

## UTT/18/3326/PIP (CLAVERING)

(Referred to Committee by Cllr Oliver. Reason: Contrary to NPPF sustainability requirements; poor precedent)

<b>PROPOSAL:</b>	<b>Application for permission in principle for the erection of min. 6 dwellings and max. 8 dwellings</b>
<b>LOCATION:</b>	<b>Land West of Stortford Road, Clavering</b>
<b>APPLICANT:</b>	<b>Mr J Noble</b>
<b>AGENT:</b>	<b>Sworders</b>
<b>EXPIRY DATE:</b>	<b>8 January 2019</b>
<b>CASE OFFICER:</b>	<b>Luke Mills</b>

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### **1. NOTATION**

1.1 Countryside.

### **2. DESCRIPTION OF SITE**

2.1 The site is located to the west of Stortford Road, Clavering. It comprises 0.5ha of undeveloped agricultural land.

### **3. PROPOSAL**

3.1 The application is for permission in principle for residential development comprising a minimum of six dwellings and a maximum of eight.

3.2 The permission in principle legislation is new and this is the third application of this type that the UDC Planning is dealing with.

3.3 The application submitted seeks to establish the principle of having 6-8 residential dwellings on this particular site.

3.4 The process sits between the pre-application stage and the outline planning permission stage. The National Planning Practice Guidance states "*The permission in principle consent route is an alternative way of obtaining planning permission for housing-led development which separates the consideration of matters of principle for proposed development from the technical detail of the development. The permission in principle consent route has 2 stages: the first stage (or permission in principle stage) establishes whether a site is suitable in-principle and the second ('technical details consent') stage is when the detailed development proposals are assessed.*"

3.5 In terms of assessing the application the NPPG states "*A decision on whether to grant permission in principle to a site following a valid application or by entering it on Part 2 of a brownfield land register must be made in accordance with relevant policies in the development plan unless there are material considerations, such as those in the National Planning Policy*

*Framework and national guidance, which indicate otherwise.”*

- 3.6 Conditions and S106 Agreements cannot be attached to a grant of permission in principle and the terms of the consent may only apply to the site location, the type of development and amount of development. Conditions and obligations which meet the 6 tests can be however applied to the approval of technical details consent.

#### **4. ENVIRONMENTAL IMPACT ASSESSMENT**

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

#### **5. APPLICANT'S CASE**

- 5.1 The application contains the following documents:

- Planning Statement

#### **6. RELEVANT SITE HISTORY**

- 6.1 No recent, relevant history.

#### **7. POLICIES**

- 7.1 S70(2) of The Town and Country Planning Act 1990 requires the local planning authority, in dealing with a planning application, to have regard to:
- (a) the provisions of the development plan, so far as material to the application,
  - (aza) a post-examination draft neighbourhood development plan, so far as material to the application,
  - (b) any local finance considerations, so far as material to the application, and
  - (c) any other material considerations.
- 7.2 S38(6) of the Planning and Compulsory Purchase Act 2004 requires that, if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.
- 7.3 Relevant development plan policies and material considerations are listed below.

#### **Uttlesford Local Plan (2005)**

- 7.4 S7 – The Countryside  
GEN1 – Access  
GEN2 – Design  
GEN3 – Flood Protection  
GEN6 – Infrastructure Provision to Support Development  
GEN7 – Nature Conservation  
GEN8 – Vehicle Parking Standards  
ENV5 – Protection of Agricultural Land

ENV8 – Other Landscape Elements of Importance for Nature Conservation  
H1 – Housing Development  
H9 – Affordable Housing  
H10 – Housing Mix

### **Supplementary Planning Documents/Guidance**

- 7.5 SPD – Accessible Homes and Playspace (2005)  
The Essex Design Guide  
Parking Standards: Design and Good Practice (2009)  
Uttlesford Local Residential Parking Standards (2013)

### **National Policies**

- 7.6 National Planning Policy Framework (NPPF) (2018)  
- paragraphs 11, 63, 73, 78-79, 102-111, 127, 155-165, 170 & 175  
Planning Practice Guidance (PPG)  
- Design  
- Flood risk and coastal change  
- Housing: optional technical standards  
- Natural environment  
- Planning obligations  
- Rural housing

### **Other Material Considerations**

- 7.7 West Essex and East Hertfordshire Strategic Housing Market Assessment (SHMA) (2015)  
Uttlesford Strategic Flood Risk Assessment (SFRA) (2016)  
Housing Trajectory and 5-Year Land Supply Statement 1 April 2018 (October 2018)  
Emerging Local Plan  
- SP1 Presumption in Favour of Sustainable Development  
- SP2 The Spatial Strategy 2011-2033  
- SP3 The Scale and Distribution of Housing Development  
- SP10 Protection of the Countryside  
- SP12 Sustainable Development Principles  
- H1 Housing Density  
- H2 Housing Mix  
- H6 Affordable Housing  
- H10 Accessible and Adaptable Homes  
- TA1 Accessible Development  
- TA2 Sustainable Transport  
- TA2 Provision of Electric Charging Points  
- TA3 Vehicle Parking Standards  
- INF1 Infrastructure Delivery  
- INF4 High Quality Communications Infrastructure and Superfast Broadband  
- D1 High Quality Design  
- D2 Car Parking Design  
- D8 Sustainable Design and Construction  
- D9 Minimising Carbon Dioxide Emissions  
- EN7 Protecting and Enhancing the Natural Environment  
- EN10 Minimising Flood Risk  
- EN11 Surface Water Flooding

- EN12 Protection of Water Resources
- C1 Protection of Landscape Character

## **8. PARISH COUNCIL COMMENTS**

8.1 Objection, on the following grounds:

- The site was rejected in the Call for Sites assessment
- Harm to the character of the area
- The proposal would increase the risk of flooding
- Increased traffic

## **9. CONSULTATIONS**

### **Highway Authority (Essex County Council)**

9.1 No objections. Extract:

“The technical details consent application must accord with current safety and design standards.”

### **London Stansted Airport**

9.2 No objections. Extract:

“The Safeguarding Authority for Stansted Airport has assessed this proposal and its potential to conflict aerodrome Safeguarding criteria. We have no aerodrome safeguarding objections to the proposal but request that, should this scheme proceed through the Planning process that we are consulted further, especially on the details of the landscaping and SuDS.”

### **Environmental Health**

9.3 No objections. Extract:

“Land Contamination:

This is a greenfield site, forming part of a larger arable field, which we are advised has historically been used for agricultural purposes. Agricultural uses can involve the application of pesticides to the land over time, and residual amounts of pesticides on the land can present a contamination risk. In view of the proposed contamination-sensitive end use of residential occupation with gardens, a Phase I Desk Top Study should be submitted with the technical details stage of this application to identify any potential contamination risks in relation to this site.

Noise:

Potential noise sources that could impact on the development are traffic on the Stortford Road, and operations (i.e. deliveries and any external plant) in connection with the local stores and post office.

In relation to traffic noise, it is noted that the dwellings will be set back from Stortford Road by the proposed access drive. It is anticipated that normal construction of the dwellings, including standard thermal double glazing

should be sufficient to achieve satisfactory internal noise levels in accordance with the acoustic design standards set out in BS8233:2014. Similarly, as the main external garden areas will be located to the rear of the dwellings these should provide some noise protection for the private amenity spaces in accordance with the external noise standards specified in the WHO Community Noise Guidelines 1999.

With regards to noise from the local stores/post office, it is noted that there are already dwellings in closer proximity to this site. Noise generating activities i.e. deliveries and any external plant are likely to be located to the rear of the stores and furthest away from the application site. No special noise conditions are therefore considered necessary in the context of the application site and these potential noise sources.

The development of this site could have impacts on the amenity of existing neighbouring residential occupiers during the site preparation and construction phases of the development. To mitigate any adverse impacts, it is recommended that all construction operations are carried out in accordance with an approved Construction Management Plan. A construction management plan condition is therefore likely to be recommended at the technical details stage.

Light:

No details of external lighting have been provided with this application. It will be necessary to ensure that any lighting scheme introduced in conjunction with the development does not have an adverse impact on existing neighbouring residential occupiers from obtrusive or spillover light or glare. A suitable condition to secure this is therefore likely to be recommended at the technical details stage.”

**Cllr Oliver (Ward Councillor)**

9.4 Objection, on the following grounds:

- The site was rejected in the Call for Sites assessment
- The proposal would increase the risk of flooding
- The site is located beyond the Development Limits
- Harm to the character of the area

**10. REPRESENTATIONS**

10.1 Neighbours were notified of the application by letter and a notice was displayed near the site. The following concerns have been raised among the submitted representations, including from the ‘Hands Off Clavering’ group:

- 1) No need for additional housing in Clavering
- 2) The site is located beyond Development Limits
- 3) Harm to the character of the village and its setting
- 4) Increased traffic and risk to road safety
- 5) Inadequate sustainable transport opportunities
- 6) Overbearing impact on neighbouring properties
- 7) Overlooking of neighbouring properties
- 8) Increased risk of flooding
- 9) Increased pollution e.g. air, noise and light

- 10) Inadequate infrastructure e.g. education, healthcare
- 11) Loss of high quality agricultural land
- 12) Local services and facilities do not require the support of further housing
- 13) Approval would set a precedent for further development

10.2 The following comments are made in relation to the above comments:

1) – 12) Covered in the below appraisal.

13) Each application will be determined on its own merits, taking into account all material considerations at that time.

## 11. APPRAISAL

Bearing in mind the scope of the planning assessment is limited to the consideration of location, land use and the amount of development, as explained in the Planning Policy Guidance, the issues to consider in the determination of the application are (relevant policies in brackets):

- A Location of housing (S7, H1, 78-79 & PPG)
- B Character and appearance (S7, GEN2, 127, 170 & PPG)
- C Transport (GEN1, GEN8 & 102-111)
- D Accessibility (GEN2, 127 & PPG)
- E Amenity (GEN2, 127 & PPG)
- F Flooding (GEN3, 155-165, PPG & SFRA)
- G Infrastructure (GEN6 & PPG)
- H Biodiversity (GEN7, ENV8, 175 & PPG)
- I Agricultural land (ENV5 & 170)
- J Affordable housing (H9 & 63)
- K Housing mix (H10 & SHMA)
- L Housing land supply (11 & 73)

### **A Location of housing (S7, H1, 78-79 & PPG)**

- 11.1 The Local Plan places the site beyond the defined Development Limits for town and villages, and therefore in a countryside location that is inconsistent with policies S7 and H1 on the location of housing.
- 11.2 Notwithstanding the above conflict with development plan policies, the proposal accords with the more up-to-date national policy in the NPPF. Paragraphs 78-79 take a less restrictive approach compared with the Local Plan, supporting the growth of existing settlements while preventing isolated homes that could lead to sporadic development in the countryside. The site's location adjacent the built-up area of Clavering ensures its consistency with paragraphs 78-79.
- 11.3 In consideration of the location of the site in terms of its proximity to the local school and village shop with Post Office the application site is considered to be sustainable.

### **B Character and appearance (S7, GEN2, 127, 170 & PPG)**

- 11.4 As is consistent with the type of application submitted, there is no detail regarding the design of the proposed development because this would be assessed at the technical details consent stage, should this application be

granted. However, it is necessary to consider whether the location, land use and amount of development would be appropriate for the character of the area.

- 11.5 The introduction of housing to an undeveloped field would inherently have a harmful effect on the rural character of the area, in conflict with Policy S7 and paragraph 170 of the NPPF. However, it is necessary to determine the weight that should be given to such an adverse effect.
- 11.6 One mitigating factor is that the site is not in an area of designated landscape value. Furthermore, existing housing to the north and east ensures that the proposal would be compatible with the existing pattern of development. It is therefore concluded that limited weight should be given to the adverse effect on landscape character in this instance.

### **C Transport (GEN1, GEN8 & 102-111)**

- 11.7 Clavering contains a number of local services and facilities but it is acknowledged that residents of the proposed development would require a car to access most services, facilities and employment, in conflict with the sustainable transport objectives of Policy GEN1. However, paragraph 103 of the NPPF requires consideration of the differing opportunities in urban and rural areas. It is therefore concluded that the abovementioned paragraphs 78-79 provide the key policy for the location of small-scale rural housing.
- 11.8 Taking into account the comments of the highway authority, it is considered that there would be no adverse effects on road safety or capacity, in principle. A subsequent application for technical details consent would need to provide for a suitably-designed access, as well as appropriate car parking.

### **D Accessibility (GEN2, 127 & PPG)**

- 11.9 Policy GEN2 and the SPD entitled 'Accessible Homes and Playspace' require compliance with the Lifetime Homes standards. However, these standards have effectively been superseded by the optional requirements at Part M of the Building Regulations, as explained in the PPG. Compliance with these requirements could be secured at the technical details consent stage using a condition.

### **E Amenity (GEN2, 127 & PPG)**

- 11.10 Taking into account The Essex Design Guide, which represents non-adopted but useful guidance, it is considered that a development of six to eight dwellings could be accommodated in a manner that ensures suitable private amenity space provision and prevents adverse effects on neighbouring premises with respect to daylight, privacy or overbearing impacts. The Environmental Health Officer has confirmed that noise and light pollution matters could be suitably addressed at the technical details consent stage.

### **F Flooding (GEN3, 155-165, PPG & SFRA)**

- 11.11 Policy GEN3 contains the Local Plan policy for flooding, although this has effectively been superseded by the more detailed and up-to-date flood risk policies in the NPPF and the accompanying PPG. The SFRA confirms that the site is not in an area at risk of flooding and, as the proposal is not a

'major development'; national policy does not require the use of a sustainable drainage system. It is therefore concluded that the proposal would not give rise to any significant adverse effects with respect to flood risk, such that it accords with the policies in the NPPF and PPG.

- 11.12 Notwithstanding the above, it is noted that an appropriate surface water drainage scheme would need to be implemented through the Building Regulations approval process.

**G Infrastructure (GEN6 & PPG)**

- 11.13 Taking into account the nature and scale of the development, and the above consultation responses, it is considered that there would be no requirement for improvements to off-site infrastructure. It is therefore concluded that the proposal accords with Policy GEN6.

**H Biodiversity (GEN7, ENV8, 175 & PPG)**

- 11.14 The PPG confirms that impacts on protected species should not be assessed until the technical details consent stage (Paragraph: 003 Reference ID: 58-003-20190615).

**I Agricultural land (ENV5 & 170)**

- 11.15 Policy ENV5 seeks to prevent significant losses of the best and most versatile (BMV) agricultural land, and paragraph 170 of the NPPF has a similar objective. While the site is classified as Grade 2, which is regarded as BMV land, the development would not represent a significant breach of these policies because the land is small in agricultural terms and the high quality of land across the majority of the District means that some loss is inevitable due to meeting the 5 year housing land supply.

**J Affordable housing (H9 & 63)**

- 11.16 Policy H9 and its preamble form the basis for seeking affordable housing provision from new residential developments. In this case, the policy indicates that the proposal need not make a contribution.

**K Housing mix (H10 & SHMA)**

- 11.17 Policy H10 requires that small market housing comprises a significant proportion of the total number of units. However, the housing mix would be determined at the technical details consent stage.

**L Housing land supply (11 & 73)**

- 11.18 Paragraphs 11 and 73 of the NPPF describe the importance of maintaining a five-year supply of deliverable housing sites. As identified in the most recent housing trajectory document, Housing Trajectory and 5-Year Land Supply Statement 1 April 2018 (October 2018), the Council's housing land supply is currently 3.46 – 4.45 years. Subsequent updates to the NPPF and PPG in February 2019 regarding housing needs calculations indicate that the land supply is likely to be lower. Therefore, contributions towards housing land supply must be regarded as a positive effect.



## **12. CONCLUSION**

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

- A** The proposal does not accord with the development plan due to conflicts with policies on the location of housing, countryside character and sustainable transport.
- B** Notwithstanding the above, it is concluded that the proposal represents 'sustainable development' in the context of the NPPF. The tilted balance at paragraph 11 is engaged because relevant policies for the supply of housing, including the associated site allocations and Development Limits, are out of date. In this case, the limited adverse effect on countryside character would not significantly and demonstrably outweigh the benefits from the proposal's contribution towards housing land supply.
- C** Taking into account the more up-to-date nature of the NPPF with respect to the determining issues, it is considered that the lack of accordance with the development plan is overridden in this instance. Regard has been had to all other material considerations, and it is concluded that planning permission should be granted.

## **RECOMMENDATION – APPROVAL**

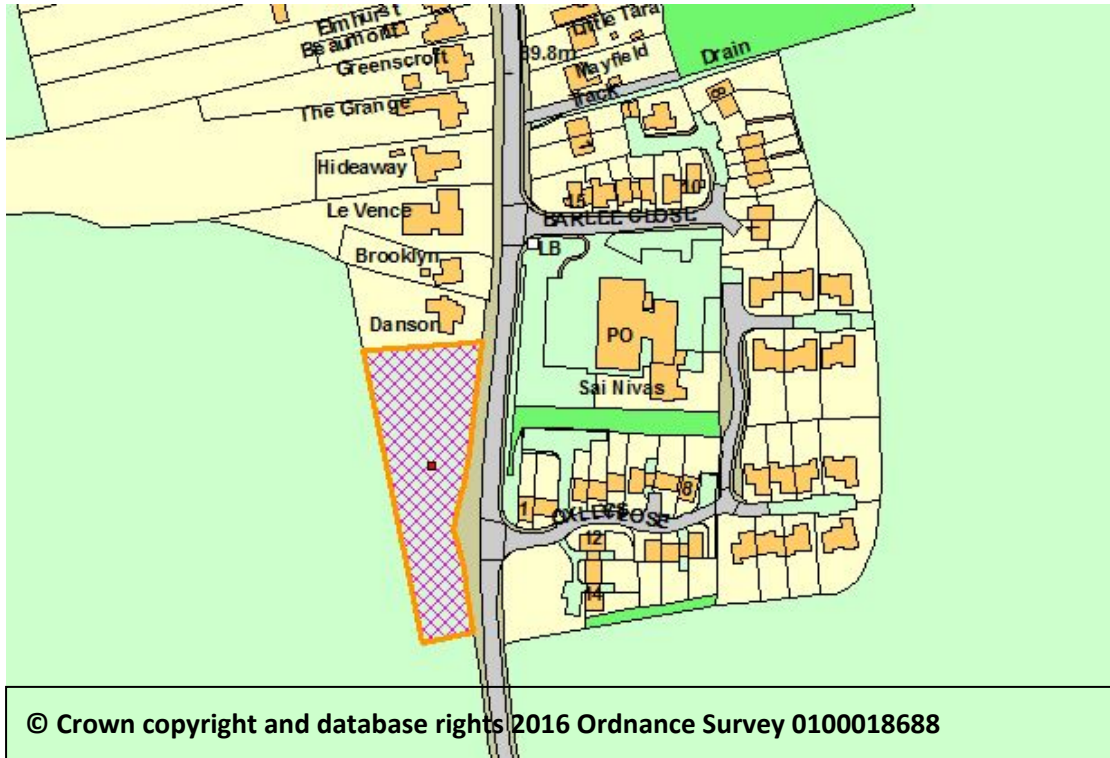
### **Conditions**

1. The development hereby permitted in principle must be begun within three years of the date of this notice.

REASON: In accordance with section 70(2ZZC) of the Town and Country Planning Act 1990 (as amended).

Application: UTT/18/3326/PIP

Address: Land West of Stortford Road, Clavering



Organisation: Uttlesford District Council

Department: Planning

Date: 08/02/2019