

FELSTED PARISH COUNCIL
Minutes of the Planning Committee Meeting
Wednesday 18th October 2022 6pm

Attending: Councillors, Richard Freeman (Chairman), Andy Bennett, Hwyl Jones, Andrew Parker, Roy Ramm. In attendance Clare Schorah - Assistant Clerk

1. Apologies for Absence

There were apologies for absence from Alec Fox.

2. Declarations of Interest

There were no declarations of interest.

3. Public Forum

There were seven members of the public present.

4. Approval of Minutes of Previous Meeting

The minutes of the 5th October meeting were formally approved. They will be signed when the Planning Committee next physically meet.

5. New Applications to be considered

[UTT/22/2560/FUL](#)

Homewaters Braintree Road

Demolition of chalet bungalow and erection of 1no. 4 bed house with home office.

No Comment

[UTT/22/2629/LB](#)

West Manor 11 Station Road

Removal of internal wall to rear range comprising removal of door and window opening - insertion of structural beam support over. Relocation of basement floor access hatch with amendment to floor joists. Relocation of double timber door set to living room/hall with infill above. Upgrade glazing to existing conservatory comprising installation of secondary glazing panels and replacement triple glazing to rooflight. Removal and infill of window panel to east end of conservatory. Waste pipe route through internal wall to basement below. Lining of existing wall and ceiling of conservatory area with insulation and finishes

No Comment

[UTT/22/2638/FUL](#)

Bury Farm House 2 Station Road

Proposed demolition of existing dwelling and other outbuildings and erection of 1 no. replacement dwelling and garage with associated works.

Comment: Felsted Parish Council does not object to this application because it believes that the proposed design is appropriate for a property adjacent to the conservation area.

However it is concerned about the proposed cart lodge in the front garden which may look out of place within the general street scene.

Land West Of Kunduchi Rayne Road

Outline application with all matters reserved, with the exception of access and landscaping, for 8 detached dwellings

Comment: This site has previously been refused Planning Permission and dismissed on Appeal. This revised application is very similar to previously refused and dismissed applications and the reasons stated previously by the Uttlesford District Council (UDC) Officer and Appeal Inspector continue to be applicable. The applications are detailed below:

- *Application Number: UTT/18/2502/OP - erection of 2 no. detached dwellings and garages. Refused by UDC - Reasons for refusal: Encroachment into the open countryside and not considered to be sustainable development. Contrary to UDC Policies S7, GEN 1 (and GEN 7).*
- *Application Number: UTT/21/0079/OP - Outline application for the erection of 9 no. detached dwellings (Non Determination and subsequently taken to Appeal). Appeal (Ref: APP/C1570/W/21/3272768) dismissed. Reasons for dismissal: Conflict with UDC Planning Policy S7, conflict with Policies in the Felsted Neighbourhood Plan (FNP) and not considered to be sustainable development.*

This new application (UTT/22/2544/OP) is not significantly different from the previous submission (UTT/21/0079/OP), which following “non determination” was dismissed on Appeal in December 2021 (Ref: APP/C1570/W/21/3272768) due to conflict with UDC Planning Policy S7 and conflict with Policies in the fully “Made” Felsted Neighbourhood Plan (FNP).

The applicant, in their Planning Statement references the Appeal Inspector 28 times and therefore in our submission for this new application, rather than repeat verbatim our numerous objections to the previous application, we will similarly refer to the comments made by the Inspector in their determination of the previous dismissed application. It is the applicant who is choosing to directly associate this new application to the previously dismissed UTT/21/0079/OP.

The Planning Statement attached to the current application appears to put forward an argument that is largely dependent on the fact that now the FNP is more than two years old and it no longer benefits from the elevated status then provided by Paragraph 14 of the National Planning Policy Framework (NPPF), that the FNP ceases to exist or have any merit or weight in terms of planning considerations and that therefore this revised application should now be allowed.

There are also frequent references in section 3.00 of the Planning Statement relating to “Other Relevant Planning History” where totally unrelated examples are quoted where Inspectors have permitted development because a Neighbourhood Plan is more than two years old.

However, it is critical to note that the Appeal Inspector when dismissing the appeal (whilst apportioning “significant weight” to the FNP policies), made it absolutely clear that their decision was NOT dependent on the elevated status of the FNP. Indeed the Inspector pointed out that this was not the case and the applicant has conveniently ignored the fact that the Inspector made it absolutely clear that the NPPF Paragraph 14 was NOT a factor.

The Inspector said that significant “harm” would result, which would be unacceptable and that the “presumption of sustainable development” did NOT apply. The Inspector concluded (emphasis added):

*25. The proposal would result in harm to the character and appearance of the area. I acknowledge that the harm may be partially mitigated by the landscaping proposal. However, **the proposal would nevertheless significantly urbanise the site and intrude into the open countryside. I therefore attribute significant weight to the harm in this respect.***

*26. Therefore, while I note the evidence regarding paragraph 14 of the Framework, **even if these provisions were not engaged, the adverse effects of the proposal would significantly and demonstrably outweigh the benefits.***

So, whilst it is correct that being now over two years old the FNP no longer benefits from the elevated status offered by Paragraph 14 of the NPPF, it is very clear that during the Appeal inspectors considerations, the age of the FNP was NOT a defining factor in their assessment and dismissal was based entirely on the significant “harm” and urbanisation of the site that would result.

*Paragraph 14 only becomes relevant where (under paragraph 11) there is considered to be a “presumption in favour of sustainable development”. But the Inspector did not support this view, stating in their decision report, in paragraph 25. “The proposal would result in harm to the character and appearance of the area.....significantly urbanising the site and intruding into the open countryside”, and in paragraph 26. they said “**the adverse effects of the proposal would significantly and demonstrably outweigh the benefits**”.*

This clearly determines that in the opinion of the Appeal Inspector (and in line with the NPPF paragraph 11, sections c. and d.), there should be no “presumption in favour of sustainable development”.

The FNP continues to be the most “up to date” component of the “Local Development Plan” for Felsted, carrying significant planning weight and it should be considered a material consideration.

The “harm and urbanisation” that would result from this development remains unchanged and Felsted Parish Council continues to object to this inappropriate development for the reasons stated.

[UTT/22/2537/HHF](#)

Hawkins Braintree Road

Demolition of rear conservatory and erection of single storey rear extension to form dining room. Erection of extension to create covered passage between dining room and existing kitchen

No Comment

[UTT/22/2673/FUL](#)

Land Rear Of 22 Ravens Crescent

Proposed construction of 1 no. 2 bed detached bungalow together with new access including replacement vehicular parking for no 22 and associated external works.

Comment: Felsted Parish Council objects to this application.

The application is for a 2 bedroom detached bungalow as a tandem build behind an existing dwelling which forms part of the established linear build style of Ravens Crescent. This backland development would be an incongruous introduction completely out of keeping with the vernacular of Ravens Crescent and would have a substantial and unacceptable impact on the amenity of the occupants of No. 22.

The application conflicts with Felsted Neighbourhood Plan Policy FEL/HN4 (Residential Development within Development Limits), which requires development to respect the character of the area in which it is located.

In addition, Policy H4 of the adopted 2005 Local Plan (Backland Development) states that backland development will only be permitted where there is a demonstrable significant under-use of land, there would be no material overlooking or overshadowing of nearby properties, that the development would not have an overbearing effect on neighbouring properties and access would not cause disturbance to nearby properties.

There is no evidence of under-use of the land as it forms amenity land of the host dwelling in the form of the side and rear gardens of No. 22 which is wholly consistent with the other dwellings in Ravens Crescent. Indeed, with No 22 being a family home it is considered wholly unacceptable to deprive this family dwelling of the vast majority of its amenity space.

As the proposed open market dwelling is a bungalow, overlooking of No.22 may not be a significant issue, but its introduction including the new vehicular access, would have an overbearing impact and result in a significant loss of amenity of No. 22 and it is undoubtedly the case that the new dwelling would itself be unacceptably overlooked by No. 22. in contravention of the recommendations in UDCs own Policy H4.

Additionally, Uttlesford Local Plan (ULP) Policy GEN2 advises that development should be compatible with the scale form, layout and appearance of the surrounding buildings. The proposal is not compatible.

The application therefore fails on ULP Policies H4 and GEN2 and also Felsted Neighbourhood Plan Policy FEL/HN4.

Felsted Parish Council recognises that this application is made by UDC themselves as owners of No. 22. However, had such an application been submitted by an owner occupier we would object due to what we consider to be over development within the curtilage of the host dwelling and conflict with both ULP and FNP Policies. We therefore see no justification for not stating the same objection because the host dwelling is owned by UDC.

To allow such development in conflict with UDCs own Planning Policies because No. 22 is UDC owned would be disingenuous and would also create an unacceptable precedence as there are undoubtedly other UDC owned homes in Ravens Crescent (and elsewhere) where a similar strategy could be applied.

[UTT/22/2743/FUL](#)

Land East Of Oaklea Causeway End Road

Erection of 1 no. Dwelling complete with all related works including access.

Comment: This site has previously been refused Planning Permission by UDC and has been dismissed on Appeal, as detailed below:

- **UTT/21/0193/FUL - S73a retrospective application for new access. Proposed construction of 1 no. Dwelling and garage.** Refused – Reasons for refusal include:
 - *Contrary to Local Plan Policy S7 and Felsted Neighbourhood Plan Policy FEL/HN5*
 - *The site is outside of development limits and would cause material harm to the character and appearance of the countryside, contrary to Policy S7 of the adopted Uttlesford Local and contrary to Policy FEL/HN5 of the "Made" Felsted Neighbourhood Plan 2020.*
 - *Local Plan Policy Gen 7*
 - *Insufficient ecological information to assess the likely impacts of the proposal on protected species, contrary to the Uttlesford Local Plan 2005 - Policy GEN7.*
 - *Local Plan 2005 - Policy GEN1.*

ECC Highways stated: "Proposal is NOT acceptable to highways. As far as can be determined from the submitted plans, the applicant does not appear to control sufficient land to provide the required visibility splays in accordance with the speed of the road, to the satisfaction of the Highways Authority. The lack of such visibility would result in an unacceptable degree of hazard to all road users to the detriment of highways safety".

- **UTT/19/2994/OP | Outline application for the erection of 5 dwellings.** Dismissed on Appeal Ref: APP/C1570/W/20/3252134 for the following reasons:
 - *The effect of the proposed development on the character and appearance of the surrounding area;*
 - *Whether or not suitable, safe and appropriate access to the site can be achieved;*
 - *Blackwater Estuary Special Protection Area; and*
 - *Whether or not the appeal site is an appropriate location for housing, having regard to the development plan and the National Planning Policy Framework.*

ECC Highways (again) stated "However, from the information submitted, the Highway Authority is not satisfied that the indicated visibility splays can be achieved from the access without the requirement for vegetation clearance and legal agreement / covenant over third party land. i.e., Land, including the ditch, that does not front the appellants land is considered third party land".

The conclusion of the Appeal Inspector was that "it has not been adequately demonstrated that the proposal would provide safe access to the road network, the proposal would fail to accord with ULP policy GEN1".

Planning Statement

The Planning Statement submitted by the applicant recognises that the previous Planning Refusal and Appeal dismissals include conflicts with the Felsted Neighbourhood Plan.

These conflicts remain.

In the Planning Statement the applicant (or their agent) make repeated references to Paragraph 14 of the NPPF and refer to the fact that the Felsted Neighbourhood Plan (FNP) is now more than two years old.

However, whilst it is correct that the FNP is more than two years old and it therefore no longer benefits from an elevated status provided by Paragraph 14 of the NPPF, the FNP remains the most up to date component of the Local Development Plan (LDP) for Felsted and consequently, and regardless of a lack of “elevated status”, the FNP does not simply cease to exist but continues to be an important element of the current LDP carrying significant Planning weight.

Paragraph 14 only becomes relevant where (under paragraph 11) there is considered to be a “presumption in favour of sustainable development”. But the Inspector did not support this view, stating in their decision report, (paragraph 32) “The adverse impact arising from the harm I have identified significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole and, whilst Framework paragraph 11(d) is engaged I conclude that the exception provided for by paragraph 11(d) (ii) applies in this instance”.

In addition, as stated previously, the reasons for refusal and dismissal were not confined to conflict with the FNP or unsustainably but included numerous other conflicts with UDC Policies and an inability to demonstrate adequate road safety.

The applicant (or their agent) in their Planning Statement state that they have “control” over the land in both directions over which they require appropriate visibility splays, despite the fact that ECC Highways said that “the ditch, that does not front the appellants land is considered third party land”.

So adequate visibility splays continue to appear to be questionable. In recognising that the visibility splay to the west falls 3M short, they say that “it would be unreasonable, given the level of development proposed and the minimal 3m shortfall in visibility, to withhold permission for the development”. Why would be “unreasonable” where a failure to meet the statutory road safety requirements are involved?

They also imply that they have “control” over the visibility splay to the east but do not explain how that can be achieved when immediately to the east and within just a matter of a meter or so, is a significant field hedge. This hedge is generally maintained on an annual / seasonal basis by the adjacent landowner and whilst this hedge has recently (October 2022) been cut back by the field landowner (and it is therefore possible that a temporary visibility splay can perhaps be demonstrated), this hedge will naturally grow back throughout the season and it is therefore highly likely to impede visibility from a 2.4m back from the road edge viewpoint towards the east for much of the year. This hedge is not under the control of the applicant.

Felsted Parish Council continues to object to this inappropriate development for the reasons stated.

Clerks Note – the following additional information was submitted on 14/11/22

Supplementary information regarding UDC's 5 Year Housing Land Supply

We write to comment on Springfields Planning and Development response to Felsted Parish Councils submission when objecting to this application.

Springfields Planning and Development suggest that the Felsted Neighbourhood Plan (FNP) should receive little or no recognition and should not be considered a material document because of paragraph 11 (d) ii of the NPPF. However, the NPPF says that the "presumption in favour of sustainable development" should not apply (paragraph 11 (d) ii) where "any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole".

*The assessment of the "adverse impacts of doing so" must include the negative implications for local democracy if the fully "made" FNP is to be dismissed as irrelevant as Springfields Planning and Development say it should, because Uttlesford District Council (UDC) cannot demonstrate a 5 Year Housing Land Supply, **when the deficit is insignificant (at only 0.11 years).***

Thus paragraph 11 (d) ii gives the decision maker a judgement call on the degree of harm that would result from dismissing a fully "made" Neighbourhood Plan and according to the agenda of UDC's Local Plan Leadership Group meeting on 10th November 2022, UDC are currently able to demonstrate a 4.89 Year Housing Land Supply, which leaves a negligible and vanishingly small deficit of 0.11 years.

In real terms, this means that UDC are just 2 days short of a 5 Year (1825 days) objective and serious consideration needs to be given to the likely resentment of Felsted residents if UDC dismiss the fully "made" Felsted Neighbourhood Plan (which includes several Policies that this application is in conflict with), when it was supported by over 91% of the voting residents of Felsted, and where the shortfall represents just 0.11 years (or 2 days).

Felsted Parish Council suggest that the ramifications for local democracy should UDC dismiss the fully "Made" Felsted Neighbourhood Plan for such an insignificant deficit when the vast majority of our community voted in favour of the FNP, would be sufficient to "significantly and demonstrably outweigh the benefits".

There are numerous other reasons for refusal; not least Springfields Planning and Development own recognition that the access visibility splay requirements cannot be met (by 3 metres) and previous refusals and dismissal at Appeal for development on this site.

[UTT/22/2802/OP](#)

Land Adjacent Greenfields Bartholomew Green

Outline application with all matters reserved except access for the erection of 1 no. detached dwelling

Comment: Whilst referencing UDC Planning Policies, the applicants supporting statement makes no mention at all of the fully "made" Felsted Neighbourhood Plan (FNP). The FNP, on being fully "made" in February 2020 became an integral component of the UDC Local Development Plan (LDP) for Felsted.

This application which is contrary to UDC Planning policy S7, is also in conflict with FNP Polices HN5 & HN6.

FNP Policy NH5 (Residential Development Outside of Development Limits), supports development outside village development limits (VDL's) only where it meets certain specific criteria. The application does not meet any of these criteria.

FNP Policy HN6 - - (Supplemental Dwellings - wholly within the curtilage of an existing residential dwelling), also only supports such development meeting certain specific criteria (including that the new dwelling is necessary in "maintaining a familial or community link to an older person (or older people)". This application does not appear to meet these criteria.

The applicant makes frequent mention of UDC's inability to demonstrate a 5 Year Housing Land Supply (YHLS) but it is important to recognise that the fully "made" FNP which introduced the above stated Policies with which this application conflicts, allocated 63 dwellings to UDC's 5 YHLS and it is also relevant to recognise that the UDC Housing Trajectory and 5 YHLS - in April 2020, was 124% of the required delivery in the prior three years.

The above data is highly relevant because the FNP should be recognised as a net contributor to UDC's 5 YHLS and the above referenced Policies that resist housing that does not meet the FNP Policy requirements were supported by over 92% of Felsted residents who voted in support of the FNP in referendum.

It would be ironic to dismiss these fully up to date LDP Policies because UDC has a shortfall on housing delivery when the Felsted Neighbourhood Plan itself, positively brings 63 additional dwellings to the Uttlesford housing land supply in a Plan which was supported by over 92% of voting local residents. This would be an affront to local democracy.

Felsted Parish Council objects to this application to build an independent dwelling in the open countryside and outside VDL's for the reasons stated.

6. Decisions received since 5 October

[UTT/22/2157/OP](#)

Land Rear Of Stane House Dunmow Road

Outline application with all matters reserved except for access for the construction of 1no. Dwelling.

Permission Refused – 28th September 2022 *'it would result in substantial additional built form in the countryside which would be detrimental to its open and rural character . The proposed development does not need to take place there and is not appropriate to the rural area. There are no material considerations which would justify the development of this site outside of the Development Limits. The harm caused would not be outweighed by the benefits of the development.'*

[UTT/22/2200/FUL](#)

Pump Court Mill Road

Demolition of stables and construction of a detached single storey dwelling house

Permission Granted - 10th October 2022

7. Draft Local Plans - [Uttlesford DC](#), Braintree DC

No Comment

8. Parish Planning Forum Update 20th September

The Assistant Clerk provided an update on the Parish Planning Forum held by Uttlesford District Council on the 20th September.

9. Other Urgent Planning Business and Future Dates

There have been recent public consultations about proposed Solar Farms within Felsted. This will be discussed at the next Full Parish Council meeting.

Next Meeting is 15th November 2022

..... 15th November 2022 Chairman

Residents wishing to make comments on Planning Applications or view other comments submitted can go to the Uttlesford District Council Website:

<https://publicaccess.uttlesford.gov.uk/online-applications>

To find out more about Appeals please go to the Planning Inspectorate Website:

<https://acp.planninginspectorate.gov.uk>