

UTT/19/1411FUL - LITTLEBURY

(Called in by CLLR Gregory if recommended for approval due to over development of the site and only suitable for one dwelling, impact on neighbours, out of character with the area)

PROPOSAL: Section 73A Retrospective application for the demolition of the existing garage. Proposed erection of 2 no. detached dwellings

LOCATION: Endeavour, Littlebury Green Road, Littlebury

APPLICANT: Mr Gary Mullins

AGENT: Mr Randolphe Palmer

EXPIRY DATE: 18th October 2019

CASE OFFICER: Chris Tyler

1. NOTATION

1.1 Outside Development Limits,

2. DESCRIPTION OF SITE

2.1 The application site relates to a detached bungalow property and its curtilage located to the south of Littlebury Green Road in Littlebury. The site is accessed from the main highway by private driveway, to the rear of the site is large rear garden.

3. PROPOSAL

3.1 This application is for the retrospective demolition of garage and proposed demolition of the existing bungalow and erection of two dwellings. One dwelling is proposed to the front of the site and a second within the rear garden area. The existing access will serve the dwelling and off street parking will be provided.

4. ENVIRONMENTAL IMPACT ASSESSMENT

4.1 Town and Country Planning (Environmental Assessment):
The proposal is not a Schedule 1 development, nor does it exceed the threshold criteria of Schedule 2, and therefore an Environmental Assessment is not required.

And

Human Rights Act considerations:

There may be implications under Article 1 and Article 8 of the First Protocol regarding the right of respect for a person's private and family life and home, and to the peaceful enjoyment of possessions; however, these issues have been taken into account in the determination of this application

5. APPLICANT'S CASE

5.1 The applicant has provided a planning statement in support of the planning application to illustrate the process that has led to the development proposal and to explain and justify the proposal in a structured way.

Also included in the application:
Ecological appraisal
Transport assessment
Tree survey

6. RELEVANT SITE HISTORY

- 6.1 UTT/18/3081/FUL- Demolition of existing bungalow and erection of 2 no. Dwellings.
REFUSED- 15/5/2019

Refused due to the scale and design of the development and loss of privacy to neighbouring properties.

7. POLICIES

7.1 National Policies

- 7.2 National Planning Policy Framework

7.3 Uttlesford Local Plan (2005)

Policy S7 –The Countryside
Policy GEN2 – Design
Policy H4- Backland Development
Policy GEN1- Access
Policy GEN8- Parking Standards
Policy GEN7 - Nature Conservation
Policy H9- Affordable Housing

7.4 Supplementary Planning Documents/Guidance

Uttlesford Local Residential Parking Standards (2013)
Supplementary Planning Document- Accessible homes and play space homes
Essex Design Guide

8. PARISH COUNCIL COMMENTS

- 8.1
1. House B is detrimental to the visual amenity and open character of Littlebury Green. It extends the built area of the village into surrounding countryside and consolidates existing development, therefore adversely affects the character and appearance of the site and surroundings.
 2. The development overshadows adjoining properties, mainly Farthings and Rosemary Cottage which were restricted to single storey on appeal. Additional traffic noise will be caused, disturbing the privacy of residents. Rosemary Cottage is still not on the plans and the development has a serious impact on Rosemary Cottage.
 3. Back land development and therefore not acceptable as an infill plot, which encourages applications of similar development elsewhere in the vicinity which could result in a gradual change to the character and appearance of the village. All other applications at the rear of properties in Littlebury Green have been refused at appeal.

4. The biodiversity report did not mention the nature reserve around St. Peters Church, owned by the PC and the impact of the effluent.
5. House A: The depth and proximity to Briarwood and Churchside is overbearing causing a loss of light and the design is poor.
6. House B has been repositioned and the height has been reduced, the repositioning impacts on the neighbouring properties and the reduction of height doesn't change the impact on the neighbouring properties. The orangery has increased in size which will overlook Farthings, Rosemary Cottage and Churchside.
7. The replacement of one dwelling to two larger dwellings is contrary to policy S7 and Policy GEN2 of the UDC Local Plan.
8. If the Planning Officer is minded to approve the application the PC has asked Cllrs Gregory and Pavitt to call in the application to be discussed at committee and to include a site visit.

9.0 CONSULTATIONS

The Highways Authority

- 9.1 No objections or further recommendations made

ECC Ecology

- 9.2 No objection subject to securing biodiversity mitigation and enhancement measures

We have reviewed the Preliminary Ecological Appraisal (Greenlight Environmental Consultancy, Nov. 2018) relating to the likely impacts of development on designated sites, protected species and Priority species and habitats. We are satisfied that there is sufficient ecological information available for determination.

This provides certainty for the LPA of the likely impacts on Protected and Priority species/habitats and, with appropriate mitigation measures secured, the development can be made acceptable.

The mitigation measures identified in the Preliminary Ecological Appraisal (Greenlight Environmental Consultancy, Nov. 2018) should be secured and implemented in full. This is necessary to conserve and enhance Protected and Priority Species.

We also support the proposed reasonable biodiversity enhancements, identified in the Preliminary Ecological Appraisal (Greenlight Environmental Consultancy, Nov. 2018), which have been recommended to secure measurable net gains for biodiversity, as outlined under Paragraph 170d of the National Planning Policy Framework 2019. The reasonable biodiversity enhancement measures should be detailed within a Biodiversity Enhancement Strategy and should be secured as a condition of any consent.

This will enable LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006.

Impacts will be minimised such that the proposal is acceptable subject to the conditions below based on BS42020:2013.

Submission for approval and implementation of the details below should be a

condition of any planning consent.
Recommended conditions:

**ACTION REQUIRED IN ACCORDANCE WITH ECOLOGICAL APPRAISAL
RECOMMENDATIONS**

“All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in Preliminary Ecological Appraisal (Greenlight Environmental Consultancy, Nov. 2018) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW,) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.”

Reason: To conserve and enhance Protected and Priority species and allow the LPA to discharge its duties under the UK Habitats Regulations, the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species).

PRIOR TO SLAB LEVEL: BIODIVERSITY ENHANCEMENT STRATEGY

“A Biodiversity Enhancement Strategy for Protected and Priority species shall be submitted to and approved in writing by the local planning authority.

The content of the Biodiversity Enhancement Strategy shall include the following:

1. Purpose and conservation objectives for the proposed enhancement measures;
2. detailed designs to achieve stated objectives;
3. locations of proposed enhancement measures by appropriate maps and plans;
4. persons responsible for implementing the enhancement measures;
5. details of initial aftercare and long-term maintenance (where relevant).

The works shall be implemented in accordance with the approved details and shall be retained in that manner thereafter.”

Reason: To enhance Protected and Priority Species/habitats and allow the LPA to discharge its duties under the s40 of the NERC Act 2006 (Priority habitats & species).

10 REPRESENTATIONS

21 objections received, see the following summary:

10.1	Comment Received	Case Officer comments
	The development has already commenced	The description of the development has been amended accordingly
	Overdevelopment of the plot	This will be considered in the following report
	This is back land development	This will be considered in the following report
	Loss of privacy to neighbouring properties	This will be considered in the following report
	The site is unsustainable	This will be considered in the following report
	Foul water solution should be included	This is not a material consideration

Insufficient consultation	All neighbours surrounding the site have been consulted by letter.
Removal of trees and pond in garden	The removal of trees prior to the submission of the application is not a material consideration
The revised application does not resolve the previous refusal reasons	This will be considered in the following report
Out of character with the site and surroundings	This will be considered in the following report
There are no other back land developments within the village	This will be considered in the following report
Insufficient parking	This will be considered in the following report
This will result in planning precedent	All planning application are considered by their own merits
The plans are misleading	The plans are considered sufficient to assess the proposal
Impact to wildlife	This will be considered in the following report

11 APPRAISAL

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

- A The principle of the development of this site, design (ULP Policies S7, H4 GEN2, NPPF, SPD Accessible Homes and Playspace);
- B Whether the development would result in harm to the amenity of the neighbouring properties by way of overlooking, overshadowing or overbearing effects (ULP Policies GEN2, GEN4, H4 Essex Design Guide and the NPPF)
- C Access to the site (ULP Policy GEN1);
- D Vehicle Parking Standards (ULP Policy GEN8 and ECC Parking Standards);
- E Nature Conservation (ULP Policy GEN7)
- F Affordable Housing (ULP Policy H9)
- G Any other material considerations

A The principle of the development of this site, design (ULP Policies S7, H4 GEN2, NPPF, SPD Accessible Homes and Playspace);

11.1 The site is outside of the development limits (ULP Policy S7). ULP Policy S7 states that the countryside will be protected for its own sake and that planning permission will only be given for development that needs to take place there or is appropriate to the rural area, with development only being permitted if its appearance protects or enhances the particular character of the part of the countryside within which it is set or there are special reasons why the development in the form proposed needs to be there.

11.2 Furthermore ULP Policy H4 considers back land development and advises that the development of a parcel of land that does not have a road frontage will be permitted, if all the following criteria are met:

a) There is significant under use of the land and development would make more effective 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

d) Access would not cause disturbance to nearby properties.

- 11.3 In regards to ULP Policy H4 the development is will make good use of the site; however its impact to the amenity of neighbouring properties in terms of noise and loss of privacy will be assessed in part B of this report. Furthermore sufficient garden space has been provided, in accordance with the aims of the Essex Design Guide.
- 11.4 Although it could be argued the proposal due to the introduction of new built form would fail to comply with Local Plan Policy S7, it is also recognised that the NPPF sets out applicable national planning policy in relation to sustainable development and housing in rural areas. It has also been found that Local Plan Policy S7 is partly consistent with the NPPF, due to its protective approach. The following paragraph sets out the assessment of the principle of the development in regards to the NPPF. The proposal is outside of the development limits in the countryside, however due to the fact that the development will be within the existing curtilage of the site and the line of development along Thomas Walk, it is not considered the proposal would result in a dominating or harmful encroachment into the open countryside.
- 11.5 The site is tacked on to the existing hamlet of Littlebury Green and although outside of the development limits I do not consider the site to be isolated, this is supported by recent case law Braintree DC v SSCLG [2018] EWCA Civ. 610 which considers the definition of an isolated dwelling, and gives further clarification to its definition. That being said the proposal should also accord with the sustainable elements of the NPPF as set out in the following paragraphs.
- 11.6 As identified in the most recent housing trajectory document (March 2019), the Council's housing land supply is of 3.29 years, with a delivery rate of 147%. For the present time, the Council is therefore unable to demonstrate a deliverable 5 year supply of housing land.
- 11.7 Paragraph 11 of the NPPF considers the presumption of sustainable development, this includes where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (this includes where five year housing supply cannot be delivered). This means that applications for sustainable development outside development limits may need to continue to be granted where appropriate to ensure the level of housing supply is robust and provides a continuous delivery of housing. Moreover the proposal should be considered against the three strands of sustainable development including economic, social and environmental
- 11.8 Economic:
The NPPF identifies this as contributing to building a strong, responsive and competitive economy, supporting growth and innovation and by identifying and coordinating development requirements, including the provision of infrastructure. The development will deliver a small economic role by the creation of a small amount of employment during the construction phase and the occupiers of the house would contribute to the local economy in the long term, as such there would be some, but limited, positive economic benefit.
- 11.9 Social:

The NPPF identifies this as supplying required housing and creating high quality built environment with accessible local services that reflect the community's needs and support its health, social and cultural well-being. In terms of the proposed development and in relation to the social aspect of sustainable development, the site is within reasonable walking distance of the village, this would be served by other villages and settlements within close proximity. Due to the location of the application site it is considered not be socially isolated and that the proposed development would be able to perform a social role and meet the social strand of sustainability in this regard.

11.10 Environmental:

The landscape performs the function of clearly defining and containing the extent of built form. The proposed external materials to be used in the development are considered acceptable in this location. The proposed dwelling to the front of the site (Plot A) is considered to be an appropriate scale, design form and siting. It includes a traditional form that will not be out of place with the character of the street form or surrounding area.

11.11 Plot B will be to the rear of the site and includes a one a half storey dwelling. This low level design is included to mitigate the impact the harm to the character of the area. The revised design of the dwelling includes an appropriate scale and siting that is not considered to be harmful to the character of the site and surrounding area.

11.12 The design of the dwellings include a traditional form, appropriate scale and siting that will be compatible with the surrounding area. A condition should be included for the submission of details of materials. The dwellings will include sufficient private amenity space in accordance with the aims of the Essex Design Guide. The council's landscape officer has been consulted, no objections or further recommendation have been made.

11.13 The proposed development will not result in a significant harmful encroachment to the outlying rural countryside area or have a dominating or intrusive impact to the site. As such it is considered the revised scheme is in accordance with ULP Policies S7, H4, GEN2 and the sustainable strand of development as outlined in the NPPF.

B Whether the development would result in harm to the amenity of the neighbouring properties by way of overlooking, overshadowing or overbearing effects (ULP Policies GEN2, GEN4, H4 Essex Design Guide and the NPPF)

11.14 Policy GEN2 of the Local Plan states that new development should not have any materially adverse effect on the reasonable occupation and enjoyment of a residential property as a result of loss of privacy, loss of daylight, overbearing impact or overshadowing.

11.15 Policy GEN4 considers the impact to neighbouring properties in regards to noise and disturbance.

11.16 The siting and scale of the proposed dwellings the development will not result in any material loss of light that will result in any significant harm to neighbouring properties, furthermore the siting of the dwelling will unlikely result in any overbearing impacts that will be harmful to neighbouring properties.

- 11.17 The siting of the dwellings within the application site will provide a back to back distance between properties of 25m and is in accordance with the aims of the Essex Design Guide and the protection of private amenity area. Due to the separation distance of the properties, this would also be consistent with the distances between plot B and the neighbouring properties along of Church side and Briarwood
- 11.18 To the rear of the site are the two bungalows, Farthings and Rosemary Cottage. Due to the siting of the dwellings I do not consider the proposal to result in any significant level of overlooking or loss of privacy that will have a harmful impact to neighbouring properties. The siting and orientation of the proposed dwelling (B) will ensure there is little overlooking of Farthings. In regards to the neighbouring property Rosemary Cottage, the rear elevation of plot B will be 10m from the rear boundary. The Essex design guide advises that back of houses at more than 30 degrees to one another the separation distance can be reduced to 15m. Furthermore to the rear of the site there is a public right of way that passes the neighbouring property. From the case officer visit it is clear that there is already some overlooking of the garden area of Rosemary Cottage from the public right of way. As such taking into consideration the above points although the proposal will result in some material overlooking it is not of a level that a significant harmful impact. That being said a condition for mature planting and screening should be included to help mitigate this further.

C Access to the site (ULP Policy GEN1)

- 11.19 The dwelling would be served by an existing access from Littlebury Green Road. Essex County Council Highways have been consulted and have not made any objections or further recommendations. The proposal will include a net increase of open dwelling; this is not considered of a significant increase of vehicular movement that will have a harmful impact to highway safety.

The proposal complies with ULP Policy GEN1.

D Vehicle Parking Standards (ULP Policy GEN8 and ECC Parking Standards);

- 11.20 In order to comply with locally adopted parking standards, for dwellings of three bedrooms, two parking spaces should be provided per dwelling off-road. These need to accord with the size dimensions as outlined in adopted Vehicle Parking Standards (2009) of 5.5m in depth and 2.9m in width. Three parking spaces and turning area have been shown on the proposed block plan for both plots and Essex County Council Highways specialist has been consulted and no objections have been made. As such it is considered the proposal complies with ULP Policy GEN8 and the Uttlesford Neighbourhood Parking Standards (2013).

E Nature Conservation (ULP Policy GEN7)

- 11.21 Policy GEN7 of the Local Plan states that development that would have a harmful effect on wildlife will not be permitted unless the need for the development outweighs the importance of the feature of nature conservation. Where the site includes protected species, measures to mitigate and/or compensate for the potential impacts of development must be secured.

An ecology appraisal report has been submitted with the application and Essex

County Council Ecologists have been consulted, no objections have been made subject to the imposition of a condition regarding mitigation measures. It is therefore unlikely the proposed development will have harmful impact to adverse impact on protected species caused and therefore complies with Policy GEN7.

F Affordable Housing (ULP Policy H9)

- 11.22 The proposal would not give rise to a requirement for a contribution towards affordable housing provision. I advise that recent changes to the National Planning Practice Guidance (NPPG) means that affordable housing contributions will no longer be imposed on development schemes of 10 or less dwellings, unless the floor-space of the proposed development is 1000sqm or more.

G Any other material considerations

- 11.23 The following policies are included in the emerging local plan and therefore have been considered in the assessment of the application, these policies hold some limited weight.

SP10 Protection of countryside
D1- High quality design
TA4- Vehicle parking standards
TA1-Accessible development
EN8- Protecting the natural environment
H6- Affordable Housing

12. CONCLUSION

- 12.1 In conclusion the development will represent an acceptable form of sustainable development in terms of countryside impact, design, layout, and amenity, access, parking arrangements. The proposal would comply with national and relevant local plan policy and is acceptable.

RECOMMENDATION – APPROVAL , SUBJECT TO CONDITIONS

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. The dwellings hereby permitted must be built in accordance with Optional Requirement M4(2) (Accessible and adaptable dwellings) of the Building Regulations 2010 Approved Document M, Volume 1 2015 edition.

REASON: To ensure compliance with Policy GEN2 of the Uttlesford Local Plan 2005 and the SPD on Accessible Homes and Playspace.
3. Prior to commencement of works above slab level a Biodiversity Enhancement Strategy for Protected and Priority species shall be submitted to and approved in writing by the local planning authority.
The content of the Biodiversity Enhancement Strategy shall include the following:
 - i. Purpose and conservation objectives for the proposed enhancement

- measures;
- ii. detailed designs to achieve stated objectives;
- iii. locations of proposed enhancement measures by appropriate maps and plans;
- iv. persons responsible for implementing the enhancement measures;
- v. details of initial aftercare and long-term maintenance (where relevant).

The works shall be implemented in accordance with the approved details and shall be retained in that manner thereafter.

REASON: To enhance Protected and Priority Species/habitats and allow the LPA to discharge its duties under the s40 of the NERC Act 2006 (Priority habitats & species) and in accordance with ULP Policy GEN7 (adopted 2005).

- 4 Prior to commencement of the development, details of all hard and soft landscaping (including planting, hard surfaces and boundary treatment) shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details. This should include boundary treatment between the site and neighbouring property.

All planting, seeding or turfing and soil preparation comprised in the above details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings, the completion of the development, or in agreed phases whichever is the sooner, and any plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation. All landscape works shall be carried out in accordance with the guidance contained in British Standards, unless otherwise agreed in writing by the local planning authority.

REASON: To ensure compatibility with the character of the area in accordance with ULP Policies S7 and GEN2 of the Uttlesford Local Plan (adopted 2005)

- 5 All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in Preliminary Ecological Appraisal (Greenlight Environmental Consultancy, Nov. 2018) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW,) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.”

REASON

To conserve and enhance Protected and Priority species and allow the LPA to discharge its duties under the UK Habitats Regulations, the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species) and in accordance with ULP Policy GEN7 (adopted 2005).

- 6 The eaves and ridge heights of the permitted dwellings relative to Churchside and Briarwood must be as shown on Drawing No. M&H/07A/2 (Street scene).

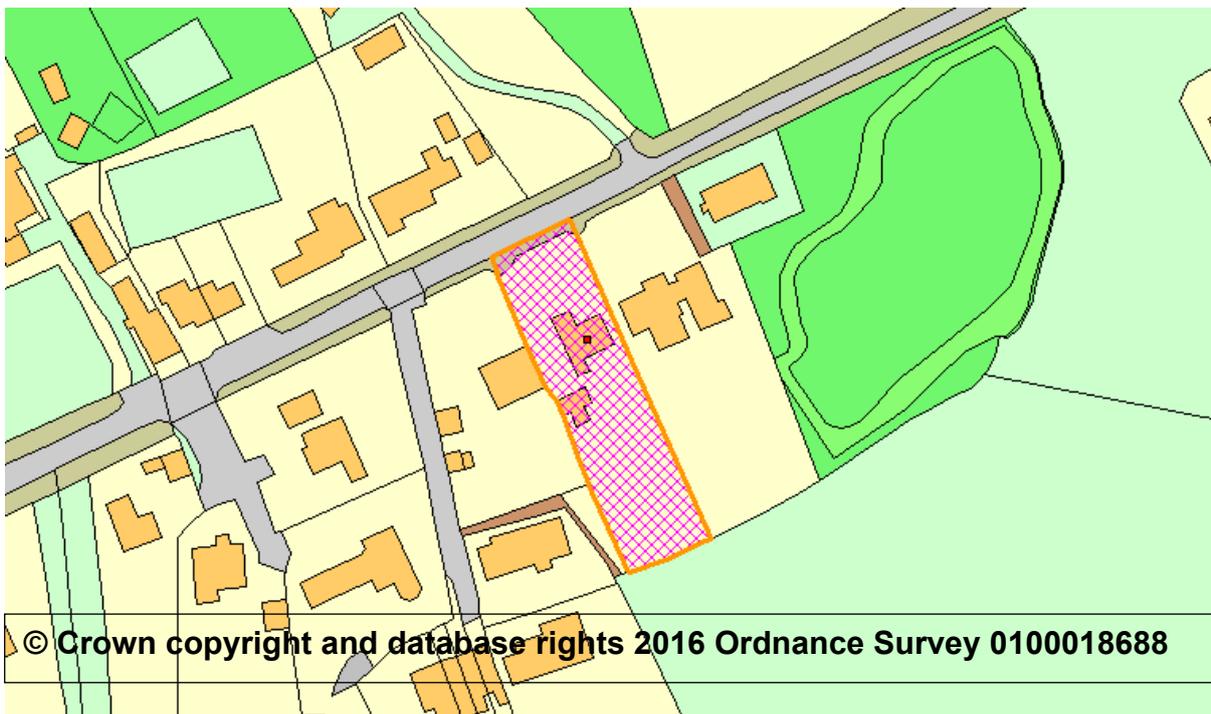
REASON: For the avoidance of doubt and to ensure compatibility with the character and appearance of the area, in accordance with Policy S7, Policy GEN2 of the Uttlesford Local Plan (adopted 2005) and the National Planning Policy Framework

- 7 Prior to commencement of works above slab level, details of the following external finishes (including samples and/or photographs as appropriate) must be submitted to and approved in writing by the local planning authority:

- Walls
- Roof
- Windows
- Doors

The development must be carried out in accordance with the approved details.

REASON: To ensure compatibility with the character of the area, in accordance with Policy S7 and Policy GEN2 of the Uttlesford Local Plan (adopted 2005) and the National Planning Policy Framework. This condition is to ensure that the development is only carried out in accordance with the above details.



Organisation: Uttlesford District Council

Department: Planning

Date: 27 September 2019