

UTT/13/2121/OP - (GREAT DUNMOW)

(The applicant is an elected member of the Council)

PROPOSAL: Outline application for up 5 dwellings and associated garages with all matters reserved except access

LOCATION: Land adjacent to Tower House, St Edmunds Lane, Great Dunmow

APPLICANT: Mr J Davey

AGENT: Mr B Christian

EXPIRY DATE: 27 September 2013

CASE OFFICER: Madeleine Jones

1. NOTATION

1.1 Outside Development Limits. Tree Preservation Order.

2. DESCRIPTION OF SITE

2.1 The site lies on the eastern side of the St Edmunds Lane. There is a residential (Grade II Listed) dwelling to the north of the site and there is further residential development on the western side of the St Edmunds Lane at this point. The site is grassland and is predominantly flat with a slight fall from east to west. It has a maximum length of around 105.m in a north/south direction and a maximum width of around 120m in an east/west direction. It measures 0.67 hectares in total. There is an existing vehicular access point into the site from St Edmunds Lane. The land is elevated to the east of the site. The site is bounded by mature trees and hedgerows with a dense tree line onto the road. There are three trees subject to TPO to the north of the site and three further TPO's to the south west of the site.

3. PROPOSAL

3.1 The proposal is an outline application for 5 dwellings and associated garages. All matters are reserved with the exception of access. The indicative layout shows 5 detached properties with orangery's to the rear and double garages. There would be 3 No. 3 bedroom and 2 No. 4 bedroom properties. The proposed dwellings would have spans ranging from 14m long and depths of 7.4m. Ridge heights are shown to range between 5m and 9m.

4. APPLICANT'S CASE

4.1 The application is accompanied by the following documents:
Design and Access Statement
Supporting Planning Statement
Tree survey
Preliminary Ecological Assessment
Biodiversity Questionnaire

5. RELEVANT SITE HISTORY

5.1 DUN/0029/60 – Site for residential development – Refused

UTT/13/0847/OP – Erection of up to 68 dwellings at Brick Kiln Farm – Conditional approval. (Adjacent site West of St Edmunds Lane)

6. POLICIES

6.1 National Policies

- National Planning Policy Framework

6.2 Uttlesford District Local Plan 2005

- Policy S7: Outside Settlement Boundaries
- Policy H10: Housing Mix
- Policy H9: Affordable Housing
- Policy GEN1: Access
- Policy GEN2: Design
- Policy GEN7: Nature Conservation
- Policy GEN8: Vehicle Parking Standards
- Policy ENV2- Listed Buildings
- SPD: Energy Efficiency and Renewable Energy
- SPD: Accessible Homes and Playspace
- SPD Parking Standards: Design and Good Practice Guide
- SPD: Developer Contributions - Guidance Document (Adopted 2013)
- SPD Life time Homes

7. PARISH/TOWN COUNCIL COMMENTS

7.1 Object: Outside of development limits.

8. CONSULTATIONS

UDC Internal Housing (Dwelling) - Housing Strategy

8.1 Based on the applicant's application form, they are intending to deliver 3 X 3 and 2 X 4 bed houses with garages. As this scheme is for 5 units, it would attract the Council's policy of 40% affordable housing which amounts to 2 units. We would request that the 1 unit be delivered as a 3 bed houses to be in keeping with the rest of the scheme and to be under the shared equity banner and the second affordable housing unit should be a 2 bedroom house at affordable rent.

Natural England

8.2 Considers that there are suitable habitats on, or in the vicinity of the application site for great crested newts.

Advises that the ecological survey has not been carried out at the right time of year using recognised techniques

Consequently, they advise that further survey effort is required in accordance with the Great crested newt mitigation guidelines, with this additional survey information to be provided by the applicant before determination of the application.

8.3 **Essex County Council Ecology**

Holding Objection due to insufficient information

Great crested newts

I support Natural England's view that great crested newts have not been sufficiently considered within the PEA. The report advises that there was some suitability of the site for GCNs and that there was at least one suitable pond within 250 metres. Appropriate surveys at the correct time of year should be undertaken, prior to the granting of planning permission, in accordance with recognised national guidance.

Bats and hedgerows

The perimeter trees and hedgerows would be incorporated into the gardens of the proposed future houses. Therefore I advise that they may be affected by the proposed development. The PEA has not considered potential use of the hedgerows for foraging and commuting bats. This information should be provided and may involve further surveys, undertaken at an appropriate time of year.

A separate species list for the hedgerows should have been included. The PEA should advise how old the hedgerows might be and whether they might meet the requirements under the Hedgerow Regulations 1997.

Reptiles

The PEA was rather ambiguous but appeared to consider that part of the site- largely around the perimeter- as having some suitability for reptiles; however, it did not propose further surveys. Additional surveys should be undertaken or supplementary information provided to explain why they would not be needed.

Insufficient assessment of habitats and long term impact upon birds

The PEA should have provided a fuller assessment of the impacts of the development by the site. As well as not analysing the potential impacts upon the perimeter of the site by the houses and gardens, it did not assess the potential impacts of the creation of the access road. This report should be helping to inform the location of such structures. The PEA should have taken into account the significant loss of semi improved grassland and the potential long term impact of foraging within it by many animals such as birds.

The report advises that a number of protected and 'red listed' birds are likely to be using the site at various times of year. I therefore recommend that bird surveys should be undertaken.

Other comments

I disagree with the conclusion of the PEA, which is ambiguous. The perimeter of the field may well support protected and / or priority species such as reptiles. Although the trees and hedgerows are to be retained they may still be affected by the proposed development and therefore it may adversely affect any potential protected species that the trees and hedgerows may support.

Mitigation

The basis of the size of the proposed area of mitigation /compensatory grassland (i.e. outside the red line but within the blue line) to be provided/ retained and new wildflower grassland creation is not explained in the report. I would recommend that the Defra Metric is used to calculate the appropriate size for the impact of the development.

Access and Equalities Officer

- 8.4 There is reference in the Design and Access Statement to support the SPD on Accessible Homes and Playspace. If approved, when plans are submitted, confirm the design has been met.

Education & Highways Essex County Council - Highways

- 8.5 The Highway Authority would not wish to raise an objection to the above application as shown in principle on Drawing No. P1 subject to the following conditions:
1. Prior to commencement of the development 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.
 2. Prior to commencement of the development, the areas within the curtilage of the site for the purpose of loading/unloading/reception and storage of building materials and manoeuvring of all vehicles, including construction traffic shall be identified clear of the highway. Details to be submitted to and approved in writing by the Local Planning Authority. Reason: To ensure that appropriate loading/unloading facilities are available so that the highway is not obstructed during the construction period in the interest of highway safety.
 3. No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary of the site. Reason: To avoid displacement of loose material onto the highway in the interests of highway safety.
 4. Prior to the occupation of any of the proposed dwellings, the proposed private drive shall be constructed to a width of 5 metres for at least the first 6 metres from the back of carriageway and provided with an appropriate dropped kerb crossing of the verge. Reason: To ensure that vehicles can enter and leave the highways in a controlled manner and to ensure that opposing vehicles can pass clear of the limits of the highway, in the interests of highway safety
 5. Prior to occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport approved by Essex County Council to include six one day travel vouchers for use with the relevant local transport operator. Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10 of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

9.0 REPRESENTATIONS

- 9.1 This application has been advertised and 6 letters of representation have been received. A petition, signed by 204 residents has also been received objecting to the proposal. Notification period expired 30th August 2013

2 St Edmunds Croft

72A High Street:

Although it appears that the site is outside the planning boundary and on agricultural land, it seems to me that this small sized development of high grade quality detached house will enhance and beautify Great Dunmow. It will assist in balancing the social character of our lovely market town, which seems rapidly to be in jeopardy and needs to be raised, not lowered.

Therefore I thoroughly recommend that approval be granted to this application but that the numbers of houses (i.e. five) are taken off the original total number of new homes which higher authorities deemed should be built in Great Dunmow.

My feeling is that we do not want all new houses to be on vast estates as there are still many people whose requirements are for individually designed houses with space around them and with some privacy – certainly not the case with the majority of applications now being submitted to your selves.

Dunmow Society

7 St Edmunds Croft

- 1) It is outside the Development Limits of UDC 2005 LDF and the latest LDF in preparation
- 2) It is sited on grade 2 agricultural land which over past years has been used as a hay meadow
- 3) It is contrary to UDC LDF policy SP6 that all housing developments must be concentrated to the south and west of Dunmow
- 4) that by granting outline planning it will open the door to other developments in adjacent areas and enable this proposal to be sold on for an application that will significantly increase the density of this site
- 5) the access/ egress point is very close to that of the Brick Kiln farm development adding even more traffic to what is a very busy and dangerous lane

Hill View:

As the owners of the Bungalow adjacent to the agricultural land proposed for the erection of 5 dwellings I would like to state that one of the reasons for us purchasing such a property was for its secluded position, not being over looked by anyone on either side. We are led to believe that there will be 100ft from our boundary which is established hedge/trees which we would not want disturbed as it will block out the visual impact of these houses and noise that will undoubtedly arise from this proposal. We would also like the height of these properties to be such that we would not have anyone looking into our property. Ideally we would like more than 100ft between our boundary and the dwellings.

Petition (summary)

The petition has been collected by a number of local residents and we have all been struck by the intense anger and outrage expressed on the doorstep concerning your committee's recent approval of the Brick Kiln application. You are urged to reject this current application otherwise, in the eyes of the residents; a grave error in approving Brick Kiln Farm will be compounded.

We strongly urge you to oppose the present application for yet more development at Tower House for the following reasons:

- The Local Plan dated 2012 and the draft Local Plan Position statement dated March 2013 both make it clear that both applications are on agricultural land and in locations outside development limits
- Councillors are elected to carry out the wishes of the Electorate. We do not see how you can possibly set aside the 900+ objections to the Brick Kiln Farm Scheme which were made at the public consultation in 2012 and the 300+ letters of objection which were sent during the consultation period and still claim to represent the residents of Dunmow.
- UDC LDP policy SP6 states that all development in Dunmow must NOT be to the East of the town.

- The Tower House application references the recently- granted outline permission at Brick Kiln Farm as one reason why it should go ahead. What other applications will follow if Tower House is approved?

10 APPRAISAL

The main issues are whether

- A The principle of the development of this site for residential purposes is appropriate in this location (NPPF, ULP Policies S7, GEN2, GEN3, H9, H10);
- B Access to the site (ULP Policy GEN1);
- C Effect on Listed Building (ENV2)
- D Vehicle parking standards (GEN8 and ECC parking Standards)
- E Nature Conservation (ULP Policy GEN7);
- F Other material planning considerations.

A The principle of the development of this site for residential purposes is appropriate in this location

- 10.1. The site is located outside the development limits and is therefore located within an area where there is a presumption against development except for that which needs to take place there. Residential development would not normally be permitted outside developments limits for market housing, although an exception to policy can be made for proposals for Affordable Housing when supported by a Registered Provider. This scheme is for 5 residential units of which 2 would be affordable and the remainder would be market housing.
- 10.2 The NPPF sets a presumption in favour of sustainable development which means approving development which accords with the development plan; and where the relevant policies in the development plan are out of date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or specific policies in the NPPF indicate development should be restricted. The NPPF retains the requirement to have a 5-year worth of housing against their housing requirement but with an additional buffer of 5% to ensure choice and competition in the market for land. The 2013 5-year land supply statement demonstrates that the council has (3.7 years) worth of housing supply when compared to the RSS annual requirement. Para 49 requires housing applications to 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 Council cannot demonstrate a 5-year supply of deliverable housing sites.
- 10.3 With the requirements of the NPPF in mind consideration must be given as to the suitability of the site for development and whether the location can be considered sustainable. Most of the surrounding residential properties/ built form are to the western side of St Edmunds Lane. To the north of the site is a single residential property, however, the character to the eastern side of St Edmunds Lane at this point is open countryside/ agricultural land. The impact of the proposed housing would be minimised because the site is enclosed by mature landscaping. This landscaping to the perimeter would be retained and enhanced if development were to be permitted. The site is in walking distance to retail and other services and as such the site is considered to be in a sustainable location. 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 would outweigh the harm identified in relation to rural restraint set out in ULP

Policy S7. Therefore, in balancing planning merits, it is considered that planning permission should be granted for the development.

- 10.4 This application is an outline application with all matters, except access, reserved. Therefore there are no specific details in relation to dwelling types. Policy H10 has a requirement for sites of 0.1 hectares and above to include a significant proportion of market housing comprising small properties. The Supporting Planning Document states that the housing mix would be 3 x 3 bed dwellings and 2 larger properties. The proposal, in principle, complies with the requirements of Policy H10.
- 10.5 Policy H9 seeks the provision of 40% affordable housing on windfall sites. As this scheme is for 5 units, it would attract the Council's policy of 40% affordable housing which amounts to 2 units. We would request that if the application is approved that the 1 unit should be delivered as a 3 bed houses to be in keeping with the rest of the scheme and to be under the shared equity banner and the second affordable housing unit should be a 2 bedroom house at affordable rent. This can be secured by a section 106 agreement
- 10.6 Each plot has more than adequate private amenity space to accord with the requirements of the Essex Design Guide.
- 10.7 Landscaping is another reserved matter however it is proposed to retain existing boundary treatment and strengthen it.

B Access to the site

- 10.8 The application site is served by an existing access point. ECC Highways raise no objections to the proposals subject to conditions.

C Effect on character and setting of the Listed Building

- 10.9 The distance between the listed building and the application site is 45m. The listed building is also separated from the site by mature trees. As such it is not considered that the proposal would have a detrimental impact on the character and setting of the adjacent listed building.

D Vehicle parking Standards

- 10.10 Whilst layout is a reserved matter, the indicative drawings demonstrate that there is ample space within the site for the parking of vehicles off road. Locally Adopted Parking Standards require that dwellings of up to 3 bedrooms should have provision for the parking of two vehicles off road and dwellings of 4+ bedrooms should have provision for the parking of three vehicles off road. This provision is indicated on the plans and there is ample space within the site for additional visitor parking.

E Nature Conservation

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

10.12 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.

10.13 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:

- 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”.

10.14 The application has been submitted with an ecological survey. Natural England and Essex County Council ecologists state that insufficient information has been submitted with the application. They state that great crested newts have not been sufficiently considered within the PEA.

They consider that there are suitable habitats on, or in the vicinity of the application site for great crested newts and advises that the ecological survey has not been carried out at the right time of year using recognised techniques.

Consequently, they advise that further survey effort is required in accordance with the Great crested newt mitigation guidelines, with this additional survey information to be provided by the applicant before determination of the application.

10.15 Additionally they express concerns in relation to reptiles, bats, birds and hedgerows.

10.16 The applicant’s ecologist have responded to this information stating that the lake approximately 250m east of the site was considered unsuitable for breeding great crested newt due to its size and likely presence of fish. And therefore, no potential suitable breeding habitat for great crested newts is present within 500m of the site. They found that the risk to great crested newts from the proposed development to be negligible.

Additionally they consider that the grassland habitats for impact were of low suitability as breeding habitat for protected birds due to the mowing of the site. The retention and protection of the boundary hedgerows and all trees on site mean that the risk of significant impact to breeding birds of conservation concern is very low. The retention of all trees and shrubs, as well as the planting of new hedgerows, trees would provide foraging grounds for birds into the future.

The risk of presence of reptiles on the regularly mown grassland of the development site is considered to be low. This fact combined with the retention of the boundary vegetation and retention of some of the grassland to the south of the site meant that the risk of impact was very low.

10.17 As such it is not considered that the proposal would have any material detrimental impact in respect of protected species

F Other material planning considerations.

10.18 The residents' comments have been noted, however it is considered that (as explained earlier) greater weight should be given to the lack of five year land supply of deliverable sites for residential development. In such circumstances the NPPF specifies 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".

11. CONCLUSION

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

11.1 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 would outweigh the harm identified in relation to rural restraint set out in ULP Policy S7. The site is considered to be in a sustainable location. Therefore, in balancing planning merits, it is considered that planning permission should be granted for the development.

11.2 The access is acceptable

11.3 There would be no adverse impact on the setting of the adjacent listed building.

11.4 Parking provision is acceptable

11.5 With the imposition of conditions, no protected species would be affected by the development.

RECOMMENDATION – CONDITIONAL APPROVAL - SUBJECT TO S106 LEGAL OBLIGATION

- (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 25th September 2013 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) Provision of 40% Affordable Housing**
 - (ii) 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 Assistant Director Planning and Building Control shall be authorised to refuse permission for the following reasons:**

 - (i) No affordable housing provision**

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. 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.

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. The development hereby permitted shall be begun not 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.

4. 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 Policy GEN7 of the Uttlesford Local Plan adopted 2005.

5. Prior to commencement of the development, the areas within the curtilage of the site for the purpose of loading/unloading/reception and storage of building materials and manoeuvring of all vehicles, including construction traffic shall be identified clear of the highway. Details to be submitted to and approved in writing by the Local Planning Authority.

REASON: To ensure that appropriate loading/unloading facilities are available so that the highway is not obstructed during the construction period in the interest of highway safety in accordance with Policy GEN1 of the Uttlesford Local Plan (adopted 2005) and the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

6. Prior to the occupation of any of the proposed dwellings, the proposed private drive shall be constructed to a width of 5 metres for at least the first 6 metres from the back of carriageway and provided with an appropriate dropped kerb crossing of the verge.

REASON: To ensure that vehicles can enter and leave the highways in a controlled manner and to ensure that opposing vehicles can pass clear of the limits of the highway, in the interests of highway safety in accordance with Policy GEN1 of the Uttlesford Local Plan (adopted 2005) and the Highway Authority's Development

Management Policies, adopted as County Council Supplementary Guidance in February 2011.

In accordance with policies DM9 and DM10 of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

- 7 No construction or site clearance shall be carried out on site between the 1st March and 31st August inclusive in any year, unless otherwise approved in writing by the Local Planning Authority. If such permission is given for scrub or tree removal between 1st March and 31st August inclusive, a detailed hand-search of the affected area must be carried out by a suitably qualified ecologist at least 48 hours prior to work commencing. If any nests are found, a 10m buffer zone must be established around each nest and works must be halted in this zone until all chicks have fledged.

REASON: To make appropriate provision for conserving and enhancing the natural environment within the approved development in the interests of biodiversity in accordance with Uttlesford Local Plan (2005) Policy GEN7

- 8 No development shall take place until a Biodiversity Mitigation Plan has been submitted to and approved in writing by the Local Planning Authority. The Plan shall include provision for habitat protection, creation and management during the course of the development and in accordance with the general principles outlined in the Preliminary Ecological assessment dated July 2013 and shall include:
- Aims and objectives of mitigation;
 - Extent and location of proposed works;
 - A Construction Method Statement
 - A description and evaluation of the features to be managed, including but not restricted to the boundary hedgerows, mature trees, wet ditch and new planting;
 - Sources of habitat materials;
 - Timing of the works;
 - Selection of specific techniques and practices for preparing the site and/or creating/establishing vegetation including the specific native species that will be used for hedgerow-infilling and tree-planting;
 - Details of the location, height, design and luminance of all fixed lighting for both construction and occupation phases of the development to minimise impacts on foraging and commuting bats;
 - Prescriptions for management actions;
 - Detailed descriptions of biodiversity enhancement measures that will be taken on-site.
- The development hereby permitted shall be implemented in accordance with the approved plan.

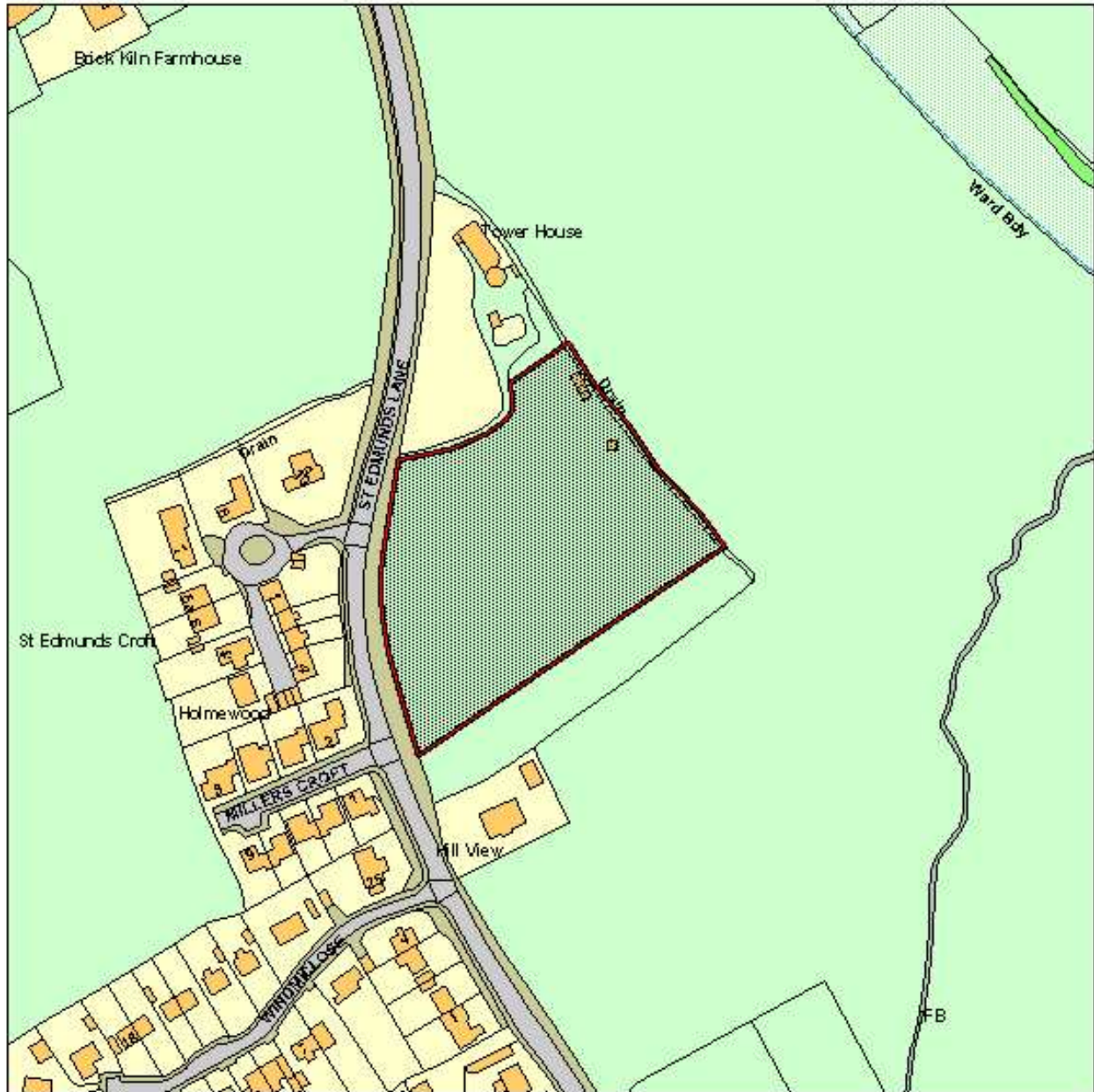
REASON: To make appropriate provision for conserving and enhancing the natural environment within the approved development in the interests of biodiversity in accordance with Uttlesford Local Plan (2005) Policy GEN7.

UTT/13/2121/OP

Land adj Tower House, St Edmunds Lane, Dunmow



GIS by ESRI (UK)



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