

UTT/13/0768/FUL - (TAKELEY)

(Referred to Committee by Cllr Cheetham Reason: concerns about the access)

PROPOSAL: **Erection of new dwelling and replacement garage**

LOCATION: **Land rear of Nos.1-4 Nursery Cottages, Dunmow Road, Takeley**

APPLICANT: **Mr K Leung**

AGENT: **Mr K Leung**

GRID REFERENCE: **TL 571-212**

EXPIRY DATE: **17th May 2013**

CASE OFFICER: **Madeleine Jones**

1. NOTATION

1.1 Within Development Limits / Local Policy 3 (Priors Green).

2. DESCRIPTION OF SITE

2.1 The application site is situated adjacent to No.37 Bennet Canfield within the Priors Green development and comprises a rectangular plot of rough ground formerly comprising part of Takeley Nurseries situated at lower level from the road frontage containing two breeze block and corrugated sheds joined together and having a site area of 403 sqm (0.04 ha). The site is bounded on its western side by a public footpath running due north-south and wooded area to Broadfield Road, on its eastern side by a row of residential properties within Cawbeck Road and to the south by long rear gardens forming Nos.1-4 Nursery Cottages which front onto the B1256 Dunmow Road. The new Takeley Primary School is on the opposite side of Bennet Canfield. Steps and a rail currently go down onto the footpath adjacent to the site from Bennet Canfield to Dunmow Road. A detached garage belonging to No.37 Bennet Canfield stands immediately adjacent to the site entrance at higher frontage level at the start of a gradual bend.

3. PROPOSAL

3.1 This full application seeks planning permission for the erection of a new two storey 4 bedroomed dwelling and single garage with new vehicle and pedestrian access and would involve the demolition of the existing sheds. The dwelling would measure 10.4 metres deep by 10.6 metres wide and would have a height to the ridge of 8.5 metres. The dwelling would be externally clad with facing brickwork and concrete roof tiles with white uPVC windows. The site would be enclosed with close boarded fencing.

4. APPLICANT'S CASE

4.1 A Design and Access statement has been submitted with the application. Please see main file for details.
A Phase 1 Habitat and Protected Species scoping has been submitted in support of the application. A summary of the report is as follows:
The habitats on site are of minimal ecological interest, but the mature broad-leaved plantation immediately adjacent to the western boundary of the site is an ecologically important habitat in the local area. The shallow ditch along the edge of the woodland

looks catch run off from the woodland and road and runs into a culvert underneath Bennett Canfield Road to the north. The culvert does not continue under the road to the northern side. The site has been cleared of vegetation mainly bramble but includes the removal of a Leylandii hedge to the south of the sheds.

The Protected Species Scoping Survey did not identify any species of conservation importance present on the site:

Other species, which may be present, and have habitat (that has been created and) that is potentially suitable on the site include:

Common Lizard– Schedule 5 of the Wildlife and Countryside Act 1991 (In respect of Section 9 (5) only)

Slow Worm– Schedule 5 of the Wildlife and Countryside Act 1991 (In respect of Section 9 (5) only)

The current planned location of the one dwelling on land to rear of Pipers Close would mean the removal of timber and rubble potentially occupied by Common Lizard and Slow worm.

The following recommendations are made to prevent any potential mortality of reptiles from the proposed development: It is necessary for a suitably qualified ecologist to check log piles, brash and rubble piles before they are removed from site. It is preferable to remove these when the ambient air temperature is above 12 degrees Celsius to enable any reptiles that may be present the opportunity to escape. If possible the stacked logs and brash should be used to create logpiles in the broadleaved woodland habitat to the west of the site, this would create hibernacula and refugia for Common Lizard and Slow worms and the deciduous timber would create habitat for invertebrates.

5. RELEVANT SITE HISTORY

5.1 UTT/2420/11/FUL–Erection of dwelling and single garage following the demolition of existing sheds. Refused and dismissed on appeal. Reason for refusal:

The design of the vehicular access as shown for the proposed new dwelling is considered to be unsatisfactory in view of the poor visibility which would be experienced by drivers of vehicles proceeding up the proposed access ramp without a level frontage strip onto Bennet Canfield in view of the garage block which exists to the side of 37 Bennet Canfield to the immediate east of the proposed access point. As a consequence, the access would represent a highway hazard to pedestrians and other road users, including school children, using the footpath along Bennet Canfield and the tactile road crossing point also situated to the immediate east. The proposal is therefore considered to be contrary to ULP policy GEN1 of the Uttlesford Local Plan (adopted 2005), which states that the design of the site must not compromise road safety.

6. POLICIES

6.1 National Policies

- Policy National Planning Policy Framework (March 2012)

6.2 Uttlesford District Local Plan 2005

- ULP Policy H4 - Backland development
- ULP Policy Takeley/Little Canfield Policy 3 - Priors Green
- ULP Policy GEN1 - Access
- ULP Policy GEN2 - Design
- ULP Policy GEN3 - Flood Protection
- ULP Policy GEN7 - Nature Conservation
- ULP Policy GEN8 – Access

Supplementary Planning Guidance

7. PARISH/TOWN COUNCIL COMMENTS

7.1 No reply received.

8. CONSULTATIONS

Essex County Council Ecology

8.1 I have No Objection subject to imposition of an appropriately worded condition to secure the protection and enhancement measures on pages 9 and 10 of the Phase 1 Habitat and Protected Species Scoping dated February 2012. This will prevent damaging protected lizards and will enhance the biodiversity of the site.

Thames Water

8.2 Waste Comments

Thames Water requests that the Applicant should incorporate within their proposal, protection to the property by installing for example, a non-return valve or other suitable device to avoid the risk of backflow at a later date, on the assumption that the sewerage network may surcharge to ground level during storm conditions. Thames Water would advise that with regard to sewerage infrastructure we would not have any objection to the above planning application.

Legal changes under The Water Industry (Scheme for the Adoption of private sewers) Regulations 2011 mean that the sections of pipes you share with your neighbours, or are situated outside of your property boundary which connect to a public sewer are likely to have transferred to Thames Water's ownership. Should your proposed building work fall within 3 metres of these pipes we recommend you contact Thames Water to discuss their status in more detail and to determine if a building over / near to agreement is required. You can contact Thames Water on 0845 850 2777 or for more information please visit our website at www.thameswater.co.uk

Essex County Council Highways

8.3 The Highway Authority would not wish to raise an objection to the above application as shown in principle on Drawing No. TK01/P01 Rev D dated March 2013 subject to conditions.

9. REPRESENTATIONS

9.1 Two representations have been received.

My girlfriend and I currently live in number 12 Cawbeck Road and we writing to oppose the application UTT/2420/11/FUL - Proposal of demolition of existing sheds and erection of dwelling, garage, new vehicle and pedestrian access to the land rear of 1-4 Nursery Cottages Dunmow Road Takeley submitted by Mr K Leung.

Firstly on the application form that has been filled in, which can be found online "AP Application Form", under point 14 "Biodiversity and Geological Conversation", it states that this new dwelling will not affect any wildlife in this area or any on the land adjacent. However this is not correct. We have lived in our house for over two years now and regularly we see deer grazing on this land and also in the land adjacent to where this house is going to be built. Also there is an albino deer (which is a rare species of deer) that grazes in this area too. Please see in this enclosed letter, pictures of these deer's in this area of land. Therefore by building this new house, it will be damaging and

limiting the habitat of the wildlife within our community. As you are already aware with the Prior's Green development, this has already limited the space available for wildlife and if this house is to be built the disruption whilst building the house and taking away further green land could be detrimental to this herd.

Secondly when we moved into our property, we were told by Swan Housing Association and our solicitor that they could not find the owner of this piece of land, but they did know that the land behind us was not building land. Furthermore when this land was advertised to be bought, it was sold as "Amenity Land." Amenity Land is defined as, "land allocated for social and natural uses for the good of collective peoples and their environment." This again highlights that this land should be used for the good of the community and to protect the wildlife and not to build new houses on. As the surrounding houses are all against this new house being built and it will also affect the current wildlife, it directly goes against these values. Therefore I hope that you reject this application and make sure that this land is used for the good for our community and kept as Amenity land.

If the property was built, it will also affect the amount of sunlight that we would get. Currently, due to the positioning of our house, we only receive sunlight during certain times of the day. The light comes through the gap in which the house is due to be built on. Therefore if this house is built, we will not receive any direct sunlight. Furthermore on the plans shown online under "Block Plan/Floor Plan" and "Levels and Roof Plan", it shows that new trees are going to be grown behind our fence to hide the view of the new house. The growth of these new trees will again significantly limit the direct light to our house and garden. This will not only affect the garden itself but will have a detrimental impact upon my family's enjoyment of the garden, particularly during the summer when we have worked out that the sunlight would be blocked by the proposed building throughout the majority of the day. Attached are pictures showing the current view from the back of our house; as you can imagine, once the house is built, all we will see is a brick wall and the current open space and light shown in these pictures.

Furthermore on the plans to build the house, it states that work will be continuously being done between 07:30am until 18:00pm Monday to Friday and 07:30am until 13:00pm on Saturdays. This constant noise is going to hugely affect the residents that live nearby, as a number of the houses that back onto this land have young children, so this noise pollution is going to disrupt them. We do understand that this objection may be over looked as Prior's Green is still being developed, however all the building work taking place has been methodically planned previously to cause minimal disruption and disturbance once people are moved in. The piece of land set to be built on was not supposed to be built on; therefore this was not apart of the plan and will cause huge disruption and disturbance. The disruption will not only be to the houses of Cawbeck road but with such a small access point to the land it is sure to cause traffic disruption on Bennett Canfield Road. This will affect the entire Priors Green estate.

At the moment all of the houses surrounding this piece of land are not overlooked at all and have a good open space looking onto the forestry area. However during the erection process of building the house and when the house actually is built, our privacy levels will diminish greatly. We will be overlooked completely, with the new house being able to look directly into our gardens and into our bedrooms and living rooms at all times. Especially whilst work is being taken out. We invite the council to please come to the proposed plot of land and see for yourselves the view from the proposed site into our lounge and bedroom.

We are extremely concerned that this new dwelling will affect the valuation of our house. One of the main factors for my girlfriend and I buying our house was the views from our garden and bedroom onto the forest area. I believe that this was also the case for the other residents in our street too. Therefore as location of this new house, will

take away almost the entire viewing of the forest area from our house and replace it with just a view of a brick wall, I think that it will dramatically diminish the potential price of our current houses. Not only the view, but when buying this house we were aware that there is limited privacy at the front of the property but had privacy to the rear of the house. When going to sell our house we feel it will be a huge disadvantage that there will be NO private rooms in the house other than our bathroom. People will be able to look into every room at all times.

I have contacted Swan Housing Association, who owns some of the surrounding houses and am hoping that they are going to also oppose this application too. I also believe that every house in Cawbeck Road are going to send letters separately to show their opposition to this new dwelling being built.

Therefore I feel that this letter clearly highlights the social, economic and natural issues and problems that are going to arise with the building of this new property and I hope that this application will be rejected on these grounds.

A request that comments from their neighbours relating to the previous refusal are used when making a decision on this application has been made.

10. APPRAISAL

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

- A Principle of residential development / design and amenity
- B Whether the proposal would harm any protected species
- C Whether access and parking arrangements would be satisfactory

A) Principle of residential development / Design and amenity

- 10.1 The site is located within the master plan area for Priors Green, although is not shown to be one of the "Island Sites" as identified on the SPD Priors Green plan, being instead a left-over parcel of land which used to form part of Takeley Nurseries. The site is defined as a backland site having no road frontage and it represents a landlocked plot of land from when the internal Bennet Canfield loop road was built at a slightly higher land level. The SPD Priors Green document states with regard to island sites that *"There may be potential for some infill development in these locations that would make a contribution to the total number of dwellings. Development of these locations will need to respect the provision of the approved Master Plan"*. It is considered that this provision also applies to the application site with regard to future use potential.
- 10.2 ULP Policy H4 states that development of backland sites will be permitted providing that (a) there is significant under-use of the land and that development would make more efficient use of it, (b) there would be no material overlooking or overshadowing of nearby properties, (c) development would not have an overbearing effect on neighbouring properties and (d) that access would not cause disturbance to nearby properties. The site at present is being underused in view of its historical land use and represents a visual eyesore in terms of the corrugated sheds which remain on the land. It is therefore considered that the principle of residential development of this site is acceptable and that the proposal would comply with criterion (a) of ULP Policy H4 where the re-use of the site through residential development as proposed would make more effective use of it. The previous inspector's decision held that the proposal would accord with policy H4.
- 10.3 The design and appearance of the proposed dwelling is considered acceptable in relationship to adjoining dwellings given the varied design and house type mix of

dwellings within the immediate locality and of Priors Green in general, whilst the private garden amenity area for the dwelling shown at 204sqm would be standard compliant. In terms of scale and impact on neighbouring properties, the new dwelling would be set centrally within the plot with frontage orientation onto Bennet Canfield and would have a separation distance of 2 metres from the side (east) boundary with dwellings of Cawbeck Road situated adjacent. The dwelling would not result in any material overlooking on this side given that only a single obscure glazed window is shown for this elevation, whilst any loss of natural daylight/overshadowing of these properties would be acceptable being within the guidelines set out within the Essex Design Guide regarding daylight and sunlight standards and would also be in compliance with the BRE 25° angle test for daylight calculation. It is accepted that the height of the new dwelling at 8.5 metres is high, although the dwelling would have a ridge height consistent with those dwellings within Cawbeck Road where ground levels are the same. It is therefore considered that the dwelling would not have an undue overbearing effect on adjacent properties. As such, it is considered that the proposal would not have an adverse effect on the reasonable occupation and enjoyment of these properties and would comply with ULP Policies H4 and GEN2. Whilst the comments made by residents regarding outlook is noted, a right to a view is not in itself a planning consideration. Any impact on the value of existing house prices is not a valid planning consideration. A request that previous comments made on the refused application be taken account into the decision of this application has been made, however unless each correspondent specifically requests account, it is not possible to take their previous comments on a different application into account. Additionally, any nuisance caused in the construction phase as a result of the proposal would be dealt with under Environmental Health Legislation.

B) Whether the proposal would harm any protected species

- 10.4 The Phase 1 Habitat and Protected Species scoping report states that an ecological survey carried out of the site in February 2012 showed that suitable habitat for amphibians on the application site is presently non-existent as there are no breeding areas within the confines of the site and that the adjacent shallow ditch is leaf clogged offering limited habitat for breeding amphibians, including Great Crested Newts. The survey report states that the site offers no opportunities as a foraging habitat, but that the edge of the adjacent woodland offers suitable foraging for species such as Common Pipistrelle, Soprano Pipistrelle, Brown long-eared bats and bats from the genus *Myotis*. The site edge containing two trees were found to have negligible potential for roosting bats. No evidence of badgers was found. The report states, however, that the site is suitable for Common Lizard and Slow worm solely in view of suitable hibernacula and refugia having been created. The report concludes that habitats on the site are of minimal ecological interest, but that the mature broad-leaved plantation immediately adjacent is an ecologically important habitat in the local area and recommends suitable ecology protection conditions to prevent the mortality of reptiles from the proposed development should these be found.
- 10.5 The neighbour's comments have been noted, however, the County Ecology Officer has no objections to the proposal subject to imposition of an appropriately worded condition to secure the protection and enhancement measures on pages 9 and 10 of the Phase 1 Habitat and Protected Species Scoping dated February 2012. The proposal would in these circumstances comply with ULP Policy GEN7.

C) Whether access and parking arrangements would be satisfactory

- 10.6 The previous application UTT/2420/11/FUL was dismissed on appeal on access and highway safety issues. The inspector stated that:

“The garage to No 37 Bennet Canfield is adjacent to both the footway and the proposed access, and from a point about 1.5 – 2.0 m back from the edge of the footway, visibility towards the east is severely restricted by the corner of this building. There is no evidence that the demolition and relocation of this garage, not shown to be in the appellant’s ownership, is a realistic prospect. A driver attempting to emerge on to the public highway would not, therefore, have a sufficiently clear view of oncoming traffic. Similarly, a vehicle emerging from the site would, to a degree, be obscured from view. The position of the proposed vehicular access on the outside of the bend in the road would not much improve visibility. Although most traffic would no doubt be slow moving in this mainly built up area, the risk of inconvenience and/or danger to pedestrians would be increased by the position of Takeley Primary School on the opposite side of the road with its pupils going to and from school and the closeness of both the public footpath immediately alongside the proposed vehicular access and of passengers alighting at the nearby the bus stop. Significant and unacceptable conflict between pedestrians and vehicles would result. The need for highway safety is an important consideration, and in this case it outweighs the advantages of the residential development of the site. Rightly, the elected members with their local knowledge say that the proposed vehicle access would be a highways hazard to pedestrians and to other road users including school children. The Parish Council is of a similar view. Serious inconvenience and/or danger on the public highway would result and so the proposal is contrary to Local Plan Policy GEN1 which states that the design of the site must not compromise road safety. This is in line with the Framework which calls for good design and the creation of safe and secure layouts”

The main consideration is therefore whether this application overcomes the previous reasons for refusal.

The application now proposes that the neighbours existing garage to the front of the site to be replaced by a garage that would be located further to the east, allowing a 1.5m gap between the proposed vehicular access and the proposed replacement garage and improved visibility towards the east. Additionally, the existing pedestrian crossover which is currently opposite the proposed access would be also be repositioned further east.

Essex County Council Highways Department have no objections to the application subject to conditions.

- 10.7 The proposal provides 3 parking spaces and also a turning area to enable vehicles to be driven out of the site in forward gear onto Bennet Canfield. This provision would comply with Essex County Council Parking Standards for a four bedroom dwelling and would therefore be compliant with ULP Policy GEN8.

It is considered that the previous reasons for refusal have now been resolved

11.0 CONCLUSION

The following is a summary of the main reasons for the recommendation:

- A The principle of residential development of this underused and neglected plot of former nursery land is considered acceptable in the context of the Priors Green Masterplan/SPG and would comply with design and amenity criteria under ULP Policies H4 and GEN2; The Planning Inspector held that the proposal accorded with Policy for the effective use of former nursery land.
- B The proposal would not be harmful to protected species under ULP Policy GEN7 providing that the recommendations of the submitted habitat survey report are adhered to;
- C Access and parking arrangements for the proposed dwelling are considered satisfactory following amended access design details which Essex County

Council has found to be satisfactory. It is considered that this revised scheme overcomes the Planning Inspectors previous reasons for refusal of planning application UTT/2420/11/FUL.

RECOMMENDATION – CONDITIONAL APPROVAL

12.0 Conditions/reasons

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 not be carried out except in complete accordance with the plan details and reference numbers as listed on this decision notice.
REASON: In the interests of the appearance of the development and the amenity of surrounding residential properties in accordance with Policy GEN2 of the Uttlesford Local Plan (adopted 2005).
3. Before development commences samples of materials to be used in the construction of the external surfaces of the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The development shall be implemented using the approved materials. Subsequently, the approved materials shall not be changed without the prior written consent of the local planning authority.

REASON: To ensure a satisfactory standard of development in the interests of visual amenity in accordance with Policy GEN2 of the Uttlesford Local Plan (adopted 2005).
4. The development hereby permitted shall be implemented in accordance with the scheme of mitigation/enhancement prepared by JD Ecology Ltd submitted with the application and shall observe and properly implement the recommendations as set out in pages 9 and 10 of that report and any variation thereto shall be agreed in writing by the local planning authority before such change is made.
REASON: In the interest of the protection of the wildlife value of the site in accordance with Policy GEN7 of the Uttlesford Local Plan (adopted 2005).
5. If the development hereby approved is not commenced within one year of the date of this consent a further wildlife survey of the site shall be carried out to update the information on the species and the impact of development and the survey, together with an amended mitigation strategy as appropriate, shall be submitted to and be approved in writing by the local planning authority and implemented as agreed.
REASON: To comply with the requirements of the Habitats Regulations and to protect species of conservation concern in accordance with Policy GEN7 of the Uttlesford Local Plan (adopted 2005).
6. Prior to commencement of the development the vehicular access shall be constructed at right angles to the highway boundary and to the existing carriageway. The width of the access at its junction with the highway shall not be less than 3.0 metres, shall be retained at that width for 6 metres within the site and shall be provided with an appropriate dropped kerb vehicular crossing of the footway.
REASON: To ensure that vehicles can enter and leave the highway in a controlled manner in the interest of highway safety in accordance with Policy GEN1 of the Uttlesford Local Plan (adopted 2005).

7. The gradient of the proposed vehicular access to the proposed dwelling shall be not steeper than 4% (1 in 25) for the first 6 metres from the highway boundary and not steeper than 8% (1 in 12.5) thereafter.
REASON: To ensure that vehicles can enter and leave the highway in a safe and controlled manner safety in accordance with Policy GEN1 of the Uttlesford Local Plan (adopted 2005).
8. Prior to occupation of the development a 1.5 metre x 1.5 metre pedestrian visibility splay, as measured from and along the highway boundary, shall be provided on both sides of the vehicular access to serve the proposed dwelling. Such visibility splays shall be retained free of any obstruction in perpetuity. These visibility splays must not form part of the vehicular surface of the access.
REASON: To provide adequate inter-visibility between the users of the access and pedestrians in the adjoining public highway in the interest of highway safety in accordance with Policy GEN1 of the Uttlesford Local Plan (adopted 2005).
9. The proposed development shall not be occupied until such time as the vehicle parking area indicated on the approved plans, including any parking spaces for the mobility impaired, has been hard surfaced, sealed and marked out in parking bays. The vehicle parking area shall be retained in this form at all times. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the development unless otherwise agreed with the Local Planning Authority.
REASON: To ensure that on street parking of vehicles in the adjoining streets does not occur in the interests of highway safety and that appropriate parking is provided in accordance with Policy GEN1 of the Uttlesford Local Plan (adopted 2005).
10. .Prior to occupation of the proposed development, the relocation of the existing pedestrian crossing point to the position as shown on Drawing No. TK01/P01 Rev D and the reinstatement to full height of the highway footway/cycleway/kerbing, to the satisfaction of the Highway Authority immediately the new pedestrian crossing point is brought into use.
REASON: To ensure the removal of and to preclude the creation of unnecessary points of traffic conflict in the highway in the interests of highway safety in accordance with the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011 and Uttlesford Local Plan Policy GEN1.
- 11 .The existing access which serves 37 Bennet Canfield shall be suitably and permanently closed to the satisfaction of the Local Planning Authority, incorporating the reinstatement to full height of the highway footway/cycleway/kerbing, to the satisfaction of the Highway Authority immediately the proposed new access is brought into use.
REASON: To ensure the removal of and to preclude the creation of unnecessary points of traffic conflict in the highway in the interests of highway safety in accordance with the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011 and Uttlesford Local Plan Policy GEN1.

