



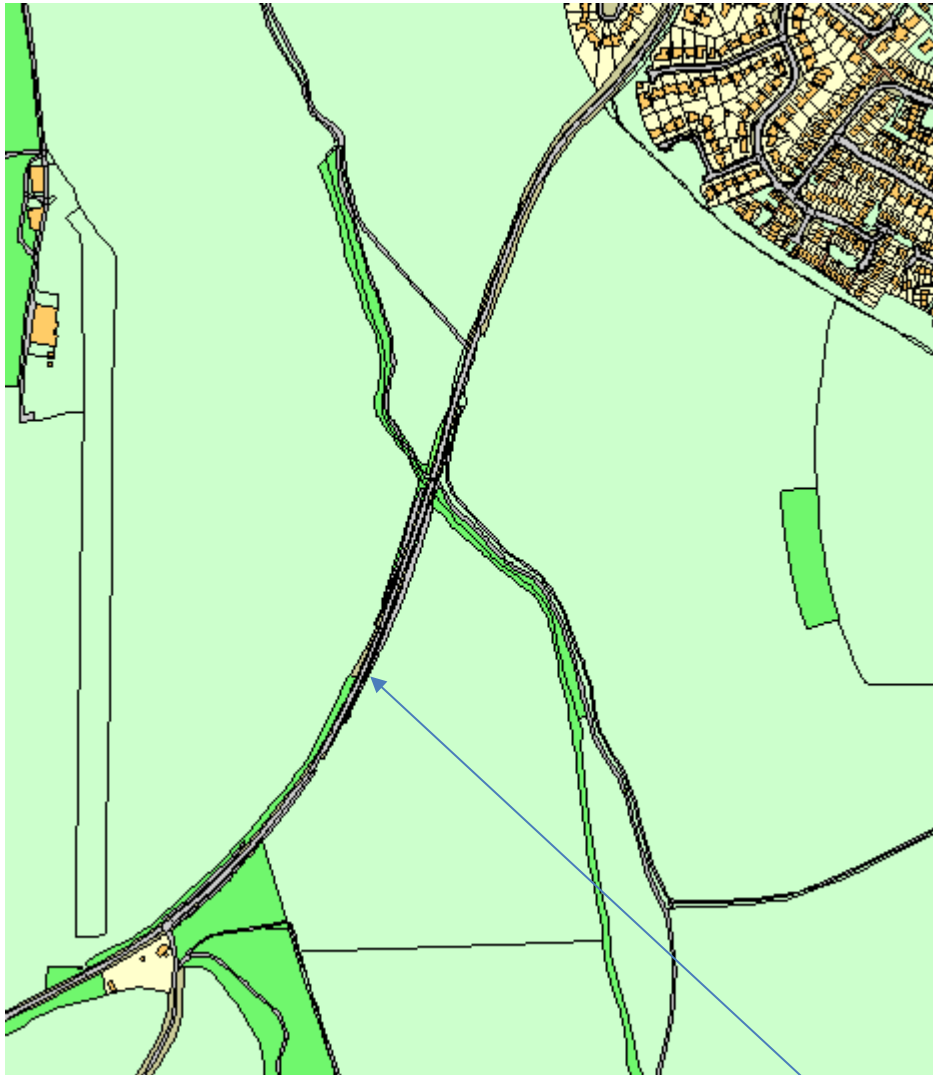
ITEM NUMBER: 15

PLANNING COMMITTEE DATE: 7 June 2023

REFERENCE NUMBER: UTT/22/3020/FUL

LOCATION: Newport Road
Saffron Walden

SITE LOCATION PLAN:



Proposed New Access

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Organisation: Uttlesford District Council Date: 17/03/23

PROPOSAL: Proposed agricultural access

APPLICANT: Mr Tilman Behrens

AGENT: Mrs Emma Thompson

EXPIRY DATE: 26 January 2023

EOT Expiry Date: 9 June 2023

CASE OFFICER: Jonathan Pavey-Smith

NOTATION: Outside Development Limits, Classified (B Road).

REASON THIS APPLICATION IS ON THE AGENDA: Cllr Light Call-In

1. EXECUTIVE SUMMARY

- 1.1** This application seeks full planning permission for the creation of a new agricultural access to enable the applicant to have an independent access onto their land. The proposed access is taken from Newport Road (B1052).
- 1.2** The proposed access can achieve the required visibility and forward visibility splays and would not result in any detrimental impact on the highways safety. The proposals will not have any undue adverse effects on ecology or landscape.
- 1.3** The proposal will not detract from or harm the significance of the Grade II Registered Park and Garden.

2. RECOMMENDATION

<p>That the Director of Planning be authorised to GRANT permission for the development subject to those items set out in section 17 of this report - A) Conditions</p>

3. SITE LOCATION AND HISTORY:

- 3.1 The application site comprises land to the north-east of the historic Shortgrove Park which is a Grade II registered Park and Garden.
- 3.2 The land is part of the agricultural holding owned by Longrove Farms Limited and comprises 650 acres of arable farmland. At present, the only way to gain access into the estate, is through a right of way which is owned by the residents of Shortgrove Park and within the limits of the registered historic park.
- 3.3 A previous planning application was granted (application UTT/20/2278/FUL) to widen the existing access to enable both cars and agricultural machinery to use the access without conflict and improving highway safety. It was established that the permission could not be implemented due to the applicant, whilst having a right of access, does not own the area of land where the widening was to take place.
- 3.4 To clarify the ownership of the existing access is owned by the residents of the Shortgrove Estate. The applicant only has a right of way over the existing access. As a result of this, the applicant has sought to find an alternative access so that they have their own independent access onto their land. Without an appropriate means of access, the applicant is land locked. A previous application for a new access was submitted (application reference: UTT/21/2893/FUL) but was subsequently refused due to it not being able to demonstrate the required visibility splays.

4. **PROPOSAL**

- 4.1 This application seeks full planning permission for the creation of a new agricultural access to enable the applicant to have an independent access onto their land. The proposed access is taken from Newport Road (B1052)
- 4.2 The proposed access has been designed to accommodate agricultural vehicles. The access is a width of 6m with 10m length.
- 4.3 The access would be gated, and this would be located at a minimum setback of 15m from the edge of the adopted highway to ensure that any agricultural vehicle with trailer can be accommodated off the public highway for highway safety reasons.

5. **ENVIRONMENTAL IMPACT ASSESSMENT**

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

6. **RELEVANT SITE HISTORY**

Reference	Proposal	Decision
UTT/21/2893/FUL	Proposed agricultural	Refused

	access	(22/11/2021)
UTT/20/2278/FUL	Proposed widening of private way	Approved with conditions (27.08.2021)

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

7.1 No Pre-App advice given

8. **SUMMARY OF STATUTORY CONSULTEE RESPONSES**

8.1 **Highway Authority**

8.1.1 From a highway and transportation perspective the impact of the proposal is **acceptable** to the Highway Authority, subject to the following measures:

1. Prior to the first beneficial use, the vehicular access shall be constructed at right angles, appropriate radii and width to accommodate the swept path of all vehicles regularly accessing the site for the intended purpose, to the highway boundary and to the existing carriageway, and shall be provided with an appropriate dropped kerb vehicular crossing of the highway verge.

Reason: to ensure that vehicles can enter and leave the highway in a controlled manner in the interest of highway safety

2. Prior to the first beneficial use, the access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 160 metres in both directions as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the access is first used by vehicular traffic and retained free of any obstruction at all times.

Reason: To provide adequate inter-visibility between vehicles using the access and those in the existing public highway in the interest of highway safety

3. Any gates provided at the vehicular access shall be inward opening only and shall be set back a minimum of 15 metres from the back edge of the carriageway.

Reason: To enable vehicles using the access to stand clear of the carriageway whilst gates are being opened and closed in the interest of highway safety

4. No unbound material shall be used in the surface treatment of the vehicular access within 15 metres of the highway boundary.

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety. 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.

Informative:

- (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 or by post to Essex Highways, Springfield Highways Depot, Colchester Road, Chelmsford, Essex, CM2 5PU. The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes technical check, safety audits, site inspection, commuted sums for maintenance and any potential claims under the 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 as security in case of default.*
- (ii) *Under Section 148 of the Highways Act 1980 it is an offence to deposit mud, detritus etc. on the highway. In addition, under Section 161 any person, depositing anything on a highway which results in a user of the highway being injured or endangered is guilty of an offence. Therefore, the applicant must ensure that no mud or detritus is taken onto the highway, such measures include provision of wheel cleaning facilities and sweeping/cleaning of the highway.*
- (iii) *There shall be no discharge of surface water onto the Highway.*
- (iv) *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.*

9. TOWN COUNCIL COMMENTS

9.1 No Objections

10. CONSULTEE RESPONSES

10.1 Gardens Trust

10.1.1 Thank you for consulting the Gardens Trust in its role as Statutory Consultee on the above application which affects Shortgrove Hall, an historic designed landscape of national importance which is included by

Historic England on the Register of Parks and Gardens of Special Historic Interest at Grade II.

We have considered the information provided in support of the application and on the basis of this confirm we do not wish to comment on the proposals at this stage. We would however emphasise that this does not in any way signify either our approval or disapproval of the proposals.

11. REPRESENTATIONS

11.1 Site notice/s were displayed on site and 4 notifications letters were sent to nearby properties.

11.2 Support

11.2.1 N/A

11.3 Object

11.3.1 Comments raised include:

- Loss of biodiversity
- Considerable amount of earth moving and a much larger area than described in the application
- Shortgrove farm already has two existing points of access.
- These should be sufficient for occasional access without creating an additional unsuitable and unsafe access on a busy road.
- These should be sufficient for occasional access without creating an additional unsuitable and unsafe access on a busy road.
- The access could be used for larger residential development in the future.
- The landscape impact will be large with the earth works needed.
- The application does not explain that there is a significant drop between the highway and the field at the proposed point of access.

11.4 Comment

11.4.1 N/A

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 Feb 2020)
Great Dunmow Neighbourhood Plan (made December 2016)
Newport and Quendon and Rickling Neighbourhood Plan (made June 2021)
Thaxted Neighbourhood Plan (made February 2019)
Stebbing Neighbourhood Plan (made 19 July 2022)
Saffron Walden Neighbourhood Plan (made 11 October 2022)
Ashdon Neighbourhood Plan (made 6 December 2022)
Great & 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 Policy
GEN1- Access Policy
GEN2 – Design Policy
GEN4 - Good Neighbourliness Policy

GEN7 - Nature Conservation Policy
GEN8 – Vehicle Parking Standards
ENV8 – Other landscape elements of importance for nature
ENV9 - Historic Landscape

13.3 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) Principle of the development and impact upon the character of the area**
 - B) Highways and Access**
 - C) Neighbouring Amenity**
 - D) Ecology and Landscape**

14.3 **A) Principle of development and impact upon the character of the area**

14.3.1 The application site is located outside of the development framework and therefore designated as countryside. Policy S7 states that “the countryside will be protected and planning permission will only be given for development that needs to take place there or is appropriate to a rural area. There will be strict control on new buildings and 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.”

14.3.2 Policy GEN2 states that development will not be permitted unless its design meets all the listed criteria and has regard to adopted Supplementary Design Guidance and Supplementary Planning Documents. The proposed development is linked with farming at the applicant’s holding at Shortgrove Estate, without this new access the applicant is land locked as the current access into Shortgrove Park is unsuitable and unsafe for farm machinery to use. The applicant also only has a right of way to this access. Uses relating to agriculture and farming, by their very nature are appropriate within the countryside. It is considered that the proposal is entirely appropriate to the rural area.

14.3.3

Shortgrove Park is a Grade II Registered Park and Garden. Whilst registered parks and gardens are not subject to any additional statutory controls, they are designated heritage assets for the purposes of local and national heritage planning policy, and any impact on their significance is a material consideration.

14.3.4

The proposed access is located outside of but within the setting of the Grade II Registered Park and Garden of Shortgrove Hall. In terms of heritage impacts, it is considered that the proposal will not detract from or harm the significance of the heritage asset. In addition, there are no listed buildings in the immediate vicinity.

14.3.5

Under the previous refused application (UTT/21/2893/FUL) (which was refused on highway grounds) the advice received from Historic Buildings and Conservation raised no objection to the proposal of a new access. This proposal is similar in nature to the previously refused application, albeit the proposed access has moved further east to achieve the required visibility splays. The Gardens Trust have been contacted and wish to make no comment regarding the proposed access.

14.3.6

It is therefore considered that the design of the access is acceptable and accords with Policies S7, GEN2, ENV9 of the Uttlesford Local Plan (2005), the Essex Design Guide and the NPPF (2021).

14.4 B) Highways and Access

14.4.1 Policy GEN 1 states that states that “development will only be permitted if it meets all of the following criteria:

Access to the main road network must be capable of carrying the traffic generated by the development safely. The traffic generated by the development must be capable of being accommodated on the surrounding transport network. The design of the site must not compromise road safety and must take account of the needs of cyclists, pedestrians, public transport users, horse riders and people whose mobility is impaired. It must be designed to meet the needs of people with disabilities if it is development to which the general public expect to have access. The development encourages movement by means other than driving a car.”

14.4.2 The proposed access is taken from Newport Road (B1052). The road is a typical semi-rural road passing the site without footways or street lighting. The Highway Transport Note, prepared by Andrew Moseley Associates demonstrates that the required visibility splays are acceptable and achievable and would not result in any detrimental impact on highways safety or the operation of the proposed access. All vegetation within the proposed splay would be either cleared or set back behind the splays to remove any potential obstructions with vegetation maintained to ensure there is no encroachment across the splays.

14.4.3 The proposed access arrangement of a width of 6m with a 10m radii is a suitable design standard to accommodate all agricultural vehicle movements with an appropriate 15m setback to the gate to ensure that vehicles are off the public highway.

14.4.4 The Highway authority have stated no objections to the proposed access subject to the inclusion of conditions.

14.4.5 The proposal is therefore in accordance with Policy GEN1 of the Uttlesford Local Plan (2005), Essex County Council Highways Development Management Policies (adopted February 2011) and paragraph 105 of the NPPF (2021).

14.5 C) Neighbouring Amenity

14.5.1 As this application is for the creation of an access, by its very nature, there will be no impact on the residential amenity of occupants in terms of private amenity space. With regard to noise, odours and dust, there will be no material increase on the site that would give rise to significant detrimental harm to the amenity of neighbouring occupiers.

14.5.2 The proposal is therefore in accordance with Policy GEN2 and GEN4 of the Uttlesford Local Plan (2005) and the NPPF (2021).

14.6 D) Ecology and Landscape

14.6.1 ULP Policy GEN 7 (Nature Conservation) states that “where the site includes protected species or habitats suitable for protected species, a nature conservation survey will be required. Measures to mitigate and/or compensate for the potential impacts of development, secured by planning obligations or condition, will be required. The enhancement of biodiversity through the creation of appropriate new habitats will be sought.

14.6.2 Preliminary Ecological Appraisal carried out and prepared by Samsara Ecology is submitted in support of this planning application.

14.6.3 The site is a vegetated linear boundary comprised of hawthorn, blackthorn, field maple, ash, hazel, dog rose and bramble. It is categorised as a species-poor hedge with trees. (less than five species recorded in 30 m lengths) approximately 5 m high. The area in which the new access will be created is a sloped embankment, and there is little to no vegetation under the trees and scrub.

14.6.4 The ecology survey identified that the trees and scrub will be suitable for nesting birds and is considered to be important to a site level for nesting birds.

14.6.5 The survey also identified that the vegetation acts as a linear corridor for foraging and commuting bats and is therefore considered to have the potential to be important to a site level.

14.6.6 The site's habitats are also considered to provide opportunities for foraging, breeding and sheltering hedgehogs. It is therefore considered to have the potential to be important to a site level.

14.6.7 There was an unused single burrow which was the shape and size typically associated with a badger. There was no evidence of current use, and it could be a former outlier sett. Mammal paths were seen going through the vegetation, but no setts or latrines were found in the area of the proposed access or up to 30 m on either side. The site is also considered to be important to a site level for badgers.

14.6.8 In terms of mitigation measures the following are proposed:
It is recommended that any works to remove or cut back the hedge is only undertaken outside of the main bird breeding season between October and March.

- The new access will create a gap in the linear vegetated boundary; however, this will not be large enough to prevent bats from using it for commuting and foraging. Re-vegetate the existing access. This will create a linear feature similar to its current state.
- It is recommended that the Site is checked up to 3 months before the beginning of construction to check for any new activity within the Site and/or evidence of sett creation. During construction, a fence should be erected around the boundary to prevent badgers from entering the works area.
- All excavations should be covered at night or when not in use to prevent hedgehogs from being trapped during construction. Any arisings from the vegetation clearance should be removed carefully by hand to check for sheltering hedgehogs. The animals should be left to move away on their own accord if found.
- The clearance of any arising from vegetation should be undertaken before the hibernation period for hedgehogs (which is typically between October and March). All construction materials should be kept off the ground on pallets or stored away to prevent them from becoming suitable for use by sheltering or hibernating hedgehogs.

14.6.9 In terms of biodiversity enhancement measures the following are proposed:

- It is proposed to provide two insect boxes, bird boxes and bat boxes which will be attached to mature trees along the linear boundary,

- The existing gap in the hedge (the previous location of the proposed access refused under UTT/21/2893/FUL) will be infilled with similar vegetation to offset the loss of vegetation with the new access. This will create a negligible impact.

14.6.10 With regards to the landscape, the ecology report identified that the hedge is species poor and of limited value. It is proposed to infill the existing gap with native hedge planting to mitigate and offset the loss of vegetation created by the new access, which the applicant is more than willing to do. A condition that secures this mitigation has been added to the decision.

14.6.11 In summary, development of the site will impose minimal levels of harm on the ecological integrity of the site and provide opportunities to enhance the area's biodiversity and increasing the site's biodiversity net gain. Therefore, the proposed development complies with the environmental requirements of the NPPF (2021) and Policy GEN 7 of the Uttlesford Local Plan (2005).

15. ADDITIONAL DUTIES

15.1 Public Sector Equalities Duties

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

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

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

15.2 Human Rights

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

16. CONCLUSION

- 16.1** The proposed access can achieve the required visibility and forward visibility splays and would not result in any detrimental impact on the highways safety or the operation of the proposed access.
- 16.2** Highways have stated no objections to the proposal subject to conditions being imposed.
- 16.3** In terms of heritage impacts, it is considered that the proposal will not detract from or harm the significance of the Grade II Registered Park and Garden.

17. CONDITIONS

- 1** The development hereby permitted shall be begun before the expiration of 3 years from the date of this decision.

REASON: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2** The development hereby permitted shall be carried out in accordance with the approved plans as set out in the Schedule.

REASON: For the avoidance of doubt as to the nature of the development hereby permitted, to ensure development is carried out in accordance with the approved application details, to ensure that the development is carried out with the minimum harm to the local environment, in accordance with the Policies of the Uttlesford Local Plan (adopted 2005) as shown in the Schedule of Policies.

- 3** Prior to the first beneficial use, the vehicular access shall be constructed at right angles, appropriate radii and width to accommodate the swept path of all vehicles regularly accessing the site for the intended purpose, to the highway boundary and to the existing carriageway, and shall be provided with an appropriate dropped kerb vehicular crossing of the highway verge.

REASON: to ensure that vehicles can enter and leave the highway in a controlled manner in the interest of highway safety

- 4** Prior to the first beneficial use, the access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 160 metres in both directions as measured from and along the

nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the access is first used by vehicular traffic and retained free of any obstruction at all times.

REASON: To provide adequate inter-visibility between vehicles using the access and those in the existing public highway in the interest of highway safety

- 5** Any gates provided at the vehicular access shall be inward opening only and shall be set back a minimum of 15 metres from the back edge of the carriageway.

REASON: To enable vehicles using the access to stand clear of the carriageway whilst gates are being opened and closed in the interest of highway safety

- 6** No unbound material shall be used in the surface treatment of the vehicular access within 15 metres of the highway boundary.

REASON: To avoid displacement of loose material onto the highway in the interests of highway safety. 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.

- 7** All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (Samsara Ecology, September 2022) as already submitted with the planning application and agreed in principle with the Local Planning Authority prior to determination.

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

- 8** Prior to the access being in use a detailed landscaping scheme for the replacement hedgerow shall be submitted to and approved in writing by the Local Planning Authority.

The development shall be carried out in accordance with the approved details.

All planting, seeding or turfing and soil preparation comprised in the above details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings, the completion of the development, or in agreed phases whichever is the sooner, and any

plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation. All landscape works shall be carried out in accordance with the guidance contained in British Standards, unless otherwise agreed in writing by the Local Planning Authority.

REASON: To ensure compatibility with the character of the area in accordance with ULP Policies S7 and GEN2 of the Uttlesford Local Plan (adopted 2005).