



**ITEM NUMBER:** 11

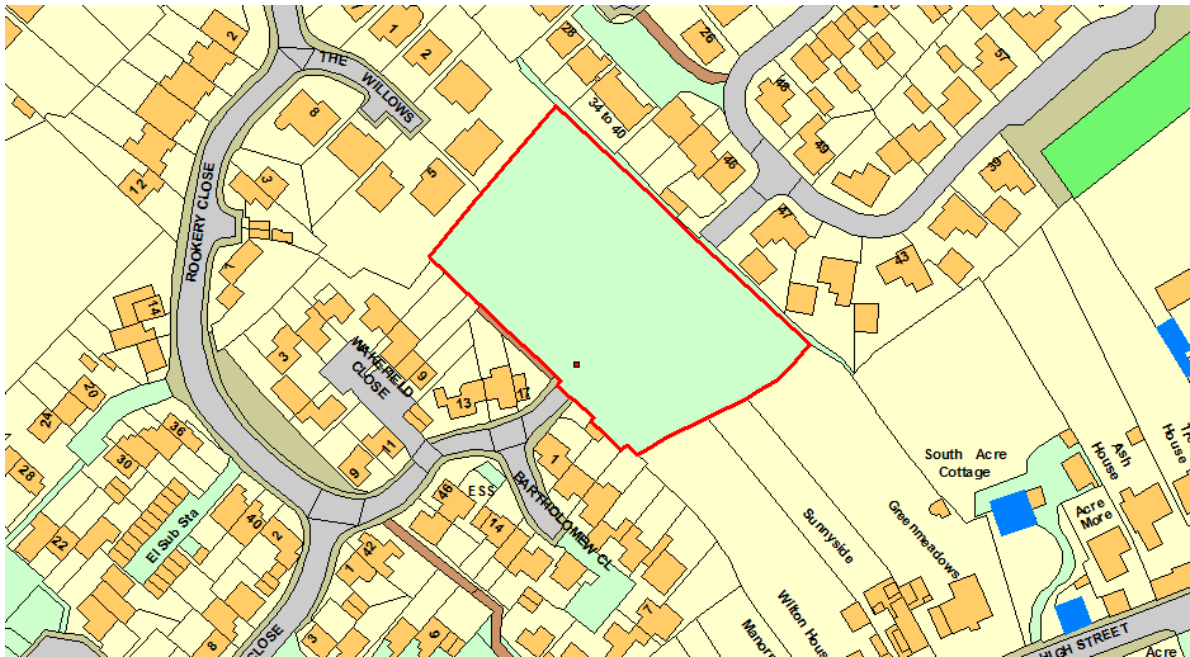
**PLANNING COMMITTEE** 14 September 2022

**DATE:**

**REFERENCE NUMBER:** UTT/22/1260/FUL

**LOCATION:** Land North Of Bartholomew Close, Bartholomew Close, Great Chesterford

## SITE LOCATION PLAN:



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Organisation: Uttlesford District Council      Date: 19/8/2022

**PROPOSAL:** Variation of condition 2 (Biodiversity, Surface Water Drainage, Hard and Soft Landscaping and Tree Protection) of UTT/21/2113/FUL to allow removal of trees behind plots 12 and 13.

**APPLICANT:** Uttlesford District Council

**AGENT:** The Design Partnership (Ely) Ltd

**EXPIRY DATE:** 30 August 2022

**EOT Expiry Date:** 16 September 2022

**CASE OFFICER:** Chris Tyler

**NOTATION:** Outside Development Limits, Adjacent Conservation Area

**REASON THIS APPLICATION IS ON THE AGENDA:** Variation of a condition imposed on a major planning application.  
Applicant - Uttlesford District Council

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## **1. EXECUTIVE SUMMARY**

- 1.1** The removal of the trees have been requested by the applicant to provide the occupiers of plot 13 and 12 an improved amenity space due to the visual dominance of the trees.
- 1.2** The removal of the trees would not result in an intensified urban appearance or significantly alter or harm the wider landscape character of the area. The trees to be removed do not have any significant visual landscape amenity value.
- 1.3** Although the removal of the trees would have the perception that there is a material increase in loss of privacy and overlooking to neighbouring properties, however, overall the development successfully meets all relevant standards.

## **2. RECOMMENDATION**

That the Interim Director of Planning and Building Control be authorised to <b>GRANT</b> permission for the development subject to those items set out in section 17 of this report.
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A) Conditions
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**3. SITE LOCATION AND DESCRIPTION:**

- 3.1** The site is located to the north Rookery Close, Great Chesterford. A housing development of 13 dwellings is currently under construction on the site.

**4. PROPOSAL**

- 4.1** To vary condition 2 (Biodiversity, Surface Water Drainage, Hard and Soft Landscaping and Tree Protection) of UTT/21/2113/FUL to allow removal of trees behind plots 12 and 13. Replacement tree planting has been proposed as part of the variation to the soft landscaping.

- 4.2** Condition 2 imposed on UTT/21/2113/FUL states as follows:

The development hereby permitted shall be in accordance with the details of;

- Biodiversity Enhancement,
- Surface Water Drainage,
- Hard and Soft Landscaping
- Tree Protection

Approved under Discharge of Conditions application UTT/20/1959/DOC - dated the 8 February 2021 and shall not be changed without prior written approval from the local planning authority.

REASON: To ensure the development as a whole is in accordance with the required conditions as set out in the original planning approval and in accordance with ULP Policies GEN2, GEN3, GEN7 and the NPPF

**5. ENVIRONMENTAL IMPACT ASSESSMENT**

- 5.1** The development does not constitute 'EIA development' for the purposes of The Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

**6. RELEVANT SITE HISTORY**

Reference	Proposal	Decision
UTT/19/2288/FUL	Proposed residential development of up to 13 dwellings including associated external works and parking.	Approved 12/5/2020
UTT/20/1959/DOC	Application to discharge condition 7 (Biodiversity Enhancement Strategy), 9	Approved 8/2/2021

	(surface water drainage), 16 (hard/soft landscaping) and 19 (tree protection measures) attached to UTT/19/2288/FUL	
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**7. PREAPPLICATION ADVICE AND/OR COMMUNITY CONSULTATION**

- 7.1** The LPA is unaware of any consultation exercise carried out by the applicant for this reserve matters application.

**8. SUMMARY OF STATUTORY CONSULTEE RESPONSES**

- 8.1** No Statutory Consultees were consulted as there is no requirement.

**9. PARISH COUNCIL COMMENTS**

- 9.1** Objects to the proposal as there is no justification for the removal of the trees.

**10. CONSULTEE RESPONSES**

**10.1 UDC Landscape Officer/Arborist**

- 10.1.1** The revised planting plan and specification is considered to be appropriate.

**11. REPRESENTATIONS**

- 11.1** A site notice was displayed on site and 56 notifications letters were sent to nearby properties. The application was also advertised in the local press.

**11.2 Support**

- 11.2.1** N/A

**11.3 Object**

- 11.3.1** 4 letters of objection received, comments include:

- The existing trees provide privacy,
- New planting will not compensate the loss of the mature trees,
- The existing trees should been factored into the design of the development,
- There is no evidence the trees are low amenity value,
- Increase in traffic,
- Impact to ecology,
- The existing trees provide a sound barrier,

**11.4 Comment**

- 11.4.1**
- The increase in traffic is not a material consideration in this particular application.
  - The landscape amenity value, loss of privacy and ecology matter will be considered in the following report.

## **12. MATERIAL CONSIDERATIONS**

**12.1** In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, The Development Plan and all other material considerations identified in the “Considerations and Assessments” section of the report. The determination must be made in accordance with the plan unless material considerations indicate otherwise.

**12.2** Section 70(2) of the Town and Country Planning Act requires the local planning authority in dealing with a planning application, to have regard to;

(a) The provisions of the development plan, so far as material to the application:

(a) a post-examination draft neighbourhood development plan, so far as material to the application,

(b) any local finance considerations, so far as material to the application, and

(c) any other material considerations.

**12.3** Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the local planning authority, or, as the case may be, the Secretary of State, in considering whether to grant planning permission (or permission in principle) fails to preserve or enhance the character and appearance of the Conservation Area.

## **12.4 The Development Plan**

**12.4.1** Essex Minerals Local Plan (adopted July 2014)  
Essex and Southend-on-Sea Waste Local Plan (adopted July 2017)  
Uttlesford District Local Plan (adopted 2005)  
Felsted Neighbourhood Plan (made Feb 2020)  
Great Dunmow Neighbourhood Plan (made December 2016)  
Newport and Quendon and Rickling Neighbourhood Plan (made June 2021)  
Thaxted Neighbourhood Plan (made February 2019)  
Stebbing Neighbourhood Plan (made July 2022)

## **3. POLICY**

### **13.1 National Policies**

**13.1.1** National Planning Policy Framework (2021)

**13.2 Uttlesford District Plan 2005**

Policy S7 – The Countryside

Policy GEN2 – Design

Policy GEN7 - Nature Conservation

Policy ENV3 - Open Space and Trees

Policy ENV1 – Design of Development within Conservation Areas

**13.3 Great and Little Chesterford Neighbourhood Plan**

Limited Weight.

**13.4 Supplementary Planning Document or Guidance**

Essex Design Guide

Uttlesford Interim Climate Change Policy (2021)

**14. CONSIDERATIONS AND ASSESSMENT**

**14.1** The issues to consider in the determination of this application are:

- 14.2**
- A) Character and Appearance**
  - B) Conservation and Heritage**
  - C) Residential Amenity**
  - D) Climate Change**
  - E) Ecology**

**14.3 A) Character and Appearance**

**14.3.1** ULP Policy S7 looks to protect the countryside for its own sake by limiting development to that which needs to be there or is appropriate to a rural area. In planning policy terms, the site lies outside of any established development limits as defined by the Uttlesford Local Plan. Consequently, for the purposes of planning, the site is considered to be within the countryside and subject to all national and local policies.

**14.3.2** The principle of the development has been established through previous planning approval for the residential development on this site. The application site although outside of the settlement development limits does have an urban character and appearance. The removal of the trees would not result in an intensified urban appearance or overall would not significantly alter or harm the wider landscape character of the area. As such it is considered the variation of condition and the removal of the trees would not be in conflict with the aims of ULP Policy S7.

- 14.3.3** ULP Policy ENV3 considers the loss of trees in development and advises the loss of trees through development proposals will not be permitted unless the need for the development outweigh their amenity value
- 14.3.4** ULP Policy GEN2 (b) safeguards important environmental features in it setting, enabling their retention and helping to reduce visual impact of buildings or structures where appropriate
- 14.3.5** The proposal includes the removal of the existing trees to the rear of plots 12 and 13, it is noted these have been retained in the previously approved planning applications on this site, however the applicant request these to be removed to provide the occupiers of Plots 12 and 13 an improved amenity space as the trees are visually dominating.
- 14.3.6** This application specifically considers the removal of trees to the rear of Plots 12-13. In terms of the assessing the removal of the trees the Council's Landscape Officer has been consulted and advises there are no objections to the removal of the trees subject to a condition securing replacement planting. The trees to be removed do not have any significant visual landscape amenity value, therefore the removal of the trees to provide an improved amenity space for the future occupiers of the new dwellings outweighs the harm cause by their removal.
- 14.3.7** The proposal includes the replanting of 4 birch trees (Betula Pendula) to the rear of Plots 12-13 and in the exact location from where the trees are proposed to be removed. The trees as set out in the submitted planting schedule will be planted at a 2m height and will continue to grow to 4.5m.
- 14.3.8** Paragraph 174 (b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services including trees. That being said the existing trees do not provide a positive contribution to the character of the area. The removal of the tress will not detrimentally impact the setting and local distinctiveness of the site, as such it is considered the variation of condition 2 (landscaping) is acceptable and in accordance with ULP Policies ENV3, GEN2 and the NPPF.

**14.4 B) Conservation and Heritage**

- 14.4.1** ULP Policy ENV1 considers the design of development within conservation area. The southeast boundary abuts the Conservation Area and as such due consideration should be made to whether the proposal will have a detrimental impact to the appearance and character of the Conservation Area.
- 14.4.2** The Council's Heritage Consultant has been consulted as part of the application process, it is noted no comments or further recommendations have been received. Due to the location of the trees and that their removal will not result in any loss of visual landscape amenity it is considered the proposal will have a neutral effect to the character of the nearby



Conservation Area. As such the proposed variation of condition 2 (landscaping) is considered to be in accordance with ULP Policy ENV1 and paragraph 202 of the NPPF. Due consideration has also been made to Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

#### **14.5 C) Residential Amenity**

**14.5.1** The trees to be removed are located to the rear of Plots 12-13 and do provide some level of screening to the rear gardens of 15 and 17 Rookery Close, however this is limited. The separation distance between Plot 12 of the new development and 17 Rookery Close is 22m and the rear first floor window of Plot 12 serves a bedroom. Although the loss of the trees may preserve to result in an increase in loss of privacy for the occupiers of 15 and 17 Rookery Close it would not be of a significant level that would justify the refusal of the application.

**14.5.2** The proposal would comply with the minimum separation distances described in the Essex Design Guide, which in most cases is 25m, back to back distances at first floor level. It is noted that the existing dwelling of 17 Rookery Close is orientated more than 30 degrees in relation with Plots 12 and 13 therefore ensuring the 15m standard is applicable.

**14.5.3** Although the removal of the trees would have the perception that there is a material increase in loss of privacy and overlooking to neighbouring occupiers, overall, the development successfully meets all relevant standards, thereby ensuring a good level of amenity for existing and future occupants in accordance with the above policies.

#### **14.6 D) Climate Change**

**14.6.1** Following the recently adopted UDC Interim Climate Change Policy 2021 due consideration should be made by developer to demonstrate the path that their proposals take towards achieving net – zero carbon by 2030, and all the ways their proposal are working towards this in response to planning law, and also to the guidance set out in the NPPF and planning policy guidance.

**14.6.2** Interim Policy 7 advises developers should demonstrate how the level of tree planting that has been proposed is sufficient to contribute towards reducing the impact of the proposal on the environment. Although the proposal will include the removal of trees replacement tree planting is included, together with the landscaping enhancement and tree planting throughout the site it is considered the developer and specifically in regard to landscaping has made due consideration to Climate Change.

#### **14.7 E) Ecology**

**14.7.1** Policy GEN7 and Paragraph 179 of the NPPF seeks to ensure that development would not have a harmful effect on wildlife and biodiversity.

Appropriate mitigation measures must be implemented to secure the long-term protection of protected species.

- 14.7.2** Taking into account the proposal will replace the existing trees it is considered the proposed removal of the trees will have a neutral impact to ecology and biodiversity. No comments or further recommendations have been received from the Council's Ecology Consultant. Due to the nature of the proposed amendments it is unlikely that the development would have significant adverse effects on any protected species or valuable habitat. Nonetheless should the application be approved an informative will be added reminding the applicant of their duties under the Wildlife Act. It is therefore concluded that the proposal accords with ULP Policy GEN7.

## **15. ADDITIONAL DUTIES**

### **15.1 Public Sector Equalities Duties**

- 15.1.1** The Equality Act 2010 provides protection from discrimination in respect of certain protected characteristics, namely: age, disability, gender reassignment, pregnancy and maternity, race, religion or beliefs and sex and sexual orientation. It places the Council under a legal duty to have due regard to the advancement of equality in the exercise of its powers including planning powers.

- 15.1.2** The Committee must be mindful of this duty inter alia when determining all planning applications. In particular, the Committee must pay due regard to the need to: (1) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act; (2) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and (3) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

- 15.1.3** Due consideration has been made to The Equality Act 2010 during the assessment of the planning application, no conflicts are raised

### **15.2 Human Rights**

- 15.2.1** There may be implications under Article 1 (protection of property) and Article 8 (right to respect for private and family life) 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

## **16. CONCLUSION**

- 16.1** Subject to the replanting of trees, the variation of condition 2 (Hard and Soft Landscaping) of UTT/21/2113/FUL and to allow removal of existing trees behind Plots 12 and 13 is considered acceptable.

**17. CONDITIONS**

- 1** Prior to occupation of the development hereby approved, the access arrangement, as shown in principle on DWG no. UDC-842-01 approved under planning permission UTT/19/2288/FUL, shall be fully implemented and shall not be changed without prior written approval from the Local Planning Authority.

REASON: To ensure that vehicles can enter and leave the highway in a controlled manner in the interest of highway safety and in accordance with ULP Policy GEN1.

- 2** The development hereby permitted shall be in accordance with the details of Wildlife sensitive lighting approved under discharge of conditions application UTT/21/2804/DOC - dated the 1<sup>st</sup> December 2021 and shall not be changed without prior written approval from the local planning authority.

REASON: To allow the LPA to discharge its duties under the UK Habitats Regulations 2017, the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species) and in accordance with ULP Policy GEN7.

- 3** The development hereby permitted shall be in accordance with the details of SUDS Maintenance Plan approved under discharge of conditions application UTT/21/2804/DOC - dated the 1 December 2021 and shall not be changed without prior written approval from the local planning authority.

REASON: To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk. Failure to provide the above required information prior to occupation may result in the installation of a system that is not properly maintained and may increase flood risk or pollution hazard from the site. The above reasoning for the condition is in accordance with ULP Policy GEN3 and the NPPF.

- 4** Following completion of the construction of the dwellings hereby approved a comprehensive survey of the estate roads from Jackson's Lane to the application site to the application site shall be completed in accordance with the details of condition 4 approved under application UTT/21/0612/DOC - dated 12 August 2021.

The results of the survey and any identified damage/repair work shall be submitted to and approved in writing by the Local Planning Authority. Any repair works identified in the 'after' survey shall be carried out within 3 months of the completion of the construction of the dwellings to a programme to be agreed with the Local Planning Authority.

REASON: In the interests of highway safety and in accordance with ULP Policy GEN1.

- 5** The development hereby permitted shall be in accordance with the details of Biodiversity Enhancement and Surface Water Drainage approved under discharge of conditions application UTT/20/1959/DOC - dated the 8 February 2021 and shall not be changed without prior written approval from the local planning authority.

REASON: To ensure the development as a whole is in accordance with the required conditions as set out in the original planning approval and in accordance with ULP Policies GEN2, GEN3, GEN7 and the NPPF

- 6** All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in Preliminary Ecology Appraisal (Applied Ecology Ltd, January 2020) as already submitted with planning application UTT/19/2288/FUL and agreed in principle with the local planning authority prior to determination.

This includes maintaining the grass by regular mowing/cutting management, due diligence for nesting birds and hedgehogs, compensation for any loss of tree and scrub by replacement with native species planting, and wildlife sensitive lighting."

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

- 7** The development hereby permitted shall be in accordance with the details of Construction Method Statement and Offsite drainage/ flooding approved under discharge of conditions application UTT/21/0479/DOC- dated the 12<sup>th</sup> August 2021 and shall not be changed without prior written approval from the local planning authority.

REASON: The use of such pre commencement condition is required to protect the amenity of surrounding residential premises in accordance with Policies GEN1, GEN2, and GEN4 of the Uttlesford Local Plan (adopted 2005).

To ensure the development is in accordance with ULP Policy GEN3 and the NPPF regarding flooding.

- 8** The applicant or any successor in title must maintain yearly logs of maintenance which should be carried out in accordance with any approved Maintenance Plan. These must be available for inspection upon a request by the Local Planning Authority.

REASON: To ensure the SuDS are maintained for the lifetime of the development as outlined in any approved Maintenance Plan so that they continue to function as intended to ensure mitigation against flood risk and in accordance with ULP Policy GEN3 and the NPPF.

- 9** The cycle parking facilities as shown on the approved plans approved under planning permission UTT/19/2288/FUL are to be provided prior to the first occupation of the development and retained at all times.

REASON: To ensure appropriate bicycle parking is provided and in accordance with ULP Policy GEN1.

- 10** The replacement tree planting as demonstrated on Drawing P01 revision F shall be carried out in the first planting and seeding seasons following the completion of the development, or in agreed phases whichever is the sooner, and any trees 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)

- 11** A minimum of a single electric vehicle charging point shall be installed. This shall be provided for each of the houses, 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 ULP ENV13 and the NPPF.

- 12** 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

- 13** Within 6 months of the development hereby approved details of the walk/cycle way connecting the application site with Stanley Close shall be submitted and approved in writing by the Local Planning Authority. The walk way will be constructed in accordance with the approved details and will not be changed without prior written approval from the Local Planning Authority.

REASON: To ensure the foot way is constructed and completed in appropriate time scale and standard. In the interest of appropriate access to the site in accordance with ULP Policy GEN1.

- 14** Notwithstanding the submitted plans, all dwellings shall be in strict accordance with the Technical Housing Standards- Nationally Described Space Standards (2015)

REASON: To comply with Policy GEN2 of the Adopted Local Plan 2005 to provide an environment which would meet the reasonable needs of potential users of the development.