

UTT/0507/12/OP – (CLAVERING)

PROPOSAL: Outline planning permission for erection of 31 dwellings with some matters reserved except access, layout and scale

LOCATION: Land west of the Cricketers, Stickling Green Road, Clavering

APPLICANT: Mr and Mrs Roger and Alma Vila

AGENT: None

GRID REFERENCE: TL 480-326

EXPIRY DATE: 7 June 2012

CASE OFFICER: Nicholas Ford

1.0 NOTATION

1.1 Outside Development Limits.

2.0 DESCRIPTION OF SITE

2.1 The subject land comprises 1.19 hectares of pasture, which has been used for grazing, south of the Jubilee and Britannica Works and west of The Cricketers public house car park in Hill Green, Clavering. The boundary of the site is also formed by an agricultural building to the east, Hill Green Farm to the south and agricultural land to the west. Boundaries are formed by field hedge and trees with field access and gate in the northwest corner. There is a bank of trees and a ditch on the northern boundary with Stickling Green Road. The land is broadly level.

3.0 PROPOSAL

3.1 **The application requests outline planning permission for erection of 31 dwellings with some matters reserved except access, layout and scale.**

3.2 The layout accommodates a mix of dwellings comprising 11 two bed, 6 three bed, 9 four bed and 5 five bed properties. The applicant is proposing that 40% of the total be provided as affordable housing.

3.3 Dwellings would be two storey with a scale upto 8.8 metres ridge height and predominantly grouped around and facing a central green with local area of play. Dwellings would also face onto Stickling Green Road facing this and a central access road. A tree belt would be present between the dwellings and Stickling Green Road.

3.4 Each dwelling would be provided with a minimum of 2 off road vehicle spaces and there would also be 8 visitor parking spaces within both the central green and the parking court.

3.5 The application also proposes the provision of public footpaths along Stickling Green Road and adjacent The Cricketers public house to link to the existing footpath network.

4.0 APPLICANTS CASE

4.1 See Design and Access Statement, Flood Risk and Drainage Report, Hedge Moving Procedure and Protected Species Survey.

5.0 RELEVANT SITE HISTORY

5.1 None.

6.0 POLICIES

6.1 National Policies

National Planning Policy Framework

6.2 East of England Plan 2006

- Policy H1: Regional Housing Provision 2001 to 2021
- Policy ENV7: Quality in the Built Environment
- Policy ENG1: Carbon Dioxide Emissions and Energy Performance

6.3 Uttlesford District Local Plan 2005

- Policy S7: The Countryside
- Policy H10: Housing Mix
- Policy GEN1: Access
- Policy GEN2: Design
- Policy GEN6: Infrastructure Provision
- Policy GEN7: Nature Conservation
- Policy GEN8: Vehicle Parking Standards
- Policy ENV3: Open Spaces and Trees
- Policy ENV5: Protection of Agricultural Land
- Policy ENV8: Other Landscape Elements of Importance for Nature Conservation
- SPD: Energy Efficiency and Renewable Energy
- SPD: Accessible Homes and Playspace
- Parking Standards: Design and Good Practice Guide

7.0 PARISH COUNCIL COMMENTS

Object. Outside development limits. Incompatible with the character of the adjacent countryside. There are significant wildlife features and habitat which would be lost. The access is at a busy junction complicated by heavy agricultural equipment and vehicles either through farming business or Funston's. Lorries park and cause sight line restrictions. It is already a dangerous area. The improved site line will not improve road safety for pedestrians. The road is narrow and inadequate for additional vehicles.

Development is not compatible in terms of scale, high density and appearance with adjacent developments and especially the rural neighbouring hamlet of Stickling Green with circa 20 houses. There would be a high visual impact on adjacent countryside, field boundaries, country lanes, trees and hedges. There is no requirement for 31 dwellings.

The village school is already at capacity and parents would need to ferry children by car to school which already has a huge traffic congestion problem. Public transport is infrequent and unlikely to improve. There would be intolerable demand on water supplies.

The Parish Council recognises the need for social housing the overall site is too large (The Parish Council Housing Needs Survey indicates 9 new houses over the next 5 years). A dedicated low cost housing site is the Parish Council's preferred option.

8.0 CONSULTATIONS

ECC Education - Forecasts indicate sufficient early years and childcare provision to meet the needs of the development. Additional provision will be needed at primary level. Forecasts indicate sufficient places at Newport Free Grammar School to meet the needs of the development. However, the school is over three miles from the propose development and the County Council is obliged to provide transport to the school. The current bus arrangement is not sufficient to accommodate the secondary children likely to be generated by the proposed

development and therefore there will be an additional cost to the County Council. Therefore, it is requested that any permission be subject to a S106 agreement to mitigate impact on education.

National Grid - No comments received.

Highway Authority - Recommends refusal. Insufficient information has been provided to demonstrate to the satisfaction of the Highway Authority that the impact on the highway network caused by the proposal will not have unacceptable consequences in terms of highway safety and efficiency. Further consideration would be given to the application upon receipt of a Transport Statement that considers the impact of the traffic generated by the proposed development. The Transport Statement should also include an independent Stage One Road Safety Audit of the proposed access arrangements and designers response to that audit.

Thames Water - No objection in relation to sewerage infrastructure. Surface water drainage is the responsibility of the developer.

Veolia Water - No comments received.

ECC Ecology - It is possible that the white letter hairstreak butterfly and stag beetle may be present on the proposed development site and indeed, experts of the white letter hairstreak have advised that this butterfly could be present; both of these are 'species of principle importance' listed under Section 41 of the Natural Environment and Rural Communities Act 2006.

While the white letter hairstreak lives high in trees- especially elms- it cannot survive in dead elms. One of the most likely places for the white letter hairstreak to be present on the proposed development site appears to be in the inner line of trees near to the northern boundary of the site, some of which will require removal and the rest will become closely situated to a new footpath and housing. The applicant's ecological consultants -Conservation Constructions Ltd - has advised that it is "*important to preserving the currently healthy elms in the area that all the dead and diseased elms are removed*". The applicant is intending to retain the living trees on site.

However, it should be borne in mind that the development may require the removal of living trees which have some susceptibility to Dutch Elm Disease, due to health and safety considerations; these trees may support the white letter hairstreak and would not otherwise need to be removed should the field be left undeveloped. If the white letter hairstreak is present on these trees it could therefore be adversely affected, although in the long term the trees will not be able to support them if they are becoming affected by the Dutch Elm Disease. While a survey for the white letter hairstreak is not required in the way that one is for legally protected species, the lack of a survey leaves us with a number of questions, such as whether the butterfly is actually present and in what quantity.

Should Uttlesford District Council be minded to grant planning permission, it needs to demonstrate that, under Section 40 of the Natural Environment and Rural Communities Act, it has taken the above 'Section 41 Species' into consideration as they may be present on site. In its letter of 26th July, Natural England advised that the Section 40 duty "covers the protection, enhancement and restoration of habitats and species". In considering the information and representations relating to the potential impacts for this site I would advise that the recommendations within the ecological reports provided as part of this planning application are sufficient to protect any white letter hairstreak butterflies that are potentially present on the site by ensuring that the trees that may support them remain (taking into account health and safety legislation). I do not, however, consider that the proposals would adequately enhance and restore the habitat on which the white letter hairstreak relies, but these details could be agreed with the reserved matters.

Should you be minded to grant planning permission, the following issues should be conditioned:

- The proposed mitigation and other recommendations and enhancements within the Ecological reports and agreed with the applicant and his consultants must be undertaken.
- All existing habitats to be retained must be protected during construction.

- An appropriate lighting scheme to ensure that bats and other wildlife are not adversely affected by the proposed development.
- Vegetation should not be removed during the bird nesting season (approximately mid-February to the end of August, depending on weather conditions).
- Should there be a delay of more than three years until the start of the development a revised ecological assessment should be undertaken which may require repeat protected species surveys.

Despite ecological surveys being undertaken which suggest that protected species are not using the application site, it is possible that protected species may be encountered once works commence. As such Natural England recommends that the following informative should be appended to the consent:

'Should any bats or birds, or evidence of bats or birds be found prior to or during the development, all works must stop immediately and an ecological consultant or the Council's ecologist contacted for further advice before works can proceed. All contractors working on site should be made aware of the advice and provided with the contact details of a relevant ecological consultant.'

No bats have been found and concerns have been addressed - the Scarlet Malachite beetle is only likely to be present.

UDC Environmental Health - No objections.

UDC Landscape Officer - The condition of elm trees situated on the northern edge of the site has been an issue raised in representations received. The elm trees are not considered to be of individual or of group amenity value worthy of being made the subjects of a tree preservation order. A number of the trees are dead and Dutch Elm Disease is present in others. Whilst some of the subjects are showing resilience against this disease they remain susceptible. Government advice has been that it would be inappropriate to make English Elms subject to TPOs because of their susceptibility to this disease. In light of this advice, it would equally not be considered appropriate to require the retention of English Elm trees by the application of planning conditions.

Reference has been made to the proposed felling of an Ash tree on the northern boundary identified in the submitted tree report as T4. This tree is a mature subject of approx. 15m in height. The tree has extensive decay in the main stem, and die back is present in the crown. This tree is considered to have a limited life expectancy and is not of an amenity value worthy of retention.

The potential presence of the White-Letter Hairstreak butterfly is also an issue that has been raised. These butterflies are dependent upon elm trees, however, no recorded evidence has been provided of sighting of this species on the application site.

As part of the proposed development and to accommodate highway sightlines it is proposed that the northern boundary hedge is translocated. It is considered that the benefits of transplanting the existing hedge would be relatively limited and would be not without risk of some level of failure. The existing hedge would need to be significantly reduced in height prior to being lifted to maximise the chances of successful translocation. Consequently, there would be no benefit of providing instant screening. On balance, it would be considered appropriate, as part of an overall scheme of landscaping, if a new broad hedge were to be planted using a native species mixture.

The proposed development would result in a loss of open countryside and impact on the character of the surrounding area.

Drainage Engineer - Development of Greenfield sites should maintain run-off rates to the existing level, i.e. no more water entering the adjoining ditches than already does (although in an ideal world a reduction would be even better) and this is what the strategy proposes. There are no details of when this would be achieved and a condition requiring full details should be applied.

Environment Agency - Planning permission could be granted subject to conditions.

UDC Planning Policy - The site lies beyond development limits and is therefore contrary to Policy S7 in the adopted local plan.

However the Council is at the moment in a position where it cannot demonstrate a 5 year supply of housing land when compared with the RSS housing target. A total of 1747 dwellings are assumed to be delivered within the 5 year period 20012/13 to 2016/17. This equates to an average annual completion rate of 349 dwellings. The average annual completion rate required by the East of England plan is 430 dwellings so over the 5 years the Plan's requirement is 2150 dwellings. Therefore the percentage of the plan target on deliverable sites for the 5-year period is 81% (equivalent to about 4.1 years).

Five Year Supply 2012/13 – 2016/17 (based on RSS requirement)	
Total supply on deliverable sites years 1-5	1747
Total of Plan Target years 1-5 (5 x 430 dwellings)	2150
% of Plan Target available on deliverable sites years 1-5	81%

In the SHLAA process the site has been categorised as being suitable, available and achievable with good access in a location which is not particularly sensitive. Clavering is a village with a good range of facilities including a school, shop, pubs, recreational facilities etc. A development of 31 would deliver affordable housing and would be capable of providing a range of house types and sizes.

This site is beyond development limits where residential development would normally be refused. Because there is currently a shortage of housing land when measured against the five year land supply any application would have to be considered in this context and the contribution the delivery of 31 homes could make to this shortfall. This needs to be weighed against the loss of countryside and local views expressed by the Parish Council.

Housing Strategy - An initial discussion has taken place with the Council's strategic housing section for the site to deliver the 40% affordable housing requirement, equating to 13 properties, for a housing mix of 2 and 3 bedroom properties. It would be expected that further discussions will take place on the location and tenure split of the affordable housing units at the relevant time, and that these units will be delivered by a Registered Provider also to be agreed with the strategic housing section.

Access and Equalities Officer - I agree a contributory payment on this site to alleviate the need for the installation of a through floor lift on plot assigned as the Wheelchair Accessible Unit. I have suggested that the payment should be made available for any dwelling on that site that would require adaptation for a disability and that it should not be assigned to that plot particularly. Otherwise it will be lost in time. Otherwise the site will meet the requirements of the SPD for Lifetime Homes.

9.0 REPRESENTATIONS

9.1 Notification period expired 24 July 2012. Comments summarised:

Support affordable housing to meet the housing needs of the District.

Outside development limits, contrary to policy

Development would set a precedent

Development should be directed to the main urban centres and the A120 corridor

Previously developed land should be used

Development should be through the local plan and not ad-hoc
The site provides a divide between Hill Green and Stickling Green
The Parish Housing Needs Survey identifies a need for 9 units
UDC proposals only mention housing at Oxleys Close
Area of proposed Conservation Area
Out of character with surrounding area
Loss of village character as a rural settlement
Loss of agricultural land
Jubilee Works should be developed as a brownfield site
Change the landscape and spoil character
Style of housing not consistent with the village
Not infill development adjacent housing
Detrimental affect on the historic environment
Detrimental affect on the landscape
Loss of natural beauty whatever the health of trees fronting the road
Remove land for used for horse grazing
Detrimental density of development
Un-neighbourly industry adjacent
Harm to Cricketers business during construction
Suburban development
Noise and light pollution
Loss of privacy to owners of land and ménage to south
Distant site from the school and shop with regard traffic use
Development would not support local services
Stickling Green Road and Arkesden Road cannot support extra traffic
Jubilee Works site could result in more traffic if appeal for housing is allowed
Potential for multiple accidents on narrow, bendy road
Access adjacent The Cricketers is dangerous
Unsatisfactory pavement after the Cricketers for pedestrians
Pedestrians would have to cross the road at a bend
There are no footpaths/pedestrian safety would be compromised
Narrow road with no pavement or street lighting
Conflict with vehicles using the Jubilee Works and parking on the highway
Parking would become a problem
There is limited public transport
Clavering School is full
Newport Doctor's surgery cannot take any additional patients
Sewers in Arkesden Road are under considerable strain
The field is prone to flooding
Concern for drainage
Additional demand on low pressure water supply
Additional demand on an often blocked sewerage system
Overloading of telephone system
Concerned for interest of White-letter Hairstreak butterfly
Concerned for Scarlet Malachite beetle
Many insects, plants, birds and mammals would be disturbed
Dead wood is a habitat for invertebrate species
Harm to bats and birds
Loss of trees
Moving the hedge would upset creatures that depend on it
Concerned for removal of elm trees offering roosting opportunities for bats and birds

10.0 APPRAISAL

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

Whether development of the land for housing is acceptable in principle having regard to policy seeking protection of the character and appearance of the countryside and Government advice which seeks delivery of new homes (NPPF, ULP S7).

10.1 The land is outside of any development limits for the purposes of the Uttlesford Local Plan (ULP) adopted 2005. The principle of the development needs to be judged against saved policy S7 (The Countryside) of the Uttlesford Local Plan adopted 2005.

10.2 Policy S7 of the adopted Uttlesford Local Plan (ULP) states that *“the countryside to which this policy applies is defined as all those parts of the Plan area beyond the Green Belt that are not within the settlement or other site boundaries. In the countryside, which will be protected for its own sake, planning permission will only be given for development that needs to take place there, or is appropriate to a rural area. This will include infilling in accordance with paragraph 6.13 of the Housing Chapter of the Plan. There will be strict control on new building. Development will only be permitted if its appearance protects or enhances the particular character of the part of the countryside within which it is set or there are special reasons why the development in the form proposed needs to be there”*. New dwellings outside of development limits do not normally meet the exceptions of ULP Policy S7 and would fail to protect the character and appearance of the countryside.

10.3 This site is beyond development limits where residential development would normally be refused. However, the Council is at the moment in a position where it cannot demonstrate a 5 year supply of housing land when compared with the RSS housing target. A total of 1747 dwellings are assumed to be delivered within the 5 year period 20012/13 to 2016/17. This equates to an average annual completion rate of 349 dwellings. The average annual completion rate required by the East of England plan is 430 dwellings so over the 5 years the Plan's requirement is 2150 dwellings. Therefore the percentage of the plan target on deliverable sites for the 5-year period is 81% (equivalent to about 4.1 years).

10.4 Because there is currently a shortage of housing land when measured against the five year land supply any application would have to be considered in this context and the contribution the delivery of 31 homes could make to this shortfall. In the SHLAA process the site has been categorised as being suitable, available and achievable with good access in a location which is not particularly sensitive. Clavering is a village with a good range of facilities including a school, shop, pubs, recreational facilities etc. A development of 31 would deliver 40% affordable housing and would be capable of providing a range of house types and sizes.

10.5 In terms of the location, Clavering, although not a key village, does have a range of local services, including a primary school, shop and two public houses. Local services like the primary school and village shop are accessible from the site by foot and so is the recreation ground and equipped play area alongside the Parish Hall, which itself holds activities for adults such as keep fit and activities for children, such as cubs and scouts. There is a shopper bus service which picks up at the Cricketers which runs to Saffron Walden twice weekly through Wicken Bonhunt and Newport. There is also a weekday daily bus between Clavering and Bishop's Stortford via Stansted Mountfitchet and a weekday service between Clavering and Haverhill via Saffron Walden. There is also a Monday to Saturday bus service between Haverhill and Clavering stopping at Audley End rail station. In terms of a village location this is considered to be a sustainable site.

10.6 The proposal has addressed the importance of pedestrian access. Pedestrian footpaths from the site would be provided adjacent Stickling Green Road to the junction with Clatterbury Lane to a point opposite The Cricketers Public House, which would be ensured by legal agreement. Adjacent the entrance to The Cricketers the existing public footpath can be accessed.

10.7 In summary, it is considered that the weight to be given to the requirement to provide a 5 year land supply and the housing provision which could be delivered by the proposal can, in principle, outweigh the harm in relation to rural restraint set out in ULP Policy S7 and PPS7 subject to detailed considerations.

Whether the proposed housing would be acceptable in detail having regard to highway safety, the character and appearance of the area, amenity of neighbouring properties and affordable housing provision (NPPF, ULP Policies GEN1, GEN2, GEN6, GEN8, ENV8, H9, H10, SPD Accessible Homes and Playspace, ECC Parking Standards - Design and Good Practice 2009).

10.8 It is recognised that development on previously undeveloped land is a significant change in character and so opportunity must be taken to integrate and minimise impact. The dwellings would be of two storey scale and this would impact on the countryside. The layout seeks to reduce impact by avoiding a harsh urban edge to Stickling Green Road, and whilst acknowledging the need for a visibility splay, retains a tree belt and a translocated hedge. The immediate presence of dwellings would therefore be reduced and additional planting agreed in a detailed application could support this transition. Trees to other boundaries are to be retained.

10.9 The layout has been designed in a manner that provides dwellings facing the tree belt and Stickling Green Road to provide activity rather than a blank and faceless vista. Flowing from a central point of access, the greater part of housing would be grouped around and facing a central green which is to be largely provided as a Local Area of Play together with some visitor parking and a water balancing space. A later, detailed application can agree appropriate planting for this green but it is considered that this space would be an attractive feature for occupiers benefiting from casual surveillance of dwellings which would form its setting. The Royal Society for the Prevention of Accidents has assessed the relationship between the play area and balancing pond and found risk of injury or drowning to be at a very low level of risk subject to recommendations which can be agreed by condition.

10.10 The density of development would be about 25 dwellings per hectare. However, taking into account the central green play area and the tree belt, the density would be about 30 dwellings per hectare. Acknowledging that the layout provides for appropriate amenity space, parking provision and a central green with play area, this amount is considered to be of appropriate density so as to result in a layout with character appropriate to its context.

10.11 Policy H10 requires that this site provide a significant proportion of housing as 'small properties'. Small properties are defined as two and three bed homes. The development proposes 11 two bed and 7 three bed homes. This is a significant proportion. As such, the development would meet the requirement of this policy and provide a significant amount of small market properties.

10.12 Each dwelling would be provided with a private rear garden of adequate size to their size. It is suggested that some of the smaller dwellings have permitted development rights removed so as to protect gardens as useful amenity space for occupiers.

10.13 The Highway Authority has assessed the scheme as the application requests that access be considered in this outline application. They have no objection and therefore find the access arrangements and visibility splay satisfactory from an accessibility and safety point of view subject to conditions. In addition, the scheme provides for a minimum of two off road parking spaces for each dwelling and there would be eight visitor parking spaces available around the central green and parking court in accordance with the standard.

10.14 There is a requirement for 40% of the total houses to be delivered as affordable housing in accordance with ULP Policy H9. An initial discussion has taken place with the Council's strategic housing section for the site to deliver the 40% affordable housing requirement, equating to 13 properties, for a housing mix of 2 and 3 bedroom properties. This can be secured by legal agreement. Further discussions would then take place with regard to location and tenure.

Whether the change of use would result in the loss of best and most versatile agricultural land (ULP Policy ENV5).

10.15 The development of the land for housing would mean the irreversible loss of a portion of undeveloped land. However, it is not presently used in productive agriculture. The quality of

farmland is assessed by classification by that which is most productive and efficient in response to climate, temperature and soil conditions. The application site is Grade 2 best and most versatile land but is not cultivated and has been used for horse grazing. Weighing planning considerations it is considered that the need for new housing is of greater need than this portion of land remaining in this use. Loss of this grade of land is true for housing applications that come forward through allocation in development plans.

Whether loss of trees would be acceptable in relation to need for development and amenity value (ULP Policy ENV3).

10.16 A number of trees including Elm, Ash and Field Maple have been identified for removal following arborist survey. A hedgerow is to be translocated to accommodate visibility splays. The Landscape Officer has advised on the amenity value of these trees noting that the proposal would involve loss of countryside and impact on character.

10.17 The condition of elm trees situated on the northern edge of the site has been an issue raised in representations received. The elm trees are not considered to be of individual or of group amenity value worthy of being made the subjects of a tree preservation order. A number of the trees are dead and Dutch Elm Disease is present in others. Whilst some of the subjects are showing resilience against this disease they remain susceptible. Government advice indicates it would be inappropriate to make English Elms subject to TPOs because of their susceptibility to this disease. In light of this advice, it would equally not be considered appropriate to require the retention of English Elm trees by the application of planning conditions.

10.18 Reference has been made to the proposed felling of an Ash tree on the northern boundary identified in the submitted tree report as T4. This tree is a mature subject of approx. 15m in height. The tree has extensive decay in the main stem, and die back is present in the crown. This tree is considered to have a limited life expectancy and is not of an amenity value worthy of retention.

10.19 As part of the proposed development and to accommodate highway sightlines it is proposed that the northern boundary hedge is translocated. It is considered that the benefits of transplanting the existing hedge would be relatively limited and would be not without risk of some level of failure. The existing hedge would need to be significantly reduced in height prior to being lifted to maximise the chances of successful translocation. Consequently, there would be no benefit of providing instant screening. On balance, it would be considered appropriate, as part of an overall scheme of landscaping, if a new broad hedge were to be planted using a native species mixture. A scheme of landscaping would be considered as a reserved matter.

Whether there would be harm to wildlife and protected species (NPPF and ULP Policy GEN7).

10.20 Representations have been received regarding harm to wildlife including bats as protected species and other flora and fauna including the White Letter Hairstreak butterfly and the Scarlet Malachite beetle which the Local Planning Authority as to consider in relation to preserving biodiversity. In this regard the applicant has submitted an ecological survey and the Council have been advised by the County Council ecologist in relation to potential for harm and mitigation measures.

10.21 No bat roosts or potential bat roosts have been found on the site. The ecologist considers it unlikely that the Scarlet Malachite beetle is using the site.

10.22 It is possible that the white letter hairstreak butterfly and stag beetle may be present on the proposed development site and indeed, experts of the white letter hairstreak have advised that this butterfly could be present; both of these are 'species of principle importance' listed under Section 41 of the Natural Environment and Rural Communities Act 2006. While the white letter hairstreak lives high in trees - especially elms - it cannot survive in dead elms. One of the most likely places for the white letter hairstreak to be present on the proposed development site

appears to be in the inner line of trees near to the northern boundary of the site, some of which will require removal and the rest will become closely situated to a new footpath and housing. The applicant's ecological consultant - Conservation Constructions Ltd - has advised that it is "important to preserving the currently healthy elms in the area that all the dead and diseased elms are removed". The applicant is intending to retain the living trees on site.

10.23 However, it should be borne in mind that the development may require the removal of living trees which have some susceptibility to Dutch elm disease, due to health and safety considerations; these trees may support the white letter hairstreak and would not otherwise need to be removed should the field be left undeveloped. If the white letter hairstreak is present on these trees it could therefore be adversely affected, although in the long term the trees will not be able to support them if they are becoming affected by the Dutch elm disease. While a survey for the white letter hairstreak is not required in the way that one is for legally protected species, the lack of a survey leaves us with a number of questions, such as whether the butterfly is actually present and in what quantity.

10.24 In considering the information and representations relating to the potential impacts for this site our ecologist advises that the recommendations within the ecological reports provided as part of this planning application are sufficient to protect any white letter hairstreak butterflies that are potentially present on the site by ensuring that the trees that may support them remain (taking into account health and safety legislation - a number of elm trees are identified for removal as they are dead or have limited safe useful life due to Dutch elm disease). Our ecologist considers that the proposals would adequately enhance and restore the habitat on which the white letter hairstreak relies and these details could be agreed with the reserved matters. A number of mitigation and enhancement measures are proposed in respect of wildlife including protection of habitat, provision of bat and bird nesting boxes, appropriate lighting and restriction on removal of vegetation during the bird nesting season.

10.25 *In addition to biodiversity and protected species being a material planning consideration, there are statutory duties imposed on local planning authorities. Section 40(1) of the Natural Environment and Rural Communities Act 2006 states "Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity." This includes local authorities carrying out their consideration of planning applications. Similar requirements are set out in Regulation 3(4) of the Conservation (Natural Habitats &c) Regulations 1994, Section 74 of the Countryside and Rights of Way Act 2000 and Regulation 9(5) of the Conservation of Habitats and Species Regulations 2010. Recent case law has established that local planning authorities have a requirement to consider whether the development proposals would be likely to offend Article 12(1), by say causing the disturbance of a species with which that Article is concerned, it must consider the likelihood of a licence being granted.*

10.26 *The tests for granting a licence are required to apply the 3 tests set out in Regulation 53 of the Habitats Regulations 2010. These tests are:*

10.27 *The consented operation must be for "preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment"; and*

There must be "no satisfactory alternative"; and

The action authorised "will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range".

10.28 *It is considered from the above that the first two tests of NERC have been met with regard to the proposal as submitted and that the proposal is unlikely to impact on the third test given the nature and scope of the proposal.*

Whether there would be any harm to the residential amenity of neighbouring properties as a result of overlooking, overshadowing or overbearing impact, noise or disturbance (ULP Policies GEN2 and GEN4).

10.29 The context of the surroundings of the application site is such that there is unlikely to any significant impact on the amenity of neighbouring properties. To the east is the car park of the Cricketers and premises in commercial use. To the south are a paddock and a ménage associated with Hill Green Farmhouse separated by intervening trees. The Jubilee Works are commercial premises on the opposite side of the road to the north of the site and to the west is agricultural land.

11.0 CONCLUSION

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

11.2 It is considered that the weight to be given to the requirement to provide a 5 year land supply and the market and affordable housing provision which could be delivered by the proposal would outweigh the harm identified in relation to rural restraint set out in ULP Policy S7 and the NPPF. Therefore, in balancing planning merits, it is considered that planning permission should be granted for the development of this site.

RECOMMENDATION – CONDITIONAL APPROVAL WITH S106 LEGAL AGREEMENT

- (I) The applicant be informed that the committee would be minded to refuse planning permission for the reasons set out in paragraph (III) unless within 6 months of being invited to do so the freehold owner enters into a binding agreement to cover the matters set out below under Section 106 of the Town and Country Planning Act 1990, as amended by the Planning and Compensation Act 1991, in a form to be prepared by the Assistant chief Executive – Legal, in which case he shall be authorised to conclude such an agreement to secure the following:
 - (i) payment of contributions towards education provision
 - (ii) 40% affordable housing provision
 - (iii) Provision and maintenance of Local Area of Play
 - (iv) Provision of public footpath adjacent the Cricketers car park
 - (v) Wheelchair accessible dwelling contribution
 - (vi) Provision of bus stop improvements to six nearest bus stops prior to occupation
 - (vii) Pay Councils reasonable costs

- (II) In the event of such an agreement being made, the Divisional Head of Planning and Building Control shall be authorised to grant permission subject to the conditions set out below

- (III) If the freehold owner shall fail to enter into such an agreement, the Divisional Head of Planning and Building Control shall be authorised to refuse permission for the following reasons:
 - 1) No contributions towards Education provision
 - 2) No affordable housing provision
 - 3) No provision and maintenance of Local Area of Play
 - 4) No public footpath adjacent the Cricketers car park
 - 5) No contribution for wheelchair accessible housing
 - 6) No provision of bus stop improvements

1. Approval of the details of the appearance and landscaping (hereafter called "the Reserved Matters") shall be obtained from the Local Planning Authority in writing before development commences and the development shall be carried out as approved.

REASON: To comply with the provisions of Article 3 of the Town and Country Planning (General Development Procedure) Order 1995 and Section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. (A) Application for approval of the Reserved Matters shall be made to the Local Planning Authority not later than the expiration of 3 years from the date of this permission.
- (B) The development hereby permitted shall be begun later than the expiration of 2 years from the date of approval of the last of the Reserved Matters to be approved.

REASON: To comply with the provisions of Article 3 of the Town and Country Planning (General Development Procedure) Order 1995 and Section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

3. Before development commences a scheme to control surface water drainage shall be submitted to, and approved in writing by, the local planning authority comprising:

Surface water drainage scheme to include Sustainable Drainage Systems (SuDS) to provide attenuation such that run-off does not exceed 5l/s in all events up to and including the 100 year event inclusive of climate change.

The scheme shall be fully implemented and subsequently maintained, in accordance with the timing / phasing arrangements embodied within the scheme or within any other period as may subsequently be agreed, in writing, by the local planning authority.

REASON: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site in accordance with the NPPF and Policy GEN3 of the Uttlesford Local Plan adopted 2005.

4. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

REASON: National Planning Policy Framework (NPPF) paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels water pollution. Government policy also states that planning policies and decisions should ensure that adequate site investigation information, prepared by a competent person, is presented (NPPF, paragraph 121).

5. No construction work relating to this permission shall be carried out nor machinery operated on, nor materials be delivered to the site at any time on any Sunday, Public or Bank Holiday nor at any other time, except between the hours of 08.00 and 18.00 on Mondays to Fridays and between the hours of 08.00 to 13.00 on Saturdays.

REASON: To safeguard the amenities of the occupiers of neighbouring properties in accordance with Policy GEN2 of the Uttlesford Local Plan adopted 2005.

6. The development hereby permitted shall be implemented in accordance with the ecological scheme of mitigation/enhancement submitted with the application in all respects and any variation thereto shall be agreed in writing by the local planning authority before such change is made.

REASON: In the interest of the protection of the wildlife value of the site in accordance with the NPPF and Policy GEN7 of the Uttlesford Local Plan adopted 2005.

7. The development hereby permitted shall incorporate all measures set out in the accessibility statement / drawings which accompanied the application.

REASON: To ensure that the premises can be readily used by people with physical disabilities in accordance with national and local planning policies in accordance with SPD Accessible Homes and Playspace.

8. Before the development hereby permitted commences details of safety measures to prevent risk of drowning or injury in respect of the balancing pond shall be submitted to and approved in writing by the Local Planning Authority. Such measures shall include perimeter fencing, self closing gates with child-proof lock, planting, signage and information packs for new occupiers explaining the drainage scheme to RoSPA standard. Thereafter, the agreed measures shall be carried out prior to the occupation of any of the dwellings to which this permission relates or first use of the play area, whichever is the sooner.

REASON: In the interests of safety of adults and children in relation to water bodies and potential for drowning or injury in accordance with Policy GEN2 of the Uttlesford Local Plan adopted 2005.

9. Before development commences details showing the means to prevent the discharge of surface water from the development onto the highway shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in its entirety prior to the access becoming operational and shall be retained at all times.

REASON: To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety in accordance with Policy GEN1 of the Uttlesford Local Plan adopted 2005.

10. Before development commences details of the estate roads and footways to accord with the Essex Design Guide (including layout, levels, gradients, surfacing and means of surface water drainage) shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details.

REASON: To ensure roads/footways are constructed to an appropriate standard in the interests of highway safety, efficiency and accessibility in accordance with Policy GEN1 of the Uttlesford Local Plan adopted 2005.

11. Before occupation of any dwelling hereby approved, the access shall be formed including radii, splays and footways as indicated on drawing 207.13/05/R.

REASON: To provide highway safety and adequate inter-visibility between the users of the access and the existing public highway for the safety and convenience of users of the highway and of the access in accordance with Policy GEN1 of the Uttlesford Local Plan adopted 2005.

12. Before the development hereby permitted commences a scheme of lighting shall be submitted and approved in writing by the Local Planning Authority. The approved lighting scheme shall be installed before any dwelling is first occupied.

REASON: To ensure that bats and other wildlife are not adversely affected by the development in accordance with the NPPF and Policy GEN7 of the Uttlesford Local Plan adopted 2005.

13. Vegetation should not be removed during the bird nesting season (approximately mid-February to the end of August, depending on weather conditions).

REASON: To ensure that wildlife is not adversely affected by the development in accordance with the NPPF and Policy GEN7 of the Uttlesford Local Plan adopted 2005.

14. Should there be a delay of more than three years until the start of the development a revised ecological assessment shall be undertaken and repeat protected species surveys as necessary in accordance with details which shall be submitted to and approved in writing by the

Local Planning Authority. Development shall be carried out in accordance with the recommendations of any agreed revised ecological assessment.

REASON: To ensure that bats and other wildlife are not adversely affected by the development in accordance with the NPPF and Policy GEN7 of the Uttlesford Local Plan adopted 2005.

15. Habitat management details shall be submitted to and approved in writing by the Local Planning Authority before development commences and development shall be carried out in accordance with the agreed habitat management details.

REASON: To ensure that bats and other wildlife are not adversely affected by the development in accordance with the NPPF and Policy GEN7 of the Uttlesford Local Plan adopted 2005.

16. Before development commences cross-sections of the site and adjoining land, including details of existing levels around the buildings hereby permitted and any changes in level proposed, together with the proposed floor levels within the buildings, shall be submitted to and approved by the local planning authority in writing. The development shall be carried out in accordance with the approved details.

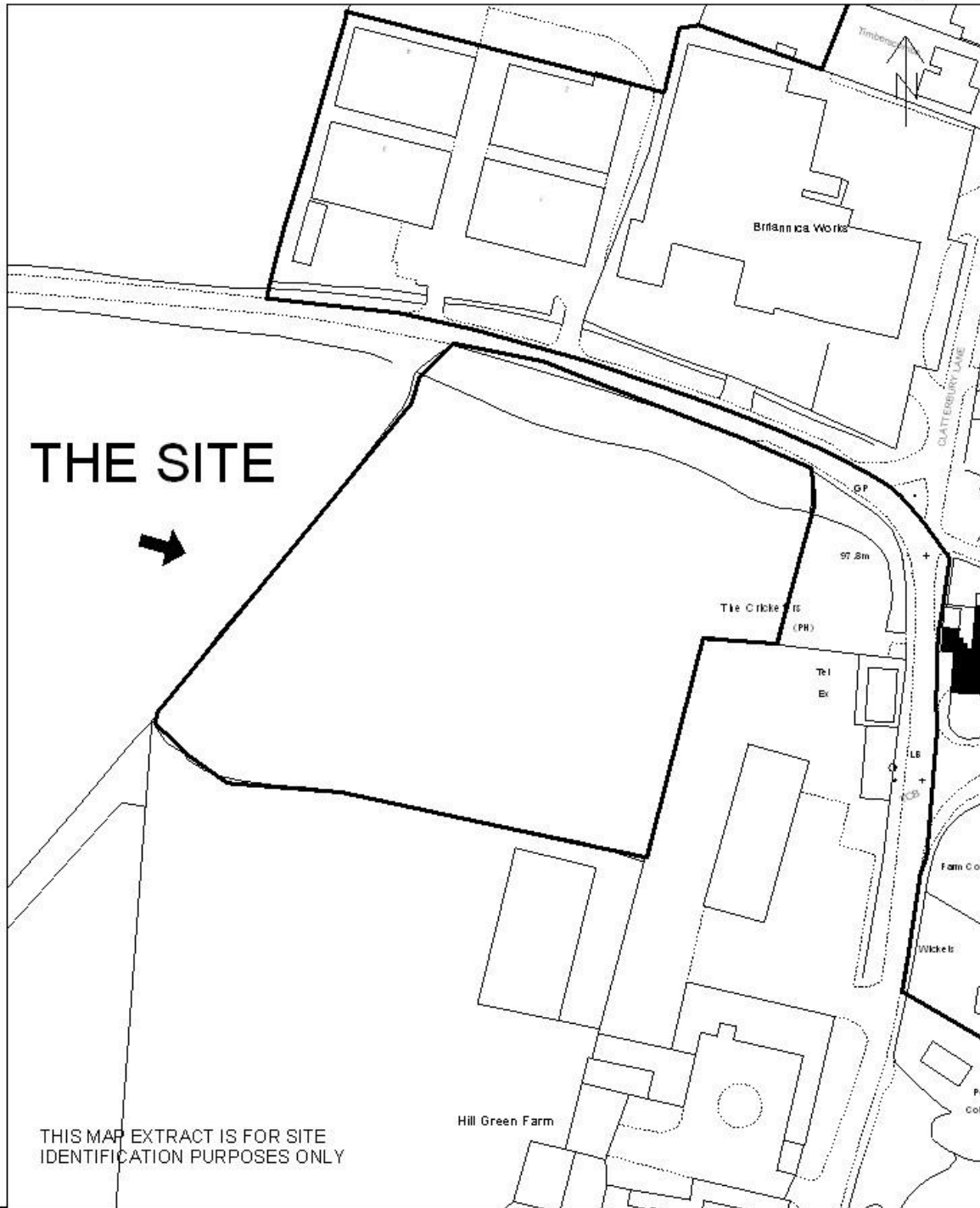
REASON: In order to minimise the visual impact of development in accordance with Policy GEN2 of the Uttlesford Local Plan adopted 2005.

17. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order with or without modification), no extensions shall be constructed (other than any expressly authorised by this permission or any other grant of express planning permission), freestanding buildings erected on any part of the site or an access/hardstandings created without the prior written permission of the local planning authority in respect of plots 26, 30 and 31.

REASON: In order to prevent overdevelopment and ensure sufficient amenity space is provided for occupiers of dwellings in accordance with Policy GEN2 of the Uttlesford Local Plan adopted 2005.

18. Before development commences a revised drawing shall be submitted to and approved in writing by the Local Planning Authority in respect of house type 4B3+L indicated on drawing 18R. Thereafter, the development shall be carried out in accordance with the revised drawing.

REASON: In the interests of the character of the area and for avoidance of doubt owing to the front addition to this house type which is not indicated on the submitted layout drawing 02R.



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