

UTT/18/3529/OP – FELSTED

Major application

PROPOSAL: Outline application for residential development of up to 30 no. dwellings with associated roads and infrastructure with all matters reserved except access

LOCATION: Land to the South of Braintree Road, Felsted

APPLICANT: Mr O Hookway, Go Braintree Road Ltd

AGENT: Miss K Palmer, Go Planning

EXPIRY DATE: 29 March 2019 (extension of time 28 June 2019)

CASE OFFICER: Karen Denmark

1. NOTATION

1.1 Outside development limits/adjacent conservation area/within Essex Coast RAMS Zone of Influence

2. DESCRIPTION OF SITE

2.1 The application site as outlined in red on the submitted location plan is located on the southern side of Braintree Road on the eastern edge of the village of Felsted. The site itself is irregular in shape, relatively level and comprises of approximately 2.67 hectares.

2.2 The site is vacant of any built form and remains as open grassland used for agriculture. Extensive vegetation in the form of hedgerows consisting of a mixture of shrubs and bushes along with a variety of tree species are located along the boundaries of the site. Three distinctive oak trees are located centrally within the northern half of the site.

2.3 The site currently has a single gated vehicle access point off Braintree Road that is used to provide access for farm vehicles. In addition, two public rights of way intersect the site that provides pedestrian access linking Jollyboys Lane to the west to the open countryside to the east.

2.4 Residential dwelling units that consist of a variety of different building forms, sizes and scales are located to the north of the site that front onto Braintree Road and also along the north western boundary of the site. Playing fields consisting of sports pitches and a playground are located to the south west of the site. Large fields used for agriculture are located to the south and east of the site.

3. PROPOSAL

3.1 Outline consent is sought for the erection of up to 30 dwellings with all matters reserved apart from access.

3.2 The site would have a new vehicle access onto Braintree Road approximately 30m west of the existing access which is proposed to be blocked up.

3.3 The application is accompanied by illustrative master plan (ref 2018-969-002 Rev B) which illustrates the general layout of the residential scheme that includes the principle of the road network within the site and the layout and siting of the proposed dwellings. In addition, the layout includes a local open space areas within the site and areas for an attenuation basin to contain surface water runoff set within the north eastern corner of the site.

3.4 Although design and appearance is reserved for later assessment if outline permission is granted, the applicant suggests within their planning statement that the dwelling units will be in the form of family homes ranging from 1 to 5 bedroom dwellings. It is suggested that the scale would be 1 to 2 storey development with a maximum ridge height of 9 metres. Furthermore, the applicant is prepared to enter into an agreement by way of a S106 Legal Obligation that 40% of the dwellings on site will be affordable housing.

4. APPLICANT'S CASE

4.1 The applicant has provided a Design and Access Statement and a Planning Statement of Conformity in support of a planning application to illustrate the process that has led to the development proposal, and to explain and justify the proposal in a structured way. In addition further information in relation to technical issues such as drainage and refuse strategies, heritage and contamination assessments, ecology data as well a transport and flood risk assessment to name just a few have also been submitted in support of the proposal.

4.2 The applicant considers that the proposed residential scheme would provide much needed family homes in a highly sustainable location that would not result in significant harm to the setting of the wider countryside. It is concluded that the proposal accords with policies contained within the Uttlesford District Council's Local Plan as well as the National Planning Policy Framework.

4.3 The applicant is willing to enter into a s106 Legal Obligation to secure the following mitigation measures:

- Education provision financial contribution
- Financial contribution towards visitor Management Measures at the Blackwater Estuary SPA and Ramsar site
- £250,000 contribution toward the upgrading of community amenities in accordance with Policy VA3 of the draft Felsted Neighbourhood Plan
- £1000 towards upgrading of cycle parking in Felsted village centre
- £11,500 financial contribution towards a parking management scheme for Felsted village
- Healthcare contribution if required
- Management company to maintain the SuDS

5. RELEVANT SITE HISTORY

5.1 UTT/16/0287/OP: Outline application for up to 55 dwellings, means of access and associated works, with all other matters (relating to appearance, landscaping, layout and scale) reserved. Refused and dismissed at appeal due to inappropriate form of development with a scale and layout akin to development found at Flitch Green, and the loss of best and most versatile agricultural land.

6. POLICIES

6.1 National Policies

National Planning Policy Framework

6.2 Uttlesford Local Plan (2005)

Policy S7 – The Countryside

Policy GEN1 – Access

Policy GEN2 – Design

Policy GEN3 – Flood Protection

Policy GEN4 – Good Neighbourliness

Policy GEN6 – Infrastructure Provision to Support Development

Policy GEN7 – Nature Conservation

Policy GEN8 – Vehicle Parking Standards

Policy ENV1 – Design of development within Conservation Areas

Policy ENV2 – Development effecting listed buildings

Policy ENV3 – Open Spaces & Trees

Policy ENV5 – Protection of Agricultural Land

Policy ENV8 – Other Landscape Elements of Importance for Nature Conservation

Policy H1 – Housing development

Policy H9 – Affordable Housing

Policy H10 – Housing Mix

6.3 Supplementary Planning Policy

SPD Accessible Homes & Play Space

SPD Parking Standards Design & Good Practice September 2009

SDP Uttlesford Residential Parking Standards

Essex Design Guide

Emerging Local Plan

Policy SP1 – Presumption in Favour of Sustainable Development

Policy SP2 – The Spatial Strategy 2011- 2033

Policy SP3 – The Scale and Distribution of Housing Development

Policy SP10 – Protection of the Countryside

Policy SP12 – Sustainable Development Principles

Policy H1 – Housing Density

Policy H2 – Housing Mix

Policy H6 – Affordable Housing

Policy H10 – Accessible and Adaptable Homes

Policy TA1 – Accessible Development+

Policy TA2 – Sustainable Transport

Policy TA2 – Provision of Electric Charging Points

Policy TA3 – Vehicle Parking Standards

Policy INF2 – Protection, Enhancement and Provision of Open Space, Sports Facilities and Playing Pitches

Policy INF4 – High Quality Communications Infrastructure and Superfast Broadband

Policy D1 – High Quality Design

Policy D2 – Car Parking Design

Policy D8 – Sustainable Design and Construction

Policy EN3 – Protecting the Significance of Conservation Areas

Policy EN7 – Protecting and Enhancing the Natural Environment
Policy EN10 – Minimising Flood Risk
Policy EN11 – Surface Water Flooding
Policy EN12 – Protection of Water Resources
Policy C1 – Protection of Landscape Character

7. PARISH COUNCIL COMMENTS

7.1 January 2019: The PC believe that this is a re modelling of a planning application that was recently rejected by UDC and rejected on appeal. The PC have no reason to change their opposition to this. The site is in an area where open countryside policies S7 of the existing Local Plan and SP10 of the draft Local Plan apply. There are two major sites allocated for housing within Felsted. This site is not part of the allocation of housing within the emerging Local Plan or the emerging neighbourhood Plan. Within the application there is inference that this is delivering a need within the Neighbourhood Plan of a new community hall. There has been no consultation in this regard. The Memorial Hall Committee have stated publicly that they do not wish to relocate to a new hall in this location. Access to a village hall via Jolly Boys Lane North is wholly inappropriate as this is a single track road not constructed to full highway standards. It was discussed as an option within the early Neighbourhood Plan and the drafting process rejected it in favour of leaving the hall in its current location. Although main access to the site seems acceptable, sight splays are inadequate.

Re S106 Heads of Agreement document: Under provision of community building para 3 there is a statement that financial support for this proposal will come from Felsted Community Trust. The developers have no control over the spending of money which might be held by the Trust and this aspect should therefore be removed from this application.

April 2019 (Revised Plans): A former application albeit larger was refused on appeal and again on judicial review. Although we acknowledge that this is a scaled down version the same principles apply. The site is in an area where open countryside policies S7 of the existing Local Plan and SP10 of the draft Local Plan apply. There are two major sites allocated for housing within Felsted. This site is not part of the allocation of housing within the emerging Local Plan or the emerging Neighbourhood Plan. For the integrity for both of these processes this application should be refused. The accumulating effect for education provision for all of the recent applications cannot be met by the current education facilities and the PC question how this can be allowed.

8. CONSULTATIONS

ECC Flood and Water Management:

8.1 4 January 2019: Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, we wish to issue a holding objection to the granting of planning permission based on the following:

- Since your pre-app the climate change allowance required for developments with the lifespan of 2060-2115 (i.e. residential developments) has increased to 40%. Therefore, an allowance for 40% climate change is required.
- In any storage calculations, we would also want to see 'urban creep' included in line with Document 'BS 8582:2013 Code of practice for surface water management

for development sites' which states: "To allow for future urban expansion within the development (urban creep), an increase in paved surface area of 10% should be used, unless this would produce a percentage impermeability greater than 100%, or unless specified differently by the drainage approval body or planning authority" (page 32).

• As stated in the Ciria SuDS manual, sediments should be removed as high up the treatment train as possible. Therefore, further treatment stages should be provided close to the initial point of rainfall to reduce the chances of sedimentation build up.

14 January 2019: Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, we would not that no additional information has been provided to address the points raised previously. Therefore our previous recommendation of a holding objection remains.

24 June 2019: Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, we wish to issue a do not object to the granting of planning permission subject to conditions.

ECC Highways:

- 8.2 February 2019: We have concerns in highway terms about the proposed vehicular access onto the Public Right of Way Jolly Boys Lane for the community hall. We would not want additional traffic on the byway which is not designed or maintained to take high vehicular traffic. Additional traffic may not only be attracted from the north – a single track road but also from the south which does not have a surface appropriate for additional vehicles. There are private rights over it and it is not owned by ECC so undertaking any resurfacing required could be challenging from a legal point of view.

We did not object on highway grounds to the previous application however that had only walking and cycling access onto Jolly Boys Lane, if this application took a similar approach we would be more positive towards it.

10 June 2019: In terms of highways and transportation this application has been reviewed in reference to National Plan Policy Framework 2019 and in particular paragraph 108 which identifies three key aspects of any development, sustainable transport links, safe and suitable access and highway capacity and safety. Site visits were undertaken at the proposed location and within the village as part of the review.

The original 2018 proposal has been changed so that no vehicular access is taken onto Jollyboys Lane to which is a Public Right of Way. Mitigation has been put forward in the form of a footway to the nearest bus stop; a contribution to a parking management or enforcement scheme to be agreed by NEPP and Essex Highways; a contribution to cycle parking within the village centre and appropriate treatment of public rights of way within the development. Therefore, from a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to mitigation and conditions.

ECC Education:

- 8.3 No objection – Essex County Council request that any permission for this development be granted subject to a S106 agreement to mitigate its impact on education. Should the final development result in the suggested unit mix, the following contribution would be payable;

The early years and childcare contribution would be £47,039.

The primary education contribution would be £137,529.

Total sum of £184,668

ECC Historic Environment officer:

- 8.4 No objection - subject to conditions in relation that an Archaeological Programme of Trial Trenching followed by Open Area Excavation is undertaken prior to any works commencing on site.

ECC Ecology Advice:

- 8.5 No objection subject to securing
a) Appropriate financial contribution for visitor management measures at the Blackwater Estuary SPA and Ramsar site and
b) Biodiversity mitigation and enhancement measures.

Anglian Water:

- 8.8 No objection - The foul drainage from this development is in the catchment of Felsted Water Recycling Centre which currently does not have capacity to treat the flows the development site. Anglian Water are obligated to accept the foul flows from the development with the benefit of planning consent and would therefore take the necessary steps to ensure that there is sufficient treatment capacity should the Planning Authority grant planning permission.

From the details submitted to support the planning application the proposed method of surface water management does not relate to Anglian Water operated assets. As such, we are unable to provide comments on the suitability of the surface water management. The Local Planning Authority should seek the advice of the Lead Local Flood Authority or the Internal Drainage Board. The Environment Agency should be consulted if the drainage system directly or indirectly involves the discharge of water into a watercourse.

London Stansted Airport Safeguarding

- 8.6 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.

Environmental Health Officer

- 8.7 This planning application seeking outline planning consent for the erection of up to 30 dwellings together with a community building (village hall). It is a revised scheme to one that was submitted under UTT/16/0287/OP for the construction of 55 dwellings on site. The previous application was refused at both the application stage and on appeal.

The applicants have submitted a noise impact assessment report and a Phase 1 Contaminated Land Desk Top Study Report. An Air Quality Impact Assessment was submitted with the original 2016 application, but has not been submitted with this application, presumably because of the reduced number of dwellings proposed for

the site. Both the noise impact assessment and Phase 1 reports are the original reports prepared and submitted in support of the original 2016 application. The site is currently an agricultural field situated to the south of Braintree Road in Felsted. There are existing residential properties to the north and west of the site, whilst the southern and eastern boundaries adjoin further agricultural fields. There are a number of sports pitches and a floodlit Multi-Use Games Area to the south-eastern boundary of the site.

The current proposal differs from the previous scheme which was purely residential in nature. The current proposed development includes the construction of a community building (village hall) to the rear of the site. The new village hall would be accessed via the existing Jollyboys Lane North. This is an existing residential road and cul-de-sac. The proposed village hall is a potential noise source that has not been taken into account in the noise assessment that is based on the original (and refused) planning application for residential dwellings. The introduction of the village hall with car park is likely to increase road traffic using Jollyboys Lane, including evening and weekend trips depending on the activities undertaken at the village hall. This will increase noise from traffic on this route and may therefore impact on the amenity of existing residents on that road. The extent of this impact should be assessed as part of an updated and robust noise assessment for the development as now proposed. Furthermore, depending on the events held at the hall, noise from people using the car park in the evenings and at weekends, and also from the hall itself, could impact on those residents closest to the proposed hall site, including new dwellings proposed for the rear of the site. These potential noise impacts have not been considered and assessed as the noise assessment for the site has not been updated to take account of the proposed changes to the development.

In view of the above, I am unable to support this application as presently submitted as the noise assessment is out of date and no longer relevant to the development of the site as proposed. I must therefore object to the development as presently submitted.

If you are minded to approve the application then conditions should be imposed relating to noise mitigation measures.

Housing Enabling Officer

- 8.10 The delivery of affordable housing is one of the Councils' corporate priorities and will be negotiated on all sites for housing. The Councils policy requires 40% on all schemes over 0.5 ha or 15 or more units.

The affordable housing provision on this site will attract the 40% policy requirement as the site is for 30 (net) units. This amounts to 12 affordable housing units and it is expected that these properties will be delivered by one of the Council's preferred Registered Providers.

It is also the Councils' policy to require 5% being wheelchair accessible as well as 5% of all units to be bungalows delivered as 1 and 2 bedroom units. This would amount to 2 bungalows across the whole site delivered as 1 affordable units and 1 for open market.

The mix and tenure split of the properties are given below; this mix should be indistinguishable from the market housing, in clusters of no more than 10 with good integration within the scheme and be predominately houses with parking spaces.

SMHAA 2015 Figures	South of Braintree Rd, Felsted UTT/18/3529/OP				
	1 bed	2 bed	3 bed	4 bed	Totals
Affordable Rent	1	4	3	1	9
Shared Ownership	0	2	1	0	3
Grand Total	1	6	4	1	12

Crime Prevention Officer

- 8.11 It would appear that the housing towards the south of the development is devoid of any boundary to the proposed village hall and car park. We have concerns that this may provide a crime or ASB opportunity to the adjacent housing. It is noted that there is a footpath halfway up the development into the village which would provide sufficient permeability. To comment further we would require the finer detail such as the proposed lighting, boundary treatments and physical security measures.

We would welcome the opportunity to consult on this development to assist the developer with their obligation under this policy and to assist with compliance of Approved Document "Q" at the same time as achieving a Secured by Design award.

From experience pre-planning consultation is always preferable in order that security, landscaping and lighting considerations for the benefit of the intended residents and those neighbouring the development are agreed prior to a planning application.

9. REPRESENTATIONS

- 9.1 The application has been advertised and 82 letters of representation have been received in respect of the original plans raising the following points.

- The proposal due to the increase number of vehicles would result in additional traffic congestion on surrounding highways that would be detrimental to highway safety.
- There is a lack of vehicle parking in the village centre. The proposal would add to this problem.
- It would consist of a poor access especially at school pick up and drop off times.
- Access to this site is on a bend where many cars already exceed the speed limit. There's an increased risk of accidents with additional traffic and a turning to this site.
- The proposal would result in a loss of green space.
- The proposed development would be visually intrusive.
- The development would be out of character in context to the village.
- The unique character of Felsted as a rural village will be spoilt.
- The proposal would be detrimental to the character and openness of the countryside.
- The proposed development would result in significant increased pressures upon local amenities such as schools and the doctor's surgery.

- The proposed development would result in increase pressure upon the local sewage and water network.
- Other housing developments within the surrounding locality have not been taken into consideration in terms of the cumulative effect on local pressures.
- The land is rated as good to very good agricultural land and thereby should be protected and free of development.
- The proposed development would result in increased noise and light pollution during and after construction.
- The proposal would have a detrimental impact to local wildlife, biodiversity and ecology.
- The proposal would result in a harmful impact to the amenities of adjoining occupiers in relation to loss of privacy.
- There is no requirement for another community hall. Existing hall is to be refurbished

9.2 The application was readvertised following the receipt of revised plans and 23 letters of representation have been received raising the following points.

- Reiterate previous concerns
- Financial contributions are a softener
- Essex Coast Mitigation doesn't mitigate impacts on Felsted

9.3 A letter from the Neighbourhood Plan Steering Group has been received raising the following points:

Not supported by Felsted Neighbourhood Plan or Local Plan
 Previous application refused and dismissed at appeal
 Village Hall is not consistent with aims of Felsted Neighbourhood Plan
 Neighbourhood Plan is at an advanced stage and ready for submission for examination

The objectives set out in the Neighbourhood Plan are the consequence of four years of community consultation. The Policies within it are intended to enhance and strengthen the long-term sustainability of our Parish, whilst also recognising the obligation we have to support the level of development required by UDC. This planning application for 30 houses is, in our view, neither needed to meet that requirement nor sustainable. If approved, it would have a damaging impact on the future growth and security of the facilities and amenities that support our community.

Under the Regulation 19 UDC Draft Local Plan Felsted is given a housing requirement: our Neighbourhood Plan allocates sites to reflect this. We have worked hard with land owners and their representatives to determine a strategic plan. The Plan delivers the necessary dwellings that UDC require and also delivers vital long-term benefits for our community through the provision of a larger Doctors' Surgery (wholly supported via our Neighbourhood Plan by the NHS West Essex Clinical Commissioning Group), and car parking and pick up / drop off facilities for our primary school, in addition to many policies to protect and enhance our environment.

As our Plan is shortly to be submitted for Examination it should carry "significant weight" in this application. Allowing this application would threaten the integrity of the Neighbourhood Planning principles of "localism".

The 2018 NPPF refers to Neighbourhood Plans in relation to the consideration of the Presumption in Favour of Sustainable Development. Paragraph 14 states

"permission should not usually be granted in situations where such an approval fails to protect assets of particular importance". It continues, "the Framework provides a clear reason for refusing development, where any adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole". Paragraph 12 states "Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted".

The NPPF confirms in paragraph 14(b) that these provisions apply in the consideration of "The presumption in favour of sustainable development" only where "the neighbourhood plan contains policies and allocations to meet its identified housing requirement". The Felsted Neighbourhood Plan does exactly that. Felsted has and will continue to contribute around three times the expected dwelling numbers for a "type A" village within Uttlesford as identified in Regulation 19 of the UDC Draft Local Plan. However, Parishioners are being pushed to their limit of tolerance for unwanted developments which fail to contribute positively to the future sustainability of our community. If these further 30 dwellings, outside the planning envelope in open countryside, are approved, increasing our housing number by around 50%, there is every likelihood that the residents of Felsted will resolve that accepting a further 63 "enabling" dwellings is a step too far and, as a consequence, they will refuse to support the Plan at referendum resulting in the loss of vital amenities.

A great deal of community time and effort has been invested in the preparation of the NP. Allowing this application, not supported by either our Neighbourhood Plan or the UDC draft Local Plan would undermine confidence in the planning process which forms part of the social dimension of sustainability and which, the NPPF in paragraph 8 advises, includes supporting strong, vibrant communities.

9.4 May 2019: I write as Chair of the Felsted Neighbourhood Plan Steering Group to advise that our Neighbourhood Plan was submitted to Uttlesford District Council (UDC) for formal Examination on Monday 13th May, 2019. I appreciate that the official Standard Consultation Expiry Date has passed but would nevertheless ask that you consider the increased Material Weight of our Plan having been submitted for Examination, during your deliberation.

Our Plan, strategically developed following extensive community consultation, which "contains policies and allocations to meet its identified housing requirement" and which is therefore "genuinely plan-led" has now been submitted under Regulation 15 and therefore carries increased "material weight", particularly with regard to NPPF paragraph's 11-14, as UDC are able to demonstrate a housing supply in excess of 3 years.

As detailed in our formal submission to this application submitted on January 24th, the Felsted Neighbourhood Plan does not support this site but does allocate two other sites which deliver the number of dwellings to reflect allocations for Felsted in the emerging Local Plan.

10. APPRAISAL

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

A The principle of development of this site for residential development (ULP

- Policies S7, GEN2 and NPPF)**
- B Loss of Agricultural Land (ULP Policy ENV5 and the NPPF).**
- C Visual Impact and Impact upon the Countryside. (ULP Policy S7 & GEN2, and NPPF)**
- D Access to the site and highway issues (ULP Policies GEN1, GEN8 and NPPF)**
- E Mix of Housing and Affordable Housing (ULP Policies H9, H10 and NPPF)**
- F Landscaping and open space (NPPF, Local policy GEN2)**
- G Biodiversity and Protection of Natural Environment (ULP Policies GEN7, GEN2 ENV7, ENV8 and NPPF)**
- H Drainage and Flood Risk (ULP Policies GEN3, GEN6 and NPPF)**
- I Residential Amenity (ULP Policies GEN2, GEN4, ENV11 and NPPF)**
- J Infrastructure provision to support the development (ULP Policy GEN6 and the NPPF)**
- A The principle of development of this site for residential development (ULP Policies S7, GEN2 and NPPF)**

- 10.1 The application site consists of a modest area of land approximately 2.7 hectares in size located within the open countryside on the edge of Felsted. The site is outside the development limits of Felsted as defined by the Proposals Map and is therefore located within the countryside where ULP Policy S7 applies. This specifies that the countryside will be protected for its own sake and planning permission will only be given for development that needs to take place there or is appropriate to a rural area. Development will only be permitted if its appearance protects or enhances the particular character of the part of the countryside within which it is set or there are special reasons why the development in the form proposed needs to be there.
- 10.2 The Council has carried out a review of the adopted policies and their compatibility with the NPPF. The Review found Policy S7 to be partly consistent with the NPPF in that the protection and enhancement of the natural environment is an important part of the environmental dimension of sustainable development but that the NPPF takes a positive approach, rather than a protective one. As a consequence, whilst Policy S7 is still relevant to the consideration of this application, there remains a presumption in favour of sustainable development as set out in Paragraph 14 of the NPPF. It should be noted that the Secretary of State has previously given significant weight to Policy S7, and Inspectors consistently give it moderate weight.
- 10.3 Paragraph 11 of the NPPF confirms that housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. The latest trajectory indicates that the Council can demonstrate a 3.29 year land supply with a 147% delivery rate over the past 3 years.
- 10.4 Paragraph 14 of the NPPF refers to development having conflict with a neighbourhood plan. It states that the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits when **ALL** the following apply:
- a) The neighbourhood plan became part of the development plan two years or less before the date on which the decision is made;
 - b) The neighbourhood plan contains policies and allocations to meet its identified housing requirement

- c) The local planning authority has at least a 3 year supply of deliverable housing sites
- d) The local planning authority's housing delivery was at least 45% of that required over the previous three years.

- 10.5 A large proportion of the representations make reference to the Felsted Neighbourhood Plan and two letters have been received from the Steering Group. It is acknowledged that the Neighbourhood Plan has been submitted for Examination and that it makes allocations for housing. However, it is not currently part of the development plan and still has several stages to go through, including a referendum. Therefore, all of the criteria set out in paragraph 14 of the NPPF do not apply and the presumption in favour of sustainable development in paragraph 11 applies.
- 10.6 When considering the same issue for development at Maranello the Inspector stated:
- "I appreciate that local residents have been working for a prolonged period on the FNP and that there are concerns that the cumulative impact of the recently approved and proposed developments could jeopardise gaining approval for the FNP at referendum. Nevertheless, there is little evidence before me to indicate that the cumulative effect would be so significant, that to grant permission would undermine the plan-making process.*
- Whilst the site is currently not allocated for proposed housing and would be in conflict with the emerging FNP Policy HN5 I have little evidence as to whether there are or would be any objections to the allocations or that policy. Nonetheless, with regard to paragraph 48 of the Framework whilst the FNP is at a fairly advanced stage it is yet to be publicised by the Council and has not been examined or put to referendum. As such, I give the conflict with this policy moderate weight."*
- 10.7 Similarly, in respect of the appeal at Land adjacent to Clifford Smith Drive, the Inspector stated:
- "I recognise the effort and time that has been invested in the preparation of the FNP, the response by statutory consultees, that vocal support may have been given for the FNP by Council members as well as other concerns including that the progress of the FNP would be undermined by approval of the scheme. I also note that submission of the draft FNP for Final Examination has been delayed by issues relating to Natural England. However, since the FNP has not been approved at referendum and that there is no certainty that it would be brought into force in its current form, I attribute it only limited weight."*
- 10.8 The Felsted Neighbourhood Plan has been submitted and a Regulation 16 consultation period is being undertaken, running from 12 June to 24 July 2019. As such, the FNP still has to be considered at Examination and to pass a referendum. Like the Inspector at the Clifford Smith Drive appeal I give the FNP limited weight.
- 10.9 Paragraph 11 of the NPPF sets out the three dimensions of sustainable development as being economic, social and environmental and a key consideration therefore is whether the proposed application satisfies these three roles. The NPPF specifically states that these roles should not be undertaken in isolation, because they are mutually dependent. To achieve sustainable development economic, social and environmental gains should be sought jointly and

simultaneously. It is therefore necessary to consider these three principles.

- 10.10 Economic Role: The NPPF requires that development should contribute to building a strong, responsive and competitive economy by ensuring, amongst other things, that sufficient land of the right type is available in the right places and at the right time to support growth and innovation.
- 10.11 The application site is located beyond the defined boundaries of the village settlement and is not currently identified for development. The proposal put forward for assessment represents a very significant scale of residential development in relation to the existing settlement as a whole. Any new development of this type should function as part of the settlement of Felsted and the area as a whole where most facilities, services and employment will be found.
- 10.12 The village of Felsted has a reasonable amount of local amenities and services to facilitate the needs of its local residents that includes schools, public houses, shops, a church, doctors surgery, a community building and a restaurant to name just few.
- 10.13 As such it is regarded that the application site would not be significantly divorced or isolated and that it would be capable of accommodating the development proposed in that it could be planned in a comprehensive and inclusive manner in relation to the settlement of Felsted.
- 10.14 The proposal itself would bring economic benefits to the settlement of Felsted supporting local services and amenities such as the local public houses, shops and restaurants as a result of the future occupiers of the development. In addition the proposal would provide some positive economic contribution during the construction process of the development.
- 10.15 Although it is noted that there are limited opportunities for employment within the village, it is regarded that the application site has reasonable connectivity to larger nearby towns by way of public transport such as Braintree, Great Dunmow, and Chelmsford further beyond. As such the proposal would also help contribute in providing economic support to the wider surrounding area.
- 10.16 As a result, the development provides a positive economic approach that satisfies the economic dimension of sustainability in the NPPF.
- 10.17 Social Role: The NPPF identifies this as supplying required housing and creating high quality built environment with accessible local services that reflect the community's needs and support its health, social and cultural well-being.
- 10.18 The proposal would include the erection of up to 30 dwellings with ancillary infrastructure. It would be capable of providing some of the day to day needs for future occupiers and there is no reason in why the built environment should not be high quality as required by the Framework, but this would be subject to later consideration under a reserved matters application.
- 10.19 The application site is approximately 600m from the village centre in where most of the local amenities and facilities are. With the proposed extension of the existing footpath to the sites entrance along the southern side of Braintree Road along with access to nearby bus stops, it is considered that although the application site is on the edge of the village, it would form an inclusive development that would provide convenient access to the local services within Felsted and to the wider surrounding

area.

- 10.20 Future occupiers could rely on the village to provide most of their day to day needs such as health, social and cultural well-being as well as shopping ensuring and promoting the village as an appropriate mixed and well balanced community.
- 10.21 It is considered that the proposed development has been designed to ensure access gives priority to sustainable transport options such as walking, cycling and public transport which thereby reduces the need and reliance on private cars.
- 10.22 The proposal would make a contribution towards the delivery of the housing needed for the district, including provision of affordable housing, and housing designed to be accessible as per Part M of the Building Regulations.
- 10.23 As a result, the development provides a positive approach that satisfies the social dimension of sustainability in the NPPF.
- 10.24 Environmental Role: The NPPF identifies this as contributing to protecting and enhancing our natural, built and historic environment, including, inter alia, improvements to biodiversity and minimising waste.
- 10.25 The application site is a modest size plot of open land in the countryside in which part of it backs onto a conservation area. It is recognised that the proposal would have some limited impacts as it would result in the encroachment of built form into the open countryside. The applicant recognises this and as part of the proposal, the development is to incorporate measures to safeguard and mitigate where possible to enhance the environment in and around the site. Some of these measures include enhancing biodiversity, safeguarding existing trees and hedges and providing reinforced planting along the boundaries, provide sustainable drainage systems, and to retain and enhance the public rights of way through the site. Emerging local policy together with national policy can ensure that the dwellings will include sustainability measures including electric vehicle charging points, which can be secured by way of a condition.
- 10.26 The previous application was dismissed at appeal due to the density and layout of the proposals. The previous scheme related to a density of about 20.4 dwellings per hectare and this revised proposal relates to about 12 dwellings per hectare. The previous density amounted to what the Inspector referred to as an “urban form akin to that found at Fritch Green, with a clustered form, rather than the ribbon/short spur feature which is characteristic of the settlement of Felsted of which the appeal site directly abuts on its eastern edge”.
- 10.27 The current scheme still retains the single point of access but now the indicative drawings indicate dwellings in relatively large plots loosely clustered around short private drives. Whilst layout is a reserved matter, the indicative layout plan shows that a more sensitive and appropriate form of development can now be achieved given the lower density proposed. By comparison, the Maranello development recently allowed at appeal was 18.6 dwellings per hectare, and the Clifford Smith Drive development was 17.6 dwellings per hectare.
- 10.28 The second area of concern in respect of environmental impacts in relation to the previous scheme was the impacts on the setting of the adjacent conservation area. The Inspector considered this and concluded that the proposal would not result in harm or loss to the significance of the designated heritage asset in the form of the Felsted Conservation Area. Given the reduction in density of this scheme it is

considered that this proposal would also not result in harm or loss to the significance of the Conservation Area.

- 10.29 Similar issues were raised during the previous appeal in respect of impacts on adjacent listed buildings. Again, the Inspector did not find that the proposal would have any adverse impact on the setting of nearby listed buildings. This scheme would also not result in harm to the heritage assets.
- 10.30 The scheme would help to fulfil the three principles of sustainable development. As such the proposals would comply with the positive stance towards sustainable development in this respect as set out in the NPPF and the presumption in favour of approval, unless material considerations indicate otherwise. I attach significant weight to this and consider that the more recent national policy set out in the NPPF should take precedence over Policy S7 of the Local Plan.
- 10.31 In consideration of the above the development is sustainable development and the principle of the proposal is acceptable in this context.

B. Loss of Agricultural Land (ULP Policy ENV5 and the NPPF).

- 10.32 Paragraph 170 of The Framework states that *“Planning policies and decisions should contribute to and enhance the natural and local environment by: b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;...”*
- 10.33 Footnote 53 states that *“where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality.”*
- 10.34 Annex 2 of The Framework defines *“best and most versatile agricultural land”* as *“land in grades 1, 2, and 3a of the Agricultural Land Classification”*.
- 10.35 Policy ENV5 states that where agricultural land is required, developers should seek to use areas of poorer quality except where other sustainability considerations suggest otherwise.
- 10.36 Most of the agricultural land within Uttlesford District is classified as best and most versatile land. Indeed, most of the sites that are being identified for development within the emerging Local Plan are on such land. The Council accepts that it is inevitable that future development will probably have to use such land as the supply of brownfield land within the district is very restricted. Virtually all the agricultural land within the district is classified as Grade 2 or 3.
- 10.37 This is an area where there has been inconsistency in approach by Members and the Inspector in respect of the appeal on this site. In this instance Members overturned the previous officer’s recommendation for approval and refused the application on the basis that it impacted on Best and Most Versatile Agricultural Land (BMVAL). A similar approach has not been taken in respect of other officer overturns, including land at Clifford Smith Drive and Maranello, both in Felsted.
- 10.38 There are no defined thresholds for “significant” in terms of BMVAL. Consultation with Natural England is only required for developments exceeding 20 hectares and this site obviously falls below that threshold.

- 10.39 In the appeal on this site it was the Council's argument that the development would result in the complete loss of the agricultural field and thus represented a significant development. The Inspector accepted this argument and concluded that the proposal was contrary to Policy ENV5 and paragraph 112 of the NPPF (now replaced by paragraph 170).
- 10.40 As stated above, the Council has taken an inconsistent approach in respect of this matter. Other appeals have argued that the loss of agricultural land is accepted due to the fact that there are insufficient brownfield sites in the District to meet the housing needs. As already stated, the majority of the allocations in the emerging Local Plan are on agricultural land of Grade 2 or 3.
- 10.41 In relation to the proposed development of 600 to 700 houses and accompanying commercial development on land at Easton Park (appeal dismissed), the Secretary of State found as follows:
- "The Secretary of State agrees with the Inspector at IR15.47 that the scheme would mean the loss of a certain amount of BMV land to provide housing, other buildings, infrastructure and the landscaping buffer contrary to policy ENV5. The Secretary of State agrees with the Inspector that the loss of BMV agricultural land weighs against the proposal, and he affords this limited weight as much of the land around is within the BMV categories and it would be difficult to not to use high grade land if further housing is to be built on greenfield land in the district."*
- 10.42 Similarly, in respect of a proposal for 800 houses in Elsenham/Henham/Ugley (appeal dismissed) the Secretary of State found as follows:
- "The Secretary of State agrees with the Inspector for the reasons given at IR 15.70 that the loss of BMV land caused by the development would be contrary to LP policy ENV5 and this weighs against the proposal. He gives limited weight to harm through the loss of BMV agricultural land and to conflict with LP Policy ENV5 as there are no substantial areas of lower grade land close to existing settlements in Uttlesford."*
- 10.43 On this basis, it is considered irrational to uphold the Inspector's findings in relation to the previous appeal on this site. It is agreed that the proposal would result in the loss of BMVAL and that this would be contrary to policy. However, this would need to attract limited weight due to the lack of lower grade agricultural land in the district and the lack of brownfield sites. The loss of BMVAL therefore needs to be considered in the context of the sustainability considerations of the proposals. As discussed above, it is considered that the proposals deliver benefits that result in a sustainable form of development and this would outweigh the limited harm arising from the loss of BMVAL.
- C. Visual Impact and Impact upon the Countryside. (ULP Policy S7 & GEN2, and NPPF)**
- 10.44 Policy GEN2 seeks to ensure that development will be of an appropriate design and mitigates any potential harm. Paragraph 170 of the NPPF confirms that planning should recognise *'the intrinsic character and beauty of the countryside'* and the impact of development on the countryside is an accepted and material consideration.
- 10.45 A landscape and visual appraisal was submitted in support of the application. The

assessment indicates that the application site is generally well contained although views are obtained from a number of properties, PROWs and roads in the immediate vicinity and from more distant areas occupying elevated topography to the east.

- 10.46 The assessment confirms that the proposed development has been shaped, in part, by the findings of the Landscape and Visual Assessment and this has informed the proposed layout of the residential areas as well as the extent and arrangement of open space.
- 10.47 The assessment sets out a number of strategic objectives for the landscape treatment of the application site, including the retention of existing landscape features and reinforcing elements where required to help provide additional natural screening. Furthermore it is stated that the proposal would enhance opportunities for recreation and habitat connectivity throughout the application site as well as providing a network of green infrastructure.
- 10.48 Although the application is for outline consent with matters of layout, scale, appearance and landscaping to be considered at the reserved matters stage, the illustrative masterplan demonstrates how the site could be developed.
- 10.49 The master plan indicates that the general highway layout of the site would consist of a singular vehicle access point of Braintree Road with the single adopted highway running in a north south direction with individual private drives serving a small number of houses flowing off it. The residential units would front onto the internal highways and onto Braintree Road itself with overall density of the site expected to be approximately 12.6 dwellings per hectare.
- 10.50 It is acknowledged that the proposed development would erode into the open countryside however given the location of the site on the edge of settlement boundary, backing onto existing residential gardens, and the nature and character of the proposal, the site itself and its wider setting, it is considered that the proposal would only result in limited harm in terms of the visual impact as a whole on the character and appearance of this part of the countryside.
- 10.51 Weight has also been given in relation to the proposed mitigation measures in which the applicant suggests that in addition to other benefits, reinforced landscaping would help mitigate the impact of the development upon the wider countryside. However it is noted that even with the retention of the existing vegetation and the proposed reinforced measures, the proposal would still be largely seen from a number of public vantage points. Nevertheless, it is considered that views towards the development would be predominantly seen in context of with the settlement itself rather than resulting in significant visual and landscape impacts to the wider countryside.
- 10.52 It is acknowledged that the proposal would alter the character of the site from agriculture land on the settlement edge of Felsted to urban as a result of the proposed development. However, it is considered that on balance, although the proposal would extend into the open countryside the benefits of the development particular that of supplying much needed housing within the district and maintaining a rolling 5 year housing supply amongst other things within a sustainable location would outweigh the limited harm it would have upon the open countryside.

D. Access to the site and highway issues (ULP Policies GEN1, GEN8 and NPPF)

- 10.53 Key to local concerns, and raised during the course of the public consultation was the effect in which the proposed development would have upon highway safety due to the increase amount of traffic movements to and from the site resulting in unwanted traffic congestion on the surrounding highway networks and junctions.
- 10.54 Policy GEN1 of the Local Plan requires developments to be designed so that they do not have unacceptable impacts upon the existing road network, that they must not compromise road safety and to take account of cyclists, pedestrians, public transport users, horse riders and people whose mobility is impaired and also encourage movement by means other than the car.
- 10.55 The application includes details of the proposed access to the site for approval at this stage. This single vehicle access point off Braintree Road allows a primary movement corridor through the site.
- 10.56 The application was accompanied by a Transport Assessment which concluded that the development would not adversely affect highway safety of the free flow of traffic on the local road network. Consequently the proposal would not have an unacceptable transport impact on the highway network.
- 10.57 The application was consulted to Essex County Council Highways who made the following comments:
- 10.58 *“The original 2018 proposal has been changed so that no vehicular access is taken onto Jollyboys Lane to which is a Public Right of Way. Mitigation has been put forward in the form of a footway to the nearest bus stop; a contribution to a parking management or enforcement scheme to be agreed by NEPP and Essex Highways; a contribution to cycle parking within the village centre and appropriate treatment of public rights of way within in the development.”*
- 10.59 Based on the information submitted with the application, the application is considered to be appropriate in terms of highway impacts and no objections are raised by the Highway Authority subject to conditions.
- 10.60 The following financial contributions are sought from Essex County Council by way of a S106 Agreement to help mitigate highway issues:
- £1,538 (index linked) to contribute towards the upgrade cycle parking in the village centre;
 - £11,788 to fund elements of the scheme in principle of drawing number 17227-4 or such schemes and/or enforcement as approved by the Highways Authority and NEPP to provide benefit in terms of safety and congestion relief in the village.
- 10.61 Given that County have raised no objection and subsequent to the above financial contributions being sought as well as imposing relevant planning conditions, it is considered that the amount of traffic generated from the development could be accommodated and that there would be little impact upon the traffic flow on the surrounding highway network and particularly that along Braintree Road.
- 10.62 In terms of the new access itself, it is regarded that there would not be a detrimental impact upon highway safety.
- 10.63 As part of the proposed development, the existing footpath along the southern side

of Braintree Road would be extended to link up to the site's entrance and slightly beyond with the intention of providing a safe convenient pedestrian access into the village centre of Felsted and to the nearby bus stop on the junction of Jollyboys Lane. This would help encourage movement by other means than a car from the site and be beneficial in that it would help ensure and take into account the needs of cyclists, pedestrians or people who are mobility impaired to gain access into the village of Felsted and beyond.

- 10.64 There are two Public Rights of Way (PROW) within the site (shown on drawing number 2018-969-002B). PROW 48 and 110 intersect the site in a west east direction that link Jollyboys Lane to the west and the open countryside to the east.
- 10.65 The previous application on this site did not clearly demonstrate how the PROWs within the site would be treated as part of the development. This scheme clearly indicates the PROWs and shows them to be widened to 3m and accommodated within the scheme. The road layout has been designed around the routes of the PROWs with the indicative drawings indicating houses overlooking the paths thus ensuring natural surveillance in these areas.
- 10.66 The proposed vehicle access is deemed acceptable and that the proposed development would cause no harm to matters of highway safety. The development accords with the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011 and Uttlesford Local Plan Policy GEN1.

E Dwelling mix and Affordable Housing provisions (NPPF, Local Polies H9 & H10)

- 10.67 In accordance with Policy H9 of the Local Plan, the Council has adopted a housing strategy which sets out Councils approach to housing provisions. The Council commissioned a Strategic Housing Market Assessment (SHMA) which identified the need for affordable housing market type and tenure across the District. Section 5 of the Framework requires that developments deliver a wide choice of high quality homes, including affordable homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities.
- 10.68 The applicants have also confirmed that the mix and location of the units would be agreed at the reserved matters stage but at this stage it is envisaged that the development would provide a mix of 1 to 5 bedroom units, made up of 18 market houses and 12 affordable dwelling units.
- 10.69 ULP Policy H10 requires that developments of 3 or more dwellings should provide a significant proportion of small 2 and 3 bedroom market dwellings. However, since the policy was adopted, the Strategic Housing Market Assessment (SHMA) has identified that the market housing need is generally for dwellings with three or more bedrooms. The Council's stance is that this should equate to approximately 50% of the dwellings
- 10.70 This is a material consideration because the SHMA constitutes supporting evidence for the Local Plan, which itself requires the housing mix requirements in the SHMA to be met in order to achieve compliance with Policy H10. No details have been given in the application as to how many dwellings of each size would be provided and this would be a reserved matter. However, a mix of 1-5 bedroom units would, in principle, comply with the requirements of Policy H10.

- 10.71 It is not known whether there is any provision for elderly person bungalows on the site however it is mindful that at least 5% of the dwelling units should be bungalows, and this can be secured by condition.
- 10.72 The final design and size of units would be determined at the reserved matters stage and it is considered that, subject to the above in respect of bungalow provision and an appropriate mix of affordable units, the application is capable of providing an acceptable mix of dwellings. As such the application complies with Policies H9 and H10 of the Local Plan and the requirements of the NPPF.

F Biodiversity and Protection of Natural Environment (ULP Policies GEN7, GEN2 and ENV7 and ENV8)

- 10.73 Existing ecology and natural habitats found on the site must be safeguarded and enhanced and new opportunities for increasing the biodiversity should be explored. Policy GEN2 of the Local Plan applies a general requirement that development safeguards important environmental features in its setting whilst Policy GEN7 seeks to protect wildlife, particularly protected species and requires the potential impacts of the development to be mitigated.
- 10.74 Paragraph 98 of Circular 06/05 states *'that presence of a protected species is a material consideration when a planning authority is considering a development proposal that, if carried out, would likely to result in harm to the species or its habitat'*. Furthermore, the NPPF states that *'the planning system should contribute to and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains in biodiversity where possible'*.
- 10.75 The application site itself is not subject of any statutory nature conservation designation being largely an open field with mature trees and hedgerows scattered throughout.
- 10.76 The application is supported by an Ecological Appraisal dated December 2015 which included further species specific surveys and Phase 1 Desktop Study.
- 10.77 The reptile survey identified three common lizards and a single juvenile grass snake along the sites northern boundary. Essex County Council's ecology officer stated that appropriate measures have been included in Section 6.4.10 of the Ecological Appraisal to protect this low population.
- 10.78 Furthermore, a number of birds were identified using the site and a barn owl was identified off site. Essex County Council's ecology officer stated that it is understood that the site only provides foraging opportunities for this species, and they should be unaffected by the proposals, although it should be appreciated that the loss of arable land will reduce their prey availability on a site (very local) scale.
- 10.79 Six oak trees on site were identified as having potential to support roosting bats and site boundaries were also identified as providing suitable conditions for foraging and commuting. All trees identified as having bat potential are to be retained in the Illustrative master plan and hedgerows will be unaffected (and managed) into the long term. As such the ecology officer raised no concerns in terms of the proposal having a detrimental impact on the bat habitats.
- 10.80 Great crested newt and badger surveys returned negative results, indicating likely absence. No further surveys are required.

- 10.81 Essex County Council's ecology officer concluded that although no further surveys are necessary, the Ecological Appraisal sets out a number of precautionary measures to protect species during works and thereafter and that these should all be adhered to.
- 10.82 The Ecological Appraisal identifies a number of enhancement measures including SUDs, hedgerow management and improvements for protected and notable species. These measures are welcomed and should be tied together in an Ecological Design Strategy, if permission is granted.
- 10.83 It is considered therefore that the application is acceptable on ecology grounds and that subject to the imposition of appropriately worded conditions, the proposal would be consistent with the policies contained within the Uttlesford District Local Plan as Adopted (2005) and the National Planning Policy Framework.
- 10.84 The site falls within the Zone of Influence (Zoi) for the Blackwater Estuary Special Protection Area and Ramsar site. New housing development within the Zoi would be likely to increase the number of recreational visitors to the area, potentially resulting in disturbance to the integrity of the habitats of qualifying features.
- 10.85 The number of additional recreational visitors from 30 dwellings would be limited and the likely effects on the Blackwater Estuary from the development alone are unlikely to be significant. However, in combination with other developments it is likely that the proposal would have significant effects on the area. Consequently, an Appropriate Assessment (AA) is necessary to ascertain the implications for the site.
- 10.86 The qualifying features for the Blackwater Estuary SPA designation are the overall water bird assemblage and the Conservation Objectives include maintaining the structure and function of the habitats of the qualifying features and the supporting processes on which the habitats of the qualifying features rely. Since the application site is near the perimeter of the Zoi, while the residential development may lead to disturbance of birds in coastal habitats (European) site, the adverse effects would be likely to be smaller in scale than other sites closer to the BESPAs.
- 10.87 A draft Essex Coast Recreational disturbance Avoidance and Mitigation Strategy Supplementary Planning Document 2019 (draft RAMS SPD) has been prepared, which sets out a strategic approach to mitigation by several councils across Essex. Since the original Zoi did not include land within Uttlesford District, the Council we are currently not a partner identified in the SPD. However, the draft RAMS SPD is endorsed by Natural England and it is proposed that the Council will adopt the SPD in due course. Therefore, it is appropriate to attach significant weight to it, an approach taken by the Inspectors in the Maranello and Clifford Smith Drive appeals.
- 10.88 The draft RAMS SPD sets out detailed mitigation measures that would be funded by S106 contributions at a specified tariff per dwelling. Since these include a range of habitat-based measures such as education and communication, and have been endorsed by Natural England, it is considered that the measures would adequately overcome any adverse effects of the proposal on BESPAs and Ramsar site, again supported by the Inspectors for Maranello and Clifford Smith Drive.
- 10.89 The applicant has confirmed that they are willing to enter into a s106 Legal Obligation for the financial contribution towards the RAMS mitigation measures. The contributions would be necessary to make the development acceptable in

planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development, in accordance with Regulation 122 of the CIL Regulations. As such, the contributions toward the mitigation schemes would count as mitigation toward maintaining the integrity of the sites.

- 10.90 Consequently, the proposed development would not adversely affect the Blackwater Estuary Special Protection Area (BESPA) and Ramsar site and would not conflict with the National Planning Policy Framework (Framework) in this regard.

G Drainage and flooding (ULP Policies GEN3 and GEN6)

- 10.91 The NPPF states that inappropriate development in areas of high risk flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere.
- 10.92 The development site lies within Flood Zone 1 (low probability of flooding) as defined by the Environmental Agency. The Framework indicates that all types of development are appropriate in this zone and hence there is no requirement for sequential or exemption testing.
- 10.93 The planning submission was accompanied by a Flood Risk Assessment (FRA) which provides strategic and technical guidance in relation to surface and foul water runoff, flood risk mitigations measures and Sustainable Urban Drainage Systems (SUDS). The report concludes that the proposed scheme incorporates suitable flood resilient/resistant measures on a site that is within a low probability of flooding. The report states that the proposed development could be constructed and operated safely in flood risk terms and is therefore an appropriate development in accordance with the NPPF.
- 10.94 The application was referred to Essex County Council's SUDs department who are the Lead Local Flood Authority. They stated that after reviewing the Flood Risk Assessment and the associated documents which accompanied the planning application, we support the granting of planning permission subject to imposing planning conditions.
- 10.95 It is considered that the proposed application would not give rise to increase flood risk on the site or elsewhere subject to appropriate mitigation measures.

H Whether the proposal would cause harm to the amenities of adjoining property occupiers (NPPF and ULP Policies GEN2 & GEN4).

- 10.96 Policy GEN2 requires that developments are designed appropriately and that they provide provides an environment which meets the reasonable needs of all potential uses and minimises the environmental impact on neighbouring properties by appropriate mitigating measures. The NPPF also requires that planning should seek to secure high quality design and a good standard of amenity for all existing and further occupants of land and buildings.
- 10.97 The site is generally divorced from existing residential properties with the exception of those dwelling houses located along the north western boundary of the site that front onto Jollyboys Lane and Braintree Road. Other residential properties in the area are located on the opposite side of Braintree Road that front onto the application site.

- 10.98 The relative separation distance between adjoining dwellings and the proposed area of housing as illustrated on the master plan within the site and the orientation are such that it is considered that no significant adverse harm would be caused to the amenities of adjoining properties particularly in relation to loss of light, privacy and overbearing.
- 10.99 In terms of future residents, the illustrative Masterplan shows the general disposition of the site and the Design and Access Statement shows examples of built form character illustrating how the development would be designed at the detailed level. The site is large enough to ensure that appropriate levels of amenity can be designed in at the detailed stage.
- 10.100 The applicants have submitted EIA reports on Air Quality and Noise and Vibration which demonstrate that there would be no adverse impacts on the amenities of the future residents. The reports identify potential impacts at the construction stage but it is considered that these could be addressed by appropriate conditions and also by a Construction Management Plan.
- 10.101 It is considered therefore that the development could be accommodated without significant adverse impact upon the amenity of existing and future residents in accordance with Policy GEN2 and the policies of the NPPF.

I Infrastructure provision to support the development (ULP Policy GEN6 and the NPPF)

- 10.102 Local Plan Policy GEN6 requires that development makes provision at the appropriate time for infrastructure that is made necessary for the development. The NPPF also requires such facilities to be provided to enhance the sustainability of communities and residential environments.
- 10.103 The application was referred to Essex County Council's infrastructure planning officer who has requested that any permission for this development be granted subject to a S106 legal obligation to mitigate its impact on education. Should the final development result in the suggested unit mix, a total sum of £184,568 is required for education mitigation.
- 10.104 It is considered that the proposal would be capable of meeting the needs of future residents and would not place undue pressure on existing facilities within Felsted and the locality subject to these provisions, and the completion of a satisfactory S106 legal obligation.
- 10.105 In view of the above, it is considered that the necessary infrastructure could be provided to meet the needs of the development and could be in accordance with Policy GEN6 of the Local Plan and the NPPF.
- 10.106 The applicant has identified within their Draft Heads of Terms that they are also prepared to make a financial contribution of £250,000 towards the upgrading of community amenities in accordance with Policy VA3 of the draft Felsted Neighbourhood Plan. This policy states:

“As part of any major development proposal, financial contributions or direct provision of new infrastructure will be sought to secure infrastructure improvements made necessary by the scheme. In some cases, it will be appropriate for provision to be focused and delivered on-site (e.g. on site play provision) and in other cases

it may be more appropriate for provision to be focused off-site for example through contributing towards the Neighbourhood Plan's identified infrastructure priorities namely:

- *Improvements to and enlargement of the Primary School*
- *A village hall to accommodate up to 250 seated people*
- *Premises for the relocation of the Royal British Legion*

10.107 This policy, and the Neighbourhood Plan as a whole, has still yet to be examined and found sound. A public consultation on the Draft Plan is currently being undertaken and is due to close on 24 July 2019. As such, the Plan still has several stages to go through before being adopted ("made"). Therefore, at the present time the plan has limited weight and the financial contribution towards the village hall is not considered to be compliant with the CIL Regulations. However, the developer could approach the Parish Council and enter into a private agreement outside of the planning system if both parties were agreeable.

J Other material considerations

10.108 The Environmental Health Officer objected to the original scheme due to the impacts of the proposed village hall. The potential impacts related to noise and air quality arising from the use of the hall and associated vehicular movements. However, this element of the proposals has now been removed from the scheme. The suggested conditions if planning permission were to be granted including the hall are not relevant. However, the condition relating to contaminated land is appropriate to ensure that the site is suitable for the final residential use.

10.109 The County Archaeologist has not commented on this particular application but previously recommended a Trial Trenching condition. As the site remains the same it is considered appropriate to impose the condition in respect of this proposal. This is to ensure that the heritage assets in the form of archaeological deposits are recorded.

10.110 The policies in the emerging Local Plan currently have limited weight. They do not provide the basis of reaching a different decision to that considered in this report.

10.111 With regards to conditions, the applicant is keen to demonstrate that the site is deliverable and can come forward at an early stage. As such they have suggested that the timing of the submission of the reserved matters should be reduced from 3 years to 2 years. The Council has no objections to this approach.

11. CONCLUSION

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

- A** The principle of the development is deemed to be appropriate in that it would be of a sustainable development in accordance with the National Planning Policy Framework.
- B** The proposed development would not result in disproportionate loss of best and most versatile land. It is considered therefore that the development is in accordance to ULP Policy ENV5, and the NPPF.
- C** It is acknowledged that the proposal would alter the character of the site from agriculture land on the settlement edge of Felsted to urban as a result of the

proposed development. However, it is considered that on balance, although the proposal would extend into the open countryside the benefits of the development particular that of supplying much needed housing within the district and maintaining a rolling 5 year housing supply amongst other things within a sustainable location would outweigh the limited harm it would have upon the open countryside.

- D** It is concluded that the proposed development would cause no harm to matters of highway safety or result in unwanted traffic congestion.
- E** The final design and size of the units would be determined at the reserved matters stage however it is considered that the application proposes an acceptable level of affordable housing on the site and is capable of providing an acceptable mix of dwellings.
- F** It is concluded that the with appropriate mitigation measure by way of planning conditions, the proposal would not result in a significant harm to the ecology and biodiversity of the surrounding area.
- G** There are no objections from either the local flooding or water authorities and as such it is considered that the proposed development would not give rise to increase flood risk on the site or elsewhere subject to appropriate mitigation measures.
- H** It is considered that the development could be accommodated without significant adverse impacts upon the amenities of existing and future residents.
- I** It is considered that the necessary infrastructure could be provided to meet the needs of the development and could be in accordance with Policy GEN6 of the Local Plan and the NPPF.

RECOMMENDATION – Approval subject to the conditions and Section 106 Agreement.

- (I) The applicant be informed that the committee would be minded to refuse planning permission for the reasons set out in paragraph (III) unless by the 31 July 2019 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) Provision of education financial contribution**
 - (iii) Provision of highways financial contribution**
 - (iv) Provision and transfer of open space**
 - (v) Ensure adequate ongoing maintenance of SUDS system.**
 - (vi) Provision of Essex RAMS financial contribution**
 - (vii) Pay the Council’s reasonable costs**
- (II) In the event of such a variation to the extant obligation being made, the Assistant Director Planning shall be authorised to grant permission subject to the conditions set out below:**
- (III) If the freehold owner shall fail to enter into such a variation of the extant obligation, the Assistant Director Planning Services shall be authorised to refuse permission in his discretion at any time thereafter for the**

following reason:

- (i) Failure to provide 40% affordable housing**
- (ii) Failure to provide education financial contribution**
- (iii) Failure to provide highways financial contribution**
- (iv) Failure to provide and transfer open space.**
- (v) Failure to ensure adequate ongoing maintenance of SUDS system**
- (vi) Failure to provide Essex RAMS financial contribution**

Conditions:

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

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

2. A) Application for approval of the Reserved Matters shall be made to the Local Planning Authority not later than the expiration of 2 years from the date of this permission.

(B)The development hereby permitted shall be begun no later than the expiration of 2 years from the date of approval of the last of the Reserved Matters to be approved.

REASON: To comply with the provisions of Article 3 of the Town and Country Planning (General Development Procedure) Order 1995 and Section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004. The development hereby permitted shall be begun before the expiration of 3 years from the date of this decision.

3. All ecological mitigation & enhancement measures and/or works shall be carried out in accordance with the details contained in the Ecological Appraisal (Aspect Ecology Ltd., Dec 2015) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

REASON: To conserve and enhance Protected and Priority species and allow the LPA to discharge its duties under the UK Habitats Regulations, the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species) and s17 Crime & Disorder Act 1998, and in accordance with Uttlesford Local Plan Policy GEN7 (adopted 2005) and the NPPF.

4. Prior to the commencement of development a Biodiversity Enhancement Strategy for Protected and Priority species shall be submitted to and approved in writing by the local planning authority.

The content of the Biodiversity Enhancement Strategy shall include the following:

- a) Purpose and conservation objectives for the proposed enhancement measures;
- b) detailed designs to achieve stated objectives;
- c) locations of proposed enhancement measures by appropriate maps and

- plans;
- d) timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
- e) persons responsible for implementing the enhancement measures;
- f) details of initial aftercare and long-term maintenance (where relevant).

The works shall be implemented in accordance with the approved details and shall be retained in that manner thereafter.

REASON: To conserve and enhance Protected and Priority Species/habitats and allow the LPA to discharge its duties under the s40 of the NERC Act 2006 (Priority habitats & species), and in accordance with Uttlesford Local Plan Policy GEN7 (adopted 2005) and the NPPF.

5. No development or preliminary groundworks of any kind shall take place until the applicant has secured the implementation of a programme of historic building recording in accordance with a written scheme of investigation which has been submitted by the applicant, and approved by the planning authority.

REASON: In the interests of archaeological protection in accordance with Policy ENV4 of the Uttlesford Local Plan (adopted 2005) and the National Planning Policy Framework.

Justification: The proposed development site lies in a highly sensitive area of historic environment assets and therefore it is essential that these details are submitted for approval in advance of the works being undertaken to ensure that any archaeological deposits present on the site are appropriately investigated prior to development.

6. No development approved by this permission shall take place until a Phase II site investigation and report, taking account of the findings of the previously submitted GRM Development Solutions Phase I Site Appraisal (Desk Study) Report dated December 2015 (Ref: GRM/P7123/DS.2), has been submitted to and approved in writing by the Local Planning Authority. Where found to be necessary by the phase II report a remediation strategy to deal with the risks associated with contamination of the site shall also be submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall include an options appraisal giving full details of the remediation measures required and how they are to be undertaken. The strategy shall include a plan providing details of how the remediation works shall be judged to be complete and arrangements for contingency action.

REASON: To minimise and prevent pollution of the land and the water environment and in accordance with national planning policy guidance set out in section 11 of the National Planning Policy Framework, and in order to protect human health and the environment, and in accordance with Uttlesford Local Plan Policy ENV14 (adopted 2005).

Justification

The Phase I report is the original report submitted in support of the previous planning application. Although this report covered a larger development site area, its findings are still relevant to the present application under consideration. It has identified a low contamination risk for the site, whilst recognising that there may be residual contamination risks from historic agricultural use of the land and in connection with ground gases from made ground (infilled ponds) on the site, and has recommended that these be investigated further with an appropriate site

investigation. In view of the contamination-sensitive residential end use proposed for the site, it is therefore considered essential that a Phase II site investigation and Phase III Remediation Strategy (where found necessary by the Phase II site investigation) should be undertaken in order to identify, mitigate and/or eliminate these contamination risks that may be present on site and to render the site suitable for its proposed end uses. It is also recommended that the following informative is attached to any consent granted to cover any instances of unsuspected contamination arising on site.

7. No development or preliminary groundwork's of any kind shall take place in the areas specified in the archaeological brief (areas around trench 1 and 9 from the archaeological evaluation) until the applicant has completed a programme of archaeological excavation in accordance with a written scheme of investigation which has been submitted by the applicant, and approved by the planning authority.

Reason: In the interests of protecting the heritage assets in according with Uttlesford Local Plan ENV4 (adopted 2005) and the NPPF.

Justification: The applicants have undertaken both a heritage statement and an archaeological evaluation on the above site. The archaeological evaluation found very limited archaeological deposits, however, a feature of Bronze Age date was identified along with a hollow containing only 12th to 13th medieval pottery. Limited archaeological investigation will be required if the development is approved comprising open area excavation around trenches 1 and 9.

8. No residential occupation of the development hereby permitted shall take place until the provision of an access to include a 5.5 metre carriageway, two 2 metre footways (as shown in principle in drawing 17227-02 rev E); the road junction at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 101 metres to the north-east and 2.4 metres by 91 metres to the west, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the road junction is first used by vehicular traffic and retained free of any obstruction at all times.

REASON: To provide adequate inter-visibility between vehicles using the road junction and those in the existing public highway in the interest of highway safety in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011, and Uttlesford Local Plan Policy GEN1 (adopted 2005) and the NPPF.

9. Prior to the first residential occupation of the development hereby permitted a footway of a minimum width of 1.5m, as shown in principle in drawing 17227-02 Rev E shall be provided on the southern side of Braintree Road between the site access and the bus stop to the north east of the site.

REASON: To make adequate provision within the highway for the additional pedestrian traffic generated within the highway as a result of the proposed development in accordance with policy DM9 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011, and in accordance with Uttlesford Local Plan Policy GEN1 (adopted 2005) and the NPPF.

10. Prior to the first residential occupation of the development hereby permitted improvements through the provision of a suitable all weather surface and appropriate way marking and signage to public footpath 48 (Felsted) from the boundary of the site to the surfaced area of Jollyboys Lane shall be undertaken.

REASON: To make adequate provision for the additional pedestrian traffic generated as a result of the proposed development in accordance with policy DM9 and DM11 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011, and in accordance with Uttlesford Local Plan Policy GEN1 (adopted 2005) and the NPPF.

11. Prior to the first residential occupation of the development hereby permitted improvements through the provision of a suitable unbound surface and appropriate signage and waymarking of the section of footpath 110 (Felsted) from the boundary of the site to the surfaced area of Jollyboys Lane shall be undertaken.

REASON: To mitigate the impact of additional pedestrian traffic from a result of the proposed development in accordance with policy DM9 and DM11 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011, and in accordance with Uttlesford Local Plan Policy GEN1 (adopted 2005) and the NPPF.

12. Prior to the first residential occupation each residential unit hereby permitted each dwelling shall be providing with the number of parking spaces required in accordance with the standards set out within the Essex County Council's Parking Standards Design and Good Practice, September 2009, and Uttlesford Local Residential Parking Standards February 2013.

REASON: To ensure that appropriate parking is provided in the interests of highway safety and efficiency in accordance with policy DM8 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011, and in accordance with Uttlesford Local Plan Policies GEN1 and GEN8 (adopted 2005) and the NPPF.

13. No works shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme should include but not be limited to:
- Limiting discharge rates to 3.9l/s/ha for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change.
 - Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.
 - The inclusion of urban creep. In any storage calculations, we want to see 'urban creep' included in line with Document 'BS 8582:2013 Code of practice for surface water management for development sites' which states: "To allow for future urban expansion within the development (urban creep), an increase in paved surface area of 10% should be used, unless this would produce a percentage impermeability greater than 100%, or unless specified differently by the drainage approval body or planning authority" (page 32).
 - Evidence that all storage features can half empty with 24 hours for critical storm event 1 :100 plus 40% climate change, in order to meet LLFA half drain time requirement.
 - Final modelling and calculations for all areas of the drainage system.
 - The appropriate level of treatment for all runoff leaving the site, in line with simple index approach the CIRIA SuDS Manual C753 chapter 26. This should also include sufficient upstream capture of sediment before any surface water is stored or

discharged. The use of catchpits and gullies are not accepted as sufficient treatment as they depend heavily on the quality and regularity of their maintenance.

- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The scheme shall subsequently be implemented prior to occupation.

REASON: • To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site, to ensure the effective operation of SuDS features over the lifetime of the development, and to provide mitigation of any environmental harm which may be caused to the local water environment, in accordance with Uttlesford Local Plan Policy GEN3 (adopted 2005) and the NPPF.

JUSTIFICATION: Failure to provide the above required information before commencement of works may result in a system being installed that is not sufficient to deal with surface water occurring during rainfall events and may lead to increased flood risk and pollution hazard from the site.

14. No works shall take place until a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works and prevent pollution has been submitted to, and approved in writing by, the local planning authority. The scheme shall subsequently be implemented as approved.

REASON: The National Planning Policy Framework paragraph 163 and paragraph 170 state that local planning authorities should ensure development does not increase flood risk elsewhere and does not contribute to water pollution.

JUSTIFICATION: Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore the removal of topsoils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development.

Construction may also lead to polluted water being allowed to leave the site. Methods for preventing or mitigating this should be proposed.

15. No works shall take place until a Maintenance Plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority. Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

REASON: To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk.

JUSTIFICATION: Failure to provide the above required information before commencement of works may result in the installation of a system that is not properly maintained and may increase flood risk or pollution hazard from the site.

16. 5% of the dwellings approved by this permission shall be built to Category 3 (wheelchair user) housing M4(3)(2)(a) wheelchair adaptable. The remaining dwellings approved by this permission shall be built to Category 2: Accessible and adaptable dwellings M4(2) of the Building Regulations 2010 Approved Document M, Volume 1 2015 edition.

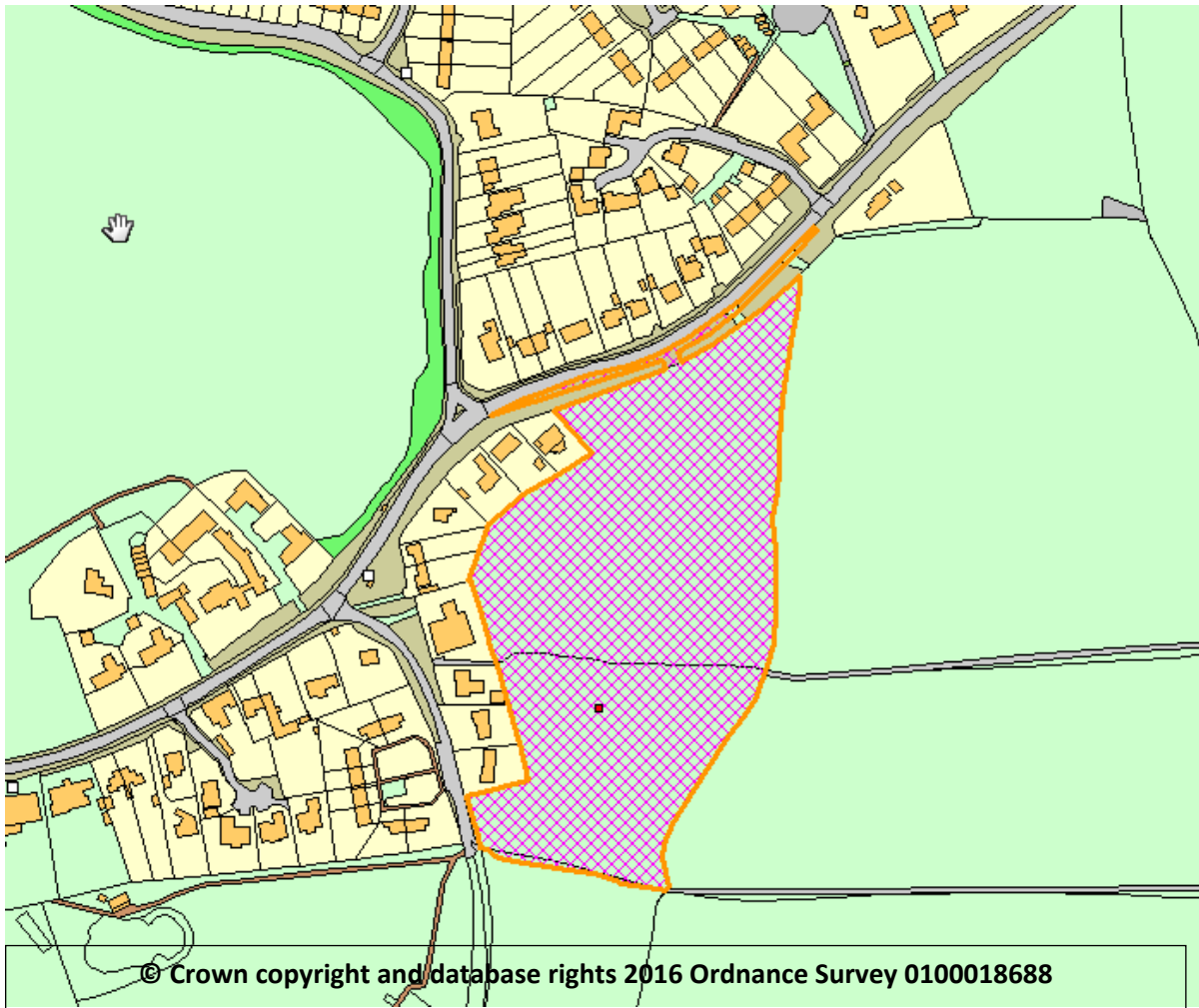
REASON: To ensure compliance with Policy GEN2 (c) of the Uttlesford Local Plan 2005 and the subsequent SPD on Accessible Homes and Playspace.

17. The details to be submitted in respect of condition 1 shall include details of vehicle electric charging points for each dwelling.

REASON: In the interests of sustainable development and to meet the requirements of Uttlesford Local Plan Policy GEN2 and the NPPF.

Application no.: UTT/18/3529/OP

Address: Land to South of Braintree Road Felsted



Organisation: Uttlesford District Council

Department: Planning