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act; (2) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and (3) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

- 15.1.3** Due consideration has been made to The Equality Act 2010 during the assessment of the planning application, no conflicts are raised.

### **15.2 Human Rights**

- 15.2.1** There may be implications under Article 1 (protection of property) and Article 8 (right to respect for private and family life) of the First Protocol regarding the right of respect for a person’s private and family life and home, and to the peaceful enjoyment of possessions; however, these issues have been taken into account in the determination of this application.

**16. CONCLUSION**

- 16.1** The proposal has been found to be acceptable by Environmental Health as it will not materially harm the residential amenity of any neighbouring occupiers. Notwithstanding this, pursuant to section 73 of the Town and Country Planning Act 1990 (as amended), the whole last sentence of condition 6 should be omitted as it fails to comply with paragraph 56 of the NPPF. Therefore, the application is recommended for approval subject to the same conditions as in UTT/22/2982/FUL (unless already discharged).

**17. CONDITIONS**

- 17.1** The following conditions comply with paragraph 56 of the NPPF:

- 1** 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.

- 2** The details of all external illumination of the site, including the luminance and spread of light, the design and specification of the light fittings, as well as the spill and glare light levels to be achieved at the site boundaries and shall be implemented in full accordance with the details approved in UTT/23/0949/DOC.

REASON: To safeguard residential amenities and to preserve the character and appearance of the area, in accordance with the adopted Uttlesford Local Plan Policies S7, GEN2, GEN4, GEN5, paragraph 3.15 of the Local Plan, and the National Planning Policy Framework (2021).

- 3** Within three (3) months from the date of the planning permission hereby issued, an odour management plan (OMP) shall be submitted in writing to the local planning authority for their written approval. Thereafter, the agreed OMP shall be implemented and retained as such at all times unless otherwise agreed in writing by the Local Planning Authority.

The management plan should include:

- a summary of the site, waste water treatment works, odour sources and the location of receptors;
- details of the site management responsibilities and procedures for reporting faults, identifying maintenance needs, replenishing consumables and complaints procedure;

- details of odour abatement plant including the height and position of vents;
- operative training;
- maintenance and inspection of plant (both routine and emergency response);
- spillage management procedures;
- record keeping - format, responsibility for completion and location of records;
- emergency breakdown and incident response planning including responsibilities and mechanisms for liaison with the local authority.
- a review mechanism to ensure the plan remains current and valid.

REASON: To safeguard residential amenities in accordance with the adopted Uttlesford Local Plan Policies GEN2, GEN4, and the National Planning Policy Framework (2021).

- 4** The finalised details and locations of the enhancement measures contained in the Biodiversity Enhancement Layout and the Preliminary Ecological Appraisal (Greenlight Environmental Consultancy, July 2020) shall be implemented in full accordance with the details approved in UTT/23/0443/DOC.

REASON: To conserve and enhance protected and priority species and habitats and allow the local planning authority to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife and Countryside Act 1981 (as amended), s40 of the Natural Environment and Rural Communities (NERC) Act 2006 (priority habitats & species) as updated by the Environment Act 2021, s17 of the Crime and Disorder Act 1998, in accordance with the adopted Uttlesford Local Plan Policies GEN7, ENV8, and the National Planning Policy Framework (2021).

- 5** All external illumination within the site shall remain as agreed with the local planning authority at all times unless otherwise agreed in writing by the local planning authority, with the exception of routine maintenance that does not change the agreed details of the lighting features.

REASON: To safeguard residential amenities and to preserve the character and appearance of the area, in accordance with the adopted Uttlesford Local Plan Policies S7, GEN2, GEN4, GEN5, paragraph 3.15 of the Local Plan, and the National Planning Policy Framework (2021).

- 6** All external illumination within the site shall only take place between 9am and 6pm on any day when the site is attended unless there is an emergency.

REASON: To safeguard residential amenities and to preserve the character and appearance of the area, in accordance with the adopted Uttlesford Local Plan Policies S7, GEN2, GEN4, GEN5, paragraph 3.15 of the Local Plan, and the National Planning Policy Framework (2021).

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The noise of all equipment (including pumps and associated mechanical equipment) shall be limited to 10 dB(A) below the background noise level measured and expressed as a LA90,15minutes from the boundary of the nearest residential property. This shall include any penalties for noise characteristics, such as tone and intermittency. The noise of all equipment (including pumps and associated mechanical equipment) shall not exceed a rating level above the daytime and evening background noise level when measured in accordance with British Standard 4142:2014 when measured at any boundary of the nearest sensitive receptor.

REASON: To safeguard residential amenities in accordance with the adopted Uttlesford Local Plan Policies GEN2, GEN4, and the National Planning Policy Framework (2021).

# APPENDIX 1 – MANCHESTER AIRPORT GROUP



## AERODROME SAFEGUARDING RESPONSE

Response under Circular 1/2003 Safeguarding Aerodromes, Technical Sites and Military Explosives Storage Areas: the Town and Country Planning (Safeguarded Aerodromes, Technical Sites and Military Explosives Storage Areas) Direction 2002

### APPLICATION DETAILS

Ref:

<b>Local Planning Authority:</b>	
UDC	
<b>Application No:</b>	<b>Application Type:</b>
UTT/23/0945/FUL	FULL
<b>Development Proposal:</b>	
S73 application to vary conditions 2 (external illumination), 3 (odour management plan), 4 (Biodiversity Enhancement Layout) and 6 (site illumination) of UTT/22/2982/FUL (Section 73A retrospective application for a package sewage treatment plant and associated infrastructure including underground plant and chambers with a biofilter unit standing approximately 2.382m above surrounding ground level, 1 no. 4m high floodlight, pipework, kiosk, access platform, water booster set and laurel hedging approximately 2.5m above ground level to screen the new apparatus).	
<b>Location:</b>	<b>OS Co-ordinates (Eastings/Northings):</b>
Land Opposite To Nos 1-5 Debden Drive Wimbish	557333 / 234555


As safeguarding authority for Stansted Airport our response, under the Town and Country Planning (Safeguarded Aerodromes, Technical Sites and Military Explosives Storage Areas) Direction 2002, is as follows:

No Objection       Crane Advisory Permit       Need to engage with MAG Safeguarding       Request Conditions       Objection

The Safeguarding Authority for Stansted Airport has assessed this proposal and its potential to conflict aerodrome Safeguarding criteria. We have no objection to this extension of time to meet Conditions.

**It is important that any conditions or advice in this response are applied to a planning approval. Where a Planning Authority proposes to grant permission against the advice of Stansted Airport, or not attach conditions which Stansted Airport has advised, it shall notify Stansted Airport, and the Civil Aviation Authority as specified in the Town & Country Planning (Safeguarded Aerodromes, Technical Sites and Military Explosive Storage Areas) Direction 2002.**

Name:

Signed: 

Date:

**The appropriate office for the purpose of consultation is:**

Head of Planning and Infrastructure  
Enterprise House,  
Bassingbourn Road,  
Essex  
CM24 1QW

[Email: aerodrome\\_safeguarding@stanstedairport.com](mailto:aerodrome_safeguarding@stanstedairport.com)

## APPENDIX 2 – National Air Traffic Services (NATS En Route)

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**From:** NATS Safeguarding <NATSSafeguarding@nats.co.uk>

**Sent:** Tuesday, April 18, 2023 4:26 PM

**To:** Planning <planning@uttlesford.gov.uk>

**Subject:** RE: [EXTERNAL] Planning Application Consultation - N UTT/23/0945/FUL [SG30046]

Our Ref: SG30046

Dear Sir/Madam

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.

However, please be aware that this response applies specifically to the above consultation and only reflects the position of NATS (that is responsible for the management of en route air traffic) based on the information supplied at the time of this application. This letter does not provide any indication of the position of any other party, whether they be an airport, airspace user or otherwise. It remains your responsibility to ensure that all the appropriate consultees are properly consulted.

If any changes are proposed to the information supplied to NATS in regard to this application which become the basis of a revised, amended or further application for approval, then as a statutory consultee NERL requires that it be further consulted on any such changes prior to any planning permission or any consent being granted.

Yours faithfully

**NATS**  
NATS Safeguarding

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