



**ITEM NUMBER:** 12

**PLANNING COMMITTEE DATE:** 21 August 2024

**REFERENCE NUMBER:** UTT/24/1188/HHF

**LOCATION:** The Fuchsias  
Old Mead Lane  
Henham  
Essex  
CM22 6JJ

**SITE LOCATION PLAN:**



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Organisation: Uttlesford District Council      Date: 01 August 2024

**PROPOSAL:** Levelling of rear part of garden and erection of outbuilding.

**APPLICANT:** Mr and Mrs J Moggridge

**AGENT:** Mr Paul Saggars

**EXPIRY  
DATE:** 28.06.2024

**EOT EXPIRY  
DATE:**

**CASE  
OFFICER:** Mark Sawyers

**NOTATION:** Outside Development Limits  
Within 2km of S.S.S.I  
Within 6km of Airport  
Road Name: Old Mead Lane - (Private Road)

**REASON  
THIS  
APPLICATION  
IS ON THE  
AGENDA:** Called in by Councillor.

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**1. EXECUTIVE SUMMARY**

**1.1** This planning application is for the retrospective levelling of rear part of garden and for the erection of outbuilding to the rear of the dwelling.

**1.2** The site is located outside the Development Limits of Henham.

**1.3** The site comprises a detached two storey L-plan dwelling. It is set back from the highway towards the end of a private road and benefits to a large area for parking.

**2. RECOMMENDATION**

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

A) Conditions

**3. SITE LOCATION AND DESCRIPTION:**

3.1 The application site comprises a detached two storey L-plan dwelling. The dwelling is set back from the highway and benefits to a large area for parking and a detached garage to the front of the site.

3.2 The dwelling is located to the south of Old Mead Lane with a large, landscaped rear garden.

4. **PROPOSAL**

4.1 The application is for the erection of an outbuilding to the rear of the dwelling.

4.2 The application also seeks to gain retrospective permission for the levelling of part of the rear garden.

5. **ENVIRONMENTAL IMPACT ASSESSMENT**

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

6. **RELEVANT SITE HISTORY**

Reference	Proposal	Decision
UTT/1099/80	Enlargement of kitchen and garage and formation of additional accommodation within roof space.	(APPROVED)
UTT/0796/86	Extension to existing bungalow to form 2 storey house together with new double garage.	(APPROVED)
UTT/0599/87	Extension of existing bungalow to form two storey house.	(APPROVED)
UTT/0321/88	Replacement of existing bungalow and garage with new two-storey house.	(APPROVED)
UTT/2106/88	Proposed detached double garage construction of new access and alteration of existing access.	(APPROVED)
UTT/22/3130/PDE	Proposed single storey rear extension - extending 8m from rear wall, maximum height 3.4m and height to eaves 3m.	(NO OBJECTIONS)
UTT/23/0249/HHF	Single storey rear extension (previously approved) with part first floor rear extension over. Ground floor has an extant permission.	(REFUSED) [APPEAL ALLOWED]

UTT/23/1315/HHF	Section 73A Retrospective application for the reduction in ground level at the rear of the site, installation of sleeper retaining walls to rear and side boundaries and the installation of a concrete slab over the reduced area to accommodate a future outbuilding which will be the subject of a separate planning application.	(REFUSED)
UTT/23/1319/HHF	Section 73A Retrospective application for the reduction in ground level at the rear of the site and installation of sleeper retaining walls to rear and side boundaries. Proposed single storey outbuilding, part with pitched roof part with flat roof, to be used as a domestic garage, gym and home office ancillary to the main dwelling house.	(REFUSED) [APPEAL DISMISSED]
UTT/23/2316/CLP	Removal of existing outbuilding and construction of garden outbuilding to facilitate vehicles, swimming pool and home office.	(REFUSED)

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

- 7.1
- A preliminary enquiry was submitted to the Local Planning Authority in December 2023 for planning advice regarding the erection of an outbuilding to provide home gym, study and garage.

## **8. SUMMARY OF STATUTORY CONSULTEE RESPONSES**

- 8.1 Not Applicable for the scale of this Application

## **9. PARISH COUNCIL COMMENTS**

- 9.1
- Previous Refusals and Appeals
  - Not of Appropriate Scale
  - Private Road
  - Public Right of Way
  - Increased Traffic Volume

## **10. CONSULTEE RESPONSES**

- 10.1 Not Applicable

## **11. REPRESENTATIONS**

**11.1** 11 notifications letters were sent to nearby properties.

### **11.2 Support**

- 11.2.1**
- Large plot
  - Parish council have raised issues which are not relevant
  - Flood prevention works have been implemented in the lane
  - Increased car traffic will be for owners of 'The Fuchsias'
  - No exception to the planning application
  - PINS did not receive the correct appeal appendices, and the applicants are appealing to PINS
  - The outbuilding would meet PD Criteria
  - Ground levels have been lowered as to not impact the surrounding area
  - Proposal is for the enjoyment of the dwellinghouse

### **11.3 Object**

- 11.3.1**
- Lowering of ground level without permission
  - Vehicle access to the rear of the site
  - Storage of vehicles at the back of the site not appropriate
  - Question if building regulations had been involved
  - Site overdeveloped
  - Would set a precedent
  - Toxic fumes from earth moving machinery during build
  - More in keeping with an industrial estate
  - Disruption to lane
  - Previous refusals and appeal upheld
  - Unauthorised works
  - Lack of justification
  - Inadequate application details
  - Scale and size
  - Potential for non-residential use
  - Noise pollution
  - Harm to neighbouring amenity

### **11.4 Comment**

- 11.4.1**
- The required statutory consultations have been made
  - The material consideration will be considered in the following report

## **12. MATERIAL CONSIDERATIONS**

**12.1** In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, The

Development Plan and all other material considerations identified in the “Considerations and Assessments” section of the report. The determination must be made in accordance with the plan unless material considerations indicate otherwise.

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

- a) The provisions of the development plan, so far as material to the application:
  - (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)  
 Uttlesford Design Code (adopted July 2024)  
 Felsted Neighbourhood Plan (made February 2020)  
 Great Dunmow Neighbourhood Plan (made December 2016)  
 Newport and Quendon and Rickling Neighbourhood Plan (made June 2021)  
 Thaxted Neighbourhood Plan (made February 2019)  
 Stebbing Neighbourhood Plan (made July 2022)  
 Saffron Walden Neighbourhood Plan (made October 2022)  
 Ashdon Neighbourhood Plan (made December 2022)  
 Great & Little Chesterford Neighbourhood Plan (made February 2023)

**13. POLICY**

**13.1 National Policies**

**13.1.1** National Planning Policy Framework (2023)

**13.2 Uttlesford District Local Plan 2005**

**13.2.1**

S7	The Countryside
GEN1	Access
GEN2	Design
GEN3	Flood Protection
GEN4	Good Neighbourliness
GEN5	Light Pollution
GEN7	Nature Conservation
GEN8	Vehicle Parking Standards
ENV3	Open Space and Trees

ENV10	Noise Sensitive Development
ENV13	Exposure to Poor Air Quality
ENV14	Contaminated land

**13.3 State name of relevant Neighbourhood Plan in this title**

13.3.1 There is not a 'made' Neighbourhood Plan for the area.

**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 playspace  
 Supplementary Planning Document – Developer's contributions  
 Essex Design Guide  
 Uttlesford Interim Climate Change Policy (2021)  
 Uttlesford Design Code (2024)

**14. CONSIDERATIONS AND ASSESSMENT**

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

- 14.2
- A) Principle of development
  - B) Design, Layout, Scale and Appearance
  - C) Impact on Neighbours and Amenity
  - D) Ecology
  - E) Flood Protection
  - F) Environmental Health
  - G) Access and Parking

**14.3 A) Principle of development**

14.3.1 The site is located outside development limits in the countryside (ULP Policy S7) as defined in the Uttlesford Local Plan, which states that the countryside will be protected for its own sake, planning permission will only be given if the development protects or enhances the particular character of the part of countryside within it is set or there are special reasons why the development in the form proposed need to be there and if the proposal is appropriate to the rural area.

14.3.2 There has been a recent appeal on the site under APP/C1570/D/23/3333926, the inspector stated the following:

*“Policy S7 of the Uttlesford Local Plan 2005 (ULP) seeks to strictly control new buildings in the countryside to that which needs to take place there or is appropriate to a rural area and development will only be permitted if its’ appearance protects or enhances the particular character of the countryside within which it is set. Whilst this policy is only partly consistent with the relevant policy of the National Planning Policy Framework (the Framework), to the extent that it does seek to ensure that development*



*contributes to and enhances the natural and local environment by, amongst other things, recognising the intrinsic character and beauty of the countryside, I consider that, due to the size and scale of the proposal, it would fail to accord with it.”*

**14.3.3** *“Furthermore, whilst noting the intended use of the building and that, in principle, a home office and personal gym are uses that are typically incidental to a residential use, the extent of floorspace required to accommodate these and the Appellants’ hobby uses appears disproportionately large and there is little evidence to support the need for these to be located at the site. For these reasons the proposal would fail to accord with ULP Policy S7. “*

**14.3.4** The proposal has been reduced in size since the previous refusal and appeal, it is now considered to be more appropriate for its setting.

**14.3.5** It must also be noted, that if the applicant would be able to get a building of a similar size and scale if the existing ground levels had not been reduced by utilizing the dwellings Permitted Development Rights.

**14.3.6** The proposed outbuilding at its original ground levels would be very prominent within the countryside, it is felt that this proposal would be set down within the landscape and reduce its impact on the locality.

**14.3.7** The inspector did not raise any issues with the change in the land levels or the retaining walls under appeal ref: APP/C1570/D/23/3333926. As such the LPA does not dispute this.

**14.3.8** The principle of Householder extensions are acceptable subject to the proposals being of an acceptable size, scale and design. This is discussed below in Section B of this report.

#### **14.4 B) Design, Layout, Scale and Appearance**

**14.4.1** Uttlesford Local Plan Policy H8 States that: *“extensions will be permitted if all the following criteria apply:*

*a) Their scale, design and external materials respect those of the original building;*

*b) There would be no material overlooking or overshadowing of nearby properties;*

*c) Development would not have an overbearing effect on neighbouring properties;”*

**14.4.2** Section 12 (Achieving well-designed places) of the National Planning Policy Framework attaches great importance to the design of the built environment. The creation of high-quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates

better places in which to live and work and helps make development acceptable to communities.

**14.4.3** Paragraph 135 of the National Planning Policy Framework states that planning policies and decisions should ensure that developments:

*“are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;”*

*“are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities)”*

**14.4.4** Strategic policies require development to be compatible with a settlement’s character. Policy GEN2 provides more detail as to this consideration stating that development will not be permitted unless its design meets all of a number of criteria.

**14.4.5** The first criterion of Policy GEN2 is that the development be compatible with the scale, form, layout, appearance and materials of surrounding buildings. The proposed garage is set to the rear of the existing dwelling known as ‘The Fuchsias’. The proposed outbuilding would be of a size, scale and design that would not be compatible with the existing character of the settlement.

**14.4.6** Whilst it is acknowledged that it is a large structure, it must be noted that it has been reduced in size since the previous refusal, if the ground levels had not been lowered the outbuilding could be assessed the criteria for Permitted Development.

**14.4.7** Referring back to the inspectors recent appeal decision on the site under APP/C1570/D/23/3333926, the inspector states that *“The bulk of the engineering works to create a lower, level area at the far end of the rear garden have already taken place and a concrete hardstanding laid. It is about one metre below the natural ground level and around 1.5 metres lower than the garden land of the property to the rear. The Council has raised concerns regarding the impact of these works and necessary retaining walls.*

*However, the siting of the proposed building would mean that the majority of these works would not be visible and, in these circumstances, they would not result in any detrimental impact on the character and appearance of the area.”*

**14.4.8** The inspector has not raised any issues with the engineering works or the concrete slab to the rear of the dwelling.

**14.4.9** The inspector goes on to say *“A condition could be imposed to secure a planting scheme to assist in screening the building, but this would not sufficiently mitigate the impact of what would be a considerably sized*

*building within this rural garden setting. In this respect the proposal would fail to accord with ULP Policies GEN2 and H8 which seek development that is of a design that is compatible with and respects the scale and form of surrounding buildings.”*

- 14.4.10** In view of the plot size and shape, it is considered that ‘The Fuchsias’ benefits from a site could accommodate a large outbuilding without resulting in a cramped form of development. The proposal has been reduced in size and scale and now demonstrates an outbuilding that is comparable in scale to that of the original host dwellinghouse.
- 14.4.11** Taking the measurements from the supplied plans, the proposed outbuilding has a ridge height of approximately 3.9m, a height to the eaves of 2.2m, a width of 14m and a depth to the deepest point of 15m. The proposed outbuilding set to the rear of the garden proposes a total footprint of approximately 178m<sup>2</sup> which demonstrates a reduction of 62m<sup>2</sup> (26%) from the previously refused outbuilding which measured 240m<sup>2</sup>.
- 14.4.12** The proposal now demonstrates a proposal which is 44m<sup>2</sup> over the original host dwelling.
- 14.4.13** The proposal is now of a more acceptable scale, and even taking the extensions to the host dwelling into consideration, the proposal would ensure that the built form on the site would not exceed 50% of the total area of the curtilage.
- 14.4.14** The outbuilding as proposed would not be larger than the host dwelling as extended and would fail to comply with Uttlesford Local Plan Policy H8.
- 14.4.15** The second criterion is that the development should safeguard important environmental features in its setting. There are no trees proposed to be removed under this application or removal of any hedgerow, as engineering works have already occurred, and the proposed outbuilding is to be located on an existing concrete slab.
- 14.4.16** Due to the works to level the ground levels, a hard and soft landscaping condition would be requested in order to secure a planting scheme to assist in screening the building.
- 14.4.17** Therefore, it is considered that the development accords with the above policies and guidance insofar as they relate to Uttlesford Local Plan Policy GEN2, H8 and the National Planning Policy Framework (2023)

## **14.5 C) Impact on Neighbours and Amenity**

- 14.5.1** Due to the nature of the development and the separation to any neighbouring dwellings, it is not considered that the application would result in any material detrimental overlooking, overshadowing or

overbearing. As such the proposal would not adversely impact on neighbour's amenity.

**14.5.2** The proposed outbuilding whilst it is acknowledged to be large in size and scale, the ground in the proposed location has been lowered by 1.6m in order to reduce the impact on the neighbouring dwellings.

**14.5.3** As the proposal is for a home office, garage and gym, the impacts of the proposal would be limited towards the neighbouring dwellings. If the applicant wished to change the use to commercial or to another use that is not ancillary in nature, a change of use application would be required.

**14.5.4** The proposal accords with Uttlesford Local Plan Policies GEN2 and GEN4.

## **14.6 D) Ecology**

**14.6.1** ULP Policy GEN7 of the Local Plan states that development that would have a harmful effect on wildlife will not be permitted unless the need for the development outweighs the importance of the feature of nature conservation. Where the site includes protected species, measures to mitigate and/or compensate for the potential impacts of development must be secured.

**14.6.2** The application includes a completed biodiversity checklist. All of the questions have come back negative.

**14.6.3** Due to the scale and nature of the application, there is not a requirement for further site investigation via the submission of additional surveys.

**14.6.4** It is therefore unlikely the proposed development will have harmful impact to adverse impact on any protected species.

**14.6.5** Therefore, it is considered that the proposal accords with Uttlesford Local Policy GEN7 and the National Planning Policy Framework (2023).

## **14.7 E) Flood Protection**

**14.7.1** The site is located within flood zone 1 as such a flood risk assessment is not required.

**14.7.2** As such, the proposal accords with policy Uttlesford Local Plan Policy GEN3.

## **14.8 F) Environmental Health**

**14.8.1** Due to the type of application and that the proposal lies within the residential garden of 'The Fuchsias' Uttlesford District Council's Environmental Health Team have not been consulted. and have no objections subject to a condition if any contamination is found.

**14.8.2** A condition would be placed on any grant of permission as a watching brief with regards to the discovery of any unexpected contamination.

**14.8.3** The proposal is not considered to have an impact on the surrounding neighbours, noise impacts or contamination issues in accordance with policies GEN4, ENV10 and ENV14 of the Uttlesford Local Plan (adopted 2005) and the National Planning Policy Framework (2023).

## **14.9 G) Access and Parking**

**14.9.1** Policy GEN1 requires that access must be capable of carrying the traffic generated by the development safely and that it can be accommodated on the surrounding road network. It is considered that the amount of traffic generated from the development could be accommodated and that there would be no impact upon the surrounding road network.

**14.9.2** The Highway's Authority has not been consulted due to the nature and scale of the planning application, also taking into consideration that Old Mead Lane is a Private Road.

**14.9.3** The proposal concerns the erection of an domestic outbuilding set to the rear of the existing dwelling, taking the above into account, the Highways Authority would not have any comments to make about the proposal.

**14.9.4** Uttlesford Local Plan Policy GEN8 advises that development will not be permitted unless the number, design and layout of vehicle parking places proposed is appropriate for the location, while the Uttlesford Local residential Parking Standards 2013 provides further guidance and good practice.

**14.9.5** The proposal exceeds the requirements to meet the adopted Uttlesford Local residential Parking Standards 2013, it is also noted that here is sufficient parking within the site to accommodate parking in front of the dwelling known as 'The Fuchsias'.

**14.9.6** Therefore, the proposal accords with Uttlesford Local Plan Policy GEN8 and the Uttlesford Local residential Parking Standards 2013.

## **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 following is a summary of the main reasons for the recommendation:

**16.2** The principle of the development is acceptable to the Local Planning Authority.

**16.3** The proposed design and scale are considered to be appropriate for this location.

**16.4** No objections have been raised regarding the impact on neighbouring dwellings.

**16.5** No Ecological objections have been raised.

**16.6** No Flood risk objections have been raised.

**16.7** No Environmental Health objections have been raised.

**16.8** No objections have been raised with regards to parking.

## **17. 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** The development hereby permitted shall be carried out in accordance with the approved plans as set out in the Schedule.

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** Reporting of Unexpected Contamination  
If during any site investigation, excavation, engineering or construction works evidence of land contamination is identified, the applicant shall notify the Local Planning Authority without delay.

Any land contamination identified, shall be investigated, remediated and validated as required in accordance with the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers' and DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Environment Agencies Contaminated Land Risk Management guidance and other current guidance deemed authoritative for the purposes to the satisfaction of the Local Planning Authority to ensure that the site is made suitable for its end use.

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

- 4** Prior to the first beneficial use of the development hereby approved, details of the following hard and soft landscaping works must be submitted to and approved in writing by the local planning authority:

- Retained features including trees
- New planting
- Hard surfaces
- Boundary treatment

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

All hard landscaping, 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 dwelling, 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 Policies S7, GEN2 of the Uttlesford Local Plan (adopted 2005) and the National Planning Policy Framework (2023).

- 5** The development hereby approved shall only be used for purposes incidental to residential use in conjunction with the occupiers of 'The Fuchsias'. It shall not be used to provide ancillary residential accommodation or a separate residential unit without the express written consent of the Local Planning Authority.

REASON: To protect the amenity of the occupants of the neighbouring properties and to accord with Policy GEN2 of the Uttlesford Local Plan 2005.