

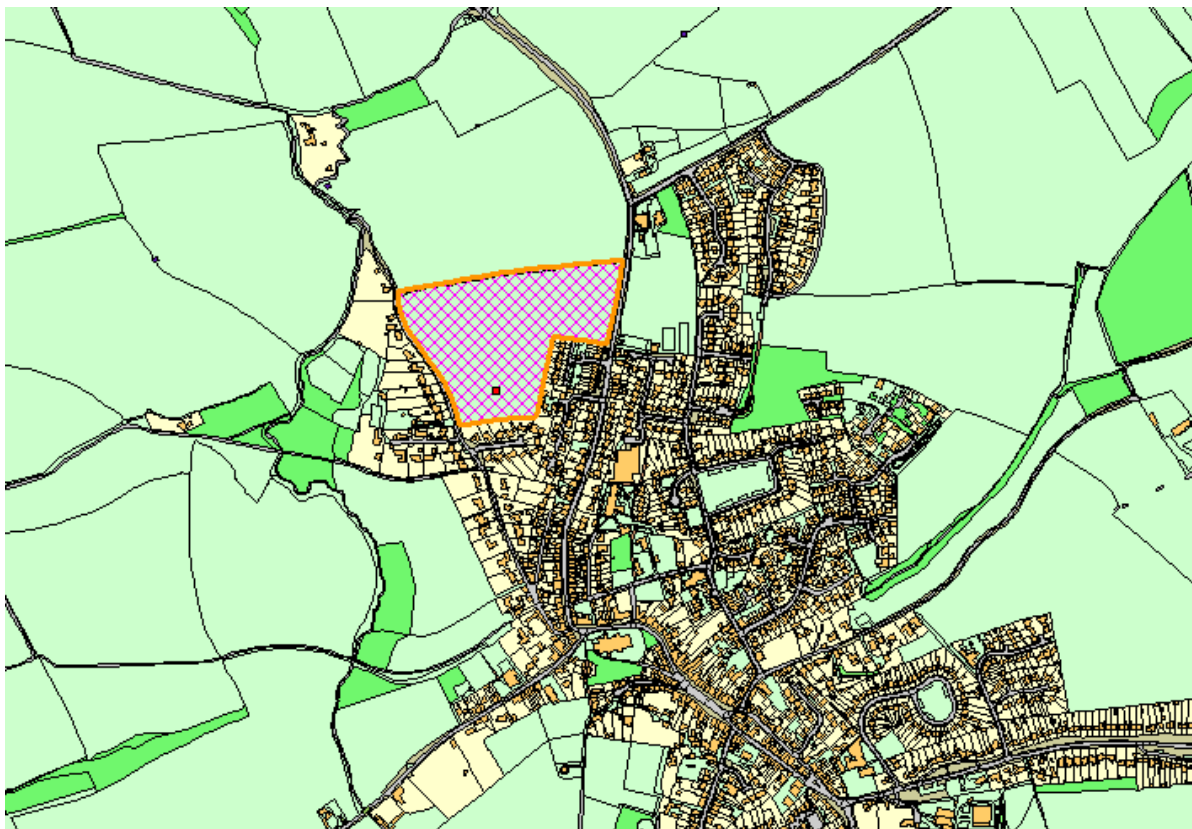
ITEM NUMBER: 9

PLANNING COMMITTEE DATE: 7 June 2023

REFERENCE NUMBER: UTT/22/2900/OP

LOCATION: Land West Of Walden Road/East Of Watling Lane, Thaxted

SITE LOCATION PLAN:



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Organisation: Uttlesford District Council Date: May 2023**

PROPOSAL: Outline application, with all matters reserved except for access, for the erection of up to 67 dwellings with associated private gardens, car parking, vehicular manoeuvring space, bin and cycle stores, and hard and soft landscaping, to be accessed by via a new vehicular access off Walden Road and separate pedestrian access points off both Walden Road and Watling Lane, wildlife pond and swales, and public open space provisions, to include an attenuation pond with dipping platform, heritage and ecological interpretation boards, church viewpoint zone, wheelchair accessible trail, community orchard and children's play area (LEAP)

APPLICANT: Tesni Properties Limited

AGENT: Mr Richard Gee - Roman Summer Associates Ltd

EXPIRY DATE: 20 January 2023

EOT Expiry Date 09 June 2023

CASE OFFICER: Laurence Ackrill

NOTATION: Outside Development Limits; site within 2KM of SSSI & Public Rights of Way

REASON THIS APPLICATION IS ON THE AGENDA: Major planning application.

1. EXECUTIVE SUMMARY

1.1 Outline planning permission with all matters reserved except for access, is sought for the construction of up to 67 dwellings, car parking, bin and cycle stores, and hard and soft landscaping, wildlife pond and swales, and public open space provisions, church viewpoint zone, wheelchair accessible trail, community orchard and children's play area (LEAP).

1.2 The application site lies outside the defined settlement boundary limits and is thereby located within the countryside. Thereby the proposals are contrary to Policy S7 of the Adopted Local Plan. However, as the proposals cannot be tested against a fully up-to-date Development Plan, and the Council are currently unable to demonstrate a 5YHLS;

paragraph 11 of the National Planning Policy Framework (NPPF) is thereby engaged. As such, a detailed “Planning Balance” has been undertaken of the proposals against all relevant considerations.

1.3 The proposed development would provide social and economic benefits in terms of the construction of the dwellings and the investment into the local economy. The proposals would provide towards the Councils housing supply including the provision of affordable housing. Furthermore, weight has been given in respect to the biodiversity net gain and the provision of a public open space and ‘Community Orchard’. Thus, taken together, significant weight has been accorded to the benefits of the development proposed.

1.4 However, the proposal would result in less than substantial harm to the setting and significance of the Grade I listed church and would fail to preserve the special interest of the listed building. In this regard the proposal fails to comply with the requirements of Policy ENV2 of the Local Plan. In addition, it would result in a harmful impact upon the landscape character and visual effects on the character and appearance of the countryside and the setting of the of the town arising from the built form, contrary to Policy S7 and Policies TX LSC1 & LSC2 of the Thaxted Neighbourhood Plan.

1.5 Moreover, the applicant has failed to demonstrate, to the satisfaction of this Authority, that safe and suitable access for all highways users can be provided to the site; that the proposed works are deliverable; and therefore, that the impact upon the highway network arising from this proposed development will not have an unacceptable consequence on highway safety. In this regard the proposal fails to comply with the requirements of Policy GEN1 of the Local Plan.

1.6 Therefore, and taken together, it is concluded that significant weight is afforded to the adverse impacts have been highlighted in respect of the proposed development and the conflict with development plan policies. The adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits of development. The proposal would not therefore be sustainable development for which Paragraph 11 of the National Planning Policy Framework indicates a presumption in favour of.

2. RECOMMENDATION

2.1

REFUSE for the reasons set out in section 17

3. SITE LOCATION AND DESCRIPTION:

- 3.1** The application site relates to a parcel of land in agricultural use which is approximately 5.5ha. The site is located on the northern side of the village of Thaxted, adjacent to the development boundary and between Walden Road and Watling Lane.
- 3.2** There is residential development to the south of the site and to the west along Watling Lane. Across Walden Road from the site is a recreation ground with new houses beyond it. To the north is agricultural land. A public right of way passes through the site to the north, following the slope of the field down to Watling Lane and there is also a public right of way along Watling Lane, which is part of the Harcamlow Way long distance route.
- 3.3** The site is not located within or immediately adjacent to any conservation area (Thaxted Conservation Area is situated south of the application site) and there are no listed structures on or immediately adjacent to the site. The application site is located outside of the development limits. The site is also located within the sensitive rural setting of Thaxted, as designated by the Thaxted Neighbourhood Plan 2019.

4. PROPOSAL

- 4.1** This planning application is submitted in outline with matters relating to scale, layout, appearance, and landscaping reserved. The applicant is seeking approval in principle to develop the site for up to 67 dwellings and for the details of access to be granted consent. This will leave the approval of the scale, layout, appearance, and landscaping to be decided at a later date when further applications (the reserved matters) are submitted to the Local Planning Authority for consideration.
- 4.2** Although this application seeks outline planning permission, the application is accompanied by indicative parameter plans, which provide an indication of how such a quantum of development could be achieved on the site including in respect of layout.
- 4.3** The proposed dwellings would be either 1.5 or 2 storeys and would range from larger detached properties set within larger plots to smaller semi-detached plots, short terraces and bungalows.
- 4.4** The proposed housing would comprise of off-street car parking spaces to each unit. 40% of the total are to be affordable housing units.
- 4.5** The proposal would include an area of public open space in the centre of the site, a children's play space and a community orchard.

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

- 6.1**
- UTT/14/1033/OP - Outline application, with all matters reserved except for access, for residential development, for up to 120 dwellings, provision of open space with recreational facilities, site access, associated highway and infrastructure works. - Land West Of Walden Road Thaxted Essex – Refuse – 19/06/2014 - Appeal Ref: APP/C1570/A/14/2222958 – Appeal Dismissed – 21/01/2015.
 - UTT/14/3300/OP - Outline planning permission with all matters reserved except for access for proposed residential development of up to 100 dwellings, provision of open space with recreational facilities, site access, associated highway and infrastructure works. - Land West Of Walden Road Thaxted – Refused – 10/03/2015.
 - UTT/21/3489/SCO - request for an EIA Screening Opinion for a residential development of up to 80 dwellings - Land West Of Walden Road Walden Road Thaxted Essex - Opinion Given – 15/12/2021.

Adjoining Sites

- 6.2**
- UTT/1259/06/FUL - Erection of 10 houses and 2 flats, new vehicular and pedestrian access. Change of use of land from agricultural to residential - Land At Newbiggen Street/Walden Road Next To Clare Court Thaxted - Approve with Conditions – 09/01/2007.
 - UTT/0950/07/FUL - Construction of affordable rural housing and access road serving parking areas (alternative scheme to that approved under UTT/1259/06/FUL) - Site At Newbiggen Street/Walden Road Adjacent To Clair Court Thaxted. – Approve with Conditions - 22/02/2008.

7. PREAPPLICATION ADVICE AND/OR COMMUNITY CONSULTATION

7.1 The Localism Act requires pre-application consultation on certain types of planning applications made in England. As such the following consultation events have been held by the applicants:

- 19th July and 24th August 2021 copies of the details of the proposed development were circulated to Ward Members and to the clerk of the parish council at Hatfield Broad Oak.
- 6th of October 2021 a leaflet setting out the development proposals was delivered to properties in the immediate vicinity of the site. The leaflet directed the public to the developer's website and how to make comments.

- Pre-application discussions with officers from Uttlesford District Council were held involving a meeting. However, no formal written advice was provided under reference UTT/21/1215/PA.
- Written heritage advice was provided by the ECC Historic Buildings and Conservation Team on the 1st of July 2022.

7.2 Full details of the applicant's engagement and consultation exercises conducted is discussed within the submitted Statement of Community Involvement.

8. SUMMARY OF STATUTORY CONSULTEE RESPONSES

8.1 Highway Authority – No Objection.

8.1.1 The site access and pedestrian crossing has been subject to a road safety audit. The application will also provide a connection to the existing footway network, improvements to the public footpath crossing the site, a cycle/walking connection to Watling Lane and additional bus stops. A contribution to the Uttlesford bus strategy has also been required.

8.2 Local Flood Authority – No Objection.

8.2.1 Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, we do not object to the granting of planning permission (Subject to conditions).

9. Thaxted Parish Council Comments – Object.

9.1 Resolved to object on the following grounds:

- Heritage impact
- Landscape impact
- Loss of high-quality farmland
- Drainage issues
- Lack of Sustainability

10. CONSULTEE RESPONSES

10.1 UDC Housing Enabling Officer – No Objection.

10.1.1 The affordable housing provision on this site will attract the 40% policy requirement as the site is for up to 67 dwellings. This amounts to up to 27 affordable homes and it is expected that these properties will be delivered by one of the Council's preferred Registered Providers. It is also the Councils' policy to require 5% of the whole scheme to be delivered as fully wheelchair accessible (building regulations, Part M, Category 3 homes). The mix and tenure split of the affordable properties

can be agreed later at the reserved matters stage subject to the outline application being approved.

10.2 UDC Environmental Health – No Objection.

10.2.1 No concerns raised in relation to the impact of the development upon the residents of neighbouring properties. Therefore, no objection is raised subject to condition/Informatives.

10.3 UDC Landscape Officer/Arborist

10.3.1 No comments received.

10.4 ECC Infrastructure – No Objection subject to contributions.

10.4.1 A development of this size can be expected to generate the need for the following financial contribution to mitigate the need for education places based on 67 dwellings:

Early Years Education: (Financial contribution of **£104,126.00**).

Primary Education: (Financial contribution of **£347,087.00**).

Secondary Education: (Financial contribution of **£318,585.00**).

School Transport: (Financial contribution of **£66,705.20**).

Libraries: (Financial contribution of **£5,212.60**).

10.5 NHS – No objection subject to contributions.

10.5.1 The proposed development would deliver 67 dwellings, which based on an average occupancy of 2.4 occupants per dwelling will create circa 161 new patient registrations. The financial contribution for health infrastructure that the HWE ICB is seeking, to mitigate the primary health care impacts from this development, has been calculated using a formula based on the number of units proposed and does not take into account any existing deficiencies or shortfalls in Thaxted and its vicinity, or other development proposals in the area.

Total General Medical Service monies requested: 67 dwellings x £530.00 = £35,510

10.6 Aerodrome Safeguarding – No Objection.

10.6.1 No aerodrome safeguarding objections to the proposal subject to conditions.

10.7 Anglian Water – No objection.

10.7.1 Anglian Water have no objection subject to inclusion of planning conditions.

10.8 Affinity Water – No objection.

10.9 Place Services (Archaeology) – No comments received.

10.10 Place Services (Ecology) – No objection.

10.10.1 No objection subject to securing biodiversity mitigation and enhancement measures.

10.11 Place Services (Conservation and Heritage) – Objection.

10.11.1 The development proposals would, in principle, 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. With regards to the National Planning Policy Framework (NPPF, 2021) this would represent less than substantial harm at the lower to middle part of the scale, making Paragraph 202 relevant.

10.12 Historic England – Objection.

10.12.1 Historic England have serious concerns regarding the application on heritage grounds.

10.13 Natural England – No comments.

10.13.1 The application site falls outside of the Hatfield Zone of Influence and doesn't fall within any other Impact Risk Zones for residential development.

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. The following issues were raised in representations that are material to the determination of the application and are addressed in the next section of this report.

- 203 Neighbouring properties sent letters.
- Site Notice erected close to the site.
- Press Notice published.
- 289 Comments of objection received.

11.2 Summary of Objections

- 11.2.1**
- Noise and pollution disturbance during construction and from end use.
 - Impact on property values (Officer Comment: this is a purely private issue and not a material planning consideration).
 - Development out of character.
 - Loss of countryside / outside development limits.
 - Overcrowding / lack of infrastructure to support the development.

- Lack of employment opportunities.
- Highway safety concerns.
- Impact on wildlife / biodiversity.
- Impact on light and privacy to neighbouring occupiers.
- Loss of Greenbelt land (Officer Comment: the land does not fall within the greenbelt).
- Loss of public footpath.
- Loss of agricultural land.
- Impact on carbon footprint / climate change.
- Drainage / surface water / sewage system issues.
- Loss of trees / vegetation.
- Emergency vehicles / refuse collection access issues.
- Impact on archaeological assets.
- Lack of community involvement from applicant.
- Inaccurate information submitted as part of the application.
- Impact upon the protected lane.

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,
 - (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.

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.

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 21 February 2020)
- Great Dunmow Neighbourhood Plan (made December 2016)
- Newport and Quendon and Rickling Neighbourhood Plan (made 28 June 2021)
- Thaxted Neighbourhood Plan (made 21 February 2019)
- Stebbing Neighbourhood Plan (made 19 July 2022)
- Saffron Walden Neighbourhood Plan (made 11 October 2022)
- Ashdon Neighbourhood Plan (made 6 December 2022)
- Great and Little Chesterford Neighbourhood Plan (made 2 February 2023)

13. POLICY

13.1 National Policies

- 13.1.1** National Planning Policy Framework (2021)

13.2 Uttlesford District Plan 2005

- S7 – The Countryside
- S8 – The Countryside Protection Zone
- GEN1 – Access
- GEN2 – Design
- GEN3 – Flood Protection
- GEN4 – Good Neighbourliness
- GEN5 – Light Pollution
- GEN6 – Infrastructure Provision
- GEN7 – Nature Conservation
- GEN8 – Vehicle Parking Standards
- ENV2 – Development Affecting Listed Buildings
- ENV3 – Open Spaces and Trees
- ENV5 – Protection of Agricultural Land
- ENV7 – Protection of the Natural Environment
- ENV8 – Other Landscape Elements of Importance
- ENV10 – Noise Sensitive Developments
- ENV12 – Groundwater Protection
- ENV14 – Contaminated Land
- H1 – Housing development
- H9 – Affordable Housing
- H10 – Housing Mix

13.3 Thaxted Neighbourhood Plan

- TX HD10 – Design Principles
- TX HC1 – Heritage and Development

TX LSC1 – Protection of the Countryside and rural setting of Thaxted
TX LSC2 – Protection and Enhancement of the Landscape
TX LSC 3 – Wildlife habitats and landscape features
TX HD1 – Scale and Location of New Development
TX HD2 – Local Housing Needs
TX HD3 – Affordable Housing
TX IFS3 – Footpaths
TX IFS4 – Surface Water Drainage
TX IFS5 – Foul Water Drainage
TX IFS8 – Broadband

13.4 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)

14. CONSIDERATIONS AND ASSESSMENT

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

- 14.2**
- A) Background**
 - B) Principle of Development**
 - C) Countryside Impact**
 - D) Design & Neighbouring Amenity**
 - E) Heritage impacts and Archaeology**
 - F) Affordable Housing Mix and Tenure**
 - G) Access and Parking**
 - H) Nature Conservation & Trees**
 - I) Climate Change**
 - J) Contamination**
 - K) Flooding**
 - L) Planning Obligations**

14.2 A) Background

14.2.1 This application follows on from a previous application under reference UTT/14/1033/OP, determined in 2014. That proposal involved an outline application, with all matters reserved except for access, for residential development, for up to 120 dwellings, provision of open space with recreational facilities, site access, associated highway and infrastructure works. The application was refused permission for the following grounds:

1. The proposals would introduce significant new built form within the rural area which would result in significant harm to the character of the river valley and the rural setting of the village of Thaxted. The rural characteristics of Watling Lane would be adversely eroded, and this

would be detrimental to the character of the lane and the rural edge of the village. The harm would be exacerbated by the impacts from street lighting and house lights on the valley sides. Furthermore, the development does not constitute sustainable development, as set out in the NPPF. As such the proposals are contrary to Uttlesford Local Plan Policies S7 and ENV3 and the NPPF.

2. The proposals would result in development having an adverse impact on the long-stance views of the Grade I listed church spire. The impact on the character and setting of the listed building would be contrary to Uttlesford Local Plan Policy ENV2. In addition, the proposals would increase the traffic flows through the historic core of the village resulting in an adverse impact on the character and setting of the conservation area and this would be contrary to the principles of protecting heritage assets contained in the NPPF.
3. Insufficient information has been submitted to clearly demonstrate that the proposals would not have an adverse impact on the local highway network, or that the proposed junction would not give rise to increased highway dangers. Furthermore, it has not been clearly demonstrated how the existing public right of way would be treated within the development.
4. Insufficient information has been submitted with the application to clearly demonstrate that the proposals would not give rise to increased flood risk either within the site or outside the site. This is contrary to Uttlesford Local Plan Policy GEN3 and the NPPF.
5. The proposals do not provide any mechanism to secure the infrastructure requirements arising from the development, including the need for financial contributions towards additional healthcare facilities, primary and secondary education requirements, including school transport, or the delivery of 40% affordable housing and the proposed open space and play area, and the subsequent maintenance of these areas. As such the proposals are contrary to Uttlesford Local Plan Policy GEN6.

14.2.3 The proposal was subsequently dismissed at appeal, with the Inspector concluding that the proposal would result in substantial harm to the character and appearance of the surrounding area, and 'less than substantial', but nevertheless significant harm to the significance of the Grade I listed St John the Baptist church that would not be outweighed by the public benefits.

14.2.4 The aforementioned application and the comments raised by the Planning Inspector are a material consideration as part of the subject scheme. In an attempt to overcome the concerns in respect of this refused / dismissed scheme the number of dwellings proposed on the site has been reduced to no more than 67, the increase of areas of public

open space, including a community orchard. As such, the scheme is materially different to that of the previous proposal.

- 14.2.5** Moreover, since the determination of the previous appeal, there has been an updated iteration of the NPPF (2021) and the adoption of the Thaxted Neighbourhood Plan (2019) which are material considerations.

14.3 B) Principle of development

Housing Delivery

- 14.3.1** The 2021 National Planning Policy Framework (NPPF) establishes the overarching principles of the planning system, including the requirement of the system to “drive and support development” through the local development plan process. It advocates policy that seeks to significantly boost the supply of housing and requires local planning authorities to ensure their Local Plan meets the full, objectively assessed housing needs for market and affordable housing.

- 14.3.2** Policy TX HD2 – Local Housing Needs of the Thaxted Neighbourhood Plan highlights that residential development proposals shall be supported which meet the need for a housing mix including a significant proportion of one and two bedroom properties and single storey dwellings which accommodate the needs of those less mobile.

- 14.3.3** The scheme would facilitate the construction of residential units in a location close to public transport and local facilities, including affordable housing. The proposal would be in line with the overarching objectives of adopted policy in delivering additional housing in the district, subject to consideration of all other relevant policies of the development plan, as discussed below.

Development Limits

- 14.3.4** Paragraph 78 of the NPPF states that in rural areas, planning policies and decisions should be responsive to local circumstances and support housing developments that reflect local needs. Local planning authorities should support opportunities to bring forward rural exception sites that will provide affordable housing to meet identified local needs and consider whether allowing some market housing on these sites would help to facilitate this.

- 14.3.5** The application site is located outside of the development limits and in the countryside. Policy S7 of the Local Plan 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.

- 14.3.6** Policy S7, sets out at paragraph 6.13 of the Local Plan that outside development limits, sensitive infilling proposals close to settlements may be appropriate subject to the development being compatible with the character of the surroundings and have a limited impact on the countryside will be considered in the context of Local Policy S7.
- 14.3.7** 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 and therefore should be given limited weight. Nevertheless, it is still a saved local plan policy and carries some weight.
- 14.3.8** The Planning Inspector as part of the previously dismissed appeal in relation to the site considered that the *'site is visually very important in relation to its contribution to the setting of the town of Thaxted and much more so than some of the other fields around the town, because of the way that the site slopes steeply away from the town perimeter towards the river Chelmer. The slope makes the field extremely prominent in many views from the north and west. Principally, these are from a considerable number of footpaths that cross the landscape on the opposite side of the river Chelmer. While a number of particular viewpoints have been identified in the landscape study, it was clear. site is visually very important in relation to its contribution to the setting of the town of Thaxted and much more so than some of the other fields around the town, because of the way that the site slopes steeply away from the town perimeter towards the river Chelmer. The slope makes the field extremely prominent in many views from the north and west. Principally, these are from a considerable number of footpaths that cross the landscape on the opposite side of the river Chelmer. While a number of particular viewpoints have been identified in the landscape study, it was clear from the site visit that because of a lack of intervening vegetation along much of these routes, views to the town of Thaxted are continually prominent when walking towards the town, providing pleasing and important vistas of the town and church.'*
- 14.3.9** *'The sloping site makes a major contribution to the views and landscape setting of the town. Site inspection shows that from these surrounding areas, the number of houses on the appeal site would be readily apparent, running down the hillside and giving the impression of a very large increase in the number of houses, which I consider would be unacceptably visible in these views. They would be highly prominent and intrusive, causing not only harm to the rural character of the landscape, but also severe visual harm because of their bulk and scale. I appreciate that the number of houses could be reduced to, say, that as illustrated in the up to 100 dwelling scheme or even less, but because of the slope of the land I still consider that this would cause major harm to the character and appearance of the area. I am unable to envisage how even a small number of houses could be acceptably located on the site.'*

14.3.10 Whilst the number of dwellings on the site has been reduced to no more than 67 and therefore increasing the size of the areas of open space, the proposal would still represent a substantial number of dwellings that would be visually prominent in views, given the sloping and visually prominent nature of the site. The submitted Landscape Visual Assessment highlights that there would be moderate adverse impact from a number of viewpoints as a result of the development and that would be 15 years after mitigating landscaping measures have been installed. As such, it is considered that the development would be contrary to Policy S7 of the Local Plan and Policies TX LSC1 & LSC2 of the Thaxted Neighbourhood Plan and would fail to overcome the previous reason for refusal in relation to the impact on the character and appearance of the area, as upheld by the Planning Inspector as part of the dismissed appeal.

Loss of Agricultural Land

14.3.11 Paragraph 174(b) of the Framework states “Planning policies and decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystems services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland”.

14.3.12 Annex 2 of The Framework defines “best and most versatile land” as land in grades 1, 2 and 3a of the Agricultural Land Classification.

14.3.13 Local Plan Policy ENV5 (Protection of Agricultural Land) states that development of the best and most versatile (BMV) agricultural land will only be permitted where opportunities have been assessed for accommodating development on previously developed sites or within existing development limits. It further states that where development of agricultural land is required, developers should seek to use areas of poorer quality except where other sustainability considerations suggest otherwise.

14.3.14 The policy is broadly consistent with the Framework which notes in paragraph 174(b) that planning decisions should recognise the economic and other benefits of BMV agricultural land, whilst the footnote to paragraph 174 states that where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality. However, the Framework does not require development proposals to have undertaken an assessment of alternative sites, as this policy implies, and in this regard the policy is not fully consistent with the Framework and should therefore be given reduced weight.

14.3.15 Most of the agricultural land within Uttlesford District is classified as best and most versatile land. The Council accepts that it is inevitable that future development will probably have to use such land as the supply of

brownfield land within the district is very restricted. Virtually all the agricultural land within the district is classified as Grade 2 or 3 with some areas of Grade 1.

- 14.3.16** Whilst there would be some conflict Policy ENV5, the issue of the loss of agricultural land did not form a reason for refusal as part of the previous application, where it was highlighted that the land would fall within Grades 2 & 3a and therefore classified as best and most versatile land. Given the above and that the loss of BMV land as part of the application would only be approximately 5.5 hectares, this relatively small loss can only be afforded very limited weight in relation to the conflict with this policy. As such, there would be insufficient grounds to introduce such a reason for refusal on this basis as part of the current scheme. Therefore, the loss of agricultural land in this location is not considered to give rise to significant conflict with Policy ENV5 or paragraph 174b of the Framework, which would warrant refusing the application in its own right on this ground.

Thaxted Neighbourhood Plan

- 14.3.17** Since the determination of the previous application at the site, the Thaxted Neighbourhood Plan has been adopted. The site is located within the 'sensitive rural setting of Thaxted', as designated by the Thaxted Neighbourhood Plan, adopted 21 February 2019. Policy TX LSC1 of that document states that the countryside will be protected for its intrinsic character and beauty and for its value as productive agricultural land and for recreational use and biodiversity. Development in the sensitive rural setting of Thaxted should be connected with agricultural, rural recreation or affordable or special needs housing and respect key views. The site is located within Local Parish Landscape Character Area 16 within the Neighbourhood Plan, in reference to the Landscape Character Assessment (Liz Lake Associates, 2016). This assessment considers the subject parcel of land to be particularly sensitive to development, with a low capacity to accommodate residential development within the landscape setting of Thaxted.
- 14.3.18** In addition, Policy TX LSC2 – Protection and Enhancement of the Landscape highlights that Development proposals in Thaxted's rural setting will be supported which protect and enhance the landscape features that contribute to local distinctiveness and sense of place. Wherever possible proposals will be sought which both improve the integrity of the landscape and reinforce its character through introducing new and/or enhanced elements where distinctive features or characteristics are absent. Development proposals with a significant impact on the landscape setting of Thaxted should be accompanied by a landscape and visual impact appraisal.
- 14.3.19** Paragraph 14 of the NPPF advises that in situations where the presumption (at paragraph 11d) applies to applications involving the provision of housing, the adverse impact of allowing development that

conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided all of the following apply:

- a) the neighbourhood plan became part of the development plan two years or less before the date on which the decision is made.
- b) the neighbourhood plan contains policies and allocations to meet its identified housing requirement.
- c) the local planning authority has at least a three-year supply of deliverable housing sites; and
- d) the local planning authority's housing delivery was at least 45% of that required over the previous three years.

- 14.3.20** The Thaxted Neighbourhood Plan would be a material consideration. However, this is now more than two years old and as such the added protection of Paragraph 14 would not apply in respect to applications involving the provision of housing. It is therefore necessary to assess whether the application proposal is sustainable development.

Suitability and Location

- 14.3.21** Paragraph 79 of the NPPF states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. New homes create additional population, and rural populations support rural services and facilities through spending.

- 14.3.22** Thaxted is identified within the Local Plan settlement hierarchy as being "a Key Rural Settlement" where it is recognised that they are located on main transport networks as well as there being local employment opportunities. Local affordable housing and community facility needs may be met on "exception sites" outside development limits.

- 14.3.23** Although outside the settlement boundaries of Thaxted, the new built form would be constructed adjacent to the northern edge of the settlement and therefore the proposals provide a logical relationship with the existing settlement. The siting of the development would not be unreasonable in respect to its location when taking into account the sites proximity to local services and facilities and therefore considered to be an accessible and sustainable location. It is also noted that the Planning Inspector as part of the previous appeal decision concluded that '*in terms of proximity to facilities that the appeal site is reasonably located and in this respect it is a satisfactorily accessible location as is the case for the other new houses recently permitted.*'

- 14.3.24** Given the site circumstances have not significantly altered since the determination of the previous application, it is not considered that there are any material considerations that would result in arriving at a different conclusion. Therefore, the proposals provide a logical relationship with

the existing settlement. The siting of the development would not be unreasonable in respect to its location when taking into account the sites proximity to local services and facilities and therefore considered to be an accessible and sustainable location.

NPPF Policy Position

- 14.3.25** The Council are currently unable to demonstrate a 5-year housing land supply and therefore paragraph 11 is fully engaged along with the "tilted balance" in favour of the proposals.
- 14.3.26** 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.
- 14.3.27** 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.
- 14.3.28** The proposal would have a detrimental impact on the character and appearance of the area through the urbanisation of the site, which would intrude into the open countryside and the significance of the church through harm to its setting. These adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits of the scheme, therefore being unacceptable in principle.

14.4 C) Countryside Impact

- 14.4.1** 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.
- 14.4.2** Landscape Character is defined as 'a distinct, recognisable and consistent pattern of elements in the landscape that makes one landscape different from another, rather than better or worse'. The landscape character is that which makes an area unique.
- 14.4.3** Although not formally adopted as part of the Local Plan or forming a Supplementary Planning Document, the Council as part of the preparation of the previous local plan prepared a character assessment which provides the detailed 'profiles' of Landscape Character Areas within Uttlesford District, known as 'Landscape Characters of Uttlesford Council'.
- 14.4.4** The application site lies within the character area known as the Thaxted

Farmland Plateau, which extends from Swards End at its northwest to Little Bardfield in the southeast, then through Thaxted down to Sucksted Green, Broxted in the south.

- 14.4.5** Characterised broadly as gently undulating arable farmland, with irregular field patterns bounded by hedgerows that are often broken or gappy, and deciduous tree cover that gives distant structure to the landscape. The assessment describes that the key characteristics that are sensitive as being the landscape pattern of small patches of ancient woodland scattered across the landscape, which are sensitive to changes in land management. The open nature of the skyline of higher, more exposed upper plateau levels is visually sensitive to new development, which may interrupt views across, to and from the plateau. Visual characteristics are noted to include the 'outstanding ancient town of Thaxted' and two visually prominent pylon routes in close proximity to Thaxted.
- 14.4.6** As noted above, the Planning Inspector as part of the previous appeal decision at the site, noted that the *'site is visually very important in relation to its contribution to the setting of the town of Thaxted and much more so than some of the other fields around the town, because of the way that the site slopes steeply away from the town perimeter towards the river Chelmer.'*
- 14.4.7** It is acknowledged that the proposal has been reduced in scale in terms of the number of dwellings that would be located on the site, with the indicative layout plan locating dwellings to the eastern and western boundaries of the site in an attempt to maintain open views towards Thaxted church. However, introducing 67 dwellings alongside associated infrastructure would bring change to the visual aspects and character of the site, resulting a moderate adverse impact upon the character and appearance of the area.
- 14.4.8** In addition, since the determination of the previous application at the site, the Thaxted Neighbourhood Plan has been adopted. This highlights the proposal site as being within LPLCA 16, highlighting the site as being 'intensive arable farmland, undeveloped rural landscape character has been diluted by urban interface and offers views of the church spire.' The Plan notes that the site has a low landscape capacity to accommodate residential development. Whilst the Neighbourhood Plan is now over 2 years old and the provision of paragraph 14 is no longer engaged, the Neighbourhood Plan is still a material consideration in assessing the adverse effects of the proposal.
- 14.4.9** The proposal for 67 dwellings would not only introduce built development, but also significant areas of hard standing and domestic paraphernalia that would urbanise the site and harmfully intrude into the countryside. Given the sloping nature of the site, the reduced number of dwellings from that of the previous scheme would still appear prominent in many views from the north and west. As such, the

development proposal would have a significant negative visual impact causing harm to the rural character of the landscape. Therefore, the proposal would be contrary to Local Plan Policy S7 and Policies TX LSC1, LSC2 & TX HD1 of the Thaxted Neighbourhood Plan.

14.5 D) Design & Neighbouring Amenity

Design

- 14.5.1** 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.
- 14.5.2** This is an outline application where appearance, layout, scale, and landscaping are reserved matters. The application includes a number of indicative plans that indicate the key aspects of the design and layout such as access, position of housing, open space and landscape features. The height of residential development will generally 1 ½ and 2 storeys, with the density of the site would be between approximately 27 dwellings/hectare and there would be a mixture of housing types.
- 14.5.3** Whilst the layout of the development is a matter reserved for consideration at a later date, the Council has to be satisfied that the site is capable as accommodating the number of dwellings proposed along with suitable space for policy compliant levels of car parking, garden and open space areas and SuD's etc. It is concluded that the proposals would likely be able to accommodate the required standards, however, this would be addressed when the reserved matters applications are submitted if outline consent were to be granted.
- 14.5.4** The layout of the scheme would incorporate an area of public open space in the centre of the development. Housing would be located in zones either side of this space. The developer has considered positions onsite from which views towards the spire of St John the Baptist Church can be obtained and these have informed an indicative layout of the site. However, as noted above and also discussed further in this report, the Inspector as part of the dismissed appeal considered that *'the sloping site makes a major contribution to the views and landscape setting of the town.'* The Inspector also went on to note *'that the number of houses could be reduced to, say, that as illustrated in the up to 100 dwelling scheme or even less, but because of the slope of the land I still consider that this would cause major harm to the character and appearance of the area. I am unable to envisage how even a small number of houses could be acceptably located on the site.'* Although the scheme has been

reduced in terms of the number of units, there would still be an adverse impact arising from the development in terms of the character and appearance of the area and upon the setting of the Grade I listed building.

- 14.5.5** Given the above, the proposal would be contrary to Local Plan Policies S7 and ENV2 and Policies TX LSC1, LSC2 & TX HD1 of the Thaxted Neighbourhood Plan.

Neighbouring Amenity

- 14.5.6** The NPPF requires a good standard of amenity for existing and future occupiers of land and buildings. Policies GEN2 and GEN4 of the Local Plan states that development shall not cause undue or unacceptable impacts on the amenities of nearby residential properties.

- 14.5.7** The application is seeking outline permission and layout is a matter for reserve consideration at a later date and therefore it is not possible to fully assess the impact it would have on the amenity of neighbouring occupiers.

- 14.5.8** The submission includes an indicative parameter plan and layout of the site and that the proposed dwellings would be no more than two storeys in height. This shows that the proposed built form would be sufficiently distanced from neighbouring properties adjacent and adjoining site and could be designed appropriately such that it is not anticipated that the proposed development would give rise to any unacceptable impact on the amenities enjoyed of these neighbouring properties in terms of noise, outlook, daylight or privacy. As such, the proposal would comply with Policies GEN2 and GEN4 of the Local Plan and the NPPF 2021.

14.6 E) Heritage impacts and Archaeology

Impact on the Conservation Area & Listed Buildings

- 14.6.1** Policy ENV2 (Development affecting Listed Buildings) seeks to protect the historical significance, preserve and enhance the setting of heritage assets. 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.

- 14.6.2** The site lies to the north of the Thaxted Conservation Area, within which there is a high concentration of listed buildings including those lining both sides of Newbiggen Street. A Public Right of Way runs along the northern boundary of the application site from which there are views to the south of the spire of the Grade I listed Church of St John the Baptist. Another Public Right of Way, part of a national trail known as the Harcamlow Way runs along Watling Lane on the western edge of the development site.

- 14.6.3** 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’.
- 14.6.4** Paragraphs 199, 200 and 202 of the NPPF state: When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Any harm to, the significance, 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.
- 14.6.5** The Thaxted Conservation Area Character Appraisal highlights that, in addition to the individual qualities of the buildings themselves, there are other factors such as the relationships of the buildings with each other, the quality of the spaces between them and the vistas and views that unite or disrupt them. It also recommends the protection of exceptional views, particularly of the church. Moreover, the Thaxted Neighbourhood Plan highlights that there are key views and long-distance vistas through the site and further north towards to the Grade I Listed parish church of St John the Baptist.
- 14.6.6** The ECC Place Services Conservation Officer has been consulted as part of the application and notes that, although the current proposal is for a considerably reduced number of dwellings than the refused application, the Landscape and Visual Impact Appraisal demonstrates and acknowledges that the development will adversely affect views of the historic town on the approach along Walden Road (Representative Viewpoint VP2), and also have an adverse impact on views – and thus the setting and significance - of the Grade I listed church. Whilst attempts have been made to mitigate the harm to the setting of the church by locating the new dwellings to the eastern and western sides of the site (thus framing the church in some views), these newly ‘designed’ views (as illustrated by Representative Viewpoints VP4, VP5 and VP6) are a significant departure from the historic position of fully open and uninterrupted views of the church to the south. The new housing and associated landscaping and boundary treatments will be prominent in these views and provide a visual distraction from the church tower and spire as a distinctive feature on the horizon.
- 14.6.7** Moreover, Historic England have serious concerns regarding the application on heritage grounds in that the impact that such large-scale residential development, albeit reduced in scale from the original 2015 refused scheme, would have not only on the significance of the Grade I Listed parish church of St John the Baptist, but also on the overall significance of Thaxted's historic environment, with this being a moderately high level of less than substantial harm.

- 14.6.8** As such, the proposed development 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. With regards to the National Planning Policy Framework (NPPF, 2021) this would represent less than substantial harm at the lower to middle part of the scale, making Paragraph 202 relevant. The proposal would therefore be contrary to Local Plan Policy ENV2, Policy TX HC1 of the Thaxted Neighbourhood Plan and the NPPF.

Archaeology

- 14.6.9** In accordance with Policy ENV4 of the adopted Local Plan, the preservation of locally important archaeological remains will be sought unless the need for development outweighs the importance of the archaeology. It further highlights that in situations where there are grounds for believing that a site would be affected, applicants would be required to provide an archaeological field assessment to be carried out before a planning application can be determined, thus allowing and enabling informed and reasonable planning decisions to be made.
- 14.6.10** The ECC Archaeological Team have not commented on the application. However, it is noted that the site does not fall within an Archaeological Site of importance, and it is considered that subject to an Archaeological Programme of Trial Trenching followed by Open Area Excavation with a written scheme of investigation could be adequately secured byway of condition if the Local Planning Authority were minded recommending the application for approval.
- 14.6.11** The development of the site is therefore unlikely to have any direct impact on archaeological remains of significance. It is therefore considered that the proposed development complies with Policy ENV4 of the Local Plan.

14.7 F) Affordable Housing Mix and Tenure

- 14.7.1** In accordance with Policy H9 of the Local Plan, the Council has adopted a housing strategy which sets out the 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. Section 5 of the National Planning Policy 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.
- 14.7.2** The delivery of affordable housing is one of the Councils' corporate priorities and will be negotiated on all sites for housing. The Council's 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 development proposes up to 67 properties. This amounts to up to 27 affordable housing properties.

- 14.7.3** Policy H10 requires that developments of 3 or more dwellings should provide a significant proportion of small 2- and 3-bedroom market dwellings. However, since the policy was adopted, the Council in joint partnership with Braintree District Council have issued the 'Housing for New Communities in Uttlesford and Braintree (ARK Consultancy, June 2020)'.
- 14.7.4** The study recommends appropriate housing options and delivery approaches for the district. It identifies that the market housing need for 1 bed units is 11%, 2-bed units 50%, 3-bed units 35.6% and 4 or more bed units being 3.4%. The accommodation mix would be subject to reserved matters application where finer detail in terms of layout would be provided to ensure that the most appropriate mix for the site is submitted for assessment.
- 14.7.5** Moreover, it is also the Council's policy to require 5% of the whole scheme to be delivered as fully wheelchair accessible (building regulations, Part M, Category 3 homes). The Council's Housing Strategy 2021-26 also aims for 5% of all units to be bungalows delivered as 1- and 2-bedroom units. Given the outline nature of the proposal, the tenure and mix of housing could be adequately dealt with by way of condition or at reserved matters stage if the Local Planning Authority were minded recommending the application for approval.

14.8 G) Access and Parking

Access

- 14.8.1** 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 compromise road safety and take account of cyclists, pedestrians, public transport users, horse riders and people whose mobility is impaired and also encourage movement by means other than a vehicle.
- 14.8.2** The application site would be accessed primarily from Walden Road to the north of dwellings along Little Maypole. A combined pedestrian and cycle route is proposed through from the Site to Watling Lane. This would require some hedgerow removal will be required to facilitate this.
- 14.8.3** Concerns have been raised as part of the public consultation on the application in relation to the proposal impact in terms of increase in traffic and road access being difficult in and around Thaxted and that there was a previous reason for refusal in relation to highways impact. However, it is noted that this reason for refusal was resolved prior to the appeal inquiry taking place.

14.8.4 There have been alterations made in terms of access and the number of dwellings as part of the current application and the ECC Highway Team have been consulted on these changes. An initial response was provided by ECC Highways in relation to the application which required more work and information concerning active and sustainable travel and public rights of way.

14.8.5 Following the submission of additional information, ECC Highways lifted their objection, noting that while additional trips will be generated by the development once distributed across the highway network, they are not of the order that would necessitate further investigation by junction capacity assessment. The site access and pedestrian crossing has been subject to a road safety audit. The application will also provide a connection to the existing footway network, improvements to the public footpath crossing the site, a cycle/walking connection to Watling Lane and additional bus stops. A contribution to the Uttlesford bus strategy has also been required.

Parking

14.8.6 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'.

14.8.7 The adopted Council's Residential Parking Standards (2013) recommended for at least 1 vehicle space for each 1-bedroom unit and at least 2 vehicle spaces for dwellings consisting of two- or three-bedroom dwellings and three spaces for a four or more-bedroom dwelling house along with additional visitor parking. In addition, each dwelling should be provided with at least 1 secure cycle covered space.

14.8.8 As such, 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. The provision of electric vehicle charging infrastructure could be secured by way of an appropriately worded planning condition had the application been recommended for approval.

14.8.9 Overall, the proposals comply with Policies GEN1 and GEN8 of the Adopted Local Plan and the NPPF.

14.9 H) Nature Conservation & Trees

Nature Conservation

14.9.1 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.

- 14.9.2** The application site itself is not subject of any statutory nature conservation designation being largely used for agriculture. The site is outside the 10.4km Zone of Influence of Hatfield Forest which is a Site of Special Scientific Interest (SSSI).
- 14.9.3** The Place Services Ecology team have reviewed the supporting documentation submitted as part of the proposals and consider that the likely impacts on designated sites, protected and Priority species & habitats and, with appropriate mitigation measures secured, the development can be made acceptable, subject to conditions
- 14.9.4** The proposed reasonable biodiversity enhancements including the planting of native hedgerows and trees, creation of wildflower-rich grassland, log piles, water attenuation features and ponds as well as the installation of integrated bat boxes and bird boxes, which have been recommended to secure net gains for biodiversity, as outlined under Paragraph 174d of the National Planning Policy Framework (2021) and is supported by the Place Services Ecology team.

Trees

- 14.9.5** The proposed development would result in the loss of 1 individual tree and a section of hedging on the eastern boundary to facilitate access. It is noted that the tree to be removed is a category B tree. However, these losses would be mitigated by proposed new tree and hedge planting. Extensive planting of street trees is proposed throughout the development and will largely comprise of varieties of different species of indigenous trees.
- 14.9.6** The Council's Landscape Officer has not provided comments on the proposal. However, the supporting Arboriculture Impact Assessment confirms that the only a small level of soft landscaping is to be removed. If the Local Planning Authority were minded recommending the application for approval, a condition relating to tree works could be attached. This would ensure that trees of amenity value and worthy of retention would be remain intact. A condition would also be attached relating to the implementation of soft-landscaping measures to adequately mitigate any losses.

14.10 I) Climate Change

- 14.10.1** Policy GEN2 of the Local Plan seeks to ensure that the design of new development helps to minimise water and energy consumption. Uttlesford Interim Climate Change Policy sets out a list of Policies of note a demonstration of how developments demonstrate the path towards carbon zero. The NPPF seeks to ensure that new development should avoid increased vulnerability arising from climate change. More so, developments should help to reduce greenhouse gas emissions.

14.10.2 The applicant is committed to the delivery of a scheme which mitigates its impacts, is adaptable and built to high standards. An Energy and Sustainability Statement has been submitted as part of the application which highlights the key sustainability features that would be incorporated as part of the development, which are supported. Given the outline nature of the application, full details of such measures would be dealt with by way of condition through the submission of a more detailed energy and sustainability statement.

14.11 J) Contamination

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.

14.11.2 The Council's Environmental Health Officer has been consulted as part of the application and notes that the site possesses a very low to moderate risk, due to the potential risk from herbicides and pesticides in the topsoil. It is therefore suggested that, if permission is granted, conditions requiring an assessment of the nature and extent of contamination should be imposed. This would require the developer to submit to, and obtain written approval from, the Local Planning Authority of a Phase 2 Assessment, prior to any works commencing on site.

14.12 K) Flooding

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 The Environmental Agency's website and the Councils policy maps has identified the site is within a fluvial Flood Zone 1; an area that is at low risk of flooding.

14.12.3 New major development for housing needs to include a flood risk assessment as part of their planning application, to ensure that the required form of agreed flood protection takes place. Additionally, all major developments are required to include sustainable drainage to ensure that the risk of flooding is not increased to those outside of the development and that the new development is future proofed to allow for increased instances of flooding expected to result from climate change.

14.12.4 Essex County Council who are the Lead Local Flooding Authority who stipulate that having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, that they do not object to the granting of planning permission subject to imposing appropriately worded conditions.

14.12.5 The proposals, for this reason thereby comply with Policy GEN3 of the adopted Local Plan and the NPPF.

14.13 L) Planning Obligations

14.13.1 Paragraph 57 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 Levy (CIL) Regulations. The following identifies those matter that the Council would seek to secure through a planning obligation, if it were proposing to grant planning permission.

- 14.13.2**
- Early Years Education: (Financial contribution of £104,126.00).
 - Primary Education: (Financial contribution of £347,087.00).
 - Secondary Education: (Financial contribution of £318,585.00).
 - School Transport: (Financial contribution of £66,705.20).
 - Libraries: (Financial contribution of £5,212.60).
 - NHS: Financial contribution of £35,510.
 - Provision of 40% affordable housing.
 - Provision of 5% wheelchair accessible and adaptable dwellings (M4(3) – Building Regulations 2010).
 - Provision and long-term on-going maintenance of public open space.
 - Financial contribution towards bus services.
 - Financial contribution towards maintenance / improvements to public rights of way.

14.13.3 In the absence of a s106 Agreement to secure the above Heads of Terms, the proposal would not accord with Policy GEN6 of the Adopted Local Plan 2005, which seeks to secure the required provision of appropriate infrastructure to mitigate the impacts of the development.

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. Planning Balance and 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 carries limited weight.

16.3 In respect to addressing the benefits of the proposed development, the provision of up to 67 dwellings including 40% of these being affordable housing would represent a 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 economic and social benefits in terms of the construction of the dwellings and supporting local services and amenities providing investment into the local economy. Further consideration has also been given in respect to the net gains for biodiversity.

16.5 The provision of a new public open space within the development would also represent a modest benefit as part of the scheme.

16.6 Turning to the adverse impacts of development, the negative environmental effect of the development would be the significant harmful impact caused to the landscape character and visual effects on the character and appearance of the countryside and the setting of the of the town arising from the built form. This would fail to overcome the first reason for refusal as part of the previous application at the site.

16.7 Whilst the Neighbourhood Plan is now over 2 years old and therefore the provision of paragraph 14 would not be engaged, the Neighbourhood Plan is still a material consideration in assessing the adverse effects of the proposal and the proposal. The proposal would be clearly contrary to policies within that Plan, further emphasising that the adverse impacts of allowing development would significantly and demonstrably outweigh the benefits, adding weight to the reasons for refusal of the application.

16.8 The proposal would also result in less than substantial harm to the visual significance of the Grade I listed St John the Baptist church as seen from the north and west and would affect its setting, in which considerable weight is attached and failing to overcome the 2nd reason for refusal as part of the previous application.

16.9 Similar to that of the policy position at the time of the previously dismissed appeal, the Planning Inspector considered *'Even if the five year supply was at the pessimistic end of the appellant's calculations, around 3.1%, attaching substantial weight to the level of need for affordable and market housing and other suggested benefits, I consider that because of the extent of the harm, particularly to the character and appearance of the area and the significance of the church through harm to its setting, balancing social, economic and environmental roles, the proposal would still not be sustainable development in terms of the Framework.'*

16.10 It is considered that the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits of the scheme. The proposal would not therefore be sustainable development for which Paragraph 11 indicates a presumption in favour and would fail to overcome the reasons for the previously dismissed appeal.

16.11 It is therefore recommended that the application be refused as per the reasons set out below.

17. REASONS FOR REFUSAL

1. The proposals would introduce significant new built form within the rural area which would result in significant harm to the character of the river valley and the rural setting of the village of Thaxted. The rural

characteristics of Watling Lane would be adversely eroded, and this would be detrimental to the character of the lane and the rural edge of the village. The harm would be exacerbated by the impacts from street lighting and house lights on the valley sides. Furthermore, the development does not constitute sustainable development, as set out in the NPPF. As such the proposals are contrary to Uttlesford Local Plan Policy S7, Policies TX LSC1, LSC2 & TX HD1 of the Thaxted Neighbourhood Plan and the NPPF.

- 2.** The proposals would result in development having an adverse impact on the views of the Grade I listed church spire. The adverse impact on the character and setting of the listed building would be contrary to Uttlesford Local Plan Policy ENV2, Policy TX HC1 of the Thaxted Neighbourhood Plan and this would be contrary to the principles of protecting heritage assets contained in the NPPF.
- 3.** The proposals do not provide any mechanism to secure the infrastructure requirements arising from the development, including the need for financial contributions towards additional healthcare facilities, primary and secondary education requirements, including school transport, sustainable transport measures, or the delivery of 40% affordable housing and the proposed open space and play area, and the subsequent maintenance of these areas. As such the proposals are contrary to Uttlesford Local Plan Policy GEN6.

Appendix 1 – Consultee Responses

Essex County Council
**Development and Flood Risk
Waste & Environment**
C426 County Hall
Chelmsford
Essex CM1 1QH



Laurence Ackrill
Uttlesford District Council
Planning Services

Date: 9 November 2022
Our Ref: SUDS-006356
Your Ref: UTT/22/2900/OP

Dear Mr Ackrill,

Consultation Response – UTT/22/2900/OP - Land West of Walden Road/East of Watling Lane Thaxted Essex

Thank you for your email received on 28 October 2022 which provides this Council with the opportunity to assess and advise on the proposed surface water drainage strategy for the above mentioned planning application.

As the Lead Local Flood Authority (LLFA) this Council provides advice on SuDS schemes for major developments. We have been statutory consultee on surface water since the 15th April 2015.

In providing advice this Council looks to ensure sustainable drainage proposals comply with the required standards as set out in the following documents:

- Non-statutory technical standards for sustainable drainage systems
- Essex County Council's (ECC's) adopted Sustainable Drainage Systems Design Guide
- The CIRIA SuDS Manual (C753)
- BS8582 Code of practice for surface water management for development sites.

Lead Local Flood Authority position

Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, we **do not object** to the granting of planning permission based on the following:

Condition 1

No works except demolition shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme should include but not be limited to:

- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.

- Demonstrate that all storage features can half empty within 24 hours for the 1 in 30 plus 40% climate change critical storm event.
- Final modelling and calculations for all areas of the drainage system.
- The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The scheme shall subsequently be implemented prior to occupation. It should be noted that all outline applications are subject to the most up to date design criteria held by the LLFA.

Reason

- To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.
- To ensure the effective operation of SuDS features over the lifetime of the development.
- To provide mitigation of any environmental harm which may be caused to the local water environment
- Failure to provide the above required information before commencement of works may result in a system being installed that is not sufficient to deal with surface water occurring during rainfall events and may lead to increased flood risk and pollution hazard from the site.

Condition 2

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

Reason

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

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

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

Condition 3

Prior to occupation a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority.

Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

Reason

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

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

Condition 4

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

Reason

To ensure the SuDS are maintained for the lifetime of the development as outlined in any approved Maintenance Plan so that they continue to function as intended to ensure mitigation against flood risk.

We also have the following advisory comments:

- We strongly recommend looking at the Essex Green Infrastructure Strategy to ensure that the proposals are implementing multifunctional green/blue features effectively. The link can be found below. <https://www.essex.gov.uk/protecting-environment>
- Please note that the Environment Agency updated the peak rainfall climate change allowances on the 10 May 2022. planning application with outline approval are not required to adjust an already approved climate change allowance, however, wherever possible, in cases that do not have a finalised drainage strategy please endeavour to use the updated climate change figures [Flood risk assessments: climate change allowances - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/flood-risk-assessments-climate-change-allowances)

Any questions raised within this response should be directed to the applicant and the response should be provided to the LLFA for further consideration. If you are minded to approve the application contrary to this advice, we request that you contact us to allow further discussion and/or representations from us.

Summary of Flood Risk Responsibilities for your Council

We have not considered the following issues as part of this planning application as they are not within our direct remit; nevertheless these are all very important considerations for managing flood risk for this development, and determining the safety and acceptability of the proposal. Prior to deciding this application you should give due consideration to the issue(s) below. It may be that you need to consult relevant experts outside your planning team.

- Sequential Test in relation to fluvial flood risk;
- Safety of people (including the provision and adequacy of an emergency plan, temporary refuge and rescue or evacuation arrangements);
- Safety of the building;
- Flood recovery measures (including flood proofing and other building level resistance and resilience measures);
- Sustainability of the development.

In all circumstances where warning and emergency response is fundamental to managing flood risk, we advise local planning authorities to formally consider the emergency planning and rescue implications of new development in making their decisions.

Please see Appendix 1 at the end of this letter with more information on the flood risk responsibilities for your council.

INFORMATIVES:

- Essex County Council has a duty to maintain a register and record of assets which have a significant impact on the risk of flooding. In order to capture proposed SuDS which may form part of the future register, a copy of the SuDS assets in a GIS layer should be sent to suds@essex.gov.uk.
- Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office.
- Changes to existing water courses may require separate consent under the Land Drainage Act before works take place. More information about consenting can be found in the attached standing advice note.
- It is the applicant's responsibility to check that they are complying with common law if the drainage scheme proposes to discharge into an off-site ditch/pipe. The applicant should seek consent where appropriate from other downstream riparian landowners.
- The Ministerial Statement made on 18th December 2014 (ref. HCWS161) states that the final decision regarding the viability and reasonableness of maintenance requirements lies with the LPA. It is not within the scope of the LLFA to comment on the overall viability of a scheme as the decision is based on a range of issues which are outside of this authority's area of expertise.

- We will advise on the acceptability of surface water and the information submitted on all planning applications submitted after the 15th of April 2015 based on the key documents listed within this letter. This includes applications which have been previously submitted as part of an earlier stage of the planning process and granted planning permission based on historic requirements. The Local Planning Authority should use the information submitted within this response in conjunction with any other relevant information submitted as part of this application or as part of preceding applications to make a balanced decision based on the available information.

Yours sincerely,

Alison Vaughan, Development and Flood Risk Officer

Team: Green Infrastructure and Sustainable Drainage

Service: Climate Action and Mitigation

Essex County Council

Internet: www.essex.gov.uk

Email: suds@essex.gov.uk

Appendix 1 - Flood Risk responsibilities for your Council

The following paragraphs provide guidance to assist you in determining matters which are your responsibility to consider.

- **Safety of People (including the provision and adequacy of an emergency plan, temporary refuge and rescue or evacuation arrangements)**

You need to be satisfied that the proposed procedures will ensure the safety of future occupants of the development. In all circumstances where warning and emergency response is fundamental to managing flood risk, we advise LPAs formally consider the emergency planning and rescue implications of new development in making their decisions.

We do not normally comment on or approve the adequacy of flood emergency response procedures accompanying development proposals as we do not carry out these roles during a flood.

- **Flood recovery measures (including flood proofing and other building level resistance and resilience measures)**

We recommend that consideration is given to the use of flood proofing measures to reduce the impact of flooding when it occurs. Both flood resilience and resistance measures can be used for flood proofing.

Flood resilient buildings are designed to reduce the consequences of flooding and speed up recovery from the effects of flooding; flood resistant construction can help prevent or minimise the amount of water entering a building. The National Planning Policy Framework confirms that resilient construction is favoured as it can be

achieved more consistently and is less likely to encourage occupants to remain in buildings that could be at risk of rapid inundation.

Flood proofing measures include barriers on ground floor doors, windows and access points and bringing in electrical services into the building at a high level so that plugs are located above possible flood levels. Consultation with your building control department is recommended when determining if flood proofing measures are effective.

Further information can be found in the Department for Communities and Local Government publications '[Preparing for Floods](#)' and '[Improving the flood performance of new buildings](#)'.

- **Sustainability of the development**

The purpose of the planning system is to contribute to the achievement of sustainable development. The NPPF recognises the key role that the planning system plays in helping to mitigate and adapt to the impacts of climate change, taking full account of flood risk and coastal change; this includes minimising vulnerability and providing resilience to these impacts. In making your decision on this planning application we advise you consider the sustainability of the development over its lifetime.

Your Ref: UTT/22/2900/OP
Our Ref: 16253
Date: 18 May /2023



CC: Cllr Martin Foley

Paul Crick
Director for Highways and Transportation

To: Uttlesford District Council
Assistant Director Planning & Building Control
Council Offices
London Road
SAFFRON WALDEN
Essex CB11 4ER

County Hall
Chelmsford
Essex CM1 1QH

Recommendation

Application No.	UTT/22/2900/OP
Applicant	Tesni Properties Limited
Site Location	Land West Of Walden Road/East Of Watling Lane Thaxted Essex
Proposal	Outline application, with all matters reserved except for access, for the erection of up to 67 dwellings with associated private gardens, carparking, vehicular manoeuvring space, bin and cycle stores, and hard and soft landscaping, to be accessed by via a new vehicular access off Walden Road and separate pedestrian access points off both Walden Road and Watling Lane, wildlife pond and swales, and public open space provisions, to include an attenuation pond with dipping platform, heritage and ecological interpretation boards, church viewpoint zone, wheelchair accessible trail, community orchard and children's play area (LEAP)

This recommendation supersedes the recommendation of the Highway Authority dated 17 January 2023

This application was accompanied by a Transport Assessment which has been reviewed by the highway authority in conjunction with a site visit and internal consultations. The assessment of the application and Transport Assessment was undertaken with reference to the National Planning Policy Framework 2021 and in particular paragraphs 110 – 112, the following was considered: access and safety; capacity; the opportunities for sustainable transport; and mitigation measures.

An initial response was made to the application which required more work and information concerning active and sustainable travel and public rights of way. While additional trips will be generated by the development once distributed across the highway network they are not of the order that would necessitate further investigation by junction capacity assessment.

The site access and pedestrian crossing has been subject to a road safety audit. The application will also provide a connection to the existing footway network, improvements to

the public footpath crossing the site, a cycle/walking connection to Watling Lane and additional bus stops. A contribution to the Uttlesford bus strategy has also been required.

From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to the following mitigation and conditions:

1. No development shall take place, including any ground works or demolition, until a Construction Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved plan shall be adhered to throughout the construction period. The Plan shall provide for;
 - I. the parking of vehicles of site operatives and visitors,
 - II. loading and unloading of plant and materials,
 - III. storage of plant and materials used in constructing the development,
 - IV. wheel and underbody washing facilities.
 - V. Routing strategy for construction vehicles
 - VI. Protection of any public rights of way within or adjacent to the site

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety and Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

2. **Access:** Prior to occupation of the development the provision of the works shown in principle on drawings VN211888-D100 and VN211888-D103 with all details being agreed with the Local Planning Authority, and to include but not be limited to the following:
 - The provision of a bellmouth access with a minimum of 6m radii returned to a carriageway width of 6 metres with 2 x 2 metre footways.
 - Clear to ground visibility splays of 103 metres to the north and 54 metres to the south measured from a setback distance of 2.4 metres at the centre of the new access.
 - A new footway of minimum effective width of 2 metres between the site access and the existing wider footway coincidental with the pedestrian crossing location south of the site access. To include removal of redundant dropped kerbs and replacement with upstand kerbs.
 - A pedestrian crossing of Thaxted Road to include dropped kerbs, tactile paving, new footway, barriers and a dog bin and removal of any redundant footway and restoration of verge and formation of visibility splays.
 - Replacement of the advanced direction sign.
 - Relocation, if required, of the 30 mph speed limit and signage and new 'Thaxted' signs and gateway as appropriate.

Reason: To ensure that vehicles can take access to and from the highway in a safe and controlled manner and to provide pedestrian access to/from the site and the existing footway network serving local services and facilities in accordance with policy

DM1 and DM9 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

- 3. Pedestrian/cycle access:** A pedestrian/cycle route of minimum **effective** width of 3.5m to be provided between the application site and Watling Street as shown in principle on drawing VN211888-D104 to include visibility splays of 2.4 metres by 43 metres in either direction along Watling Street or such other visibility splays as may be determined by a speed survey.

Reason: To provide pedestrian/cycle access between the site and Watling Street in the interests of reducing the need to travel by car and promoting active travel in accordance with policy DM9 of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011

- 4. Bus Services:** Prior to first occupation the payment of a financial contribution to fund improvements to enhanced bus services between Thaxted and Saffron Walden and Great Dunmow improving the frequency, quality and/or geographical cover of the bus routes servicing the site.

Reason: To improve the accessibility of the development by bus in accordance with policy DM9 of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011

- 5. Bus Stops:** Prior to occupation of the development the submission of details relating to the provision of a pair of new bus stops on the B184 Newbiggen Street/Walden Road shall be submitted to and approved by the Local Planning Authority. Such bus stops shall include as a minimum bus stop pole and flag, raised kerbs and timetable information. The approved details shall be implemented and completed prior to occupation of the development.

Reason: In the interests of reducing the need to travel by car and promoting sustainable transport and development in accordance with policy DM9 of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011

- 6. Public Rights of Way:** Concurrent with the reserved matters planning application the submission of details relating to the improvement of the surface of public footpath 49_97 Thaxted and any associated signage shall be submitted to and approved by the Local Planning Authority. The approved details shall be implemented and completed prior to first occupation of the development.

Reason: to protect and maintain the integrity of the public right of way, in accordance with policy DM11 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

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

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10 of

the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011

The above conditions are required to ensure that the development accords with the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011 and Uttlesford Local Plan Policy GEN1 and the National Planning Policy Framework.

Informatives:

- (i) All work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to be agreed before the commencement of works. The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org
- (ii) Prior to any works taking place in public highway or areas to become public highway the developer shall enter into an appropriate legal agreement to regulate the construction of the highway works. This will include the submission of detailed engineering drawings for approval and safety audit.
- (iii) Under Section 23 of the Land Drainage Act 1991, prior written consent from the Lead Local Flood Authority (Essex County Council) is required to construct any culvert (pipe) or structure (such as a dam or weir) to control, or alter the flow of water within an ordinary watercourse. Ordinary watercourses include ditches, drains and any other networks of water which are not classed as Main River.


If you believe you need to apply for consent, further information and the required application forms can be found at www.essex.gov.uk/flooding. Alternatively you can email any queries to Essex County Council via watercourse.regulation@essex.gov.uk.

- (iv) The Applicant should provide for agreement, information regarding their drainage proposals i.e. draining by gravity/soakaways/pump assisted or a combination thereof. If it is intended to drain the new highway into an existing highway drainage system, the Developer will have to prove that the existing system is able to accommodate the additional water.
- (v) The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.
- (vi) The Public Right of Way network is protected by the Highways Act 1980. Any unauthorised interference with any route noted on the Definitive Map of PROW is considered to be a breach of this legislation. The public's rights and ease of passage over public rights of way 49/29 and 49/30 shall be maintained free and unobstructed at all times to ensure the continued safe passage of the public on the definitive right of way.

The grant of planning permission does not automatically allow development to commence. In the event of works affecting the highway, none shall be permitted

to commence until such time as they have been fully agreed with this Authority. In the interests of highway user safety this may involve the applicant requesting a temporary closure of the definitive route using powers included in the aforementioned Act. All costs associated with this shall be borne by the applicant and any damage caused to the route shall be rectified by the applicant within the timescale of the closure.

- (vii) Mitigating and adapting to a changing climate is a national and Essex County Council priority. The Climate Change Act 2008 (amended in 2019) commits the UK to achieving net-zero by 2050. In Essex, the [Essex Climate Action Commission](#) proposed 160+ recommendations for climate action. Essex County Council is working with partners to achieve specific goals by 2030, including net zero carbon development. All those active in the development sector should have regard to these goals and applicants are invited to sign up to the [Essex Developers' Group Climate Charter \[2022\]](#) and to view the advice contained in the [Essex Design Guide](#). Climate Action [Advice guides](#) for residents, businesses and schools are also available.



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pp. Director for Highways and Transportation
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