



ITEM NUMBER: 10

PLANNING COMMITTEE DATE: 13th April 2022

REFERENCE NUMBER: UTT/22/0086/FUL

LOCATION: THREE ELMS COTTAGE, LANGLEY LOWER GREEN, LANGLEY

SITE LOCATION PLAN:



**Crown copyright and database rights 2022 ordnance Survey 0100018688
Organisation: Uttlesford District Council Date: April 2022**

PROPOSAL: Erection of 1 no. detached dwelling with cart lodge

APPLICANT: Mr and Mrs S Whitehead

AGENT: N/A

EXPIRY DATE: 10th March 2022

EOT Expiry Date EOT Agreed to 15th April

CASE OFFICER: Mr Lindsay Trevillian

NOTATION: Outside Development Limits
Adjacent to Listed Building.

REASON THIS APPLICATION IS ON THE AGENDA : Member Call In if recommended for refusal -
No impact on Listed Building and is sustainable

1. EXECUTIVE SUMMARY

- 1.1** Full planning permission is sought by the applicant (Mr & Mrs S Whitehead) for the erection of a detached dwelling with cart lodge at the site known as 'Three Elms Cottage, Langley Lower Green, Langley.
- 1.2** The application site lies outside the defined settlement boundary limits and is thereby located within the countryside and thereby the proposals are contrary to policy S7. However, as the proposals cannot be tested against a fully up-to-date Development Plan, and the Council are currently unable to demonstrate a 5-year housing land supply and as such paragraph 11 of the NPPF is engaged. Thereby a detailed "Planning Balance" has been undertaken of the proposals against all relevant considerations.
- 1.3** The development would provide social and economic benefits in terms of the construction of the dwelling and the investment into the local economy. Furthermore, some weight has been given in respect to the slight biodiversity net gain the development will provide. Thus, taken together, moderate weight to the benefits of the development have been considered.
- 1.4** Turning to the adverse impacts of the development, the proposals would result in a negative environmental effect on the character and appearance of the countryside and the lack of accessible services and facilities and the subsequent reliance on the private motor car would have significant negative environmental and social effects. Furthermore, the proposals

would inevitably result in an adverse impact to the setting and experience of the designated heritage asset of the adjoining listed building.

- 1.5** Therefore, and taken together, significant weight to the adverse impacts have been considered in respect of development and the conflict with development plan policies. The adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits of development. In the circumstances, the proposals are contrary to policies S7, ENV2, and GEN1 of the adopted Local Plan and the NPPF.

2. RECOMMENDATION

REFUSE for the reasons set out in section 17.

3. SITE LOCATION AND DESCRIPTION:

- 3.1** The area of land subject to this planning application relates to the 'Land at Three Elms Cottage, Langley, Essex'. The extent of the application site is as shown by the land edged in red on the site location plan submitted in support of this application.

- 3.2** The application site is located on the north-eastern side of Park Lane approximately 1km south of the hamlet of Langley Upper Green. The site is associated to the host dwelling of Three Elms cottage which is a grade two listed building used as a private residence. The site does not form part of the residential curtilage of the host dwelling or at least no evidence has been provided by the applicant to suggest otherwise and thereby is not previously developed land. The site is mainly regularly in shape with the front boundary following the curve of the highway and its topography is relatively level.

- 3.3** The site is currently free of any established built form. Existing mature vegetation in the form of medium to large trees and hedgerows are located along the front and northern flank boundaries. No vegetation is covered by tree preservation orders. An unmade vehicle crossover provides farm access into the current field.

- 3.4** The application site is located outside the settlement boundary limits as defined by the Adopted Local Plan. Built form along this part of Park Lane can be defined by either small clusters of detached dwellings or individual houses and farmyards. Large arable fields used for agricultural provides a strong characteristic of the area.

- 3.5** The site is not located within or near a conservation area. There are three listed buildings in the group of dwellings to the south of the site. These are Three Elms (Grade II), Cobblers Mead (Grade II), and Sunset Cottage (Grade II).

4. PROPOSAL

4.1 This planning application is submitted seeking full permission for the construction of a 2-storey building with front and rear gable projections to be used as a private dwelling house consisting of 4 bedrooms. The proposals also include the construction of a new cart lodge to the side of the dwelling house.

4.2 The proposals will include modifications to the existing farm access which will provide the main ingress point for both vehicles and pedestrians. The access will be positioned along Park Lane within the sites north-western corner. Off street parking will be provided on the hard-standing areas towards the front of the dwelling or within the new proposed cart lodge.

5. **ENVIRONMENTAL IMPACT ASSESSMENT**

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

6. **RELEVANT SITE HISTORY**

Reference	Proposal	Decision
UTT/21/3513/FUL	Erection of 1 no. detached dwelling	Withdrawn December 2021
UTT/17/1617/LB	Replacement windows and doors	Approved August 17
UTT/12/5861/LB	Single storey side extension. 2no. rooflights to eastern pitch	Approved February 13
UTT/12/5860/FUL	Single storey side extension. 2 no. roof lights to eastern pitch	Approved February 13

7. **PREAPPLICATION ADVICE AND/OR COMMUNITY CONSULTATION**

7.1 No Formal pre-application advice or Community Consultation was undertaken as part of the proposals.

8. **SUMMARY OF STATUTORY CONSULTEE RESPONSES**

8.1 There were no statutory duties to formally consult any relevant statutory authorities regarding the proposals.

9. **PARISH COUNCIL COMMENTS**

9.1 Langley Parish Council – No Objection

10. CONSULTEE RESPONSES

10.1 UDC Environmental Health – No Objection

10.1.1 No objections have been raised subject to imposing appropriately worded planning conditions if the application is minded for approval in respect to mitigation for contamination and air quality by providing electric charging points for vehicles.

10.2 Place Services (Conservation and Heritage) - Object

10.2.1 The Conservation Officer at Place Services concluded that the proposals would fail to preserve the special interest of the listed building, contrary to Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, through change in its setting. With regards to the NPPF (2021) this harm is held to be less than substantial, Paragraph 202 being relevant. Further details are provided in the main assessment of this report.

10.3 Place Services (Ecology) – No Objection

10.3.1 The Ecologist at Place Services confirmed that they have reviewed all supporting documentation and concluded that they have no objections subject to imposing appropriate conditions to secure biodiversity mitigation and enhancement measures.

11. REPRESENTATIONS

11.1 The application was publicised by sending letters to adjoining and adjacent occupiers, displaying a site notice and advertising it within the local newspaper. Representations have been received by the Council supporting to the proposals for the following reasons:

11.2 Support

11.2.1 The proposals will make an efficient use of the site.

The proposals will improve the biodiversity of the site.

The design of the house is more modest in size compared to the application that was withdrawn.

The applicants have produced a lovely plan which we believe will add to the current setting in that location and the house design which has been amended since our original comment is a further improvement sitting well in the large plot and compliments the existing property well.

The new proposed pond is a very valuable additional asset to offer a new and valuable diverse habitat feature.

We feel that the proposed dwelling would barely be seen with the high tree line that is already established. Any drainage work on site would leave to an improvement to our land. Currently water flows off the rear fields and through to our land making it waterlogged at certain times of the year.

11.4 Comment

11.4.1 The points raised above are addressed in detail within the main assessment of this report.

12. MATERIAL CONSIDERATIONS

12.1 In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, The Development Plan and all other material considerations identified in the “Considerations and Assessments” section of the report. The determination must be made in accordance with the plan unless material considerations indicate otherwise.

12.2 Section 70(2) of the Town and Country Planning Act requires the local planning authority in dealing with a planning application, to have regard to:

- (a) The provisions of the development plan, so far as material to the application, (a) a post-examination draft neighbourhood development plan, so far as material to the application,
- (b) any local finance considerations, so far as material to the application, and
- (c) any other material considerations.

12.3 Section 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the local planning authority, or, as the case may be, the Secretary of State, in considering whether to grant planning permission (or permission in principle) for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses or, fails to preserve or enhance the character and appearance of the Conservation Area – Delete or keep this paragraph when it is relevant i.e

12.4 The Development Plan

12.4.1 Essex Minerals Local Plan (adopted July 2014)
Essex and Southend-on-Sea Waste Local Plan (adopted July 2017)
Uttlesford District Local Plan (adopted 2005)
Felsted Neighbourhood Plan (made Feb 2020)
Great Dunmow Neighbourhood Plan (made December 2016)
Newport and Quendon and Rickling Neighbourhood Plan (made June 2021)

Thaxted Neighbourhood Plan (made February 2019)

3. POLICY

13.1 National Policies

13.1.1 National Planning Policy Framework (2021)

13.2 Uttlesford District Plan 2005

S7 – Countryside

GEN1 – Access

GEN2 – Design

GEN3 – Flood Protection

GEN4 – Good Neighbourliness

GEN5 – Light Pollution

GEN7 – Nature Conservation

GEN8 – Vehicle Parking Standards

ENV2 – Development Affecting Listed Buildings

ENV3 – Open Spaces and Trees

ENV7 – Protection of the Natural Environment

ENV8 – Other Landscape Elements of Importance

ENV14 – Contaminated Land

13.4 Supplementary Planning Document or Guidance

Essex County Council Parking Standards (2009)

Accessible Homes and Place Space (November 2005)

Energy Efficiency and Renewable Energy (October 2007)

Urban Place Supplement to the Essex Design Guide (March 2007)

Essex County Council Adopted Parking Vehicle Standards (2009)

Uttlesford Local Residential Parking Standards (2013)

Uttlesford Interim Climate Change Policy (2021)

14. CONSIDERATIONS AND ASSESSMENT

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

14.2 **A) Principle of Development (S7 and the NPPF)**

B) Suitability and Location (GEN1 and the NPPF)

C) Countryside Impact (S7 and the NPPF)

D) Character and Design (GEN2 and the NPPF)

E) Heritage (ENV2 and the NPPF)

F) Neighbouring Amenity (GEN2, GEN4, and the NPPF)

G) Parking and Access (GEN1, GEN8, and the NPPF)

H) Nature Conservation (GEN7 and the NPPF)

I) Contamination (ENV14 and the NPPF)

J) Flooding (GEN3, and the NPPF)

14.3 A) Principle of development

14.3.1 The application site is located outside the development limits of any defined villages of towns within the District and thereby is designated as being in the open countryside whereby Policy S7 applies.

14.3.2 This specifies that the countryside will be protected for its own sake and planning permission will only be given for development that needs to take place there or is appropriate to a rural area. Development will only be permitted if its appearance protects or enhances the particular character of the part of the countryside within which it is set or there are special reasons why the development in the form proposed needs to be there. A review of Policy S7 for its compatibility with the NPPF has concluded that it is partially compatible but has a more protective rather than positive approach towards development in rural areas. It is not considered that the development would meet the requirements of Policy S7 of the Local Plan and that, as a consequence the proposal is contrary to that policy.

14.3.3 The proposal cannot be tested against a fully up-to-date Development Plan, and the Council are currently unable to demonstrate a 5YHLS. In either scenario or both, in this case, paragraph 11 of the NPPF is fully engaged along with the "tilted balance" in favour of the proposals.

14.3.4 Paragraph 11 requires the decision maker to grant planning permission unless having undertaken a balancing exercise there are (a) adverse impacts and (b) such impacts would 'significantly and demonstrably' outweigh the benefits of the proposal.

14.3.5 The "Planning Balance" is undertaken further below, but before doing so we have undertaken a wider assessment of the proposal against all relevant considerations to determine if there are impacts, before moving to consider if these impacts are adverse and would 'significantly and demonstrably' outweigh the benefits of the proposal in the planning balance.

14.4 B) Suitability and Location (GEN1 and the NPPF)

14.4.1 The small hamlet of Langley Upper Green is not identified as a small village or settlement due to its lack of local amenities and services as defined within the Adopted Local Plan.

- 14.4.2** The applicant submits that the application site is situated within an accessible and sustainable location. However, the officers disagree with these comments. Local services within the hamlet and the surrounding locality are limited to just a public house, village/community hall and a church. It is also acknowledged that these services would not be all accessible by foot from the site as there are no public paths along Park Lane leading into the hamlet. Park Lane is narrow and unlit and thereby not safe for pedestrians to be walking along.
- 14.4.3** The nearest bus stops are located approximately 600m to the north west of the site at the junction of Waterwick Hill. However, this service only provides a local pick and drop off for school children and is not for the public. The nearest railway station is at Audley End (8km away as the crow flies), and as such is not in close proximity for walking or cycling and thereby there is no relevant means of access to this station without the need of a private motor vehicle.
- 14.4.4** Nearby larger settlements and towns offer a far greater range of local amenities and services including employment opportunities that are beyond walking or cycling distance. The nearest shop is in Clavering and the nearest supermarkets are in Saffron Walden and Royston. The local doctor surgeries and pharmacies are in Newport. The local post office is at Clavering. As such, occupiers of the proposed development would need to travel beyond the hamlet to access most other services and facilities to meet their daily needs.
- 14.4.5** As a consequence, there is likely to be a heavy reliance on the private motor car for future occupiers of the development. It is acknowledged that the NPPF highlights that transport solutions will vary from urban to rural areas. However, the development of a new dwelling in this location is likely to be by private car. Hence, there would be significant negative effects in terms of impacts upon the environment and the proposals would also conflict with the aim of the NPPF to promote sustainable transport modes.
- 14.4.6** The highlights in Paragraph 78 and 79 of the NPPF is that in rural areas, a new development in one village could support facilities in another village. It is recognised that the proposals would help to support the existing hamlet such as the local public house which can be given some weight.
- 14.4.7** In summary, the proposed development would not be a suitable location for housing having regard to the accessibility of services and facilities. Therefore, it would not accord with Policy GEN1 of the Local Plan amongst other things, requires development to encourage movement by means other than the private car.

14.5 C) Countryside Impact (S7 and the NPPF)

- 14.5.1** A core principle of the NPPF is to recognise the intrinsic and beauty of the countryside. Paragraph 174 of the Framework further states that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes.
- 14.5.2** The site is surrounded by the retention of existing hedges/tree lines along its front and northern boundaries which does provide some mitigation in the form of natural screening.
- 14.5.3** The landscape of the site itself is not particularly unusual and contains features which are present within the wider area. This does not mean however, that the site has no value, and that it is regarded as having a medium to high sensitivity to change.
- 14.5.4** The dispersed pattern of development to the north of the host dwelling is considered to detrimentally alter the character of the locality and would result in a substantial change in the sites character. The excessive size and scale of the proposals would undermine the rural setting of the site and the tranquil nature of the wider area.
- 14.5.5** The proposed access would provide further open views into the site, with visibility splays resulting in a loss of potential vegetation along the front boundary. The development of the site will impact upon the cross-valley views and characteristic views across the enclosed meadow fields in the locality.
- 14.5.6** Whilst hidden in part from wider distance views from by existing vegetation, the cumulative impact of such proposals will alter the rural character and ambience of an area such as increased traffic movements, residential paraphernalia, bin collections, will further result in urbanising the countryside and erode the tranquil qualities of the site.
- 14.5.7** The proposal would introduce built form onto an area of open countryside. The application would elongate development along Park Lane, into the open countryside where it is currently devoid of buildings. The proposals would result in an unnatural extension of the built form into the open countryside.
- 14.5.8** The proposed development would result in a detrimental impact to the character and appearance of this part of the countryside contrary to Policy S7 of the adopted Local Plan and the NPPF.

14.6 D) Character and Design (GEN2 and the NPPF)

- 14.6.1** In terms of design policy, good design is central to the objectives of both National and Local planning policies. The NPPF requires policies to plan positively for the achievement of high quality and inclusive design for the wider area and development schemes. Section 12 of the NPPF highlights that the Government attaches great importance to the design of the built development, adding at Paragraph 124 'The creation of high quality

buildings and places is fundamental to what the planning and development process should achieve'. These criteria are reflected in Policy GEN2 of the adopted Local Plan.

- 14.6.2** The challenge for designers is to design new characterful buildings which reconcile the requirements of a modern lifestyle with the need for integration into their context. Successful and appropriate new development often has simple proportions and details, based on those of their traditional rural equivalent.
- 14.6.3** The applicant has developed a layout which positively responds to the site constraints. The arrangement of buildings has considered the site's specific context, specifically with respect to providing an appropriate interface between the proposed residential development and the highway.
- 14.6.4** In terms of height, the applicant has taken the opportunity to provide a 2 storey dwelling house. The scale of the dwelling is appropriate in relation to the character and appearance of the surrounding area. The dwelling has been sensitively integrated within the tradition-built context using proportions, roof forms and details like surrounding buildings ensuring a subservient and well-proportioned building.
- 14.6.5** Getting the architectural details right is critical to ensuring new developments are appropriate to the setting and context. The traditional buildings of Essex are typically made up of rectangular rather than square plan forms, with pitched roofs spanning the narrower plan dimension. Chimney stacks are commonly found on buildings and help to punctuate rooflines and provide visual interest. Openings should be arranged so as to emphasise the visual strength of the wall by allowing as wide a solid pier as possible between openings. Furthermore, external facing and roof materials should be selected from the range of regional materials characteristic of Essex, or similar to that of its surroundings.
- 14.6.6** The proposed development draws upon the characteristics of the local vernacular to reinforce the sense of place established by the layout of the development. The appearance of the proposed residential dwelling has been informed by the development of the different character of existing built form in the surrounding area.
- 14.6.7** The external finishing materials are not known at this stage as the applicant states that they are happy to agree materials as part of imposed conditions if permission is granted. It is advised that a simple palette of materials that includes variation in facing bricks, roof tiles and render is proposed.
- 14.6.8** The matters of layout and appearance are thereby considered to be appropriate in accordance with policy GEN2 of the adopted local plan and the NPPF.
- 14.7** **E) Heritage (ENV2 and the NPPF)**

- 14.7.1** Policy ENV2 seeks to protect the historical significance, preserve and enhance the setting of heritage assets. Part 16 of the NPPF addresses the conservation and enhancement of the historical environment. Paragraph 196 of the Framework states that where development proposals will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including its optimum viable use.
- 14.7.2** Immediately to the south of the site is the property known Three Elms, and is Grade II listed. It is an eighteenth-century timber framed and plastered building, one storey and attics. The adjacent buildings to the south east are both Grade II listed, this being Cobblers Mead and Sunset Cottage.
- 14.7.3** The guidance contained within Section 16 of the NPPF, 'Conserving and enhancing the historic environment', relates to the historic environment, and developments which may have an effect upon it.
- 14.7.4** The NPPF defines significance as '*the value of a heritage asset to this and future generations because of its heritage interest*'. Such interest may be archaeological, architectural, artistic or historic.
- 14.7.5** The 'Setting of a heritage asset' is defined as '*The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.*'
- 14.7.6** Paragraph 200 states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.
- 14.7.7** Paragraphs 201 and 202 address the balancing of harm against public benefits. If a balancing exercise is necessary (i.e. if there is any harm to the asset), considerable weight should be applied to the statutory duty where it arises. Proposals that would result in substantial harm or total loss of significance should be refused, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss (as per Paragraph 201). Whereas, Paragraph 202 emphasises that where less than substantial harm will arise as a result of a proposed development, this harm should be weighed against the public benefits of a proposal, including securing its optimum viable use. Policy ENV2 seeks to protect the historical significance, preserve and enhance the setting of heritages assets that include both conservation areas and listed buildings.
- 14.7.8** The application was consulted to Place Services Conservation Officer who concluded in their formal comments that the site being an area of

undeveloped garden space associated to Three Elms and has historically been located at the periphery and the western approach to the small collection of listed buildings within the rural landscape. It is regarded that the site in its current undeveloped and verdant nature positively contributes to the tranquil and rural setting and character of the listed buildings.

- 14.7.9** The Conservation Officer stipulated that the proposed erection of one dwelling with cart lodge is considered to inevitably result in an impact to the setting of the designated heritage asset. It was mentioned that although the overall scale and massing of the new dwelling was reduced in size compared to that of the scheme that was previously withdrawn, it was deemed that the proposed dwelling is still comparatively large against the listed building and surrounding built environment and thereby previous concerns had still not been overcome in respect to the scale of the development.
- 14.7.10** In particular, it was suggested that the new dwellings ridge height should be well below that of the adjacent designated heritage asset, so not to detract from its prominence. It was also acknowledged that whilst screening in the form of soft vegetation on the boundaries may mitigate some of the harm, it cannot remove harm.
- 14.7.11** The proposed erection of a dwelling and cart lodge would therefore result in a baseline level of 'less than substantial harm' to the setting of the listed building.
- 14.7.12** Whilst the Conservation Officer acknowledged that this harm is towards the low end of the scale given that the adjacent heritage assets can still be appreciated within their agrarian setting and that the site does not share a historic functional link to Three Elms Cottage, the fact that it will provide further ribbon development would not be considered acceptable as this would have an urbanising effect.
- 14.7.13** With regards to the NPPF, the level of harm is considered less than substantial. As such the Council, should weigh this harm against any public benefits of the proposal including where appropriate. The proposals offer some public benefits in the form of new a home, however, it is considered that these benefits would not outweigh the harm to the heritages assets as outlined above.
- 14.7.14** To conclude, the proposals would fail to preserve the special interest of the listed building, contrary to Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, through change in its setting. The development of this site for a new home would result in conflict with policy ENV2 of the adopted Local Plan and the NPPF.

14.8 F) Neighbouring Amenity (GEN2, GEN4, ENV11 and the NPPF)

14.8.1 Policy GEN2 and GEN4 of the Local Plan states that development will not be permitted unless its design meets a variety of given criteria, including that it minimises the environmental impact on neighbouring properties by appropriate mitigating measures and that it will not have a materially adverse effect on the reasonable occupation and enjoyment of residential property, as a result of loss of privacy, loss of daylight, overbearing impact or overshadowing.

14.8.2 The proposals have been designed such that all proposed dwellings comply with the Essex Design Guide requirements. The relative separation, orientation of the dwelling in respect to their relationship with adjoining properties are such that this ensures that high levels of amenity are achieved and there are no unacceptable impacts such as those identified in Policy GEN2.

14.9 G) Parking and Access (GEN1, GEN8, and the NPPF)

14.9.1 Policy GEN1 of the Local Plan requires developments to be designed so that they do not have unacceptable impacts upon the existing road network, that they must not compromise road safety and to take account of cyclists, pedestrians, public transport users, horse riders and people whose mobility is impaired and also encourage movement by means other than the car.

14.9.2 The application is supported by a Transport Statement which confirms that the existing farm access is to be modified and upgraded to provide the single point of access into the site. Visibility from the access road will remain unchanged and therefore 2.4m x 43m visibility splays have been indicated and can be appropriately provided to allow for vehicle to exit the site in a safe manner.

14.9.3 Policy GEN8 of the Local Plan states that development will not be permitted unless the number, design and layout of vehicle parking places proposed is appropriate for the location as set out in the Supplementary Planning guidance 'Vehicle Parking Standards'.

14.9.4 The adopted Council parking standards recommends that at least three spaces are required for a four or more-bedroom dwelling house along with at least 1 secure cycle covered space.

14.9.5 It is regarded that the proposals and the site itself would be able to provide sufficient off-street parking in accordance with the standards to meet the needs of future residents.

14.9.6 The proposals would not result in significant harm to highway safety or result in traffic congestion and thereby is in accordance with Policies GEN1 and GEN8 of the adopted Local Plan.

14.10 H) Nature Conservation (GEN7 and the NPPF)

- 14.10.1 Policy GEN2 of the Local Plan applies a general requirement that development safeguards important environmental features in its setting whilst Policy GEN7 seeks to protect wildlife, particularly protected species and requires the potential impacts of the development to be mitigated.
- 14.10.2 The application site itself is not subject of any statutory nature conservation designation being largely used for agriculture.
- 14.10.3 The application is supported by an Ecology Statement which has been reviewed by Places Services Ecology Officer. They conclude that that they have no objections subject to imposing appropriate conditions to secure biodiversity mitigation and enhancement measures.
- 14.10.4 It is not foreseen that the proposals would result in harm to protected or priority species or their habitation and thereby accords with Policy GEN7 of the adopted local plan.

14.11 I) Contamination (ENV14 and the NPPF)

- 14.11.1 Although the Council has no reason to believe the proposed site is contaminated and is not aware of any potentially contaminative past use on the site in question. It is the developer's responsibility to ensure that final ground conditions are fit for the end use of the site in accordance with Policy ENV14 of the adopted Local Plan.

14.12 J) Flooding (GEN3, and the NPPF)

- 14.12.1 The NPPF states that inappropriate development in areas of high risk flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere.
- 14.12.2 A check of the Environmental Agency's website and the Council's Policy maps has identified the site as being located in Flood Zone 1. The Framework indicates that all types of development are appropriate in this zone and hence there is no requirement for sequential or exception testing. It is not expected that the proposals would lead to significant harm to increase flood risk of both the application site and the surrounding area and thereby complies with Policy GEN3 of the adopted Local Plan and the NPPF.

15. ADDITIONAL DUTIES

15.1 Public Sector Equalities Duties

- 15.1.1 The Equality Act 2010 provides protection from discrimination in respect of certain protected characteristics, namely: age, disability, gender reassignment, pregnancy and maternity, race, religion or beliefs and sex and sexual orientation. It places the Council under a legal duty to have

due regard to the advancement of equality in the exercise of its powers including planning powers.

15.1.2 The Committee must be mindful of this duty inter alia when determining all planning applications. In particular, the Committee must pay due regard to the need to: (1) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act; (2) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and (3) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

15.1.3 Due consideration has been made to The Equality Act 2010 during the assessment of the planning application, no conflicts are raised

15.2 Human Rights

15.2.1 There may be implications under Article 1 (protection of property) and Article 8 (right to respect for private and family life) of the First Protocol regarding the right of respect for a person's private and family life and home, and to the peaceful enjoyment of possessions; however, these issues have been taken into account in the determination of this application

16. CONCLUSION

16.1 With Uttlesford District Council unable to demonstrate a 5-year housing land supply as a consequence Paragraph 11d of the NPPF therefore applies which states that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless there are (a) adverse impacts and (b) such impacts would 'significantly and demonstrably' outweigh the benefits of the proposal.

16.2 The amount of weight to be given to development plan policies is a matter of planning judgement for the decision maker. Being out of date does not mean that a policy carries no weight. A review of Policy S7 concluded that this takes a more restrictive approach to development in the countryside compared to the NPPF which takes a more positive approach, and this could affect the delivery of housing. However, it is broadly consistent with the NPPF in terms of seeking to protect the character and appearance of the countryside and thereby it still carries reasonable weight.

16.3 In respect to addressing the benefits of the proposed development, the provision of a single dwelling house would represent only a limited boost to the district's housing supply, mindful of the housing land supply situation and the need for housing in the district.

16.4 The development would provide social and economic benefits in terms of the construction of the dwelling and the investment into the local

economy. Furthermore, some weight has been given in respect to the slight biodiversity net gain the development will provide.

- 16.5** Thus, taken these together, moderate weight to the benefits of the development have been considered.
- 16.6** Turning to the adverse impacts of development, the negative environmental effect of the development on the character and appearance of the area would be significant due to the level of encroachment and intrusion of built development into the countryside. The lack of accessible services and facilities and the subsequent reliance on the private motor car would have significant negative environmental and social effects.
- 16.7** The proposals would inevitably result in an adverse impact to the setting and experience of the designated heritage asset of the adjoining listed building contrary to Paragraph 202 of the NPPF. Thereby it would result in less than substantial harm to the setting and significance of heritage asset.
- 16.8** Therefore, and taken together, significant weight to the adverse impacts have been considered in respect of development and the conflict with development plan policies, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits of development. In the circumstances, the proposal would not represent sustainable development contrary to the NPPF.
- 16.9** For the reasons given above, the proposals would be contrary to policies S7, GEN1, and ENV2 of the adopted Local Plan and the NPPF. It is therefore recommended that the application be refused subject to the suggested reasons highlighted below.

17. REASONS FOR REFUSAL

- 1** The proposal would introduce a new dwelling in the countryside where development is resisted unless it is sustainable and is located where it will enhance or maintain the vitality of rural communities. Local services within the locality are extremely limited and thereby future occupiers would need to access facilities and amenities beyond reasonable walking/cycling distance of the site in other settlements to meet their needs. The development in this location would undoubtedly place reliance upon travel by car and would not encourage sustainable transport options to be made.

The proposed development would not be a suitable location for housing having regard to the accessibility of services and facilities. Therefore, it would not accord with policy GEN1 of the Adopted Local Plan which amongst other things, requires development to encourage movement by means other than the private car and the National Planning Policy Framework.

- 2** The proposal would introduce a sizeable new development to an area of open countryside and would result in an unnatural extension of built form in the locality. The proposals by reason of its sitting, size and scale would have a harmful impact upon the rural character and appearance of the area.

The proposals would significantly harm the intrinsic character and beauty of the countryside resulting in landscape and visual effects from a number of publicly accessible viewpoints and failing to perform the environmental role of sustainability, contrary to Policy S7 of the Adopted Local Plan and the National Planning Policy Framework.

- 3** The application lies to the north west of the grade two listed building known as Three Elms. The Local Planning Authority has a duty under Section 66(1) of the Listed Buildings & Conservation Areas Act 1990 to have special regard to the desirability of preserving the setting and significance of any features of special architectural or historical interest.

The existing site positively contributes to the identified heritage asset setting and significance through being open land with views through to the wider agrarian landscape which preserves its sense of tranquillity. Due to the inappropriate scale and massing of the proposed dwelling, it will be comparatively large against the listed building and surrounding built environment and thereby the setting of the heritage asset will inevitably be affected by the development resulting in 'less than substantial' through change in its setting.

Having regard to the guidance in paragraph 202 of the National Planning Policy Framework, the Local Planning Authority has considered the public benefits associated with the development but concludes that these would not outweigh the harm caused to the significance and setting of the designated heritage asset. The proposals are thereby contrary to policy ENV2 of the Adopted Local Plan and the National Planning Policy.