

UTT/20/1603/FUL (NEWPORT)

(Referred to Planning Committee by Councillor Hargreaves for the following reasons:

- The proposal is outside the development framework of Newport and is contrary to ULP Policy S7)

PROPOSAL:	Construction of a new dwelling and car port
LOCATION:	Land Rear of The Chestnuts, Bishops Way, Newport, Saffron Walden, Essex, CB11 3PA
APPLICANT:	Mr Bishop
AGENT:	Mr Jason Seed
EXPIRY DATE:	04th September 2020 (Extension of time until 05th October 2020)
CASE OFFICER:	Nathan Makwana

1. NOTATION

- 1.1 Outside Development Limits,

2. DESCRIPTION OF SITE

- 2.1 The application site comprises a parcel of unoccupied land which is located in excess of 20m from the rear boundary fence of the residential dwellings facing onto London Road. The western section of the site is bounded by agricultural land whilst areas to the east and south are occupied by residential properties and associated curtilages. Access to the site is achieved via a gravelled surface track from London Road which accesses another newly developed dwelling to the north of the application site.

3. PROPOSAL

- 3.1 The application seeks full planning permission for the erection of a new dwelling and car port.

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.
- 4.2 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. The applicant also draws reference to recently approved planning applications, which are outlined in the section below.
- 5.2 Also submitted with this planning application is a completed Biodiversity Checklist.

6. RELEVANT SITE HISTORY

- 6.1 UTT/20/0158/FUL - Erection of 1 no. detached dwelling with garage and carport – Withdrawn on 05.03.2020
- 6.2 Appeal: APP/C1570/W/17/3174576 – Dismissed on 03.11.2017
- 6.3 UTT/17/0050/FUL - Erection of two detached dwelling houses and garages – Refused on 12.04.2017
- 6.4 UTT/16/2004/DOC - Application to discharge condition 2 (samples of materials for external surfaces) attached to UTT/15/2152/FUL dated 23.10.2015 – Approved on 16.08.2016
- 6.5 UTT/14/3625/FUL - Erection of 3 no. dwellings and associated parking facilities – Refused on 30.01.2015
- 6.6 UTT/1277/11/FUL - Erection of dwelling and garage amended scheme to that approved under UTT/0422/11/FUL – Approved on 18.08.2011
- 6.7 UTT/0548/09/FUL - Erection of new dwelling – Approved on 02.02.2010

7. POLICIES

National Policies

National Planning Policy Framework (NPPF) (June 2019)
National Planning Policy Guidance (NPPG)

7.1 Uttlesford Local Plan (2005)

ULP Policy S7 – The Countryside
ULP Policy H1 – Housing Development
ULP Policy H4 – Backland Development
ULP Policy H9 – Affordable Housing
ULP Policy GEN1 – Access
ULP Policy GEN2 – Design
ULP Policy GEN4 – Good neighbourliness
ULP Policy GEN7 – Natural Conservation
ULP Policy GEN8 – Vehicle Parking Standards
ULP Policy ENV11 – Noise Generators
ULP Policy ENV14 – Contaminated Land

7.2 Supplementary Planning Documents/Guidance

SPD – Accessible Homes and Playspace

7.3 Other Material Considerations

8. PARISH COUNCIL COMMENTS

8.1 Newport Parish Council

- 8.2 Newport Parish Council have provided an 11 page document outlining their response objecting to this planning application. Due to the size of their consultation response, it has been added as an appendix to this report, known as Appendix 1 and available to view at the end.

Their objection outlines the Site History, the Site Location and Layout. Their objections focus on the following elements: Countryside, Impact on Neighbours/Living Conditions, Levels and Overlooking, Garden Space – Elysium, Access, Restrictive Covenant on Development, Refuse Collection, Trees and Cumulative Impact/Housing Supply.

8.3

- 8.4 The conclusion to their comments are as follows: “Newport Parish Council conclude that many of the reasons for the dismissal of the appeal hearing APP/C1570/W/17/3174576 in 2017 on this site still remain applicable, particularly regarding overlooking and impact on surrounding dwellings. The application would also significantly reduce the plot size of Elysian as approved under UTT/15/2152/FUL. This application represents back development in a plot that is outside the development limits for Newport and is indisputably in the countryside. It is therefore contrary to ALP policies GEN2, H4, also S7 and NQRHA1. No information has been provided that provides a reason why this development needs to be here and there has been sufficient development already in Newport such that one additional 5 bedroom dwelling is not necessary or required.”

- 8.5 In their consultation response, Newport Parish Council make reference to the Neighbourhood Plan for Newport, Quendon and Rickling. The Neighbourhood Plan remains un-adopted. Currently, the Independent Examiner has on the Newport Quendon & Rickling Neighbourhood Plan has recommended that the modified Plan should proceed to Referendum.

- 8.6 As the Neighbourhood Plan remains un-adopted, little weight can be attributed to it as part of the assessment of this planning application.

9. CONSULTATIONS

ECC Highways

- 9.1 From a highway and transportation perspective the Highway Authority has no objections to make on this proposal as it is not contrary to the relevant transportation policies contained within the Highway Authority’s Development Management Policies, adopted as County Council Supplementary Guidance in February 2011 and Uttlesford Local Plan Policy GEN1.

Informative:

- i. All work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of the Highway

Authority, details to be agreed before the commencement of works. The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org or by post to: SMO2 - Essex Highways, Springfield Highways Depot, Colchester Road, Chelmsford, CM2 5PU.

UDC Environmental Health

9.2 Noise:

The site is subject to transportation noise, predominantly from the M11 Motorway 200m away.

BS 8233:2014 - Guidance on Sound Insulation and Noise Reduction for Buildings, provides guideline internal noise levels which should be achieved through sound insulation measures for acceptable living conditions in habitable rooms. The following condition is therefore recommended, based on the guideline levels:

The structure, glazing and ventilation specification of the dwellings shall be designed to achieve the following environmental noise limits internally:

Bedrooms (23.00-07.00 hrs) 30 dB LAeq and 45 dB LAm_{ax}. Living Rooms (07.00-23.00 hrs) 35 dB LAeq

Contaminated Land:

The Council is not aware of any potentially contaminate past use, however, it is the developers responsibility to ensure that final conditions are fit for the end use of the site therefore the following condition is requested;

If during any site investigation, excavation, engineering or construction works evidence of land contamination is identified, the applicant shall notify the Local Planning Authority without delay. Any land contamination identified, shall be remediated to the satisfaction of the Local Planning Authority to ensure that the site is made suitable for its end use.

Reason: To protect human health and the environment

Electric Charge Points:

NPPF 2018 supports provision of measures to minimise the impact of development on air quality by encouraging non car travel and providing infrastructure to support use of low emission vehicles. *A condition requiring charging points for electric vehicles is requested.*

Informatives

Energy saving and renewable technologies should be considered for this development in addition to the electric vehicle charge points, such as solar panels, ground source heat pumps etc. in the interests of carbon saving and energy efficiency.

Developers are referred to the Uttlesford District Code of Development

Practice. To avoid/minimise the impact upon the amenity of adjoining residents; developers are advised to follow the General Principle, and advice contained therein.

10. REPRESENTATIONS

10.1 5 Neighbour Representations have been received, all objecting to the application proposal.

A site notice was displayed at the application site on the 17th July 2020 and expired on the 07th August 2020.

Neighbour notification period expired on the 31st July 2020.

10.2 Summary of representations received as follows:

- There is no need for extra housing of this nature at the present time. The proposed development is outside the development limits and so should be refused.
- The proposed house will adversely affect the living conditions of occupiers of neighbouring properties with regard to privacy, outlook, light, noise and disturbance.
- The proposed house will overlook Willow Chase and the swimming pool and terrace and so have an adverse effect on living conditions in terms of outlook.
- Bishops Way is unsuitable for further traffic arising from a new dwelling. The surface is not hardwearing and would not stand up to heavy vehicles during construction of the new property.
- In the event that 2 cars meet on the track, one will be forced to reverse out onto London Road. London Road is busy and there is a bus stop at the point where cars would reverse. This is exceedingly dangerous.
- There is no safe crossing place at this end of the village and the pavement is also used by children attending both the junior and senior schools, both situated on the same side of London Road.
- Bishop's Way is already shared by three properties. It is an unlit track with no passing places.
- Refuse bins have to be taken down all the way to the end of London Road, this will be detrimental to any new occupier on cold dark nights.
- The proposed dwelling will also overlook Iris Cottage and Allium. It is also higher than Elysian and will look directly into the rooms to the rear of Elysian.
- The scale, layout, form, design and location would adversely harm the living conditions of the neighbouring properties i.e. Elysian, Chesterton House, The Chestnuts, Willow Chase, Iris Cottage, and Allium.
- There are ecological concerns arising from the loss of open vegetation and trees.

10.3 The above is a summary of the representations received, full versions are available via the online public access system.

11. APPRAISAL

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

- A The Principle of development – Impact on Countryside Character (NPPF, ULP Policies S7, H1, H4, GEN2);
- B Character, Design and Appearance (ULP Policies S7, H4, GEN2, NPPF);
- C Access and Transport (GEN1, GEN8, NPPF)
- D Residential Amenity (ULP Policies H4, GEN2, NPPF and SPD “Accessible Homes and Playspace”);
- E Flooding (ULP Policies GEN3, NPPF);
- F Infrastructure (ULP Policies GEN6, NPPF);
- G Noise and Contaminated Land (ULP Policies ENV10, ENV14, NPPF);
- H Affordable Housing (ULP Policy H9, NPPF)
- I Housing Mix (H10, SHMA, NPPF)
- J Housing Land Supply (NPPF)

A The Principle of development –Impact on Countryside Character (NPPF, ULP Policies S7 and GEN2);

- 11.1 In appeal decision (reference: APP/C1570/W/17/3174576 for application: UTT/17/0050/FUL) issued on 03/11/17, the Inspector noted that the appeal site lies beyond the defined development limits for Newport with the exception of the lower half of the access track.
- 11.2 As a consequence, it is considered to fall within the countryside where Policy S7 of the Local Plan applies. This policy seeks to protect the countryside for its own sake by restricting development to that which needs to take place there, or is appropriate to a rural area. The policy imposes a strict control on new building and only permits development if its appearance protects or enhances the particular character of the countryside within which it is set or there are special reasons why the development in the form proposed needs to be there.
- 11.3 The Inspector noted that the appeal site is situated to the west of London Road to the rear of existing properties. There are effectively four tiers of housing fronting onto this section of London Road as a result of recent developments including Salix, Allium, Iris Cottage, Chestnuts and the dwelling under construction. This back land form of development thus constitutes part of the character and appearance of the area to the north and east of the site.
- 11.4 In paragraph 20, the Inspector noted that while not fully in accordance with Policy S7 of the Local Plan in terms of its location, the site specific circumstances indicate that the proposed development would have an acceptable effect on the character and appearance of the area. It would protect the particular character of the countryside within which it is set and would be appropriate in this specific rural location.
- 11.5 Therefore, no issue is raised with respect to the principal of development at this site and this scheme would accord with ULP Policies S7. H4 and the NPPF.

B Character, Design and Appearance (ULP Policies S7, H4, GEN2, NPPF);

- 11.6 This application submission follows the withdrawal of UTT/20/0158/FUL and the refusal of application UTT/17/0050/FUL and appeal ref: APP/C1570/W/17/3174576. In the refused and subsequently dismissed application, the proposed dwelling concerning this pre-application proposal can also be identified as Plot 1 within this refused and dismissed application.

- 11.7 As identified in the submitted statement, almost all of the harm identified by the Inspector within this decision arose from what was designated as 'Plot 2' of UTT/17/0050/FUL which was located to the east of the current application site and possessed the greatest harm in terms of overlooking and overbearing to neighbouring properties.
- 11.8 In his appeal decision, the Inspector noted that the "*Plot 1 dwelling would reduce the amount of rear garden space for the dwelling under construction, but would still be of a reasonable size. The Plot 1 dwelling would also affect the outlook from the rear of the dwelling under construction, although the change in levels is not so pronounced as between Allium and Iris Cottage and the Plot 2 dwelling.*"
- 11.9 Following the withdrawal of UTT/20/0158/FUL the following amendments have been made to the scheme as shown on the below drawings:
- 11.10 As submitted Drawing No: NWA-14-001-47A illustrates, it is proposed to reduce the levels at the site by 1.2 metres which would result in a commensurate reduction in ridge height. This reduction, combined with a separation distance of 58 metres, ensures that no overbearing relationship with Allium and White Lodge to the east would occur.
- 11.11 Drawing No: NWA/14/001/LOC_S4_P C and NWA-14-001-46 Rev B illustrate, the northernmost elevation of the proposed dwelling would be situated approximately 27m from the rear elevation of Elysian which is located to the north.
- 11.12 Within Paragraphs 11 and 12 of the appeal, the Inspector raised no concerns with regards to the impacts of Plot 1 at the time (the approximate area of the currently-proposed dwelling) upon Elysian to the north. The proposal will therefore not result in any unacceptable overlooking of the property to the north.
- 11.13 The double garage and games room has been removed, the proposed two bay carport/garage located to the north east of the site is to remain as shown on drawings NWA/14/001/LOC_S4_P C and NWA-14-001-42 B.
- 11.14 The rear amenity space for the proposed dwelling is stated to be 540sqm which far exceeds the 100sqm Essex Design Guide specification for a dwelling of this size. The amenity space of the dwelling known as Elysian will not be impacted as this dwelling already possesses a defined curtilage and boundary which is clearly demarcated. This is shown on title plan EX973421 (Appendix 4) which shows the boundary of Elysian, with a rear amenity space of approximately 230sqm. There will be no reduction in their existing garden space as a result of this new dwelling.
- 11.15 Given the lowering of the levels and the separation distances of 58m towards Allium and White Lodge, as well as the 27m from Elysian, these distances well exceed the minimum distance requirements outlined within the Essex Design Guide. Furthermore, the removal of the garage and games room removes any additional bulk and excess structures on the site, allowing for increased amenity space.
- 11.16 In terms of amenity issues arising from vehicular traffic, the Inspector noted in Paragraphs 9 and 10 of the appeal decision that due to the nature of the surface

and only then three properties (now four) using this track, there was scope for a considerable amount of noise and disturbances to the properties known as Chestnuts and Chesterton House. Whilst surfacing improvement measures were discussed, the Inspector noted that irrespective, there could still be a reasonable amount of noise and disturbance. It is noted, however, that whilst the Inspector referenced this, it was not part of his overall reason for refusal.

- 11.17 The erection of one dwelling, rather than two would result in less intensive use of traffic compared to the amount of traffic that would be attributed to two vehicles. The level of traffic attributed to the erection of one dwelling (with five bedrooms and adequate parking provision to match this) would result in some amenity harm to neighbours as each vehicle passes. However, the level of harm arising would not be detrimental to the amenity of each of these neighbours, with private amenity spaces located well away from the access road.
- 11.18 The level of harm arising would be no different than that experienced by other neighbours within the immediate area, whereby access roads have been designed to access backland development, as would this be. It is noted that the Council's Environmental Health Officer did not object to the application on the grounds of noise.
- 11.19 A sample material condition would be recommended to ensure proposed materials are acceptable and do not cause harm to the character of the wider area, should planning permission be granted.
- 11.20 In their consultation response as part of paragraph 3.8, Newport Parish Council raise that TPO trees along Bishops Way maybe impacted by virtue of construction traffic arising from this dwelling, should it be granted permission.
- 11.21 It is acknowledged that construction traffic would utilise this road should the dwelling be granted planning permission. However, this is a clearly marked private and sufficient space is provided to ensure that traffic would not detrimentally harm the trees alongside the immediate sections of Bishops Way. In summary, the trees are unlikely to be harmed by traffic in comparison to that already using Bishops Way.
- 11.22 In summary, the proposed amendments to the above proposed dwelling ensures that the scheme is acceptable and accords with the design criteria outlined within ULP Policies H4, GEN2 and GEN4 of the Uttlesford Local Plan 2005 and the NPPF.

C Access and Transport (GEN1, GEN8, NPPF)

- 11.23 Drawing NWA/14/001/LOC_S4_P C shows the proposed parking arrangements for the proposed dwelling. The removal of the games room and garage has not altered parking provision with the site exceeding the threshold of three spaces for a dwelling of four bedrooms or more.
- 11.24 Given the nature of the road and access, as well as concerns surrounding construction and how this would impact traffic on the road, a condition will be imposed on any granted permission requesting that a Construction and Environmental Management Plan be provided.
- 11.25 The Local Highways Authority has been consulted and raises no objection to the application proposal. The proposal accords with ULP Policies GEN1, GEN8 and the NPPF.

D Residential Amenity (ULP Policies H4, GEN2, NPPF and SPD “Accessible Homes and Playspace” and the Essex Design Guide (EDG));

- 11.26 Of the representations received, the majority of the concern raised relates to residential amenity arising from the proposal’s impact on adjoining and nearby neighbours, including significant overlooking concerns, issues of the dwelling being overbearing, as well as other considerations arising from noise relating to the presence of the dwelling, construction of the dwelling and concerns surrounding increased traffic as a result of increased vehicle movements along Bishops Way.
- 11.27 With respect to overlooking and privacy distances, the Essex Design Guide, a non-adopted but useful supplementary guidance seeking to provide best practice for good design and amenity states that “*where habitable rooms are located at the rears of neighbouring properties and the rear facades face each other, a minimum spacing of 25m between the rears of the properties is required.*”
- 11.28 It further states that “*where new development backs on to the rear of existing housing, existing residents are entitled to a greater degree of privacy to their rear garden boundary. Where the rear faces of the new houses are approximately parallel to those of the existing homes, the rear of the new houses may not encroach any closer than 15m to an existing rear boundary – even though with a closer encroachment, 25m between the rears of the houses could still be achieved.*” The Essex Design Guide states that the provisions also apply to the sides and flanks of houses containing habitable rooms and windows.
- 11.29 An examination of the elevations indicate that the front, side and rear elevations are those most likely to cause amenity issues. The front elevation incorporates three front facing windows, for two bedrooms and a hallway, the side incorporates an en-suite window, whilst the rear possesses four windows, two bedroom windows, an external balcony and an en-suite window.
- 11.30 Of the two elevations, it is the rear elevation and the front elevation that possess the greater degree of overlooking, as the side en-suite window can be conditioned to be obscure glazed.
- 11.31 As identified within the design section above, Drawing No: NWA-14-001-47A illustrates, the levels at the site have been reduced by 1.2 metres which would result in a commensurate reduction in ridge height. This reduction is also combined with a separation distance of 58 metres from the dwelling known as White Lodge.
- 11.32 Drawing No: NWA-14-001-46 Rev B illustrates that the northernmost elevation of the proposed dwelling would be situated 27 metres from the rear elevation of Elysian which is located to the north. This is an acceptable overlooking distance that complies with the back to back distances outlined within the Essex Design Guide. It should also be noted that within Paragraphs 11 and 12 of the previous appeal, the Inspector raised no concerns with regards to the impacts of what was Plot 1 (the approximate area of the currently-proposed dwelling) upon Elysian to the north.
- 11.33 With respect to Willow Chase, the concern of overlooking is not considered to be harmful nor detrimental. Bedroom 4 of the proposed floor plans shows the room most likely to cause a sense of overlooking, but this would be at an oblique angle and with a separation distance of more than 30m between this window and the rear

amenity space of Willow Chase, the distance well exceeds the limit outlined within the Essex Design Guide.

- 11.34 Measuring overbearing is of course much more difficult in comparison to that of overlooking, whereby distances can be used as a guidance. It is acknowledged that the ground levels of the site result in a dwelling appearing on a higher level than what is currently experienced at present, that is no dwelling at all and a vacant site.
- 11.35 Nevertheless, within his appeal statement, the Inspector noted that Plot 2 was the dwelling most likely to cause the sense of overbearing, Plot 1 (the predecessor dwelling to this submitted application) was not found to possess any amenity concerns whatsoever to neighbouring dwellings. The proposed distances, drop in levels and lack of any windows that directly look into any private amenity space ensure that there will not be a harmful level of overbearing to the nearby neighbours. The Inspector in his statement notes that *“the change in levels regarding Plot 1, is not so pronounced as between Allium and Iris Cottage and the Plot 2 dwelling.”*
- 11.36 With respect to amenity concerns arising from vehicular use and traffic along Bishops Way, the Inspector stated that *“The number of movements would still be fairly limited, but nevertheless would result in a degree of harm for occupants of Chesterton House in terms of noise and disturbance.”* This iteration of the application proposes one dwelling and it is considered that the addition of one dwelling on this site and associated vehicle movements, would result in a degree of harm, given the additional movements, but that this level of harm is not considered to be significant detrimental to the day-to-day living and amenity of the adjoining and nearby neighbours, to warrant refusing the application.
- 11.37 This revised application has effectively halved the intensity and use of vehicular movements using the track, the dwelling has been re-positioned, re-levelled and designed in a way that the living conditions of Allium, Iris Cottage and Willow Chase would not be harmed. This also applies to Chesterton House, Chestnuts and Elysian with respect to vehicle movements, as well as overlooking complying with Essex Design Guide specification.
- 11.38 With respect to residential amenity for future occupiers, the proposed bedrooms exceed those within the Technical housing standards – nationally described space standard.
- 11.39 Provision for waste storage is made to the immediate east of the new dwelling and within its proposed curtilage. The storage area has been located to ensure that any potential odour associated with the refuse does not adversely impact upon the amenities of neighbouring properties.
- 11.40 It is noted that the waste storage area is accessible through the gate which is proposed adjacent to the northernmost boundary of the site. The Essex Design Guide stipulates that refuse collection will be made only from those dwellings within 25m of an adopted road local operatives. It is acknowledged that this would result in another dwelling with a longer bin collection distance. However, the distance would not be any further than that of those experienced by residents at adjacent properties including The Chestnuts and Elysian.
- 11.41 In summary, the proposed dwelling has been designed and positioned in a way that does not pose a harmful and detrimental residential amenity impact. It is therefore

considered to accord with the amenity criteria outlined within ULP Policies H4, GEN2 and GEN4 of the Uttlesford Local Plan 2005 and the NPPF.

E Flooding (ULP Policies GEN3, NPPF);

11.42 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. The SFRA confirms that the site is not in an area at risk of flooding and, as the development is for less than 10 dwellings, national policy does not require the use of a sustainable drainage system. It is therefore concluded that the proposal would not give rise to any significant adverse effects with respect to flood risk, such that it accords with the policies in the NPPF and PPG.

F Infrastructure (ULP Policies GEN6, NPPF);

11.43 Taking into account the nature and scale of the development 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.

G Noise and Contaminated Land (ULP Policies ENV10, ENV14, NPPF);

11.44 No objection is raised by the Environmental Health Officer, subject to a contaminated land condition on their consultation response and a condition ensuring that the built specification of the structure and its ventilation shall be designed to achieve BS 8233:2014 environmental noise limits internally. Subject to conditions, it is therefore concluded that the proposal accords with the above policies.

H Affordable Housing (ULP Policy H9, NPPF)

11.45 Policy H9 and its preamble form the basis for seeking affordable housing provision from new residential developments. In this case, the policy indicates that the proposal need not make a contribution.

I Housing Mix (H10 & SHMA, NPPF)

11.46 As the site area is greater than 0.1 ha, Policy H10 requires that small market housing comprises a significant proportion of the total number of units. However, as the proposal is only for one dwelling, this requirement is dismissed.

J Housing Land Supply (NPPF)

11.47 The NPPF describes the importance of maintaining a five-year supply of deliverable housing sites. The Council's housing land supply currently falls short of this and is only able to demonstrate a supply of 2.68 years (Five Year Housing Land Supply update October 2019).

11.48 Paragraph 11 of the NPPF considers the presumption of sustainable development, this includes where there are no relevant development plan policies, or where policies which are most important for determining the application are out-of-date. This includes where the five year housing supply cannot be delivered.

11.49 The proposed scheme does provide for one new dwelling. The scheme has a small modest economic benefit, this includes employment during the construction and the

potential of contribution to local services, and although positive these are a modest level of economic benefit.

- 11.50 Environmental Health and Highways have not raised objections to the scheme and the scheme is not in a flood sensitive area. These elements weigh in the scheme's favour.
- 11.51 The application site would provide a net gain of one additional dwelling which would have access to services within Newport and the surrounding area. There is also the potential to secure ecological benefits. I attach these matters moderate weight.
- 11.52 Although the proposal will result in the loss of some open green land to the rear of the site, it is not considered this will have a harmful impact to the open character of the countryside location and its surroundings. Also the net gain of one dwelling will have a positive contribution to housing supply of which the Council cannot demonstrate a 5 year housing supply. Overall it is considered the benefits of the scheme outweigh the any limited harm that may occur from the scheme.

12. CONCLUSION

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

- A** The Inspector noted that while not fully in accordance with Policy S7 of the Local Plan in terms of its location, the site specific circumstances indicate that the proposed development would have an acceptable effect on the character and appearance of the area. Therefore, no issue is raised with respect to the principal of development at this site and this scheme would accord with ULP Policies S7, H4 and the NPPF.
- B** The proposed amendments to the above proposed dwelling ensures that the scheme is acceptable and accords with the design criteria outlined within ULP Policies H4, GEN2 and GEN4 of the Uttlesford Local Plan 2005 and the NPPF.
- C** The Highways Authority has been consulted and raises no objection to the application proposal. The proposal accords with ULP Policies GEN1, GEN8 and the NPPF with respect to parking and access.
- D** The proposed dwelling has been designed and positioned in a way that does not pose a harmful and detrimental residential amenity impact. It is therefore considered to accord with the amenity criteria outlined within ULP Policies H4, GEN2 and GEN4 of the Uttlesford Local Plan 2005 and the NPPF.
- E** The proposal would not give rise to any significant adverse effects with respect to flood risk, such that it accords with the policies in the NPPF and PPG.
- F** Taking into account the nature and scale of the development 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.
- G** The proposal complies with issues surrounding noise and land contamination, in accordance with ULP Policies ENV10, ENV14 and the NPPF.
- H** No affordable housing provision is required due to the size of the scheme being only one dwelling.
- I** As the site area is greater than 0.1 ha, Policy H10 requires that small market housing comprises a significant proportion of the total number of units. However, as the proposal is only for one dwelling, this requirement is dismissed.
- J** Overall it is considered the benefits of the scheme outweigh the any limited harm that may occur from the scheme.

RECOMMENDATION – APPROVAL WITH 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. 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 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.

3. 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)

4. The dwellings hereby approved shall be built to Category 2: Accessible and adaptable dwellings M4(2) of the Building Regulations 2010 Approved Document M, Volume 1 2015 edition.

REASON : To ensure compliance with Policy GEN2 (c) of the Uttlesford Local Plan 2005 and the subsequent SPD on Accessible Homes and Playspace

5. If during any site investigation, excavation, engineering or construction works evidence of land contamination is identified, the applicant shall notify the Local Planning Authority without delay. Any land contamination identified, shall be remediated to the satisfaction of the Local Planning Authority to ensure that the site is made suitable for its end use.

REASON: To ensure that no future investigation is required under Part 2A of the Environmental Protection Act 1990 and in accordance with ULP Policy ENV14 and the NPPF

- 6 The structure, glazing and ventilation specification of the dwellings shall be designed to achieve the following environmental limits internally:

Bedrooms (23.00 - 07.00 hrs) 30dB LAeq and 45dB LAmax.

Living Rooms (07.00 - 23.00hrs) 35 dB LAeq

REASON: To protect the amenity of future occupiers in accordance with ULP Policies GEN2, GEN4 and ENV10 and the NPPF.

- 7 A minimum of a single electric vehicle charging point shall be installed at each of the houses. These shall be provided, fully wired and connected, ready to use before first occupation.

REASON: The requirement of the charging points are required to mitigate the harm for poor air quality due to the increase in vehicle movement and being within and in accordance with paragraph 105 of the NPPF 2019.

- 8 Cycle parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to occupation and retained at all times.

REASON: To ensure appropriate cycle parking is provided in the interest of highway safety and amenity and in accordance with ULP Policy GEN1

- 9 Prior to the commencement of any individual building or individual phase hereby approved, including any ground works or demolition, a detailed construction environmental management plan shall be submitted to and approved in writing by the Local Planning Authority, and the plan shall include the following:

- The construction programme and phasing
- Hours of operation, delivery and storage of plant and materials used in constructing the development
- Parking of site operatives and visitors and loading arrangements of plant and materials
- Details of hoarding
- Management of traffic to reduce congestion
- Control of dust and dirt on the public highway
- Arrangements for monitoring levels of dust emitted during the construction phase
- Details of consultation and complaint management with local businesses and neighbours
- Waste management proposals
- Mechanisms to deal with environmental impacts such as noise, air quality, light and odour.
- Wheel and underbody washing facilities

The development shall thereafter be implemented in accordance with the approved details.

Appendix 1 – Newport Parish Council Comments



Clerk: Christine Griffin

Waterloo House,
High Street, Newport,
Essex, CB11 3PG

**Response to Land Rear Of The Chestnuts Bishops Way Newport Saffron Walden Essex CB11 3PA
Erection of 1 no. detached dwelling with garage and carport**

UTT/20/1603/FUL

13th August 2020

Newport Parish Council objects to this planning application.

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1. Site History:

Newport Parish Council would usually only address the recent site history associated with an application. However, the site has been titled “Land to the Rear of Chestnuts” rather than Land to the Rear of or Adjacent to Willow Chase as the previous applications for this site have been named. We are concerned that this could be a deliberate attempt by the applicant to disassociate this site from the previous refusals for this site, presumably in the hope of securing approval for development on a site that has already been refused on appeal, largely on the grounds of adverse impact to the neighbouring properties.

This site has a complex history spanning 28 years and 22 planning applications. It is clear from the comprehensive responses from the neighbours that they have been subjected to a stream of similar applications from the land owner for this site.

Reference	Detail	Status
UTT/1390/92/FUL Land Adjacent Willowchase	Detailed application for erection of dwelling and garage. Alteration of an existing access.	Approved
UTT/0682/93/FUL Land At Rear Of Willowchase	Single storey extensions and detached double garage	Approved
UTT/1007/93/FUL Land Adj To Willow Chase	Detailed application for erection of dwelling and double garage. Alteration of an existing access (amendment)	Approved
UTT/0331/94/FUL Land Adjacent To Willow Chase	Detailed application for the erection of a dwelling and double garage. Alteration of an existing access (amendment)	Approved
UTT/0375/94/FUL Land Adjacent To Willowchase	Detailed application for erection of detached dwelling with integral garage	Refused
UTT/0177/95/FUL Land Adjacent Willowchase	Erection of one single storey dwelling	Withdrawn
UTT/0362/97/FUL Land Rear Of Willowchase	Erection of bungalow (to replace former pool house for which permission was granted to convert to dwelling)	Approved
UTT/0422/02/FUL R/O Willowchase	Erection of two storey dwelling and detached garage.	Withdrawn
UTT/17/1493/FUL Willowchase	Proposed erection of single dwelling with integral garaging and alteration of existing vehicular and pedestrian access	Approved
UTT/1767/07/FUL	Erection of dwelling with intergral garage and alteration of existing vehicular and pedestrian access (changes to windows to that approved under UTT/1385/05/FUL)	Approved
UTT/0548/09/FUL Willow Chase	Erection of new dwelling	Approved
UTT/0422/11/FUL Willow Chase	Erection of new dwelling and garage	Approved
UTT/1277/11/FUL Willow Chase	Erection of dwelling and garage amended scheme to that approved under UTT/0422/11/FUL	Approved
UTT/2180/11/FUL Willowchase	Proposed erection of new dwelling and garage	Refused
UTT/0513/12/FUL Willowchase	Erection of new dwelling and garage	Approved

UTT/12/5904/FUL Land Adj Willow Chase	Amendments to previously approved application UTT/0513/12/FUL for erection of dwelling	Refused
UTT/14/1088/DOC Land at Willow Chase	Application to discharge condition 3 (materials) following approval on appeal of UTT/12/5904/FUL - Appeal reference number APP/C1570/A/13/2197537	Discharge Conditions in Full
UTT/14/3625/FUL Land to the rear of Willow Chase	Erection of 3 no. dwellings and associated parking facilities	Refused
UTT/15/2152/FUL Land at Bishops Way (r/o Willow Chase)	Proposed dwelling and garage	Approved
UTT/16/2004/DOC Land at Bishops Way (r/o Willow Chase)	Application to discharge condition 2 (samples of materials for external surfaces) attached to UTT/15/2152/FUL dated 23.10.2015.	Discharge Conditions in Full
UTT/17/0050/FUL Land Rear Of Chestnuts/Willow Chase London Road Newport Essex	Erection of two detached dwellinghouses and garages	Refused
Appeal Ref: APP/C1570/W/17/3174576 Land Rear Of Chestnuts/Willow Chase London Road Newport Essex	The development proposed is erection of two detached dwellinghouses.	Dismissed
UTT/20/0158/FUL Land Rear Of The Chestnuts Bishops Way Newport Saffron Walden Essex CB11 3PA	Erection of 1 no. detached dwelling with garage and carport	Withdrawn

2. Site Location and Layout:

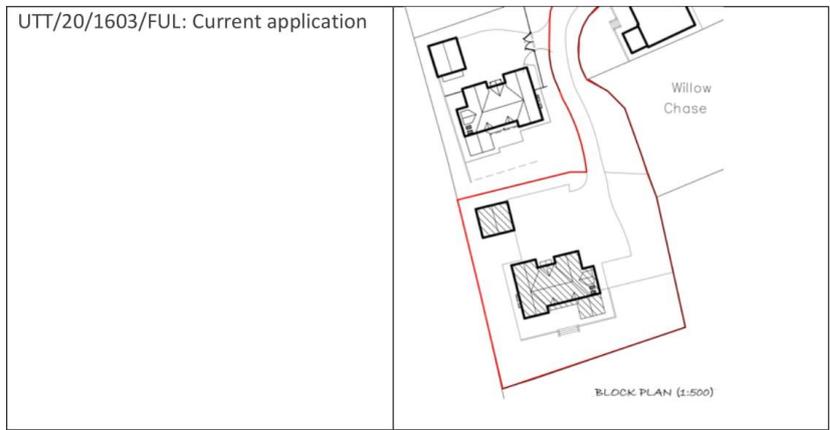


UTT/17/0050/FUL /
APP/C1570/W/17/3174576 Site Plan –
Refused/Dismissed November 2017



UTT/20/0158/FUL – Submitted January
2020, withdrawn by applicant in March
2020.





Please note the similarity between the proposals.

3. Objections:

3.1 Countryside:

This site is outside the settlement boundary for Newport. S7 applies, as acknowledged by the inspector in APP/C1570/W/17/3174576 who stated that: *“The appeal site lies beyond the defined development limits for Newport with the exception of the lower half of the access track. As a consequence, it is considered to fall within the countryside where Policy S7 of the Local Plan applies. This policy seeks to protect the countryside for its own sake by restricting development to that which needs to take place there, or is appropriate to a rural area. The policy imposes a strict control on new building and only permits development if its appearance protects or enhances the particular character of the countryside within which it is set or there are special reasons why the development in the form proposed needs to be there.”*

Policy NQRHA1 from the emerging Neighbourhood Plan for Newport, Quendon and Rickling (currently with Uttlesford District Council post-examiner’s report) also applies, which states that *“Further development outside of the development limits shown in the Development Limits maps will be not be supported other than; Development appropriate for a countryside location, defined as agriculture, horticulture, forestry, outdoor recreation and other uses which need to be located in the countryside.”*



Settlement Boundary, Newport

3.2 Impact on Neighbours / Living Conditions:

As stated in the decision notice for the appeal APP/C1570/W/17/3174576 which was for 2 houses on this site: *“there would be adverse effects on the living conditions of occupiers of Allium and Iris Cottage in terms of outlook and light and on the living conditions of occupiers of Willow Chase in terms of outlook from the upper part of their rear garden. There would also be adverse effects on the living conditions of occupiers of Chesterton House, Chestnuts and dwelling under construction in terms of noise and disturbance along the access track. The degree of adverse effects would vary depending on the individual property as outlined above. Nevertheless, when taken together, the adverse effects on living conditions would be significant and there would be clear conflict with Policies GEN2 and H4 of the Local Plan.”* It is not apparent from the application pack how these adverse impacts would be removed by the application being reduced from the two considered under the appeal to a single property, particularly given the difference in levels as described in 3.3 below.

In para 4.5 of the applicant’s planning statement it states that: *“It should be noted that within Paragraphs 11 and 12 of the attached appeal, the Inspector raised no concerns with regards to the impacts of what was Plot 1 (the approximate area of the currently-proposed dwelling) upon Elysian to the north.”* This is incorrect. In para 11 of the decision notice the planning inspector states that: *“The Plot 1 dwelling would also affect the outlook from the rear of the dwelling under construction, although the change in levels is not so pronounced as between Allium and Iris Cottage and the Plot 2 dwelling.”*

3.3 Levels and Overlooking:

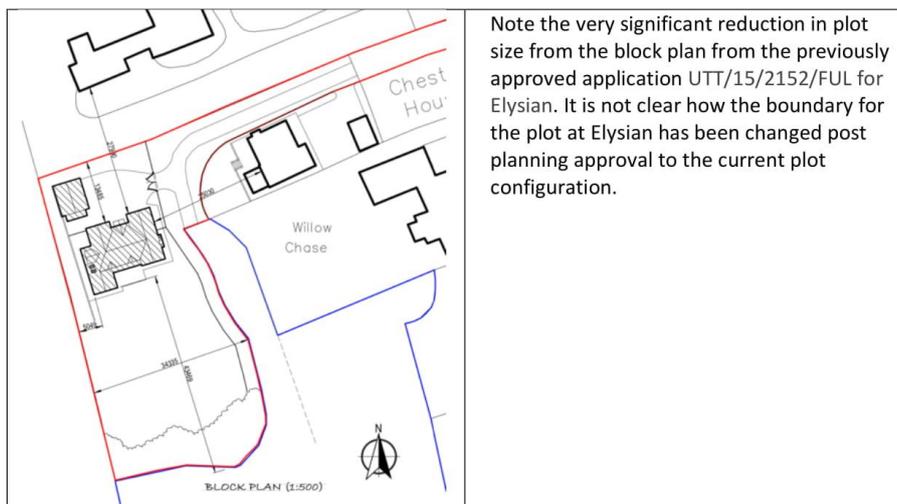
There is a change in levels from the rear of Allium, Iris Cottage and Willow Chase as described in the decision notice for APP/C1570/W/17/3174576 – whilst not as pronounced for this proposed property as for the plot 2 property in the appeal application there would still be an impact on these properties. As stated in the appeal decision above *“the proposed development would have an adverse effect on the living conditions of the occupiers of Allium and Iris Cottage in terms of outlook and light, on the living conditions of Willow Cottage* in terms of outlook, and on the living conditions of Chesterton House, Chestnuts and the dwelling under construction** in terms of noise and disturbance.”* *(sic, should be Chase) **Elysian

Whilst the revised current application reduces the ground level for the proposed property which may mitigate the overlooking and overbearing relationship with Allium and Iris Cottages, it is evident that by facing directly onto the rear of Elysian that there is potential for overlooking directly into the rear living space of Elysian from the upper windows of the proposed dwelling. This is contrary to Policy H4 of the Adopted Local Plan which only allows backland development where there would be “no material overlooking or overshadowing of, and no overbearing effect on, nearby properties, where access would not cause disturbance to such properties.”

3.4 Garden Space Elysian:

The plot size shown for Elysian, approved under UTT/15/2152/FUL was originally substantial (shown below). The officer comments on the amenity space exceeding minimum requirements and makes the boundary treatment of this property a condition of the approval of the application due to the proximity of the site being in and adjacent to the countryside, stating that:

“The boundary treatment details are fundamental to the development, and could be prejudiced if development is allowed to occur prior to the agreement of details.” This proposed application would reduce the garden space to Elysian which was laid out in UTT/15/2152/FUL by approximately two thirds. There is no detail in the application pack determining the revised boundary treatment for Elysian.



3.5 Access:

Access to the property is along Bishops Way, which is a single-track private track without a passing bay. The addition of another property within this proposal with potentially three more cars will potentially mean that vehicles will be required to reverse into London Road to be able to pass each other. This is not safe.

There is an agreement in place between the owners of Elysian and the applicant (which Newport Parish Council have had sight of) that prevents the use of Bishops Way for access to construction traffic. Upon completion the access to the property is proposed to be achieved via Bishops Way.

We also understand from neighbours that the owner has extended the track on his land alongside Little Rising and Wonderville on London Road (see photo below) potentially to lead to the plot of land contained within this application for construction traffic. This may lead to access to this site being granted that has not been subject to scrutiny by Essex Highways.



In addition, the complex planning history of this site suggests that this is unlikely to be the last application for this location and it is worth noting that the owner of this site also owns the plot immediately south to the plot which could only be accessed via the track extension alongside Little Rising and Wonderville. We are also concerned about the use of this track as access to this location as this may set a precedent for yet more subdivision and back development on London Road.

In para 32 of the decision notice for the appeal, the planning inspector also noted that *“There would also be adverse effects on the living conditions of occupiers of Chesterton House, Chestnuts and dwelling under construction in terms of noise and disturbance along the access track.”* There is nothing in the applicant’s case that addresses this issue.

3.6 Restrictive Covenant on Development:

When Willow Chase was purchased by the present owner from the applicant, a restrictive covenant was included in the Land Registry document TP1 ref EX835122 as below:

<p>Restrictive covenants by the transferor</p> <p>12.5.1 to restrict development on that part of the Retained Land shown shaded pink on the Plan to a maximum of two dwellings of two storeys only with eastern facing windows in the first floor of any dwelling to be obscured with frosted glass.</p> <hr/> <p>12.5.2 to restrict development on that part of the neighbouring title EX475347 shown shaded blue on the Plan to one dwelling only in accordance with plans that have been approved by the local planning authority as at the date of this transfer subject to any subsequent minor alterations agreed with the planning authority.</p> <p>Other</p>	
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3.7 Refuse Collection:

The access to these properties is a single track which is unsuitable for a refuse vehicle to access. Bins are therefore required to be deposited at the entrance to London Road, causing an obstruction to pedestrians and vehicles, adding another property would increase this problem, which is unsatisfactory. Paragraph 12.2 of the Planning, Design and Access statement (below) states incorrectly that refuse vehicles will be able to collect waste from the front of the property:

“12.2 The waste storage area is accessible through the gate which is proposed adjacent to the northernmost boundary of the site to ensure that waste bins can be moved to the front of the site for collection without needing to transfer waste through the house. This will also ensure that their collection can be achieved without the requirement of an excessive carry distance for the refuse team.”

3.8 Trees

Paragraph 12.2 of the Planning, Design and Access statement (below) states incorrectly that there are no trees covered by Tree Preservation Orders on or around the site:

“14.1 The site is not considered to benefit from any significant trees or landscaping although the vegetation which does exist at the site is to be retained wherever possible.

14.2 A search of the Council’s database confirms that there are no trees covered by Tree Preservation Orders on or around the site that could potentially be affected by the proposals.”

This is incorrect as shown in the map (taken from UDC’s [Constraints Map](#), available on their website.) The dark green shows the site of Tree Preservation Orders which are in place for the length of Bishops Way. If access is permitted for construction traffic along this route these trees could be at risk.



3.9 Cumulative Impact / Housing Supply:

Newport Parish Council are aware that Uttlesford District Council can only demonstrate a 2.68 years housing land supply and that the tilted balance applies. In fact, 551 additional properties have been approved since the last census in 2011, an increase of 57%. A further 224 have recently been refused at appeal hearings. It is fair to say that Newport has done more than its fair share to contribute to the housing supply in Uttlesford. The cumulative impact of these additions is yet to be fully realised as not all of the new permissions have been built. Only a third of those permitted offer any contribution via section 106 to improve local provision including physical, social and green infrastructure.

4. Conclusion:

Newport Parish Council conclude that many of the reasons for the dismissal of the appeal hearing APP/C1570/W/17/3174576 in 2017 on this site still remain applicable, particularly regarding overlooking and impact on surrounding dwellings. The application would also significantly reduce the plot size of Elysian as approved under UTT/15/2152/FUL. This application represents back development in a plot that is outside the development limits for Newport and is indisputably in the countryside. It is therefore contrary to ALP policies GEN2, H4, also S7 and NQRHA1. No information has been provided that provides a reason why this development needs to be here and there has been sufficient development already in Newport such that one additional 5 bedroom dwelling is not necessary or required.



Appeal Decision

Hearing held on 3 October 2017

Site visit made on 3 October 2017

by Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI IHBC

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 3rd November 2017

Appeal Ref: APP/C1570/W/17/3174576

Land rear of Chestnuts, London Road, Newport CB11 3PP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr E Bishop of E J Bishop Homes Limited against the decision of Uttlesford District Council.
 - The application Ref UTT/17/0050/FUL, dated 10 January 2017, was refused by notice dated 12 April 2017.
 - The development proposed is erection of two detached dwellinghouses.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on:
 - (a) the living conditions of occupiers of neighbouring properties, with regard to privacy, outlook, light, noise and disturbance;
 - (b) the character and appearance of the area; and
 - (c) biodiversity within the site and the surrounding area.

Reasons

Living conditions

3. The appeal site is located to the rear of a number of properties on London Road. The land rises to the west from London Road and the appeal site is noticeably higher than most existing properties. There is a considerable drop in levels from the appeal site to the rear gardens of Allium and Iris Cottage with a tall retaining wall and boundary fence above separating these gardens from the site. The rear garden of Willow Chase steps up considerably from the patio and swimming pool nearest this house to an area of lawn at the same height as the appeal site.
4. There is a line of conifers at the western end of the rear garden at Willow Chase. This continues south into the appeal site along where the front elevation of the easternmost proposed dwelling known as Plot 2 would be sited. The dwelling would extend east towards the rear gardens of Allium and Iris Cottage with a rear garden between it and the boundary fence. The dwelling

- would be a large house similar in scale, form, design, appearance and materials to the recently approved dwelling adjoining the appeal site to the west of Chestnuts that is currently under construction.
5. Looking towards the appeal site from the first and second floor rear bedroom windows of Allium as I did at my site visit, the rear elevation of the Plot 2 dwelling would be directly visible. Similar views would be possible from Iris Cottage, although more oblique given the siting of that property. The appellant states that the separation distance would be around 30 metres, more than the minimum 25 metres recommended in the Essex Design Guide. This would reduce adverse effects for occupants of Allium and Iris Cottage in terms of privacy and light, and planting along the rear boundary fence could help to screen views to some extent. However, the size and siting of the property combined with the considerable change in levels means that the property would be very prominent and overbearing, resulting in significant negative effect on the occupiers of Allium in particular in terms of outlook from upper floor rear windows. Negative effects on outlook would also occur for occupiers of Iris Cottage from upper floor rear windows, albeit reduced by the angles and siting.
 6. Standing in the rear garden of Allium or Iris Cottage, the tall retaining wall and boundary fencing dominates views towards the appeal site and already has a shadowing effect. Looking from the garden next to the rear elevation of Allium as I did at my site visit, it is possible to see the top of the conifers within the appeal site. Such views disappear further into the garden due to the height of the retaining wall and fencing. Nevertheless, it would be possible to see the roof of the Plot 2 dwelling from the garden of Allium next to the rear elevation. The view from Iris Cottage would be more oblique due to the angles and siting. Given the intervening wall and fencing, the separation distances and the absence of any windows in the roof of the Plot 2 dwelling, there would not be any adverse effect in terms of privacy to the rear garden of Allium or Iris Cottage. However, any increase in height above the existing retaining wall as a result of the Plot 2 dwelling and any planting along the boundary fence to screen views between bedroom windows would add to the enclosure to the rear gardens of Allium and Iris Cottage. It would further shadow the gardens and have an overbearing effect. Thus, there would be harm to living conditions of occupiers of Allium and Iris Cottage in terms of light and outlook for the rear garden.
 7. The appellant highlights the proximity of existing dwellings to each other, such as Allium and Iris Cottage to White Lodge, which they argue are similar to the distances involved in this appeal. However, I do not know the full planning history of these dwellings and why permission was granted in any given case. Furthermore, the change in levels between Allium and Iris Cottage and the appeal site is more pronounced than the change in levels between most other properties, which would result in a more noticeable and harmful effect.
 8. The property known as Chestnuts and the dwelling currently under construction are visible from the rear garden of Willow Chase, especially from the upper lawn area. Chestnuts in particular encloses the northern side of the rear garden on the same level with little setback from the shared boundary. This results in an overbearing effect. The Plot 2 dwelling, by virtue of its siting and size, would add to the enclosure of the upper rear garden, notwithstanding the greater set back than Chestnuts and proposed boundary planting. This would cause an overbearing effect. As a consequence, there would be harm to living

conditions of occupiers of Willow Chase in terms of outlook from the upper rear garden. In comparison, the siting and angle of the property at Willow Chase from the Plot 2 dwelling would limit any negative effects on outlook, light or privacy to occupiers within the property at Willow Chase or from the patio next to the rear elevation.

9. The appeal site is accessed via a track off the main road that travels past Chesterton House and Chestnuts. The track is a mixture of tarmac and loose gravel as far as Chestnuts before becoming much rougher as a result of the construction works for the dwelling under construction. The side elevations of Chesterton House and Chestnuts are located immediately next to the access track. Given the current condition of the surfacing, vehicles travelling along the track make a considerable amount of noise and disturbance, although the appellant has indicated a willingness to improve the surfacing.
10. With only three properties currently using this track, the amount of movement is limited, notwithstanding existing construction traffic. The addition of two new dwellings as proposed would double the number of properties beyond Chesterton House from two to four. The number of movements would still be fairly limited, but nevertheless would result in a degree of harm for occupants of Chesterton House in terms of noise and disturbance. The effect of traffic movements on occupiers of Chestnuts and the dwelling under construction would be less as there would be fewer properties beyond each existing dwelling, but nevertheless a degree of harm would occur. The surfacing could be improved as indicated by the appellant, but there would still be a reasonable amount of noise and disturbance from traffic movements overall.
11. The Plot 1 dwelling would reduce the amount of rear garden space for the dwelling under construction, but would still be of a reasonable size. The Plot 1 dwelling would also affect the outlook from the rear of the dwelling under construction, although the change in levels is not so pronounced as between Allium and Iris Cottage and the Plot 2 dwelling.
12. Concluding on this main issue, the proposed development would have an adverse effect on the living conditions of the occupiers of Allium and Iris Cottage in terms of outlook and light, on the living conditions of Willow Cottage in terms of outlook, and on the living conditions of Chesterton House, Chestnuts and the dwelling under construction in terms of noise and disturbance. Therefore, it would not accord with Policies GEN2 and H4 of the Uttlesford Local Plan 2005 ('the Local Plan'). Amongst other things, Policy GEN2 requires development to not have a 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. Policy H4 allows backland development where there would be no material overlooking or overshadowing of, and no overbearing effect on, nearby properties, where access would not cause disturbance to such properties.

Character and appearance

13. The appeal site lies beyond the defined development limits for Newport with the exception of the lower half of the access track. As a consequence, it is considered to fall within the countryside where Policy S7 of the Local Plan applies. This policy seeks to protect the countryside for its own sake by restricting development to that which needs to take place there, or is appropriate to a rural area. The policy imposes a strict control on new building

- and only permits development if its appearance protects or enhances the particular character of the countryside within which it is set or there are special reasons why the development in the form proposed needs to be there.
14. The appeal site is situated to the west of London Road to the rear of existing properties. There are effectively four tiers of housing fronting onto this section of London Road as a result of recent developments including Salix, Allium, Iris Cottage, Chestnuts and the dwelling under construction. This backland form of development thus constitutes part of the character and appearance of the area to the north and east of the site.
 15. From the evidence presented to me at the hearing, the site was originally part of an extensive rear garden for Willow Chase before some of the above developments took place. The site lies on the western slope of the valley of the River Cam or Granta, although is largely contained by vegetation and residential development. A hedgerow along the site's western boundary differentiates it from a large agricultural field to the west. Vegetation and fencing separates the site from the rear gardens of properties to the east, although due to the higher ground levels, views of these properties can be seen from within the site.
 16. There is little indication of surviving garden features within the appeal site today, which now comprises rough uneven ground overgrown with vegetation. However, part of the site would form a large rear garden for the dwelling under construction, so would take on a residential appearance regardless of whether this appeal is allowed or not. For the avoidance of doubt, I have given little weight to the site's current degraded condition, as it could be restored as green space without too much difficulty.
 17. At the same time, the site is also clearly separate from the more open countryside to the west due to the existing hedgerow. The photograph provided of the view from the public bridleway to the west shows the site hidden by this hedgerow, although the dwelling under construction is currently exposed in this view due to the removal of the section of hedgerow nearest the dwelling. Thus, the site's character and appearance today is a large part of an area of undeveloped land at the rear of existing properties on this section of London Road. It forms a transition space from residential gardens to the more open countryside beyond.
 18. The proposed development would reduce further the undeveloped land at the rear of properties and reduce much of the space intended for the rear garden of the dwelling under construction. There would be encroachment of development into this space through additional backland development.
 19. However, the impacts would be mitigated by a number of factors. The development would be contained by planting along the western boundary separating it from the open countryside beyond. The dwelling under construction and Chestnuts have already breached the defined development limits boundary and eroded part of the undeveloped land at the rear of properties. They form a third and fourth tier of backland development that the proposed dwellings would broadly align with. While I appreciate that each decision is made on its own merits based on the specific circumstances at the time, they nevertheless have an impact on the character and appearance of the area. The scale, form, design and appearance of the proposed development would be comparable to the dwelling under construction.

20. Concluding on this main issue, while not fully in accordance with Policy S7 of the Local Plan in terms of its location, the site specific circumstances indicate that the proposed development would have an acceptable effect on the character and appearance of the area. It would protect the particular character of the countryside within which it is set and would be appropriate in this specific rural location.

Biodiversity

21. According to the Council, the appeal site lies approximately 2km from a Site of Special Scientific Interest (SSSI) and is also in close proximity of a National Nature Reserve. (NNR) Although I have not been provided with the precise location of these two designated nature conservation sites, the appellant's ecology report refers to the Debden Water SSSI, a freshwater stream and associated grassland that runs to the east of Newport.
22. At the hearing, the Council confirmed that it had no biodiversity concerns regarding the SSSI and NNR, and that its concerns relate more to the impact on countryside character. I note that the appeal site is a considerable distance from the SSSI and NNR with intervening development including road and rail infrastructure. I also note that no objections have been raised by statutory consultees including the Council's ecological adviser from Essex County Council.
23. While interested parties have highlighted the presence of wildlife within the site, the appellant's ecology report has found limited habitat potential on-site except for nesting birds. Again, the Council's ecological adviser has no concerns subject to a condition to protect nesting birds during construction.
24. Concluding on this main issue, the proposed development would have an acceptable on biodiversity within the site and the surrounding area. Therefore, it would accord with Policy ENV7 of the Local Plan which seeks to avoid adverse effects on nationally important nature conservation sites as well as local areas of significance including wildlife habitats.

Planning balance

25. The Council is currently unable to demonstrate a five year supply of housing land. Based on the housing trajectory dated 1 April 2017, the supply stands at 3.77 years or 4.2 years depending on whether the objectively assessed need (OAN) is considered to be 641 homes or 606 homes a year respectively. The appellant has argued that a buffer of 20% should apply to the OAN and shortfall figures rather than the 5% buffer applied by the Council. This would mean that the supply would stand at either 3.29 years or 3.65 years depending on the two OAN figures. The Council disputes the application of the 20% buffer based on its delivery of housing over the past 10 years.
26. The appellant has highlighted the government consultation on a standardised approach to assessing housing need, which would produce an annual OAN of 740 for Uttlesford. However, I am minded to agree with the arguments of interested parties at the hearing that this figure is based on a consultation document and so can be given little weight.
27. Where a five year housing land supply cannot be demonstrated, paragraph 49 of the National Planning Policy Framework (NPPF) states that relevant policies for the supply of housing should not be considered up to date. Paragraph 14 of the NPPF states that where relevant policies are out of date, permission should

- be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as whole or specific policies in the NPPF indicate development should be restricted.
28. The amount of weight to be given to development plan policies is a matter of planning judgement for the decision maker. Being out of date does not mean that a policy carries no weight. Policy S7 takes a more restrictive approach to development in the countryside compared to the NPPF which could be affecting the delivery of housing. However, it is broadly consistent with the NPPF in terms of seeking to protect the character and appearance of the countryside and so still carries reasonably significant weight. Policies H4 and GEN2 are consistent with the NPPF and so carry significant weight.
29. Interested parties have drawn my attention to the emerging Local Plan which indicates no proposed allocations for Newport in draft Policy SP3. However, the emerging plan remains at a relatively early stage of production and I do not know the extent to which there are unresolved objections to policies including draft Policy SP3. Therefore, I am unable to give more than limited weight to the emerging Local Plan.
30. The potential environmental improvements to the appeal site could be achieved by other means such as garden landscaping for the dwelling under construction, and so do not represent a benefit. Nevertheless, the proposed development would make a contribution towards the district's housing supply, having regard to the lack of a five year supply. It would provide short-term investment in terms of the construction process, notwithstanding concerns about the availability of local builders. It would also help to support the vitality of local services and facilities. Newport contains a number of services and facilities that are within walking or cycling distance of the appeal site. There was some dispute at the hearing regarding the frequency and connectivity of bus and train services, but it is evident that the development would not be heavily reliant on the private car.
31. However, these economic, social and environmental benefits are tempered by the small scale nature of the development. Even if I were to conclude that a 20% buffer should be applied to the housing land supply calculations and that the supply stood as low as 3.29 years, the contribution of two houses to addressing the deficit would make a very small difference. Therefore, the benefits of development carry modest weight overall.
32. Turning to the adverse impacts, there would be adverse effects on the living conditions of occupiers of Allium and Iris Cottage in terms of outlook and light and on the living conditions of occupiers of Willow Chase in terms of outlook from the upper part of their rear garden. There would also be adverse effects on the living conditions of occupiers of Chesterton House, Chestnuts and dwelling under construction in terms of noise and disturbance along the access track. The degree of adverse effects would vary depending on the individual property as outlined above. Nevertheless, when taken together, the adverse effects on living conditions would be significant and there would be clear conflict with Policies GEN2 and H4 of the Local Plan.
33. Therefore, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits of development. As a

consequence, the presumption in favour of sustainable development as specified in paragraph 14 of the NPPF would not apply.

34. Concluding on the planning balance, the development would result in harm to the living conditions of occupiers of neighbouring properties and would not accord with Policies GEN2 and H4 of the Local Plan. The application of the NPPF as a material consideration does not indicate that development would be acceptable or would represent sustainable development in this instance.

Conclusion

35. For the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

Tom Gilbert-Wooldridge

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Graham Fisher	gfplanning Limited
Edward Bishop	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Emmanuel Allannah	Uttlesford District Council
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INTERESTED PARTIES WHO SPOKE AT THE HEARING:

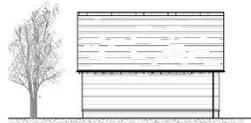
Councillor Neil Hargreaves	Uttlesford District Council
Carolyn Archibold	Local resident
Eleanor Burroughs	Local resident
Gillian Warburton	Local resident
Neil Mc Killen	Ickleton Planning Consultancy on behalf of local residents

DOCUMENTS SUBMITTED AT THE HEARING

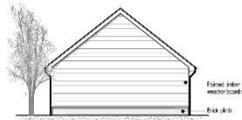
1. Photograph of appeal site from public bridleway to the west of the site, submitted by Councillor Hargreaves.
2. Extract from government consultation "Planning for the right homes in the right places: consultation proposals", submitted by the appellant.
3. Response to "Planning for the right homes in the right places: consultation proposals" in connection with the Ellis Trust appeal elsewhere in Newport (reference: APP/C1570/A/17/3166101), submitted by Councillor Hargreaves.
4. Extract from East of England Express newsletter Autumn '17 regarding recent court judgements, submitted by Mr Mc Killen.
5. Extract from the recent Uttlesford Local Plan consultation, submitted by Mr Mc Killen.
6. Uttlesford District Council Housing Trajectory 1 April 2017, submitted by the local planning authority.
7. Statement by Ms Gillian Warburton read out at the hearing, submitted by Ms Warburton.
8. Extract of Local Plan map for Newport showing development limits boundary in relation to the appeal site, submitted by Mr Mc Killen.
9. Aerial photographs and planning history for the appeal site and surrounding land, submitted by Mr Mc Killen.

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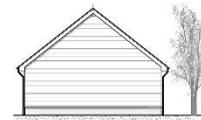
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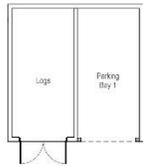
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SIDE ELEVATION



PROPOSED
FRONT ELEVATION



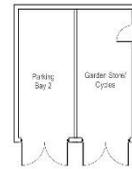
PROPOSED
SIDE ELEVATION



PROPOSED
GARAGE PLAN (FRONT)



PROPOSED
ROOF PLAN



PROPOSED
GARAGE PLAN (REAR)



PROPOSED
ROOF PLAN



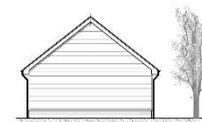
PROPOSED
REAR ELEVATION



PROPOSED
SIDE ELEVATION



PROPOSED
FRONT ELEVATION



PROPOSED
SIDE ELEVATION

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Scale: 1:100

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Unit 3, Ashdon Road Commercial Centre, Saffron Walden,
Essex, CB10 2NL. Tel: 01766 509100. Fax: 01766 509101

PROJECT:
LAND REAR OF CHESTNUTS
BISHOPS WAY,
NEWPORT, ESSEX, CB11 3PP

TITLE:
PLOT 1 GARAGES
AND CARPORTS
(SCHEME 3)

DATE:	22-10-14	BY:	N. COOK
SCALE:	1:100	DATE:	
PROJECT:		DATE:	
CLIENT:		DATE:	

NWA-14-001- 42

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PROPOSED
SIDE ELEVATION



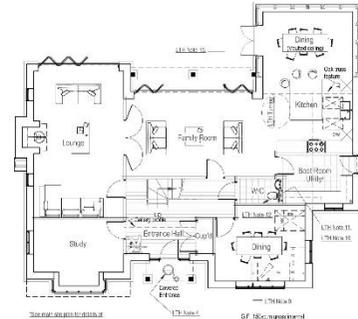
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FRONT ELEVATION



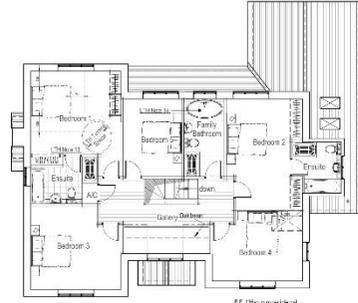
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SIDE ELEVATION



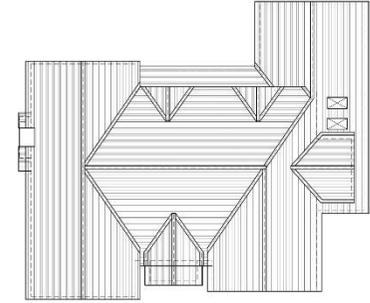
PROPOSED
REAR ELEVATION



PROPOSED
GROUND FLOOR PLAN



PROPOSED
FIRST FLOOR PLAN



PROPOSED
ROOF PLAN

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The client is responsible for obtaining all necessary planning permission for the proposed development.
The client is responsible for obtaining all necessary planning permission for the proposed development.

All drawings, unless otherwise stated, are prepared by the architect in accordance with the provisions of the Building Regulations 2010. The client is responsible for obtaining all necessary planning permission for the proposed development.
The architect is not responsible for any errors or omissions in these drawings or for any consequences arising therefrom. The client is responsible for obtaining all necessary planning permission for the proposed development.

Lifetime Home Standards
The proposed development meets the Lifetime Home Standards. This is a standard set by the Government to ensure that new homes are built to a higher standard than previous ones. The client is responsible for obtaining all necessary planning permission for the proposed development.

1. The proposed development meets the Lifetime Home Standards.
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29. The proposed development meets the Lifetime Home Standards.
30. The proposed development meets the Lifetime Home Standards.

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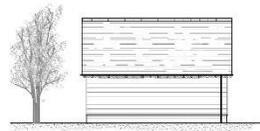
Sedgley Yard, Church Street, Ware, Hertfordshire, SG12 9EH
Tel: 01273 333376 • Email: newworldarchitectural.co.uk

PROJECT
**LAND REAR OF CHESTNUTS
BISHOP'S WAY,
NEWPORT, ISLE OF WIGHT**

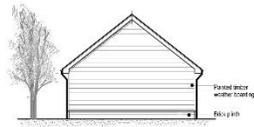
TITLE
**NEW DWELLING - PLOT 2
(SCHEME 3)**

SCALE: 1:100
DATE: 22-10-14
BY: N. COOK
REV: 01

NWA-14-001-43



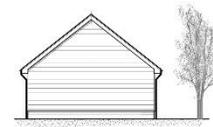
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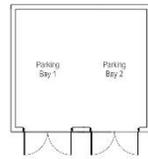
PROPOSED
SIDE ELEVATION



PROPOSED
FRONT ELEVATION



PROPOSED
SIDE ELEVATION



PROPOSED
GARAGE PLAN



PROPOSED
ROOF PLAN

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2. These drawings are to be used for construction, subject to the client's approval. The client is responsible for all other matters which may be required by the appropriate local and/or other authorities in order to obtain Planning Permission.

All drawings based on a site survey undertaken by the client. The client is responsible for all other matters which may be required by the appropriate local and/or other authorities in order to obtain Planning Permission. The client is responsible for all other matters which may be required by the appropriate local and/or other authorities in order to obtain Planning Permission.



DRAWING REVISIONS

NO.	DATE	DESCRIPTION
1	22-10-14	N.DOOK

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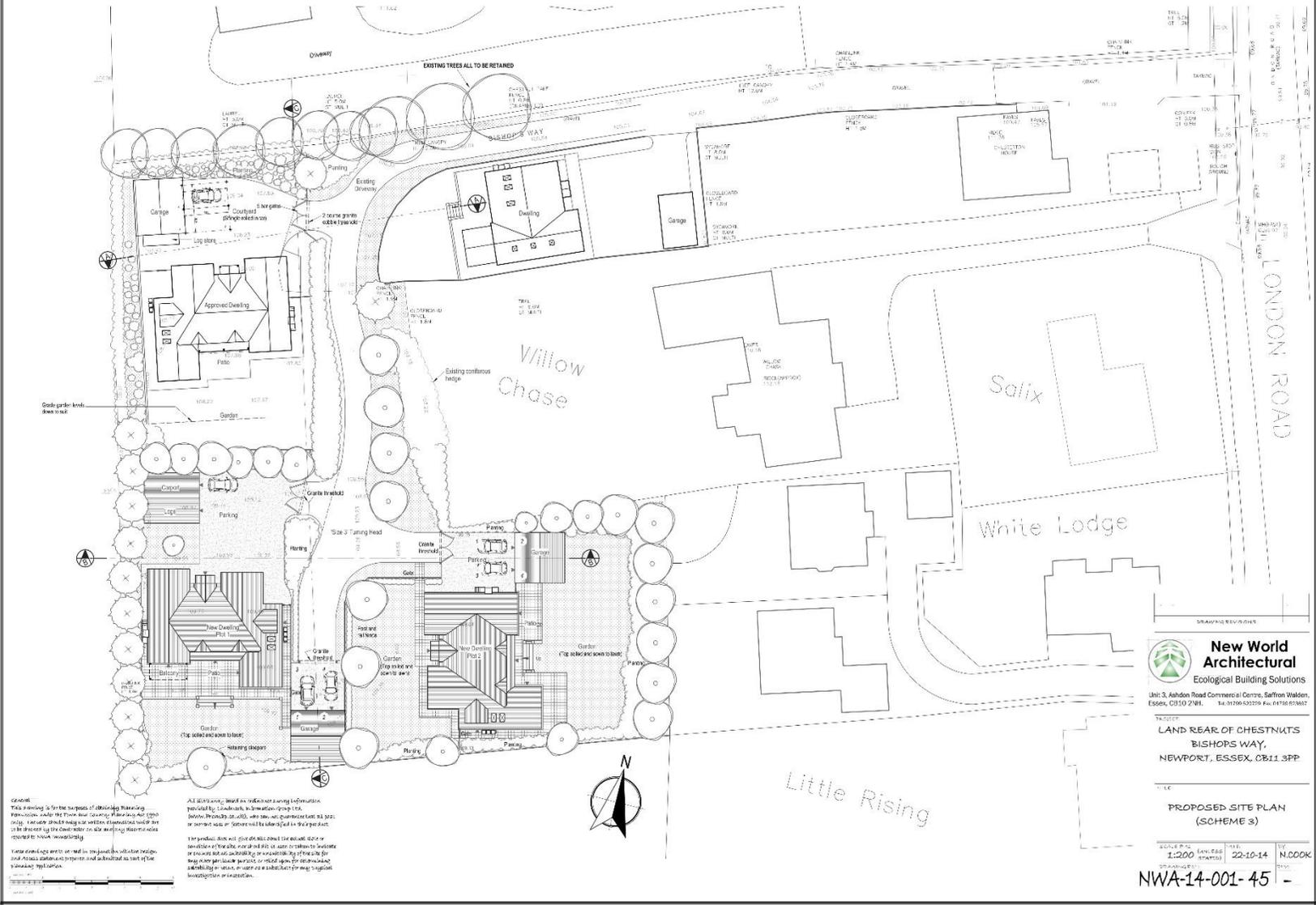
PROJECT:
**LAND REAR OF CHESTNUTS
BISHOPS WAY,
NEWPORT, ESSEX, CB11 3PP**

TITLE:
**PLOT 2 GARAGE
(SCHEME 3)**

SCALE: 1:100
DATE: 22-10-14
DRAWN BY: N.DOOK

NWA-14-001-44 -

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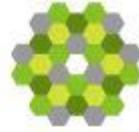
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 Ecological Building Solutions
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 PROJECT:
LAND REAR OF CHESTNUTS BISHOPS WAY, NEWPORT, ESSEX, CB11 3PP
 DRAWING NO:
PROPOSED SITE PLAN (SCHEME 3)
 SCALE: 1:200
 DATE: 22-10-14
 DRAWN BY: N. COOK
NWA-14-001-45

Appendix 4 – Elysian Land Registry Title Plan

HM Land Registry
Official copy of
title plan

Title number **EX973421**
Ordnance Survey map reference **TL5133SE**
Scale **1:1250 enlarged from 1:2500**
Administrative area **Essex : Uttlesford**



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