

UTT/17/1163/FUL (SAFFRON WALDEN)

(Uttlesford District Council owns the land required for the proposed footbridge)

PROPOSAL: Construction of 6 dwellings with associated parking and access driveway including the creation of a public amenity area

LOCATION: Land South of Freshwell Gardens, Saffron Walden

APPLICANT: Mr T Duke (Ford Homes Ltd)

AGENT: BBR Architects

EXPIRY DATE: 7 July 2017

CASE OFFICER: Luke Mills

1. NOTATION

1.1 Countryside; Conservation Area.

2. DESCRIPTION OF SITE

2.1 The site is located off Freshwell Gardens, Saffron Walden. It comprises an undeveloped meadow.

3. PROPOSAL

3.1 The proposal is to erect six houses. Vehicle and pedestrian accesses would be provided off Freshwell Gardens, and a new public footpath would run from the north-east corner of the site, between the houses, through a landscaped public amenity space, before connecting to the existing path to the south-west via a new footbridge.

4. ENVIRONMENTAL IMPACT ASSESSMENT

4.1 The development does not constitute 'EIA development' for the purposes of The Town and Country Planning (Environmental Impact Assessment) Regulations 2011.

5. APPLICANT'S CASE

5.1 The application is accompanied by the following documents:

- Design & Access Statement
- Flood Risk Assessment (April 2017)
- Landscape, visual and heritage assessment
- Preliminary Ecological Assessment Including a Protected Species Assessment
- Biodiversity Questionnaire

6. RELEVANT SITE HISTORY

6.1 In May 2016, an application was made to fell two Sycamore trees in the eastern part of the site (UTT/16/1268/TCA). The Council raised no objections, provided that the works are completed by May 2018.

7. POLICIES

7.1 S70(2) of The Town and Country Planning Act 1990 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,
- (b) any local finance considerations, so far as material to the application, and
- (c) any other material considerations.

7.2 S38(6) of the Planning and Compulsory Purchase Act 2004 requires that, if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.

- Uttlesford Local Plan (2005)

- 7.3
- S7 – The Countryside
 - GEN1 – Access
 - GEN2 – Design
 - GEN3 – Flood Protection
 - GEN5 – Light Pollution
 - GEN6 – Infrastructure Provision to Support Development
 - GEN7 – Nature Conservation
 - GEN8 – Vehicle Parking Standards
 - ENV1 – Design of Development within Conservation Areas
 - ENV2 – Development affecting Listed Buildings
 - ENV4 – Ancient Monuments and Sites of Archaeological Importance
 - ENV8 – Other Landscape Elements of Importance for Nature Conservation
 - ENV12 – Protection of Water Resources
 - ENV13 – Exposure to Poor Air Quality
 - H1 – Housing Development
 - H9 – Affordable Housing
 - H10 – Housing Mix

Supplementary Planning Documents/Guidance

- 7.4
- SPD – Accessible Homes and Playspace (2005)
 - Developer Contributions Guidance Document (Feb 2016)
 - The Essex Design Guide (2005)
 - Parking Standards: Design and Good Practice (2009)
 - Uttlesford Local Residential Parking Standards (2013)

National Policies

- 7.5
- National Planning Policy Framework (NPPF) (2012)
 - paragraphs 14, 17, 32-39, 47-49, 55, 58, 100-104, 118, 120-122, 124 & 128-135
 - Planning Practice Guidance (PPG)
 - Air quality
 - Conserving and enhancing the historic environment
 - Design
 - Flood risk and coastal change
 - Housing: optional technical standards
 - Natural environment
 - Planning obligations
 - Rural housing

- Water supply, wastewater and water quality

Other Material Considerations

- 7.6 West Essex and East Hertfordshire Strategic Housing Market Assessment (SHMA) (2015)
Uttlesford Strategic Flood Risk Assessment (SFRA) (2016)
Saffron Walden Conservation Area Appraisal and Management Proposals (2012)

8. TOWN COUNCIL COMMENTS

- 8.1 Objection. Reasons include:
 - The site is at risk of flooding
 - Adverse effect on the conservation area
 - Harm to wildlife
 - Incompatibility with surrounding buildings

9. CONSULTATIONS

Affinity Water

- 9.1 Confirmation that the site is in a Groundwater Source Protection Zone, and advisory comments regarding the construction process.

Historic Environment Advisor (Place Services)

- 9.2 Extract:

“At the end of June an archaeological evaluation was undertaken to identify the location of the town defensive ditch and identify any archaeological occupation within the town boundary...

The block at the northern end of the site will have a significant impact on the surviving archaeological deposits and consideration should be given to an alternative layout for the development which avoids both the ditch and the possible pond. The residential block running north south would have significantly less impact on the surviving archaeology.

If the development is given permission on this site, a full archaeological condition should be attached to the consent.”

Aerodrome Safeguarding Authority (Stansted Airport)

- 9.3 No objections.

Ecological Consultant (Place Services)

- 9.4 No objections, subject to conditions.

Environment Agency

9.5 Objection, due to inadequate flood risk assessment. Extract:

“In our previous response it was stated that any increase in built footprint within the 1 in 100 year flood extent, including an allowance for climate change, must be directly compensated for on a level-for-level and volume-for-volume basis. No details of this have been provided in the revised FRA submitted.

Floodplain compensation is necessary to prevent the new development reducing floodplain storage and displacing flood waters, thereby increasing flood risk elsewhere. If there are no areas available to provide compensation above the design flood level, direct compensation will not be possible.”

Historic England

9.6 Does not wish to comment.

Highway Authority (Essex County Council)

9.7 No objections, subject to conditions.

Environmental Health

9.8 No objections, subject to mitigation and contributions towards traffic management measures. A condition is also recommended to prevent a loss of amenity from external lighting.

Conservation Officer

9.9 Recommends refusal. Extract:

“The formation of conservation area boundary here was not a result of arbitrary process. The carefully considered rational aimed at the provision of a buffer zone between the historic urban edge and the open countryside. Clearly this endeavour is still valid today. This green sward provides an attractive barrier between the modern carpark and important heritage assets beyond. In addition and in the context of historical urban conservation area, open spaces represent essential features adding an important variety to its character.

...I consider that in this instance the principle of any development here would erode the importance of the green sward buffer which serves to emphasise the built-up edge of the historic town. In addition the proposed three storey housing with associated garaging is likely to have an overpowering effect on the mostly modest, early timber framed listed cottages further along Freshwell Street to the detriment of their setting. The possible long views from the end of the street towards open countryside and Audley Park are also likely to be in some measure obscured.

Although I find the form, design and detailing of the housing architecturally interesting, such structures in this location would result in an unduly prominent composition, which would have a detrimental impact on the character and setting of the listed buildings in the vicinity and would not preserve or enhance the character of the conservation area.”

10. REPRESENTATIONS

10.1 Neighbours were notified of the application by letter and notices were displayed near the site and in the local press.

10.2 The following concerns have been raised in the submitted representations:

- 1) Increased risk of flooding
- 2) Adverse effect on the safety of road users, including through inadequate parking arrangements
- 3) Inadequate vehicular access arrangements, including during construction
- 4) Increased traffic and air pollution
- 5) Adverse effect on biodiversity
- 6) Harm to the character and appearance of the area, including conservation area
- 7) Requirement to make contributions towards off-site infrastructure
- 8) Loss of amenity at neighbouring properties e.g. daylight, privacy
- 9) Suitability of management arrangements for open space
- 10) Adverse effect on important archaeological remains
- 11) Damage to property during the construction process
- 12) Nuisance during construction

10.3 The following comments are made in relation to the above numbered points:

- 1) – 10) Covered in the below appraisal.
- 11) Not a material consideration. Any damage would be a private legal matter.
- 12) Not a material consideration. Covered by the Control of Pollution Acts.

11. APPRAISAL

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

- A Location of housing (S7, H1, 55 & PPG)
- B Character, appearance and heritage (S7, GEN2, ENV1, ENV2, 17, 58, 128-135 & PPG)
- C Transport (GEN1, GEN8 & 32-39)
- D Accessibility (GEN2, 58 & PPG)
- E Amenity (GEN2, GEN5 & 17)
- F Flooding (GEN3, 100-104, PPG & SFRA)
- G Infrastructure (GEN6)
- H Biodiversity (GEN7, ENV8, 118 & PPG)
- I Archaeology (ENV4, 128-135 & PPG)
- J Groundwater contamination (ENV12, 120-122 & PPG)
- K Air quality (ENV13, 120-122, 124 & PPG)
- L Affordable housing (H9 & PPG)
- M Housing mix (H10 & SHMA)
- N Housing land supply (47-49)

A Location of housing (S7, H1, 55 & PPG)

11.1 The site is located beyond the Development Limits for Saffron Walden, and the proposal does not represent 'sensitive infilling' in the context of Policy S7. It is therefore concluded that residential development on the site would be in conflict with policies S7 and H1.

- 11.2 Paragraph 55 of the NPPF seeks to avoid isolated homes in the countryside unless there are special circumstances. While there is no published definition of 'isolated', it is considered that the PPG supports the view that housing sites should be within or adjacent existing settlements. The effect is to prevent sporadic development in the countryside, while supporting the growth of existing settlements of almost any size due to the associated economic and social benefits. As the application site abuts the built-up area of the town, and indeed the Development Limits, it is considered that the location accords with paragraph 55.

B Character, appearance and heritage (S7, GEN2, ENV1, ENV2, 17, 58, 128-135 & PPG)

- 11.3 The site is located within the Saffron Walden conservation area and close to numerous listed buildings along Freshwell Street. Taking into account the comments of the Conservation Officer, it is considered that the proposal would erode an open space that acts as an important buffer between the historic town and its rural surroundings. Furthermore, the relatively large buildings proposed would be visually overpowering compared with the mostly modest listed cottages on Freshwell Street. It is therefore concluded that, while the form, design and detailing of the housing would be well executed, such development in the location proposed would have a harmful effect on the character and appearance of the area, the conservation area and the setting of listed buildings. These adverse effects cause conflict with policies S7, GEN2, ENV1 and ENV2 and paragraphs 17, 58 and 128-135 of the NPPF.
- 11.4 In the context of paragraph 134 of the NPPF, it is considered that the 'less than substantial' harm to the heritage assets would not be outweighed by the public benefits of the proposal. It is noted that the main public benefit is the supply of six houses.
- 11.5 In drawing the above conclusions regarding listed buildings and conservation areas, regard has been had to the Council's statutory duties under S66(1) and S72(1) of the Planning (Listed Buildings & Conservation Areas) Act 1990.

C Transport (GEN1, GEN8 & 32-39)

- 11.6 The site is located within walking distance of the town centre and its services, facilities and public transport connections. It is therefore considered that the proposal accords with the sustainable transport objectives in Policy GEN1 and paragraph 34 of the NPPF.
- 11.7 The proposal includes a vehicular access off Freshwell Gardens in the north-east corner of the site, and three pedestrian accesses in the north, north-east and south-west. The latter entails the construction of a footbridge to connect a new diagonal footpath crossing a publicly-accessible amenity area to an existing footpath. Taking into account the comments of the highway authority, it is considered that the proposal would not have a significant adverse effect on the safety of road users or the highway network. As such, there is no conflict with Policy GEN1 or paragraphs 32-39 in these respects.
- 11.8 Each dwelling would be provided with one parking space, in conflict with the Council's minimum standards which require a minimum of two spaces for three-bedroom dwellings. Although it is acknowledged that the sustainable transport options are relatively good at the site, it is considered that each of the proposed family homes would realistically require two parking spaces. On-street parking is not a viable alternative due to issues of availability, accessibility and road safety.

Furthermore, the proposal does not include the necessary two visitor parking spaces. Overall, it is concluded that the proposal includes inadequate parking arrangements, which would likely have an adverse effect on road safety as a result of on-street parking. This represents a conflict with policies GEN1 and GEN8 and paragraphs 32, 35 and 39 of the NPPF.

D Accessibility (GEN2, 58 & PPG)

- 11.9 Policy GEN2 and the SPD entitled 'Accessible Homes and Playspace' require compliance with the Lifetime Homes standards. However, these standards have effectively been superseded by the optional requirements at Part M of the Building Regulations, as explained in the PPG. Compliance with these requirements could be secured using a condition.

E Amenity (GEN2, GEN5 & 17)

- 11.10 The proposed rear gardens measure in the range of 45 – 60 sq m approx., whereas The Essex Design Guide recommends a minimum garden size of 100 sq m. As the proposed dwellings would be family homes, it is considered that the minimum standard should apply. The inadequate garden sizes ensure that the occupants would have a poor level of amenity, in conflict with Policy GEN2 and paragraph 17 of the NPPF.
- 11.11 Taking into account the guidance in The Essex Design Guide, it is considered that Plots 1 and 2 could cause a significant loss of daylight to 5, 6 and 7 Freshwell Gardens because Drawing No. PL10 appears to demonstrate that the 25 degree rule (page 67) would be contravened. However, there remains some doubt regarding the degree of impact because Drawing No. PL03 appears to show a different separation distance between the existing and proposed buildings. The conflicting information prevents a conclusion that the proposal accords with Policy GEN2 and paragraph 17.
- 11.12 Notwithstanding the above, Plots 4 – 6 would contain upper floor windows facing east towards Walden Place. However, none would afford a direct view into any rooms so it is considered that there would be no significant loss of privacy for existing residents.
- 11.13 The Environmental Health Officer has requested that a condition be used to secure details of external lighting, in the interests of protecting the amenity of neighbours. This is considered appropriate. Furthermore, the occupants would be exposed to odours from the nearby sewage treatment works, albeit not to such a degree to warrant refusal, or conditions in the event of approval.

F Flooding (GEN3, 100-104, PPG & SFRA)

- 11.14 Policy GEN3 contains the Local Plan policy for flooding, although this has effectively been superseded by the more detailed and up-to-date flood risk policies in the NPPF and the accompanying PPG.
- 11.15 Paragraph 101 of the NPPF describes the Sequential Test, the aim of which is to steer new development to areas with the lowest probability of flooding. Therefore, as the site is in Flood Zone 3 according to the SFRA, development should not be permitted if there are reasonably available sites in areas with a lower probability of flooding. It is considered that the proposal represents a relatively typical residential development, the need for which is established at a District-wide level. Even with a

more constrained catchment of Saffron Walden, it seems likely that there are reasonably available sites for housing in areas classified as Flood Zone 1 or 2. It is therefore concluded that the proposal fails the Sequential Test, in conflict with the NPPF.

- 11.16 Notwithstanding the above Sequential Test assessment, the submitted site-specific flood risk assessment (FRA) has been examined in consultation with the Environment Agency. Taking into account the consultation response, it is considered that the FRA fails to demonstrate that flood risk would not be increased elsewhere, in conflict with paragraph 103 of the NPPF.

G Infrastructure (GEN6)

- 11.17 Taking into account the nature and scale of the development, and the above consultation responses, it is considered that there would be no requirement for improvements to off-site infrastructure. It is therefore concluded that the proposal accords with Policy GEN6.

H Biodiversity (GEN7, ENV8, 118 & PPG)

- 11.18 The application is accompanied by a Preliminary Ecological Assessment incorporating a Protected Species Assessment, which has been examined in consultation with the Council's ecological consultant. Taking into account the consultation response, it is considered unlikely that the proposal would have any significant adverse effects on any protected species or valuable habitats. Conditions could be used to prevent harm to bats from external lighting, and to secure biodiversity enhancements. Overall, it is concluded that the proposal accords with the above policies insofar as they relate to biodiversity.

- 11.19 In drawing the above conclusions, regard has been had to the Council's statutory duties under S40(1) of the Natural Environment and Rural Communities Act 2006 and R9(3) of the Conservation of Habitats and Species Regulations 2010.

I Archaeology (ENV4, 128-135 & PPG)

- 11.20 Taking into account the comments of the Historic Environment Advisor, it is considered that Plots 1 – 3 would have a significant impact on the surviving archaeological deposits associated with the medieval town defensive ditch and a possible pond of medieval date. Where non-designated heritage assets would be affected, paragraph 135 of the NPPF requires a balanced judgment having regard to the scale of any harm or loss and the significance of the heritage asset. Taking into account the consultation response and appended archaeological report, it is considered that the scale of loss would be limited in the context of the whole ditch formation and that the significance of the asset is major in the local and regional historical context. Given the limited loss, it is considered that no objection should be raised to the development provided that a condition is used to secure a full investigation before commencement. Subject to this condition, it is concluded that the proposal accords with Policy ENV4 and paragraphs 128-135 of the NPPF insofar as they relate to archaeological remains.

J Groundwater contamination (ENV12, 120-122 & PPG)

- 11.21 Taking into account the comments of the Environment Agency, it is considered unlikely that the proposal would increase the risk of groundwater contamination. It is therefore concluded that the proposal accords with Policy ENV12 and paragraphs

120-122 of the NPPF insofar as they relate to groundwater contamination.

K Air quality (ENV13, 120-122, 124 & PPG)

11.22 Paragraph 124 of the NPPF requires planning decisions to ensure that any new development in Air Quality Management Areas (AQMAs) is consistent with the local air quality action plan. The site is located within the Saffron Walden AQMA. Taking into account the comments of the Environmental Health Officer, it is considered that the proposal would contribute a minor increase in nitrogen dioxide emissions. To some extent, this would be mitigated by the realistic sustainable transport options and the provision of electric vehicle charging points. However, the request to secure a contribution towards off-site traffic management measures cannot be substantiated given the lack of clear proposals in a local air quality action plan – the most up-to-date available document is the Draft Air Quality Action Plan 2016. It is concluded that the proposal would have a negligible effect on air quality, such that there would be no conflict with Policy ENV13 or paragraphs 120-122 or 124 of the NPPF.

L Affordable housing (H9 & PPG)

11.23 As explained in detail in various appeal decisions, including UTT/15/3599/FUL, the Developer Contributions Guidance Document must not be given weight when considering affordable housing requirements. Therefore, the basis for seeking affordable housing provision is Policy H9 and its preamble, which indicate that the proposal need not make a contribution towards affordable housing provision.

M Housing mix (H10 & SHMA)

11.24 All of the proposed dwellings would be three-bedroom units, in accordance with the requirement in Policy H10 to include a significant proportion of small market dwellings in residential developments.

N Housing land supply (47-49)

11.25 Paragraphs 47-49 of the NPPF describe the importance of maintaining a five-year supply of deliverable housing sites. As identified in the officer's Committee Report for application UTT/17/0522/OP, the Council currently has a 4.5-year supply. Therefore, contributions towards housing land supply must be regarded as a positive effect.

12. CONCLUSION

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

- A The proposal does not accord with the development plan due to conflicts with policies on the location of housing, character and appearance, conservation areas, listed buildings, parking, amenity and flood risk.
- B Notwithstanding the above, the proposal does not accord with the NPPF due to conflicts with policies on character and appearance, heritage assets, transport, amenity and flood risk. The adverse effects arising from these conflicts would significantly and demonstrably outweigh the positive effect arising from the supply of housing, such that the proposal does not represent 'sustainable development'.

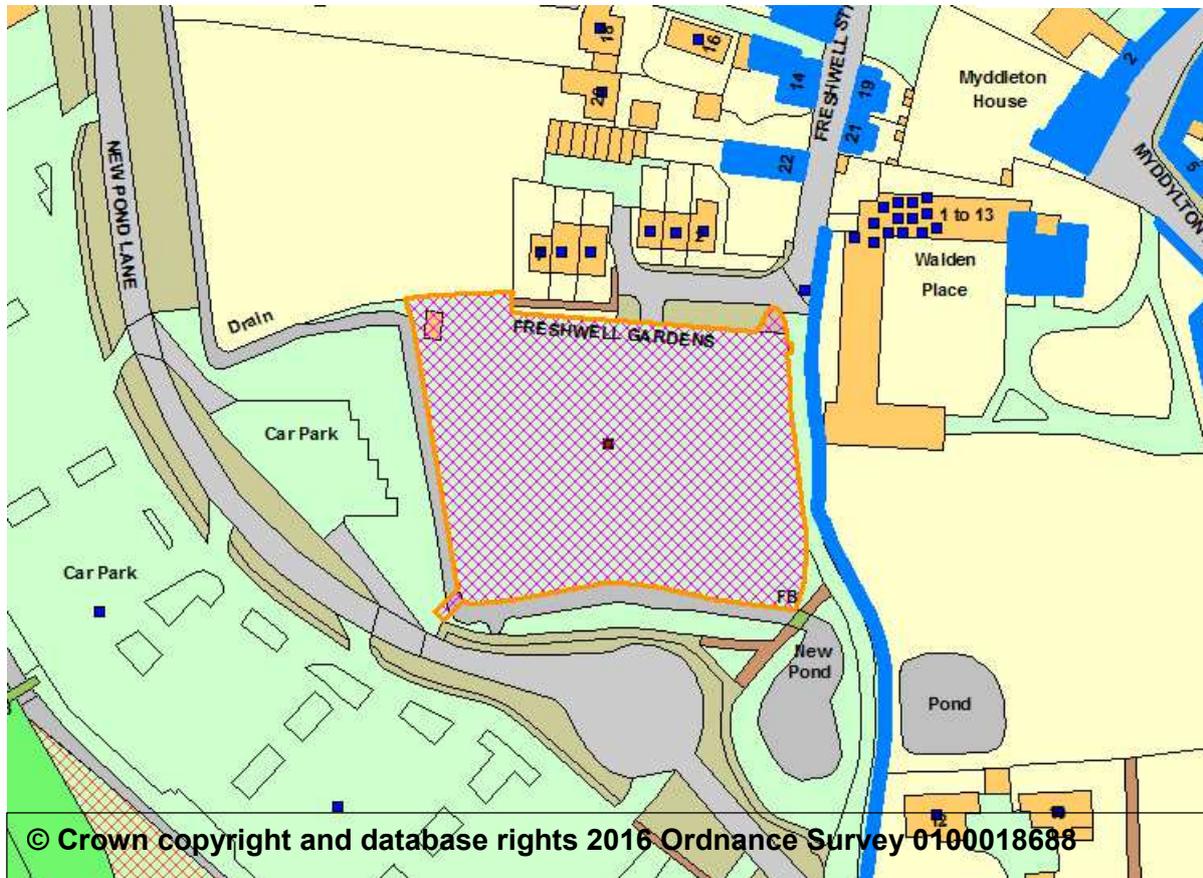
- C** Regard has been had to all other material considerations, and it is concluded that planning permission should be refused.

RECOMMENDATION – REFUSAL

Reasons

1. The application fails to demonstrate that there are no reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding, in conflict with the National Planning Policy Framework.
2. The submitted flood risk assessment fails to demonstrate that flood risk would not be increased elsewhere, in conflict with Policy GEN3 of the Uttlesford Local Plan (adopted 2005) and the National Planning Policy Framework.
3. The proposed development would, by virtue of its location and scale, erode an important open space and visually overpower nearby listed buildings. The effect would be to cause harm to the character and appearance of the area, the conservation area and the setting of listed buildings, in conflict with Policy S7, Policy GEN2, Policy ENV1 and Policy ENV2 of the Uttlesford Local Plan (adopted 2005) and the National Planning Policy Framework.
4. The proposal includes inadequate parking provision for residents and visitors, thereby causing hazardous on-street parking in conflict with Policy GEN1 and Policy GEN8 of the Uttlesford Local Plan (adopted 2005) and the National Planning Policy Framework.
5. The gardens of the proposed dwellings would provide the occupants with insufficient amenity value, in conflict with Policy GEN2 of the Uttlesford Local Plan (adopted 2005) and the National Planning Policy Framework.
6. The application fails to demonstrate that the development could take place without causing a harmful loss of daylight to the existing occupants at 5, 6 and 7 Freshwell Gardens, in conflict with Policy GEN2 of the Uttlesford Local Plan (adopted 2005) and the National Planning Policy Framework.

Application: UTT/17/1163/FUL
Address: Land South Of Freshwell Gardens, Saffron Walden



Organisation: Uttlesford District Council

Department: Planning

Date: 19 July 2017