



ITEM NUMBER: 8

PLANNING COMMITTEE DATE: 21 June 2023

REFERENCE NUMBER: UTT/23/0114/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: Variation of condition 14 attached to UTT/20/0864/FUL allowed on appeal - in order to exclude Plots 22-23, 24-26 and 33-34 from the need to comply with Building Regulation M4(2)

APPLICANT: Amherst Homes

AGENT: Mr Ian Grant (BRD Tech Ltd)

EXPIRY DATE: 25 April 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 application considers the variation of Condition 14 due to Plots 22-23, 24-26 and 33-34 not being in accordance with Part M4 (2).

1.2 The proposal includes the removal of the lift at Plots 22 and 23 as there is no way a compliant lift could be incorporated into the building without the loss of accommodation space and parking spaces.

1.3 Plots 24-26 includes access from the rear by way of external staircases. Plots 33 and 34 originally included level rear access, however this has been amended to include stair to access the rear gardens. It will not be possible to construct a ramp and landing system at a maximum gradient of 1:12 within the rear amenity space to rise the 1.2m required.

1.4 The proposed variation of Condition 14 will not result in any material impact to the accessibility to the overall residential development and therefore is recommended for approval. All remaining conditions in the planning permission under UTT/20/0864/FUL are still valid and will be attached to the current application in any grant of permission.

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 scrapyards, 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 14 attached to UTT/20/0864/FUL (allowed on appeal) in order to exclude Plots 22-23, 24-26 and 33-34 from the need to comply with Building Regulation M4(2).

- 4.2 Existing condition 14:

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.

- 4.3 Proposed Condition 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.

4.4 **Plots 22-23**

The proposal includes the removal of the lift as there is no way a compliant lift can be incorporated into the building, as would be required by M4(2) and provide the standard of accommodation and parking as approved.

4.5 **Plots 24, 25, 26, 33 and 34**

Plots 24-26 shows access from the rear by way of external staircases, which is at conflict with the provisions of M4(2). Plots 33 and 34 show no staircases, but it will not be possible to construct a ramp and landing system at a maximum gradient of 1:12 within the rear amenity space to rise the 1.2m required.

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

8. **SUMMARY OF STATUTORY CONSULTEE RESPONSES**

8.1 **Highway Authority**

8.1.1 This is not a highway condition and therefore no objections are raised.

8.2 Lead local Flood Authority

8.2.1 No comments received

9. SAFFRON WALDEN TOWN COUNCIL COMMENTS

9.1 SWTC raised concern that the matter has only recently been identified and must be correctly resolved.

10. CONSULTEE RESPONSES

10.1 UDC Housing Enabling Officer

10.1.1 It is accepted that the units will need to be M4(1) rather than M4(2) compliant.

10.2 UDC Environmental Health

10.2.1 No comments received

10.3 London Stansted Airport – Aerodrome Safeguarding

10.3.1 No comments received

10.4 UK Power Networks

10.4.1 No objections.

10.5 Cadent Gas

10.5.1 No Objections

10.6 Anglian Water

10.6.1 No objections, having reviewed the development, there is no connection to the Anglian Water sewers, we therefore have no comments.

10.7 National Air Traffic Services

10.7.1 No safeguarding conflicts.

10.8 Essex police

10.8.1 No Objections

11. REPRESENTATIONS

11.1 Site notice/s were displayed on site and 58 notifications letters were sent to nearby properties. The notification was also published in the local press.

11.2 No representations were received.

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.

12.3 The Development Plan

- 12.3.1** 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)

SW4- Parking on new developments

13.4 Supplementary Planning Document or Guidance

Uttlesford Local Residential Parking Standards (2013)
Essex County Council Parking Standards (2009)
Supplementary Planning Document- Accessible homes and play space homes
Essex Design Guide

14. CONSIDERATIONS AND ASSESSMENT

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

14.2 A) Variation of condition 14: M4 (2)

14.3 A) Variation of condition 14: M4 (2)

14.3.1 The proposal considers the variation of condition 14 of UTT/18/2332/FUL - to vary the requirement of Plots 22-23, 24-26 and 33-34 from the needing to comply with Building Regulation M4(2)

Condition 14 states:

“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”

14.3.2 The proposal is to vary the condition to the following:

“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”

14.3.3 The main issues to consider in the determination of this application are: Whether the variation of condition 3 will result in a material impact to the accessibility of the dwelling as outlined in the Accessible and adaptable dwellings of the Building Regulations 2010 Approved Document M, Volume 1 2015 edition.

14.3.4 The NPPF, sets out that local authority plans should meet the current and future housing needs of a wide range of people, including older and disabled people. Indeed, the NPPF seeks to encourage healthy, inclusive and safe places (para.92), together with places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users (para. 130 f).

14.3.5 The applicant has submitted a statement outlining that whilst they acknowledge that the purpose of condition 14 is to ensure that the approved houses are constructed in accordance with M4(2) (accessible and adaptable dwellings) of the Building Regulations 2010 Approved Document M, Volume 1 2015 edition, they advise the design layouts do not show compliance with Para 2.12 and 2.16 of M4(2) with regard to the access to the communal lift and the access from the parking place to the principal entrance and cannot reasonably be adapted to do so.

14.3.6 Plots 22-23 are 2 flats forming a single block with covered parking on the ground level and the flats at first floor and second floor levels respective. The proposal includes the removal of the lift as there is no way a compliant lift can be incorporated into the building, as would be required by M4(2) and provide the standard of accommodation and parking as approved.

14.3.7 Para 2.16 of (M4(2) standards advises that the lift should be a type 2 lift, which is not a platform lift of which has been specified approved. This is a full-size commercial passenger lift with a pit and overrun facility. Typically, these with have an internal shaft size of 1800mm x 1650mm, with enclosing walls having an overall footprint of 2250mm x 2100mm plus the landing space.

14.3.8 The require lift will take up considerably more room than has been allowed for on the approved plan and will have a detrimental impact to the layout of each flat. Furthermore, the required lift type will result in the loss of around 50% (2No spaces) of the parking provided in the ground floor. As such the installation of a lift to be M4(2) compliant will compromise the

standard of accommodation and required parking spaces and therefore would not be in accordance with ULP Policies GEN2, GEN8 and SWNP-SW4.

- 14.3.9** Plots 24-26 shows access from the rear by way of external staircases. Plots 33 and 34 originally included level rear access, however this has been amended to include stair to access the rear gardens and it will not be possible to construct a ramp and landing system at a maximum gradient of 1:12 within the rear amenity space to rise the 1.2m required.
- 14.3.10** The Building Control Officer, upon review of the submitted information and has not raised any objection to the variation of this condition. It is noted there is not a requirement for a lift and therefore it is not unreasonable to not include this. Given the gradient of the site removing M4(2) requirements for Plots 24-26 and 33-34 would also be appropriate.
- 14.3.11** As such, the variation of the condition 14 in regard to Plots 22-23, 24-26 and 33-34 is acceptable and considered to comply with the adopted Uttlesford Local Plan Policies GEN2, GEN8, the SPD Accessible Homes and Playspace, and the National Planning Policy Framework (2021).

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 14 is considered acceptable. Plots 22-23, 24-26 and 33-34 not being in accordance with part M4 (2) will not result in any material impact to the accessibility to the overall residential development and therefore is recommended for approval. All remaining conditions in the planning permission under UTT/20/0864/FUL are still valid and will be attached to the current application in any grant of permission.

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. 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: 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; 90416.26 Rev A; 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. 90416.26 Rev A

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.

APPENDIX 1- HIGHWAY AUTHORITY

UTT/23/0114/FUL

11096/1D

Land Behind The Old Cement Works Thaxted Road, Saffron

The highway authority has considered the documents submitted for the variation of Variation of condition 14 attached to UTT/20/0864/FUL allowed on appeal - in order to exclude Plots 22-23, 24-26 and 33-34 from the need to comply with Building Regulation M4(2) discharge of condition 14 , this was not a highway condition and so I have no comment on it.

While not directly related to this condition I cannot identify any cycle parking on the drawings, this is required in order to comply with condition 5 imposed by the inspector for application UTT/20/0864/FUL.

Kind regards

Katherine Wilkinson | Strategic Development Engineer

Strategic Development



APPENDIX 2- LEAD LOCAL FLOOD AUTHORITY

Good afternoon Sir/Madam,

The above application is in relation to condition 14 which concerns 'the need to comply with Building Regulation M4(2)'. Since condition 14 is not a SuDS condition, we will not be commenting on this application.

Kind regards,

Gemma

Gemma Parson
Development and Flood Risk Officer
Climate Adaption and Mitigation, Climate, Environment & Customer Services

Essex County Council
www.essex.gov.uk