

ITEM NUMBER: 6

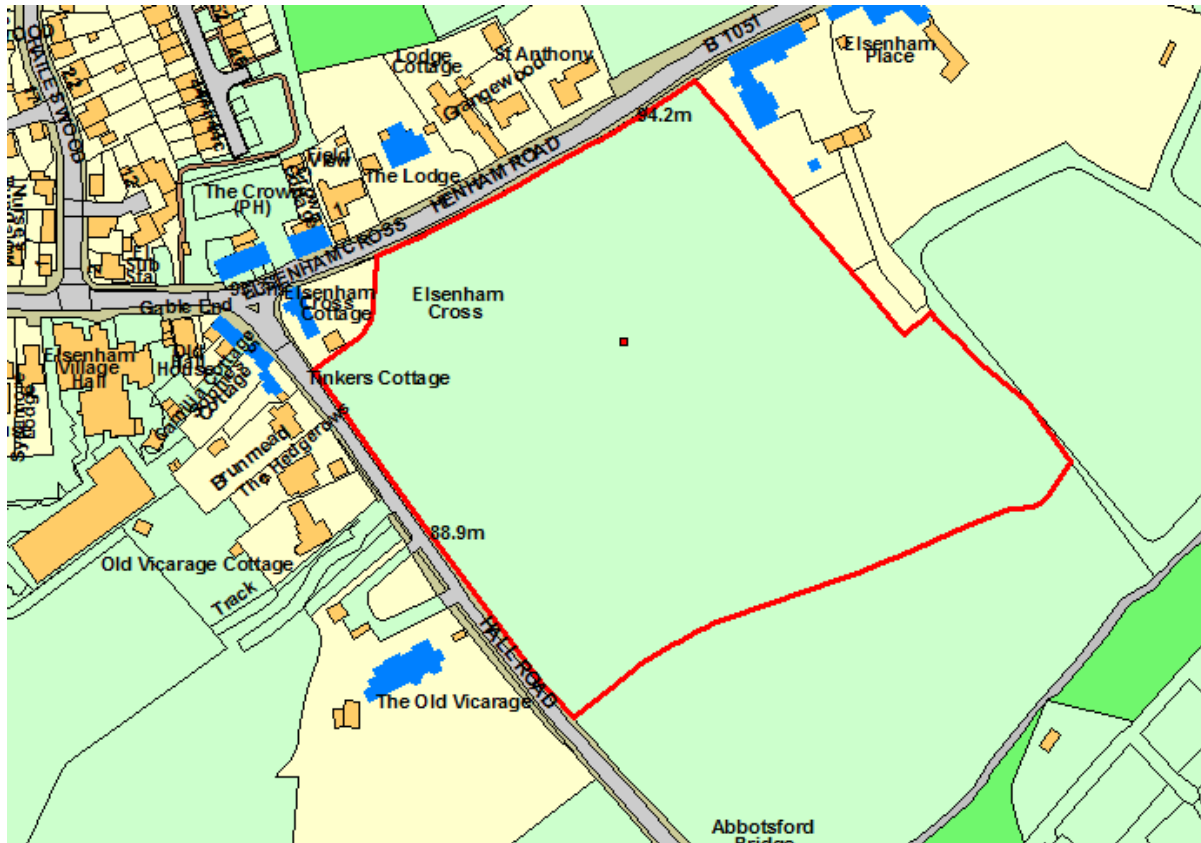
PLANNING COMMITTEE DATE: 14 September 2022

REFERENCE NUMBER: S62A/22/0007

UTT/22/2174/PINS

LOCATION: Land South Of Henham Road Elsenham

SITE LOCATION PLAN:



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Organisation: Uttlesford District Council Date: 7 September 2022

PROPOSAL: Consultation on S62A/2022/0007 - Town and Country Planning Act 1990 (Section 62A Applications).

Residential development comprising 130 dwellings, together with a new vehicular access from Henham Road, public open space, landscaping and associated highways, drainage and other infrastructure works (all matters reserved for subsequent approval apart from the primary means of access, on land to the south of Henham Road, Elsenham).

APPLICANT: Mr C Glossop, Countryside Partnerships PLC.

AGENT: Mr J. Dixon, Savills (UK) Ltd.

DATE CONSULTATION RESPONSE DUE: 23 September 2022

CASE OFFICER: Femi Nwanze

NOTATION: Outside Development Limits; Within Flood Zone 2, 3a; Mineral Safeguarding Area, Local Wildlife Site SSSI Impact Risk Zone.

REASON THIS CONSULTATION IS ON THE AGENDA: This is a report in relation to a major planning application submitted to the Planning Inspectorate (PINS) for determination.

Uttlesford District Council (UDC) has been designated by Government for poor performance in relation to the quality of decisions making on major applications.

This means that the Uttlesford District Council Planning Authority has the status of a consultee and is not the decision maker. There is limited time to comment. In total 21 days.

1. RECOMMENDATION

That the Director of Planning and Building Control be authorised to advise the Planning Inspectorate that Uttlesford District Council make the following observations on this application:

- a) **No objection to the grant of outline planning permission subject to appropriate conditions/matters being addressed: -**
- b) **Provision of 40% affordable housing**
- c) **5% of the scheme to be delivered as fully wheelchair accessible units**
- d) **£310,000.00 towards community hall in Elsenham**
- e) **Securing appropriate education, health and transport contributions**

2. SITE LOCATION AND DESCRIPTION

- 2.1** The subject site is situated in Elsenham. It is located in the south eastern part of the settlement; south of Henham Road and east of Hall Road. The site comprises approximately 5.3 ha of Grade 3 (good to moderate) agricultural land which is currently used as pasture. The land varies in height rising towards the south of the site. It is enclosed by post and wire fencing on the Henham Road frontage and post and wire fencing and low hedges on the Hall Road frontage and trees on its southern boundary.
- 2.2** The majority of the application site is located in flood zone 1 (low probability of flooding). A small area of the site, land that borders the Stansted Brook at the southern boundary is located in flood zone 2 (medium probability of flooding).
- 2.3** There is built development and characteristic features within the vicinity of the site. 6 detached houses on large plots are situated to the north of the application site. Elsenham Place, a Grade II listed house with associated barns is situated to the east of the site, 4 houses situated on Hall Road are located to the west. Stanstead Brook the Grade I listed church of St Mary and Grade II listed Elsenham Hall are located south of the site. A public right of way exists at this site; featuring a route that traverses s.w – n.e direction across the northern section of the application site.
- 2.4** The precise 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. The applicant also owns a nearby site outlined in blue; wherein it is proposed that biodiversity gains will be provided.

3. PROPOSAL

- 3.1** This application seeks outline planning permission for a residential development of 130 dwellings, together with a new vehicular access from Henham Road. The development also proposes landscaping including public open space, landscaping and associated infrastructure works. Consent is sought for access only at this stage; with all other matters (landscaping, scale, layout and appearance) being reserved for future consideration.

- 3.2 The application has been submitted with an indicative layout plan which designates one primary vehicular access point into this site from Henham Road. This access point will then lead to a number of primary and secondary access routes through the site to service the proposed 7 No development parcels that make up this development site.

4. ENVIRONMENTAL IMPACT ASSESSMENT

- 4.1 The application has not been submitted with an Environmental Statement. The Local Planning Authority has not been in receipt of a previous request for a Screening Opinion concerning this site.

- 4.2 The application has been submitted to PINS with a formal request for a screening opinion. The Planning Inspectorate has issued its screening opinion on 06 September 2022; advising that the Secretary of State directs that this development is not Environmental Impact Assessment (EIA) development. The respective letter is attached as appendix A.

5. RELEVANT SITE HISTORY

- 5.1 There is no recent planning history relating to this site.

6. PREAPPLICATION ADVICE AND/OR COMMUNITY CONSULTATION

- 6.1 The applicant has advised that in April 2022 the application site/proposed development was the subject of a Newsletter distribution to 871 residential properties with a link to web site with feedback form. 25 responses were received by post and 31 via website.

- 6.2 The applicant has advised that in April 2022 they contacted two ward councillors - with provision of a newsletter and offer to meet the developer.

Elsenham Parish Council were also sent a copy of the newsletter and an offer to meet the developer.

7. STATUTORY CONSULTEES

- 7.1 All statutory consultees will write directly to PINS within the 21 days period being the 23 September 2022 and are thereby not mentioned within this report.

8. PARISH COUNCIL COMMENTS

- 8.1 These should be submitted by the Parish Council directly to PINS within the 21-day consultation period being the 23 September 2022 and are thereby not informed within this report.

9. CONSULTEE RESPONSES

- 9.1** All consultees' comments should be submitted directly to PINS within the 21-day consultation period being the 23 September 2022 and are thereby not informed within this report.

10. REPRESENTATIONS

- 10.1** The application was publicised by sending letters to adjoining and adjacent occupiers and by displaying a site notice. Anyone wishing to make a representation (whether supporting or objecting) are required to submit their comments directly to PINS within the 21-day consultation period ending the 23 September 2022. All representations should be submitted directly to PINS within the 21-day consultation period.

UDC has no role in co-ordinating or receiving any representations made about this application. It will be for PINS to decide whether to accept any representations that are made later than 21 days.

11. MATERIAL CONSIDERATIONS

- 11.1** 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.

- 11.2** 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:
 - (aza) a post-examination draft neighbourhood development plan, so far as material to the application,
- b) any local finance considerations, so far as material to the application, and
- c) any other material considerations.

- 11.3** 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

11.4 The Development Plan

- 11.4.1** 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)
Stebbing Neighbourhood Plan (made July 2022)

12. POLICY

12.1 National Policies

- 12.1.1** National Planning Policy Framework (2021)

12.2 Uttlesford District Plan 2005

S3 – Other Settlement Boundaries
S7 – The Countryside
GEN1 – Access
GEN2 – Design
GEN3 – Flood Protection
GEN4 – Good Neighbourliness
GEN5 – Light Pollution
GEN6 – Infrastructure Provision
GEN7 – Nature Conservation
GEN8 – Vehicle Parking Standards
ENV1 – Design of Development within Conservation Areas
ENV2 – Development Affecting Listed Buildings
ENV3 – Open Spaces and Trees
ENV4 – Ancient Monuments and Sites of Archaeological Interest
ENV7 – Protection of the Natural Environment
ENV8 – Other Landscape Elements of Importance
ENV10 – Noise Sensitive Developments
ENV11 – Noise Generators
ENV12 – Groundwater Protection
ENV14 – Contaminated Land
H1 – Housing Development
H9 – Affordable Housing
H10 – Housing Mix

12.3 State name of relevant Neighbourhood Plan in this title

N/A

12.4 Supplementary Planning Document or Guidance

Uttlesford Local Residential Parking Standards (2013)
Essex County Council Parking Standards (2009)
Supplementary Planning Document- Accessible homes and play space homes
Essex Design Guide
Uttlesford Interim Climate Change Policy (2021)

13. CONSIDERATIONS AND ASSESSMENT

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

- 13.2** **A) Principle Of Development**
B) Highways Considerations
C) Design
D) Housing Mix And Tenure
E) Flooding
F) Energy And Sustainability
G) Air Quality And Pollution
H) Planning Obligations
I) Other matters
J) Planning Balance And Conclusion

13.3 A) Principle Of Development

13.3.1 The application site is located outside of the village of Elsenham wherein the principle of development would not generally supported as outlined in Policy S3 and S7 of the Uttlesford Local Plan.

13.3.2 However, regard must be given the fact that the Uttlesford Local Plan which is not up to date and significantly pre – dates the National Planning Policy Framework 2021.

13.3.3 Additionally, the Council as Local Planning Authority is not currently able to demonstrate a 5 YHLS. Both of the aforementioned factors are cited in paragraph 11 of the NPPF as grounds to grant planning permission unless:

- i. the application of policies in this Framework that protect areas or assets, or particular importance provides a clear reason for refusing the development proposed*; 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.

13.3.4 With regard to (i) above Guidance is given in the NPPF re the areas /assets of particular importance that provide a clear reason for refusing the proposed development. These areas are habitat sites and/or designated Sites of Special Scientific Interest, land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, a

National Park or defined as heritage Coast; irreplaceable habitats; designated heritage assets and areas at risk of flooding or coastal change.

13.3.5 The application site is not located within an area that is specifically protected as outlined in (i) above.

13.3.6 Paragraph 11 of the NPPF 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.

13.3.7 The proposal seeks outline planning permission for 130 residential units. This quantum of development would make a valuable contribution to the district's housing supply. In principle the proposal subject to an assessment of sustainability.

13.3.8 There are three mutually dependent strands to sustainability which need to be jointly considered in the assessment of this application.

13.3.9 Economic:

The NPPF identifies this is contributing to building a strong, responsive and competitive economy that supports growth and innovation and identifies and co-ordinates development requirements including the provision of infrastructure.

In economic terms the proposal would have short – term benefits to the local economy in terms of localised construction activity. It would also have medium/long term benefits in terms of local support of services and infrastructure provision arising from the proposed residential development.

13.3.10 Social:

The NPPF identifies this is supplying homes in a high-quality built environment with accessible local services that reflect community need and wellbeing. In social terms, the proposal would make a reasonable contribution to local/regional/national housing supply in an area that has a reasonable level of public transport provision. The proposal would also make a suitable contribution to the provision of affordable housing. Additional social benefits include provision of public open space/play /recreation areas.

13.3.11 Environmental:

The NPPF identifies this as making effective use of land, seeking to protect and enhance the natural and built environment, improving biodiversity, minimising waste and pollution and mitigating and adapting

to climate change. The proposal seeks to achieve this with the provision of additional open space and an enhancement of biodiversity (including native species planting) on an adjacent site (within the applicant's control).

- 13.3.12** The site is currently undeveloped. It is also situated in a site that is outside of the settlement boundaries. Policy S7 of Local Plan seeks to protect the Countryside and would normally preclude the location of this form of development in this location.

However, Policy S7 has been found, in a number of appeals and planning decisions (UTT/19/0462/FUL, APP/C1570/W/19/3243744) to be not in full compliance with the NPPF as it seeks to place greater restrictions on developing in such locations than the NPPF.

- 13.3.13** Having regard to the consented planning permission for development in a similar countryside location; together with the lack of a 5 YHLS, the proposal is considered to be acceptable in principle.

13.4 B) Highways Considerations

- 13.4.1** Access is not a matter that is reserved for future consideration and consent is sought at this stage. The application proposes the creation of a principal access point at Henham Road.

- 13.4.2** Policy GEN1 of the Local Plan sets out that development will only be permitted if the following criteria is met: -
- a) Access to the main road network must be capable of carrying the traffic generated by the development safely.
 - b) The traffic generated by the development must be capable of being accommodated on the surrounding transport network
 - c) The design of the site must not compromise road safety and must take account of the needs of cyclists, pedestrians, public transport users, horse riders and people whose mobility is impaired.
 - d) It must be designed to meet the needs of people with disabilities if it is development to which the general public expect to have access.
 - e) The development encourages movement by means other than driving a car.

- 13.4.3** The overall number of residential units proposed, will result in noticeable increase in traffic movements within the locality. Regard is also had the need to comply with the Council's parking standards as outlined in the Uttlesford Local Residents Parking Standards (December 2012) and the Essex County Council's Parking Standards (September 2009).

There is a requirement for a minimum of 2 spaces per dwelling (and 3 spaces per dwelling for dwellings with 4+ bedrooms) and 0.25 spaces per dwelling for visitor parking. Cycle provision will also be required if no garage or secure parking is provided within the curtilage of the dwelling.

- 13.4.4** The proposed access arrangements for this outline planning application and the highway impact associated with the proposed development fall to be considered by Essex County Council as the highway authority. However due to the particular nature of this application process; wherein comments are to be provided directly to the Planning Inspectorate for decision making; the Local Planning Authority are unable to make detailed comments on the highway aspect of the proposed development. Details regarding the parking provision for this scheme will be considered at reserved matters stage when detailed layouts have been provided.

13.5 C) Design

- 13.5.1** This application seeks consent for access only at this stage; with scale, layout, external appearance and landscape considerations being reserved for future consideration.

The guidance set out in Section 12 of National Planning Policy Framework outlines that proposed development should respond to the local character, reflect the identity of its surroundings, optimise the potential of the site to accommodate development and is visually attractive as a result of good architecture.

- 13.5.2** Local Plan Policy GEN2 seeks to promote good design requiring that development should meet with the criteria set out in that policy. Regard should be had to the scale form, layout and appearance of the development and to safeguarding important environmental features in its setting to reduce the visual impact of the new buildings where appropriate. Furthermore, development should not have a materially adverse effect on the reasonable occupation and enjoyment of residential properties as a result of loss of privacy, loss of daylight, overbearing or overshadowing.

- 13.5.3** The application has been submitted with an illustrative masterplan and layout plan; together with illustrative site sections showing potentially how this development form could be accommodated on the site. The details submitted also show green landscape features such as orchards, greens, play areas and blue landscape features such as including 2 swales. The indicative layout also shows the provision of a heritage trail which will encircle the site and link to the public right of way which transcends the northern part of the site in a ne – sw direction.

- 13.5.4** Whilst the illustrative material indicates that there is a potential to provide the number of units proposed; further consideration is required of the precise details including the relationship with the surrounding heritage assets. Section plans have been provided which indicate an intention to provide a form of development that is similar in height to its surrounds.

- 13.5.5** Again, due to the nature of the application process; wherein comments have not been obtained from Essex Design Services (and will be submitted directly to the Planning Inspectorate); it is not possible for the

Local Planning Authority to provide further detail on this aspect of the development .

13.6 D) Housing Mix And Tenure

13.6.1 In accordance with Policy H9 of the Local Plan, the Council has adopted a housing strategy which sets out Council's approach to housing provisions. The Council commissioned a Strategic Housing Market Assessment (SHMA) which identified the need for affordable housing market type and tenure across the district. Paragraph 62 of the Framework requires that developments deliver a wide choice of high-quality homes, including affordable homes, widen opportunities for home ownership and create sustainable, inclusive, and mixed communities.

13.6.2 The delivery of affordable housing is one of the Councils' corporate priorities and will be negotiated on all sites for housing. The Councils policy requires 40% on all schemes over 0.5 ha or 15 or more properties. The affordable housing provision on this site will attract the 40% policy requirement as the site is for up to 130 dwellings properties. This amounts to up to 52 affordable homes.

13.6.3 Layout is not being considered at this stage and as such there will be further opportunity to ensure that an appropriate housing mix is secured. Notwithstanding it is the Councils' policy to require 5% of the whole scheme to be delivered as fully wheelchair accessible (building regulations, Part M, Category 3 homes). A condition requiring this will be suggested if the Inspector is mindful of granting consent.

13.7 E) Flooding

13.7.1 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.

13.7.2 The majority of the site is within Flood Zone 1 and part of the southern section of the site in Flood Zone 2.

13.7.3 The application is supported by a Flood Risk Assessment. This concludes that the proposed development will follow best practice regarding site drainage to ensure that surface water runoff from the development is managed. Surface water from the proposed development will be attenuated and discharged directly to the ground via infiltration features. In order to prevent flooding, both on and off the site, a variety of SuDS will be utilised to control surface water flows, including infiltration basins. These features will be designed to store the volume of water associated with a 1 in 100-year rainfall event, plus an allowance for climate change.

13.7.4 The acceptance of the proposals will ultimately be assessed by Essex County Council who are the lead local flood authority in respect to matters

of relation surface water drainage and to flooding. The aforementioned authority will provide written advice directly to PIN's by the 23 September 2022.

13.8 F) Energy And Sustainability

13.8.1 Council's supplementary planning document 'Uttlesford Interim Climate Change Policy (2021)' seeks new development proposals to demonstrate the optimum use of energy conservation and incorporate energy conservation and efficiency measure. The applicant has provided a Sustainability Statement which outlines potential technologies and strategies to achieve and met the targets in the SPD.

13.8.2 All new development, as part of a future growth agenda for Essex, should provide climate friendly proposals in terms climate change mitigation and adaptation measures.

13.8.3 However, given the outline nature of the application under consideration which is seeking consent for access only at this stage; it is not possible to provide a detailed analysis of this aspect of the scheme at this stage.

13.9 G) Air Quality And Pollution

13.9.1 Policy ENV13 of the adopted local plan states that new development that would involve users being exposed on an extended long-term basis to poor air quality outdoor near ground level will be refused.

13.9.2 The site is not within an existing Air Quality Management Area (AQMA) An assessment of air quality and noise pollution cannot be undertaken without considered input from Environmental Health specialists. Any comments from Environmental Health are required to be submitted directly to PINS by 23 September 2022.

13.9.3 As the Secretary of State has indicated that this is not a development that requires an EIA, it is therefore concluded that any residual effects of the proposed development in relation to air quality or pollution can be controlled through the use of planning conditions.

13.10 H) Planning Obligations

13.10.1 Paragraph 56 of the NPPF sets out that planning obligations should only be sought where they are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. This is in accordance with Regulation 122 of the Community Infrastructure Levey (CIL) Regulations.

13.10.2 Relevant statutory and non-statutory consultees will directly provide PIN's their formal consultation response in respect to the proposals which may

or may not result in the need for obligations to be secured by a Section 106 Legal Agreement. Such matters that may arise include:

- i. Payment of education financial contributions; Early Years, Primary and Secondary Schools
- ii. Financial contribution for Libraries
- iii. Financial contribution for Health contributions
- iv. Provision and long-term on-going maintenance of public open space
- v. Highways obligations and associated financial contributions
- vi. Community facilities
- vii. Provision of Community Meeting Room

13.10.3 It is noted that the Parish Council for Elsenham have requested funding for a community hall. This is acknowledged and can be highlighted to PINS on their behalf. However, they should also ensure that PINS are formally advised of this need too.

13.11 I) Other matters

13.11.1 From 1 October 2013 the Growth and Infrastructure Act inserted two new provisions into the Town and Country Planning Act (1990) ('the Act'). Section 62A allows major applications for planning permission, consents and orders to be made directly to the Planning Inspectorate (acting on behalf of the Secretary of State) where a local planning authority has been designated for this purpose.

The Planning Inspectorate will appoint an Inspector to determine the application. The Inspector will be provided with the application documents, representations and any other relevant documents including the development plan policies. Consultation with statutory consultees and the designated LPA will be carried out by the Planning Inspectorate.

The LPA also must carry out its normal notification duties, which may include erecting a site notice and/or writing to the owners/occupiers of adjoining land.

The LPA is also a statutory consultee and must provide a substantive response to the consultation within 21 days, in this case by 23 September 2022. This should include a recommendation, with reasons, for whether planning permission should be granted or refused, and a list of conditions if planning permission is granted.

The Planning Inspectorate will issue a formal decision notice incorporating a statement setting out the reasons for the decision. If the application is approved the decision will also list any conditions which are considered necessary. There is no right to appeal.

13.12 J) Planning Balance And Conclusion

- 13.12.1** The Local Planning Authority is currently unable to demonstrate a 5 YHLS. Additionally, the Uttlesford Local Plan significantly predates the National Planning Policy Framework 2021; meaning that some (not all) policies do not fully comply with it.
- 13.12.2** As a result of both of these factor's 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.
- 13.12.3** In respect to highlighting the benefits and the adverse impacts of the proposed development, the following has been concluded:
- 13.12.4** Provision of 130 dwellings would represent a boost to the district's housing supply. The provision would also provide economic gains in the form of additional local use of services and infrastructure.

In social terms the proposal would provide additional housing to the locality including much needed affordable housing at 40%.

In environmental terms the proposal will result in the loss of a greenfield site. However, the indicative/illustrative layout indicates an intention to make efficient use of the land available in an attempt to minimise this loss. It is noted that the proposals seek to create recreational and play areas on the site as well as providing a net gain in biodiversity on an adjoining site to compensate for this loss. The proposal would also lead to an as yet unquantifiable decline in air quality and increase in noise pollution arising from additional traffic.

- 13.12.5** Due to the nature of this application process, it is not possible to provide a detailed assessment of any heritage considerations relating to this proposal. Neither have any neighbour considerations been factored into this assessment.
- 13.12.6** All other factors relating to the proposed development will need to be carefully considered by relevant statutory and non-statutory consultees in respect to the acceptance of the scheme and whether the scheme is capable of being satisfactorily mitigated, such that they weigh neutrally within the planning balance. These factors include biodiversity, highways, drainage and flooding, local infrastructure provisions and ground conditions.
- 13.12.7** However having regard to the conflict with development plan policies above together with the limited considerations of this application by the Local Planning Authority in considering these proposals in the absence of statutory and third party input; at this stage it is considered that the

Local Planning Authority considers that the benefits of granting planning permission would on balance outweigh the as yet identified adverse impacts of development.

- 13.12.8** Overall, subject to the imposition of appropriate planning conditions and securing of a legal agreement to mitigate the effects of this development proposed, the proposals are, likely to results in a positive and sustainable form of development that is of planning merit.
- 13.12.9** The unique application process that is presented by this submission, requires the Local Planning Authority to advise the Planning Inspectorate whether or not it objects to this proposal. Having regard to the limited opportunity to consider the proposals, it is recommended that subject to the matters set out in Section 1 of this report above, no objection is raised.