

UTT/20/1334/FUL

Call-in request by Councillor Hargreaves if recommended for approval

Reason: 'The wall and the pavement are not sympathetic to local character and are not compatible with the scale, form, layout, appearance and materials of surrounding buildings' boundary treatments. The development therefore has a detrimental impact on the character of the area contrary to GEN2 and S7 and Section 12 of the NPPF 'Good Design' and NQR Plan policy NQRHD2 Housing Design which states that: 'To be supported a development proposal will be expected to, through layout, design and materials, and where it is appropriate: a. Relate well to its site and its surroundings'

PROPOSAL: Application for the erection of a front section of boundary wall to dwelling approved under planning permission UTT/18/1486/FUL.

LOCATION: Land adjacent to Branksome (1 Pastures Close), Whiteditch Lane, Newport, CB11 3UD.

APPLICANT: Mr W Bampton, Pelham Structures Ltd.

AGENT: Mr. Christopher Hennem, Pelham Structures Ltd.

EXPIRY DATE: 18.08.2020 (extension of time agreed to 27.11.2020).

CASE OFFICER: Matthew Cranitch

1. NOTATION

1.1 Outside Development Limits. Countryside.

2. DESCRIPTION OF SITE

2.1 The application site is 1 Pastures Close identified on the application form as the land adjacent to Branksome. The site is located on the northern side of the junction of Pastures Close and Whiteditch Lane.

2.2 A red brick wall has been erected on the boundary of the site and Whiteditch Lane. Beyond the wall is a footpath and then the highway. The entrance to the dwelling is through an access point close to the centre of the wall. The red brick wall is joined to a larger flint wall at the side of the site on Pastures Close which continues around to the rear of the site.

2.2 The application is deemed to be in the countryside but is surrounded by built form with a dwelling known as Oak Tree House opposite the site on the eastern side of Whiteditch Lane, and dwellings at Bury Grove to the north, Meadowsweet Way & Hills Drive to the south, and Pastures Close to the west. The site forms part of the Pastures Close development which was a development of 20 houses that was granted approval in July 2017 (UTT/16/2024/FUL).

3. PROPOSAL

3.1 This proposal relates to the following development/works:

The erection of a front section of boundary wall to a dwelling approved under planning permission UTT/18/1486/FUL.

It is proposed to dismantle the existing brick wall at the front of the site and reconstruct it nearer the dwelling and further away from the highway to meet Highways Authority concerns re visibility splays. These concerns were the sole reason for an earlier refusal of planning permission for the existing wall, application UTT/20/0124/FUL.

3.2 Planning permission UTT/18/1486/FUL allowed for native species hedging and trees as the boundary treatment between the site and Whiteditch Lane. It also allowed for a footpath beyond the site between the highway and the site.

4. ENVIRONMENTAL IMPACT ASSESSMENT

4.1 The proposal is not EIA development and an environmental assessment is not required to assess the environmental impacts of the development whereby the site does not fall within a "sensitive area".

5. APPLICANT'S CASE

5.1 (Extracted and summarised from applicant's agent's planning statement June 2020 and subsequent emails to the Council):

- The boundary treatment on the approved plans for the erection of 1 Pastures Close under application UTT/18/1486/FUL shows the proposed boundary treatment all around the site to be a close boarded fence with native species hedging and trees on either side of it.
- Due to the level changes at the front of the site the boundary treatment was also required to act as a retaining structure, hence the decision to change it from a fence to a brick wall.
- A wall has already been constructed along the front of the property as the applicant didn't appreciate that it required planning permission
- The existing wall ranges in height from 800mm to 1m with brick piers that range between 1.1m to 1.28m. A wall that fronts a highway is allowable up to 1 metres in height under permitted development rights. Therefore it is only the height of the brick piers which means that planning permission is required for this wall.
- The applicant applied for retrospective planning permission for the existing wall under UTT/20/0124/FUL. This was refused due to a Highways objection which was the sole reason.
- This reason for refusal was stated as '*The development in the form of its wall and landscaping arrangement impedes on the maximum achievable visibility*

splays from the site access, to the detriment of highway and pedestrian safety and is therefore contrary to this condition, condition no. 2(b) of UTT/16/2024/FUL'.

- In order to address this objection it is now proposed to dismantle the existing wall and reconstruct it with the same dimensions further away from the highway. The revised location provides clear visibility splays in line with condition 2 (b) of UTT/16/2024/FUL and is therefore in compliance with Policy GEN 1.
- In addition to highways issues it has been concluded that Section 12 of the NPPF, and policies S7 'The Countryside' GEN1 'Access' and GEN2 'Design' of the Uttlesford Local Plan 2005 are the most relevant to the determination of this application. They predominantly focus on the requirement for development to achieve good design and the protection of the Countryside. In both circumstances they reference the importance of being sympathetic to the local character in achieving good design.
- The Council stated in the Case Officers report for UTT/20/0124/FUL that *'though it might have been preferable had the applicant kept to the original plans regarding the boundary treatment on the site, as that would have created a more natural and softer frontage to the development, it is considered....that the existing red brick wall is not incongruous for the immediate area'*
- Therefore now that the sole reason for the refusal of UTT/20/0124/FUL has been addressed due to the proposed relocation of the wall, and that the Council has already stated that the red brick wall is not incongruous for the immediate area, there is no reason not to approve the new wall.
- The applicant has stated that he would accept a condition which requires the planting of native species hedging in front of the development, if approved, following its completion.

6. RELEVANT SITE HISTORY

6.1 UTT/20/0124/FUL - Retrospective application for the erection of a front section of boundary wall identified in blue on submitted plans attached to UTT/18/1486/FUL for the erection of 1 no. dwelling - refused 30 March 2020

UTT/19/2422/FUL - Erection of boundary wall and amended landscaping attached to UTT/18/1486/FUL for the erection of 1 no. dwelling – refused 28th November 2019

UTT/19/1533/NMA - Non Material Amendment to UTT/16/2024/FUL - erection of boundary wall to plot 1 – refused 16th September 2019

UTT/18/1486/FUL - Erection of 1 no. Dwelling (amendment to design of plot 1 approved under UTT/16/2024/FUL) – approved 18th July 2018

UTT/16/2024/FUL - development of 20 houses - approved July 2017

7. POLICIES

National Policies

National Planning Policy Framework (NPPF)

Uttlesford Local Plan (2005)

ULP Policy S7 – The Countryside

ULP Policy GEN1 – Access

ULP Policy GEN2 – Design

ULP Policy GEN7 – Nature Conservation

ULP Policy ENV3 – Open Spaces and Trees

Supplementary Planning Documents/Guidance

None

Other Material Considerations

The emerging Newport, Quendon & Rickling neighbourhood plan

8. PARISH COUNCIL COMMENTS

8.1 Object

The original application layout, note the hedging onto Whiteditch Lane and the access via Pastures Close. That is what should be enforced!

Highway Safety:

An application to approve the wall at the front of 1 Pastures Close under UTT/19/2422/FUL was refused on the grounds of visibility splays being inadequate which, whilst accurate is not the only reason why this should be refused. The design is not appropriate for the location. This appears to be a further attempt to justify retention of the wall which as the photos below show does in fact impede visibility (which is poor in both directions). The original application approval was for the access to 1 Pastures Close to be made onto Pastures Close not onto Whiteditch Lane. The wall should not be there and neither should the pavement which protrudes into Whiteditch Lane. Other than to support access to this single property there is no purpose or benefit to having this stretch of pavement on Whiteditch Lane and further unnecessarily restricts what is already a very narrow rural byway. It also introduces an unnecessary urban form to the countryside. There is NO reason for this wall to be here.

Evidence from Christine Mayle:

We endorse Christine Mayle's response to this application, dated 13th July in its entirety.

Design:

In the planning officer's report regarding UTT/19/2422/FUL a suggestion was made that the front wall could be acceptable although is not the preferred option. We disagree entirely and reiterate the points made by the Parish Council in response to UTT/19/2422/FUL.

In addition, the application form states that no new or altered pedestrian access proposed to or from the public highway? This is manifestly not true. The original

application had pedestrian access to the front door from Pastures Close, not from Whiteditch Lane. This is not how the access has been constructed and thus it does constitute a new pedestrian access to and from the public highway.

Conclusion:

Newport Parish Council conclude that Highways and UDC Enforcement should be re-consulted on this matter and a site visit from both is essential to ensure that this matter is satisfactorily dealt with and the matter closed permanently. It is no-one's interest for this dispute to be allowed continue further.

9. CONSULTATIONS

ECC Highways

- 9.1 The Highway Authority has no objections to make on this proposal, as shown in principle on DWG no. 490.600, 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.

10. REPRESENTATIONS

- 10.1 1 representation received.

- 10.2 Summary of representations received as follows:

- The original permission included a natural hedge boundary suitable for a rural setting. Instead there is a brick wall which is contrary to policy S7
- The footpath at the front of the site goes nowhere and intrudes onto the highway and encourages people to park next to it which blocks access for emergency and waste disposal vehicles. It does not have dropped kerbs which makes it difficult for certain types of people to use and which is contrary to Highways Disability regulations.
- The pedestrian access onto Whiteditch Lane does not have permission onto the highway
- A footpath to the side of 1 Pastures Close has not been constructed which comprises pedestrian safety and impacts negatively on the desire people have to walk instead of drive.

11. APPRAISAL

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

- A Character and appearance (NPPF, ULP Policies S7 and GEN2, emerging Newport, Quendon & Rickling neighbourhood plan);
- B Highway safety (ULP Policy GEN1);

- C Residential amenity (ULP Policy GEN2);
- D Nature conservation and trees (ULP Policies GEN7 & ENV3).

A Character and appearance (NPPF, ULP Policies S7 and GEN2, emerging Newport, Quendon & Rickling neighbourhood plan)

- 11.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that planning applications must be determined in accordance with the planning policies set out in the Adopted Development Plan, unless material considerations indicate otherwise. The adopted development plan for Uttlesford comprises the Uttlesford Local Plan which was adopted in 2005.
- 11.2 The revised National Planning Policy Framework (NPPF) was published in July 2018 and updated in February 2019. It provides the statutory guidance for determining planning applications at a national level. It represents the most up to date central government planning policy guidance and as such is a material consideration for the determination of planning applications.
- 11.3 Paragraph 11d) of the NPPF states that where there are no relevant development plan policies, or the policies which are the most important for determining the application are out of date, the LPA should grant planning permission unless (i) the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development or (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this Framework taken as a whole.
- 11.4 ULP Policy S7 of the Council's adopted Local Plan states that planning permission will only be given for development that needs to take place there, or is appropriate to a rural area, adding that there will be strict controls on new building. Policy S7 also states 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.
- 11.5 ULP Policy GEN2 states amongst other things development will not be permitted unless it a) is 'compatible with the scale, form, layout, appearance and materials of surrounding buildings'.
- 11.6 The emerging Newport, Quendon & Rickling neighbourhood plan is at examination stage and UDC has not issued a decision statement detailing its intention to send the neighbourhood plan to a referendum (as set out under Regulation 18 of the Neighbourhood Planning (General) Regulations 2012). Therefore the emerging plan can only be given limited weight in assessing the application
- 11.7 However Policy NQRHD2 'Housing Design' of the emerging Newport, Quendon & Rickling neighbourhood plan states that 'To be supported a development proposal will be expected to, through layout, design and materials, and where it is appropriate: a. Relate well to its site and its surroundings'.
- 11.8 Under the application that approved the development of the site, UTT/16/2024/FUL with a changed plot design approved under UTT/18/1486/FUL,

the proposed boundary treatment all around the site was a close boarded fence with native shrubs and hedging to be placed either side of the fence. This boundary treatment was not conditioned on the latter application.

- 11.9 The applicant has stated that close board fencing would not be a strong enough boundary treatment given a change in levels at the front of the site during construction, and that a brick wall would be a more appropriate boundary treatment.
- 11.10 The dwellings along Whiteditch Lane have a varied approach to their boundary treatments with the highway, including leaving them open, planting hedging and trees, erecting close boarded fencing, railings, or brick walls.
- 11.11 Brick walls, and specifically red brick walls, have been erected as a boundary treatment outside a number of dwellings and developments along Whiteditch Lane.
- 11.12 There is a long red brick wall of a similar height to the one proposed, which includes some piers, immediately opposite the site on the other side of the highway at Oak Tree House. To the immediate north of the site is Bury Grove the access to which is between two high red brick walls. To the south of the site further back along Whiteditch Lane is King Edwards Mews which also utilises a high red brick wall as part of its boundary treatment with the highway.
- 11.13 Therefore a red brick wall cannot be said to be out of character for the area. As there is a red brick wall of similar style and height across the road from the site the development can be said to relate well to the 'particular character of the part of the countryside within which it is set' (ULP Policy S7), to be 'compatible with the scale, form, layout, appearance and materials of surrounding buildings'(ULP Policy GEN2) and to 'relate well to its site and its surroundings'(emerging Newport, Quendon & Rickling neighbourhood plan policy NQRHD2 'Housing Design').
- 11.14 The applicant has stated that he would accept a condition which requires the planting of native species hedging in front of the development, if approved, following its completion.
- 11.15 As it is under Schedule 1 Part 2 Class A1 (a) (ii) of the Town and Country Planning (General Permitted Development) (England) Order 2015 permitted development rights allow a brick wall up to 1 metre high to be erected adjacent to the highway without planning permission.
- 11.16 The site has not had its permitted development rights removed, so the owners could therefore erect a 1 metre brick wall at the site, adjacent to the highway, without planning permission.

- 11.17 The brick wall currently at the site, which it is proposed to dismantle and reconstruct further from the highway to meet highways concerns, is actually between 800mm and 1 metre high and therefore this aspect of the development does not need planning permission.
- 11.18 It is only the use of piers along the wall that brings the height above what is allowed under permitted development rights. These piers range between 1.1 and 1.28 metres and are therefore only between 100 and 280cm's higher than what would be allowed under permitted development rights.
- 11.19 The increase in impact between what would be allowed under permitted development rights and what will be erected is considered very modest and therefore not by itself a valid reason for rejecting planning approval of the development.

B Highway Safety (ULP Policy GEN1)

- 11.20 The Highways Authority at Essex County Council were consulted on the application. The Highways Authority stated that it has: 'no objections to make on this proposal, as shown in principle on DWG no. 490.600, 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'.

C Residential amenity (ULP Policy GEN2);

- 11.21 It is considered that the proposal, due to its scale, design and siting (in terms of proximity to boundary and/or relationship with neighbouring properties), does not result in an unacceptable loss of light, overbearing impact and loss of privacy to neighbouring amenity.

D Nature conservation and trees (ULP Policies GEN7 & ENV3)

- 11.22 There is a wall in existence already at the site which will be dismantled and moved further away from the highway to meet Highways concerns. The applicant has completed a Biodiversity Validation Checklist and confirmed that the development will be not impact on protected sites and habitats or protected and priority species and that no trees or hedgerows will be affected.

12. CONCLUSION

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

- A The development is compatible with the character and appearance of the area as there already a number of red brick walls of various heights and styles along Whiteditch Lane.
- B Despite this the applicant has stated that he would accept a condition which requires the planting of native species hedging in front of the development, if approved, following its completion.

- C The difference in impact between what would be allowed under permitted development rights and what will be erected is very modest and therefore not by itself a valid reason for rejecting planning approval for the development.
- D The proposal is acceptable to the Highways Authority.
- E The proposal would not be detrimental to residential amenity.
- F The proposal would not have a harmful effect on protected or priority species or trees or hedgerows.

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. Notwithstanding Condition 1, the existing wall on the site shall be demolished/dismantled within three months of the date of this permission, and all resultant material not being implemented for the replacement wall to be removed from the site.

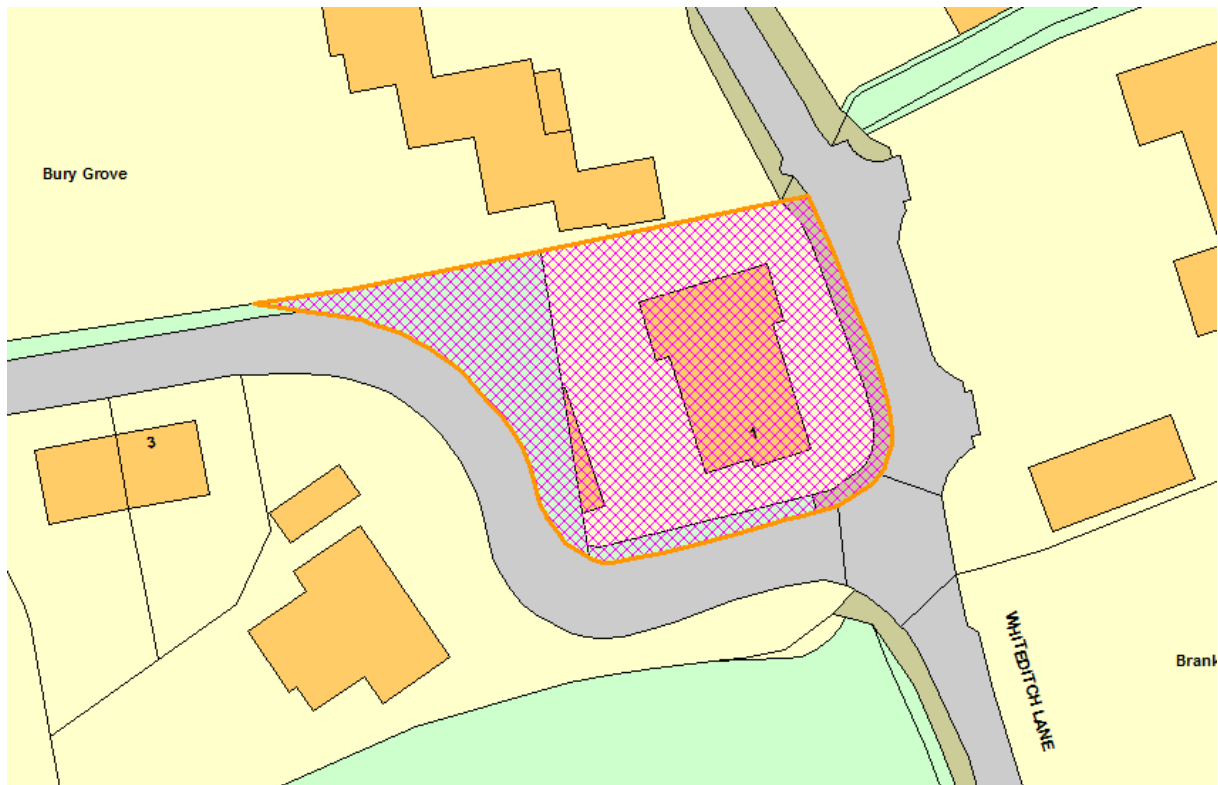
REASON: In the interest of the appearance of the development in accordance with ULP Policy S7 & GEN2 of the Uttlesford Local Plan (adopted 2005).

3. Details of materials to be used in the boundary wall shall be submitted to and approved in writing by the Local Planning Authority and the works carried out in accordance with the approved details.

REASON: In the interest of the appearance of the development in accordance with ULP Policy S7 & GEN2 of the Uttlesford Local Plan (adopted 2005).

4. In the first planting and seeding season following completion of the development native species hedging shall be planted in front of the development, 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: The use of this condition is required to ensure compatibility with the character of the area in accordance with ULP Policies S7 and GEN2 of the Uttlesford Local Plan (adopted 2005)



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Organisation: Uttlesford District Council

Department: Planning

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