

**UTT/20/0604/OP**

<b>PROPOSAL:</b>	<b>Outline permission with all matters reserved except access for the erection of 45 no. dwellings</b>
<b>LOCATION:</b>	<b>Land South Of Vernons Close, Mill Road, Henham</b>
<b>APPLICANT:</b>	<b>Southern &amp; Regional Developments Ltd.</b>
<b>AGENT:</b>	<b>Strutt &amp; Parker</b>
<b>EXPIRY DATE:</b>	<b>21.07.2020 (Extension of time agreed to 26.02.2021)</b>
<b>CASE OFFICER:</b>	<b>Clive Theobald</b>

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**1. NOTATION**

- 1.1 ULP: Outside Development Limits.

**2. DESCRIPTION OF SITE**

- 2.1 The site lies on the east side of Mill Road to the immediate south of Vernons Close, a 1960's housing development, and comprises a field roughly square in shape having a stated area of 5.17 ha. currently out of arable production. A slightly larger parcel of land used for amenity purposes lies to the immediate east of the site with agricultural land lying further to the east of this, whilst agricultural land lies opposite the site to the west. A nursery lies to the immediate south.
- 2.2 The topography of the site is relatively flat, but with a shallow fall north-west towards Mill Road and the existing settlement. The site has field hedgerows to all boundaries. Public Footpath 25\_2 (Henham) runs east-west along the southern boundary of the site from Mill Road, whilst Public Footpath 25\_4 (Henham) runs north-west-south-east along the boundary between the adjacent amenity land and the agricultural land to the east connecting with Public Footpath 25\_2 and then running further to the south-east to the B1051. A further public footpath intersects with Mill Road opposite the northern end of the site.

**3. PROPOSAL**

- 3.1 This outline proposal with all matters reserved except access relates to the residential development of this site comprising 45 dwellings with associated landscaping and public open space.
- 3.2 A Parameters Plan (ref: 1123/002 Rev B) has been submitted with the application which sets out the framework for consideration of the proposal and which shows the disposition of land uses across the site between built form and open space areas, the indicated access point, likely storey heights for dwellings up to 2.5 storey, the indicative location for surface water attenuation and also a children's equipped area of play.
- 3.3 An Illustrative Masterplan (ref: 1123-004 Rev A) has also been submitted demonstrating how 45 dwellings, vehicular access, landscaping and areas of public open space could be accommodated at the site whereby access is shown

being gained from Mill Road. The south of the site is shown to comprise a proposed landscaping tree belt along the southern boundary which, together with new open space would, it is stated, make up to 50% of the site's total area. A Proposed Access Arrangement Plan has also been submitted

3.4 The application is accompanied by the following core documents:

- Planning Statement (including Statement of Community Involvement)
- Design and Access Statement
- Flood Risk Assessment and Surface Water Drainage/SUDS Strategy
- Foul Drainage Strategy
- Landscape and Visual Impact Assessment
- Landscape Strategy
- Preliminary Ecological Appraisal
- Ecological Impact Assessment
- Biodiversity Statement & Mitigation Plan
- Arboricultural Impact Assessment Transport Statement
- Topographical Survey

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

4.1 The application falls to be considered under Schedule 2, 10 (b) of The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (Urban Development Projects). The site does not fall within a "sensitive area" for the purpose of the regulations.

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

5.1 The submitted planning statement sets out the basis for the application submission making reference to the findings of the various core submission documents which inform the proposed development, the national and local planning policy context, the outcome of pre-application advice and the basis under which the applicant has sought to engage with the local community prior to submitting the application. The statement then makes a contextual analysis of the planning merits of the proposal. The statement concludes as follows:

- Section 38 (6) of the Planning Act requires decisions on planning applications to be made in accordance with the Development Plan unless material considerations indicate otherwise. One of the most powerful material considerations is the NPPF and, in particular, its *presumption in favour of sustainable development* and the need for housing.
- The NPPF provides support for all elements of this proposal. For the determination of this application, the following are the key points:
  - a. The starting point is the Development Plan (Uttlesford Local Plan 2005), but other material considerations, including the more up-to-date revised NPPF, can prevail over policies in the Plan.
  - b. The emerging policies of the eULP have little or no weight having regard to the position following the Examination and the Inspectors' conclusions as set out at 4.16 to 4.18 of this Statement.
  - c. Development Plan Policy S7 is one of the important policies. It has

previously been found to be only “partly consistent” with the NPPF by UDC. At best it provides a starting point in distinguishing between the settlement and the countryside but in other planning permissions and appeal decisions elsewhere in the Uttlesford District the policy is frustrating the Council’s need for housing delivery to address the significant shortfall in supply. The extent to which development in this location would harm the intrinsic beauty and character of the countryside has been fully assessed as part of the LVIA.

d. The application site is not in an area that the NPPF policies say should have specific protection, as defined in footnote 6 to para.11. The site is a contained parcel of land that does not have any special designation, other than being within the countryside. The site is sensibly located at the edge of Henham village, with existing landscaping able to screen the development. Whilst the appearance of the land would change from open land to development as a result of these proposals, there would be limited impact on the countryside for the reasons set out.

- In terms of sustainable development, this Statement and the supporting information within the DAS and Transport Statement confirm that the appeal site is within walking distance of facilities within the village and a bus stop providing links to neighbouring settlements, and so is a suitable site for residential development in accordance with the objectives of the NPPF, which recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. The development is not therefore wholly reliant on the need to make all journeys by car.
- Having regard to NPPF, the paragraph 11 test is whether or not any adverse impacts of granting permission, which may be perceived as the effect on the countryside, would significantly and demonstrably outweigh the benefits of the proposal. The significant benefits that weigh in favour of this development are:
  - (i) Providing additional housing, including a significant number of affordable to help address a severe shortfall in the District where there are continuing problems of supply and affordability;
  - (ii) There will be a substantial area of open space for the benefit of the development and wider locality with the opportunity for landscaping to enhance the eastern edge of the village and add to biodiversity.
  - (iii) There would be economic benefits from construction jobs and an increase in spending in the local economy from future residents.
- In conclusion, whilst the site is outside of an out-of-date development plan settlement boundary, this would not outweigh the benefits listed above, and certainly could not be regarded as “significantly and demonstrably” outweighing those benefits. Substantial weight should be given to Paragraph 59 of the NPPF which states that to support the Government’s objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land should come forward where it is needed.
- Granting planning permission for this application would help boost the supply of required market and affordable homes as well as other significant

social, economic and environmental benefits as set out in this Statement. The planning balance therefore weighs heavily in favour of the grant of planning permission.

- Having regard to national and local planning policy, and all other material considerations, it is respectfully requested that planning permission be granted.

## **6. RELEVANT SITE HISTORY**

6.1 There are no planning applications that relate specifically to this site relevant to the proposal. However, a preliminary enquiry was submitted to the Council in 2019 proposing up to 45 dwellings for the site with associated parking, landscaping and open space which forms the pre-cursor for the current planning application. The Council responded to that enquiry after a subsequent meeting with the applicant when the following officer advice was set out in the Council's response letter (precised):

- The site is located outside development limits for Henham and therefore in an area of countryside covered by ULP Policy S7;
- The tilted balance of the NPPF applied due to the Council not having a 5 year housing land supply, notwithstanding consistent delivery;
- The proposal had the capability of delivering on the economic and social strands of sustainability. However, a case would need to be made in respect of the environmental strand of sustainability to demonstrate that any environmental harm would not outweigh the benefits;
- The site has an arbitrary boundary and does not therefore have the benefit of existing screening which would potentially increase the environmental impacts of the proposal. This could be addressed by the submission of a Landscape and Visual Impact Assessment (LVIA);
- The applicant had confirmed in discussions that the proposal would meet the 40% affordable housing requirement and that public open space would be provided;
- The design of the layout should be in accordance with Essex Design Guide standards. Parking arrangements should be in accordance with ECC and UDC adopted parking standards;
- 5% of the dwellings would need to be Part M4(3)(2)(a) Building Regulations compliant where the dwellings could be in the form of bungalows where they could also address environmental impacts of the scheme.
- Air quality could be a potential issue, although the Council was not aware of any potential air quality issues within Henham. However, it was the case that some of the vehicular flows from the site would pass through the Chapel Hill/Lower Street junction in Stansted, which was an area of concern. An air quality report would therefore have to be considered.
- Pre-application discussions should take place with ECC Highways and the Lead Local Flood Authority prior to submitting the application.
- A public consultation on the proposal was necessary to be carried out prior to submission of the proposal whereby the Members of the Council's Planning Committee considered this to be an important part of the planning application process (paragraph 39 of the NPPF - "early engagement").

6.2 The following appeal decisions relating to housing schemes proposed for sites within the vicinity of the proposal site the subject of the current application, two of which have recently been issued by the Secretary of State, are considered as

material planning considerations to the planning merits of the submitted application with regard to sustainability principles and countryside impact as follows:

- Land east of Elsenham to the north of the B1051 Henham Road (UTT/17/3573/OP):

Erection of up to 350 dwellings, new one form entry primary school, including early years and childcare setting for up to 56 places, open spaces and landscaping, including provision of junior football pitch with changing rooms, new access from B1051 Henham Road with associated infrastructure.

*Appeal against non-determination. Appeal allowed.*

- Land at Chickney Road, Henham (UTT/19/0293/FUL):

Erection of 16 no. dwellings with associated garages, parking and landscaping with new vehicular access to Chickney Road, Henham.

*Refused 29.07.2019. Appeal dismissed.*

- Land off Isabel Drive and Land off Stansted Road, Elsenham (UTT/19/2470/OP):

Erection of up to 99 dwellings, including affordable homes, with areas of landscaping and public open space, including points of access of Stansted Road and Isabel Drive and associated infrastructure works.

*Appeal against non-determination. Appeal allowed.*

## **7. POLICIES**

### **National Policies**

National Planning Policy Framework (NPPF) (revised February 2019)

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

ULP Policy S7 – The Countryside

ULP Policy H1 – Housing Development

ULP Policy H9 – Affordable Housing

ULP Policy H10 – Housing Mix

ULP Policy ENV3 – Open spaces and trees

ULP Policy ENV4 – Ancient Monuments and Sites of Archaeological importance

ULP Policy ENV13 – Exposure to poor air quality

ULP Policy GEN1 – Access

ULP Policy GEN2 – Design

ULP Policy GEN3 – Flood Risk

ULP Policy GEN6 – Infrastructure provision to Support Development

ULP Policy GEN7 – Nature Conservation

ULP Policy GEN8 – Vehicle Parking Standards

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

- SPD “Affordable Homes and Playspace”.

### **Other Material Considerations:**

- Essex Design Guide
- ECC Parking Standards – “Design and Good Practice” (September 2009)
- UDC Parking Standards (adopted February 2013)
- 2015 SMHA Assessment
- Uttlesford District Council Housing Trajectory and 5-Year Land Supply Statement (as updated April 2020)
- Recent planning appeal decisions (*ibid*)

## **8. PARISH COUNCIL COMMENTS**

8.1 Various submissions have been made by Gardner Planning on behalf of Henham Parish Council (see main Objection Statement dated 16 May 2020) and supplementary objections dated 12 June 2020 and 13 January 2021. The main objection statement concludes as follows:

- The LVA has given little consideration to the overall form of the village and how it sits within its landscape context. The proposed development located on the southern edge of Henham will extend the village further to the south, undermining the characteristic nucleated ridge top settlement form. When considered in association with a possible extension of Elsenham to the south, development in this location is likely to give rise to cumulative landscape effects. These effects are likely to further undermine the perception of Henham as a nucleated village.
- The proposed scheme comprises development on only part of the site, the remainder forming open space. Nevertheless the proposed development will still result in the urbanisation of the land between Vernon’s Close and Mill Pond Nursery. Proposed housing will be 2 and 2.5 storeys in height and will be considerably taller than existing dwellings on Vernon’s Close and will extend on to rising land at c. 108m AOD. The result will be a development which is more visible than the existing urban edge.
- Whilst it can be argued that the proposed development can give rise to the creation of a softer vegetated edge to the settlement, mitigating the straight edge of housing on Vernon’s Close, and ‘rounding off’ the existing development edge, in reality the proposed development would result in a perceived extension of the urban edge, even with a farm cluster at the south-western corner. Furthermore, the softening of the existing built edge could be achieved without the need for development.
- The public open space provision as part of this development is unlikely to serve much benefit to the wider population of the village who have easy access to the wider countryside via the existing rights of way network.
- For these reasons it is concluded that development on this site is likely to give rise to adverse landscape and visual effects and would be contrary to Local Plan policies and landscape character guidance.

8.2 A supplementary planning statement from Gardner Planning (12 June 2020) makes reference to an appeal dismissed in June 2020 relating to 16 no. homes at Land at Chickney Road, Henham where it is set out that the issues were similar to

the housing scheme now proposed at Vernons Close, namely lack of sustainability for further development at Henham, countryside/landscape character and effect on housing supply whereby it is asserted that this appeal decision is a material planning consideration to the current application proposal, also for Henham.

8.3 A further supplementary statement from Gardner Planning (13/01/2021) makes reference to an email sent to the Parish Council from the appellant's planning agent in which the agent refers to the two recent appeal decisions issued for Land east of Elsenham to the north of the B1051 Henham Road (UTT/17/3573/OP and Land off Isabel Drive and Land off Stansted Road, Elsenham (UTT/19/2470/OP) allowing both appeals respectively (see Relevant Planning History above) and seeking clarification as to whether the Parish Council may wish to amend or withdraw elements of their original Objection Statement. In response, Gardner Planning have stated in their updated response that the Parish Council's position is as summarised in its original objections to the proposal of 16 May and 2 December 2020, namely that;

- this cannot be classified as sustainable development
- would be contrary to any spatial strategy
- would result in significant and demonstrable traffic impacts
- would cause harm to the countryside by extending the settlement outwards to the south
- would result in the loss of 'Best and Most Versatile' agricultural land
- there would no other benefits which would outweigh the significant and demonstrable harm that would be caused apart from the benefit of adding 45 dwellings to the housing supply.

8.4 This supplementary objection also makes reference in detail to the cumulative highway impacts of the proposed development when other large developments recently approved within the vicinity of the proposal site (UTT/17/3573/OP – Land at Henham Road, Elsenham (350 dwellings), UTT/19/0437/OP – Rush Lane, Elsenham (40 dwellings), UTT/19/2266/OP – Bedwell Road, Elsenham (220 dwellings) and UTT/19/2470/OP – (99 dwellings) are taken into consideration and that this continued incremental approach either by the LPA or by the Secretary of State in allowing further housing developments [within the Elsenham/Henham area] needs to be addressed in consideration of the current application proposal for 45 dwellings at Vernons Close, Henham. It is also asserted at paragraph 19 of the statement that the planning inspector for the Land north of Henham Road, Elsenham (Fairfield) appeal has appeared to have misdirected himself by failing to take into account relevant material considerations and matters of fact in relation to highway evidence presented at the recent public inquiry in relation to the likely cumulative highway impacts of the approved housing developments along Grove Hill and within the lower part of Stansted generally in terms of increased traffic congestion and that the inspector has therefore misunderstood both ECC Highways' and the Parish Council's positions in this regard.

8.5 The statement concludes that;

*“Thus, far from this decision being conclusive on the matter of congestion at Grove Hill, it raises more questions than answers. Until that is resolved, it would be reckless to grant further permissions, such as the Mill Road scheme, which would only make the position worse. From the many submissions made by local residents, the severe problems at Grove Hill are readily observed on a daily basis.*

*For these reasons, Henham PC not only rejects the suggestion by the applicants that because the Fairfield proposal has been allowed on appeal then the Mill Road scheme should be approved, but asks UDC to refuse planning permission and not make a bad situation worse. Moreover, although ECC should give further thought to the bigger picture, UDC is not bound to accept its position and certainly not unquestionably. We ask that UDC Officers and the Planning Committee will give this full consideration”.*

## **9. CONSULTATIONS**

### **Essex County Council Highways**

#### **9.1 (revised comments received 25 November 2020):**

The impact of the proposal is acceptable to the Highway Authority from a highway and transportation perspective subject to highway mitigation and highway conditions.

#### **NOTE**

This application did not originally contain enough information about the access arrangements, the impact on the highway network or mitigation measures to allow the highway authority to determine if the proposal was acceptable in highway terms. Further information has since been submitted, which included a speed survey, additional drawings of the access and traffic distribution.

The access drawings show that acceptable visibility splays can be achieved with the clearance of vegetation along the front of the road.

The distribution of traffic shows that the site is forecast to generate 6 - 9 westbound trips and 2 -3 east bound in the am peak and the reverse in the pm peak that will arrive at Grove Hill junction over the hour. While this impact cannot be considered severe as referred to in paragraph 109 of NPPF, it is appropriate to require mitigation measures in the form of vehicle detection, to help mitigate the cumulative impact on the junction. In addition a footpath link to public right of way 25/2 is required to provide additional opportunities for walkers and a vehicle activated speed sign to help reduce speeds on Mill Road entering the village.

It is noted that the location of the site is such that access to key facilities, shops, employment and leisure opportunities is limited and for the vast majority of journeys the only practical option will be the car. This should be taken into consideration by the Planning Authority when assessing the overall sustainability and acceptability.

### **Lead Local Flood Authority**

- 9.2 Having reviewed the submitted Flood Risk Assessment and the associated documents which accompanied the planning application, we do not object to the granting of planning permission subject to sustainable drainage conditions.

### **ECC Education - Infrastructure**

- 9.3 Thank you for providing details of the above planning application for up to 45 new homes.



From the information I have received, a development of this size can be expected to generate the need for up to 4.05 Early Years and Childcare (EY&C) places; 13.50 primary school, and 9.00 secondary school places.

Please note that any developer contribution figures referred to in this letter are calculations only, and that final payments will be based on the actual dwelling unit mix and the inclusion of indexation.

#### Early Years and Childcare:

A developer contribution will not be sought to mitigate this proposed development's impact on local EY&C provision.

#### Primary Education:

The nearest primary school to this proposed development would be Henham and Ugley Primary School, which offers up to 30 places per year. Careful consideration should be given to establishing a safe direct walking and cycling route between these homes and the school, if permission is granted. The school has a few unfilled places, in most year groups, and can be expected to accommodate the extra pupils generated by 45 new homes.

The school is, however, part of Uttlesford Primary Planning Group 3 (Stansted) which is under some pressure from other housing development proposals. Of particular relevance is the 220 home proposal north of Bedwell Road and east of Old Mead Road (UTT/19/2266), which is within Henham & Ugley Primary School's Priority Admissions Area. Should this application, or others within the Group be granted, then developer contributions could be necessary to provide additional primary school places.

Based on the demand generated by this proposal as set out above, a developer contribution of £224,046.00, index linked to April 2020, is sought to mitigate its impact on local primary school provision.

#### Secondary Education:

With regards to secondary education, the Priority Admissions Area school for the development would be the Forest Hall School, which has a published admission number of 112. The school had just nine unfilled places in Year 7 (the first secondary year) at the last schools census in January. Forecasts set out in the Essex School Organisation Service's 10 Year Plan to meet demand for school places suggest that, by the end of the period, up to 62 additional places per year will be required at the school. In the interim there are plans to add 18 places in time for the 2021/22 admissions round.

Based on the demand generated by this proposal as set out above, a developer contribution of £204,642.00, index linked to April 2020, is sought to mitigate its impact on local secondary school provision.

#### School transport:

Having reviewed the proximity of the site to the nearest primary and secondary schools, Essex County Council will not be seeking a school transport contribution. However, the developer should ensure that safe direct walking and cycling routes to local schools are available.

In view of the above, I request on behalf of Essex County Council that if planning permission for this development is granted it should be subject to a section 106 agreement to mitigate its impact on primary and secondary education. The contributions requested have been considered in connection with the CIL Regulations 2010 (as Amended) and are CIL compliant. Our standard formula s106 agreement clauses that ensure the contribution would be necessary and fairly and reasonably related in scale and kind to the development are available from Essex Legal Services.

If your council were minded to turn down the application, I would be grateful if the lack of surplus primary and secondary education provision in the area to accommodate the proposed new homes can be noted as an additional reason for refusal, and that we are automatically consulted on any appeal or further application relating to the site.

### **Place Services (Ecology)**

#### 9.4 (revised comments received 29 January 2021):

No objections subject to securing biodiversity mitigation and enhancement measures.

Summary:

We have reviewed the documents supplied with the application including the Ecological Impact Assessment, Biodiversity Statement and Mitigation Plan (Southern Ecological Solutions, July 2020), Biodiversity Validation Checklist (Southern Ecology Solutions, February 2020), Preliminary Ecological Appraisal (Southern Ecology Solutions, March 2020), Illustrative Masterplan (Mosaic, March 2020), Magic Maps and aerial photographs, to help assess the likely impacts of the development on designated sites, protected & Priority species and habitats.

We note that the further surveys for Great Crested Newt which were recommended following the Preliminary Ecological Appraisal (Southern Ecology Solutions, March 2020) were not carried out on the basis that the applicant will apply to the Essex Great Crested Newt District Licensing Scheme (Ecological Impact Assessment, Biodiversity Statement and Mitigation Plan (Southern Ecological Solutions, July 2020)).

However, the applicant has not yet submitted an Impact Assessment and Conservation Payment Certificate (IACPC) document countersigned by Natural England as evidence of site registration prior to determination where this European Protected Species is likely to be present and affected by the development. Therefore, we note that any Approval in Principle will need to be subject to the submission of a signed IACPC before any decision notice can be issued. We recommend that the measures specified in the report to protect Great Crested Newts must be implemented in full and a copy of the DLL Licence is secured by a condition of any consent.

We therefore recommend that these are also secured alongside the mitigation measures identified in the Ecological Impact Assessment, Biodiversity Statement and Mitigation Plan (Southern Ecological Solutions, July 2020) by a condition of any consent. This is necessary to conserve and enhance Protected and Priority Species.

We note that three breeding bird surveys were undertaken from May to July (Ecological Impact Assessment, Biodiversity Statement and Mitigation Plan, Southern Ecological Solutions (July 2020)) as recommended in our response dated May 2020.

We also note that the development site is situated within the Impact Risk Zone for Hatfield Forest Site of Special Scientific Interest (SSSI)/National Nature Reserve (NNR) as shown on MAGIC map ([www.magic.gov.uk](http://www.magic.gov.uk)). Therefore, Natural England's revised interim advice to Uttlesford DC (ref: HatFor Strategic Interim LPA, 5 April 2019) should be followed to ensure that impacts are minimised to this site from new residential development. As this application is less than 50 or more units, Natural England do not, at this time, consider that is necessary for the LPA to secure a developer contribution towards a package of funded Strategic Access Management Measures (SAMMs) at Hatfield Forest.

We are satisfied that there is sufficient ecological information available for determination. This provides certainty for the LPA of the likely impacts on designated sites, protected species and Priority species & habitats and, with appropriate mitigation measures secured, the development can be made acceptable.

The mitigation and enhancement measures identified in the Ecological Impact Assessment, Biodiversity Statement and Mitigation Plan (Southern Ecological Solutions, July 2020) should be secured by a condition of any consent and implemented in full.

This will enable LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006.

Impacts will be minimised such that the proposal is acceptable subject to the conditions below based on BS42020:2013.

Submission for approval and implementation of the details below should be a condition of any planning consent.

### **Place Services (Archaeology)**

- 9.5 RECOMMENDATION: Archaeological Programme of Trial Trenching followed by Open Area Excavation.

### **Anglian Water**

- 9.6 Section 1 - Assets Affected

Our records show that there are no assets owned by Anglian Water or those subject to an adoption agreement within the development site boundary.

### **WASTEWATER SERVICES**

#### Section 2 - Wastewater Treatment

The foul drainage from this development is in the catchment of Henham Water Recycling Centre that will have available capacity for these flows

### Section 3 - Used Water Network

This response has been based on the following submitted documents: FOUL DRAINAGE STRATEGY.

The sewerage system at present has available capacity for these flows. If the developer wishes to connect to our sewerage network they should serve notice under Section 106 of the Water Industry Act 1991. We will then advise them of the most suitable point of connection.

### Section 4 - Surface Water Disposal

The preferred method of surface water disposal would be to a sustainable drainage system (SuDS) with connection to sewer seen as the last option. Building Regulations (part H) on Drainage and Waste Disposal for England includes a surface water drainage hierarchy, with infiltration on site as the preferred disposal option, followed by discharge to watercourse and then connection to a sewer.

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. Should the proposed method of surface water management change to include interaction with Anglian Water operated assets, we would wish to be re-consulted to ensure that an effective surface water drainage strategy is prepared and implemented.

### **Thames Water**

#### 9.7 Waste Comments:

With regard to SURFACE WATER drainage, Thames Water would advise that if the developer follows the sequential approach to the disposal of surface water it would have no objection. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required.

Thames Water would advise that with regard to FOUL WATER sewerage network infrastructure capacity, it would not have any objection to the above planning application based on the information provided.

#### Water Comments:

With regard to water supply, this comes within the area covered by the Affinity Water Company.

### **MAG London Stansted Airport**

#### 9.8 The Safeguarding Authority for Stansted Airport has assessed this proposal and its potential to conflict aerodrome Safeguarding criteria. There are two aspects that have the potential to increase the risk of Birdstrike; therefore we request Conditions to ensure that this development is designed without increasing the risk of Birdstrike to aircraft using Stansted Airport.

The indicative SuDS proposals are for a dry vegetated basin. The drainage calculations show that in a one in two year event the basin will hold 0.305m depth of water with a half drain time is 214 minutes. A 30 year event would have a depth of up to 0.523m, with a half drain time of 491 minutes, although the maximum depth and the half drain times are dependent on rainfall duration. Therefore, although the drainage basin will hold water on a fairly regular basis, it should drain quite quickly. However, if the basin will hold water more frequently or during periods of prolonged or frequent rainfall, then it has the potential to be more frequently wet and this may result in an attractant for hazardous birds. We request a Condition as follows:

- that the SuDS basin be designed to be usually dry in or after rainfall events more frequent than one in two years. If this is not possible then further measures to reduce the frequency of open water or to proof the drainage basin.

REASON: To reduce the risk of creating a habitat that will increase the risk of a Birdstrike to aircraft using Stansted Airport.

The landscape strategy includes amenity grass, a wildflower grassland, specimen/parkland, street, native hedgerow and fruit trees. The tree and hedgerow planting has the potential to provide an exploitable food and nesting resource for hazardous arboreal and flocking bird species that are hazardous to aircraft. Therefore we request the following Condition:

- No development to take place until further details of the landscaping are submitted to the LPA for approval in consultation with the aerodrome safeguarding authority for Stansted Airport.

REASON: To ensure against the risk of creating a habitat that will increase the risk of a Birdstrike to aircraft using Stansted Airport.

### **Crime Prevention Officer**

- 9.9 Whilst there are no apparent concerns with the layout to comment further we would require the finer detail such as the proposed lighting, boundary treatments and physical security measures. We note within the Design and Access Statement that it makes mention of Secured by Design and we would welcome the opportunity of assisting the developer to achieve a Secured by Design award in respect of this development.

### **UDC Environmental Health Officer**

- 9.10 (revised comments received 7 January 2021):

Response Summary:

Following the initial Environmental Health response dated 22/05/2020, I have reviewed the submitted Air Quality Assessment and provide the following comments.

#### Air Quality Assessment

The AQ assessment submitted by Redmore Environmental ref 3808r1 dated September 25th, 2020 concludes that;

Construction Phase:

“During the construction phase of the development there is the potential for air quality impacts as a result of fugitive dust emissions from the site. These were assessed in accordance with the IAQM methodology. Assuming good practice dust control measures are implemented, the residual significance of potential air quality impacts from dust generated by earthworks, construction and track out activities was predicted to be not significant. It is considered that suitable protection may be through a Construction Dust Management Plan condition which is detailed below”.

Operational Phase:

“Review of the dispersion modelling results indicated that impacts on annual mean NO<sub>2</sub> and PM<sub>10</sub> concentrations as a result of traffic generated by the development, alongside committed development flows, were predicted to be negligible at all sensitive receptors. Additionally, there were no predicted AQO exceedances at any receptor location either with or without the development in place. Following consideration of the relevant issues, cumulative air quality impacts as a result of the operation of the development were considered to be not significant, in accordance with the IAQM guidance”.

The report makes the following recommendations.

“The following measures should be considered for inclusion within the proposals in accordance with the requirements of the UDC Air Quality Technical Planning Guidance<sup>19</sup>”:

- Provision of Electric Vehicle (EV) "charge" points; and,
- Production of a Travel Pack setting out public transport options and promoting routes for cycling and walking.

I have no in principle objection to the methodology or the outcome findings of the report, subject to conditions attached to any consent, namely – Proposed Air Quality Improvement Conditions and Proposed Construction Management Plan Condition (CMP).

### **UDC Housing Strategy And Operations Manager**

- 9.11 We would expect 40% affordable housing to be delivered on site with a 70/30 split between rented and shared ownership with the housing mix to be agreed with housing at the that time when reserved matters are submitted.

Revised comments received 6 May 2020 stating that “The mix of affordable dwellings is acceptable on this application site, although it appears only at 20% provision – has there been a financial viability assessment checked for this site?”

## **10. REPRESENTATIONS**

- 10.1 294 representations received (Object). Neighbour notification period expires 20/05/2020. Advertisement expires 21/05/2020, site notice expires 12/06/2020.

Summary of representations received as follows:

- Site is located outside development limits

- Countryside impact – would fail to protect or enhance local rural setting
- The special character of Henham would be eroded
- Unsustainable development
- Already recent housing growth in village
- Disproportionate housing scheme
- Henham is a category C village not suitable for large developments
- Site has been considered unsuitable in the LPS’s “Call for Sites” process
- Further loss of agricultural land will affect future food supply security
- Insufficient village infrastructure to support the development
- Further strain on existing primary school
- Infrequent bus service
- Existing services within the village are well supported (shop, pub etc.)
- Most residents would have to access local services or work by car
- Schoolchildren already have to be taken to schools outside the village
- Additional impact on local highway network, including at Grove Hill
- National speed limit outside site
- Speculative opportunistic development
- Not a locally driven housing scheme
- The houses are likely to be beyond the purchase prices of young villagers
- Few job opportunities in Henham. Most occupiers would commute
- No pavements outside site
- Drainage problem in this field which will be made worse by housing
- Proposed public open space would be too remote for existing villagers
- Vernons Close already has a playing area which is surrounded by fields
- Proposal follows a 'boiler plate' and is in effect a 'box ticking' exercise
- Several new houses already built in the village are still for sale
- Building out further carbon footprint would not help climate change
- Insufficient net biodiversity gains have been demonstrated
- Such housing schemes should be redirected to the more urban areas
- The submitted Masterplan suggests that there will a “Phase 2”
- Would create precedent for further development
- Construction of the development would result in significant disruption

It should be noted that a standardised objection letter or an adaption of it forms the basis for a substantial number of the objection representations received.

## **11. APPRAISAL**

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

- A Principle of development having regard to sustainability principles, flood risk, countryside impact and current housing land supply (NPPF, ULP Policies S7, GEN3 and H1);
- B Whether proposed access arrangements would be acceptable (ULP Policy GEN1);
- C Design (ULP Policies GEN2 and GEN8);
- D Housing Mix (ULP Policy H10);
- E Whether the development would be supported by the necessary infrastructure provision to make the development acceptable in planning terms (ULP Policies H9 and GEN6);
- F Whether the development would have a harmful Impact on protected and priority species (ULP Policy GEN7).

**A Principle of development having regard to sustainability principles, flood risk, countryside impact and current housing land supply (NPPF, ULP Policies S7, GEN3 and H1)**

- 11.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that any planning application must be determined in accordance with the planning policies set out in the Adopted Development Plan, unless material considerations indicate otherwise. The planning policies contained within the National Planning Policy Framework (NPPF) are also a material planning consideration, particularly where the policies in the Adopted Development Plan are considered to be out of date. The adopted development plan for Uttlesford comprises the Uttlesford Local Plan, which was adopted in January 2005 and is therefore now over 15 years old and pre-dates both the original NPPF (2012) and the latest version (2019).
- 11.2 The revised NPPF provides the statutory guidance for determining planning applications at a national level. It represents the most up to date central government planning policy guidance and as such is a material consideration for the determination of planning applications.
- 11.3 The NPPF stresses that the purpose of the planning system is to contribute to the achievement of sustainable development. The Framework also sets out objectives for achieving this aim, including the need to deliver a sufficient supply of homes to support the government's objective of significantly boosting the supply of homes. Paragraph 8 of the NPPF confirms the 'presumption in favour of sustainable development' and explains that there are three dimensions to sustainable development, namely, economic; social; and environmental.
- 11.4 Paragraph 11d) of the NPPF states that where there are no relevant development plan policies, or the policies which are the most important for determining the application are out of date (including applications involving the provision of housing where the LPA cannot demonstrate a five year housing land supply), the LPA should grant planning permission unless (i) the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development (see Footnote 6); or (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this Framework taken as a whole.
- 11.5 The site falls within Flood Zone 1 meaning that the site is at low risk of fluvial flooding. The application is accompanied by a Flood Risk Assessment (FRA) providing details of existing drainage features at the site and sustainable drainage measures proposed for the submitted scheme whereby the submitted illustrative masterplan includes the provision of a SuDS attenuation basin for the north-west corner of the development site (lowest corner).
- 11.6 The submitted drainage scheme has been examined by the Lead Local Drainage Authority for the area who have not objected in principle to the drainage report and other documents submitted for this outline housing scheme subject to sustainable drainage conditions being imposed on any planning permission granted, including the submission of a detailed surface water drainage scheme for subsequent LPA approval based upon SuDS principles. No drainage objections are therefore raised on this basis under the relevant provisions of the NPPF and ULP Policy GEN3.
- 11.7 ULP Policy ENV5 seeks to prevent significant losses of the best and most versatile (BMV) agricultural land, whilst paragraph 170 of the NPPF has a similar objective.



The site currently comprises grade 2 agricultural land, representing very good quality farming land. As such, the proposal would lead to the loss of arable land/wider food production, albeit it is understood that the field is not currently in active arable farming and would be contrary to Policy ENV5 relating to the protection of farmland. However, only very limited weight can be given to this harm when weighed against the housing benefits of the submitted proposal where this has been the consistent view of the LPA for other determined housing applications on such agricultural grading land.

- 11.8 Paragraph 79 of the NPPF states that the development of isolated homes within the countryside should be avoided. The issue of 'Isolation' has been addressed in a High Court Judgement (Case No: C1/2017/3292) which considers that "isolated" should be given its objective meaning of "far away from other places, buildings or people, remote". Therefore, the site cannot be considered to be isolated under the terms of Paragraph 79 given its location adjacent to the edge of the village near to existing residential properties.
- 11.9 Paragraph 78 of the NPPF notes that in order to promote sustainable development in rural areas housing should be located where it will enhance or maintain the vitality of rural communities. It is accepted that Henham has a fairly limited range of local services compared to say the adjacent villages, Elsenham and Thaxted, although it does have a village shop, a post office, a public house and a thriving primary school as well as having a generally healthy village vibrancy.
- 11.10 The submitted scheme for 45 dwellings would not represent a particularly large housing development (compared to say the 350 dwellings very recently approved on appeal at Land north of Henham Road, Elsenham for example) and it is considered that the development would not have a significant impact upon existing local services within the village subject to developer financial contributions being secured towards affordable housing and education provision where the applicant has offered to make these within the proposal. Additionally, the site is on the No.7 Bishops-Stortford to Stansted Airport approximately hourly bus route and also on a school bus route whereby a bus stop exists at Vernons Close within walking distance from the proposal site, although it should be noted that this frequency of bus service through Henham led the Inspector for the Chickney Road appeal (see referred to appeal above in this report) to conclude that most trips would still be made by motor car. However, it is considered that the social objective of the NPPF for the current proposal is met.
- 11.11 Paragraph 170 seeks to protect and enhance 'valued landscapes' in a 'manner commensurate with their statutory status or identified quality in the development plan'. The surrounding landscape to the site is not covered by any statutory or local landscape designation or identified within the development plan for its landscape quality. Therefore, the site is not a 'valued landscape' in the context of the Framework and its location means that it is generally representative of the wider countryside in the area.
- 11.12 ULP Policy S7 states that the countryside will be protected for its own sake and that planning permission will only be given for development that needs to take place there or is appropriate to a rural area, adding that there will be strict controls on new building. Policy S7 also states that 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. Policy S7 has been found, however, to be partially consistent with the provisions of the NPPF following an independent policy

review of the adopted local plan against the NPPF (Ann Skippers) whereby its restrictive stance towards housebuilding in the countryside contrasts with the more proactive stance taken by the NPPF towards sustainable development within the rural areas. Policy S7 is still a saved local plan policy and carries weight.

11.13 In respect of landscape protection, paragraph 170 of the NPPF advises that planning decisions should contribute to and enhance the natural and local environment by (a) protecting and enhancing valued landscapes...”in a manner commensurate with their statutory status or identified quality in the development plan” as well as (b) recognising the intrinsic character and beauty of the countryside...” Any ‘harm’ to the landscape resource should subsequently be considered against the benefits of a scheme when assessed overall as part of the planning balance.

11.14 A detailed Landscape and Visual Impact Assessment (LVIA) (Southern Ecology Solutions (SES)) has been submitted with the current application which has assessed the environmental impact of the development proposal on the localised and wider landscape. The scope of the LVIA is intended to inform the existing character of the landscape and to assess the contribution of the site to the area and also the landscape effects of the proposed development on the landscape as a resource, to include changes to the landscape components within the site and subsequent changes to the character of the landscape and its key characteristics, including aesthetic and perceptual aspects as a result of the proposed development.

11.15 Paragraph 1.4.2 of the LVIA describes Henham as;

*“The village is situated within the Broxted Farmland Plateau which forms part of the Glacial till plateau. Henham is positioned on a ridge from which the surrounding farmland falls away to the valleys to the north and south. It is relatively flat and immediate woodland is scarce, and so it is excluded from the Area of Special Landscape Value. The surrounding countryside is intensively farmed. It has a Grade 2 land classification (very good quality) with large sized fields and low, maintained, or fragmented hedges”.*

11.16 In terms of site description and views, the LVIA states that;

*“Henham and the surrounding area carry key characteristics of the local landscape character, such as large, open landscape with scattered trees and intermittent hedgerows as boundaries. Due to the site’s location on higher terrain, it becomes visible from lower areas within the landscape, mainly from the west where the land falls. The visual envelope for the site is restricted to the views from footpaths, highways in close proximity to the site and the adjoining development edge. These views are seen in the context of the existing settlement edge of Henham”.*

and then goes onto say that;

*“In terms of the aesthetic and visual perception of the area...the land use and surrounding vegetation, in conjunction with the influence of the existing settlement edge, ensures that the land relates more to Henham than the wider landscape that surrounds it. As such, the area [of the application site] would form a logical extension to the village”.*

11.17 In terms of sensitivities to change, the LVIA, drawing upon the detailed Uttlesford District Landscape Character Assessment carried out by Chris Blandford

Associates, states that the proposal site has been assessed as having a Low sensitivity to change compared to a Medium-Low sensitivity for the Henham area as a whole. The development proposal has been assessed by this sensitivity metric as representing a “Medium Adverse Magnitude / Sense of Change” for Year 1 to “Low-Neutral” in Year 15 with the residual effects on the character and scale of importance on Henham being assessed as “Negligible”.

11.18 Overall, the LVIA concludes that;

*“Overall the proposed residential development of the land at Mill Road, Henham will result in short- to medium-term landscape and visual effects. The majority of this change will be limited to the site and its immediate surrounding area. In the long-term, the design and layout in conjunction with the landscape strategy will be effective at integrating the development into the village and its surrounding landscape. There would be no overriding residual adverse effects that would preclude the development of the site. It is considered that a high quality scheme can be delivered which is in keeping with the character and quality of landscape”.*

11.19 It is clear from the submitted LVIA that some harm would be caused to the local landscape by the proposed development. However, your officers are of the view that the level of environmental harm resulting from the illustrative housing scheme would not be at a significant level given the conclusions reached in the LVIA regarding levels of sensitivity of change and given the way in which the outline scheme has been presented with the indicated built form of the development being concentrated immediately to the south of Vernons Close running parallel with Mill Road and a large proportion of the site extending to the southern and eastern boundaries being shown set aside as public open space with enhanced structural landscaping by way of a long term landscape buffer and softening of the extended settlement edge. As such, the development would be physically contained and that the form of the indicated layout would have the effect of negating any prospect of visual coalescence with land and buildings located further to the south along Mill Road. As such, this level of environmental harm is afforded limited weight against the housing benefits of the scheme.

11.20 In this regard, the NPPF requires all local planning authorities to identify a supply of specific deliverable sites to provide five years’ new housing supply against their requirements as calculated under national policies. A housing trajectory is used by Councils to calculate their 5-year housing land supply and demonstrate whether anticipated housing delivery will meet or exceed those housing requirements. Uttlesford District Council cannot currently demonstrate a 5 Year Housing Land Supply where the current housing deficit against statutory housing requirements now stands as adjusted at 3.11 years for the 2020-2025 period as of 1 April 2020 following a very recent UDC planning policy review and update of the housing trajectory and 5 year housing land supply calculation where the deficit previously stood at 2.68 years as at 1 April 2019. The Council’s released policy statement for this can be found at;

<https://www.uttlesford.gov.uk/article/7051/Housing-Trajectory-and-Five-Year-Land-Supply>.

It should be noted that rising above the 3 year housing supply is significant because Neighbourhood Plans made within the last 2 years, which contain policies and allocations to meet their identified housing requirements, have additional protection from further development. However, Henham Parish does not currently have a neighbourhood plan in force.

11.21 Accordingly, it remains the case that the Council's adopted policies which are most important for determining planning applications must be considered out of date, including ULP Policy H1 of the adopted Local Plan relating to the distribution of housing within the district. As appraised above, it is considered that Henham lies in a relatively sustainable location which is accessed by public transport and which has a good level of local service provision and amenities for the size of the village, whilst the proposal site itself would be physically connected to the southern end of the existing village settlement whereby a new section of footpath would be provided as would policy compliant affordable housing provision and other s106 infrastructure contributions. Given this, and the very limited weight which can be applied to the loss of agricultural land where no ecology objections have been raised against the current proposal subject to conditions, it is considered on balance that the principle of housing at this site is acceptable under the provisions of the NPPF.

**B Whether proposed access arrangements would be acceptable (ULP Policy GEN1)**

11.22 Vehicular access into the proposed development would be via a new entrance point from Mill Road which would be within the existing 30mph speed restriction zone approaching from the south. Mill Road itself is an unclassified road (principal local route) leading from the B1051 from the south. The submitted Transport Statement for this scheme has been examined by ECC Highways who initially assessed that the application did not originally contain enough information about the proposed access arrangements to make the development acceptable in highway safety terms. Further information has since been submitted by the applicant which includes a speed survey (ATC Speed and Traffic Volume Summary Report), additional drawings (including drawing DR6 – "Horizontal and Vertical Visibility") and traffic distribution data showing both Mill Road AM and PM Peak development traffic flows.

11.23 ECC Highways have advised the LPA in their revised consultation response dated 25 November 2020 that the impact of the proposed development is acceptable from a highway and transportation perspective based upon a revised highways assessment of the revised technical details whereby they state that acceptable visibility splays can be achieved with the clearance of vegetation along the front of the road and also, and notably, that the additional highway impact on traffic flows at Grove Hill during peak hours resulting from this 45 unit housing scheme cannot be considered as being "severe" as referred to in paragraph 109 of the NPPF, albeit that it is necessary to require mitigation measures in the form of vehicle detection at Grove Hill to help mitigate the cumulative impact of the proposal on this junction whereby this measure has been conditioned (see recommended highways condition 5 attached to this report ("signal enhancement wireless detection scheme").

11.24 It should be noted that ECC Highways have already factored in the proposed 45 unit scheme for the current application with the 99 housing unit scheme very recently granted planning permission on appeal for Isabel Drive, Elsenham through a "sensitivity test" to assess cumulative highway impacts on Grove Hill and have separately advised the LPA that the additional highway impacts of the current Vernons Close proposal on the Grove Hill junction are likely to be inconsequential where more traffic dispersal is likely to occur at the Henham site unlike at Isabel Drive where in the latter more motorists would be dependent upon the Grove Hill junction.

- 11.25 It is proposed for an additional short section of public footway at 2m width to be provided at the developer's expense outside the site at the entrance into the proposed development to link with the existing pavement which runs on the east side of Mill Road in order to provide pedestrian connectivity from the new development with the existing settlement as shown on drawing number DR5 Rev A. This additional offer is welcomed and can be conditioned whereby the works can be dealt with under s278 works provision.

No highway objections are therefore raised under ULP Policy GEN1.

### **C Design (ULP Policies GEN2 and GEN8)**

- 11.26 The NPPF advises that the creation of high quality buildings and places is an important part of the development process and a key aspect of sustainable development. Paragraph 127 states that all new developments should “function well and add to the overall quality of the area....; be visually attractive as a result of good architecture, layout and appropriate and effective landscaping; be sympathetic to local character and history including the surrounding built environment and landscape setting....; establish or maintain a strong sense of place...; while optimising the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space).”
- 11.27 Consideration of scale, layout, appearance and landscaping are all elected reserved matters for this outline application. However, a Parameters Plan and an Illustrative Masterplan with accompanying Design and Access Statement has been submitted with the application showing how the development could be accommodated at the site. The Parameters Plan shows the proposed housing area being zoned for the northern part of the site extending across to the site's north-east corner, whilst an extensive area of landscaping and public open space, including children's equipped play area is indicated for the remainder of the site extending down to the site's south-west corner. The Illustrative Masterplan shows a layout of 45 dwellings extending off a main service road leading from Mill Road with a more informal road layout arrangement extending down to the middle of the site to include a “farm courtyard” dwelling arrangement towards the site's south-western corner. Public open space is shown around the outside of the Net Development Area to include a network of footpaths, together with additional tree planting around the boundaries, most particularly along the southern boundary. Sitings for the dwellings are shown indicatively, although the masterplan shows that garages would in the main be set back to the side of the dwellings with hardstanding parking to the front.
- 11.28 The development as indicated would have a calculated site density of 8.70 dwellings per ha, which represents a very low housing density against NPPF standards whereby the housing layout has been purposely set at this lower housing density to reduce the level of visual harm of the development at the site. Such a low housing density would be appropriate for this edge of village location representing as it would a transition from the comparatively high housing density of Vernons Close situated to the immediate north with that of open countryside to the south, notwithstanding that there would be a counter-argument that the development does not make full and effective use of the land for housing purposes.

11.29 The indicative sketch elevations for the development show a propensity for two storey dwellings, which would be acceptable for this edge of settlement location, although it is contended that the inclusion of 2½ storey dwellings with tall ridge heights would not be acceptable at this location as such dwellings are likely by their scale to appear too dominating on the skyline. The dwellings are likely to be of traditional appearance. Landscaping is shown to include the retention and strengthening of all site boundaries with the provision of a new tree belt to the southern boundary to offset the visual effects of the development from the south. No design objections are raised in principle under ULP Policies GEN2 and GEN8.

#### **D Housing Mix (ULP Policy H10)**

11.30 The proposed housing mix for this 45 unit housing scheme is to be considered in more detail at reserved matters stage and this issue similarly does not fall to be considered with this outline application. However, the applicant has stated that the housing mix will be informed by the Strategic Housing Market Assessment and the subsequent advice of the Council's Housing Strategy And Operations Manager where this has been confirmed by the Council in its housing consultation response.

11.31 Notwithstanding this, an indicative housing mix is given in the application submission as follows;

- 15 no x 2 bedroomed dwellings
- 15 no x 3 bedroomed dwellings (including 3 no. bungalows)
- 14 no x 4 bedroomed dwellings
- 1 no x 5 bedroomed dwelling

This indicated bedroom accommodation would it is suggested represent a balanced housing mix for the site scheme in general accordance with the SHMA findings and would also chime with the Council's desire to have bungalows within the mix. No objections are therefore raised under ULP Policy H10 subject to subsequent detailed submission.

#### **E Whether the development would be supported by the necessary infrastructure provision to make the development acceptable in planning terms (ULP Policies H9 and GEN6)**

11.32 The application proposal as a 45 dwelling scheme would generate a policy requirement under ULP Policy H10 for 40% on-site affordable housing provision namely 18 no. affordable units. The applicant's agent has confirmed that the applicant would be willing to enter into a Section 106 agreement in this regard whereby the dwellings could comprise a tenure split between affordable rented housing and shared ownership. It should be noted from the UDC Housing Strategy and Operations Manager's revised consultation response that a query has been raised about the level of affordable housing being offered by the applicant for the scheme, suggesting this is at 20% provision and whether a financial viability assessment has been carried out. This query has been put to the applicant's agent who has confirmed that the applicant is willing to provide the full 40% affordable housing provision for the scheme in accordance with policy and that there is no reason for a financial viability assessment to be carried out for this scheme in this regard. The proposal would therefore accord with ULP Policy H9.

11.33 The applicant's agent has also confirmed that the applicant is also willing to enter into a Section 106 agreement to make education financial contributions towards facilities for early years and childcare, primary school and secondary school

provision for the submitted scheme. ECC Education in their consultation response have advised that the scheme would attract a developer's financial contribution of £224,046.00 index linked to April 2020 to mitigate the development's impact on local primary school provision and £204,062.00 index linked to mitigate the development's impact on local secondary school provision. ECC have advised in this case that it will not be seeking a school transport contribution having reviewed the proximity of the site to the nearest primary and secondary schools, but that the developer would be expected [for any subsequent reserved matters application] to ensure that safe direct walking and cycling routes to local schools are available.

- 11.34 The willingness by the applicant to enter into a Section 106 agreement for the above local infrastructure provision, including also for a Transport Travel pack is welcomed and no infrastructure objections are therefore raised overall for this housing scheme under ULP Policy GEN6 whereby public open space provision for the site would also be required to be a Head of terms for any agreement.

**F Whether the development would have a harmful impact on protected and priority species (ULP Policy GEN7).**

- 11.35 The site comprises a field with native boundary hedgerows and there is the potential therefore for the proposed development to have a harmful impact upon protected or priority species.
- 11.36 Place Services have reviewed the documents supplied with the application, including the submitted Ecological Impact Assessment, the Biodiversity Statement and Mitigation Plan, the Biodiversity Validation Checklist, the Preliminary Ecological Appraisal and also the Illustrative Masterplan and aerial photographs to help assess the likely impacts of the development on designated sites, protected & Priority species and their habitats. Place Services have noted that the further surveys for Great Crested Newts (GCN's) which were recommended following the Preliminary Ecological Appraisal were not carried out on the basis that the applicant would be applying to the Essex Great Crested Newt District Licensing Scheme. However, the applicant has not yet submitted an Impact Assessment and Conservation Payment Certificate (IACPC) document countersigned by Natural England as evidence of site registration prior to determination where this European Protected Species is likely to be present and affected by the development. Therefore, Place Services state that any Approval in Principle will need to be subject to the submission of a signed IACPC before any decision notice can be issued.
- 11.37 Place Services therefore advise in their revised consultation response issued following an initial holding objection that the measures specified in the report to protect Great Crested Newts must be implemented in full and that a copy of the DLL Licence is secured by a condition of any permission granted and recommend that these are also secured alongside the mitigation measures identified in the Ecological Impact Assessment, Biodiversity Statement and Mitigation Plan (Southern Ecological Solutions, July 2020) by a condition of any permission where this is necessary to conserve and enhance Protected and Priority Species. No ecology objections are therefore raised to the proposal under ULP Policy GEN7 subject to this condition and other recommended ecology conditions being imposed.

**12. CONCLUSION**

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

- A The principle of residential development at this greenfield location, which is not within an area of special landscape designation, is considered acceptable whereby the identified adverse impacts of granting planning permission, namely the limited assessed harm to the countryside, would not significantly and demonstrably outweigh the housing benefits of the proposal when assessed against the policies contained within the NPPF taken as a whole.
- B The proposed access arrangements are considered acceptable to the local Highways Authority following the submission of further traffic survey data to show that suitable visibility splays would be able to be achieved in each direction along Mill Road, whilst the additional traffic impacts upon Grove Hill arising from the proposed development would not be severe given the size of the scheme. A new section of public footpath would be formed at the developer's expense which would connect the new development with the existing section of public footpath on the east side of Mill Road.
- C The submitted illustrative Masterplan demonstrates that the proposed development shown at a very low site density of 8.70 dwellings per ha, with access roads, landscaping, attenuation basin and areas of public open space would be able to be successfully accommodated at the site in terms of site layout where the layout indicates that residential amenity and parking standards would be able to be met.
- D The indicated housing mix is considered acceptable against the latest SHMA, although this would be more considered at reserved matters stage.
- E The applicant has stated that it is committed to entering into a legal agreement to provide the necessary infrastructure provision, including policy compliant on-site affordable housing and education financial contributions, to make the development acceptable in planning terms.
- F The development would not have a harmful Impact on protected or priority species subject to appropriate mitigation and bio-diversity measures being conditioned, including those relating to a GCN Natural England licence requirement.

## **RECOMMENDATION – APPROVAL WITH CONDITIONS WITH s106 AGREEMENT**

**(1) The applicant be informed that the committee be minded to refuse planning permission for the reasons set out in paragraph (3) below unless by 17 March 2021 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 Head of Legal Services, in which case he shall be authorised to conclude an agreement to secure the following:**

- (i) Provision of 40% affordable housing**
- (ii) Early Years and Childcare, local primary school and local secondary school education contributions**
- (iii) Provision of public open space**
- (iv) Maintenance of SUDS**
- (v) Provision of Travel Information Pack**
- (vi) Pay the Council's reasonable legal costs**
- (vii) Pay the monitoring fee**



- (2) In the event of such an agreement being made, the Assistant Director Planning shall be authorised to grant permission subject to the conditions set out below.**
- (3) If the freehold owner shall fail to enter into such an agreement, the Assistant Director Planning shall be authorised to refuse permission at his discretion at any time thereafter for the following reasons:**
- (i) Non-provision of 40% affordable housing**
  - (ii) Non-payment of Early Years and Childcare, local primary school and local secondary school education contributions**
  - (iii) Non-provision of public open space**
  - (iv) Non-maintenance of SuDS**
  - (v) Non-provision of Travel Information Pack**
  - (vi) Non-payment of the Council's reasonable legal costs**
  - (vii) Non-payment of the monitoring fee**

### **Conditions**

1. Approval of the details of layout, scale, appearance and landscaping (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 5 of the Town and Country Planning (General Development Management Procedure) (England) Order 2015 and Section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Application for approval of the Reserved Matters shall be made to the Local Planning Authority not later than the expiration of 3 years from the date of this permission.

REASON: To comply with the provisions of Article 5 of the Town and Country Planning (General Development Management Procedure) (England) Order 2015 and Section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

3. The development hereby permitted shall be begun 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 5 of the Town and Country Planning (General Development Management Procedure) (England) Order 2015 and Section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

4. Prior to occupation of the development, the access provision as shown in principle on submitted drawing DR5 REV A shall be provided, including clear to ground visibility splays with dimensions of 2.4 metres by 59 metres to the north and 2.4 metres by 123 metres to the south, as measured from and along the nearside edge of the carriageway. The vehicular visibility splays shall be retained free of any obstruction at all times thereafter. Access works shall include:

- Provision of footway minimum width 2m between proposed access and the existing footway to the north as shown in principle in drawing number DR5 REV A;
- Provision of a vehicle activated speed sign on Mill Road to encourage the reduction of speed, the specification and location to be agreed with the highway authority.

For the avoidance of doubt all necessary works, including any relocation or provision of signage, lighting, associated resurfacing or works to the existing carriageway to facilitate widening and Traffic Regulation Orders shall be carried out entirely at the developer's expense.

REASON: To ensure that vehicles can enter and leave the highway in a controlled manner in forward gear with adequate inter-visibility between vehicles using the access and those in the existing public highway in the interest of highway safety in accordance with ULP Policies GEN1 and GEN6 of the Uttlesford Local Plan (adopted 2005).

5. Prior to first occupation, provision of a signal enhancement scheme shall be provided at Grove Hill Junction whereby such scheme shall include additional wireless vehicle detection and adjustment of signal times as necessary. For the avoidance of doubt, all equipment to be TOPAS (Traffic Open Products and Specifications) approved, and details shall be agreed with the highway authority.

REASON: To provide additional capacity at Grove Hill and to mitigate the impact of the traffic generated by the development in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011 in accordance with ULP Policies GEN1 and GEN6 of the Uttlesford Local Plan (adopted 2005).

6. Prior to first occupation provision of footpath a minimum of 2m width to connect public Right of Way PROW 25/2 with the footway into the village as shown in principle on drawing number 004 rev A Illustrative Masterplan. Details to be agreed with the highway authority.

REASON: To provide a link to the PROW network and encourage walking in accordance with ULP Policies GEN1 and GEN6 of the Uttlesford Local Plan (adopted 2005).

7. Prior to occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack per dwelling for sustainable transport approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator.

REASON: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with ULP Policies GEN1 and GEN6 of the Uttlesford Local Plan (adopted 2005).

8. No works except demolition shall takes 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:

- Verification of the suitability of infiltration of surface water for the development. This should be based on infiltration tests that have been undertaken in accordance with BRE 365 testing procedure and the infiltration testing methods found in chapter 25.3 of The CIRIA SuDS Manual C753. If infiltration is found to be viable then the scheme should be updated accordingly. If partially viable then infiltration should be utilised as much as possible.

- Limiting discharge rates to 1.9l/s for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change. All relevant permissions to discharge from the site into any outfall should be demonstrated.
- 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.
- Demonstrate that all storage features can half empty within 24 hours for the 1 in 30 plus 40% climate change critical storm event.
- 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 the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753.
- 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. It should be noted that all outline applications are subject to the most up to date design criteria held by the LLFA.

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. 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 in accordance with ULP Policy GEN3 of the Uttlesford Local Plan (adopted 2005).

Pre-commencement condition justification: To make the development acceptable in terms of flood risk and SuDS.

9. 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. 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 in accordance with ULP Policy GEN3 of the Uttlesford Local Plan (adopted 2005).

Pre-commencement condition justification: To make the development acceptable in terms of flood risk and SuDS.

10. Prior to occupation 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. Failure to provide the above required information prior to occupation may result in the installation of a system that is not properly maintained and may increase flood risk or pollution hazard from the site in accordance with ULP Policy GEN3 of the Uttlesford Local Plan (adopted 2005).

11. The applicant or any successor in title shall maintain yearly logs of maintenance which should be carried out in accordance with any approved Maintenance Plan. These must be available for inspection upon a request by the Local Planning Authority.

REASON: To ensure the SuDS are maintained for the lifetime of the development as outlined in any approved Maintenance Plan so that they continue to function as intended to ensure mitigation against flood risk in accordance with ULP Policy GEN3 of the Uttlesford Local Plan (adopted 2005).

12. The SuDS basin shall be designed to be usually dry in or after rainfall events more frequent than one in two years. If this is not possible then further measures to reduce the frequency of open water or to proof the drainage basin will be required.

REASON: To reduce the risk of creating a habitat that will increase the risk of a Birdstrike to aircraft using Stansted Airport in accordance with ULP Policy GEN2 of the Uttlesford Local Plan (adopted 2005).

13. All ecological mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Ecological Impact Assessment, Biodiversity Statement and Mitigation Plan (Southern Ecological Solutions, July 2020) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.

REASON: To conserve and enhance Protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended

and s40 of the NERC Act 2006 (Priority habitats & species) in accordance with ULP Policy GEN7 of the Uttlesford Local Plan (adopted 2005).

14. The following works to erect 45 no. dwellings shall not in in any circumstances commence unless the local planning authority has been provided with either:

a) a licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 (as amended) authorising the specified activity/development to go ahead; or

b) a GCN District Level Licence issued by Natural England; or

c) a statement in writing from the relevant licensing body to the effect that it does not consider that the specified activity/development will require a licence.

REASON: To conserve protected species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 and s17 Crime & Disorder Act 1998 in accordance with ULP Policy GEN7 of the Uttlesford Local Plan (adopted 2005).

Pre-commencement condition justification: To make the development acceptable in terms of Protected and Priority species.

15. A Biodiversity Enhancement Layout providing the finalised details and locations of the enhancement measures contained within the Ecological Impact Assessment, Biodiversity Statement and Mitigation Plan (Southern Ecological Solutions, July 2020) shall be submitted to and approved in writing by the local planning authority. The enhancement measures shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

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

16. A lighting design scheme for biodiversity shall be submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory.

All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

REASON: To allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species) in accordance with ULP Policy GEN7 of the Uttlesford Local Plan (adopted 2005).

17. If the erection of 45 no. dwellings hereby approved does not commence within 18

months from the date of the survey results in the Ecological Impact Assessment, Biodiversity Statement and Mitigation Plan (Southern Ecological Solutions, July 2020), the approved ecological mitigation measures secured through condition shall be reviewed and, where necessary, amended and updated. The review shall be informed by further ecological surveys commissioned to:

- i. establish if there have been any changes in the presence and/or abundance of bats and
- ii. identify any likely new ecological impacts that might arise from any changes.

Where the survey results indicate that changes have occurred that will result in ecological impacts not previously addressed in the approved scheme, the original approved ecological measures will be revised and new or amended measures, and a timetable for their implementation, shall be submitted to and approved in writing by the local planning authority prior to the commencement of the erection of 45no. dwellings. Works shall then be carried out in accordance with the proposed new approved ecological measures and timetable.

REASON: To allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species) in accordance with ULP Policy GEN7 of the Uttlesford Local Plan (adopted 2005).

18. No development or preliminary groundworks shall commence until a programme of archaeological trial trenching has been secured and undertaken in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the local planning authority.

A mitigation strategy detailing the excavation/preservation strategy shall be submitted to the local planning authority following the completion of this work and before any reserved matters are agreed.

No development or preliminary groundworks shall commence on those areas containing archaeological deposits until the satisfactory completion of fieldwork as detailed in the mitigation strategy and which has been signed off by the local planning authority through its historic environment advisors.

The applicant shall submit to the local planning authority a post-excavation assessment (to be submitted within three months of the completion of fieldwork, unless otherwise agreed in advance with the Planning Authority). This will result in the completion of post-excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.

REASON: The Historic Environment Record identifies the proposal for development as being within an area of potentially sensitive archaeological deposits and there is the potential for prehistoric and medieval archaeological remains being impacted on by the proposed development in accordance with ULP Policy ENV4 of the Uttlesford Local Plan (adopted 2005).

Pre-commencement condition justification: To make the development acceptable in terms of the protection of below ground heritage assets.

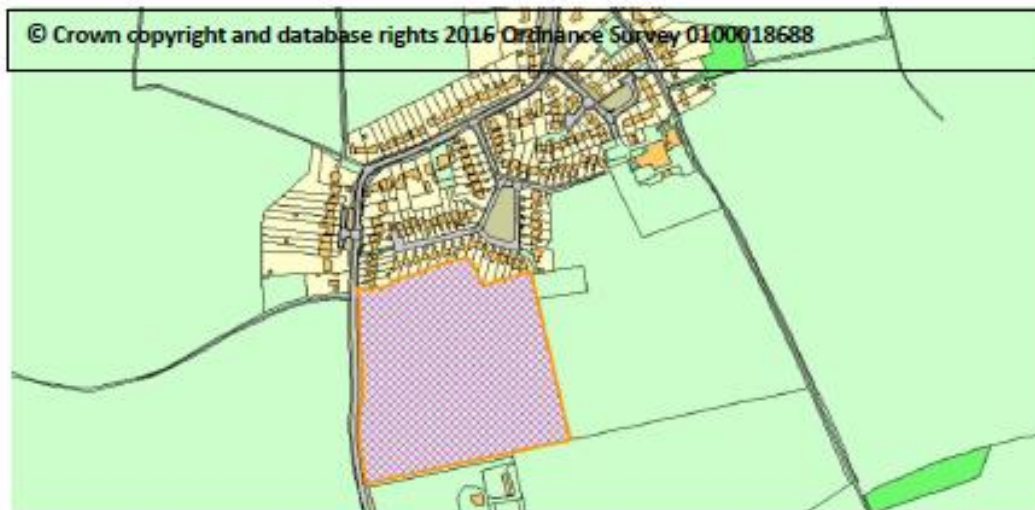
19. 5% of the dwellings approved by this permission shall be built to Category 3 (wheelchair user) housing M4 (3)(2)(a) wheelchair adaptable. The remaining

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 ULP Policy GEN2 (c) of the Uttlesford Local Plan 2005 and the subsequent SPD on Accessible Homes and Playspace.

20. Prior to dwelling occupation the dwellings shall be provided with electric vehicle charging points. The charging points shall be fully wired and connected, ready for first use and retained for occupant use thereafter.

REASON: To encourage/support cleaner vehicle usage in accordance with the NPPF and ULP Policies ENV13 and GEN2 of the Uttlesford Local Plan (adopted 2005).



Organisation:	Uttlesford District Council
Department:	Planning
Date:	20 JANUARY 2021