

**UTT/21/1108/FUL**

**Call in request by Councillor Tayler if recommended for refusal – reason: “This is a complex application which aims to support the sustainability of a significant local business, namely a 500-acre farm, which has impacts on the local economy, rural landscape, biodiversity and local food production”.**

<b>PROPOSAL:</b>	<b>Demolition of existing hay barn and erection of new farmhouse</b>
<b>LOCATION:</b>	<b>Land at Lodge Farm, Bardfield End Green, Thaxted, CM6 3PZ</b>
<b>APPLICANT:</b>	<b>Mr T Magness c/o David Magness Farms Ltd.</b>
<b>AGENT:</b>	<b>Donald Purkiss &amp; Associates LLP.</b>
<b>EXPIRY DATE:</b>	<b>25.05.2021</b>
<b>CASE OFFICER:</b>	<b>Mr C Theobald</b>

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**1. NOTATION**

1.1 Outside Development Limits.

**2. DESCRIPTION OF SITE**

2.1 The site lies on the south side of the Bardfield Road between Bardfield End Green and Little Bardfield and comprises a farmyard site consisting of a range of Victorian barns of historic interest and a number of modern barns, the majority of which are in active use as the main farm base for David Magness Farms Ltd, a family farming enterprise comprising 445 ha, with 214 ha situated at Lodge Farm. The site is generally flat with surrounding agricultural land. It is stated that the applicant has recently re-established a cattle herd at Lodge Farm and that the site is also used to rear turkeys, whilst 12 ha of adjoining woodland are used to rear traditional breed Essex pigs and game which supply a local butcher's shop.

**3. PROPOSAL**

3.1 This full application relates to the demolition of an existing open-sided hay barn, and for the erection of a 4 bedroomed farmhouse incorporating farm manager's office and staff welfare facilities.

**4. ENVIRONMENTAL IMPACT ASSESSMENT**

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

**5. APPLICANT'S CASE**

5.1 It is stated that Mr Magness Senior is set to retire from the family farming business in an existing farmhouse in Debden Green and that the applicant (Thomas Magness, son) will take over the running of the established farming enterprise whereby Lodge Farm is the current base for the whole farming business. It is further stated that

there is currently no farmhouse that is owned by the business for the applicant to reside in, whereby he and other farm workers must travel to Lodge Farm each day where there are no welfare facilities.

5.2 The application is accompanied by a Planning Supporting Statement incorporating Design and Access and Transport Statement which describes the site and its surroundings, sets out the planning history for the site, describes the proposal, the need for the proposed development, relevant planning policy, and planning considerations. The statement concludes as follows:

- “The Revised NPPF states that where there is not an up-to-date Plan, planning permission should be granted unless the application of the policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusal; in this instance the proposal does not affect any such protected areas or assets. Or the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole.
  
- I consider the benefits are as follows:
  - provision of a modest family house contributing towards the shortfall.
  - a high level of existing, enhanced and proposed new natural landscaping benefits to biodiversity through the provision of further planting, especially with the reduced building footprint.
  - very low impact on the rural character from the public footpath viewpoints.
  - reduction in existing building footprint of 864 square metres.
  - partial restoration of the historic nature and character of the site, through provision of a farmhouse where for several hundred years one previously stood. This improves the setting of the Victorian barns also.
  - the functional need the dwelling would perform in respect of the operation of the farming enterprise, in particular the supervision of the livestock.
  - the functional need of the provision of a farm office and toilet at the farmstead.
  - economic benefits to the existing business and proposed diversification through the provision of a dwelling.
  - provision of a house, supporting the local school, services and facilities.
  - provision of a high quality dwelling, architect designed specifically for the site, constructed of good materials, that would positively enhance the character of the area.
  - The Magness family and the UK Holocaust Memorial Foundation intend to create a community museum in the barns at Lodge Farm in relation to the Bachad Farming Institute.
  
- These positive attributes must be balanced against the very marginal increase in car movements associated with the new house. I consider the impact of this to be very limited for the reasons provided in this statement.
  
- I conclude that the proposal represents 'sustainable development' in the context of the NPPF. The presumption in favour of sustainable development is engaged because relevant policies for the supply of housing, including the associated site allocations and Development Limits, are out of date. In this case, the negligible adverse effect of increase in domestic traffic movements would not significantly and demonstrably outweigh the benefits from the proposal's contribution towards housing land supply, improvements to rural and historic character of the area, the benefits to the operation of the farming

enterprise, the benefits to animal welfare and the general economic benefits. Taking into account the more up-to-date nature of the revised NPPF with respect to the determining issues, it is considered that the lack of accordance with the development plan is overridden in this instance”.

## 6. RELEVANT SITE HISTORY

- 6.1
- Planning permission was granted in 1956 under reference DUN/0182/56 for a new hostel incorporating a study centre. This is the present dwelling called “The Lodge” which stands on the northern side of Lodge Farm.
  - At some time between 1962 and 1972 the old farmhouse at Lodge Farm was demolished for reasons unknown.
  - Lodge Farm was sold to the David Magness family in 1972 (current owners) when “The Lodge” was sold off separately and remains in separate ownership.
  - Planning permission was granted in 1974 for a farm manager’s dwelling under reference UTT/0559/74, although the dwelling was never built.
  - The current open-sided hay barn on the site proposed to be demolished by the current application was constructed in the mid-1970’s.
- 6.2 Also considered of relevance to the submitted application are the following determined planning applications:

Proposed 1 no. dwelling - Mill Hill Farmhouse, Cutlers Green Lane, Cutlers Green, Thaxted – Approved 23 August 2018 (UTT/18/1686/FUL).

(Referred to by the applicant’s agent for the current planning application)

The delegated officer report for this approved single dwelling housing scheme stated the following in terms of the planning merits of the proposal:

- *“The site is located outside Development Limits of Thaxted and therefore in the countryside for the purposes of the Local Plan. The proposal conflicts with the restrictive approach to housing development in the countryside advocated by Policies S7 and H1. It is therefore considered that the proposal conflicts with the Local Plan insofar as it relates to the location of housing. However, the NPPF provides a more up-to-date approach to the location of housing, which seeks to prevent isolated homes, but supports the growth of existing settlements. The NPPF requires that new dwellings are not isolated. The site is located within walking distance of the town of Thaxted where many services and amenities are offered. In addition, the site is less than 600m from a public bus route. Thaxted Parish’s largest employer, J. Brock & Sons, is less than 600m from the site. The recent appeal case (Braintree D.C. V Secretary of State for Communities & Local Government, 2017 EWCH 2743) made it clear that isolation means “far away from other places, businesses or people.” Taking into account the judgement as a whole, the site is not considered to be isolated for planning purposes. The site is next to two dwellings and numerous buildings. Moreover, Thaxted is less than 5 minutes via private/public transport, less than 10 minutes via bike and less than 20 minutes by footpath...*

*The dwelling would be well designed and whilst large would be in keeping with the character of the area and the surrounding landscape...*

*It is acknowledged that the occupants of the proposed dwelling would realistically need to use a car to access most services, facilities and employment. However, Cutlers Green is part of a rural bus route providing semi-regular services between the larger village of Thaxted and the market town of Great Dunmow with differing services accessible at varying times, mitigating any policy conflict with GEN1 and adhering with NPPF paragraphs 7, 34 and 55 with respect to sustainable transport and the encouragement of small-scale rural housing developments due to the associated economic and social benefits...*

*The proposal conflicts with paragraph 17 of the NPPF due to the harmful effect on the rural character of the area. However, the harm would be limited, and the small contribution towards housing supply and the re-use of previously developed land represent benefits. The tilted balance at paragraph 14 of the NPPF is engaged because relevant policies for the supply of housing, including the associated site allocations and Development Limits, are out of date. In this case, the proposal represents 'sustainable development' because the adverse effects would not significantly and demonstrably outweigh the benefits...*

*Taking into account the more up-to-date nature of the NPPF with respect to the determining issues, it is considered that the lack of accordance with the development plan is overridden in this instance. Regard has been had to all other material considerations, and it is concluded that planning permission should be granted".*

- Erection of single dwelling – Pathwoods, Bardfield End Green, Thaxted - Refused 3 July 2020 – Appeal dismissed (UTT/20/1627/FUL).

The appeals Inspector for this refused single dwelling scheme for an undeveloped rectangular strip of land fronting onto Bardfield Road just to the west of the access leading into Lodge Farm considered that the development would fail to meet the social and environmental dimensions of the NPPF given the site's relative remoteness from local rural services and facilities with no public transport options and in view of the level of rural amenity harm which would result and would not because of these reasons represent a presumption in favour of sustainable development.

## **7. POLICIES**

### **National Policies**

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

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

ULP Policy S7 – The Countryside  
ULP Policy H12 – Agricultural worker's dwellings  
ULP Policy GEN1 – Access  
ULP Policy GEN2 – Design  
ULP Policy GEN3 – Flood Protection  
ULP Policy GEN7 – Nature Conservation  
ULP Policy GEN8 – Vehicle Parking Standards

## **Supplementary Planning Documents/Guidance**

### **Other Material Considerations:**

Essex Design Guide  
ECC Parking Standards – “Design and Good Practice” (September 2009)  
UDC Parking Standards (adopted February 2013)  
Thaxted Neighbourhood Plan (made 21 February 2019)

## **8. PARISH COUNCIL COMMENTS**

- 8.1 The Parish Council resolved to unanimously support this application with the following comments.

“The current application does have a full justification of need. The development is entirely justified and in compliance with Policy S7 on the basis that it is development that needs to be in the countryside”.

## **9. CONSULTATIONS**

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

- 9.1 No ecology objections subject to securing biodiversity mitigation and enhancement measures

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

- 9.2 Recommend a programme of archaeological trial trenching.

### **UDC Environmental Health**

- 9.3 Response Summary:

I have reviewed the details and information provided.

The application site is outside aircraft and other transportation noise significance contours. The site is also outside the Air Quality Management Zone. It is considered that due to the limited scope of the development that it will not negatively impact neighbouring properties. A precautionary land contamination condition is however recommended.

I therefore have no objections to the development and recommend a contamination condition.

## **10. REPRESENTATIONS**

- 10.1 12 representations received (support). Neighbour notification period expires 11 April 2021. Site notice expires 7 May 2021

- 10.2 Summary of representations received as follows:

The representations received all support the principle of a farm manager’s dwelling at this existing farm location on the basis that full justification of agricultural need has been demonstrated that the proposal would contribute to sustainable farming practices, and that the design of the dwelling is appropriate for its rural setting.

## 11. APPRAISAL

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

- A Principle of development (NPPF, ULP Policies S7, H12 and GEN3, TNP Policies TX LSC1, LSC2 and HD1);
- B Access considerations (ULP Policy GEN1);
- C Design (ULP Policy GEN2, TNP Policy HD10);
- D Impact upon protected/priority species (ULP Policy GEN7, TNP Policy TX LSC3).

### **A Principle of development (NPPF, ULP Policies S7, H12 and GEN3, TNP Policies TX LSC1, LSC2 and HD1)**

- 11.1 The National Planning Policy Framework (NPPF - revised 2019) has a presumption in favour of sustainable development whereby achieving sustainable development has three overarching objectives, namely economic, social and environmental, which are interdependent, and which need to be pursued in mutually supportive ways so that opportunities can be taken to secure net gains across each of the objectives.
- 11.2 Chapter 6 of the NPPF addresses the need to build a strong competitive economy whereby paragraph 83 of the Framework states that planning policies and decisions should enable the sustainable growth and expansion of all types of business in rural areas, whilst paragraph 84 states that; *“Planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements and in locations that are not well served by public transport. In these circumstances, it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable...”*.
- 11.3 In terms of rural housing, paragraph 77 of the NPPF states that planning policies and decisions should be responsive to local circumstances and support housing developments that reflect local needs, adding at paragraph 78 that, *“To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities”*. Paragraph 79 on the other hand states that planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply, namely (in the instance of the current application proposal that; a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside...
- 11.4 Policy S7 of the Uttlesford Local Plan (adopted 2005) 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 control on new building. The policy adds 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. TNP Policies TX LSC1 and LSC2 echo the same policy sentiment. ULP Policy GEN3 steers new development away from areas which are liable to flood in line with NPPF advice.
- 11.5 Separate to Policy S7, Policy H12 states that new dwellings for agricultural workers may be permitted if both the following criteria are met;

- a) It can be demonstrated that there is an essential need for someone to live permanently on site to provide essential care to animals or processes or property at short notice.
- b) The scale of the proposed dwelling relates to the needs of the agricultural enterprise.

In these exceptional circumstances, residential occupancy conditions will be imposed.

- 11.6 TX Policy LSC4 of the made Thaxted Neighbourhood Plan permits appropriate development, including replacement dwellings, and for the re-use of existing commercial sites, within the parish's outerlying hamlet settlements, including Bardfield End Green, although the Plan does not have any specific policies relating to rural workers dwellings.
- 11.7 The case is made by the applicant for this new dwelling proposal that it has been demonstrated that the proposal represents a presumption in favour of sustainable development when assessed against the three sustainable development objectives of the NPPF (economic, social and environmental). This assertion has been made on the basis that a new farmhouse at Lodge Farm would meet the business needs of the existing enterprise and would provide supervision for both expensive machinery stored at the site and livestock, that the siting of a well-designed and fit for purpose farmhouse would represent a significant reduction in footprint and built form at the site compared to the larger rather utilitarian looking hay barn which would be demolished benefiting the setting of the farmstead and the wider rural character of the area, and that the dwelling would represent a sustainable live/work environment for the applicant by not having the need to travel to and from work as he would be based at his normal mode of business thereby reducing carbon omissions.
- 11.8 It is also argued that the Council does not currently have a 5 year housing land supply where this figure currently stands at 3.11 years and that the Thaxted Neighbourhood Plan is now more than two years old and that its housing policies are out of date, albeit that it is requested that the application be considered on its planning merits. As such, it is argued that the combined benefits of the proposal outweigh any identified adverse effects where these are considered not to be significant and that the tilted planning balance is therefore engaged in favour of the presumption in favour of sustainable development under paragraph 11 d) of the NPPF.
- 11.9 In consideration of the principle of development for this application, the applicant has set out a detailed farming background and farming case within the submitted planning supporting statement justifying the need for a rural worker dwelling (i.e. an agricultural workers dwelling) at this rural site location. However, the application has not been submitted and premised for the promotion of land management, i.e., the normal farming criteria under which an agricultural workers dwelling would normally be assessed by an LPA for the purposes of Policy H12 of the adopted Local Plan as referenced above in terms of assessing a) essential functional agricultural need and b) financial viability to consider whether the agricultural holding would be able to support an agricultural dwelling. Indeed, the applicant's agent has emphasised in the application submission that an agricultural dwelling in the normal and recognised sense of the meaning is not being applied for as financial funding, e.g. a mortgage, cannot be arranged for a dwelling with an agricultural restriction placed on it for the site and as the applicant has made it clear that he would not want to be alternatively

accommodated within a temporary mobile home on the site for say a period of three years (normal period of temporary permission) to subsequently have the financial viability of the farming unit tested while the farming business is established that is a normal requirement of a local planning authority in such situations. Instead, as previously mentioned, the applicant is relying on what he considers to be the planning merits of the proposal as set out above for a market dwelling in the context of the provisions of the NPPF to make the case that planning permission should be granted.

- 11.10 As such, the local planning authority is unable to assess the merits of the application as a farm workers dwelling under the normal criteria of Policy H12 which has a similar assessment criteria to previously withdrawn government advice known as “Annexe A”, although the “essential need” requirement of paragraph 79 is still pertinent and which is expanded by current PPG guidance note 009 Reference ID: 67-009-20190722 Revision date: 22 07 2019” and which in effect supersedes the previous “Annexe A” guidance. It is clear from the information submitted, however, that there is some functional need for a farm worker’s dwelling for the existing agricultural enterprise, although this is not considered sufficient justification in itself for a dwelling, particularly of the size proposed, to be granted planning permission where farming accounts, for example, are not available to the Council to inspect in the normal way or to be independently verified to predict with certainty for the purposes of PPG guidance *“the degree to which there is confidence that the enterprise will remain viable for the foreseeable future”* (i.e. the financial viability test), albeit these have been previously requested, where the Council has to assume that the applicant has a separate financial means to being able to take out a mortgage or other financial loan to fund the proposed 4 bedroomed market dwelling.
- 11.11 The applicant has stated that it could be possible to convert one of the existing Victorian agricultural barns on the site to a dwelling under Class Q permitted development rights where the aforementioned PPG guidance asks *“whether the need could be met through improvements to existing accommodation on the site, providing such improvements are appropriate taking into account their scale, appearance and the local context”*. In this respect, the applicant has stated that this possibility would not be desirable given the usefulness of this range of brick and high roofed buildings capable of housing expensive farm machinery, as the resulting impact of building conversion would have a greater environmental impact on the character of the area than a traditionally designed new dwelling more in keeping and as there is a desire by the applicant to use the buildings as a museum. However, this can be regarded as representing a fall-back position and is therefore a material planning consideration.
- 11.12 The applicant’s economic argument is considered strong in terms of consolidating the farming base at Lodge Farm with a farm manager’s dwelling where it is additionally stated that the erection of a farm dwelling would enable the farming enterprise to continue without interruption to the next generation producing food in the difficult post-Brexit era (food security) which would include a new sustainable farming business model by introducing new livestock at the farm for local meat consumption. This economic role would chime with NPPF advice under Chapter 6 which states that significant weight should be attached to the need to support business growth where this includes being flexible to accommodate needs, allowing flexible working practices, enabling rapid responses to economic changes, enabling sustainable growth and expansion of all types of business in rural areas, including the development and diversification of agricultural and other land-based businesses.

- 11.13 The weakness of the submitted scheme is the site's location in that the site is not regarded be within a sustainable location relative to local services; a fact recognised by the applicant in the planning submission. The site / Bardfield Road is not served by any regular bus service (a bookable DART minibus is available in the area), and there are no pavements or street lighting given the site's rural position where this section of Bardfield Road's relative remoteness from local rural services and facilities was a cited reason for refusal at appeal for the new dwelling proposal at Pathwoods situated adjacent to the entrance to the site along the Bardfield Road frontage (UTT/20/1627/FUL refers). As such, there would be a reliance on the use of the private motor car for travel from the site to local services, although it is accepted that vehicle movements to and from the site would be lessened by the fact that the applicant would be living at his place of work. Furthermore, Lodge Farm is not by definition said to be isolated, and it would be easily possible to cycle into Thaxted from the site. However, it is concluded for this section that the proposal would not fully perform the social role or dimension of the NPPF.
- 11.14 The large open hay barn proposed to be demolished by the current dwelling proposal is a structure expected to be seen within the working agricultural landscape and, whilst appearing functional and rather utilitarian in its appearance, serves this role in this respect. The proposed dwelling would have a considerably reduced footprint compared to that of the hay barn (approximately a fifth of its footprint) and it is considered that there would be a significant environmental gain in removing the straw barn in favour of the dwelling proposed. The introduction of a new dwelling at the site would therefore have a lessened impact on the local landscape than the current large structure and arguably would enhance it leading to an environmental improvement at the site overall subject to the design of the dwelling being sympathetic to its immediate surroundings. As such, the proposed development would meet the environmental dimension of the NPPF.

## **B Access considerations (ULP Policy GEN1)**

- 11.15 Lodge Farm is accessed via a long shared private access drive from Bardfield Road which passes The Lodge before entering the farmyard to the immediate south. The proposal is for a single dwelling to be used by the applicant meaning that there would be an inconsequential increase in vehicular use of this private access drive by the proposed development whereby the access drive is already used by farm related traffic. No highway objections are therefore raised under ULP Policy GEN1.

## **C Design (ULP Policy GEN2, TNP HD10)**

- 11.16 The dwelling would have a traditional design and appearance reflecting the local rural vernacular incorporating a central cross-wing with front and rear gable projections with steeply pitched roofs and a side ancillary offshoot to be used as the farm office/staff welfare area. The dwelling would not be fully two storeys in height and would be externally clad with render on a red brick plinth with a slate roof with timber boarding and brick plinth for the single storey side projection. Windows would be traditional sashes and casements made of painted timber. No garage is proposed.
- 11.17 Whilst the dwelling would be large, it would architecturally be well-articulated with good proportions of scale whereby it would not be out of character or scale with other similar sized dwellings found within the neighbouring local countryside context and no design objections are raised under ULP Policy GEN2 or TNP TX HD10 in this regard. The dwelling would have a generous private amenity space which would

not be overlooked and would have appropriate surface parking arrangements in accordance with adopted parking standards (ULP Policy GEN8).

#### **D Impact upon protected/priority species (ULP Policy GEN7, TNP TX LSC3)**

11.18 The structure to be demolished is an open pole barn type structure surrounded by open hardstanding areas. An ecological survey and assessment (Essex Mammal Surveys, Jan 2020) found that the site was low in ecological value not providing suitable habitats for any notable protected species, including bats, reptiles, badgers or great crested newts and does not recommend any further species surveys in light of these negative findings.

11.19 Place Services Ecology have reviewed the submitted information and findings and have stated that there is sufficient information available for determination and that they have no ecology objections to the proposal subject to appropriate ecology conditions, including the submission for approval of a biodiversity enhancement strategy to seek ecological net gains for the site, and a wildlife sensitive lighting scheme given the site's rural location. No ecology objections are raised under Policy GEN7 or TNP TX LSC3 on this basis.

## **12. CONCLUSION**

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

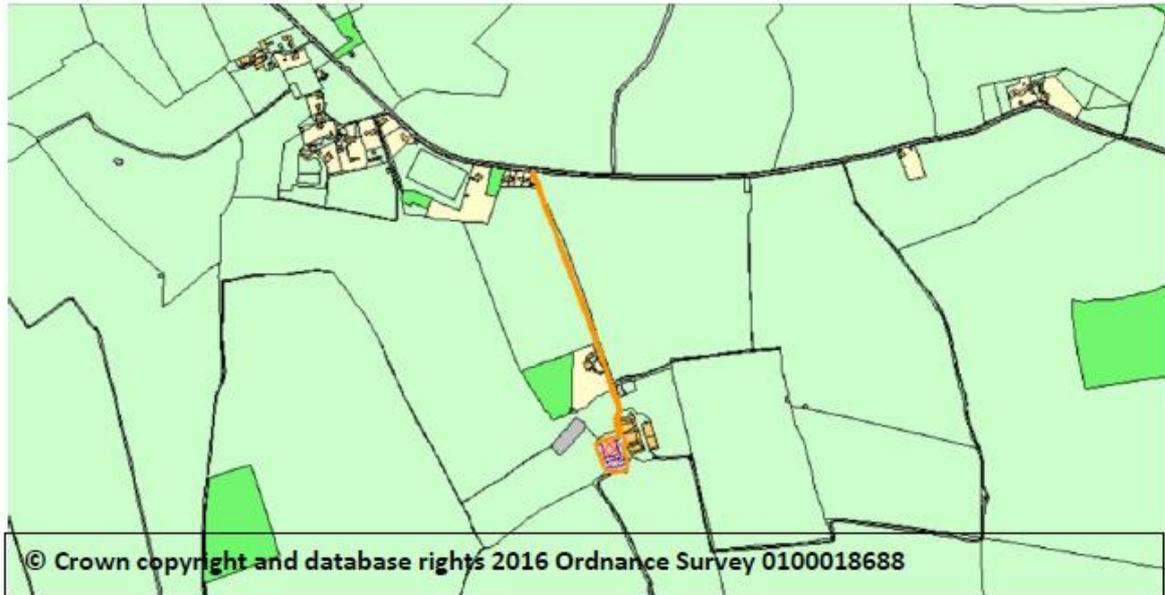
- A The application proposal has not been promoted for land management under the normal planning requirements for an agricultural workers dwelling whereby the local planning authority is unable to properly determine evidence of the necessity for a rural worker to live on the site to ensure the effective operation of the agricultural enterprise, whether the farming business would be able to sustain a dwelling of the size proposed at the present time and the degree to which there is confidence that the enterprise would remain viable for the foreseeable future.
- B Access arrangements are considered acceptable.
- C The design of the proposed dwelling is considered acceptable.
- D The development would not have a harmful impact on protected or priority species.

## **RECOMMENDATION – REFUSAL**

### **Reasons**

1. The development has not been promoted for land management under the normal planning requirements for an agricultural workers dwelling whereby the local planning authority is unable to properly determine evidence of the necessity for a rural worker to live on the site to ensure the effective operation of the agricultural enterprise, whether the farming business would be able to sustain a dwelling of the size proposed at the present time and the degree to which there is confidence that the enterprise would remain viable for the foreseeable future. Therefore, the development represents a form of inappropriate development in the countryside contrary to paragraph 79 of the National Planning Policy Framework (revised February 2019), Policies H12 and S7 of the Uttlesford Local Plan (adopted 2005) and Policies TX LSC1, LSC2 and HD1 of the made Thaxted Neighbourhood Plan.

2. The proposal would not amount to a presumption in favour of sustainable development as the site is poorly served by public transport and is not within walking distance of local services meaning that there would be a reliance upon the motor car to access these services. The proposal is therefore contrary to the National Planning Policy Framework (revised February 2019) which seeks to contribute to the achievement of sustainable development.



Organisation: Uttlesford District Council

Department: Planning

Date: 20<sup>th</sup> JULY 2021