

UTT/20/0234/FUL

Call-in request by Councillor Hargreaves if recommended for approval

Reason: For non-compliance with GEN2 and S7

PROPOSAL: Proposed change of layout to that approved under UTT/19/0937/FUL (Retrospective change of use from agricultural land to residential garden space, retention of bunding and landscaping).

LOCATION: Land adjacent to Branksome (16 Pastures Close), Whiteditch Lane, Newport, CB11 3UD.

APPLICANT: Mr W Bampton, Pelham Structures Ltd.

AGENT: Mr. Christopher Hennem, Pelham Structures Ltd.

EXPIRY DATE: 14.04.2020 (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 identified on the application form as the land adjacent to Branksome which is the rear residential gardens of 16 and 17 Pastures Close.

2.2 The site is located at the western end of Pastures Close. There are dwellings to the east and north of the site and open agricultural land to the west and south. To the south east of the application site are the residential properties of Meadowsweet Way.

2.3 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).

2.4 There is extant planning permission for an earth bund to be constructed on the site approved under UTT/19/0937/FUL and an earth bund has already been constructed.

3. PROPOSAL

3.1 This proposal relates to the following development/works:

Proposed change of layout to that approved under UTT/19/0937/FUL
(retrospective change of use from agricultural land to residential garden space,
retention of bunding and landscaping)

The proposed changes are to the form and height of the approved earth bund, the
repositioning of a pond, and landscaping.

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
- The applicant states that he already has extant approval for an earth bund at
the application site approved under UTT/19/0937/FUL.
 - However due to regrading and settlement of the soil he wants to change the
layout of the earth bund.
 - The changed layout of the earth bund would mean it would have two plateaus
now as opposed to one.
 - The first plateau of the proposed bund would be lower than that approved
under UTT/19/0937/FUL and the second section would either be the same
height or marginally higher than that approved.
 - Overall the applicant contends that this new layout would reduce the impact of
the earth bund on the site and on the surrounding area more generally. It
would also make the first section of the bund more user friendly for residents
of 16 & 17 Pastures Close.
 - The applicant states that the changed layout would not have a detrimental
impact on biodiversity in any way.
 - The applicant has submitted a section plan of the existing approved layout of
the earth bund compared with the proposed earth bund, as well as
photographs of the site and an ecological survey and biodiversity checklist.

6. RELEVANT SITE HISTORY

- 6.1 UTT/19/0937/FUL - Retrospective change of use from agricultural land to
residential garden space, retention of bunding and landscaping – APPROVED
13/09/2019
- UTT/16/0786/DFO - Details following outline application UTT/14/1794/OP (for the
erection of 15 no. dwellings and alteration of access), details of layout, access,
scale, landscaping and appearance- APPROVED
- UTT/14/1794/OP- Outline application with all matters reserved for 15 residential
units (incorporating alteration to access road and garage position previously
approved under UTT/13/2973/FUL)- ALLOWED

7. POLICIES

National Policies

National Planning Policy Framework (NPPF)

Uttlesford Local Plan (2005)

ULP Policy S7 – The Countryside

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

- A variation in the layout could surely have been dealt with under the existing permission so this application wastes everyone's time.
- The Parish Council's objections to the earlier application (UTT/19/0937/FUL – approved September 2019) still stand and are related to the impact the earth bund has on the amenity of neighbouring properties and surface water drainage.

9. CONSULTATIONS

Place Services (Ecology)

9.1 No objection - subject to securing biodiversity mitigation and enhancement measures.

Summary:

We have reviewed the additional Plans and Photographs supplied and base our response on the Revised Site Layout, Location and Section Plan (Drawing No. 490.500E) along with the Ecology Report (A. R. Arbon MBE), previously uploaded, relating to the likely impacts of development on designated sites, protected & Priority species & habitats.

The revised plans for the proposed site layout still show the inclusion of new Hornbeam and Laurel Hedgerow. We remain satisfied with the inclusion of native Hornbeam, but do not recommend that Laurel is used within the planting as this invasive species is listed within the GB non-native species secretariat and is

known for its rapid growth (through its ability to be spread by birds through the seeds in their droppings) and its ability to out-compete and displace native plant species.

We are satisfied that there is sufficient ecological information available for determination.

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

The mitigation measures identified in the Ecology Report (A. R. Arbon MBE) should be secured and implemented in full. This is necessary to conserve and enhance protected and Priority Species.

We also support the proposed reasonable biodiversity enhancements, which have been recommended within the Ecology Report (A. R. Arbon MBE) in order to secure measurable net gains for biodiversity, as outlined under Paragraph 170d of the National Planning Policy Framework 2019. The reasonable biodiversity enhancement measures should be outlined within a Biodiversity Enhancement Layout. This includes the creation of new ponds.

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

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

Submission for approval and implementation of the details below should be a condition of any planning consent.

UDC - Trees and Landscape Officer

No objection

Summary:

The decision was taken to approve the retention of the earthwork under UTT/19/0937/FUL. This decision was made in part on the grounds that the earthwork did not significantly visually impact on the wider landscape. I suggest that the same test is applied to the current application, and on that basis I raise no objection to the proposals. The proposed native species planting to the boundaries as detailed in the submitted drawing No.490.502 is considered appropriate.

10. REPRESENTATIONS

10.1 2 representations received.

10.2 Summary of representations received as follows:

- The bund (already created) has a detrimental impact on the adjoining countryside. This second application is just as intrusive as the first, contrary to policy S7.

- The residents alongside the bund both on Pastures Close and Meadowsweet Way will have their privacy and amenities severely affected due to the raised height of the bund. There will also be an adverse effect on the neighbouring properties on the Wicken Lea Estate
- There is no indication how the applicant intends to divert the water flow to prevent further flooding either onto Whiteditch Lane or into the Wicken Lea development where there is already considerable concerns regarding drainage. Therefore there are sustainability concerns contrary to policies GEN 1, 2, 3.
- The land is agricultural and should remain so as this is becoming a reducing commodity within our village, contrary to policy S7
- The view of original natural landscape beyond the application site is now partially obscured by the bund (from Meadowsweet Way).

11. APPRAISAL

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

- A Character and appearance (NPPF, ULP Policies S7 and GEN2);
- B Residential amenity (ULP Policy GEN2);
- C Nature Conservation (ULP Policies GEN7);
- D Drainage and Flood Risk (ULP Policy GEN3).

A Character and appearance (NPPF, ULP Policies S7 and GEN2)

- 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 The principle of constructing an earth bund at the site has already been established following on from the approval of application UTT/19/0937/FUL in September 2019.
- 11.8 There is therefore extant permission for an earth bund to exist at the site and an earth bund has already been constructed at the site.
- 11.9 In relation to the earth bund therefore this application is solely concerned with the merits or otherwise of a proposed change to the layout of the approved earth bund. The proposed layout change is reflective of the layout of the earth bund as it exists at present.
- 11.10 Both the approved earth bund layout and the proposed earth bund layout have a similar depth and width with approximate maximum dimensions, including the sloped area around the bund, of 48 metres deep by 40 metres wide, occupying an approximate area of 1,800 m².
- 11.11 The difference between the two layouts is therefore to do with their heights and the introduction of a second plateau into the proposed scheme.
- 11.12 The approved scheme allows for steps up to the earth bund which start approximately 17 metres from the rear elevations of the dwellings. These steps rise up from ground level over a distance of approximately 1.5 metres to a plateau which at this point is approximately 1.2 metres high. The height of the earth bund then rises steadily over a distance of approximately 39 metres to a highest point of approximately 1.7 metres, before tapering down to an endpoint which is approximately 1.5 metres high. The earth bund then slopes down to ground level over a distance of approximately 3.5 metres to just before the sites western boundary.
- 11.13 The proposed scheme is initially the same as the approved scheme. As with the approved scheme it proposes a flight of steps up to the earth bund approximately

17 metres from the rear elevations of the dwellings. As with the approved scheme these steps rise up from ground level over a distance of approximately 1.5 metres to a plateau which is approximately 1.2 metres high.

- 11.14 The proposed scheme then differs from the approved scheme in that for approximately the next 15 metres the earth bund gradually reduces in height too approximately 0.9 metres.
- 11.15 A second row of steps is then proposed which rise over a distance of approximately 1 metre to a height of approximately 1.6 metres.
- 11.16 The proposed layout then continues for approximately 25 metres at either the same height as the approved scheme or very slightly higher, by 100-150 mms, than the approved scheme. The proposed scheme ends at the same point and in the same way as the approved scheme.
- 11.17 Therefore, the first section of the earth bund under the proposed layout will be lower than the approved layout of the earth bund for the first 15 metres of the bund by up to approximately 0.7 metres. This reduction in height will reduce the impact the earth bund has on the surrounding area.
- 11.18 The second section of the proposed earth bund will be the same height or 100-150 mms higher than the approved layout for the earth bund. This will have a negligible difference on the impact the proposed earth bund will have on the surrounding area.
- 11.19 Overall therefore the proposed layout for the earth bund will lead to a reduction in the impact it has on the surrounding area when compared to the impact it would have if constructed to the approved layout.
- 11.20 The Trees and Landscapes Officer at UDC has been consulted and raised no objection to the new layout. He concluded on the originally approved application that the earth bund 'did not significantly visually impact on the wider landscape'. He suggests that the same test is applied to the current application, and on that basis he raises 'no objection to the proposals'.

B Impact on residential amenity (ULP Policy GEN2)

- 11.21 The Case Officer's report for the approved layout of the earth bund under application UTT/19/0937/FUL found that 'due to the positioning and scale of the bund the development will not result in any significant level of harm to the living condition of neighbouring properties from loss of daylight or an overbearing impact'.
- 11.22 The Case Officers report continued 'due to the distance to neighbouring properties the introduction of the bund is not considered to result in any significant loss of

privacy that will have any harmful impact to neighbouring properties and therefore it is in accordance with the aims of ULP Policy GEN2 and the NPPF’.

- 11.23 As already stated in part A of this appraisal the proposed layout of the earth bund will be up to approximately 0.7 metres lower than the approved layout of the earth bund for the first 15 metres approximately, and the same or only 100-150 mms higher for the remaining approximately 23 metres.
- 11.24 Therefore the proposed layout of the earth bund, due to having a lower first section and a negligibly higher second section, will somewhat reduce the impact the earth bund would have on neighbouring amenity.
- 11.25 Therefore the new proposed layout is an improvement on the existing permission for the layout of the earth bund in regards to its impact on neighbouring amenity.

C Nature Conservation (ULP Policy GEN7)

- 11.26 The applicants submitted an ecology assessment with the application. Essex County Council Ecology officers from Place Services have been consulted and have raised no objections to the application.
- 11.27 A pond from the approved application which spanned both residential gardens at the site has been moved to the residential garden of 17 Pastures Close. Some hornbeam hedges have been proposed for the start of the second higher section of the bund.
- 11.28 Due to the sites nature, and the fact that an earth bund is already in existence on the site, it is not considered the earth bund will result in any potential loss of habitat or harm to biodiversity.
- 11.29 The Essex County Council Ecology officer has recommended some conditions be placed on the application if approved.

D Drainage and Flood Risk (ULP Policy GEN3)

- 11.30 The Case Officer’s report for the approved layout of the earth bund under application UTT/19/0937/FUL found that the due to the ‘scale of the site and its location it is considered the development will not lead to any significant increase in flood risk’.
- 11.31 The current proposal proposes a changed layout of the earth bund, but the layout does not impact on the veracity of the Case Officer’s assessment regarding flooding under application UTT/19/0937/FUL, and the possibility of flooding has not been increased by the proposed layout.

12. CONCLUSION

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

- A The principle for the development of an earth bund at the application site has already been established under extant permission UTT/19/0937/FUL and an earth bund is already legally in existence at the site.
- B The proposed new layout of the earth bund reduces the impact it has on both the surrounding area and neighbours due to the reduction in height of the first section of the earth bund.
- C The second section of the proposed layout of the earth bund does not increase the impact it would have on the surrounding area or neighbours when compared to the already approved layout.
- C The proposed new layout does not lead to any increased detrimental impact on nature conservation or flooding and is acceptable to both UDC's Trees and Landscapes Officer and the Ecology Officer from Place Services Essex County Council.

RECOMMENDATION – APPROVAL WITH CONDITIONS

Conditions

1. The development hereby permitted shall be carried out in accordance with the approved plans as set out in the Schedule.

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

2. All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in Ecology Report (A. R. Arbon MBE) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

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

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

3. Within six months of the date of this permission a Biodiversity Enhancement Layout, providing the finalised details and locations of enhancement measures shall be submitted to and approved in writing by the local planning authority.

The enhancement measures shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

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

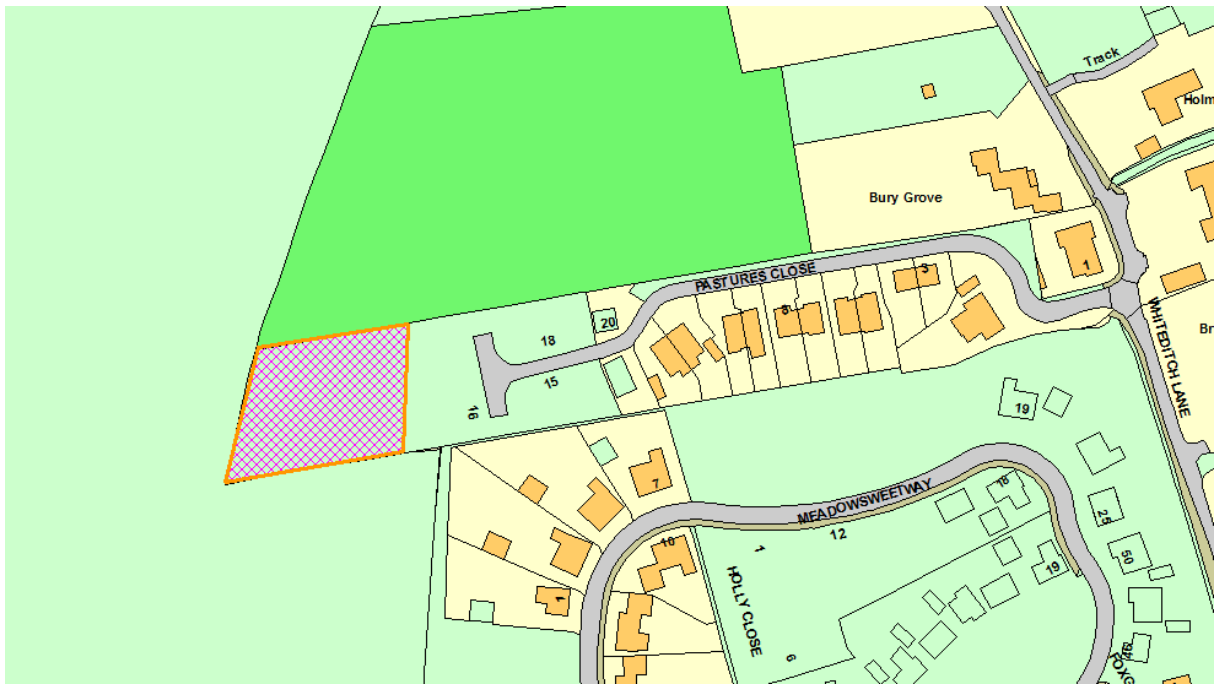
4. Landscaping shall be carried out in strict accordance with submitted plan 490.502 (28 April 2020).

All planting and seeding shall be carried out in the first planting and seeding seasons following the completion 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)

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order with or without modification), no development within Class E of Part 1 of Schedule 2 and Class A of Part 2 of Schedule 2 of the Order shall take place without the prior written permission of the local planning authority.

REASON: To prevent the site becoming overdeveloped and in the interests of the amenity of the occupiers of adjoining dwellings 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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