

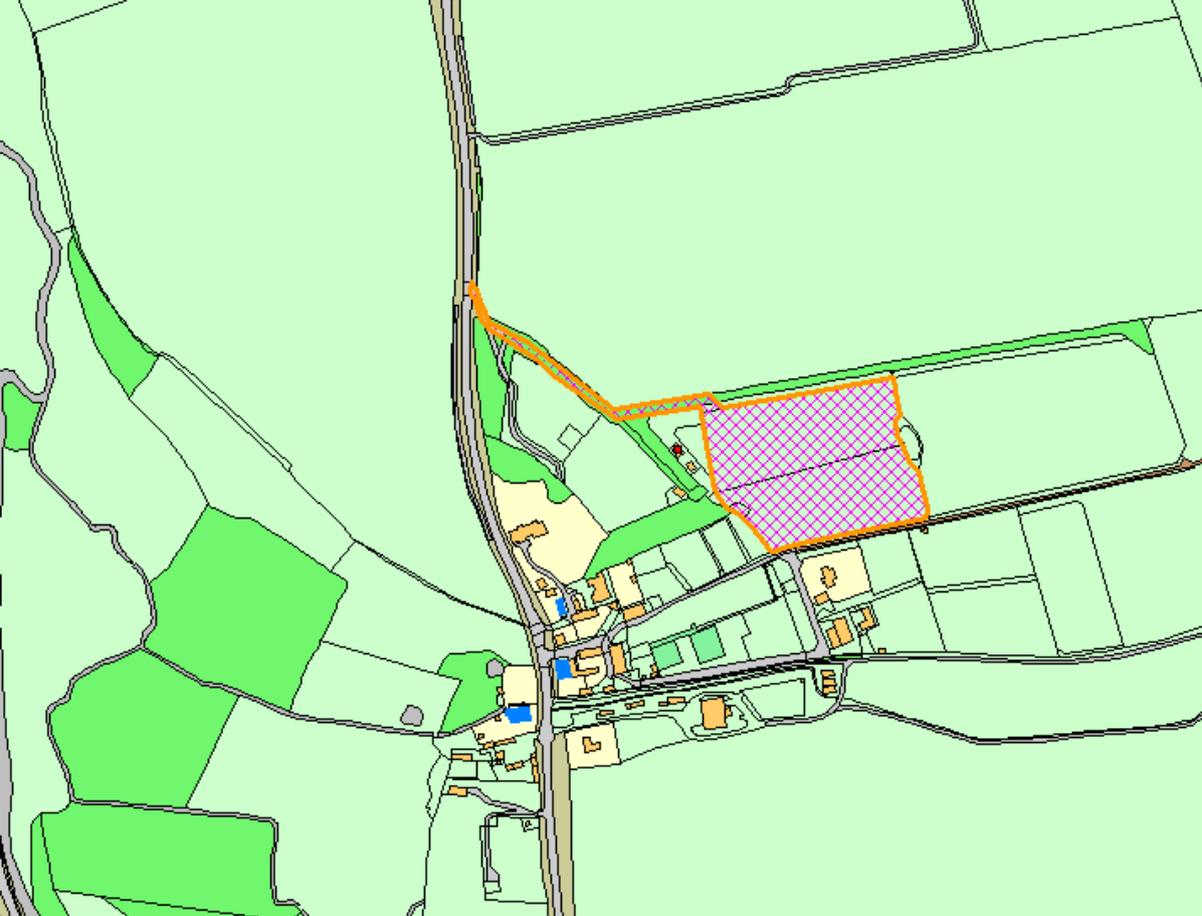
ITEM NUMBER: 8

PLANNING COMMITTEE DATE: 1 May 2024

REFERENCE NUMBER: UTT/23/2989/FUL

LOCATION: Springwell Paddock
Walden Road
Little Chesterford
Essex

SITE LOCATION PLAN:



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Organisation: Uttlesford District Council Date: 9 April 2024

PROPOSAL: Proposed sheep and goat shelters

APPLICANT: Mr Gary Cleary

AGENT: Louise Gregory (Acorus Rural Planning)

EXPIRY DATE: 9 February 2024

EOT EXPIRY DATE:

CASE OFFICER: Mr Paul Hunt

NOTATION: County Wildlife Site (B184 verge)
Special Verge
Groundwater Source Protection Zone 1
Outside Development Limits

REASON THIS APPLICATION IS ON THE AGENDA: Councillor Call In

1. EXECUTIVE SUMMARY

1.1 Retrospective permission is sought for the erection of 4 sheep and goat shelters.

1.2 It is considered that the retention of these buildings would not comprise a change of use of the site, only serving the existing lawful use of the land being the grazing of livestock. Notwithstanding that the buildings must be considered on their own merit, these buildings are considered to be of a use, design and proportions that would not harm the character of the land nor neighbour's amenity, whether or not the other unauthorised buildings subject to current enforcement action are still in the site.

1.3 Furthermore, due to their small scale and simple timber design the structures are not considered to cause an intensification of the activities at the site that would increase traffic using the access for either construction or the continued use of the site so would not materially affect the use of the highway, so would not conflict with policy GEN1 with regard to the NPPF.

2. RECOMMENDATION

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

A) Conditions

3. **SITE LOCATION AND DESCRIPTION:**

3.1 The site is located on a sloping field to the North-West of Springwell Place and Springwell Nursery. The northern part of the field is easily visible from the main road B184 to the South of Springwell Nursery/ Joseph Farm. There is a dense group of trees to the northern boundary and to the West of the site between the field and the rear garden of the neighbouring property at Springwell Place. The vehicular access into the site shares the track with Springwell Place.

3.2 The site currently contains fencing dividing the field into paddocks where at the time of the officers site visit a group of horses including 2no foals within large field shelters, one of which was upside down and out of use at the time of the visit, as well as a small flock of sheep and a herd of bagot goats using 4no goat sheds. Fencing surrounds the site comprising wire fence to the northern and western sides and a significant steel gate and fence to the south-western part of the site around the access, within a dense tree line. Hardstanding and landscaping had been installed around a building subject of refused application UTT/23/2989/FUL and at present due for removal from the site under live enforcement action.

4. **PROPOSAL**

4.1 The proposal seeks retention of 4 no goat/ sheep shelters at 1.6 metres in height, 3.6 metres in width and 1.2 metres deep, built in feather-edge timber with corrugated metal dual-pitch roof.

4.2 Several larger 'portable field shelters' in the site which are of a scale to house horses, in addition to a stable building, a detached dwelling and ancillary development are subject of separate enforcement action as discussed below.

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**

Reference	Proposal	Decision
UTT/18/0264/FUL	Erection of stables	Refused
UTT/23/2988/FUL	Proposed agricultural building	Refused

ENF/22/0017/C		Upheld at appeal
INV/22/0241/C		Upheld at appeal

7. PREAPPLICATION ADVICE AND/OR COMMUNITY CONSULTATION

7.1 None sought. The application follows an upheld appeal against enforcement notices ENF/22/0017/C and INV/22/0241/C.

8. SUMMARY OF STATUTORY CONSULTEE RESPONSES

8.1 Local Highways Authority

No objection, no comments

9. PARISH COUNCIL

9.1 1) Strongly object to unsafe intensification of use of the dangerous access.

2) No evidence of a need for buildings in the countryside, referencing Planning Inspectors report citing the lack of information about the business regarding either financial viability or levels of activity and business plans.

9.2 Believe that there is no more capacity in the fields for additional animals hence no need for additional buildings.

9.3 Therefore, the works are contrary to Neighbourhood Plan policy GLCNP/1 and Uttlesford Local Plan 2005 policies GEN1 and S7.

10. CONSULTEE RESPONSES

10.1 Natural Sciences Officer (Special Roadside Verges monitoring)

10.1.1 Object due to impact from construction and additional movements upon the special roadside verge UTT24B which is also Local Wildlife Site UFD82 ('Little Chesterford Verges')

10.1.2 "The application site is adjacent to a designated Special Roadside Verge Site and Local Wildlife Site. UDC policies ENV7 and ENV8 apply.

10.1.3 **UTT24B1 Little Chesterford Special Roadside Verge and Local Wildlife Site Ufd82** is on the east side of the B184 Walden Road between grid references TL519418-TL520406. A map of the verge site is attached to the email with this response.

10.1.4 The rich flora includes Wild Liquorice which is the foot plant of the rare Liquorice Piercer Moth, and other chalk grassland plants including Agrimony, Bee Orchid, Bird's-foot Trefoil, Hop Trefoil, Bladder Campion, Common Broomrape, Red and White Clovers, Cowslip, Common and

Greater Knapweeds, Germander Speedwell, Goatsbeard, Hedge Bedstraw, Marjoram, Meadowsweet, Common Vetch, Meadow Vetchling, Oxeye Daisy, Ribwort Plantain, Saint John's-wort, Field and Small Scabious, Silverweed, Wood Avens and Yarrow. This habitat is now very rare in the UK. 97% of this grassland had been destroyed in England and Wales by 1984 and losses have continued since that time from development and other causes. The Special Roadside Verges scheme for Essex seeks to safeguard the last verge sites in the county where rare plants still grow.

10.1.5 I Object to these applications. The route the applicants are using to access the highway and paddocks is through a Special Roadside Verge / LoWS (see Biodiversity Checklist / Statement Re Special Verge). The applicants have not prepared an Ecological Impact Assessment which considers the impact of the proposed developments on the SRV/LoWS and gives details of how the impacts will be avoided or mitigated. For instance:

1. Why is a dangerous highway access is being used to access the site. The track is steep, narrow and set at an angle to the busy B184 Walden Road and is on the approach to a corner. An alternative access to Springwell Place is present from the highway at the layby and entrance next to Springwell Nursery site. The Inspector noted in Appeal decision (Appeal Ref: APP/C1570/C/22/3310260) that:

43. I therefore conclude that the development results in an unacceptably increased risk to highway safety in the vicinity of the site, in conflict with Policy GEN1 of the LP. Amongst other things, this states that development will only be permitted if access to the main road network must be capable of carrying the traffic generated by the development safely.

2. Has any additional mowing of the SRV/LoWS around the northern highways access taken place to clear sight lines for vehicles using the gravel track. Unauthorised mowing cuts the plants down whilst they are in flower and prevents them from setting seeds. Mowing should only be carried out by Essex Highways contractors. Each year they carry out two full width cuts of special verges, from the carriage way to the hedge or ditch at the back of the verge. This SRV/LoWS is cut in March and October. One metre wide safety cuts, which may be wider on corners, are also done in May or June.

3. What is the strategy for managing and disposing of waste manure produced by animals on the paddock.

4. There is an opportunity for biodiversity enhancement. When the unauthorised highway access was installed through the SRV/LoWS in 2013 it destroyed part of the chalk grassland site. It has also prevented Essex Highways from cutting the bank behind the gravel access route. The bank is now covered in bramble instead of wildflowers. I suggest

that an area of chalk grassland the equivalent to the area of scrub is created. See photograph below taken from the verge opposite the access in 2018. It shows the growth in scrub on the bank. If the applications are approved, the Special Roadside Verge / LoWS requires protection during the period of construction. I would request that such a condition is applied by the planning officer before any approval of the applications. For example:

10.1.6 No development shall take place until a Construction Environmental Management Plan is provided that includes the requirements that:

1. All construction operatives are to be made aware of the location of the special verge / LoWS.
2. The special verge / LoWS is not to be used for storage of construction materials.
3. Construction vehicles should not drive onto the special verge / LoWS or park on it.
4. If it is not possible to comply with points 2 and 3 barriers or a membrane are to be used to protect the special verge / LoWS.
5. No topsoil or other material is to be added to the special verge / LoWS.
6. No mowing of the special verge / LoWS is to be carried out by operatives or residents.”

10.2 UDC Environmental Health

10.2.1 No objection

10.3 Place Services (Ecology)

10.3.1 No objection: request a condition restricting lighting around the site in order to protect traversing bats.

11. REPRESENTATIONS

11.1 Site notice was displayed on site and notifications letters were sent to nearby properties.

11.2 Support

11.2.1 None

11.3 Object

11.3.1 Representations were received objecting to the proposals for the following reasons:

- The shelters do not move around the site as noted in the appeal hearing.
- Unsafe access.
- Ecology harm to special wildlife site.

- No need for office (related to a different application).
- Light and noise from generators and floodlights.
- Environmental Health concerns relating to waste disposal
- Complex planning history and history of unauthorised development, including 2022/2023 enforcement cases and appeals.

11.4 Comment

11.4.1 Whilst the special roadside verge is protected and the historic works have caused harm to the natural environment and risk to users of the highway, the Council has established that the access is an historic track and the existing site access is therefore considered to be lawful and beyond further enforcement action following extensive investigation by the planning team.

11.4.2 The matter of whether the access is allowed is completely separate from the current considerations about the proposed structures in the site, and furthermore the only reason that the Council could consider impacts upon the Special Verge and the Highway within this application is if the development would result in a material increase in the use of the access, which is considered below.

11.4.3 Apart from highways, the comments refer extensively to the application for retention of the larger building on site (refused application UTT/23/2988/FUL) and appeal decision APP/C1570/C/22/3310260 for the same large building and larger field shelters for use of horses and storage as well as goats and sheep. These are not the matters under consideration in this application which can only take account of the impact of the two goat shelters.

11.4.4 The assessment by the appeal inspector regarding the appearance character and uses of the site are material, as is the detailed list of structures in the site which the Council enforcement team have previously and separately accepted to be not expedient to pursue removal such as 1no stable building in the south-western corner of the site and retention of solar panels, or not causing material harm with regard to permitted development rights.

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:

(a) 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.

12.3 The Development Plan

12.4.1 Uttlesford District Local Plan (adopted 2005)
Essex Minerals Local Plan (adopted July 2014)
Essex and Southend-on-Sea Waste Local Plan (adopted July 2017)
Great Dunmow Neighbourhood Plan (made December 2016)
Thaxted Neighbourhood Plan (made February 2019)
Felsted Neighbourhood Plan (made February 2020)
Newport and Quendon and Rickling Neighbourhood Plan (made June 2021)
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 (December 2023)

13.2 Uttlesford District Plan 2005

13.2.1 S7 – The Countryside Policy
GEN1- Access Policy
GEN2 – Design Policy
GEN4 - Good Neighbourliness Policy
GEN7 - Nature Conservation Policy
ENV5 - Protection of Agricultural Land Policy

13.3 Great and Little Chesterford Neighbourhood Plan 2019-33

13.3.1 GLCNP/1– Overall Spatial Strategy including key strategic landscape and heritage sensitivities
GLCNP/2 – Settlement Pattern and Separation
GLCNP/4a – Landscape Character
GLCNP/4b – Views

13.4 Supplementary Planning Document or Guidance

Essex Design Guide
Uttlesford Interim Climate Change Policy (2021)

14. CONSIDERATIONS AND ASSESSMENT

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

- 14.2** **A) Principle of development**
- B) Design, character and context**
- C) Residential Amenity**
- D) Highways**
- E) Natural environment and biodiversity**

14.3 A) Principle of development

14.3.1 There is no planning history to change the lawful use of the site which is considered to be agricultural land. Whilst there is no single guide, common practice and case law confirming that grazing of animals on land does not change its use regardless of whether or not the animals are agricultural as defined by the Town and Country Planning Act s336.

14.3.2 The buildings are not of a size that is considered suitable for keeping of horses or equipment nor for secure storage being lightweight and open and so subject to conditions restricting the use to that applied for it is considered unlikely that the proposed shelters would constitute a material change of use and would have little impact upon the activities in the field and so would in principle would not conflict with relevant policy GLCNP/1 and /2 of the neighbourhood plan and policy S7 of the neighbourhood plan, being a suitable development that requires the countryside location to serve as shelter for the livestock in the field.

14.4 B) Design, character, and context

14.4.1 Given the development would not result in a material change of use of the land, and the buildings are of a scale and purpose that does not appear out of scale or unduly harmful to the rural and open character of the field and the wider area. It is the opinion of the officer that the 2 no. small buildings in site at present do not unduly detract from the appearance of the site or the wider area.

14.4.2 It is noted that fencing and other development has occurred in the site, however, this is not subject of this application having been dealt with by enforcement action as either non-expedient to pursue or requiring removal which is scheduled to occur in the summer in accordance with upheld appeals referred to above. This is taken into account and due to their size, purpose and character the goat/ sheep shelters are not considered to create undue additional harm above and beyond the buildings that are already approved in the site.

14.4.3 For these reasons it is considered that the scheme would comply with the requirements of Uttlesford Local Plan policies S7 and GEN2 as they relate to character and design, and with paragraphs 131, 135, 139 and 180 of the NPPF, and with policy GLCNP/1, /2, 4a and 4b of the neighbourhood plan.

14.5 C) Residential Amenity

14.5.1 It is considered unlikely that the small scale shelters would intensify the lawful activities on site of grazing livestock so would be unlikely to directly lead to new nuisance noise, and due to their scale would not generate harm as a result of being overbearing, overshadowing or allowing overlooking of neighbouring dwellings. The development would be acceptable as it relates to neighbour amenity with regard to paragraph 135 of the NPPF and with policy GEN4 of the Uttlesford Local Plan 2005 with regard to design guidance.

14.6 D) Highways

14.6.1 Whilst the access is inherently dangerous with insufficient visibility in both directions, the facts of the case are: firstly that the access has been established and the Council's enforcement team have established that we would not pursue enforcement because the access is historic with a farm track and dropped kerb in place long before the applicants took ownership of the land, and; secondly that use of the land for grazing livestock is the lawful use of the land and it is considered by the case officer that the small scale of the sheds shown in the application would not result in any intensification of the lawful use providing basic welfare for the animals in the site. The proposal therefore does not conflict with Uttlesford Local Plan 2005 policy GEN1 nor with requirements of the NPPF regarding highway impacts.

14.7 E) Natural environment and biodiversity

14.7.1 Relative to the use of the land for grazing the temporary and movable shelters would not be considered likely to generate any material changes in lighting, activity levels in the land or at the access nor any habitat in a manner that would risk conflict with the Council's duties under wildlife and habitats legislation, including at the special protected verge with no additional traffic movements predicted for the installation of or the use of the shelters. The application would be acceptable and would comply with the Council's duties under relevant legislation, and with policy GEN7 of the Uttlesford Local Plan 2005 and with policies GLCNP/4a – Landscape Character and GLCNP/4b – Views of the Great and Little Chesterford Neighbourhood Plan.

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 shelters would serve and not intensify the existing lawful use of the site and so would be acceptable in principle and are not considered to generate additional harm to the landscape and rural character due to their small proportions and design. They are not considered to generate additional traffic that would increase risk to users of the highway.
- 16.2** As such no reason is found that the application would conflict with national or local planning policy and the officer recommendation is to permit the application subject to the below listed conditions.

17. CONDITIONS

- 17.1** The application is retrospective and as such no timescale condition is required and no planning obligations or additional details would be needed to allow the development to comply with policy.
- 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 shelters hereby approved shall only be used for purposes associated with the keeping of sheep and/or goats within the site and shall not be used for any other purpose.

REASON: In the interest of proper planning to confirm the detail of what has been applied for and permitted, and to prevent unacceptable harm to the local character and the highway.