

**UTT/15/0362/FUL (ELSENHAM)**

**PROPOSAL:** Proposed erection of 6 dwellings with associated access, parking provision and landscaping

**LOCATION:** Elsenham Goods Yard (North) Old Mead Lane Elsenham

**APPLICANT:** Mr H Schneck

**AGENT:** Mr T Allen

**EXPIRY DATE:** 24th April 2015

**CASE OFFICER:** Madeleine Jones

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**1. NOTATION**

1.1 Outside Development Limits

**2. DESCRIPTION OF SITE**

2.1 The application site is a rectangular site located between the railway line just north of Elsenham Station and Old Mead Lane, Henham. and north of the village centre of Elsenham. The site is a former railway goods yard but has been used for storage of lorry trailers for several years and is overgrown in parts. The surface is mainly hardstanding. There is a trailer on the site and there is also evidence that it has been used to dump rubbish. There is a vehicular access to the centre of the frontage. Either side of the entrance are large mature trees, with a group of seven to the north of the gates. The entrance to the site has metal gates exceeding 2m in height. The boundary to Old Mead Lane has a grass verge and close boarded timber fencing. The northern boundary also has close boarded fencing. Beyond the fencing is mature hedging which is higher than the fencing and a large detached house. To the south of the site is a site (which also formed part of the former railway yard) that has planning permission for ten houses that were recently granted at appeal.

2.2 To the west of the site is the railway line and beyond that to the west are open fields. To the south east of the site is a warehouse site that is safeguarded from redevelopment and is a key employment site, as is a Gold Enterprise Zone on the opposite side of the railway.

**3. PROPOSAL**

3.1 The proposal is for the erection of 6 residential units and 12 car parking spaces.

3.2 The units would have the following:

Unit	Type of dwelling	Number of bedrooms	Garden size	Parking provision
1	End of Terraced	2	51	2
2	Mid Terraced	2	50	2
3	Mid Terraced	2	53	2
4	End of Terraced	2	70	2
5	Semi - detached	2	51	2

6	Semi - detached	2	51	2
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- 3.3 The terraced properties would be at right angles to Old Mead Lane and would have a total width of 22.8m, depth 9.8m and height of 8.8m  
The pair of semi-detached properties would face the road and would be set back from the road. They would have a combined width of 11.6m, depth of 9.8m and height of 8.6m.  
It is proposed to use a mix of zinc cladding, horizontal dark stained timber cladding and red facing brick  
All properties would have solar panels on their roofs.  
The development would use the existing access which is central position to the frontage of the site onto Old Mead Lane

#### 4. APPLICANT'S CASE

- 4.1 The proposals are for a change of use from the existing vacant former goods yard to provide 6 No residential dwellings and associated off-road parking and amenity facilities.
- 4.2 The application seeks to significantly upgrade the appearance of the site as a whole, maximising its potential without over development.  
The site presents an opportunity to provide high quality modern residential accommodation which responds to the needs of the community as identified by the local authority ensuring that key aspirations of the Essex Design Guide are incorporated and specific challenges of the site and its location are successfully mitigated against.
- 4.3 The gap area location bounded by the railway, requires a fully bespoke solution to provide a new cohesive development which contributes positively to the area, building sensitively and appropriately on the existing surrounding residential usage, to maximize the sustainability and long term potential of the site.  
The scheme is mindful of the nature of the site location and seeks to ensure quality of outlook and privacy for future residents and existing adjacent occupiers focusing on creating a safe environment and a sense of community through design and orientation to ensure good quality proposals, suited to the specifics of the site. The end result is a bespoke scheme, which considers the challenges of the site, to create a pleasant, safe and secure environment for new occupiers.
- 4.4 The NPPF establishes a presumption in favour of sustainable housing development, paragraph 14 advises that where the development plan is either absent, silent or that the relevant policies are out of date permission should be granted unless either specific policies in the NPPF indicate that development should be restricted or that:  
*“any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this framework taken as a whole”*  
The Local Planning Authority are unable to identify a five-year housing land supply for the district given the current status of the emerging Local Plan and therefore paragraph 49 of the NPPF establishes a presumption in favour of sustainable housing development.  
The future supply of housing is therefore a most material consideration in the determination of this application, and clearly the fact that the site lies outside of the current settlement boundary in the extant local plan should not therefore in itself result in a refusal of planning permission.
- 4.5 The application site has little visual or environmental benefit and is constrained by existing roads and railway infrastructure and can provide safe and convenient access

to the local highway network. The site is located in relatively close proximity to the settlement's railway station and other amenities and constitutes without doubt a sustainable housing site.

- 4.6 The site is "sandwiched" between existing and consented residential development and can provide safe access, parking and servicing. It has been designed to accord with the principles established on the adjacent site from a design and servicing perspective and also avoids any unacceptable impacts on residential amenity.
- 4.7 The benefits of the scheme include the creation of additional housing in a sustainable location adding to housing choice in the settlement and can be delivered quickly without harm to the appearance of the area, the amenities of neighbouring properties and highway safety.
- 4.8 It is against such an impressive list of benefits and avoidance of harm that the Council are asked to grant permission on the presumption in favour of sustainable housing development which is clearly established in the NPPF given the Council's current five year housing land supply.
- 4.9 The application is accompanied by the following documents:
  - Design and Access Statement
  - Biodiversity questionnaire
  - Ecological Appraisal
  - Report on Environmental Noise Levels
  - Noise Impact Assessment
  - Planning Statement

## **5. RELEVANT SITE HISTORY**

- 5.1 UTT/12/6116/FUL Proposed erection of 10 no. dwellings Allowed at appeal 07/02/2014

## **6. POLICIES**

### **6.1 National Policies**

- National Planning Policy Framework

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

- S7 The Countryside
- H3 Infilling with new houses
- ENV10 Noise sensitive development and disturbance from aircraft
- GEN2 Design
- GEN1 Access
- GEN8 Vehicle Parking Standards
- ENV14 Contaminated land

## **7. PARISH COUNCIL COMMENTS**

Henham Parish Council:

- 7.1 Henham Parish Council lodged an objection to the original submission and feels that the reasons for the original objection still stand against the revised plans.
- 7.2 Development Design

Criterion (a) of UDCs Policy GEN2 - Design states that the development is compatible with the scale, form, layout, appearance and materials of surrounding buildings. The whole of the design for the development is based upon 2- storey dwellings, which is contrary to the form and appearance of buildings in the area surrounding this proposed development. Existing dwellings adjacent to the site are formed exclusively by bungalows and are located in a rural setting on the edge of the countryside and farmland. The introduction of 2-storey dwellings into this rural setting will be out of place and incompatible with the existing surrounding area. The site is also close to Elsenham railway station, a part of which has Grade II listed building status. The Parish Council therefore considers that the proposed development does not meet the requirements of Policy GEN2 Design. As this is phase two of the already passed development immediately adjacent on Old Mead Road, we consider this to be over development of a too small plot.

### 7.3 Vehicle Parking

The Uttlesford District Council Parking Standards states that for dwelling houses of 2+ bedroom dwellings, a minimum of 2 spaces per dwelling should be provided. In addition, 0.25 spaces per dwelling should be allocated to visitor/unallocated parking. The applicant proposes that six, 2-bed dwellings will form the development and shows within the development plans only parking spaces for 8 vehicles being provided. Applying the UDC parking standards to this housing development, 8 resident parking spaces and 2 visitor parking spaces are required. It is therefore clear that the developers proposed parking provision does not meet the requirements, as laid down by UDC.

Given the lack of sufficient on-site (off-road) parking at the site, it is likely, if not inevitable that regular and persistent on-road parking will occur, which will result in unacceptable obstruction to the roadway and create a safety hazard for both pedestrians and other road users. In addition, the railway crossing, which is close to the site, is frequently closed for significant periods throughout the daytime (and night-time), which creates a queue of vehicles (cars, buses and lorries) forming along the length of Old Mead Road. Any residential or visitor parking from the development onto Old Mead Road can only further exacerbate the obstruction and safety problems. In the Parish Councils view, the application does not meet the Councils planning policy requirements for parking - Policy GEN8.

### 7.4 Access to the Site

Contrary to criterion (a) of Policy GEN1, the sites access onto the main road (Old Mead Road) is not capable of carrying the traffic generated by the development safely. The site borders and accesses a narrow lane that is close to the level crossing at Elsenham railway station and subject to regular levels of high traffic flow from cars, vans and local buses that use Old Mead Road as a route to the western side Henham (via Church Street) and to the B1383 (via North Hall Road). In addition to this, HGVs also use Old Mead Road via the railway level crossing to access the warehouse facilities located close to the proposed development site.

Contrary to criterion (c), the design of the site compromises road safety and does not take account of the needs of cyclists, pedestrians, public transport users, horse riders and people whose mobility is impaired. The site borders a busy, narrow lane, and there is no pedestrian footpath to provide a safe access to Elsenham railway station, or the village and its facilities. Due to the nature of Old Mead Road at this point, the narrowness of the lane offers no space for a pedestrian footway; thus residents exiting the site on foot will be required to walk along the roadway to gain access to the station and village.

Criterion (d) requires that the development must be designed to meet the needs of people with disabilities if it is development to which the general public expect to have

access. Given the style and design of the housing proposed for this development 2-storey properties it is unlikely that the needs of people with disabilities will be met. Given the above, the proposed development does not meet the criteria of Policy GEN1 Access.

#### 7.5 Other

The application states connection to mains sewage. In discussions with local residents, the Parish Council is informed that there is no mains sewage in the immediate area and access would be from the other side of the railway and therefore totally impractical.

#### 7.6 Elsenham Parish Council:

The Parish Council would like to object to the planning application and make similar comments as Henham Parish Council

### 8. CONSULTATIONS

#### Highways

##### 8.1 This recommendation supersedes the previous dated 9 March 2015.

The applicant has submitted a revised layout drawing showing an additional 4 car parking spaces which now overcomes the previous highway authority recommendation of refusal.

Taking the above into account, from a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to conditions.

#### Environmental Health

##### 8.2 Noise

The site is subject to railway noise day and night, including diesel engine pulled heavy goods trains, which would potentially be a source of vibration. As a consequence there is a risk of loss of amenity and sleep disturbance. A survey of noise levels have been submitted with the application showing levels of 65-67 dB LA eq and 89 dB LAF max at the boundary. WHO standards suggest a level of 55 dB LA eq should not normally be exceeded in outdoor areas.

Proposed mitigation measures in terms of insulation and design to protect future residents against the impact of noise have been included. The proposed bedrooms of house type B facing the railway are to be provided with glazing which will achieve a level of 35 dB LA eq with the windows closed, which is at the limit of acceptability for sleep purposes.

A condition is therefore recommended to require a scheme of works to be submitted and approved by the LPA prior to construction. The scheme shall demonstrate mitigation measures in terms of construction and design to aim to achieve the standards set out in BS 8233:2014, namely 30dB LAeq 8hr in the bedroom areas, and 35dB LA eq 16hr in the living areas. In view of the noise from passing trains during the night, the level of insulation should in addition aim to protect against individual noise events from exceeding 45dB LAF max. The scheme shall also include sufficient outdoor mitigation measures to aim to achieve 55 dB LA 16hr.

The survey concludes that levels of vibration at the site are less than the threshold of human perception and no additional protection measures are necessary. However, it is recommended that a condition is applied to require isolation of foundations to protect structures, as a precautionary measure against current use of the track and changes in usage.

##### 8.3 Land contamination

The site is potentially contaminated due to historic and more recent use of the land. Historically the land has been associated with the storage and distribution of coal and the storage of haulage vehicles and coaches. More recently the site has been used for the ad hoc storage of building waste including tanks and lining materials. Some structures remain on site from the historic usage, and evidence from regulatory investigations by the Council and the Environment Agency suggests some material may have been buried on site.

A condition should be applied to ensure risks to all receptors on and off site including human health, controlled waters and building services, are minimised.

#### 8.4 Lighting

The introduction of a new source of artificial lighting for the site may cause loss of amenity for the nearby residents. A protective condition is recommended:

#### 8.5 Construction phase

The construction phase has the potential to cause loss of amenity to nearby residents due to noise and dust, and it is recommended that an informative is attached to ensure compliance with the UDC Code of Construction Practice.

### **Access and Equalities Officer**

- 8.6 Review of application and documents submitted and the drawings .jw527-157 rev D, jw527-156 rev d and jw527-152 rev d .indicates that the dwellings would meet the requirements of the SPD on Accessible Homes and Playspace.

### **Network Rail**

- 8.7 The developer must ensure that their proposal, both during construction and after completion of works on site, does not:

- encroach onto Network Rail land
- affect the safety, operation or integrity of the company's railway and its infrastructure
- undermine its support zone
- damage the company's infrastructure
- place additional load on cuttings
- adversely affect any railway land or structure
- over-sail or encroach upon the air-space of any Network Rail land
- cause to obstruct or interfere with any works or proposed works or Network Rail development both now and in the future

- 8.8 The developer should comply with the following comments and requirements for the safe operation of the railway and the protection of Network Rail's adjoining land.

#### 8.9 Future maintenance

The development must ensure any future maintenance can be conducted solely on the applicant's land. The applicant must ensure that any construction and any subsequent maintenance can be carried out to any proposed buildings or structures without adversely affecting the safety of, or encroaching upon Network Rail's adjacent land and air-space, and therefore all/any building should be situated at least 2 metres (3m for overhead lines and third rail) from Network Rail's boundary. The reason for the 2m (3m for overhead lines and third rail) stand-off requirement is to allow for construction and future maintenance of a building and

without requirement for access to the operational railway environment which may not necessarily be granted or if granted subject to railway site safety requirements and special provisions with all associated railway costs charged to the applicant. Any less than 2m (3m for overhead lines and third rail) and there is a strong possibility that the applicant (and any future resident) will need to utilise Network Rail land and air-space to facilitate works. The applicant / resident would need to receive approval for such works from the Network Rail Asset Protection Engineer, the applicant / resident would need to submit the request at least 20 weeks before any works were due to commence on site and they would be liable for all costs (e.g. all possession costs, all site safety costs, all asset protection presence costs). However, Network Rail is not required to grant permission for any third party access to its land. No structure/building should be built hard-against Network Rail's boundary as in this case there is an even higher probability of access to Network Rail land being required to undertake any construction / maintenance works. Equally any structure/building erected hard against the boundary with Network Rail will impact adversely upon our maintenance teams' ability to maintain our boundary fencing and boundary treatments.

#### 8.10 Drainage

Storm/surface water must not be discharged onto Network Rail's property or into Network Rail's culverts or drains except by agreement with Network Rail. Suitable drainage or other works must be provided and maintained by the Developer to prevent surface water flows or run-off onto Network Rail's property. Proper provision must be made to accept and continue drainage discharging from Network Rail's property; full details to be submitted for approval to the Network Rail Asset Protection Engineer. Suitable foul drainage must be provided separate from Network Rail's existing drainage. Soakaways, as a means of storm/surface water disposal must not be constructed near/within 10 – 20 metres of Network Rail's boundary or at any point which could adversely affect the stability of Network Rail's property. After the completion and occupation of the development, any new or exacerbated problems attributable to the new development shall be investigated and remedied at the applicants' expense.

#### 8.11 Plant & Materials

All operations, including the use of cranes or other mechanical plant working adjacent to Network Rail's property, must at all times be carried out in a "fail safe" manner such that in the event of mishandling, collapse or failure, no plant or materials are capable of falling within 3.0m of the boundary with Network Rail.

#### 8.12 Scaffolding

Any scaffold which is to be constructed within 10 metres of the railway boundary fence must be erected in such a manner that at no time will any poles over-sail the railway and protective netting around such scaffold must be installed. The applicant/applicant's contractor must consider if they can undertake the works and associated scaffold/access for working at height within the footprint of their property boundary.

#### 8.13 Piling

Where vibro-compaction/displacement piling plant is to be used in development, details of the use of such machinery and a method statement should be submitted for the approval of the Network Rail's Asset Protection Engineer prior to the commencement of works and the works shall only be carried out in accordance with the approved method statement.

#### 8.14 Fencing

In view of the nature of the development, it is essential that the developer provide (at their own expense) and thereafter maintain a substantial, trespass proof fence along the development side of the existing boundary fence, to a minimum height of 1.8 metres. The 1.8m fencing should be adjacent to the railway boundary and the developer/applicant should make provision for its future maintenance and renewal without encroachment upon Network Rail land. Network Rail's existing fencing / wall must not be removed or damaged and at no point either during construction or after works are completed on site should the foundations of the fencing or wall or any embankment therein, be damaged, undermined or compromised in any way. Any vegetation on Network Rail land and within Network Rail's boundary must also not be disturbed. Any fencing installed by the applicant must not prevent Network Rail from maintaining its own fencing/boundary treatment.

#### 8.15 Lighting

Any lighting associated with the development (including vehicle lights) must not interfere with the sighting of signalling apparatus and/or train drivers vision on approaching trains. The location and colour of lights must not give rise to the potential for confusion with the signalling arrangements on the railway. The developers should obtain Network Rail's Asset Protection Engineer's approval of their detailed proposals regarding lighting.

#### 8.16 Noise and Vibration

The potential for any noise/ vibration impacts caused by the proximity between the proposed development and any existing railway must be assessed in the context of the National Planning Policy Framework which hold relevant national guidance information. The current level of usage may be subject to change at any time without notification including increased frequency of trains, night time train running and heavy freight trains.

#### 8.17 Vehicle Incursion

Where a proposal calls for hard standing area / parking of vehicles area near the boundary with the operational railway, Network Rail would recommend the installation of a highways approved vehicle incursion barrier or high kerbs to prevent vehicles accidentally driving or rolling onto the railway or damaging lineside fencing.

#### 8.18 Network Rail strongly recommends the developer contacts

[AssetProtectionAnglia@networkrail.co.uk](mailto:AssetProtectionAnglia@networkrail.co.uk) prior to any works commencing on site, and also to agree an Asset Protection Agreement with us to enable approval of detailed works. More information can also be obtained from our website at [www.networkrail.co.uk/asp/1538.aspx](http://www.networkrail.co.uk/asp/1538.aspx).

### **ECC Ecology**

8.19 No objections subject to conditions.

### **Natural England**

8.20 Natural England has no comments to make regarding this application.

## **9.0 REPRESENTATIONS**

9.1 This application has been advertised and two representations have been received. Expiry date: 13<sup>th</sup> June 2015. The following issues have been raised:

- Location of proposal. The site is in Henham, not Elsenham.



- *Design and Access Statement* The document is disgracefully inadequate.
- Justification for development. The location is unsatisfactory and further housing is not needed.
- Intensity of development. The number of houses proposed is wholly excessive.
- Footpath. The applicants' intentions must be clarified.
- The new plan shows an alteration to add a parking area to the southern corner of the site. There is a total of five parking spaces in this addition, a row of three adjacent to a row of two. There are some flaws in this plan.
  - the middle spaces will be unusable if the outer spaces are occupied.
  - There is implied access through this parking area, however the parking area straddles two separate development sites. The southern site is in the process of being sold. There is therefore no guarantee that it will have been developed as shown on the plans by the time this northern site is completed. Access to the southern parking spaces, however depends upon this development.
- There are further causes for concern regarding the development. The Director for Operations: Environment & Economy states-
- There shall be no discharge of surface water onto the Highway. 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.
- As has been previously stated, all water brought onto this site will be discharged into the ditch alongside the road, as there is no mains sewerage. Old Mead Road floods regularly each winter with surface water remaining for many weeks. The addition of another 6 houses waste water, added to 10 houses water from the site immediately to the south of this one, can only exacerbate the problem and therefore cannot be said to be compliant with the requirements from the Director for Operations: Environment & Economy
- There is neither pedestrian footpath nor street lighting in Old Mead Road. As there is little room for parking on the proposed site, presumably householders will be expected to use public transport. The lack of lighting, footpaths combined with a narrow road will result in a real safety risk.
- There are no garages on the site at all. The design implies some green spaces, all of which will require maintenance. With no areas for storage of garden tools, it is likely that the site will be further cluttered by the addition of sheds/storage buildings.
- There is no mains sewerage on Old Mead Road. Unless a new sewer is planned to run underneath the railway line, the dwellings will require a biodisc-style septic tank, which is the norm in Old Mead Road. There is no provision for this on the plans. The use of such a tank would necessitate drainage of all household water into the ditch in Old Mead Road, which is already prone to flooding during moderately wet conditions. In addition, intensive development of the area will reduce surface drainage from the site, further increasing the risk of flooding.
- The northern access road is almost opposite my drive. Visibility onto Old Mead Road is restricted to the north by a slight bend, and to the south by a pronounced hump in the road. Access to and from Old Mead Road is likely to be hazardous. As the car parking areas are very restricted, there is a likelihood of large vehicles reversing onto the main road. This will produce a further safety hazard.
- There are incorrect statements regarding railway noise for this development, which are repeated from previous planning applications for this site. Specifically, that trains slow down, thus mitigating the noise, as they pass through the Elsenham level crossing as a result of the fatal accident in 2006. This statement is as untrue as it is distasteful; the trains do not slow down. To attempt to use the deaths of two schoolgirls to justify a planning application is inappropriate.
- Incorrect statements on the Planning Application.
- Section 12. Assessment of Flood Risk

The applicant states that surface water will be disposed of by Main Sewer. There is no main sewer on this site. The documents supporting this planning application make this quite clear.

In the same section, the question is asked, "Will the proposal increase the flood risk elsewhere?" and the applicant has answered "No". As I have stated, there is no main sewer. All water arriving at this site, either through pipework, or precipitation, will be disposed of via soakaways and Klargesters, ultimately draining into the very small ditch in Old Mead Road. The flooding in this ditch in wet weather has been extensively documented and reported. As recently as February last year, the proposed entrance to the site and the site itself were flooded to a depth of approximately one foot of water. As all water from this site will ultimately end up exactly where this flooding occurred, the applicant's answer to this question is not true.

*Practical experience* shows that there is clearly a flood risk both to the site and the surrounding areas

- Section 14. Existing Use.

The answer supplied by the applicant is "ad hoc vehicle body storage". The applicant has omitted "prolonged storage of building waste".

Following on from this, the statement "Land where contamination is suspected for all or part of the site" is answered in the negative. This is also untrue.

This part of the site was used for illegal tipping of building waste material during 2006. The material appeared to be wall-plaster like, with an appearance of removed Artex, which contains asbestos material.

The tenant at the time eventually piled all this material into a bund, which is now covered in vegetation. The material has never been examined or analysed for content. As I live opposite the site, I am concerned at the potential for disturbance of this material, particularly by operators who are unaware of the content of the bund.

- Environmental Noise.

The statements for measuring environmental noise are misleading and the methodology is not valid for this particular site.

The environmental report, originally commissioned in 2012 is not relevant for this site. The noise measuring equipment was placed further south and outside the boundary of this proposed development.

Specific to this site is the requirement that trains sound their horns directly abeam the site, due to the public footpath which crosses the railway immediately to the north of this Goods Yard. The public footpath is temporarily closed, nonetheless, Network Rail confirmed to me that the necessity to sound horns will continue until the footpath is permanently closed, which they have also confirmed, will take some time.

- In summary, there are numerous errors, omissions and untrue statements throughout this application. I have only covered some of the more major items. The Planning Committee should not be misled in this way.

## 10.0 APPRAISAL

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

- A The development of this site for residential purposes is appropriate (NPPF and ULP Policies S7, H3, ENV10);
- B The layout, design and scale of the proposals is appropriate (ULP Policies GEN2, S7 & SPD: Accessible Homes and Playspace);
- C The access and parking arrangements are appropriate (ULP Policies GEN1 & GEN8 & SPD: Parking Standards: Design and Good Practice);
- D Other material planning considerations – Biodiversity (ULP policy GEN7)

**A The development of this site for residential purposes is appropriate (NPPF and ULP Policies S7, H3, ENV10);**

- 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 6 residential units which 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. 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.  
The applicants argue that the Council does not have a five year housing supply, however, at the present time the council is considered to have a five year land supply and a 5% buffer. This has been supported at appeal: APP/C1570/A/14/2221494 and APP/C1570/A/14/2222958. As such there is no onus to approve planning permissions for this site in light of paragraph 49 of the NPPF; however the Council will still give favourable consideration to sustainable proposals on appropriate sites and ensure it has a forward supply of housing. Windfall sites are still needed to make a contribution to the housing supply.
- 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. A major consideration in the determination of this case is the recent appeal decision for UTT/12/6116/FUL relating to the adjacent site for ten dwellings which was allowed. The inspector stated that “although rural, the site has moderately decent sustainability credentials”
- 10.4 Additionally the site is a brownfield site for which paragraph 17 of the NPPF states as a core planning principle that “planning should encourage the effective use of land by reusing land that has been previously developed (brownfield land) provided that it is not of high environmental value.” This site is not of high environmental value.  
In view of the above, the principle of residential development on this site is considered to be acceptable.
- 10.5 The site has formerly been used as a goods yard and in more recent years for the storage of building materials and as a dumping ground. There is a risk that contamination of the site has occurred in the past. Contaminated land is a planning consideration and the NPPF requires local planning authorities to consider whether a site is suitable for development. Environmental Health officers have advised that this can be addressed by appropriate conditions and subject to these conditions the proposal would comply with Policy ENV14.

**B The layout, design and scale of the proposals is appropriate (ULP Policies GEN2, S7 & SPD: Accessible Homes and Playspace);**

- 10.6 Policy H10 has a requirement for sites of 0.1 hectares and above or of 3 or more dwellings will be required to include a significant proportion of market housing comprising small properties. All developments on a site of 3 or more homes must include an element of small 2 and 3 bed homes, which must represent a significant proportion of the total, for those households who are able to meet their needs in the market and would like to live in a new home. The housing mix of this application is for six two bed dwellings. The proposal, does not technically comply with the requirements of Policy H10.
- 10.7 Given the size of the site, its proximity to the railway and neighbouring residential properties together with the dwellings already given permission at appeal on the adjacent site the development options are limited.
- 10.8 The proposed dwellings are two bedroom which the Essex Design Guide recommends the provision of 50 sqm private garden space. All of the properties meet this requirement.
- 10.9 Each plot has adequate private amenity space to accord with the requirements of the Essex Design Guide.
- 10.10 Representations raise concern about local drainage issues and that the development proposed would exacerbate the situation. The site is not located within a flood zone and drainage provision would need to comply with Building Regulations. The adjacent site, which is very similar in nature to the application site, was found not to warrant a condition for drainage by the Planning Inspector.
- 10.11 In view of the limited space available to accommodate the development proposed it is considered that a condition removing certain permitted development rights is required to prevent the site becoming overdeveloped.
- 10.12 The site is located adjacent to the railway line and any development of this site could be adversely affected by noise and vibration. Policy ENV10 seeks to prevent sensitive development from being carried out in locations where such adverse impacts would arise. Notwithstanding this, in some instances it is possible to mitigate the impacts through careful design. The application is accompanied by a Noise Levels and Ground Vibration report which assesses the current noise levels and the level of ground vibration experienced on site. Environmental Health Officers have been consulted and state:

**C The access and parking arrangements are appropriate (ULP Policies GEN1 & GEN8 & SPD: Parking Standards: Design and Good Practice);**

- 10.13 The proposed dwellings are two bedroom for which the adopted parking standards require the provision of two parking spaces and also visitor parking spaces. The proposal has been revised and all spaces are now of the recommended dimensions of 5.5m x 2.9m. Each dwelling would have two parking spaces. There are no spaces for visitor parking provided. The proposal is therefore generally consistent with the requirements of the SPD and the absence of one visitor space is outweighed by other benefits. Vehicular access to the site is acceptable. Objections have been received in respect of the sites proximity to the level crossing and highway safety. The Highway Authority has been consulted and have raised no objections to the proposal subject to conditions being applied.

The proposal is considered to comply with policies GEN1 and GEN8 of the Local Plan.

## **D Biodiversity**

10.14 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. The application is accompanied by an ecological appraisal and arboricultural baseline assessment.

Essex County Council Ecologists have been consulted and they have no objections to the scheme subject to conditions. Providing that these conditions are complied with the application would comply with Policy GEN7.

## **11 CONCLUSION**

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

- A The site is located outside the development limits, however the site constitutes previously developed land and is sustainable in its location.. Development on the adjacent land was allowed recently on appeal. The principle of residential development on the site is considered to be acceptable.
- B The design of the properties is similar to that on the adjacent site and is considered to be acceptable. The Scheme would provide sufficient amenity space
- C Adequate parking provision for the number of dwellings is provided to comply with ECC parking standards (adopted 2009) and locally amended March 2013. The proposal does not however include any visitor parking. The Highways Authority have no objections. On balance the proposal is acceptable.

## **12.0 RECOMMENDATION – CONDITIONAL APPROVAL**

Conditions/reasons

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this decision.

REASON: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Prior to occupation of the development the vehicular access shall be widened to 5.5 metres and shall be provided with an appropriate dropped kerb vehicular crossing of the highway verge.

REASON: To ensure that vehicles can enter and leave the highway in a controlled manner in the interest of highway safety in accordance with Uttlesford. Local Plan policy GEN1.

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 in accordance with Uttlesford. Local Plan policy GEN1.

4. The proposed development shall not be occupied until such time as the vehicle parking area indicated on the approved plans, including any parking spaces for the mobility impaired, has been hard surfaced, sealed and marked out in parking bays. The vehicle parking area shall be retained in this form at all times. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the development unless otherwise agreed with the Local Planning Authority.

REASON: To ensure that on street parking of vehicles in the adjoining streets does not occur in the interests of highway safety and that appropriate parking is provided in accordance with Uttlesford. Local Plan policy GEN1.

5. No development shall take place (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority. The CEMP: Biodiversity shall include the following:

- a) Risk assessment of potentially damaging construction activities;
- b) Identification of biodiversity protection zones;
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
- d) The location and timing of sensitive works to avoid harm to biodiversity features;
- e) The times during construction when specialist ecologists need to be present on site to oversee works;
- f) Responsible persons and lines of communication;
- g) The role and responsibilities on site of an ecological clerk of works or similarly competent person; and the
- h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP: Biodiversity shall be implemented and adhered to throughout the construction period of the development hereby approved.

REASON: To make appropriate provision for conserving and enhancing the natural environment within the approved development, in the interests of biodiversity and for compliance with Local Plan Policy GEN7

6. No development shall take place until a Biodiversity Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Plan shall include:

- a) A description and evaluation of features to be managed;
- b) Ecological trends and constraints on site that might influence management;
- c) Aims and objectives of management;
- d) Appropriate management options for achieving the aims and objectives of the project;
- e) Prescriptions for management actions;
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
- g) Details of the body or organisation responsible for implementation of the plan;
- h) On-going monitoring and remedial measures.

The Plan shall include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from

monitoring show that conservation aims and objectives of the Plan are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.

REASON: In the interest of the protection of the biodiversity in accordance with policy GEN7

- 7 .A scheme of works shall be submitted and approved by the LPA prior to construction. The scheme shall demonstrate mitigation measures in terms of construction and design to aim to achieve the standards set out in BS 8233:2014, namely 30dB LAeq 8hr in the bedroom areas, and 35dB LA eq 16hr in the living areas. In view of the noise from passing trains during the night, the level of insulation should in addition aim to protect against individual noise events from exceeding 45dB LAF max. The scheme shall also include sufficient outdoor mitigation measures to aim to achieve 55 dB LA 16hr.

REASON: To protect the future occupier's amenity in accordance with policy ENV10

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, no development within classes A to E of Schedule 2 shall be erected within the curtilage of any dwelling house without the prior written consent of the local planning authority.

REASON: To prevent the site becoming overdeveloped and to ensure the development is compatible with the character of the surrounding area in accordance with policy GEN2.

9. No development shall take place until an assessment of the nature and extent of contamination has been submitted to and approved in writing by the Local Planning Authority. This assessment must be undertaken by a competent person, and shall assess any contamination on the site, whether or not it originates on the site. Moreover, it must include:
  - (i) A survey of the extent, scale and nature of contamination including the presence of asbestos containing material
  - (ii) An assessment of the potential risks to: human health, service lines and pipes, adjoining land, and the water environment
  - (iii) An appraisal of remedial options, and proposal of the preferred option(s).The assessment must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and with the Essex Technical Guidance for the redevelopment of land affected by contamination third edition.

REASON: to ensure risks to all receptors on and off site including human health, controlled waters and building services, are minimised. In accordance with policy ENV14

- 10 No development shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to the above receptors has been submitted to and approved in writing by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the

Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

REASON: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy ENV14.

11. The remediation scheme shall be implemented in accordance with the approved timetable of works. Following completion of measures identified in the approved remediation scheme, a validation report that demonstrates the effectiveness of the remediation carried out must be submitted to the Local Planning Authority.

REASON: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy ENV14.

12. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority and once the Local Planning Authority has identified the part of the site affected by the unexpected contamination development must be halted on that part of the site. An assessment must be undertaken in accordance with the requirements of condition 1, and where remediation is necessary a remediation scheme, together with a timetable for its implementation, must be submitted to and approved in writing by the Local Planning Authority in accordance with the requirements of condition 2. The measures in the approved remediation scheme must then be implemented in accordance with the approved timetable. Following completion of measures identified in the approved remediation scheme a validation report must be submitted to and approved in writing by the Local Planning Authority in accordance with condition 12.

REASON: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy ENV14.

13. No development shall take place until full details of all external lighting, including position and height, have been submitted to and approved in writing by the local planning authority. Development shall be undertaken in accordance with the approved details.

REASON: To ensure that the introduction of a new source of artificial lighting for the site does not adversely affect the rural character of the area or have any impact on railway safety in accordance with policies GEN4 and GEN5.

14. No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. Subsequently, these works shall be carried out as approved. The landscaping details to be submitted shall include:-
  - a) means of enclosure
  - b) hard surfacing, other hard landscape features and materials



- c) existing trees, hedges or other soft features to be retained
- d) planting plans, including specifications of species, sizes, planting centres, number and percentage mix

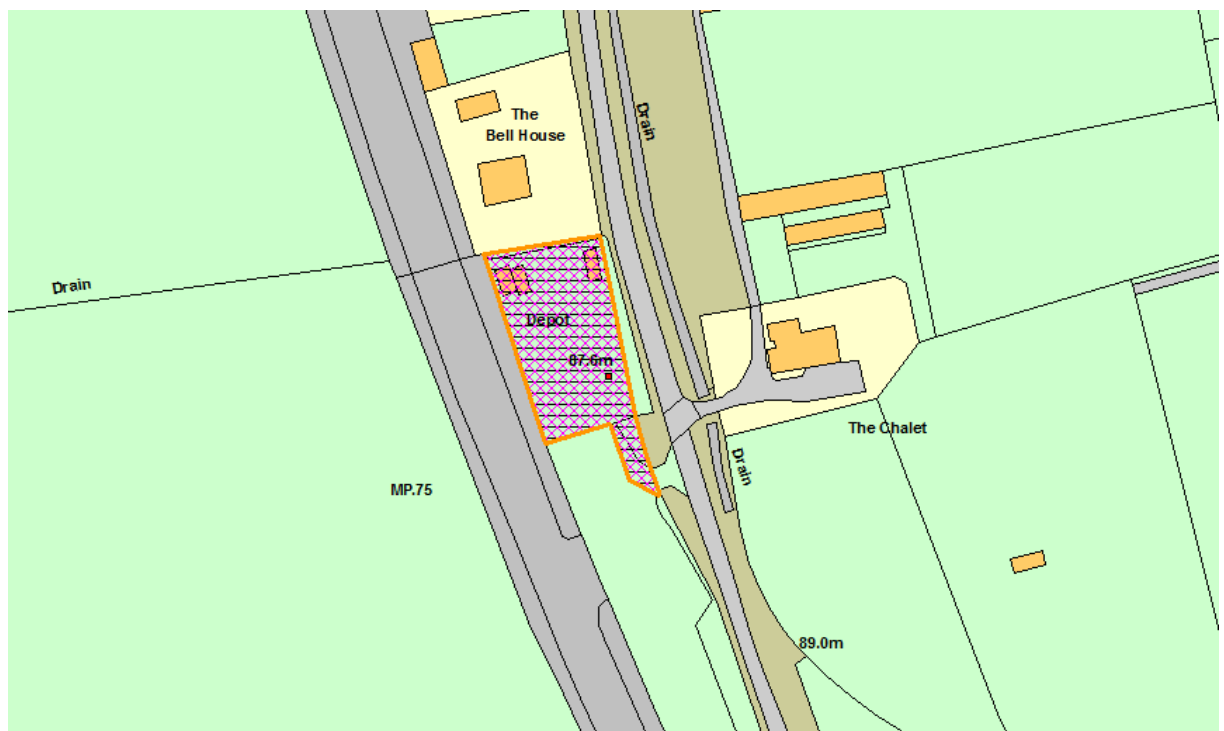
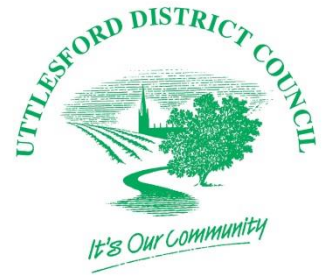
REASON: The landscaping of this site is required in order to protect and enhance the existing visual character of the area and to reduce the visual and environmental impacts of the development hereby permitted in accordance with policy S7

15. All hard and soft landscape works shall be carried out in accordance with the approved details. All planting seeding or turfing and soil preparation comprised in the above details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings, the completion of the development, or in agreed phases whichever is the sooner, and any plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation. All landscape works shall be carried out in accordance with the guidance contained in British Standards, unless otherwise agreed in writing by the local planning authority.

REASON: to ensure proper implementation of the agreed landscape details in the interest of the amenity value of the development in accordance with policy S7.

Application number: UTT/15/0362/FUL

Location: Elsenham Goods Yard (North) Old Mead Lane Elsenham



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Organisation: Uttlesford District Council

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