

20th October 2015

To: All Members of Uttlesford District Council Planning Committee

Copy: Michael Perry, Legal Officer, UDC
Andrew Taylor, Head of Planning & Building Control
Nigel Brown, Development Manager, UDC
Maria Shoosmith, Planning Case Officer, UDC
Planning Admin.

Dear Committee Members

RE: UTT/15/1666/FUL 14 CAMBRIDGE ROAD, STANSTED

I am writing today to highlight key matters of concern about the report that you will have before you at tomorrow's planning committee.

The officer report is flawed. It contains materially significant false and therefore misleading information which, if accepted at face value by the committee, would create a likely prospect of the Council being taken to Judicial Review based on a decision taken by means of a flawed process.

I urge you either to refuse the application because it constitutes over-development of the site as identified by your committee on three previous occasions or, if that cannot be agreed, to refer back the application for reassessment. The report should be rewritten in a proper and accurate manner.

FALSE TRANSPORTATION INFORMATION

Paragraph 8.8 of the report states "The Transport Statement provides a robust assessment of the likely trip generation and the highway authority agrees with the conclusion that the proposed mixed use would result in a reduction in vehicle trips compared with what could be generated from the existing use". THAT CLAIM IS NOT TRUE. The Transport Statement relies on false data on the "existing use". The proposed use would, according to a professional assessment, result in traffic movements over 300% above the lawfully authorised "existing use" (i.e. past site approval).

See paragraph 9.3 of the officers' report and subsequent paragraphs that refer to the transport report by Rowland Bisland Traffic Planning report dated 17th August 2015 and entered on the Council's planning website on 18 August 2015, supplemented by their letter dated 7th September 2015 and entered on the planning website on 9 September 2015.

Your officers have chosen not to respond to the well founded correcting evidence on past and future traffic movements contained at paragraph 9.9 of the committee report. Instead, having failed to identify this materially significant error in this application and in the applications on three other occasions since May 2012, they have now chosen to assert that a Transport Assessment is not necessary. See paragraph 8.8 and 10.27. To a layman, this looks like an avoidance of uncomfortable facts in an attempt to defend past mistakes and the indefensible.

In paragraph 10.24 of the officers' appraisal of the application it says a "material consideration (as) would be the level of vehicle movement which the site lawfully operated at. It would be wrong if this (sic) not considered and a misjudgement." I agree. So why have your officers attempted to downplay and ignore the traffic impact when the hard evidence shows the application will increase by over 300% the number of vehicle movements?

The final sentence of paragraph 10.27 then goes on to say a "Transport Assessment is not a validation requirement". Your officers need to be consistent if the Council is to have any credibility in the eyes of the public. If traffic volume and safety are material considerations, which I strongly believe they are for this case, your officers need to explain clearly what the impact will be. Alternatively, they need to come up with a consistent and robust explanation for why they are attempting to turn a blind eye to it.

On the evidence before you, the requirements of GEN1 as set out at paragraph 10.46 a), b) and c) of the officers' report have not been demonstrated to be met. The application should be refused.

MISREPRESENTATION OF PLANNING INSPECTOR'S DECISION NOTICE

I refer to Appeal Decision APP/C1570/A/13/2208075 issued by Inspector Chris Preston BA (Hons) BPI MRTPI, an Inspector appointed by the Secretary of State for Communities and Local Government. Decision date: 21 October 2014

Paragraph 8.9 of your officers' report makes the following claim: "I would also like to draw your attention to paragraph 32 of the recent Inspector's Decision on the site where he accepts the findings of the Transport Statement and the highway authority for the previous application UTT/13/11226/FUL and is 'satisfied that the impact of the proposal on matters of highway safety would be acceptable.' The current proposal is a further reduction on the previous scheme therefore resulting in potentially fewer vehicle trips."

Not only is the final sentence untrue, as evidenced above, but the quotation by the inspector is selective and therefore misleading. What Mr Preston wrote in full was:

"32. The nature of former uses, and associated traffic levels, fluctuated over the lifetime of the now demolished buildings. Evidence at the Hearing noted that levels were particularly high when used as an auction house but comparatively low in the period prior to demolition. Nonetheless, the established use had potential to generate substantial levels of traffic, over and above that generated by the proposed scheme, as evidenced by the appellant's transport assessment. Based upon this evidence, the Highway Authority did not object to the proposed development on grounds of highway safety and the Council were satisfied in this regard. Whilst I am mindful of local concerns regarding the access onto Cambridge Road, I accept the findings of the transport assessment and the Highway Authority and am satisfied that the impact of the proposal on matters of highway safety would be acceptable."

Mr Preston based his conclusion on the appellant's transport assessment – whose former use traffic volumes we now know to have been exaggerated by a factor in excess of 300% above reality. So the Inspector was misled by the appellant and by county and district councils. He said he derived reassurance from what he understood was the Highway Authority's lack of objection – but this was also based on the same false traffic data.

The applicant has sought in writing to perpetuate the falsehood by claiming (on the council's website 22 September 2015) that four false claims add up to a true claim. I would not expect council officers to write now in such a way that perpetuates false evidence and the applicant's mischievous logic.

INCORRECT CLAIMS THAT WASTE DISPOSAL IS ACHIEVABLE

At paragraph 9.2 your officers' report the complaint by Barker Parry (on behalf of some 200 residents) that it is "impossible to understand how the shop unit and commercial bin stores function".

In Officer Comments at paragraph 9.44 it is claimed:

- "There is an element (of land) to the south of the site which has been shown as a commercial bin store;
- "Whilst it is not overly clear there is side access along the southern boundary between commercial unit 1 and the former bank number 12 Cambridge Road and the car parking spaces proposed to the rear."

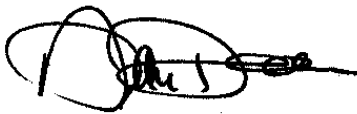
You officers appear to have failed to investigate this matter and have, as a consequence, risked your being misled. The facts are:

1. Were there to be a pathway onto Cambridge Road in the suggested location for bins to be taken for emptying, the collection vehicle would have to park illegally in a bus stop;
2. However, there is insufficient space on the southern boundary between commercial unit 1 and the site boundary for a pathway to be created;
3. The suggested corridor is not part of the applicant's site and so does not offer a solution to the operation of the suggested bin store, which is itself hemmed in behind the commercial car parking area.

I do not understand why your officers appear to be bending over backwards to put forward solutions to the weaknesses in the applicant's case that are impractical and undeliverable, especially bearing in mind that the applicant did not approach the Council or the local community for pre-application discussions.

I am reminded of an opinion expressed to me recently by a senior officer of the council that this applicant is always determined to get his own way. In my opinion, that calls for greater robustness, accuracy and competence in the assessment of an application; not for less of these qualities to be deployed, as appears to be the case to the public and me.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Alan Dean', with a large, loopy flourish at the end.

Alan Dean

Member for Stansted North, Uttlesford District Council