

UTT/18/1027/FUL NEWPORT PARISH COUNCIL

(MINOR APPLICATION TO BE HEARD BY THE COMMITTEE FOLLOWING A HIGH COURT JUDGEMENT TO QUASH THE ORIGINAL DECISION NOTICE)

PROPOSAL: Proposal for the demolition of existing outbuildings and the erection of 4 no. detached dwellings with associated amenity space and parking.

LOCATION: Land to the east of Whiteditch Lane, Newport, CB11, 3UD

APPLICANT: Walden and Land Property Ltd.

AGENT: Mr M McGarr – English Architectural

EXPIRY DATE: 13th June 2018

CASE OFFICER: Robert Davis

1. NOTATION

1.1 Outside Development Limits, Within 1km of SSSI

2. DESCRIPTION OF SITE

2.1 The subject site is located on the eastern side of Whiteditch Lane in Newport (a byway), approximately 300m north of the intersection with Bury Water Lane. The site is a rural-residential allotment created off the rear curtilage of an existing single dwelling on a large lot known as Wyndham's Croft. The development site is hatchet-shaped, with an access handle-only street frontage of approximately 14m, narrowing to 9.5m before widening to almost 64m, and having a depth of 130m. The site has an area of 0.51ha. The land is generally flat, with a short tiered drop in level in the area of the boundary where the retained curtilage of the Wyndham's Croft house is proposed to separate from the development site

2.2 The site has a semi-rural setting with dwellings to the south and west and a backdrop of agricultural land uses. Branksome, a dwelling and its garden, lies immediately to the north, with Oak Tree House and Holmwood beyond. There are dense hedgerows to the east but beyond these are local sporting fields. To the west are major residential redevelopments of 20 dwellings on Pastures Close and 84 new dwellings on the Cala site. A new aged care facility is nearing completion to the southwest.

2.3 Joyce Frankland Academy (a school) is located to the south-east. Newport railway station, which lies south of the main commercial street of Newport Village, is located 1.1km to the southeast of the site.

2.4 The site is located approximately 300m outside (north) of the development limits of the Newport Village identified in the Uttlesford Local Plan, and 400m from the northern extent of the Newport Conservation Area.

3. PROPOSAL

- 3.1 The proposal is for the demolition of the existing outbuildings and the erection of four detached dwellings and associated amenity space and parking. The dwellings would be positioned in an L shape around the turning head of a 4.8m wide driveway that reaches the houses through a landscaped area.
- 3.2 Each dwelling would be a two storey house providing five bedrooms and with Gross Internal Areas of between 200m² and 210m². Two of the dwellings would feature attached double garages with Plots 2 and 4 having a detached garage.
- 3.3 Each dwelling would be provided with ample amenity area annotated on the site plan to be between 329m² and 487m² in extent.

4. ENVIRONMENTAL IMPACT ASSESSMENT

- 4.1 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.

5. APPLICANT'S CASE

- 5.1 The application is accompanied by a Design and Access statement and a Biodiversity questionnaire, as well as a revised landscape scheme.

6. RELEVANT SITE HISTORY

- 6.1 A Decision Notice was issued in error on the 19th October 2018 mistakenly granting planning permission contrary to the content of the officer's report and recommendation for refusal. An application was duly made by the Council to the High Court to quash the notice.
- 6.2 The following recommendation for refusal:
A suitable legal agreement has not been completed to secure appropriate affordable housing provision, mitigate the impacts of the development on education and affordable housing, in conflict with policies H9, GEN6 and GEN1 of the Uttlesford Local Plan (adopted 2005) and the National Planning Policy Framework.
was given, in error, as a condition of the planning permission.
- 6.2 The High Court considered that the recommendations in the Officer's report caused the reasons for the grant of planning permission to be unintelligible when viewed in the context of the conclusions of the report and the explanatory notes and guidance in the Decision Notice.
- 6.3 The notice was duly quashed by the High Court on the 29th March 2019.

7. POLICIES

- 7.1 National Policies
- National Planning Policy Framework
 - Planning Practice Guidance
- 7.2 Uttlesford District Local Plan 2005
- S7- The Countryside
 - GEN 1 – Access
 - GEN 2 – Design
 - GEN 3 – Flood Protection
 - GEN 7 – Nature Conservation

- GEN 8 – Vehicle Parking Standards
- H1 – Housing Development
- H9 – Affordable Housing
- H10 – Housing Mix

Supplementary Planning Documents/Guidance

- SPD – Accessible Homes and Playspace (2005)
- The Essex Design Guide
- Parking Standards: Design and Good Practice (2009)
- Uttlesford Local Residential Parking Standards (2013)

- 7.3
- West Essex and East Hertfordshire Strategic Housing Market Assessment (2016)
 - Uttlesford Strategic Flood Risk Assessment (2016)
 - NPPF 2019 – Five Year Housing Land Supply update (March 2019)
 - Emerging Local Plan

8. NEWPORT PARISH COUNCIL COMMENTS

8.1 Newport Parish Council objects to the above application for the following reasons:

8.2 Allocation: The site is not included in the draft Uttlesford Local Plan and is also not allocated as a site in the draft Newport, Quendon and Rickling Neighbourhood Plan. In addition, this site is at the very end of the lane where the road peters out into a public footpath. The site is consequently outside village development limits.

8.3 Transport: Whiteditch Lane is a single track byway with no lighting, footpaths and has a double blind bend making access on the lane for vehicles, pedestrians and horses extremely hazardous. Permission has already been given for 67 additional houses (in fourteen separate developments) on the lane on top of the original 12 houses recorded in the 2011 census, only one of which has been completed. No cumulative impact assessment has been completed to assess the traffic impact of this increase as required by Essex Highways.

8.4 A request was made to Essex County Council, as the local highway authority, in order to understand the requirements for the Transport Statement. A Strategic Development Officer within the Transportation, Planning and Development Department responded by email on the 16th March 2018 advising the following:

8.5 'As I am sure you are aware, there has been a number of planning applications submitted along Whiteditch Lane in the past few years. Whiteditch Lane is a public byway, and has a number of constraints ie, width. A cumulative impact assessment should take into account all committed development along Whiteditch Lane, and all existing dwellings/ land uses. This would allow the Highway Authority to fully understand the impact of the proposed development'.

8.6 Despite claiming to be a cumulative impact assessment the applicant's transport assessment only takes into account two sites that have been approved on Whiteditch Lane, being Wyndham's Croft (15 houses) and Land South of Bury Grove (20 houses) which account for only 35 of the 67 approvals on the Lane. The report takes into account two developments which are adjacent to the site (Care Home 40 bed unit and 81 flats) and CALA Homes (84 houses) which should both be accessed from Bury Water Lane not Whiteditch Lane. Unfortunately due to an incorrect phrase permitted by UDC during a discharge of condition the developers from the Care

Home are accessing their site during construction from Whiteditch Lane which is making the access situation even worse.

- 8.7 **Demonstrable Need:** Newport has taken a large number of new developments - a 46% increase so far since 2011- and there is no demonstrable need for any more new homes. In 2011 there were 974 houses in Newport. Since then an additional 444 houses have been approved to be built here, only 88 of which have actually been completed so far. No infrastructure improvements have been implemented to support this increase to the village.
- 8.8 **Flooding:** There is a significant flood risk; flooding has occurred on numerous occasions in the past on the corner of School Lane and Bury Water Lane. Whilst Environment Agency mapping demonstrates the risk of flooding where capacity is at 100%, the reality is that the riparian owner of the river channel at the bottom of School Lane (ECC) has failed to maintain the channel for decades and consequently the risk is higher than the EA figures suggest. Some clearance work has been completed under the small bridge at the ford but this is insufficient to remove the risk.
- 8.9 **Drainage:** There is currently no means for surface water to be drained on the Lane, there is an informal collection of culverts and ditches, most of which have been damaged during the recent building works on the lane and no longer function. It is not clear where the ultimate outfall for any surface water would exit the lane, currently water runs down the road surface and pools at the bottom of the lane which is dangerous, particularly in icy conditions. An example of this occurring can be seen here: <https://www.facebook.com/chris.hollidge/videos/10153435604901604/>
- 8.10 A meeting is in the process of being arranged for UDC, Highways, SUDS and flooding teams from ECC and Newport Parish Council to review the cumulative impact of the significant development on Whiteditch Lane however a date has not yet been set and given the complexity of the quantity of sites, land owners and constraints posed by the limitations of the lane these problems will not be easily resolved.
- 8.11 **Sewerage:** There is no mains drainage for foul water for the majority of Whiteditch Lane, there is also no watercourse for treated effluent to be discharged into. Consequently the majority of housing along Whiteditch Lane is required to use sewage treatment plants / septic tanks and weepers. In the absence of any effective drainage on the lane the land can only take so much and residents at the top of the lane are already experiencing problems with waterlogging on their land.
- 8.12 **Air Quality:** More traffic from this site will use Wicken Road and air pollution levels at the bottom of Wicken Road are already at dangerous levels. A request has already been made to UDC to extend monitoring of air pollution to Bury Water Lane given the illegal levels that are being recorded on Wicken Road. This development would increase traffic volumes and exacerbate the already illegal levels of air pollution in the village, contravening policy ENV13.

9. CONSULTATIONS

ECC Archaeology

- 9.1 **RECOMMENDATION:** An Archaeological Programme of Trial Trenching followed by Open Area Excavation
Reason for Archaeological recommendation

The Historic Environment Record and the Historic Environment Characterisation study indicate that the proposed development lies within a potentially sensitive area of heritage assets.

9.2 The proposed development lies just outside the suggested limits of the medieval town, however, there is documentary evidence of a castle being in the vicinity (EHER 234). Initially thought to be in the area of the school, however, excavations here have failed to identify any remains in this area. Recent trial trenching to the west of the site identified prehistoric occupation (EHER 48597) with large pit sequences and enclosures. There is the potential that this occupation will extend into the development area

9.3 The archaeological work would comprise initial trial trenching to identify the extent and depth of archaeological deposits followed by open area excavation if archaeological deposits are identified. All archaeological work should be conducted by a professional recognised archaeological contractor in accordance with a brief issued by this office

ECC Highways

9.4 From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to recommended measures.

ECC Ecology

9.5 I have reviewed the Preliminary Ecological Appraisal Report (Skilled Ecology, updated April 2018) supplied by the applicant, relating to the likely impacts of development on Protected & Priority habitats and species, particularly swallows and identification of proportionate mitigation. I am satisfied that there is sufficient ecological information available for determination.

10. REPRESENTATIONS

10.1 Neighbours were notified of the application by letter on 18th April 2018 and a site notice was displayed on site.

10.2 One objection received with the following comments:

- Backland development
- Outside settlement boundary
- Narrow lane
- Dangerous access
- Too much development already
- Lane frequently floods
- Concerns over bats and other wildlife
- Unsustainable location

11. APPRAISAL

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

- A Principle of and quantum of development (Policies S7, NPPF)
- B Access (Policy GEN1)
- C Design and amenity (Policy GEN2)
- D Affordable housing and infrastructure provision (Policies H9 and GEN6)

- E Parking (Policy GEN 8)
- F Housing Mix (Policy H10)
- G Drainage and flooding (Policy GEN3)
- H Archaeology (Policy ENV4)
- I Biodiversity (Policy GEN7)

A Principle of and quantum of development (Policies S7, NPPF)

- 11.1 Newport is identified as a key village in the local plan and has been subject to significant development in recent years, particularly to the north-west within the Bury Water Lane/Whiteditch Lane area where the application site is located. The site is approximately 300m outside the village development limits of Newport, as defined on the 2005 Local Plan and is therefore within the countryside for plan purposes, however account must be taken of the significant piecemeal development in recent years that has resulted in adjacent new residential development to the site. It is, however, noted that the site is to remain outside the development limits in the proposed allocations map for the Emerging Local Plan.
- 11.2 ULP Policy S7 applies to the proposal and in a recent appeal on land in Newport, ref: APP/C1570/W/18/3209655, for a proposed development of up to 150 dwellings, dated 30th August 2019, the Inspector considered the relevance of the policy when assessed against paragraph 11(d) of the Framework. The Inspector stated "whilst the Framework takes a positive approach, rather than a protective one, to appropriate development in rural areas, Policy S7 is identified by the Council as being the only policy in the ULP that deals with development in the countryside. It seeks to protect and enhance the natural environment, an important part of the environmental dimension of sustainable development in the Framework. Taking into account these factors, I consider that Policy S7 should be afforded significant weight when considering development proposals in the countryside".
- 11.3 Policy S7 states that the countryside will be protected for its own sake and that planning permission will only be granted for development that is required to be there or is appropriate to a rural area, adding that there will be strict controls on new building. The policy allows for limited infilling but as the application is not a small gap between existing developments it is not considered to represent an infill site. The policy adds that development will only be 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.
- 11.4 The proposal would increase the quantum of development in the area by the addition of four amply proportioned dwellings resulting in the urbanisation of a parcel of land that presently retains a degree of rurality. It is not considered that the proposal protects or enhances the character of the countryside and thus is contrary to the first requirement of Policy S7.
- 11.5 It is further considered that there is no reason why housing needs to be located here, another requirement of Policy S7. In terms of future policy direction towards housing Policy SP3 of the Emerging Local Plan sets out the distribution of housing development to be provided over the Local Plan period up to 2033. This policy seeks to provide 344 new homes within the key villages including an additional 94 homes in Newport within the plan period. Policy NEWP1 allocates a 4.5ha site on land west of London Road for such development and a development for 94 homes was granted permission on appeal on the 27th October 2017, application reference UTT/15/1869/FUL. All other residential sites within the Emerging Local Plan identified

in Newport had planning consent as of 1st April 2017. As such, unless the allocations proposed within the Emerging Local Plan are found to be unsound then no further land is required to be released for housing in Newport during the plan period up to 2033.

- 11.6 Newport Parish Council have objected to the proposal, having cited various reasons with particular concerns about the cumulative impact of development in the area. The Parish Council are in the early stages of preparing a neighbourhood plan, together with the villages of Quendon and Rickling, which contains Policy H1 that does not permit further development on Whiteditch Lane into the open countryside, including onto the school sports ground, accessing or extending the byway. Given the early stage of the neighbourhood plan process no weight can be afforded to this policy at present although it does provide an indication of concern regarding the cumulative development that has taken place within the local area.
- 11.7 It is accepted that the Council are currently unable to demonstrate a five-year housing land supply, with shortfall being around 2.68 years. In such circumstances Paragraph 11d, within the Achieving Sustainable Development section, of the NPPF states that permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when considered against the policies in the Framework as a whole. Paragraph 180 of the Framework states that planning policies and decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts on the environment that could arise from the development. The proposal would be overdevelopment adding to further excessive demands, exacerbated by the spate of recent development in the Whiteditch Lane area, on infrastructure provision and, in further eroding the character of this semi-rural area, would not meet the sustainability criteria with regards to the environmental impact. The identified harm and negative impact that the development would contribute to Newport would not be outweighed by the limited positive contribution to the District's housing supply.
- 11.8 It is noted that applications for a replacement dwelling and an additional dwelling on the site of Branksome on Whiteditch Lane (Reference : UTT/18/3293/FUL), which is adjacent the development site, and a proposed development of eight dwellings at Five Acres on Whiteditch Lane (Reference: UTT/18/2904/FUL) have recently been refused for reasons of the cumulative impact on access and environment. Given the importance of consistency in decision making, and that there are no distinguishing reasons why this application need be determined differently, such grounds for refusal would also apply.

B Access (Policy GEN1)

- 11.9 It is noted that the Highways Authority response received on the 14th June 2018 did not object to the proposed development. Nevertheless it is increasingly apparent that the cumulative impact of development in the area is problematic, as evidenced by the Highways Authorities consultation response to the Five Acres application and their recommendation for refusal.
- 11.10 Paragraph 109 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

11.11 As with the refused decisions for the sites at Branksome and Five Acres, referenced above, a reason for refusal incorporating the impact upon highway safety is considered to be both reasonable and consistent.

C Design and amenity (Policy GEN2)

11.12 Both national and local policy expect developments to be constructed to a high standard of design. Local Plan Policy GEN2 seeks to promote good design requiring that development should meet with the criteria set out in that policy. Regard should be had to the scale form, layout and appearance of the development and to safeguarding important environmental features in its setting to reduce the visual impact of the new buildings where appropriate. The guidance set out in Paragraph 127 of the NPPF stipulates that proposed development should function well and add to the overall quality of the area, optimise the potential of the site to accommodate development and be visually attractive as a result of good architecture.

11.13 It is not considered that the design of the dwellings is one that can be supported. They have a rather blocky appearance which neither respects the Essex vernacular and the guidance of the Essex Design Guide nor provides a contemporary twist adding an interesting departure to the norm. This is particularly evident with the design for Plot1, which uses a parapet wall with roof setback, and a sprawling single storey element incorporating garaging. The appearances of the other dwellings are also not considered to be compatible with the character of the area.

11.14 In other respects the dwellings would be of ample size and be provided with large gardens thus providing an environment which may meet the reasonable needs of all potential users.

11.15 With respect to other properties it is considered that there would be no significant adverse effects on the amenity of neighbouring occupiers with respect to daylight, privacy or overbearing impacts due to the location and orientation of the dwellings and the separation distance involved.

D Affordable housing and infrastructure provision (Policies H9 and GEN6)

11.16 Local Plan Policy H9 states that the Council seeks to negotiate on a site to site basis an element of affordable housing of 40% of the total provision of housing. This has been effectively superseded by paragraph 63 of the NPPF which states that the provision of affordable housing should not be sought for residential developments which are not major developments. This is defined in the NPPF as development where 10 or more homes will be provided, or the site has an area of 0.5ha.

11.17 Policy GEN6 states that development will not be permitted unless it makes provision at the appropriate time for community facilities, school capacity, public services, transport provision, drainage and other infrastructure that are made necessary by the proposed development.

11.18 It is the opinion of the Local Planning Authority that the current application can be seen as part of an overall development project of land associated with the ownership of Wyndhams Croft including the adjacent 16 dwellings constructed following the planning permissions UTT/14/2366/OP and UTT/17/1493/FUL. It is also noted that the two Directors of Walden and Land Property, the applicant listed for this application, are also Directors of Amherst Homes Ltd, the developer of the adjacent site. With the provision of 4 houses on this latest development proposal this would

result in a cumulative total of 20 dwellings. The adjacent site was subject to a S106 agreement requiring an educational contribution and 40% affordable housing.

- 11.19 Notwithstanding the above opinion the site, as outlined in red on Drawing Number BRD/18/017/006, measures just under 0.51ha in extent thus qualifying it as a major development on which affordable housing can be sought.
- 11.20 The Essex County Council Developers Guide to Infrastructure Contributions, upon adoption, seeks financial contributions for educational provision on sites of 20+ dwellings. There is also a new requirement for financial contributions for libraries in respect of developments of 20+ dwellings dependant on local circumstances.
- 11.21 The documents submitted with application do not contain any details regarding the provision of affordable housing or infrastructure contributions. The proposal would be contrary to Policies H9, GEN6 and the NPPF.

E Parking (Policy GEN 8)

- 11.22 The ECC adopted parking standards require a minimum of two parking spaces per dwelling and additional visitor parking of 0.25 spaces per dwelling rounded up to the nearest whole number. The ULP standard seeks a maximum of 2 spaces for up to three bed properties and 3 spaces for dwellings with four or more bedrooms.
- 11.23 Each dwelling would be provided with a double garage. Although they would each meet the required width to provide two parking spaces, at just over 6m in usable depth there is a marginal shortfall to the 7m depth requirement of the adopted parking standards. Given that each dwelling would be provided with an external driveway able to facilitate the parking of several vehicles it is considered that the level of parking provision would be in accordance with the requirements of Policy GEN8.

F Housing Mix (Policy H10)

- 11.24 Policy H10 requires that for all developments on sites of 0.1 hectares above or of 3 or more dwellings a significant proportion of market housing comprising small properties. The development would provide five large dwellings, each with five bedrooms, and such a development would not help to support a balanced and sustainable community. The proposal would therefore be contrary to Policy H10.

G Drainage and flooding (Policy GEN3)

- 11.25 The site is contained within Flood Zone 1 as defined by the Environment Agency, land zoned as having the lowest level of flooding. Newport Parish Council states that this does not portray local conditions and that flooding has occurred on numerous occasions in the past on the corner of School Lane and Bury Water Lane and that there is currently no means for surface water to be drained on the Lane.
- 11.26 In terms of foul sewerage the applicant has stated that it will be disposed of with a package treatment plant and that surface water would be disposed of through a sustainable drainage system. The principle of both are considered to be acceptable in this regard and can be conditioned should planning permission be granted. Notwithstanding the concerns of the Parish Council it is considered that the proposed measures would satisfy the requirement of Policy GEN3 and that of the NPPF.

H Archaeology (Policy ENV4)

11.27 Taking into account the comments of the Historic Environment Adviser, it is considered that there is the potential to affect important archaeological remains. Subject to the use of a condition to secure appropriate investigation, it is concluded that the proposal accords with the above policy in relation to archaeology.

I Biodiversity (Policy GEN7)

11.28 The applicant has submitted a Preliminary Ecological Appraisal Report (Skilled Ecology, updated April 2018) relating to the likely impacts of development on Protected & Priority habitats and species, particularly barn swallows due to old nests being discovered, and identification of proportionate mitigation. The County ecologist has no objections to the development per se subject to measures to secure a degree of biodiversity enhancement. The proposal is considered to be in accordance with Policy GEN7.

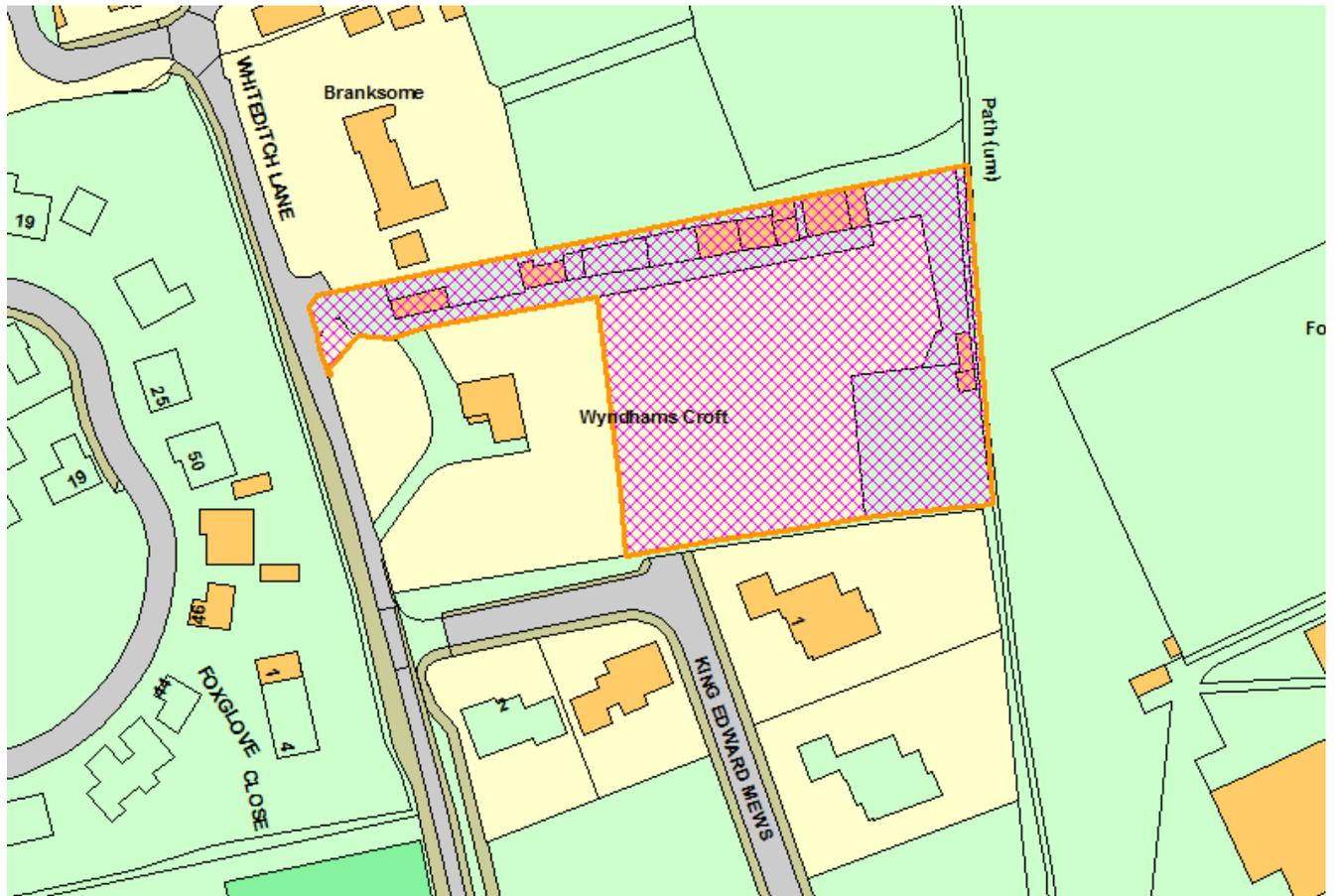
12. CONCLUSION

- A** The application site is within an area where the cumulative impact of further development would be unacceptable.
- B** The design of the proposed dwellings are not considered to be in character with the rural and village nature of this part of the district.
- C** No affordable housing or infrastructure provision has been provided.
- D** The development would not provide a necessary mix of housing to enhance social cohesion.

RECOMMENDATION – REFUSAL

Reasons for refusal

1. The proposal would exacerbate further the cumulative impact of development in Whiteditch Lane and Bury Water Lane resulting in significant detrimental harm upon matters of highway and pedestrian safety and harm to the rural countryside setting of the area contrary to Policies GEN1 and S7 of the Uttlesford Local Plan 2005 and Paragraphs 109 & 180 of the National Planning Policy Framework 2019.
2. The dwellings have an unsatisfactory blocky appearance failing to respect the local vernacular resulting in an incongruous development harmful to this rural countryside setting contrary to Policy GEN2 of the Uttlesford Local Plan 2005 and Paragraph 127 of the National Planning Policy Framework 2019.
3. No contributions have been proposed to secure appropriate affordable housing and infrastructure provision contrary to Policies H9, GEN6 and GEN1 of the Uttlesford Local Plan (adopted 2005) and the National Planning Policy Framework 2019.
4. The proposed development fails to address the housing mix requirements of the District and would therefore have an adverse effect on the community contrary to Policy H10 of the Uttlesford Local Plan (adopted 2005) and the National Planning Policy Framework 2019.



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Organisation: Uttlesford District Council
Department: Planning
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