

## UTT/19/0391/FUL (NEWPORT)

(Referred to Committee by Cllr Gerard. Reason: Contrary to Policy GEN4 and possibly also GEN6 and ENV12)

**PROPOSAL:** Application to vary conditions 2 (Schedule of plans) and 3 (Hard and soft landscaping works) of UTT/16/1574/DFO to allow amendment to the bund

**LOCATION:** Land at Bury Water Lane, Newport

**APPLICANT:** CALA Homes (NHC) Ltd

**EXPIRY DATE:** 28 June 2019

**CASE OFFICER:** Luke Mills

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### 1. NOTATION

1.1 Countryside.

### 2. DESCRIPTION OF SITE

2.1 The site is located to the north of Bury Water Lane, Newport. It comprises an ongoing residential development of 84 dwellings.

### 3. PROPOSAL

3.1 The application is for the variation of conditions on the Reserved Matters approval for the development, in order to facilitate an amendment to the design of a landscaping bund in the western part of the site.

3.2 Condition 2 and 3 of Reserved Matters approval UTT/16/1574/DFO specified the approved drawings for the development and its landscaping. The application therefore proposes to substitute drawings to reflect an increase in the bund height from 1.5 to a maximum of approximately 3 metres, although the exact measurement varies at different points.

### 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 2017.

### 5. APPLICANT'S CASE

5.1 The application includes the following documents:

- Covering letter

### 6. RELEVANT SITE HISTORY

6.1 Outline planning permission for the development was granted in 2013 (UTT/13/1769/OP) and the Reserved Matters were approved in 2016

(UTT/16/1574/DFO).

## **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,
  - (aza) a post-examination draft neighbourhood 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 S73 of the Act requires the local planning authority, in dealing with an application to develop land without compliance with conditions previously attached, to consider only the question of the conditions subject to which planning permission should be granted.
- 7.3 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.
- 7.4 Relevant development plan policies and material considerations are listed below.

### **Uttlesford Local Plan (2005)**

- 7.5
- S7 – The Countryside
  - GEN1 – Access
  - GEN2 – Design
  - GEN4 – Good Neighbourliness
  - GEN5 – Light Pollution
  - GEN7 – Nature Conservation
  - GEN8 – Vehicle Parking Standards
  - ENV5 – Protection of Agricultural Land
  - ENV12 – Groundwater Protection
  - ENV15 – Renewable Energy
  - H1 – Housing Development
  - H3 – New Houses within Development Limits
  - H10 – Housing Mix

### **Supplementary Planning Documents/Guidance**

- 7.6 The Essex Design Guide

### **National Policies**

- 7.7 National Planning Policy Framework (NPPF) (2019)  
Planning Practice Guidance (PPG)

### **Other Material Considerations**

- 7.8 Emerging Local Plan
- The Spatial Vision
  - SP 1 The Presumption in Favour of Sustainable Development
  - SP 2 The Spatial Strategy 2011-2033
  - SP 3 The Scale and Distribution of Housing Development
  - SP 9 Development Within Development Limits
  - SP 12 Sustainable Development Principles
  - H 1 Housing Density
  - H 2 Housing Mix
  - H 6 Affordable Housing
  - H 10 Accessible and Adaptable Homes
  - TA 1 Accessible Development
  - TA 2 Sustainable Transport
  - TA 2 The Provision of Electric Charging Points
  - TA 3 Vehicle Parking Standards
  - TA 4 New Transport Infrastructure or Measures
  - INF 1 Infrastructure Delivery
  - INF 3 Health Impact Assessments
  - INF 4 High Quality Communications and Super-Fast Broadband
  - D 1 High Quality Design
  - D 2 Car Parking Design
  - D 8 Sustainable Design and Construction
  - D 9 Minimising Carbon Dioxide Emissions
  - EN 7 Protecting and Enhancing the Natural Environment
  - EN 10 Minimising Flood Risk
  - EN 11 Surface Water Flooding
  - EN 12 Protection of Water Resources
- Emerging Newport, Quendon and Rickling Neighbourhood Plan

## **8. PARISH COUNCIL COMMENTS**

8.1 Objection. Concerns include:

- Loss of privacy at Plots 42 and 62-65
- Loss of views to the surrounding countryside
- Increased wind speed and tunnelling effect along the road
- Unsafe slopes due to steep 1:3 gradient
- Reduced accessibility to the green space
- The maximum bund height is not specified

## **9. CONSULTATIONS**

### **Lead Local Flood Authority (Essex County Council)**

9.1 No objections.

### **Environmental Health**

9.2 No objections. Marginal benefits in relation to noise attenuation and reduced air pollution associated with the export of material.

### **Ecological Consultant (Place Services)**

9.3 No objections.

## **London Stansted Airport**

9.4 No objections.

### **10. REPRESENTATIONS**

10.1 Neighbours were notified of the application by letter, and notices were displayed near the site and in the local press. The following concerns have been raised among the submitted representations:

- 1) Loss of privacy at neighbouring properties
- 2) Loss of daylight at neighbouring properties
- 3) Overbearing impact on neighbouring properties
- 4) Loss of views to the surrounding countryside
- 5) Increased wind speed and tunnelling effect along the road, including associated movement of debris
- 6) Risk to safety from steep slopes, larger footprint and increased height
- 7) Reduced accessibility to the green space
- 8) Reduced security of neighbouring properties
- 9) The only rationale is to reduce costs associated with the export of material
- 10) There would be no improvement with respect to noise attenuation

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

1) – 3) Covered in the below appraisal.

4) Not a material consideration, although the effect on the character of the area is covered in the below appraisal.

5) It is considered that any effect on wind speeds is likely to be marginal, and therefore not a reason to refuse the application.

6) The developer has a responsibility to ensure that the bund is constructed safely, without causing land stability issues. No slope would be steeper than 1:3.

7) The bund is not designed as an open space with direct public access.

8) It is considered that there would be no significant reduction in security at neighbouring properties

9) Potential cost savings for the developer do not represent a material consideration.

10) It is considered that there would be no significant improvement with respect to noise attenuation.

### **11. APPRAISAL**

The issues to consider in the determination of the application are (relevant policies in brackets):

- A Character and appearance (S7 & NPPF 170)
- B Amenity (GEN2 & NPPF 127)

## **A Character and appearance (S7 & NPPF 170)**

- 11.1 The increased height of the bund would result in a greater visual impact on the surrounding area. However, it would also have a more effective screening effect between the urban residential development and the countryside to the west. Overall, it is considered that the proposed amendment would not cause any additional harm to the character of the area, such that there is no conflict with the above policies.

## **B Amenity (GEN2 & NPPF 127)**

- 11.2 The proposed bund is not designed as an open space with direct public access. Nevertheless, it is acknowledged that occasional informal use could occur, and that the elevated vantage point on the plateau could give rise to a loss of privacy at neighbouring properties.
- 11.3 Most of the affected windows would be on the non-private front walls of houses and, in any event, the effect would not be significantly different compared with the approved 1.5m bund – for example, the height of the bund opposite Plot 63 would be approximately 2.2m. Furthermore, it is considered that the 23.5m separation distance between the plateau and the garden boundary of Plot 42 ensures that there would be no significant loss of privacy. By way of comparison, it is noted that the non-adopted but useful guidance in The Essex Design Guide recommends a 25m separation between rear windows that directly face each other.
- 11.4 It is considered that the submitted site section drawings demonstrate that there would be no significant harm to the living conditions of neighbours from a loss of daylight or an overbearing impact. It is therefore concluded that there would be no conflict with the above policies insofar as they relate to amenity.

## **12. CONCLUSION**

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

- A** The proposed amendment to the bund would not cause conflict with the development plan or the NPPF, and no material considerations indicate that the application should be refused. It is therefore recommended that approval be granted.

## **RECOMMENDATION – APPROVAL WITH CONDITIONS**

### **Conditions**

1. **CONDITION 1 UNCHANGED:**

Prior to commencement of development, 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 thereafter 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).

2. CONDITION 2 AMENDED AS FOLLOWS:

The development hereby permitted shall be carried out in accordance with the approved plans as set out in the Schedule, as updated by the following:

- Landscape Masterplan (Drawing No. L1041-2.1-1000 P6)
- Sections Plan Rev F
- Sections to Bund 01 Rev F
- Sections to Bund 02 Rev F

REASON: For the avoidance of doubt as to the nature of the development hereby permitted, to ensure development is carried out in accordance with the approved application details, to ensure that the development is carried out with the minimum harm to the local environment, in accordance with the Policies of the Uttlesford Local Plan (adopted 2005) as shown in the Schedule of Policies.

3. CONDITION 3 AMENDED AS FOLLOWS:

All hard and soft landscape works shall be carried out in accordance with the approved details, as updated by the following:

- Landscape Masterplan (Drawing No. L1041-2.1-1000 P6)
- Sections Plan Rev F
- Sections to Bund 01 Rev F
- Sections to Bund 02 Rev F

The works shall be carried out before any part of the development is occupied or in accordance with the programme agreed with the local planning authority.

REASON: In the interests of the appearance of the site and area in accordance with Policies GEN2, GEN7, ENV3 and ENV8 of the Uttlesford Local Plan (adopted 2005).

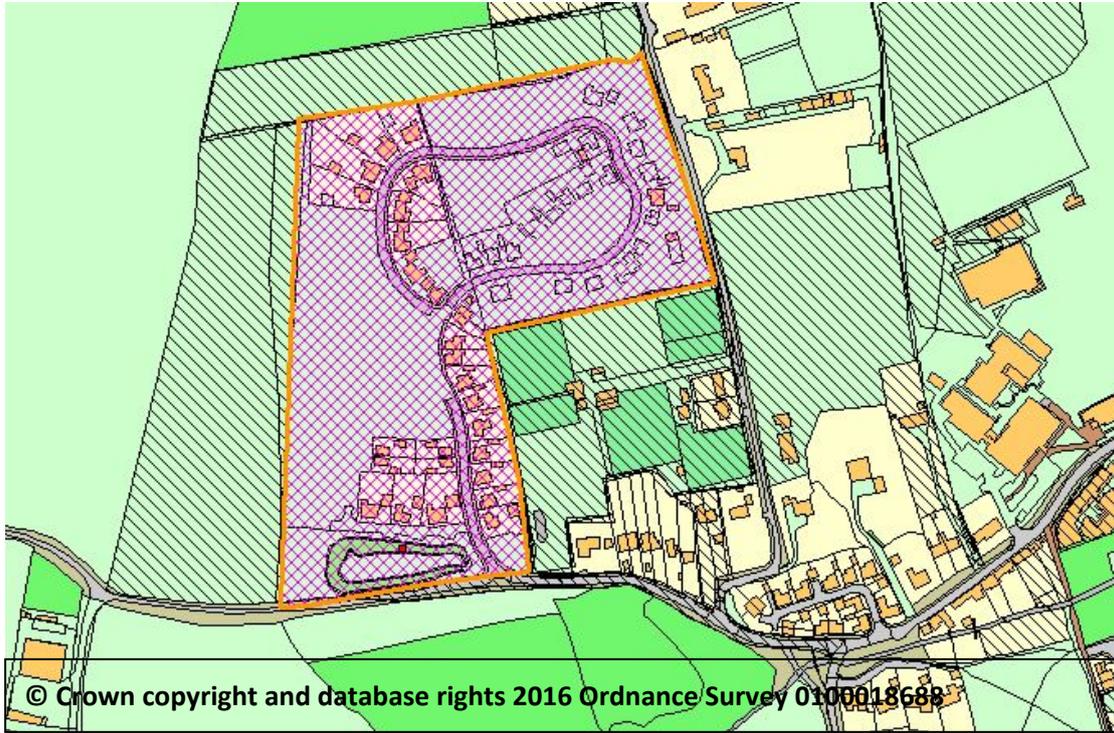
4. CONDITION 4 UNCHANGED:

If within a period of 5 years from the date of planting the tree or hedgerow (or any tree or hedgerow planted in replacement for it) is removed, uprooted, destroyed or dies or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree or hedgerow of the same size and species as that originally planted shall be planted at the same place within the first planting season following the removal, uprooting, destruction or death of the original tree or hedgerow unless the local planning authority gives its written consent to any variation.

REASON: To ensure the suitable provision of landscaping within the site in accordance with Policies GEN2, GEN7 and ENV8 of the Uttlesford Local Plan (adopted 2005).

Application: UTT/19/0391/FUL

Address: Land at Bury Water Lane, Newport



Organisation: Uttlesford District Council

Department: Planning

Date: 11/06/2019