



Uttlesford District Council
Council Offices
London Road
Saffron Walden
Essex
CB11 4ER
FAO Mr C. Tyler

Ref: 254/TEE

Date: 21st October 2022

Dear Mr Tyler

PLANNING APPLICATION UTT/22/2278/FUL
LAND NORTH OF CORNELLS LANE, WIDDINGTON

We write in respect of the above application which is due to be heard at Planning Committee on 26 October 2022.

It is noted that the application is being recommended for approval. We write regarding the Access Fallback to assist the committee's deliberation of this matter and weight to be applied as a material consideration.

Access 'Fallback'

In addressing the matter of impact of the development upon the character and appearance of the Protected Lane, the committee report notes that the approved Certificate of Lawfulness (UTT/22/1523/CLP) for a Means of Access (identical to that now being proposed) has recently been approved and as such access could be constructed this provides a fallback position which is a material consideration.

The submitted Holmes and Hills letter dated 6th September 2022 sets out the applicant's position regarding the Fallback and the weight to be applied to this as a material consideration. We suggest it would be helpful to report their letter to committee in full. Holmes and Hills conclude that:

there is a fallback, of significant materiality, and one which leads to the construction of an identical access to the Application Land, with the only issue for consideration being the impact of the use of the same. UDC may well form the view that the impact of the use of the access is less in connection with four residential dwellings than for "events".

Furthermore, the 'Final Comments/rebuttal' submission (by the applicants as appellants) sent to PINS dated 3rd October 2022 regarding the appeal for the previous application provided additional evidence regarding the Access Fallback. These comments are already in the public domain (being on the UDC website for appeal

application ref: UTT/21/2137/FUL). We would direct the LPA to the Final Comments letter (3rd October 2022) and in particular (at paragraphs [6.34-6.47](#)) the Rebuttal to Widdington PC's Representations for additional comments on the Access Fallback, which may inform any debate regarding the Fallback.

The applicants have evidenced that they are partnering with a charity ('Back on Track') who wish to hold a charity market (and potentially other events) at the land (see their letter dated 30 September 2022). Back on Track have evidenced (see their letter dated 23 September 2022) that they have made an enquiry to Saffron Walden TC to seek confirmation that their market licence policy allows for markets of charitable purposes (which it does). The SWTC Market Licensing Policy was attached in the objection by SWTC to the Certificate of Lawfulness Policy. SWTC Full Council Meeting Minute 'FC 098-22' under item (a) stated that SWTC agreed not to offer a licence to any new market in Widdington as it would be a "commercially operated" market. Therefore the commercial nature of any market was clearly SWTC's basis for making its comments. However, the applicant's evidence is that they are intending to hold a market involving a charity (Back on Track), not a "commercially operated" market. SWTC's Market Licensing Policy dated June 2022 is supportive of markets for charitable purposes. Paragraph 6.37 of the appellant's Rebuttal to Widdington PC's Representations concerning the appeal gives more detail here.

However, please note that the Access Fallback does not rely on Saffron Walden TC's grant of a market licence for reasons set out in the Holmes and Hills letter. Also, note that Temporary Uses of up to 28 days p.a. (of which 14 days is the maximum for the holding of a market) are allowed to take place on the land under the GPDO and the owners wish to take advantage of these in the longer term for them and their family. The owners are not required under the GPDO to apply for a Certificate of Lawfulness for such use(s) or for the Means of Access required to serve the same, when exercising their permitted development rights.

The applicant's 'intentions' are therefore to construct a Means of Access to the site (as per the access design shown in the Certificate of Lawfulness documents) which is acknowledged as identical to the one proposed in this application. Further evidence of the applicant's intentions are set out in the following documents which are already in the public domain (see UDC's website, application ref: UTT/21/2137/FUL) being included within annexes to the Supplementary Technical Note to Access Assessment (SLR Consulting, dated 30 September 2022) submitted as part of the appealed application:

- correspondence with Essex CC as Highways Authority (dated 29 September 2022) regarding progressing a section 278 (highway works) agreement
- an estimate from a contractor S.P. Bardwell Ltd (dated 26 September 2022) regarding the cost of constructing the access works based on Drawing H010Rev7 (the Means of Access Drawing).

The available/lawful permitted development rights and the applicant's clear intentions to exercise these concerning temporary uses and a means of access in relation to these, means that the Access Fallback is of considerable and significant weight. The applicant's view is that the previous reason for refusal (UTT/21/2137/FUL) concerning the alleged Protected Lane impact is no longer defensible and that this removes a previous key element of (alleged) adverse impacts from the tilted balance scales.

We trust that this letter will be posted on to the website and that the Committee will be made aware of its contents to inform their deliberations.

Yours faithfully,

CNLoon

Chris Loon BSc (Hons), Dip TP, MRTPI
Director