

UTT/18/1693/FUL (CLAVERING)

(Referred to Committee by Cllr Oliver. Reason: Loss of hedgerow and biodiversity value)

PROPOSAL: **Erection of 2 no. dwellings (amended scheme to that approved under planning permission UTT/17/1950/FUL)**

LOCATION: **Land Adjacent to The Hazels, Wicken Road, Clavering**

APPLICANT: **Upware Marina**

AGENT: **Bird and Tyler Associates**

EXPIRY DATE: **22 August 2018**

CASE OFFICER: **Luke Mills**

1. NOTATION

1.1 Countryside.

2. DESCRIPTION OF SITE

2.1 The site is located off Wicken Road, Clavering (Hill Green). It comprises an undeveloped parcel of land, with a recently-formed vehicular access.

3. PROPOSAL

3.1 The application is for planning permission to erect two detached dwellings, served by a single point of access from Wicken Road.

4. ENVIRONMENTAL IMPACT ASSESSMENT

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

5. APPLICANT'S CASE

5.1 The application includes the following documents:

- Design & Access Statement
- Biodiversity Validation Checklist
- Supplementary Ecology Report

6. RELEVANT SITE HISTORY

6.1 Following a dismissed appeal for a two-dwelling scheme (UTT/15/2348/FUL), two alternative designs were approved in May and September 2017 (UTT/17/0188/FUL & UTT/17/1950/FUL). A third alternative was refused planning permission in March 2018 (UTT/18/0253/FUL).

7. POLICIES

- 7.1 S70(2) of The Town and Country Planning Act 1990 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.
- 7.2 S38(6) of the Planning and Compulsory Purchase Act 2004 requires that, if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.
- 7.3 Relevant development plan policies and material considerations are listed below.

Uttlesford Local Plan (2005)

- 7.4
- S7 - The Countryside
 - GEN1 - Access
 - GEN2 - Design
 - GEN3 - Flood Protection
 - GEN6 - Infrastructure Provision to Support Development
 - GEN7 - Nature Conservation
 - GEN8 - Vehicle Parking Standards
 - ENV3 - Open Spaces and Trees
 - H1 - Housing Development
 - H9 - Affordable Housing
 - H10 - Housing Mix

Supplementary Planning Documents/Guidance

- 7.5
- SPD - Accessible Homes and Playspace (2005)
 - The Essex Design Guide (2005)
 - Parking Standards: Design and Good Practice (2009)
 - Uttlesford Local Residential Parking Standards (2013)

National Policies

- 7.6
- National Planning Policy Framework (NPPF) (2012)
 - paragraphs 11, 73, 78-79, 102-111, 127, 155-165, 170 & 175
 - Planning Practice Guidance (PPG)
 - Design
 - Flood risk and coastal change
 - Housing: optional technical standards
 - Natural environment
 - Rural housing

Other Material Considerations

- 7.7
- West Essex and East Hertfordshire Strategic Housing Market Assessment (SHMA) (2015)
 - Uttlesford Strategic Flood Risk Assessment (SFRA) (2016)
 - Housing Trajectory 1 April 2017 (August 2017)

8. PARISH COUNCIL COMMENTS

8.1 Objection. Concerns include:

- The hedge at the front of the site has been removed
- Loss of biodiversity
- The site is located beyond Development Limits
- Lack of sustainable transport opportunities
- Harmful effect on the character and appearance of the area
- Insufficient detail regarding sewerage/drainage connections
- The previous waste management statement has not been submitted
- Non-compliance with conditions of the extant planning permission

9. CONSULTATIONS

Highway Authority (Essex County Council)

9.1 No objections, subject to conditions.

Ecological Consultant (Place Services)

9.2 No objections, subject to the use of a condition. Extract:

“The Ecology Report and subsequent Supplementary Ecology Report (AR Arbon 2015; 2017) found low biodiversity on-site. There is a negligible risk to protected species from the proposed works. These reports recommend a biodiversity management plan, which will ensure a net gain in biodiversity through this development in accordance with the NPPF and the NERC Act.”

10. REPRESENTATIONS

10.1 Neighbours were notified of the application by letter and a notice was displayed near the site. The following concerns have been raised among the submitted representations:

- 1) The hedge at the front of the site has been removed
- 2) Loss of biodiversity
- 3) Harmful effect on the character and appearance of the area
- 4) Noise nuisance from the proposed gravel driveway
- 5) A tree survey and updated ecology report should be submitted
- 6) Insufficient detail regarding sewerage/drainage connections
- 7) Non-compliance with conditions of the extant planning permission

10.2 The following comments are made in relation to the above concerns:

1) – 4) Covered in the below appraisal.

5) It is considered that sufficient information has been submitted to inform the Council's decision.

6) The detailed design of these connections would be established as part of the Building Regulations approval process.

7) The Council is aware of the issue and has the option of taking enforcement action. Nevertheless, as any action would likely require the developer to re-plant

the boundary and enhance biodiversity on the site, it is appropriate that a decision is made on the current application in the first instance. Should permission be granted and new conditions be used to secure the planting and biodiversity enhancements, the Council could then enforce these new requirements.

11. APPRAISAL

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

- A Location of housing (S7, H1, 78-79 & PPG)
- B Character and appearance (S7, GEN2, ENV3, 127, 170 & PPG)
- C Transport (GEN1, GEN8 & 102-111)
- D Accessibility (GEN2, 127 & PPG)
- E Amenity (GEN2 & 127)
- F Flooding (GEN3, 155-165, PPG & SFRA)
- G Infrastructure (GEN6)
- H Biodiversity (GEN7, 175 & PPG)
- I Affordable housing (H9 & PPG)
- J Housing mix (H10 & SHMA)
- K Housing land supply (11 & 73)

A Location of housing (S7, H1, 78-79 & PPG)

11.1 The site is located beyond the Development Limits for Clavering. As the site is considered to be a relatively large gap between buildings, it is considered that the proposal does not represent 'sensitive infilling' in the context of Policy S7. It is therefore concluded that residential development on the site would be in conflict with policies S7 and H1.

11.2 Paragraphs 78-79 of the NPPF seek to avoid isolated homes in the countryside unless there are special circumstances. While there is no published definition of 'isolated', the PPG supports the view that housing sites should be within or adjacent existing settlements. The effect is to prevent sporadic development in the countryside, while supporting the growth of existing settlements of almost any size due to the associated economic and social benefits. As the application site abuts the built-up area of the village, and indeed the Development Limits, it is considered that the location accords with the NPPF.

B Character and appearance (S7, GEN2, ENV3, 127, 170 & PPG)

11.3 The site is an undeveloped parcel of land, which marks the transition from the village to the surrounding countryside. Its rural character would be eroded by the proposed development, representing a harmful effect in conflict with policies S7 and ENV3 and paragraphs 127 and 170 of the NPPF. However, as the site is not considered to possess any special landscape value, the degree of harm from residential development would be limited.

11.4 As for the design of the scheme, it is acknowledged that this has evolved over time. The dismissed appeal (UTT/15/2348/FUL) related to a design that included two-storey houses with detached garages positioned to the rear. Subsequently, planning permission was granted for a reduced scheme that included a bungalow and a one-and-a-half storey dwelling with no garaging (UTT/17/0188/FUL). A further planning permission was granted for a slightly larger scheme that included one-and-a-half storey dwellings, each with a garage

to one side (UTT/17/1950/FUL).

11.5 The proposed scheme includes a further enlargement of each dwelling and an increased setback from the road. Nevertheless, given the variety of styles in the street scene, it is considered that the proposed houses would sit comfortably within their surroundings. It is noted that the recently-refused application (UTT/18/0253/FUL) included additional detached garages to the front, which represented incongruous features that also increased the overall scale of the development in a way that would be harmful to the character of the area.

11.6 It is acknowledged that the hedge along the front boundary of the site has been removed without the approval of the planning authority, despite a condition on the extant planning permission requiring the submission of a landscaping scheme for approval. Therefore, if planning permission is granted for the current proposal, it would be appropriate to use a condition to secure replacement planting.

11.7 It is concluded that the proposal would accord with the above policies insofar as they relate to character and appearance, subject to the use of conditions to secure suitable external finishes and replacement planting.

C Transport (GEN1, GEN8 & 102-111)

11.8 It is acknowledged that the occupants of the proposed dwellings would realistically need to use a car to access most services, facilities and employment, in conflict with the sustainable transport objectives of Policy GEN1. However, the proposal accords with the more up-to-date policy at paragraph 103 of the NPPF, which requires consideration of the differing opportunities in urban and rural areas. It is therefore concluded that paragraphs 78-79 (discussed above) provide the key policy for the location of small-scale rural housing.

11.9 The proposed dwellings would be served by a single point of access off Wicken Road. Taking into account the comments of the highway authority, it is considered that the access and associated vehicle movements would not cause any significant adverse effects that would represent a conflict with Policy GEN1 or paragraphs 102-111 of the NPPF.

11.10 The driveways would provide ample space for off-street parking, amounting to at least three spaces per dwelling. Therefore, the proposal complies with the Council's minimum residential parking standards.

D Accessibility (GEN2, 127 & PPG)

11.11 Policy GEN2 and the SPD entitled 'Accessible Homes and Playspace' require compliance with the Lifetime Homes standards. However, these standards have effectively been superseded by the optional requirements at Part M of the Building Regulations, as explained in the PPG. Compliance with these requirements could be secured using a condition.

E Amenity (GEN2 & 127)

11.12 Taking into account The Essex Design Guide, a non-adopted but useful guidance document, it is considered that the proposed rear gardens would be of a suitable size, and that there would be no significant adverse effects on the amenity of neighbouring premises with respect to daylight, privacy or

overbearing impacts. Furthermore, it is considered that the residential use of the site would be compatible with neighbouring land uses, such that there would be no significant nuisance or disturbance to existing residents. It is therefore concluded that the proposal accords with the above policies insofar as they relate to amenity.

F Flooding (GEN3, 155-165, PPG & SFRA)

11.13 Policy GEN3 contains the Local Plan policy for flooding, although this has effectively been superseded by the more detailed and up-to-date flood risk policies in the NPPF and the accompanying PPG. The SFRA confirms that the site is not in an area at risk of flooding and, as the development is for less than 10 dwellings, national policy does not require the use of a sustainable drainage system. It is therefore concluded that the proposal would not give rise to any significant adverse effects with respect to flood risk, such that it accords with the policies in the NPPF and PPG.

G Infrastructure (GEN6)

11.14 Taking into account the nature and scale of the development, and the above consultation responses, it is considered that there would be no requirement for improvements to off-site infrastructure. It is therefore concluded that the proposal accords with Policy GEN6.

H Biodiversity (GEN7, 175 & PPG)

11.15 The application is accompanied by an ecological report, although it is acknowledged that the boundary hedge has since been removed. Taking into account the comments of the Council's ecological consultant, it is considered that a condition could ensure that lost biodiversity value is replaced, and that no harm would be caused to protected/priority species or valuable habitats.

I Affordable housing (H9 & PPG)

11.16 Policy H9 and its preamble form the basis for seeking affordable housing provision from new residential developments. In this case, the policy indicates that the proposal need not make a contribution.

J Housing mix (H10 & SHMA)

11.17 As the site area is greater than 0.1 ha, Policy H10 requires that small market housing comprises a significant proportion of the total number of units. However, the preamble to the policy does not reference site area so the justification for the requirement is unclear. It is therefore considered that the housing mix requirements should only be applied to developments of three or more dwellings.

K Housing land supply (11 & 73)

11.18 Paragraphs 11 and 73 of the NPPF describe the importance of maintaining a five-year supply of deliverable housing sites. As identified in the most recent housing trajectory document, Housing Trajectory 1 April 2017 (August 2017), the Council's housing land supply is currently 3.77 - 4.2 years. Therefore, contributions towards housing land supply must be regarded as a positive effect.

12. CONCLUSION

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

- A** The proposal does not accord with the development plan due to conflicts with policies on the location of housing, countryside character and sustainable transport.
- B** Notwithstanding the above, it is concluded that the proposal represents 'sustainable development' in the context of the NPPF. The tilted balance at paragraph 11 is engaged because relevant policies for the supply of housing, including the associated site allocations and Development Limits, are out of date. In this case, the negligible adverse effect on countryside character would not significantly and demonstrably outweigh the benefits from the proposal's contribution towards housing land supply.
- C** Taking into account the more up-to-date nature of the NPPF with respect to the determining issues, it is considered that the lack of accordance with the development plan is overridden in this instance. Regard has been had to all other material considerations, and it is concluded that planning permission should be granted.

RECOMMENDATION – APPROVAL WITH CONDITIONS

Conditions

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this decision.

REASON: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Prior to commencement of the development, details of the following external finishes (including samples and/or photographs as appropriate) must be submitted to and approved in writing by the local planning authority:

- Walls
- Roof
- Windows
- Doors

The development must be carried out in accordance with the approved details.

REASON: To ensure compatibility with the character of the area, in accordance with Policy S7 and Policy GEN2 of the Uttlesford Local Plan (adopted 2005) and the National Planning Policy Framework. This condition must be 'pre-commencement' to ensure that the development is only carried out in accordance with the above details.

3. Prior to commencement of the development, details of the following hard and soft landscaping works must be submitted to and approved in writing by the local planning authority:

- Retained features
- New planting

- Hard surfaces
- Boundary treatment

All hard and soft landscape works must be carried out in accordance with the approved details.

All planting, seeding or turfing and soil preparation comprised in the above details of landscaping must be carried out in the first planting and seeding seasons following the occupation of the buildings, the completion of the development, or in agreed phases whichever is the sooner, 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 must 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 must 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 Policy S7 and Policy GEN2 of the Uttlesford Local Plan (adopted 2005) and the National Planning Policy Framework. This condition must be 'pre-commencement' to ensure that the development is only carried out in accordance with the above details.

4. Prior to commencement of the development, a Biodiversity Management Plan (BMP) must be submitted to and approved in writing by the local planning authority. The BMP must include:
 - a) A description and evaluation of features to be managed
 - b) Ecological trends and constraints on site that might influence management
 - c) Aims and objectives of management
 - d) Appropriate management options for achieving the aims and objectives of the project
 - e) Prescriptions for management actions
 - f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period)
 - g) Details of the body or organisation responsible for implementation of the plan
 - h) On-going monitoring and remedial measures.

The BMP must be implemented in accordance with the approved details.

REASON: To conserve and enhance biodiversity, in accordance with Policy GEN7 of the Uttlesford Local Plan (adopted 2005) and the National Planning Policy Framework. This condition must be 'pre-commencement' to ensure that the development is only carried out in accordance with the above details.

5. Prior to occupation of any dwelling, the shared driveway hereby permitted must be constructed to a width of 5.5 metres for at least the first 6 metres from the back of the carriageway.

REASON: To ensure that vehicles can enter and leave the highway in a controlled manner and to ensure that opposing vehicles can pass clear of the limits of the highway, in accordance with Policy GEN1 of the Uttlesford Local Plan (adopted 2005) and the National Planning Policy Framework.

6. Prior to occupation of any dwelling, the footpath extension on the south-western

side of the proposed access must be formed in accordance with Drawing No. 19 A.

REASON: In the interests of highway safety, efficiency and accessibility, in accordance with Policy GEN1 of the Uttlesford Local Plan (adopted 2005) and the National Planning Policy Framework.

7. Prior to occupation of any dwelling, visibility splays must be formed in accordance with Drawing No. 19 A and must be free of obstruction above ground level.

REASON: To provide adequate inter-visibility between the pedestrians and users of the access and the existing public highway, in accordance with Policy GEN1 of the Uttlesford Local Plan (adopted 2005) and the National Planning Policy Framework.

8. The existing access shown on Drawing No. 19 A must be suitably and permanently closed incorporating the reinstatement to full height of the highway verge/kerbing, prior to occupation of any dwelling.

REASON: To ensure the removal of, and to preclude the creation of, unnecessary points of traffic conflict in the highway, in accordance with Policy GEN1 of the Uttlesford Local Plan (adopted 2005) and the National Planning Policy Framework.

9. The vehicle parking area for each dwelling must be formed in accordance with Drawing No. 19 A prior to its occupation.

REASON: To prevent hazardous on-street parking, in accordance with Policy GEN1 of the Uttlesford Local Plan (adopted 2005) and the National Planning Policy Framework.

10. No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary of the site.

REASON: To avoid displacement of loose material onto the highway in the interests of highway safety, in accordance with Policy GEN1 of the Uttlesford Local Plan (adopted 2005) and the National Planning Policy Framework.

11. Any gates provided at the vehicular access must be inward opening only and must be set back a minimum of 6 metres from the back edge of the carriageway.

REASON: To enable vehicles using the access to stand clear of the carriageway while the gates are operated, in accordance with Policy GEN1 of the Uttlesford Local Plan (adopted 2005) and the National Planning Policy Framework.

12. Runoff water from the driveway hereby permitted must be directed to a permeable or porous surface within the application site.

REASON: To prevent hazards caused by water flowing onto the highway in the interest of highway safety, in accordance with Policy GEN1 of the Uttlesford Local Plan (adopted 2005) and the National Planning Policy Framework.

13. The dwellings hereby permitted must be built in accordance with Requirement M4(2) (Accessible and adaptable dwellings) of the Building Regulations 2010

Approved Document M, Volume 1 2015 edition.

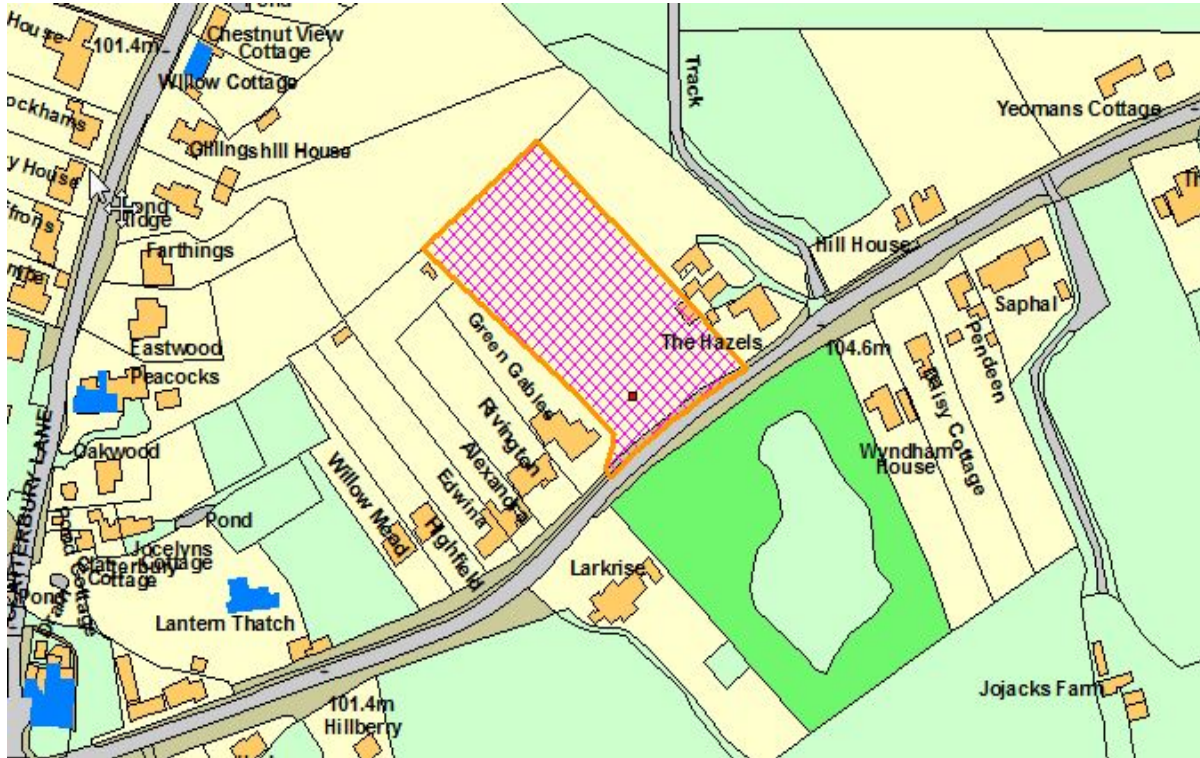
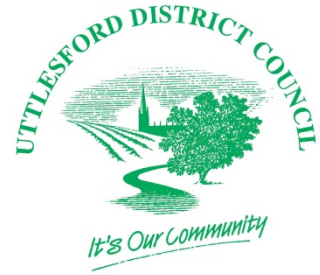
REASON: To ensure a high standard of accessibility, in accordance with Policy GEN2 of the Uttlesford Local Plan (adopted 2005), the SPD entitled 'Accessible Homes and Playspace' and the Planning Practice Guidance.

14. The eaves and ridge heights of the permitted dwellings relative to neighbouring buildings must be as shown on Drawing No. 12 A.

REASON: For the avoidance of doubt and to ensure compatibility with the character and appearance of the area, in accordance with Policy S7 and Policy GEN2 of the Uttlesford Local Plan (adopted 2005) and the National Planning Policy Framework.

Application: UTT/18/1693/FUL

Address: Land Adjacent to The Hazels, Wicken Road, Clavering



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Organisation: Uttlesford District Council

Department: Planning

Date: 10 August 2018