



ITEM NUMBER: 7

PLANNING COMMITTEE DATE: 21 June 2023

REFERENCE NUMBER: UTT/23/0414/FUL

LOCATION: Land Behind The Old Cement Works
Thaxted Road, Saffron Walden

SITE LOCATION PLAN:



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Organisation: Uttlesford District Council Date: 30 May 2023

PROPOSAL: Application to vary conditions 2 and 8 (plans) attached to UTT/20/0864/FUL (approved at appeal ref APP/C1570/W/20/3264407) - changes to plot 19

APPLICANT: Amherst Homes

AGENT: Mr Ruaridh Wainwright-Harrower (BRD Tech Ltd)

EXPIRY DATE: 19 May 2023

EOT Expiry Date: 23 June 2023

CASE OFFICER: Chris Tyler

NOTATION: Within Development Limits

REASON THIS APPLICATION IS ON THE AGENDA: Major Planning Application

1. EXECUTIVE SUMMARY

1.1 The proposal includes the variation of conditions 2 and 8 (plans) attached to UTT/20/0864/FUL (approved at appeal ref APP/C1570/W/20/3264407). The variation of these conditions enables the change in ground levels to Plot 19 in order to construct the dwelling at a level which is consistent with the rest of the site.

1.2 The change in ground levels to Plot 19 will not result in a harmful impact to appearance or character of the site or surrounding area.

1.3 The alterations to the layout of plot 19 and mitigation measures ensures to the proposal will not have a harmful impact to the private amenity of neighbouring properties.

1.4 As such it is considered the revision to the design of the approved scheme are acceptable and in accordance with ULP Policy GEN2, SWNP-SW3 and the NPPF.

2. RECOMMENDATION

That the Director of Planning be authorised to **GRANT** permission for the development subject to those items set out in section 17 of this report -

- A) Completion of a s106 Obligation Agreement in accordance with the Heads of Terms as set out
- B) Conditions

And

If the freehold owner shall fail to enter into such an agreement, the Director of Planning shall be authorised to **REFUSE** permission following the expiration of a 6 month period from the date of Planning Committee.

3. SITE LOCATION AND DESCRIPTION:

3.1 The site is located off Thaxted Road, Saffron Walden. It comprises an area of open land, previously used as a cement works, lime kiln and scrapyard, to the rear of existing residential development at The Kilns and Tiptoft Lane.

3.2 The application is currently being redeveloped and a residential development of 35 dwellings is currently under construction.

4. PROPOSAL

4.1 This application seeks to vary condition vary conditions 2 and 8 (plans) attached to UTT/20/0864/FUL (approved at appeal ref APP/C1570/W/20/3264407).

4.2 Approved condition 2 includes:

The development hereby permitted shall be carried out in accordance with the following approved plans:901416.30 Rev G; 901416.31 Rev A; 901416.32; 901416.33 Rev C; 901416.34 Rev C; 901416.35 Rev C; 901416.01; 901416.02; 901416.03; 901416.04; 901416.05; 901416.06; 901416.07; 901416.08; 901416.09; 901416.10; 901416.11; 901416.12; 901416.13;901416.14; 901416.15 Rev A; 901416 Rev A; 901416.17 Rev A; 901416.18; 901416 Rev A; 901416.20; 901416.21; 901416.22; 901416.23; 901416.24; 901416.25; 901416.26 Rev A; 901416.30 Rev G; 901416.31 Rev A; 901416.32 Rev A; 901416.33 Rev C; 901416.34 Rev C; 901416.35 Rev C; 901416.40.

4.3 Existing condition 8 includes:

The eaves and ridge heights of the permitted dwellings relative to each other and to existing buildings must be constructed as shown on the following drawings:

- Drawing No. 90416.40
- Drawing No. 90416.26 Rev A

The proposal includes revising approved drawing 90416.26A with drawing BRD/22/029/010 A.

- 4.2 The proposed include changes to the ground levels of plot 19 from 80.200 to 80.550. In order to protect 10 Tiptofts Lane from overlooking, the first floor accommodation has been re-planned to move the bathroom into the centre of the building and rotate the 3rd bedroom so that it occupies all of the rear elevation. The existing 1st floor windows on the rear elevation are to be fixed closed and glazed with obscured glass.

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**

6.1

Reference	Proposal	Decision
UTT/20/0864/FUL	Erection of 35 Dwellinghouses (Revised scheme to that approved under UTT/16/1444/OP and UTT/17/3038/DFO	Refused, allowed at appeal
UTT/17/3038/DFO	Details following outline approval UTT/16/1444/OP for 35 no. dwellings comprising 21 market homes and 14 affordable homes. Details of appearance, landscaping, layout and scale.	Approved
UTT/16/1444/OP	Outline application, with all matters reserved except for access, for a residential development of up to 49 dwellings. Previously approved under UTT/13/1937/OP	Approved

7. **PREAPPLICATION ADVICE AND/OR COMMUNITY CONSULTATION**

- 7.2 The LPA is unaware of any consultation exercise carried out by the applicant for this current proposal.

8. SUMMARY OF STATUTORY CONSULTEE RESPONSES

Highway Authority

8.1 No comments received.

9. SAFFRON WALDEN TOWN COUNCIL COMMENTS

9.1 No comments received.

10. CONSULTEE RESPONSES

10.1 Cadent Gas

10.1.1 No objections.

10.2 UK Power Networks

10.2.1 No objections.

11. REPRESENTATIONS

11.1 Site notice/s were displayed on site and 76 notifications letters were sent to nearby properties. The notification was also published in the local press.

11.2 Support

11.2.1 N/A

11.3 Object

11.3.1 1 objections received, comments include:

- Raising of the plot 19 will cause overlooking to the neighbouring property,
- If the levels are to be changed then plot 19 should be moved further away from 10 Tiptofts lane by 4m to provide a 15m distance,
- Plot 19 could be removed from the development,
- Obscure glazing and fixed shut windows will be ineffective,
- This will need to be monitored and enforced,
- The fixed shut windows will not meet building regulations,
- The site survey may be inaccurate,
- Bedrooms are to the rear elevation, contrary to the Essex Design Guide,
- Given the repeated requests for change, the applicant should submit a completely new planning application rather than fundamentally change the application with multiple applications.

- The applicant can't be trusted to abide by plans submitted and have a history of ignoring Fire Safety at the development posing a risk to life.
- The development has resulted in substantial volumes of dust

11.4 Comment

11.4.1 A rebuttal statement has been received from the applicant, comments include;

- The positioning of plot 19 in relation to 10 Tiptofts Lane was approved at planning and held up at appeal, repositioning of the dwelling would be at odds with the street scene.
- The rear elevation windows are proposed to be formed without opening casements and glazed with obscured glass to prevent overlooking the garden of 10 Tiptofts Lane.
- An opening window serving bedroom 3 will be located to the side elevation.
- The level are as approved on the original approved plans, the design of the proposal is based on this.
- Although some land reduction has taken place, this does not change the fact that further excavations and significant engineering works will be required to comply with the approved scheme.
- The proposal does involve building Plot 19 at a level higher other than that shown in drawing 90416.26-A
- If Plot 19 is lowered, plot 18 will need to be lowered as well. This will add the problems described for Plot 19 to Plot 18 as well.
- The original design will require engineering works to retain the higher ground level and maintain the approved amenity space.
- Bedroom to the rear are included in the original approval,
- Any contradictions or technical issues will be resolved through the planning process,
- The applicant is a well-respected local business who has built an excellent reputation in the area. It is untrue to say that they cannot be trusted to follow the approved plans, which can be demonstrated by this application, showing their willingness to do "the right thing"

Case Officer Comments

- It is noted this application only considers the variation of conditions 2 and 8 (plans) attached to UTT/20/0864/FUL (approved at appeal ref APP/C1570/W/20/3264407). All planning matters will be considered in the following report,
- The applicant has submitted the correct application to consider the amendments to the previously approved development,
- Comments in regard to the reputation of the developer holds no material planning weight in the consideration of this application,

- In regard to harmful impact from dust etc, a construction management plans was conditioned as part of the original planning permission and will be also be included on this application, if approved.

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:
 - (aza) 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.

12.4 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 19 July 2022)
 Saffron Walden Neighbourhood Plan (made 11 October 2022)
 Ashdon Neighbourhood Plan (made 6 December 2022)
 Great & Little Chesterford Neighbourhood Plan (made 2 February 2023)

13. POLICY

13.1 National Policies

13.1.1 National Planning Policy Framework (2021)

13.2 Uttlesford District Plan 2005

S1 – Development Limits for the Main Urban Areas
GEN1 – Access
GEN2 – Design
GEN3 – Flood Protection
GEN4 – Good Neighbourliness
GEN5 – Light Pollution
GEN6 – Infrastructure Provision to Support Development
GEN7 – Nature Conservation
GEN8 – Vehicle Parking Standards
E2 – Safeguarding Employment Land
ENV8 – Other Landscape Elements of Importance for Nature Conservation
ENV12 – Protection of Water Resources
ENV13 – Exposure to Poor Air Quality
ENV14 – Contaminated Land
H1 – Housing Development
H3 – New Houses within Development Limits
H9 – Affordable Housing
H10 – Housing Mix
SW6 – Safeguarding of Existing Employment Areas

13.3 Saffron Walden Neighbourhood Plan (made 11 October 2022)

SW3 - Design

13.4 Supplementary Planning Document or Guidance

Essex Design Guide

14. CONSIDERATIONS AND ASSESSMENT

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

14.2 **A) Design and Appearance**
B) Amenity

14.3 **A) Design and Appearance**

14.3.1 ULP Policy GEN2 considers the design of development and advises development will not be permitted unless is compatible with the scale, form, layout, appearance and materials of surrounding buildings.

14.3.2 Paragraph 130 (b) of the NPPF advises planning decision should ensure developments are visually attractive as a result of good architecture, layout and appropriate and effective landscaping.

14.3.3 Policy SW3 of the Saffron Walden Neighbourhood Plan states development in Saffron Walden must contribute positively to the Parish's sense of place through a design-led approach underpinned by good design principles.

14.3.4 In regard to the design and appearance of Plot 19, although the proposal includes a material change to the original planning approval the overall appearance of the dwelling will not result in any significant alteration. The proposed revision to the development includes changes to the ground level of Plot 19, these are not considered result in harmful impact to the overall character or appearance of the site, proposed dwelling or surrounding area.

14.3.5 An objection has been raised in regards the distance between plot 19 and 10 Tiptofts Lane and Plot 19 should be moved 4m further away or removed from the development. The application does not consider this proposal; however, the applicant has noted the siting of the Plot 19 has been approved under the previous planning permission and as such the location of this plot is deemed acceptable.

14.3.6 As such it is considered the design and appearance of proposed revisions are acceptable and in accordance with ULP Policy GEN2, SWNP-SW3 and the NPPF

14.4 B) Amenity

14.4.1 ULP Policy GEN2 considers the design of development and advises development will not be permitted if it results in an adverse effect on the reasonable occupation and enjoyment of a residential or other sensitive property, as a result of loss of privacy.

14.4.2 Paragraph 130 (f) of the NPPF advises planning decision should ensure developments include a high standard of amenity for existing and future users.

14.4.3 Policy SW3 of the Saffron Walden Neighbourhood Plan considers the impact to the amenity including overlooking as overlooking both for existing neighbours and future residents.

14.4.4 The proposed includes changes to the ground levels of Plot 19 from 80.200 to 80.550 and reconfiguration of the internal layout. The positioning of the Plot 19 will not be any closer to 10 Tiptoft Lane, as allowed at appeal. The changes to the site level are required to construct Plot 19 at a level which is consistent with the rest of the site.

14.4.5 The revision will result in the first-floor windows plot 19 being at higher level and therefore may potentially result in an increase in overlooking to 10 Tiptoft Lane. In order to mitigate this harm, the proposal include moving the bathroom to the centre of the property, the rear windows will be obscurely glazed, and fixed shut. A side window will be provided to this rear bedroom (bedroom 3) to provide an escape window whilst not directly overlooking the neighbouring properties.

- 14.4.6** An objection has been raised in regard to the reconfiguration of the first-floor layout and that the Essex Design Guide supports rear facing bathrooms and landings provided with above eye-level windows. I suggest these details within the Essex Design Guide provide mitigating examples to ensure not harmful effect to amenity. In this the case the proposal has mitigated any potential harm to the neighbouring properties private amenity.
- 14.4.7** Although it may not be desirable for the rear windows to be obscurely glazed and fixed shut, the additional side window will provide ventilation and an outlook for the future occupiers of Plot 19. Whereas without these measures the proposal would likely have a harmful impact to the amenity of neighbouring property.
- 14.4.8** Although the proposed changes to the ground levels will have a material change to the approved development, with the mitigation measures of inclusion of obscure glazing and fixed shut windows the proposal will not have an adverse effect on the private amenity area of neighbouring properties from overlooking or loss of privacy.
- 14.4.9** An objection has been made in regard to that the obscure glazing and will be fixed shut windows will be ineffective and will need to be monitored and enforced. The proposed window will be formed without opening casements and glazed with obscured glass to prevent overlooking the garden of 10 Tiptoft Lane. I consider the use of an additional planning condition would secure these proposed features and any changes to these would require written permission from the Local Planning Authority.
- 14.4.10** As such it is considered proposed revisions in regard to amenity are acceptable and in accordance with ULP Policy GEN2, SWNP-SW3 and the NPPF.

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 The variation of condition 2 and 8 is considered acceptable. The change in ground levels to Plot 19 will not result in a harmful impact to appearance or character of the site or surrounding area.

16.2 The alterations to the layout of Plot 19 and mitigation details ensures to the proposal will not have a harmful impact to the private amenity of neighbouring properties.

16.3 As such it is considered the revision to the design of the approved scheme are acceptable and in accordance with ULP Policy GEN2, SWNP-SW3 and the NPPF

17. S106/ CONDITIONS

17.1 S106 HEAD OF TERMS

17.2 A S106 – deed of variation will be required to transfer the previous S106 planning obligations to this new planning permission, the heads of terms include:

- (i) Affordable Housing,
- (ii) Education Contribution,
- (iii) Health Services Contribution,
- (iv) Pay the Council's reasonable legal costs
- (v) Pay the monitoring fee

17.3 CONDITIONS

1 The development to which this permission relates to shall begin by the 12th July 2024, in compliance with the expiration of 3 years from the decision date of allowed appeal APP/C1570/W/20/3264407.

REASON: To comply with the requirements of Sections 73 and 91 of the Town and Country Planning Act 1990 (as amended).

- 2** The development hereby permitted shall be carried out in accordance with the following approved plans of the original planning permission (UTT/20/0864/FUL) and additional plan BRD/22/029/010-A; 90416.01; 90416.02; 90416.03; 90416.04; 90416.05; 90416.06; 90416.07; 90416.08; 90416.09; 90416.10; 90416.11; 90416.12; 90416.13; 90416.14; 90416.15 Rev A; 90416.16 Rev A; 90416.17 Rev A; 90416.18 Rev A; 90416.19 Rev A; 90416.20; 90416.21; 90416.22; 90416.23; 90416.24; 90416.25; 90416.30 Rev G; 90416.31 Rev A; 90416.32 Rev A; 90416.33 Rev C; 90416.34 Rev C; 90416.35 Rev C; 90416.40.

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.

- 3** The development hereby approved shall be carried out in accordance with the landscaping details submitted and approved under discharge of conditions application UTT/22/1454/DOC.

All landscape works shall be carried out in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

REASON: To ensure compatibility with the character of the area in accordance with Policy GEN2 of the Uttlesford Local Plan (adopted 2005).

- 4** The dwellings in the proposed development shall not be occupied until such time as their associated vehicle parking areas indicated on the approved plans (90416.30 Rev G), has been hard surfaced, sealed and marked out in parking bays. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the development unless otherwise agreed with the Local Planning Authority.

REASON: in the interests of highway safety and that appropriate parking is provided and in accordance with ULP Policy GEN1.

- 5** The cycle parking facilities as shown in principle on drawing number 90416.33 Rev C are to be provided prior to the first occupation of the dwellings which they serve, they shall be secure, convenient, covered and retained thereafter.

REASON: in the interests of highway safety and that appropriate parking is provided and in accordance with ULP Policy GEN1.

- 6** The development hereby approved shall be carried out in accordance with the biodiversity enhancement strategy details submitted and approved under discharge of conditions application UTT/22/1454/DOC.

All works shall be carried out in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

REASON: To conserve and enhance protected and priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the Natural Environment and Rural Communities Act' 2006 (Priority habitats & species) and in accordance with Policy GEN7 of the Uttlesford Local Plan (adopted 2005).

- 7** Each dwelling hereby permitted must not be occupied until such time as its associated vehicle parking area has been developed and provided in accordance with Drawing No. 90416.30 Rev G.

REASON: in the interests of highway safety and that appropriate parking is provided and in accordance with ULP Policy GEN1.

- 8** The eaves and ridge heights of the permitted dwellings relative to each other and to existing buildings must be constructed as shown on the following drawings:

- Drawing No. 90416.40
- Drawing No. BRD/22/029/010-A

REASON: To clarify the height and visual relationship between existing and permitted buildings, in accordance with Policy GEN2 of the Uttlesford Local Plan (adopted 2005) and the National Planning Policy Framework.

- 9** The development hereby approved shall be carried out in accordance with the drainage details submitted and approved under discharge of conditions application UTT/22/2574/DOC.

The drainage scheme shall be carried out in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

REASON: To prevent flooding by ensuring a satisfactory drainage scheme and in accordance with Policy GEN3 of the Uttlesford Local Plan (adopted 2005) and the NPPF.

- 10** 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 ULP policy ENV13 and paragraph 105 of the NPPF.

- 11** The development hereby approved shall be carried out in accordance with the contamination assessment submitted and approved under discharge of conditions application UTT/22/1449/DOC, unless otherwise agreed in writing by the local planning authority.

REASON: To protect human health and the environment and in accordance with Policy ENV14 of the Uttlesford Local Plan (adopted 2005).

- 12** The development hereby approved shall be carried out in accordance with the contamination remediation assessment submitted and approved under discharge of conditions application UTT/22/1449/DOC, unless otherwise agreed in writing by the local planning authority.

REASON: To protect human health and the environment and in accordance with Policy ENV14 of the Uttlesford Local Plan (adopted 2005).

- 13** Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.

REASON: To protect human health and the environment and in accordance with Policy ENV14 of the Uttlesford Local Plan (adopted 2005).

- 14** Excluding Plots 22-23, 24-26 and 33-34, 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 a high standard of accessibility, in accordance with Policy GEN2 of the Uttlesford Local Plan (adopted 2005), the SPD entitled 'Accessible Homes and Playspace' and the Planning Practice Guidance.

- 15** Prior to occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport, approved by Essex County Council.

REASON: in the interests of sustainable transport provisions in accordance with ULP Policy GEN1.

- 16** The development hereby approved shall be carried out in accordance with the construction method statement submitted and approved under discharge of conditions application UTT/22/1832/DOC, unless otherwise agreed in writing by the local planning authority.

REASON: To ensure that the construction of the development is in the interests of highway safety and control of environmental impacts in accordance with ULP Policies GEN1 and GEN4.

- 17** The rear facing first floor windows of plot 19 as demonstrated on approved plan BRD/22/029/101-A shall be fixed shut and shall be obscure glazed with glass of obscuration level 4 or 5 of the range of glass manufactured by Pilkington plc at the date of this permission or of an equivalent standard.

The obscure glazing and fixed shutting shall be retained thereafter in those windows.

REASON To avoid overlooking of the adjacent property in the interests of residential amenity in accordance with Policy GEN2 of the Uttlesford Local Plan (adopted 2005).