

## UTT/13/1951/REN (Newport)

(Uttlesford District Council interest in land)

**PROPOSAL:** This proposal relates to the renewal of planning permission for the erection of a detached dwelling with associated works previously approved under UTT/1052/10/REN.

**LOCATION:** Land between Nos.161 and 163 Cherry Garden Lane, Newport.

**APPLICANT:** Frogmore Properties Ltd.

**AGENT:** Poole & Pattle.

**EXPIRY DATE:** 17 September 2013.

**CASE OFFICER:** Clive Theobald

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### **1. NOTATION**

1.1 Within Development Limits.

### **2. DESCRIPTION OF SITE**

2.1 The site comprises a vacant area of overgrown land approximately rectangular in shape and having a site area of 252sqm (0.025ha) situated at the southern end of the Cherry Garden Lane estate off Frambury Lane adjacent to Nos.161/163 Cherry Garden Lane. The land rises gently up from the site frontage and backs onto a large informal parking area which lies to the rear of properties along Frambury Lane and which is within the control of Uttlesford District Council. An electricity sub-station stands to the immediate rear of the site, whilst a public footpath runs down the site's hedged southern flank boundary. Informal pedestrian access is presently gained from the rear end of the estate to the informal rear parking area through the site where the flank boundary public footpath is presently impeded beyond the site to the east. The site appears from inspection to have been unused for a long time given its overgrown state.

### **3. PROPOSAL**

3.1 This proposal relates to the renewal of planning permission UTT/1052/10/REN to erect a detached two storey three bedroomed dwelling on the site, together with the re-routing of the existing informal pedestrian access link from Cherry Garden Lane through to Frambury Lane via the existing Public Footpath. The application also includes provision for a new fenced enclosure to the existing electricity sub-station situated to the rear.

3.2 The new dwelling would measure 8.9 metres wide by 5.7 metres deep, would have a ridge height of 7.8 metres and would have an indicated tiled and brick finish with front porch canopy. The dwelling would have an enclosed rear garden of 110sqm, whilst a double bay parking space would be provided at the rear end of the site facing onto the parking area to Frambury Lane.

**4. APPLICANT'S CASE:** The supporting statement submitted with UTT/1057/10/REN has been re-submitted for the current renewal application.

#### 4.1 Summary:

- The application site is one of seven areas of land on the Fairview Estate (Cherry Garden Lane) which remain undeveloped since its completion in the 1970's. This area of land was notionally considered to be as a possible play space, but in the event was never offered as adoption by the local authority, has never been equipped for play, and has received little or no maintenance. The Parish Council has previously given its support to the principle of residential infill of the site.
- The application site is vacant land, although is almost completely overgrown with scrub.
- The proposed dwelling would have a relatively simple design in order to sit comfortably with the 1970s houses on the Fairview Estate.

### 5. RELEVANT SITE HISTORY

- 5.1 Permission refused in 1990 and dismissed on appeal for a single detached dwelling on the site. The Inspector for that application stated that the proposal was acceptable in principle in its effect on residential amenity and on the general appearance of the locality with regard to design and that the "loss of play space is the only sustainable objection to the proposed development". Erection of three bedroomed dwelling refused in 2006, although allowed on appeal in 2007. Permission granted on renewal for the proposed dwelling in 2010 when the officer report for that renewal application concluded that the proposal was considered acceptable in principle and in terms of its impact on residential amenity, access, parking arrangements and footpath provision where it stated that there had not been any material changes in circumstances or changes in local planning policy or national planning guidance since the previous appeal decision renewal which would justify withholding the renewal of planning permission again.

### 6. POLICIES

#### 6.1 National Policies

National Planning Policy Framework

#### 6.2 Uttlesford District Local Plan 2005

- ULP Policy S3 (Other Development Limits)
- ULP Policy H1 (Housing Development)
- ULP Policy H3 (New Houses within Development Limits)
- ULP Policy GEN1 (Access)
- ULP Policy GEN2 (Design)
- ULP Policy GEN7 (Nature Conservation)
- ULP Policy GEN8 (Parking Standards)

#### 6.3 Uttlesford District DRAFT Local Plan

- Policy SP1 (Development within Development Limits)
- Policy DES1 (Design)
- Policy HE4 (Protecting the Natural Environment)
- Policy TA1 - Vehicle Parking Standards

#### 6.4 Supplementary Planning Advice

- SPD "Home Extensions".
- SPD "Accessible Homes and Playspace".

## 7. PARISH COUNCIL COMMENTS

- 7.1 The Parish Council do not wish to submit any comments on this renewal of planning permission.

## 8. CONSULTATIONS

### Essex County Council Highways

- 8.1 No highway objections subject to the public's rights and ease of passage over Public Footpath No.12, Newport being maintained free and unobstructed at all times where details of the proposed adoptable footpath link as shown on Drwg. No.1548/1E shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of development.

## 9. REPRESENTATIONS

- 9.1 1 representation received. Representation period expired 14 August 2013.

### 46 Frambury Lane, Newport, Saffron Walden, Essex CB11 3PX:

- Diversion of footpath from crossing open space (site of new dwelling) onto the footpath running at rear of our property and others will increase pedestrian flow leading to an increase in noise and dog fouling.
- Would have expected to see a request from UDC Planning/ECC Place Services for an ecology survey as the site has become overgrown since the estate was first built (1976/77) 35 or more years ago, and must be supporting a well established cross section of wildlife. Should development not be commenced and completed prior to March 2014, we would expect to see mitigating conditions put into place so that such wildlife would not be disturbed.
- We would hope that none of the mature trees and hedges bordering the footpath (rear of 44-54 Frambury Lane) and the site are removed or cut back, but left as they are as per condition 11 in the grant of permission dated 02 August 2010. We would expect no permission be granted by the UDC Planning Authority for their removal.
- We would expect to see conditions/restrictions imposed regarding site traffic/deliveries and work on site which were not mentioned in the grant of permission dated 02 August 2010. We have a child under 2 years and expecting a second very soon.
- We recently moved into our current home due to its quiet location.

## 10. APPRAISAL

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

- A Principle of development / Design (ULP Policies S3, H1, H3 and GEN2)
- B Impact upon residential amenity (ULP Policy GEN2)
- C Access and parking standards (ULP Policies GEN1 and GEN8)
- D Other matters: Impact on wildlife (ULP Policy GEN7)

### **A Principle of development / Design (ULP Policies S3, H1, H3 and GEN2)**

- 10.1 The current application is a renewal submission for a single dwelling last approved in 2010 for this vacant site located at the end of Cherry Garden Lane, which in turn was a renewal permission for a 2006 permission granted on appeal in 2007. The principle of the development has therefore already been established on two previous occasions. The only considerations which are therefore relevant to the current renewal application

is whether there have been any material changes in circumstances since the grant of that previous permission.

- 10.2 Policy S3 states that development within existing built up areas may be acceptable if compatible with the character of the settlement. As identified within the officer report for the 2010 application, the proposed dwelling would be of a scale and appearance similar to those existing properties within the Cherry Garden Lane development and along Frambury Lane. The inspector, in assessing the 2006 appeal scheme, noted that whilst not exactly within the same position as the previous 1990 proposal, the development nonetheless would not be unduly prominent within the streetscene at this location. The Inspector was satisfied that the proposal, whilst filling the width of the plot, would not be out of keeping with the close knit layout of Cherry Garden Lane, nor would it appear cramped within the site. The site would have an appropriate rear garden amenity standard as previously identified. The proposal therefore remains acceptable in terms of design and layout under ULP Policies S3, H1, H3 and GEN2 consistent with the 2010 approved renewable application.

## **B Impact upon residential amenity (ULP Policy GEN2)**

- 10.3 ULP Policy GEN2 states that development should not have a materially adverse effect on the reasonable occupation and enjoyment of a residential or other sensitive property as a result of overlooking, overbearing effect, loss of light or overshadowing. The position and orientation of the proposed dwelling would be such that it is unlikely to significantly overshadow neighbouring properties to the detriment of residential amenity. It is appreciated that the proposal would abut the side elevation/rear garden of No.163 Cherry Garden Lane. However, as the scheme does not include any north facing windows, any overlooking which may arise from the first floor rear (west) elevation should be minimal and no more than what would be reasonably expected within this densely laid out part of Cherry Garden Lane. It is also appreciated that the proposal would face onto the front elevation of No.161 Cherry Garden Lane and its habitable rooms. However, as noted by the Inspector at the previous appeal, the scope for inter-visibility between the two dwellings would be limited to the ground floor living room window, which is a secondary window. The Inspector formed the view that the proposal would not have a materially harmful effect on the living conditions of either Nos.161/163 Cherry Garden Lane or Frambury Lane properties in relation to privacy or overbearing. It should be noted that there have been no material changes in circumstances (i.e. SPD advice) since the determination of the 2010 renewal application to reverse the Inspector's assessment on this issue.

## **C Access and parking standards (ULP Policies GEN1 and GEN8)**

- 10.4 The proposal shows 2 No. parking spaces would be provided at the rear end of the site with access over the existing entrance leading off Frambury Lane which serves the rear informal parking area to the rear of adjacent properties. As such, vehicular access would be directly onto Frambury Lane where the frontage of the proposed dwelling would be pedestrian only. Whilst local parking ratio requirements have changed in respect of 4 or more bedroomed dwellings since the previous application, it still remains the case under adopted ECC parking standards that only 2 No. parking spaces need to be provided for two and three bedroomed dwellings. The proposal would therefore still comply with ULP Policy GEN8 in this respect. It should be noted that the applicant would drive over land currently under the control of the District Council and vehicular access to the parking area shown would be subject to obtaining a legal easement, which is a separate matter which is outside the scope of the determination of the current application for planning purposes.
- 10.5 The application proposes renewing the arrangement approved by the Inspector's conditions on the previous renewal application appeal with regard to the Public

Footpath which runs along the southern boundary of the site whereby the layout would accommodate a pedestrian link from Cherry Garden Lane to the existing designated footpath. Essex County Council Highways have not objected to the proposal subject to the link being properly implemented and maintained for public use where this is reflected within the recommended conditions. Subject to the imposition of these conditions, the proposal would be compliant with ULP Policy GEN1.

#### **D Other matters: Impact on wildlife (ULP Policy GEN7)**

- 10.6 Consideration of biodiversity/impact on protected species was not an issue which was considered under the previous delegated officer report. The comments by a local resident are noted regarding wildlife. However, it is considered that the site does not contain any significant biodiversity value given the ground conditions which exist at the site. However, as a precaution, it is considered appropriate and reasonable to impose a bird nesting condition on any planning permission granted for the current renewal proposal given the existence of the mature hedgerow which exists on the site's southern flank boundary.

### **11. CONCLUSION**

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

- A The principle of a new dwelling at this site location is still considered acceptable where there have not been any material changes in circumstances, including national planning guidance, local planning policy or SPD guidance since the 2010 renewal approval for this development which would justify withholding the renewal of the current renewal application.
- B The proposal would not cause a significant harmful effect on neighbouring residential amenity as previously assessed at appeal.
- C The proposal would be compliant with current parking standards, whilst the proposed footpath link is acceptable to ECC Highways subject to suitable conditions.
- D The proposal would not cause significant harm to wildlife

### **RECOMMENDATION – CONDITIONAL APPROVAL**

#### Conditions

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. 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 ULP Policy GEN2 of the Uttlesford Local Plan (adopted 2005).

3. Before development commences, cross-sections of the site and adjoining land and any proposed changes in levels, together with the proposed floor levels within the new dwelling, shall be submitted to and approved by the local planning authority in

writing. The development shall be carried out in accordance with the approved details and retained as such thereafter.

REASON: In order to minimise the visual impact of the development in the streetscene in accordance with ULP Policy GEN2 of the Uttlesford Local Plan (adopted 2005).

4. The dwelling hereby approved shall not be occupied until the area shown for car parking on drawing 1548/1/E has been drained and surfaced, and that area shall not thereafter be used for any purpose other than the parking of vehicles related to the residential occupation of the dwelling.

REASON: In order to ensure proper parking provision in accordance with ULP Policy GEN8 of the Uttlesford Local Plan (adopted 2005).

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no extensions or windows at first floor level or above other than those expressly authorised by this permission shall be constructed/inserted.

REASON: In the interests of residential amenity and to ensure the development is compatible with the character of the surrounding area in accordance with ULP Policy GEN2 of the Uttlesford Local Plan (adopted 2005).

6. Prior to commencement of the development hereby approved, details of the proposed adoptable footpath link as shown on Drwg. No.1548/1E dated Jan 2006 shall be submitted to and approved in writing by the Local Planning Authority.

REASON: To ensure roads/footways are constructed to an appropriate standard in the interests of highway safety in accordance with ULP Policy GEN1 of the Uttlesford Local Plan (adopted 2005).

7. The public's rights and ease of passage over Public Footpath No.12, Newport shall be maintained free and unobstructed at all times.

REASON: To ensure the continued safe passage of the public on the definitive right of way and accessibility in accordance with ULP Policy GEN1 of the Uttlesford Local Plan (adopted 2005).

8. Before development commences, details of the location and design of the refuse bin and recycling materials storage areas and collection points shall be submitted to and approved by the local planning authority. This should include provision for the storage of three standard sized wheeled bins for each new property with a collection point no further than 25 metres from the public highway. Where the refuse collection vehicle is required to go onto any road that road shall be constructed to take a load of 26 tonnes. The refuse storage and collection facilities and vehicular access where required shall be provided prior to the first occupation of the units to which they relate and shall be retained in the approved form thereafter.

REASON: To meet the District Council requirements for recycling, to prevent the unsightly storage of refuse containers and in the interests of amenity and sustainability in accordance with ULP Policy GEN2 of the Uttlesford Local Plan (adopted 2005).

9. Before the development hereby permitted commences, an accessibility statement/drawing shall be submitted to and approved in writing by the local planning authority. The details submitted shall set out measures to ensure that the building is

accessible to all sectors of the community. The buildings shall be designed as 'Lifetime Homes' and shall be adaptable for wheelchair use. All the measures that are approved shall be incorporated in the development before occupation.

REASON: To ensure that the district's housing stock is accessible to all and to meet the requirements contained in adopted SPD Accessible Homes and Playspace Adopted November 2005 in accordance with ULP Policy GEN2 of the Uttlesford Local Plan (adopted 2005).

10. The boundary hedge to the southern and eastern side boundaries as indicated on Drwg. No. 1548-1-E dated Jan 2006 shall be retained unless the local planning authority gives its written consent to its removal. Should any part of the hedge die, or be removed or become damaged or diseased, it shall be replaced during the next planting season in accordance with details to be submitted to and approved in writing by the local planning authority.

REASON: To ensure proper implementation of the agreed landscape details in the interest of the amenity values of the development in accordance with ULP Policies GEN2, GEN8, GEN7, ENV3 and ENV8 of the Uttlesford Local Plan (adopted 2005).

11. No groundworks or construction on the dwelling hereby approved shall be carried out on site between the 1st March and 31st August inclusive in any year unless otherwise approved in writing by the local planning authority.

REASON: To protect nesting birds which may use the site during this period in accordance with ULP Policy GEN7 of the Uttlesford Local Plan (adopted 2005) and in accordance with the NPPF.