

**UTT/13/0847/OP(Great Dunmow)**

**PROPOSAL:** Demolition of 3 no dwellings, outbuildings and derelict farm buildings and outline application for the erection of up to 68 no. dwellings with associated infrastructure and public open space with all matters reserved except for access.

**LOCATION:** Brick Kiln Farm, St Edmunds Lane, Great Dunmow

**APPLICANT:** Knight Developments Ltd

**AGENT:** Melville Dunbar Associates

**GRID REFERENCE:** TL 470 - 661

**EXPIRY DATE:** 15 July 2013

**CASE OFFICER:** Consultant (Alison Hutchinson)

**APPLICATION TYPE:** Major

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**1. NOTATION**

1.1 Outside Development Limits.

**2. DESCRIPTION OF SITE**

2.1 The site comprises 12.8ha and is located on the eastern side of Great Dunmow, and occupies land between the River Chelmer and St Edmunds Lane. The site comprises an area of land which includes three existing dwellings together with associated garages and outbuildings and also unused and derelict agricultural buildings. The remainder of the land is open grassland interspersed with hedges and trees and contains a pond.

2.2 The site is bounded to the east by St Edmunds Lane and wraps around the existing residential areas at St Edmunds Fields to the north and St Edmunds Croft, Millers Croft and Windmill Close to the south. The western boundary of the site is formed by the River Chelmer and existing open space. The land is raised to the east and slopes down in a westerly direction towards the River Chelmer.

**3. PROPOSAL**

3.1 The application seeks outline planning permission for demolition of the existing three dwellings and the erection of up to 68 units (a net increase of 65 dwellings) on the land immediately adjacent to the existing properties on St Edmunds Fields. The area proposed for housing comprises 3.4ha and would effectively wrap around the existing properties in St Edmunds Fields. The remainder of the application site (9.4ha) located to the west and south of the proposed housing would be Public Open Space and would link in with existing open space that extends along the River Chelmer. Approval is sought for details of the access but all other matters are reserved for later approval.

- 3.2 Access to the site is proposed from St Edmunds Lane and an illustrative layout has been submitted showing a layout with largely peripheral access road and the new dwellings interfacing with the adjacent public open space.
- 3.3 The development would provide a mix of 42 two storey dwellings (some with attic rooms) for the private market and 26 affordable dwellings. The applicants have indicated that the 42 private market dwellings would comprise 36 x 4 bed houses and 6 x 5 bed houses.
- 3.4 The 26 affordable houses represent 40% of the net gain on the site (65 dwellings) and would be located in three separate groups with no group containing more than 10 dwellings. The tenure mix would be in accordance with the Council's requirements for this site. All properties are to be built to lifetime homes standard and 4 of the affordable units would meet the full disabled standards to cater for wheelchair users.
- 3.5 The application also proposes the provision of 9.4ha of new public open space on the land to the south and west of the proposed dwellings. The open space will also provide access into the existing public open space on the eastern and western sides of the River Chelmer.

#### **4. APPLICANT'S CASE**

- 4.1 The applicant has submitted a Planning Statement and a Design and Access Statement setting out the applicants' case and principles for the design of the development.
- 4.2 The applicants consider that Policy S7 of the Uttlesford Local Plan is inconsistent with the NPPF and should be given no weight in the determination of this application. The applicants refer to Paragraph 17 of the NPPF which allows the character of the countryside to be taken into account rather than the blanket restriction on development imposed by Policy S7.
- 4.3 The applicants have contended that the Council has accepted that there is a shortfall in its five year supply of housing land in its most recent Housing Trajectory and 5-year Land Supply. The document shows that for the five year period 2013/2014-2017/2018 only 78% of the target can be delivered and if an additional 25% is front loaded, then this percentage falls to only 65%. The applicants also note that if the sites proposed in the 2012 Draft Local Plan are included in the calculations that the 5 year supply can be met. However, there is no guarantee that the proposed sites will be deliverable until the Plan has at least been through the statutory process and been adopted.
- 4.4 The applicants refer to Paragraph 49 of the NPPF which makes it clear that 'housing applications should be favourably considered in the context of the presumption in favour of sustainable development'. They argue that because the Local Plan is now out of date and the Council cannot demonstrate a five year supply, the application falls to be considered against the criteria set out in the NPPF. Their Design and Access Statement and Planning Statement demonstrate that these criteria have been met.
- 4.5 The applicants have carried out pre-application consultations with the District Council and the submitted scheme takes on board the advice provided and follows the advice from the Landscape Assessment, Ecology and Arboriculture Reports. The Local

Highway Authority were consulted on the access and confirmed that they were happy with the design.

- 4.6 The application is supported by Archaeological Desk-Based Assessment, Landscape Character Assessment, Arboricultural Impact Assessment, Ecological Appraisal and detailed reports on Water Vole, Otter, Badger, Bat, White Clawed Crayfish and Wintering Birds, Flood Risk Assessment and Transport Assessment.

## **5. RELEVANT SITE HISTORY**

- 5.1 UTT/0718/87: Outline application for residential development on 12ha and construction of new access. Planning permission refused in July 1997.
- 5.2 UTT/0845/88. Planning permission was refused for residential development and open space. The subsequent appeal was dismissed by the Secretary of State in April 1989.

## **6. POLICIES**

### **6.1 National Planning Policy Framework**

### **6.2 Uttlesford District Local Plan 2005**

Policy S7 - The Countryside  
Policy GEN1 - Access  
Policy GEN2 – Design  
Policy GEN3 – Flood Protection  
Policy GEN6 - Infrastructure Provision to Support Development  
Policy GEN7 - Nature Conservation  
Policy GEN8 - Vehicle Parking Standards  
Policy ENV3 – Open Space and Trees  
Policy H9 - Affordable Housing  
Policy H10 - Housing mix  
Policy LC3 – Community Facilities

Supplementary Planning Document - "Accessible Homes and Playspace"  
Essex Developers' Guide to Infrastructure Contributions (Adopted as Essex County Council Supplementary Guidance).

## **7. TOWN COUNCIL COMMENTS**

- 7.1 Objection: The Town Council objects to the proposal on the following grounds:

1. Insufficient information has been provided on the impact on the highway network, as identified by Essex County Council which has recommended refusal on these grounds. The proposal should be supported by a Transport Assessment.
2. Insufficient survey work on bats and biodiversity enhancements for great crested newts and otters as identified by Natural England and Place Services.
3. Surface water drainage/flooding risk. No opinion from The Environment Agency has been made available.

4. It fails under NPPF policies 126, 131, 132 and 133. The Landscape and biodiversity Consultation states that the river valley is the town's most important amenity wildlife and biodiversity asset and any decision made about land use within the river valley will have important repercussions for the future sustainability of the town as a pleasant and diverse place to live.' Therefore the site should be regarded as a heritage asset as defined by the NPPF.
  5. The Chelmer Valley is identified in the Dunmow Town Design Statement as having 'significant views and any development in this part of Dunmow would affect the vista from the town itself due to the lie of the land and in particular from the Chelmer Valley reducing it to a 'strip' of land in the centre of housing. This might detract from the rural feel of Great Dunmow.'
- 7.2 In addition to the above, the Council commented that the development is outside the development limits identified in the Uttlesford Local Plan 2005 and the two developments at Ongar Road (North and South) were both refused and this reason was quoted in both decision notices. Furthermore, UDC's Report on Public Participation on the Role of Settlements and Site Allocations and Development Management Policies 2012 showed that development was not desired to the east of the town. UDC's Consultation on Proposals for a Draft Local Plan June 2012 accordingly did not identify Brick Kiln Farm or any land in this part of town as a Policy Area.
- 7.3 It should be noted that the Town Council meeting was attended by 98 members of the public, 14 who spoke in objection to this proposal. It is noted that there have been many representations to the District Council from residents.

## **8. CONSULTATIONS**

### **ECC Highways**

- 8.1 Object: Insufficient information has been provided within the application to demonstrate to the satisfaction of the Highway Authority that the impact on the highway network caused by this proposal will not have unacceptable consequences in terms of highway capacity, safety and efficiency.
- 8.2 The applicants have now submitted a Transport Assessment and the Highway Authority has been re-consulted.
- 8.3 Re-consultation: No objections subject to imposition of conditions.

### **Environment Agency**

- 8.4 No Objection: The EA has established that the site lies wholly within Flood Zone 1 (land with a low risk of flooding from rivers or the sea). The EA therefore has no objection to an outline permission being granted subject to the inclusion of a Reserved Matter condition to address the requirement for further consideration of detailed drainage designs for the site and to ensure that there is clear evidence to discount the feasibility of infiltration drainage at this location noting that the prioritisation of infiltration drainage is also a requirement of Part H of the Building Regulations.

### **ECC Environmental**

- 8.5 No objections.

### **Natural England**

- 8.6 Considers that further survey work is required in respect of bats and that biodiversity enhancements will be required for Great Crested Newts and Otters in accordance with the NPPF and Section 40 of the NERC Act.

### **ECC Ecology**

- 8.7 Objection on the grounds of insufficient surveys on Bat Emergence, Reptile and White Clawed Crayfish Surveys.
- 8.8 ECC Ecology also advise that in the event that planning permission is granted, conditions should be attached in respect of breeding birds and for the submission of a Biodiversity Mitigation and Enhancement Plan.
- 8.9 Additional surveys have now been completed and forwarded to ECC ecology. Their comments will be reported orally to the Committee.

### **ECC Schools**

- 8.10 There are sufficient early years or child care provision to meet the needs of the development. The development falls within the priority admissions area of Dunmow St Mary's Primary School and Great Dunmow Primary School. Neither school has future capacity for the development. With regard to secondary schools, the Helena Romanes Academy also has no future capacity to meet the needs of the development. ECC schools therefore require a contribution of £371,440 for the unit mix stated in the application.

### **ECC Archaeology**

- 8.11 Requires a pre-commencement condition for a desk based assessment and trial trenching followed by open area excavation work.

### **Housing Enabling Officer**

- 8.12 The affordable housing provision on this site will attract the 40% policy requirement as the site is for 65 units. This amounts to 26 affordable housing units and it is expected that these properties will be delivered by one of the Council's preferred Registered Providers. The mix and tenure split of the properties are provided and should be indistinguishable from the market housing, in clusters of no more than 10 with good integration within the scheme and be predominately houses with parking spaces.

## **9. REPRESENTATIONS**

- 9.1 Objections: 266 letters of objection have been received with some from the same individuals. They raise the following objections:
- The proposals are contrary to the NPPF and Policy S7 of the Uttlesford Local Plan 2005.
  - Three previous planning applications for this site have been rejected. One in 1987, a second in 1988 and a third in 1998. The 1998 proposal was rejected

because it would encroach into the Chelmer Valley, which is unacceptable and access would be difficult. Previous Applications have been refused. This application is no different and should also be refused.

- Other areas are already being developed in Great Dunmow and there is no need for this area to be developed.
- The proposals will result in the devaluation of existing properties.
- The developer's contention that the opening of the new by-pass at Tesco would relieve the situation in St. Edmunds Lane is ludicrous.
- St Edmund's Lane is a busy, fast road - despite being 30mph, few vehicles observe this. Its
- winding route means turning on and off is already hazardous without further increase in traffic flow.
- The brow of the hill where access is proposed is particularly poorly sighted in both directions. The new traffic will create additional problems. This traffic will use the junction with Braintree Road where there has been a series of accidents.
- The area is a flood plain.
- The new building will increase surface water runoff and will have a serious impact upon the flood plain and other properties further down river. A similar situation arose when Warder Close was built.
- None of the professional assessments attached to the application make reference to the capacity of the River Chelmer itself to carry the additional water likely from this development and from others along its valley.
- The applicants have relied on 100 year old data for the flood risk assessment.
- Question the quality of the information in the Landscape Assessment.
- The development of this area will have a detrimental visual impact on the Chelmer Valley. It will eradicate a large area of natural green land within Great Dunmow, one which many hundreds of people in the town currently enjoy from the windows of their own properties, especially those to the west of the River Chelmer, and whilst out walking.
- The applicants have chosen to develop on the narrowest and closest piece of land to the Chelmer.
- The development would spoil and encroach on a beautiful green field view from the South side of the river.
- The view from people's house will be directly and detrimentally changed from attractive open countryside to a large housing estate. The proposal will have a detrimental impact on the amenities of residents.
- The historic area of Church End will become merged with the new development, spoiling one of the towns picturesque assets.
- The river and its surrounding fields provide sanctuary for much of Dunmow's wildlife. The development will have an adverse impact upon the existing wildlife. Light pollution will also affect the wildlife.
- Bats are present on the site.
- The Bat/Water Vole & Otter reports have been carried out at the wrong time of year.
- The Proposal is contrary to the guidance contained in the NPPF in respect of ecology.
- There is no provision for new infrastructure & services. The local doctor's surgery is already oversubscribed. Schools are also full.
- People's health will be affected by the construction.
- People could be allowed to roam on the land except for large Private Property Keep Out signs erected at various points on the boundary of the site. The land is used for dog walking and can continue to be used.

- The current town Recreational Ground is already un-policed and has a number of drug users that frequent the area. Residents do not want another area with equal anti-social behaviour.
- There is no need for extra paths in the area. There are plenty of ways to access the other side of the river from St Edmunds Lane. The only reason the area behind St Edmunds Lane is used as a pathway is because it is a nice area for people to walk their dogs, an unspoilt and natural area of countryside that is enjoyed not as a handy shortcut, but as a nice walk.
- Concern that the applicants have reserved consideration of the reserved matters for a later stage and therefore will be able to come back with an application for more housing with the result that nothing will be given to the town, except the bottom flood plain.
- No information as to who will actually own this land and who will be responsible for the maintenance of it. The long-term future should be safeguarded and future building prevented. Such guarantees need to be put in place now, at this initial planning stage.
- The proposal has a disproportionately high number of larger dwellings, when the national trend and need is for many smaller, single occupancy homes.
- The public consultation, organised by Uttlesford District Council, in June 2012 invited Town residents to express their views about possible future development. A majority of Townsfolk stated that limited development to the West of the Town may be acceptable but any development to the East would not. Specifically, Town residents were opposed to any development at Brick Kiln Farm on the East side of the Town. What was the point of asking people's opinions if, in less than a year, those views are to be ignored?

## 10. APPRAISAL

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

- A The principle of development of this site (ULP Policies S1, S7)**
- B Access to the site and parking provision (ULP Policies GEN1, GEN8; SPD: Parking Standards – Design and Good Practice; Development Management Policies)**
- C Visual Impact and Impact upon Conservation Area (ULP Policy GEN2, ENV1)**
- D Impact upon Residential Amenity (ULP Policy GEN2)**
- E Mix of Housing and Affordable Housing (ULP Policies H9 and H10)**
- F Infrastructure provision to support the development (ULP Policy GEN6)**
- G Drainage and Flood Risk (ULP Policy GEN3)**
- H Biodiversity (ULP Policy GEN7)**
- I Other Material Considerations**

### **A The principle of development of this site (ULP Policies S1, S7)**

- 10.1 The site is located outside the development limits for Great Dunmow defined by Policy S1 of the Local Plan and is therefore located within the countryside where ULP Policy S7 applies. This specifies that the countryside will be protected for its own sake and planning permission will only be given for development that needs to take place there or is appropriate to a rural area. 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. It is not considered that the development would meet the requirements of Policy S7 of the Local Plan and that, as a consequence, the proposal is contrary to Policy S7 of the 2005 Local Plan.

- 10.2 The applicants have argued that Policy S7 is inconsistent with the NPPF and should be given no weight in the determination of this application; the application should be determined therefore, against Paragraph 17 of the NPPF which allows the character of the countryside to be taken into account. The Council has commissioned a Compatibility Assessment which confirms that Policy S7 is partly consistent with the NPPF in that the protection and enhancement of the natural environment is an important part of the environmental dimension of sustainable development but that the NPPF takes a positive approach, rather than a protective one. It is considered that although Policy S7 is still relevant to the consideration of this application, there remains a presumption in favour of sustainable development as set out in Paragraph 14 of the NPPF.
- 10.3 Paragraph 49 of the NPPF confirms that housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
- 10.4 The Council has accepted that it does not have a five year supply of housing land and is currently preparing the Draft Local Plan which seeks to identify additional future development sites for the period 2013 to 2028. The most recent Annual Monitoring Report (2012) records the average annual completion rate to be 334 dwellings, compared with the average annual completion rate required by the East of England plan of 430 dwellings. The current level of delivery on deliverable sites for the 5-year period is therefore 78% which equates to 3.9 years' worth of supply. If the Council was perceived as a persistent under delivering authority and an additional 20% is frontloaded to these figures as required by the NPPF, the percentage of the plan target on deliverable sites falls to 65% which is equivalent to just under 3 years' worth of supply.
- 10.5 If the proposed sites identified in the Draft Local Plan June 2012 are taken into account, the percentage of the plan Uttlesford District Council target on deliverable sites for the 5 year period is 147%, the equivalent to 7.4 years' worth of supply.
- A report on Uttlesford's Housing Trajectory and 5-Year Land Supply 2012 was referred to the LDF Working Group on 14 June 2013 and stated that: 'The 5-year land supply statement shows that the Council has 74% or 3.7 years supply of committed sites against the annual requirement of 415 dwellings based on an economic scenario where the annual growth in jobs acts as a constraint on population and household growth. The Council therefore, still remains without a deliverable 5 year supply of housing land.
- 10.6 The Council recognised in its 2012 Annual Monitoring Report that it has a shortfall and that it should consider favourably applications for residential development which will make a positive contribution towards meeting housing requirements. It therefore has considered and determined planning applications in this light and in accordance with Paragraph 49 of the NPPF. As a consequence, planning permission has been granted for residential development outside development limits where appropriate.
- 10.7 The application site is not one which is proposed for development in the Council's Consultation on Proposals for a Draft Local Plan June 2012 but the site was considered in the Council's Strategic Housing and Land Availability Assessment (SHLAA). The proposals put forward in the SHLAA identified different areas of the site for development to that now being proposed in the application. The SHLAA recommended that the area containing the existing dwellings and the farm site could be included as an allocation but that the other two areas proposed should not. These



areas comprised a small area to the rear of St Edmunds Fields and a further area at the rear of St Edmunds Croft, Millers Croft and Windmill Close. Access was indicated to be from St Edmunds Lane and would have been split within the site to serve the two areas of development, thereby compromising the area of land left for open space. These two smaller areas were therefore discounted because of concerns regarding the accessibility of land to the rear of St Edmunds Fields, the impact on outlook of existing properties whilst delivering a limited amount of housing and that both sites would start to encroach into the Chelmer Valley.

- 10.8 The current proposals are different to those put forward in the SHLAA in that a single development site is now proposed located adjacent to St Edmunds Fields with none proposed on the land to the south. This has resulted in larger area wrapping around St Edmunds Fields and would deliver a single area of housing which can be accessed by a more sensible access arrangement and which does not intrude into the remaining area of open space. The proposal still brings forward a limited number of dwellings but now involves the provision of a substantial area of open space.
- 10.9 The site is located within close proximity of existing housing and would be linked to shops and services within the town centre via the footpath links that cross the existing open space. The site is considered to be in a sustainable location in this respect and would therefore be in accordance with the NPPF.
- 10.10 Third parties have referred to the previous planning history of the site and the fact that development of this site has been refused previously and an appeal dismissed by the Secretary of State in 1989. However, the appeal plans proposed a different area of development on the southern portion of land, adjacent to the existing public open space and located at the rear of the properties on St Edmunds Croft and Millers Croft. The land to the north, at the rear of St Edmunds Fields, was shown as the area of proposed open space. It should also be recognised that the appeal was determined under a different planning regime prior to the NPPF and with the Structure Plan and an earlier Local Plan in place. In addition, the Council could also demonstrate a five year supply of housing land. The policies which the Inspector found conflict with are no longer in place and, as the proposal and circumstances are now totally different, it is considered that the previous appeal should not be regarded as setting a precedent for this application.
- 10.11 It is considered that the site is located within a sustainable location in NPPF terms and the development would provide an acceptable form of development which would allow the bringing forward of a sizable area of public open space. This would complement and complete the existing open space within the town along the River Chelmer. It is accepted that the Council still does not have a 5 year supply of housing and the development of this site would contribute to that supply and provide much needed affordable housing. It is considered therefore, that the presumption in favour of the development as set out in Paragraphs 14 and 49 of NPPF should apply in this instance, subject to the site being acceptable in accordance with other relevant policies of the Local Plan.

**B Access to the site and parking provision (ULP Policies GEN1, GEN8; SPD: Parking Standards – Design and Good Practice; Development Management Policies)**

- 10.12 The application seeks approval for the access at this stage. Access to the site is proposed from St Edmunds Land via a bell mouth junction. Visibility splays of 4.5 x 90m would be provided in each direction together with 2m and 1.5m wide footpaths

which would extend along St Edmunds Lane to the north and south respectively. The access would be located some 30m into the site from the northern boundary and would result in the removal of the existing hedgerow along this section of St Edmunds Lane.

- 10.13 The Highway Authority originally objected to the only on the grounds of insufficient information in respect of the potential impact upon the highway network due to the lack of any Transport Assessment submitted with the application. The applicants have now submitted a Transport Assessment which shows that the traffic generated by the development can be met within the highway network and that existing junctions are operating within capacity. The Highway Authority has been consulted and has confirmed that it has no objections to the scheme.
- 10.14 The Highway Authority has advised that it is satisfied that the proposed junction will have good visibility on to St Edmunds Lane, junction geometry is sufficient for 2 vehicles to pass safely and pedestrians are also catered for with the provision of footways either side of the junction. Furthermore, the Transport Statement is considered to provide a robust assessment of the traffic generation and likely highway impact for this proposal of up to 68 dwellings. The applicant's agent has demonstrated that, even without the completion of the Great Dunmow north west bypass, all the highway junctions assessed will continue to function safely and within capacity.
- 10.15 The layout of the proposal is reserved for future approval but it is considered that the indicative layout shows that sufficient space is available to ensure that adequate parking can be provided to meet the requirements set out in the Council's 2013 adopted parking standards. These can be provided on plot without garage courts.
- 10.16 It is considered therefore that the application as submitted is acceptable in highway terms and in accordance with Policy GEN1 and GEN8 of the Local Plan.

**C Visual Impact and impact upon the Conservation Area (ULP Policies GEN2, ENV1 and ENV3)**

- 10.17 The site is located within the Chelmer Valley and both the Town Council and third parties have objected to the impact the development would have on the Chelmer Valley. This application site is currently open land interspersed with hedgerows and trees with the land rising eastwards away from the river. The proposal would wrap development around the existing houses on St Edmunds Fields and allow the remaining area to the south to become public open space. The applicants propose that the open land is maintained for its biodiversity and therefore it would not be subject to the same level of maintenance as the remaining open space with which it would link into to the south and across the river. A Landscape Management Plan has been submitted which seeks to encourage a wide set of species opportunities within the open space together with controlling public access to specific areas such as the waterside.
- 10.18 The issue of whether development should take place within the Chelmer Valley was an issue in the 1989 appeal decision when that appeal was dismissed because 'the effect of the proposed housing would be to extend the narrow corridor of open land further northwards and to increase significantly the sense of enclosure already created by housing along parts of the Chelmer Valley.' The appeal was considered against a policy backdrop of the Structure Plan which identified the area as an Area of Best Landscape, thereby affording it specific policy protection. That designation is no longer in place and was not been carried forward into the Local Plan or the

emerging Local Plan. Policy ENV3 is a more general policy providing protection for open spaces and trees and seeks to protect such spaces unless the need for the development outweighs their amenity value.

- 10.19 It is acknowledged that the land provides some amenity value as an open area of land along the River Chelmer and is recognised as such in the Great Dunmow Town design Statement. The eastern area of the site also provides a visual separation between the two areas of housing at St Edmunds Fields and St Edmunds Croft. It is accepted that the new housing would be visible from external views from across the river but the existing housing in St Edmunds Fields is already clearly visible from those views and the new development would read with the existing development with some being screened by the trees and vegetation that extend along the river bank.
- 10.20 The proposals differ from the appeal proposals by limiting the amount of development proposed and in placing the development in an area where housing already has a visual impact on the locality. The new housing would therefore largely blend into existing views and would not be unduly prominent within the landscape. In contrast, the previous appeal proposal sought to place housing adjacent to the low rise development on St Edmunds Croft which is not visible in the wider setting. The previous development would therefore have been more intrusive and would have increased the urbanisation of the views from the western side of the river. In addition, the appeal proposals provided limited open space which would have been located at the rear of St Edmunds Fields where it would provide no visual value within the wider Chelmer Valley other than for the residents backing on to it.
- 10.21 At present, the site is in private ownership and there are no rights for the public to use the land. Although the proposals would result in the development of 3.4ha of the land, the major proportion (9.4ha) would come forward as public open space, thereby increasing and improving the amenity value of the Chelmer Valley. It is considered therefore, that with careful design and the retention of the trees and vegetation within the open space, the development can be integrated satisfactorily into the landscape without harm to the visual amenity of the River Chelmer valley.
- 10.22 Turning to the access, it is accepted that this would have a visual impact along St Edmunds Lane in the short term as the visibility splays would necessitate the removal of much of the existing hedgerow and scrub vegetation along the road frontage. At present, this hedgerow is unmanaged and has grown so that it restricts the width of the existing footpath along this section of St Edmunds Lane. It is considered that a condition requiring replacement planting along the back edge of the visibility splays should be imposed to ensure that the visual amenities of this section of St Edmunds Lane are protected and enhanced in the future. It is considered therefore, that the current proposals would not have an unacceptable visual impact upon the wider Chelmer Valley or on the amenities of the area and that the application complies with Policies GEN2 and ENV3.
- 10.23 The northern part of the application site abuts the Church End/Dunmow Conservation Area. However, the proposed area of housing does not extend this far and the area adjacent to the Conservation Area would continue as open space. In these circumstances it is not considered that there would be any impact upon the character of the Conservation Area and there would be no conflict with Policy GEN1 of the Local Plan.

## **D Impact upon Residential Amenity (ULP Policy GEN2)**

10.24 The proposed residential development is intended to be located to the north eastern part of the site and effectively 'wraps' around the existing housing at St Edmunds Fields. Objections have been received from residents concerned at the loss of outlook and the impact upon their residential amenity. The application is in outline and the location and design of the new housing would be subject to future consideration at the reserved matters stage. However, the majority of the gardens of the properties in St Edmunds Fields that would adjoin the development site are long and would help to protect the amenities of those residents. Of the few properties where the gardens are relatively short, it will be necessary to ensure that the detailed design of the proposal takes proper account of their amenity. At this stage however, it is considered that the development could take place without an unacceptable impact on the amenities of neighbouring residents and would be in compliance with Policy GEN2 of the Local Plan.

## **E Mix of Housing and Affordable Housing (ULP Policies H9 and H10)**

10.25 Policy H9 requires that 40% affordable housing is provided on sites having regard to market and site conditions. In this instance, the affordable housing requirement would be some 26 units based upon the net increase of dwellings on the site. The applicants have confirmed that the breakdown of future tenure will be in accordance with the Council's requirements.

10.26 The layout of the site is reserved for future approval and only sketch layout has been submitted to show how the site can be developed. This does not show the proposed location of the affordable units but the applicants are aware of the requirement, and have confirmed that the properties would be provided in clusters of no more than 10 units within the development.

10.27 The development as a whole comprises a mix of 2,3, 4 and 5 bed roomed dwellings but the applicants have indicated that the market housing would be 4 and 5 bed only with no provision for smaller housing units. This mix is contrary to Policy H10 of the Local Plan and contrary to the policies of the NPPF which seeks to deliver a wide choice of quality homes. However, the application is in outline only and the mix of houses and their layout would be subject to approval at the reserved matters stage. It is unlikely that a reserved matter application which proposed only 4 or 5 bed market housing would be acceptable and could be refused at that stage. At present however, the application proposes an acceptable level of affordable housing on the site and is capable of providing an acceptable mix of dwellings at the reserved matter stage. As such the application is capable of complying with Policies H9 and H10 of the Local Plan and the requirement of the NPPF.

## **F Infrastructure provision to support the development (ULP Policy GEN6)**

10.28 ECC Schools Service has indicated that there are sufficient early years and pre-school places to meet the need from the development but that there are insufficient primary school and secondary school places. Additional provision will therefore be needed at primary and secondary level and ECC schools require an education contribution of £371,440 which would be provided by way of a Section 106 Agreement. Subject to the signing of a S106 Agreement to provide the necessary contribution, the application would comply with Policy ULP GEN6 and the NPPF.

## **G Drainage and Flooding (ULP Policy GEN3)**

- 10.29 Several third parties have objected to the proposal because the land is subject to flooding. However, the EA has confirmed that the site proposed for housing is located within Flood Zone 1 and is not therefore subject to flooding. The Environment Agency does not therefore raise any objection to the application and it is considered that the application is acceptable in terms of Policy GEN3 and the NPPF.

## **H Biodiversity (ULP Policy GEN7)**

- 10.30 An extended Phase 1 Habitat Survey has been submitted with the application and confirms that the site has some ecological value with potential for otter, water vole, white clawed crayfish, slow worm and bat although much has been lost with. Subsequent surveys have been carried out and confirmed that there are no protected species within the area to be developed for housing. In respect of the other areas of the site, there is limited presence of some species and the site offers scope for the enhancement of habitats. The recently submitted Landscape Management Plan proposes areas to be set aside as wildlife areas where the public and dogs would be excluded. Although, the Landscape Management Plan has yet to be agreed it is considered that the site offers scope for a considerable enhancement of the biodiversity of the area and would be in accordance with Policy GEN7 of the Local Plan and the NPPF.

## **I Other Material Considerations**

- 10.31 The representations from third parties have been noted but it is not considered that there are any material considerations that would justify the refusal of planning permission. The application is in accordance with the policies of the NPPF.

## **11.0 CONCLUSION**

- 11.1 The application site is located outside the current defined development limits of Great Dunmow and therefore development would be contrary to Policy S7 of the Local Plan. However, the Council acknowledges that it does not have a 5 year supply of housing and therefore a presumption in favour of housing development applies in accordance with the NPPF and subject to other relevant policies of the Local Plan. Although the site was the subject of an appeal, this took place some 16 years ago when different planning policies applied and when the Council was able to demonstrate a five year land supply. The appeal does not set a precedent for the current application. The current application now proposes development in a different location where it would not be so visually intrusive and would not result in the narrowing of the open space to an unacceptable degree. The application would also enable the last area of land within this part of the Chelmer Valley to be made available as public open space, enhancing the provision within the Town and, subject to careful management, the biodiversity of the area. It is not considered that the proposals would conflict with other relevant policies of the local plan and subject to confirmation of the Local Highway Authority that the access is acceptable, the application is considered to be acceptable and also to be in compliance with the policies of the NPPF.

**RECOMMENDATION - APPROVE SUBJECT TO A S.106 LEGAL AGREEMENT AND THE FOLLOWING CONDITIONS:**

**(I) The applicant be informed that the committee would be minded to refuse planning permission for the reasons set out in paragraph (III) unless by the 14th July 2013 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) Community payment for education**
- (ii) Provision of 40% affordable housing**
- (iii) Provision and transfer of open space**
- (iv) Contribution towards maintenance of open space for 20 years**
- (v) Pay Councils reasonable costs**

**(II) In the event of such an agreement being made, the Assistant Director 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:**

- (i) Community payment for education**
- (ii) Provision of 40% affordable housing**
- (iii) Provision and transfer of open space**
- (iv) Contribution towards maintenance of open space for 20 years**

**CONDITIONS**

1. Approval of the details of the layout, scale, landscaping and appearance (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. The development hereby permitted shall be begun before the expiration of 3 years from the date of this decision.

3. Prior to the commencement of the development hereby approved full details of the proposed finished floor levels of the dwellings shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.  
REASON: In order to protect and enhance the existing visual character of the area and to reduce the visual and environmental impacts of the development hereby permitted, in accordance with Policies GEN2 of the Uttlesford Local Plan (adopted 2005).
4. No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
  - i. the parking of vehicles of site operatives and visitors
  - ii. loading and unloading of plant and materials
  - iii. storage of plant and materials used in constructing the development
  - iv. the control of noise from construction including the hours of working
  - v. wheel washing facilities
  - vi. measures to control the emission of dust and dirt during constructionREASON: In the interests of the amenity of surrounding residential premises in accordance with Policies GEN1, GEN2, and GEN4 of the Uttlesford Local Plan (adopted 2005).
5. No development shall take place until a detailed surface water drainage scheme for the site, based upon sustainable drainage principles and an assessment of hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The drainage strategy should demonstrate the surface water run-off generated up to and including the 1 in 100 year critical storm (including appropriate allowances for climate change) will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.  
The scheme shall also include details of how and by whom individual elements of the scheme shall be maintained and managed after completion.  
REASON: To prevent the increased risk of flooding, both on and off site and to ensure that the SUDs hierarchy has been adequately addressed in accordance with Policy GEN3 of the Uttlesford Local Plan (adopted 2005).
6. No building shall be occupied until works for the drainage/ sewage disposal works have been provided on the site to serve the development hereby permitted, in accordance with details to be submitted to and approved in writing by the Local Planning Authority.  
REASON: To ensure suitable drainage for the development, in accordance with Policy GEN2 Uttlesford Local Plan (adopted 2005).
7. No development will commence on site nor any site clearance or on- site investigation works shall take place until an Ecological Mitigation Plan has been submitted to and approved in writing by the Local Planning Authority. The mitigation measures set out in the Plan shall be implemented prior to any development or site clearance or on- site investigation works taking place or in accordance with a timetable set out within the approved Plan.

REASON: To comply with the requirements of the Habitats Regulations and in the interest of the protection of the wildlife value of the site in accordance with Policy GEN7 of the Uttlesford Local Plan (adopted 2005).

8. No development or preliminary groundworks can commence until a programme of archaeological work including desk based assessment and trial trenching has been secured and undertaken in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority. A mitigation strategy detailing the excavation/preservation strategy shall be submitted to the local planning authority following the completion of this work.  
REASON: In the interests of archaeological protection in accordance with Policy ENV4 of the Uttlesford Local Plan (adopted 2005).
9. No development or preliminary groundworks can commence on those areas containing archaeological deposits until the satisfactory completion of fieldwork, as detailed in the mitigation strategy, and which has been signed off by the local planning authority through its historic environment advisors.  
REASON: In the interests of archaeological protection in accordance with Policy ENV4 of the Uttlesford Local Plan (adopted 2005).
10. The applicant will submit to the local planning authority a post-excavation assessment (to be submitted within six months of the completion of fieldwork, unless otherwise agreed in advance with the Local Planning Authority). This will result in the completion of post-excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.  
REASON: In the interests of archaeological protection in accordance with Policy ENV4 of the Uttlesford Local Plan (adopted 2005).