



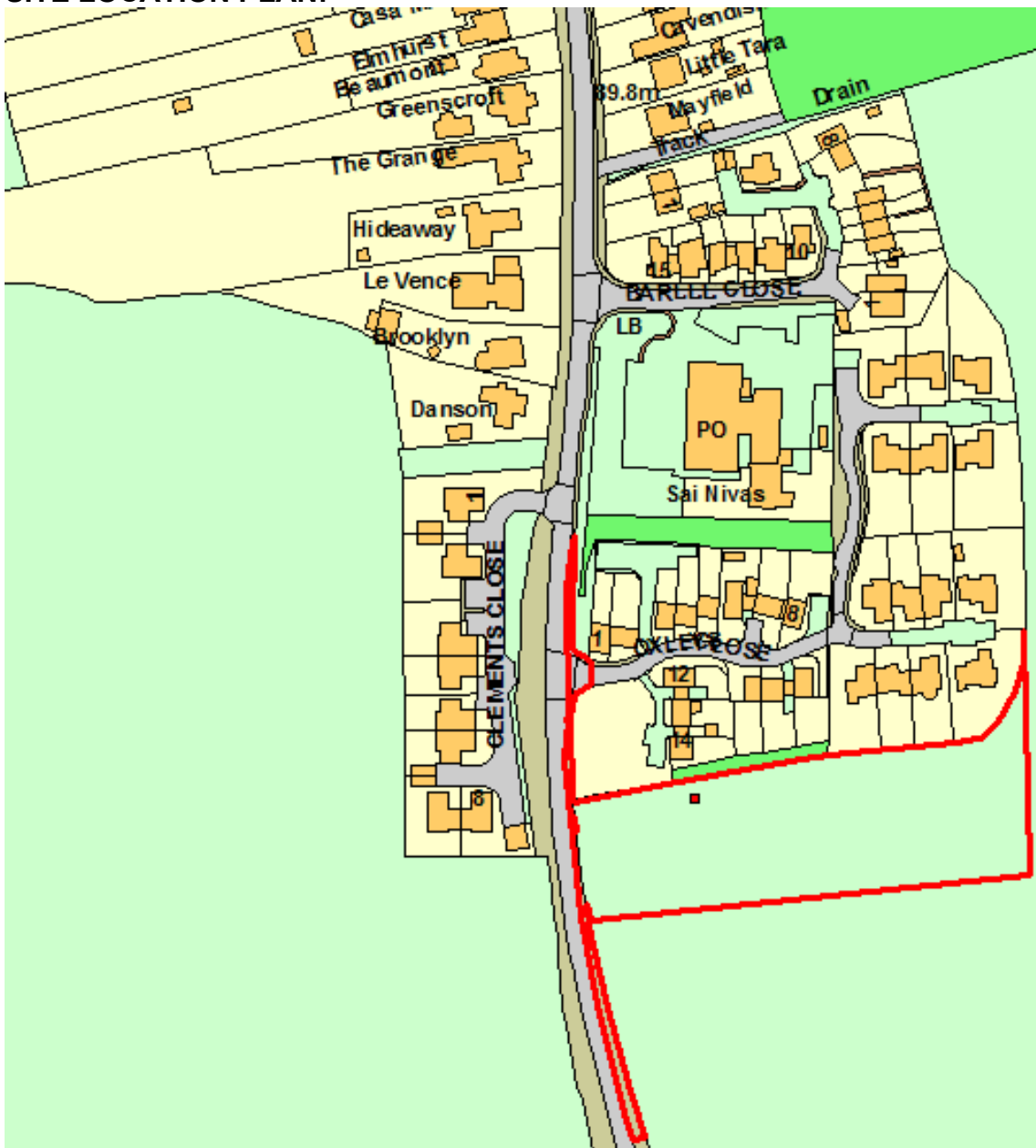
**ITEM NUMBER:** 9

**PLANNING COMMITTEE** 05 July 2023  
**DATE:**

**REFERENCE NUMBER:** UTT/21/1998/FUL

**LOCATION:** Land South Oxleys Close  
Stortford Road  
Clavering

**SITE LOCATION PLAN:**



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Organisation: Uttlesford District Council      Date: 14/06/2023

**PROPOSAL:** Erection of 13 no. dwellinghouses and associated development.

**APPLICANT:** Mr M Sugden

**AGENT:** Ms K Sutton (Andrew Martin Planning Ltd)

**EXPIRY  
DATE:** 13 September 2021

**EOT Expiry  
Date:** 07 July 2023

**CASE  
OFFICER:** Mr Avgerinos Vlachos

**NOTATION:** Outside Development Limits.  
Within Groundwater Source Protection Zone 2.  
Road Classification (Stortford Road – Class III).

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

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## **1. EXECUTIVE SUMMARY**

**1.1** This is a full planning application for the erection of 13 no. dwellings and associated development.

**1.2** The site is located within the countryside on the southern edge of Clavering. As the proposals cannot be tested against a fully up-to-date Development Plan, and the Council is currently unable to demonstrate a 5YHLS, paragraph 11(d) of the National Planning Policy Framework (NPPF) is engaged. As such, a detailed 'Planning Balance' has been undertaken of the proposal against all relevant considerations (see Section A of the analysis and Section 16 of the report). It has been concluded that the benefits of the development significantly and demonstrably outweigh the identified adverse effects, and thereby the application should be approved subject to conditions and a s106 agreement.

**1.3** Following the advice of the Highway Authority, a previous appeal decision and legal advice, a negatively worded (Grampian) condition can be used on this occasion to ensure the appropriate visibility splays and footway connection can be secured at all times over third-party land given the reasonable prospect that the legal agreement will be signed within the 3-

year limit of the planning permission. Therefore, there is no compromise in highway safety for pedestrians or any other road users.

- 1.4 All other planning considerations, including, but not limited to, ecology, flood risk/drainage, housing mix, affordable housing, landscaping and parking, are also acceptable.

## 2. **RECOMMENDATION**

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) Completion of a s106 Obligation Agreement in accordance with the Heads of Terms as set out
- B) Conditions

### **And**

If the freehold owner shall fail to enter into such an agreement, the Director of Planning shall be authorised to **REFUSE** permission following the expiration of a 6-month period from the date of Planning Committee.

## 3. **SITE LOCATION AND DESCRIPTION:**

- 3.1 The site comprises open, undeveloped agricultural land, located outside the development limits at the southern edge of Clavering, to the east of Stortford Road. The site covers an area of 0.62 hectares and it gradually slopes down eastwards to the direction of River Stort. The site is adjacent to the Oxleys Close residential development to the north and close to the residential development of Clements Close to the north-west (across the road). There are open agricultural fields to the south and east of the site. The overall area contains a rural countryside character and appearance with dwellings of varying architectural styles, sizes, ages and materials.

## 4. **PROPOSAL**

- 4.1 This is a full planning application for the erection of 13 no. dwellings and associated development. Affordable housing is proposed (6 no. units or 46% of the total), as well as an open space (Locally Equipped Area for Play – LEAP), a wheelchair accessible bungalow and SUDS<sup>1</sup> features.
- 4.2 The application includes the following documents:
- Application form
  - Biodiversity checklist
  - Design and access statement

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<sup>1</sup> SUDS = Sustainable Urban Drainage Systems.

- Drainage technical specification
- Ecological impact assessment
- Hydraulics design summary
- Planning statement
- Preliminary foul and surface water drainage strategy
- SUDS checklist
- Transport statement
- Visual impact assessment
- Designer's response to SUDS comments
- Agent's response to lead local flood authority
- Technical note.

## 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

Reference	Proposal	Decision
UTT/18/3369/FUL	Erection of 13 no. dwellings and associated development (amendment to previously approved application UTT/15/2606/DFO).	Appeal dismissed (20.12.2019) – Costs allowed
UTT/15/2606/DFO	Details following outline UTT/13/0327/OP. Provision of principle access off Stortford Road, provision of landscape details, layout and scale details comprising 13 new dwellings, detail of scale and appearance of the proposed dwellings.	Approved with conditions (17.02.2016)
UTT/13/0327/OP	Outline application for erection of 13 dwellings with all matters reserved.	Appeal allowed (13.01.2014) – Costs allowed
UTT/15/0930/PA	Details of layout, access, scale and appearance following UTT/13/0327/OP allowed on Appeal APP/C1570/A/13/2198770 13 Jan 2014.	Closed (12.05.2015)

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

7.1 No pre-application advice was sought prior to the submission of the application.

7.2 No consultation exercise was carried out and no Statement of Community Involvement was submitted with the application.

## **8. SUMMARY OF STATUTORY CONSULTEE RESPONSES**

### **8.1 Highway Authority**

8.1.1 No objections subject to conditions, including a Grampian style condition to ensure the required visibility splays and footway are deliverable even though they appear to be across third party land. This Grampian condition is pre-commencement and if not satisfied, the development would not be implemented (see full response in Appendix 1).

### **8.2 Local Flood Authority**

8.2.1 No objections subject to condition (see full response in Appendix 2).

## **9. PARISH COUNCIL COMMENTS**

9.1 No comments.

## **10. CONSULTEE RESPONSES**

### **10.1 UDC Housing Enabling Officer**

10.1.1 No objections subject to provision of affordable housing and a wheelchair accessible bungalow.

### **10.2 UDC Environmental Health**

10.2.1 No objections subject to condition.

### **10.3 UDC Landscape Officer/Arborist**

10.3.1 No objections.

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

10.4.1 No objections subject to conditions.

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

10.5.1 No objections.

### **10.6 Crime Prevention Officer**

**10.6.1** No objections. Whilst there are no apparent concerns with the layout to comment further, we would require the finer detail such as the proposed lighting, and physical security measures.

**10.7 Thames Water**

**10.7.1** No objections.

**10.8 Affinity Water**

**10.8.1** No objections.

**11. REPRESENTATIONS**

**11.1** A site notice was displayed on site and notification letters were sent to nearby properties. The application has also been the subject of a press notice in the local newspaper and representations have been received.

**11.2 Support**

**11.2.1** No comments.

**11.3 Object**

- 11.3.1**
- Clover Field Close and Oxleys Close to the north of the site.
  - Foul and surface water drainage concerns.
  - Land ownership issues.
  - Pump station situations in Haynes Road.
  - Loss of open countryside.
  - Loss of view.
  - Loss of privacy and overlooking.
  - Previous scheme dismissed on appeal.
  - Highway safety concerns.
  - Loss of greenfield land, urban sprawl.
  - Outside development limits.
  - Visual impacts / cross valley views.
  - Harm to the character and appearance of the area.
  - Fails to recognise the intrinsic character and beauty of the countryside.
  - Contrary to local and national policies.
  - No regular bus service.
  - More spaces in the local school required.
  - No housing need in the village.
  - Traffic pollution increase.
  - Ecological and climate change concerns.
  - Infrastructure capacity concerns.
  - Noise and disturbance issues.
  - No agreement between the applicant and the landowner for the delivery of the footpath and visibility splays.

- Flood risk concerns.
- Pollution concerns.
- Affordable housing not suitable for local first-time buyers.
- Previous developments allowed nearby.
- No community benefit.

#### **11.4 Neutral**

- 11.4.1**
- Condition for biodiversity net gain (bat and swift brick).
  - Colonies of swifts nearby.
  - Declining numbers of swifts.

#### **11.5 Comment**

- 11.5.1** All material planning considerations raised have been taken into account when considering this application. Land ownership issues and issues around the deliverability of a planning permission are not planning issues, as they refer to legal matters.

### **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 The Development Plan**

- 12.3.1** 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 February 2020)  
 Great Dunmow Neighbourhood Plan (made December 2016)  
 Newport, Quendon and Rickling Neighbourhood Plan (made June 2021)  
 Thaxted Neighbourhood Plan (made February 2019)  
 Stebbing Neighbourhood Plan (made July 2022)



Saffron Walden Neighbourhood Plan (made October 2022)  
Ashdon Neighbourhood Plan (made December 2022)  
Great & Little Chesterford Neighbourhood Plan (made February 2023)

## **13. POLICY**

### **13.1 National Policies**

13.1.1 National Planning Policy Framework (2021)

### **13.2 Uttlesford District Plan 2005**

13.2.1 S7 – The countryside  
GEN1 – Access  
GEN2 – Design  
GEN3 – Flood Protection  
GEN4 – Good Neighbourliness  
GEN5 – Light Pollution  
GEN6 – Infrastructure Provision  
GEN7 – Nature Conservation  
GEN8 – Vehicle Parking Standards  
H9 – Affordable Housing  
H10 – Housing Mix  
ENV3 – Open Space and Trees  
ENV4 – Ancient monuments and Sites of Archaeological Importance  
ENV5 – Protection of Agricultural Land  
ENV8 – Other Landscape Elements of Importance for Nature Conservation  
ENV10 – Noise Sensitive Development  
ENV12 – Protection of Water Resources  
ENV13 – Exposure to Poor Air Quality  
ENV14 – Contaminated Land  
ENV15 – Renewable Energy

### **13.3 Clavering Parish - Neighbourhood Plan**

13.3.1 There is no 'made' Neighbourhood Plan for the area.

### **13.4 Supplementary Planning Document or Guidance**

13.4.1 Uttlesford Local Residential Parking Standards (2013)  
Essex County Council Parking Standards (2009)  
Supplementary Planning Document – Accessible homes and playspace  
Supplementary Planning Document – Developer's contributions  
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:

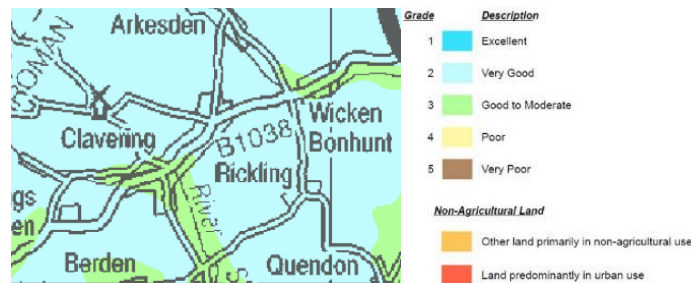
- 14.2
- A) Principle of development
  - B) Appearance, scale, layout, landscaping
  - C) Residential amenity
  - D) Access and parking
  - E) Ecology
  - F) Contamination
  - G) Archaeology
  - H) Flood risk and drainage
  - I) Housing mix and affordable housing
  - J) Planning obligations

14.3 **A) Principle of development**

14.3.1 With the Council unable to demonstrate a 5YHLS<sup>2</sup>, paragraph 11(d) of the NPPF 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 (i) the application of Framework policies that protect areas or assets of particular importance provides a clear reason for refusal or (ii) any adverse impacts would ‘significantly and demonstrably’ outweigh the benefits.

14.3.2 **Applying policy ENV5**

The site comprises Grade 3 (‘Good to Moderate’ quality<sup>3</sup>) agricultural land, being part of the district’s best and most versatile agricultural land. Despite its loss, contrary to policy ENV5, good quality agricultural land is plentiful within the locality, and as such, this policy conflict holds limited weight.



14.3.3 **Applying policies S7 and GEN1(e) in conjunction with paragraph 8 of the NPPF**

In **economic** terms, the proposal can provide a modest contribution towards the wider local economy during construction, via employment for local builders and suppliers of materials, and post-construction via reasonable use of local services in the village or in nearby villages, complying with paragraph 79 of the NPPF.

14.3.4 **In social and environmental terms:**

<sup>2</sup> Currently at **4.89 years** in Apr 2022 (from 3.52 years, Apr 2021, and 3.11 years in Jan 2021 and 2.68 years before that).

<sup>3</sup> See Agricultural Land Classification 2010, Natural England.

**14.3.5** Location – Isolation:

Recent case law<sup>4</sup> defined ‘isolation’ as the spatial/physical separation from a settlement or hamlet, meaning that a site within or adjacent to a housing group is not isolated. The site is not isolated, as it is adjacent to the southern edge of Clavering, physically adjoining an existing residential development and close to the development limits. Paragraph 80 of the NPPF discourages new isolated homes in the countryside unless there are special circumstances to justify that location. Therefore, paragraph 80 is not applicable.

**14.3.6** Location – Services and facilities:

The area offers a range of services and facilities, including, but not limited to, a supermarket. There is a bus stop (M&M Supermarket – 2’ walk) is 140m to the north of the site and the nearest serviced bus stop<sup>5</sup> (Brent Pelham Corner stop – 8’ walk) is 650m from the site. The nearest school (Rickling Primary School – 1h11’ walk) is 5.9km from the site and the nearest supermarket (Nisa Local – 2’ walk) is 140m from the site. There is a pedestrian footpath that links the above bus stops with the northern part of the Oxleys Close development and the application proposes to connect the application site to the existing footpath network.

**14.3.7** The occupants of the proposed dwellings would be able to safely access sustainable public transport of a satisfactory frequency with some everyday services and facilities within walking distances. Opportunities to promote sustainable transport modes have been taken up and alternative transport options are promoted by the development as per the NPPF requirements. Therefore, the development complies with paragraphs 104(c), 105 and 110(a) of the NPPF, and policy GEN1(e) of the Local Plan.

**14.3.8** Previously developed land:

The site is greenfield land in agricultural use<sup>6</sup> and is not previously developed land (in the context of the NPPF glossary and a Court of Appeal decision<sup>7</sup>), as there are no planning records or other material considerations (e.g. permanent structures, fixed surfaces) to suggest otherwise.

**14.3.9** Character and appearance (countryside, pattern of development):

The local character contains a distinct rural feel and countryside setting with views to the wider landscape and an intrinsic sense of openness. The development introduces housing in a countryside location, and as such, it cannot escape a level of countryside impact due to its urbanising effects<sup>8</sup>. Therefore, the development is contrary to Policy S7 and paragraph 174(b)

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<sup>4</sup> Braintree DC v SSCLG [2018] EWCA Civ. 610.

<sup>5</sup> Bus services include nos. 306 and 446.

<sup>6</sup> The applicant concurs with this view (see Planning Statement, paragraph 2.2).

<sup>7</sup> Dartford Borough Council v Secretary of State for Communities and Local Government & Anor [2017] EWCA Civ 141.

<sup>8</sup> Domestic appearance of built form, residential use and domestic paraphernalia with which housing is associated.

of the NPPF. The element of Policy S7 that seeks to protect or enhance the countryside character within which the development is set is fully consistent with paragraph 174(b) that recognises the intrinsic character and beauty of the countryside.

**14.3.10** However, when quantified, the above countryside impact is limited. There are two appeals relevant to the application site. In the first appeal<sup>9</sup>, the Inspector, after considering the nearby permissions that allowed the Oxleys Close development and the available services and facilities in the village, concluded that the site is in a sustainable location (paragraph 10), which would outweigh the above countryside impacts given the housing shortfall.

**14.3.11** The second appeal<sup>10</sup>, which is more recent, included similar drawings to the current application (except for highway matters). Although dismissed, the second appeal also identified the site to be within a sustainable location (paragraph 30). The Inspector concluded ‘some harm’ to the character and appearance of the area (paragraph 29). However, the Inspector highlighted that the development of Oxleys Close has already altered the character and appearance of the village’s entrance (paragraph 6) and, most importantly, he suggested that the proposed boundary treatment and the lack of meaningful landscaping would lead to cumulative harm to the intrinsic rural character of the area. Therefore, the key to unlock the development potential of the site is the treatment of the southern boundary and the landscaping mitigation measures. The applicant provided revisions to soften the appearance of the southern site boundary, omitting the close boarded fencing and proposing native hedging plantings.

**14.3.12** The Visual Impact Appraisal (VIA) submitted with the application identified several views to which the development may have ‘substantial’ or ‘moderate to substantial’ visual impacts (see photographs), including views when entering the village from Stortford Road, and views from the public footpath running along the river, 200m to the east of the site. The application states “*The current settlement edge has a poor definition [...] The new development could present an opportunity to create a buffer to the settlement edge, such that buildings sit within vegetation and only rooftops are visible*”<sup>11</sup>.



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<sup>9</sup> **Appeal 1:** APP/C1570/A/13/2198770 (UTT/13/0327/OP) – Land to the South of Oxleys Close, Stortford Road, allowed 13 no. dwellings (including 6 no. affordable units) with all matters reserved on 13 Jan 2014.

<sup>10</sup> **Appeal 2:** APP/C1570/W/19/3233513 (UTT/18/3369/FUL) – Land to the South of Oxleys Close, Stortford Road, dismissed 13 no. dwellings (including 6 no. affordable units) on 20 Dec 2019.

<sup>11</sup> Visual Impact Assessment, p.16.



- 14.3.13** From the case officer's site visit it is true that the village's entrance is abrupt given the visual dominance of the rear elevations of the existing residential properties and close boarded fencing. Therefore, given the comments of the last Inspector regarding boundary treatments and landscaping, the development is an opportunity to soften the visual impact of the existing built form to the north of the site. This is successfully achieved through the proposed public space (LEAP) on the eastern part of the site, the appropriate scale of the proposed dwellings and the additional landscaping on the southern boundary that smoothen the transition between the village and open countryside.
- 14.3.14** Further evidence for the limited impact of the scheme to the character and appearance of the area is the clear distinction between the site and the converted barns (Olde Barn, Greate Barn, etc.) 470m to the south of the site as the gap becomes marginally smaller. The proposal would not consolidate sporadic development in the countryside and would read as a 'natural' extension to the village. In addition, the existing pattern of development on south Clavering is predominantly occupied by cul-de-sac arrangements with similarly sized dwellings within similarly sized curtilages in comparison to the scheme (see Oxleys Close, Clover Field Close, Clements Close). The proposed layout respects this pattern of development and indicates an effective use of the land, as the ratios of built form-to-plots are proportionate, in accordance with paragraph 119 of the NPPF.
- 14.3.15** Other material considerations:  
It is well-established law that previous decisions can be material considerations because like cases should be decided in a like manner, to ensure consistency in decision-making. However, previous Secretary of State or LPA decisions do not set a precedent for the assessment of similar developments; the benefits and harm, and the levels of each, will depend on the specific characteristics of a site and scheme. On this occasion, the main appeal decisions have already been covered above; however, the following decisions are also relevant:
- Following the allowed appeal 1 (see footnote 8), the reserved matters were approved (UTT/15/2606/DFO) with a similar layout to

the current application and minor design differences. This planning permission is no longer extant.

- UTT/18/3326/PIP and UTT/19/2852/FUL (Clements Close): The PIP was granted on appeal<sup>12</sup> as the Inspector argued that “*given the location of the site along the road side, its position adjacent to built development and the close proximity to existing residential development on the opposite side of the road, subject to careful consideration of technical details the harm would be limited*” (paragraph 11). The same limited harm can be concluded for the current application.

**14.3.16** Conclusion:

The planning balance under paragraph 11(d) of the NPPF tilts in favour of the principle of the development (see Conclusions).

**14.3.17** Overall, the principle of the development is acceptable, and complies with Policy GEN1(e) of the Local Plan, and the NPPF.

**14.4 B) Appearance, scale, layout, landscaping**

**14.4.1** In terms of design and form, the proposed dwellings have a simple and vernacular appearance with appropriate glazing and traditional rectangular forms, complying with the ‘Placing of Openings’ Essex Design Guide (EDG) section, which states that symmetry in the front elevation and focus on the front door are important. The proposed design is in keeping with the residential developments of Oxleys Close, Clover Field Close and Clements Close.

**14.4.2** In terms of size, scale and layout, the proposed dwellings have reasonable dimensions and footprints, being subservient and subordinate to the locality. They are proportionate within their plot with similar ratios of built form-to-plot with the neighbouring properties as per the existing pattern of development. Plot 13 is a bungalow, ensuring a smoother transition between the village and open countryside. The layout is not cramped and well-balanced between an effective use of the land and appropriate density. The development complies with paragraphs 130 of the NPPF and policy GEN2 of the Local Plan.

**14.4.3** The layout is also important in reducing the potential for crime as per Policy GEN2(d) and paragraphs 92(b) and 130(f) of the NPPF. Essex Police raised **no objections** as there are no concerns with the layout. Conditions are necessary to secure details of external lighting (pre-commencement) and boundary treatments (pre-commencement).

**14.4.4** In terms of landscaping, trees and boundaries, the Landscape Officer raised **no objections** as the impact on the wider landscaping is minimal and no greater than the impact from the existing edge of the village, plus

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<sup>12</sup> APP/C1570/W/19/3225444 – Planning in principle for between 6 and 8 dwellings. Allowed on 11 July 2019.

the Planting Plan is acceptable as it includes native species. Previous concerns for the close boarded fencing on the southern boundary were addressed through revisions replacing the close boarded fencing with post and rail fencing and native hedging.

**14.4.5** For climate change mitigation, the Council adopted a Climate Crisis Strategy 2021-30 and an Interim Climate Change Policy, which prioritises to improve energy performance and reduce carbon. The development would incorporate energy and water efficiency measures<sup>13</sup> and Affinity Water suggests water efficiency measures, such as rainwater harvesting and grey water recycling. However, the applicant does not provide more details at this stage, and as such, a condition is necessary to demonstrate compliance with the Climate Crisis Strategy 2021-30, and paragraph 158 of the NPPF. Interim Policy 3 of the Interim Climate Change Policy states that for new residential development the maximum water consumption must not exceed 110 litres per person per day per unit; however, the applicant proposes all houses not to exceed 125<sup>14</sup> per person per day per unit, which should be revised to discharge the above planning condition.

**14.4.6** Overall, the proposal is acceptable, and accords with Policies GEN2, ENV3, the SPD Accessible Homes and Playspace, the Essex Design Guide, the Climate Change Policy, and the NPPF.

## **14.5 C) Residential amenity**

**14.5.1** In terms of the residential amenity of the occupants, the Housing Officer highlighted that the proposed affordable units exceed the Nationally Described Space Standard (NDSS) thresholds. The proposed dwellings have the following occupancies and gross internal areas (GIA) of more than the thresholds set out in the NDSS shown in the brackets:

- Plot 1: ref. A3-1 – 3B5P<sup>15</sup> (> threshold 93m<sup>2</sup>)
- Plot 2: ref. A2-1 – 2B4P (>79m<sup>2</sup>)
- Plot 3: ref. A3-1 – 3B5P (>93m<sup>2</sup>)
- Plot 4: ref. A2-1 – 2B4P (>79m<sup>2</sup>)
- Plot 5: ref. P3-3i – 3B5P (>93m<sup>2</sup>)
- Plot 6: ref. P3-3 – 3B5P (>93m<sup>2</sup>)
- Plot 7: ref. P3-2 – 3B4P (>84m<sup>2</sup>)
- Plot 8: ref. P3-2 – 3B4P (>84m<sup>2</sup>)
- Plot 9: ref. P3-1 – 3B5P (>93m<sup>2</sup>)
- Plot 10: ref. P3-3ii – 3B5P (>93m<sup>2</sup>)
- Plot 11: ref. P3-2 – 3B4P (>84m<sup>2</sup>)
- Plot 12: ref. A3-1D – 3B5P (>93m<sup>2</sup>)
- Plot 13: ref. A2-1B – 2B3P single storey (>61m<sup>2</sup>).

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<sup>13</sup> Design and Access Statement, pp.8-9.

<sup>14</sup> Design and Access Statement, p.9.

<sup>15</sup> 3B5P = 3 no. bedrooms-5 no. persons.

**14.5.2** The proposed dwellings have adequate private amenity (garden) spaces<sup>16</sup>. However, some of the proposed gardens are marginally above the thresholds, and as such, Permitted Development rights should be withdrawn.

**14.5.3** In terms of noise, odours, vibrations, dust, light pollution and other disturbances, the Environmental Health officer raised **no objections** unconditionally to safeguard residential amenities (see also Section 6 for conditions to protect human health and the environment). However, a condition for the external lighting details is necessary.

**14.5.4** In terms of the amenity of neighbouring occupiers, due to the scale, design and position of the dwellings in relation to the neighbouring dwellings and amongst themselves, and after applying the design and remoteness tests (see Essex Design Guide) and the 45-degree tests, no material overshadowing, overlooking (actual or perceived) and overbearing effects are considered.

- Potential overlooking and loss of privacy:

Third parties have raised concerns with privacy and this has been carefully assessed. There is no material overlooking of, and loss of privacy to, any habitable room windows or private gardens that would harm the residential amenity of the neighbouring occupiers in Oxleys Close and Clover Field Close:

- The only back-to-back case (where the 25m guidance of the Essex Design Guide applies) is between plot 4 and no. 11 Oxleys Close where the back-to-back distance is 32.5m – in excess of guidance distances.
- Plot 1 has a north facing bedroom window at first-floor level, but it faces the car park of no. 14 Oxleys Close.
- Plot 3 has first-floor rear bedroom windows, but they are 15m away from the boundary with no. 14, facing that garden at an angle.
- Plots 6 and 9 have no upper floor side facing windows.
- Plot 10 has a south facing window facing towards the blank north elevation of plot 11.
- Following revisions, the bedroom 3 dormer of plot 11 was omitted to protect the privacy of plot 7.

- Potential overshadowing and loss of light:

Due to the size, scale and position of the dwellings, no material overshadowing of, and loss of light to, any private gardens or habitable room windows occur that would harm the residential amenity of the occupiers.

- Potential overbearing effects:

Given the gaps in relation to the neighbouring boundaries and the gaps between the proposed dwellings, no overbearing impacts ('tunnelling effect' or 'sense of enclosure') occur.

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<sup>16</sup> Thresholds for the gardens of 50m<sup>2</sup> (for 1-2 bedroom properties) or 100m<sup>2</sup> (for 3+ bedroom properties) as per the Essex Design Guide.



**14.5.5** Overall, the development does not materially harm residential amenities, and complies with policies GEN2, GEN4, GEN5, ENV10, ENV11 of the Local Plan, and the Essex Design Guide.

**14.6 D) Access and parking**

**14.6.1** From a highway and transportation perspective, following the submission of additional information, the Highway Authority raised **no objections** subject to conditions in the interests of highway safety, as the development accords with the Essex County Council (ECC) Supplementary Guidance – Development Management Policies (Feb 2011), Policy GEN1 of the Local Plan, and paragraphs 111 and 110(b) of the NPPF.

**14.6.2** ECC Highways initially submitted that an updated speed survey is necessary to inform the required visibility splays, as well as a pedestrian connection to the existing footway network on Stortford Road, including an appropriate pedestrian crossing with appropriate visibility onto Oxleys Close. ECC Highways required evidence that the vehicular visibility splays can be provided within highway land and/or within third party land in which the applicant has secured appropriate rights in perpetuity. Although the previous scheme was not refused on highway safety grounds, the Inspector<sup>17</sup> picked up this matter and stated:

*14. Whilst I have been provided with a draft deed of variation between the appellant and the landowner, there is no evidence before me which demonstrates that such a deed of variation will be completed. It therefore follows that there is no certainty as to whether the visibility splays can be provided to ensure that the proposed access is safe.*

*15. The appellant has indicated that this could be dealt with by means of a Grampian condition. However, in the absence of sufficient evidence to indicate that the landowner will complete such a deed of variation I consider that the imposition of a Grampian style condition would not be appropriate.*

**14.6.3** Following the Planning Practice Guidance (PPG)<sup>18</sup>, the same Inspector concluded there are no exceptional circumstances, as elaborated in the PPG, to justify the imposition of a Grampian condition because the appellant intends to sell the site rather than develop it and because of the lack of completion of the deed of variation. Notwithstanding this, in the current application, the applicant has accepted the requirement for a signed legal agreement with the third party and has informed the Council of the “*advanced stage of negotiations*”. Therefore, there is a reasonable prospect that the legal agreement will be signed within the 3-year limit of the planning permission, and as such, following ECC Highways’ advice, a

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<sup>17</sup> **Appeal 2:** APP/C1570/W/19/3233513 (UTT/18/3369/FUL) – Land to the South of Oxleys Close, Stortford Road, dismissed 13 no. dwellings (including 6 no. affordable units) on 20 Dec 2019.

<sup>18</sup> National Planning Practice Guidance (PPG), paragraphs 009–010:  
<https://www.gov.uk/guidance/use-of-planning-conditions>

Grampian condition can be imposed in accordance with the tests of paragraph 56 of the NPPF.

**14.6.4** The other conditions recommended by ECC Highways include a highway scheme for the extension of the 30mph speed limit, restrictions on boundary planting, a Construction Management Plan (CMP), the provision of parking/turning areas and cycle parking facilities, a residential travel information pack, and restrictions on the surface treatment of the access. However, caveat number (vii) of the CMP fails the tests under paragraph 56 of the NPPF and shall be omitted.

**14.6.5** Parking standards require 3 no. parking spaces for dwellings of 4+ bedrooms and 2 no. parking spaces for dwellings of 2-3 bedrooms. Following the parking provision below, the development would meet the Uttlesford Residential Parking Standards (2013) and the Essex County Council Parking Standards (2009):

- Plot 1: ref. A3-1 – 3B5P: 2 no. parking spaces
- Plot 2: ref. A2-1 – 2B4P: 2 no. parking spaces
- Plot 3: ref. A3-1 – 3B5P: 2 no. parking spaces
- Plot 4: ref. A2-1 – 2B4P: 2 no. parking spaces
- Plot 5: ref. P3-3i – 3B5P: 2 no. parking spaces
- Plot 6: ref. P3-3 – 3B5P: 2 no. parking spaces
- Plot 7: ref. P3-2 – 3B4P: 2 no. parking spaces
- Plot 8: ref. P3-2 – 3B4P: 2 no. parking spaces
- Plot 9: ref. P3-1 – 3B5P: 2 no. parking spaces
- Plot 10: ref. P3-3ii – 3B5P: 2 no. parking spaces
- Plot 11: ref. P3-2 – 3B4P: 2 no. parking spaces
- Plot 12: ref. A3-1D – 3B5P: 2 no. parking spaces
- Plot 13: ref. A2-1B – 2B3P: 2 no. parking spaces
- Visitor's parking spaces proposed: 3 no. (=0.25\*13 units).

**14.6.6** Overall, the development is acceptable in terms of highway safety and parking provisions, and complies with Policies GEN1, GEN8 of the Local Plan, parking standards, and the NPPF.

## **14.7 E) Ecology**

**14.7.1** The Ecology officer raised **no objections** subject to conditions to secure biodiversity mitigation and enhancement measures. The conditions refer to action in accordance with the appraisal recommendations, a biodiversity mitigation method statement (pre-commencement), protection measures for badgers (pre-commencement), a biodiversity enhancement layout and a lighting scheme. The development accords with paragraphs 43, 174(d) and 180 of the NPPF.

**14.7.2** Overall, the proposal is acceptable in nature conservation and biodiversity terms, and accords with Policies GEN7, ENV8 of the Local Plan, and the NPPF.

## 14.8 F) Contamination

14.8.1 The Environmental Health Officer raised **no objections** subject to a condition to protect human health and the environment regarding potential land contamination. Electric car charging points would also be necessary as per paragraph 107 of the NPPF to improve air quality.

14.8.2 Affinity Water raised **no objections** subject to conditions. The conditions refer to reducing the groundwater pollution risk and appropriately monitoring and remediating any unexpected pollution.

14.8.3 Overall, the proposal is acceptable in contamination terms (land, air, water), and accords with Policies ENV14, ENV12, ENV13 of the Local Plan, and the NPPF.

## 14.9 G) Archaeology

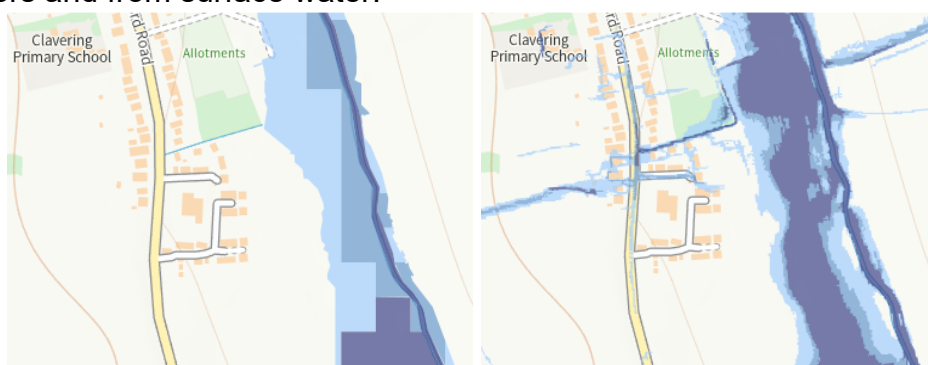
14.9.1 The Archaeology Officer raised no objections unconditionally as the site is not within an archaeological site and given its scale and location, it is unlikely to directly impact known archaeological deposits identified from cropmark evidence to the east of the application site.

14.9.2 Overall, the proposal is acceptable in archaeological terms, and complies with Policy ENV4 of the Local Plan, and the NPPF.

## 14.10 H) Flood risk and drainage

14.10.1 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 (see paragraphs 158-169 of the NPPF).

14.10.2 The site falls within Flood Risk Zone 1. However, the scheme comprises 'major development', and as such, matters of flood risk and drainage must be considered<sup>19</sup>, plus the NPPF requires the use of a sustainable drainage systems (SUDS). The following images show the extent of flooding from rivers and from surface water.



<sup>19</sup> See paragraph 128 and footnote 55 of the NPPF for the reasons why a Flood Risk Assessment is not necessary on this occasion.

- 14.10.3** Notwithstanding comments indicating otherwise and following the submission of additional information from the applicant, the Lead Local Flood Authority raised **no objections** subject to conditions to prevent flooding or increasing flood risk elsewhere, to ensure the effective operation of SUDS and to mitigate any harm to the water environment as per paragraphs 167 and 174(e) of the NPPF. The condition refers to a scheme to prevent pollution and to minimise the risk of offsite flooding by surface water run-off and groundwater during construction (pre-commencement).
- 14.10.4** Thames Water and Affinity Water raised **no objections** for groundwater and surface water drainage, as well as to the infrastructure capacity of the wastewater and sewage treatment networks.
- 14.10.5** Overall, the proposal is acceptable in terms of flood risk and drainage, and accords with Policy GEN3 of the Local Plan, and the NPPF.

#### **14.11 I) Housing mix and affordable housing**

- 14.11.1** Policy H10 is applicable on sites of 0.1ha and above or of 3 no. or more dwellings; the site is more than 0.1ha and for 13 no. dwellings. Paragraph 62 of the NPPF states that the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies. As such, notwithstanding policy H10 requiring smaller properties, more recent evidence in the UDC Strategic Housing Market Assessment points towards the need for a significant proportion of 3 and 4-bedroom market housing instead of 2 and 3-bedroom properties. The proposed market dwellings are entirely 3-bedroom properties, in accordance with the above policies.
- 14.11.2** The 40% affordable housing contribution is triggered as the site exceeds 0.5ha<sup>20</sup> and the scheme comprises 'major development' for the purposes of the NPPF. The applicant proposes 6 no. affordable units (46% of the total number of units) that shall be secured in a s106 agreement. The Housing officer raised **no objections** noting that the proposed affordable housing provision exceeds the requirement of 40%, complying with policy H9 of the Local Plan and the NPPF. The affordable units are expected to be delivered by one of the Council's preferred Registered Providers. The Housing officer also noted that a wheelchair accessible bungalow is proposed (plot 13). In addition, 25% of the affordable housing provision will need to be provided as First Homes as the application is determined after 28 March 2022.

#### **14.12 J) Planning obligations**

- 14.12.1** 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

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<sup>20</sup> See paragraph 6.29 of the Local Plan.

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 paragraph identifies those matters that the Council would seek to secure through planning obligations on the following topics in accordance with the Supplementary Planning Document – Developer’s Contributions (March 2023) and the Essex County Council’s Developers’ Guide to Infrastructure Contributions:

- Highways.
- Affordable housing.
- Open space (LEAP).
- Provision of wheelchair accessible and adaptable dwellings.
- Payment of the Council’s legal costs.
- Payment of monitoring fee.

**14.12.2** A Section 106 Agreement to secure those obligations would be expected to be signed prior to planning permission being granted, to ensure the proposal would accord with Policy GEN6 of the Local Plan, 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** The planning balance in paragraph 11(d) of the NPPF tilts in favour of the principle of the development.

**16.2** The benefits include:

- ‘Sustainable location’ – significant benefit.
- Provision of 6 no. affordable units (46%) – significant benefit.
- Contribution to the 5YHLS – moderate benefit.
- Countryside impacts / softening appearance of existing built form – moderate benefit.
- Provision of public open space – moderate benefit.
- Provision of wheelchair accessible and adaptable dwellings – moderate benefit.
- Footway connection to the village – moderate benefit.
- Ecological enhancements and net gains – limited benefit.
- Economic and social benefits – limited benefit.
- Climate change mitigation measures – limited benefit.

The adverse impacts include:

- Countryside impacts / urbanising effects – limited (‘some’) harm.
- Loss of ‘good to moderate’ quality agricultural land – limited harm.

**16.3** The adverse impacts of the proposed development would not significantly and demonstrably outweigh the benefits of the scheme. Therefore, the proposal would be sustainable development for which paragraph 11(d) of the NPPF indicates a presumption in favour of.

**16.4** It is therefore recommended that the application be approved subject to conditions and a s106 agreement.

## **17. S106 / CONDITIONS**

**17.1** S106 Heads of Terms:

- Highways: Securing highway works and visibility splays over land outside the developer’s control.
- Affordable housing: Provision of 46% of affordable housing.
- Open space: Provision and long-term on-going maintenance of public open space (including a Locally Equipped Area for Play – LEAP, and associated infrastructure).
- Provision of 1 no. wheelchair accessible and adaptable dwelling (M4(3) – Building Regulations 2010).
- Payment of the Council’s legal costs.
- Payment of monitoring fee.

- 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** No development shall be commenced unless a scheme of works, as shown in principle on the approved drawing under reference PL09 Rev C (dated 04/07/2022), has been submitted to and approved in writing by the local planning authority.

The scheme of works shall include but not be limited to:

- Clear to ground visibility splays shall be provided with dimensions of 2.4 metres by 96.8 metres to the north and 2.4 metres by 116.4 metres to the south, as measured from and along the nearside edge of the carriageway from the centre of the site access.
- A 2-metre-wide footway shall be provided on the northern side of the approved site access extending northwards on Stortford Road to tie into Oxleys Close, including the provision of a suitable dropped kerb pedestrian crossing.
- A 2-metre-wide footway shall be provided on the southern side of the proposed site access extending southwards on Stortford Road to the edge of the site boundary.
- Provision of an access formed at right angles to Stortford Road to include, but not limited to, minimum 5.5 metre carriageway width and appropriate junction radii to accommodate the swept path of all vehicles regularly accessing the site.

Before any of the residential units hereby approved is occupied, the approved scheme of works and visibility splays shall be implemented in full and shall be retained as such at all times.

REASON: To promote movements by walking and in the interest of highway safety and accessibility, in accordance with the adopted Uttlesford Local Plan Policy GEN1, and the National Planning Policy Framework (2021).

- 4** Prior to commencement of the development hereby approved, a schedule of the types and colours of the materials (including photographs) to be

used in the external finishes shall be submitted to and approved in writing by the local planning authority. Thereafter, the development shall be implemented in full accordance with the approved materials.

REASON: To preserve the character and appearance of the area, and to ensure the development is visually attractive, in accordance with policies S7, GEN2 of the adopted Uttlesford Local Plan (2005), the Essex Design Guide, and the National Planning Policy Framework (2021).

- 5** Prior to commencement of the development hereby approved, details of all hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details prior to occupation of the dwellings hereby approved.

The landscaping details to be submitted shall include:

- a) proposed finished levels (earthworks to be carried out);
- b) means of enclosure of the land (boundary treatments);
- c) hard surfacing and other hard landscape features and materials;
- d) existing trees, hedges or other soft features to be retained;
- e) details of planting or features, including specifications of species, sizes, planting centres, number and percentage mix;
- f) details of siting and timing of all construction activities to avoid harm to all nature conservation features;
- g) management and maintenance 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 preserve the character and appearance of the area, and to safeguard residential amenities, in accordance with the adopted Uttlesford Local Plan Policies S7, GEN2, GEN4, the Essex Design Guide, and the National Planning Policy Framework (2021).

- 6** Prior to commencement of the development hereby approved, a highway scheme shall be submitted to and approved in writing by the local planning authority.

The highway scheme shall include the extension of the 30mph speed limit to the south of the existing location, new signage and associated Traffic Regulation Order and village gateway feature.



None of the dwellings hereby approved shall be occupied until the highway scheme has been implemented in full.

REASON: To ensure that vehicles can enter and leave the highway in a controlled manner in the interest of highway safety, in accordance with the adopted Uttlesford Local Plan Policies GEN1, GEN8, the adopted Uttlesford Local Residential Parking Standards (2013), the adopted Essex County Council Parking Standards: Design and Good Practice (2009), and the National Planning Policy Framework (2021).

- 7** Prior to commencement of the development hereby approved, a Construction Management Plan (CMP) shall be submitted to and approved in writing by the local planning authority. The approved CMP shall be adhered to throughout the construction period and shall provide for the following all clear of the highway:
- i. Safe access into the site;
  - ii. Vehicle routing;
  - iii. The parking of vehicles of site operatives and visitors;
  - iv. Loading and unloading of plant and materials;
  - v. Storage of plant and materials used in constructing the development;
  - vi. Wheel and underbody washing facilities.

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, in accordance with the adopted Uttlesford Local Plan Policies GEN1, GEN8, the adopted Uttlesford Local Residential Parking Standards (2013), the adopted Essex County Council Parking Standards: Design and Good Practice (2009), and the National Planning Policy Framework (2021).

- 8** Prior to commencement of the development hereby approved, a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works and prevent pollution shall be submitted to and approved in writing by the local planning authority. Thereafter, the scheme shall be implemented as approved.

REASON: To prevent flooding on site or elsewhere, in accordance with policy GEN3 of the adopted Uttlesford Local Plan (2005), and the National Planning Policy Framework (2021).

- 9** Prior to commencement of the development hereby approved, a Biodiversity Mitigation Method Statement for protected and priority species, including amphibians and hedgehogs, shall be submitted to and approved in writing by the local planning authority.

The content of the method statement shall include the following:

- a) purpose and objectives for the proposed works;

- b) detailed design(s) and/or working method(s) necessary to achieve stated objectives (including, where relevant, type and source of materials to be used);
- c) timetable for implementation;
- d) persons responsible for implementing the works;
- e) disposal of any wastes arising from works.

Thereafter, the measures and/or works shall be carried out in accordance with the approved details and shall be maintained as such at all times.

REASON: To conserve and enhance protected and priority species and habitats and allow the local planning authority to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife and Countryside Act 1981 (as amended), s40 of the Natural Environment and Rural Communities (NERC) Act 2006 (priority habitats & species) as updated by the Environment Act 2021, s17 of the Crime and Disorder Act 1998, in accordance with the adopted Uttlesford Local Plan Policies GEN7, ENV8, and the National Planning Policy Framework (2021).

- 10** Prior to commencement of the development hereby approved, measures to protect badgers from being trapped in open excavations and/or pipes and culverts shall be submitted to and approved in writing by the local planning authority.

The measures may include:

- a) creation of sloping escape ramps for badgers, which may be achieved by edge profiling of trenches/excavations or by using planks placed into them at the end of each working day; and
- b) open pipework greater than 150 mm outside diameter being blanked off at the end of each working day.

Thereafter, the development shall be carried out in accordance with the approved measures.

REASON: To conserve and enhance protected and priority species and habitats and allow the local planning authority to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife and Countryside Act 1981 (as amended), s40 of the Natural Environment and Rural Communities (NERC) Act 2006 (priority habitats & species) as updated by the Environment Act 2021, s17 of the Crime and Disorder Act 1998, in accordance with the adopted Uttlesford Local Plan Policies GEN7, ENV8, and the National Planning Policy Framework (2021).

- 11** Prior to any works above slab level, a Biodiversity Enhancement Layout, providing the finalised details and locations of the enhancement measures contained within the Update Ecological Impact Assessment (Greenwillows Associates Ltd, April 2021) shall be submitted to and approved in writing by the local planning authority. Thereafter, the

enhancement measures shall be implemented in accordance with the approved details.

REASON: To conserve and enhance protected and priority species and habitats and allow the local planning authority to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife and Countryside Act 1981 (as amended), s40 of the Natural Environment and Rural Communities (NERC) Act 2006 (priority habitats & species) as updated by the Environment Act 2021, s17 of the Crime and Disorder Act 1998, in accordance with the adopted Uttlesford Local Plan Policies GEN7, ENV8, and the National Planning Policy Framework (2021).

- 12** Prior to any works above slab level, the renewable energy/climate control and water efficiency measures associated every plot of the development site shall be submitted to and approved in writing by the local planning authority. Thereafter, the development shall not be occupied until all the approved renewable energy/climate control and water efficiency measures have been implemented.

REASON: To ensure the development is sustainable and makes efficient use of energy, water and materials and has an acceptable appearance to comply with the adopted Uttlesford Local Plan Policies ENV15 and GEN2, as well as Uttlesford District Council's Interim Climate Change Policy (2021) and the Uttlesford Climate Change Strategy 2021-2030.

- 13** Prior to occupation of the development hereby approved, an electric vehicle charging point shall be provided on site for each unit. Thereafter, the charging points shall be fully wired and connected, ready to use and shall be maintained as such at all times.

REASON: To encourage the use of electric vehicles for better air quality, in accordance with paragraph 107 of the National Planning Policy Framework (2021).

- 14** Prior to occupation of the development hereby approved, the vehicle parking and turning areas indicated on the approved plans shall be provided. Thereafter, the vehicle parking and turning areas shall be retained as such at all times.

REASON: To ensure that appropriate parking and turning is provided and that on street parking of vehicles in the adjoining streets does not occur in the interests of highway safety, in accordance with the adopted Uttlesford Local Plan Policies GEN1, GEN8, the adopted Uttlesford Local Residential Parking Standards (2013), the adopted Essex County Council Parking Standards: Design and Good Practice (2009), and the National Planning Policy Framework (2021).

- 15** Prior to occupation of the development hereby approved, a lighting design scheme for biodiversity shall be submitted to and approved in writing by

the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory.

Thereafter, all external lighting shall be installed in accordance with the specifications and locations set out in the scheme and shall be maintained in accordance with the scheme in perpetuity. Under no circumstances should any other external lighting be installed without prior consent in writing from the local planning authority.

REASON: To conserve and enhance protected and priority species and habitats and allow the local planning authority to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife and Countryside Act 1981 (as amended), s40 of the Natural Environment and Rural Communities (NERC) Act 2006 (priority habitats & species), s17 of the Crime and Disorder Act 1998, in accordance with the adopted Uttlesford Local Plan Policies GEN7, ENV8, and the National Planning Policy Framework (2021).

- 16** Prior to occupation of the development hereby approved, the cycle parking facilities as shown on the approved plans shall be provided. Thereafter, the cycle parking facilities shall be retained as such at all times.

REASON: To ensure that appropriate cycle parking is provided in the interests of highway safety, in accordance with the adopted Uttlesford Local Plan Policies GEN1, GEN8, the adopted Uttlesford Local Residential Parking Standards (2013), the adopted Essex County Council Parking Standards: Design and Good Practice (2009), and the National Planning Policy Framework (2021).

- 17** Prior to occupation of the development hereby approved, the developer shall be responsible for the provision and implementation of a Residential Travel Information Pack (per dwelling) for sustainable transport 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 the adopted Uttlesford Local Plan Policies GEN1, GEN8, the adopted Uttlesford Local Residential Parking Standards (2013), the adopted Essex County Council Parking Standards: Design and Good Practice (2009), and the National Planning Policy Framework (2021).

- 18** If during any site investigation, excavation, engineering or construction works evidence of land contamination is identified, the

applicant/developer shall notify immediately and in writing the Local Planning Authority. Any land contamination identified shall be remediated to ensure the site is made suitable for its end use. Following completion of the remediation, a verification report shall be prepared to demonstrate the effectiveness of the remediation carried out. No part of the development hereby approved shall be occupied until all remedial and validation works are approved in writing by the local planning authority.

REASON: To ensure the development will not harm human health, the water environment and other receptors, in accordance with the adopted Uttlesford Local Plan Policies GEN2, ENV14, and the National Planning Policy Framework (2021).

- 19** Prior to first use, details of any external lighting to be installed on the site, including the design of the lighting unit, any supporting structure and the extent of the area to be illuminated, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, only the details thereby approved shall be implemented.

REASON: To safeguard residential amenities, in accordance with the adopted Uttlesford Local Plan Policies GEN2, GEN4, and the National Planning Policy Framework (2021).

- 20** All ecological mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Update Ecological Impact Assessment (Greenwillows Associates Ltd, April 2021) as already submitted with the planning application. This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW) to provide on-site ecological expertise during construction. Thereafter, the appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details. The enhancement measures and/or works shall be carried out in accordance with the approved details and shall be maintained as such at all times.

REASON: To conserve and enhance protected and priority species and habitats and allow the local planning authority to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife and Countryside Act 1981 (as amended), s40 of the Natural Environment and Rural Communities (NERC) Act 2006 (priority habitats & species) as updated by the Environment Act 2021, s17 of the Crime and Disorder Act 1998, in accordance with the adopted Uttlesford Local Plan Policies GEN7, ENV8, and the National Planning Policy Framework (2021).

- 21** Any new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay associated with the vehicular access serving the development hereby approved. Any existing planting shall be re-planted a minimum of 1 metre back from the highway

boundary and any visibility splay associated with the vehicular access serving the development hereby approved.

REASON: To ensure that the future outward growth of the planting does not encroach upon the highway or interfere with the passage of users of the highway, to preserve the integrity of the highway and in the interests of highway safety, in accordance with the adopted Uttlesford Local Plan Policies GEN1, GEN8, the adopted Uttlesford Local Residential Parking Standards (2013), the adopted Essex County Council Parking Standards: Design and Good Practice (2009), and the National Planning Policy Framework (2021).

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

REASON: To avoid displacement of loose material onto the highway in the interests of highway safety, in accordance with the adopted Uttlesford Local Plan Policies GEN1, GEN8, the adopted Uttlesford Local Residential Parking Standards (2013), the adopted Essex County Council Parking Standards: Design and Good Practice (2009), and the National Planning Policy Framework (2021).

- 23** Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order with or without modification), no development within Classes A to F of Part 1 of Schedule 2 and Class A of Part 2 of Schedule 2 of the Order shall take place without the prior written permission of the local planning authority.

REASON: To prevent a cramped appearance for the site, to preserve the character and appearance of the area and to safeguard appropriate levels of amenity spaces, in accordance with the adopted Uttlesford Local Plan Policy GEN2, and the National Planning Policy Framework (2021).

## APPENDIX 1 – ESSEX COUNTY COUNCIL HIGHWAYS

Your Ref: UTT/21/1998/FUL  
Our Ref: 11032  
Date: 16<sup>th</sup> June 2023



CC: (by email) **DM, SMO2, Chelmsford**  
**Cllr Ray Gooding**

Paul Crick  
Director for Highways  
and Transportation

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

County Hall  
Chelmsford  
Essex CM1 1QH

### Recommendation

Application No. UTT/21/1998/FUL  
Applicant Mr Mike Sugden Cambridge And County Developments C/O Agent Andrew Martin - Planning  
Site Location Land South Oxleys Close Stortford Road Clavering  
Proposal Erection of 13 no. dwellinghouses and associated development

*The applicant has indicated visibility splays required for the recorded 85<sup>th</sup> percentile speed of the road from the proposed site access. The visibility splays are included within the red line of the planning application but appear to be across third party land, and therefore the Highway Authority has required a Grampian style condition to deal with this situation that will require delivery of the access, including visibility and footway, prior to commencement.*

**All housing developments in Essex which would result in the creation of a new street (more than five dwelling units communally served by a single all-purpose access) will be subject to The Advance Payments Code, Highways Act, 1980. The Developer will be served with an appropriate Notice within 6 weeks of building regulations approval being granted and prior to the commencement of any development must provide guaranteed deposits which will ensure that the new street is constructed in accordance with acceptable specification sufficient to ensure future maintenance as a public highway.**

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

1. No development shall take place, including any ground works or demolition, until the scheme of works shown in principle on DWG no. PL09 REV. C, titled *Proposed site access (04/07/2022)* have been implemented and secured in perpetuity over third party land by appropriate agreement. Such works to include but not be limited to;
  - Clear to ground visibility splays with dimensions of 2.4 metres by 96.8 metres to the north and 2.4 metres by 116.4 metres to the south, as measured from and along the nearside edge of the carriageway from the centre of the site access.



- A 2 metre wide footway shall be provided on the northern side of the proposed site access extending northwards on Stortford Road to tie into Oxleys Close, including the provision of a suitable dropped kerb pedestrian crossing.
- A 2 metre wide footway shall be provided on the southern side of the proposed site access extending southwards on Stortford Road to the site boundary.
- Provision of an access formed at right angles to Stortford Road to include but not limited to, minimum 5.5 metre carriageway width and appropriate junction radii to accommodate the swept path of all vehicles regularly accessing the site.

Details of the scheme to be submitted to and approved in writing with the Local Planning Authority in consultation with the Highway Authority, in advance of works. The visibility splays and footway shall thereafter be retained in perpetuity.

**Reason:** In the interests of highway safety and accessibility.

2. Prior to occupation of any dwelling, a highway scheme to include the extension of the 30mph speed limit to the south of the existing location, to include new signage and associated Traffic Regulation Order and village gateway feature.

Details of the access scheme to be submitted to and approved in writing with the Local Planning Authority in consultation with the Highway Authority, prior to commencement of development.

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

3. Any new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay.

**Reason:** To ensure that the future outward growth of the planting does not encroach upon the highway or interfere with the passage of users of the highway, to preserve the integrity of the highway and in the interests of highway safety

4. 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 and shall provide for the following all clear of the highway:

- i. Safe access into the site;
- ii. Vehicle routing;
- iii. The parking of vehicles of site operatives and visitors;
- iv. Loading and unloading of plant and materials;
- v. Storage of plant and materials used in constructing the development;
- vi. Wheel and underbody washing facilities;
- vii. Before and after condition survey to identify defects to the highway in the vicinity of the site access and where necessary ensure repairs are undertaken at the developers expense, where caused by the developer.

**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.

5. No dwelling shall be occupied until the associated parking and/or turning head indicated on the approved plans has been provided. The vehicle parking and turning heads shall be retained in this form at all times.

**Reason:** To ensure that on street parking of vehicles in the adjoining streets does not occur in the interests of highway safety and that appropriate parking is provided.

6. The cycle parking facilities as shown on the approved plan are to be provided prior to the first occupation of the development and retained at all times.

**Reason:** To ensure appropriate bicycle parking is provided.



7. Prior to the first occupation of the proposed development, the developer shall be responsible for the provision and implementation – per dwelling - of a Residential Travel Information Pack for sustainable transport, approved by Essex County Council, to include six one day travel vouchers, for use with the relevant local public transport operator. This will be at no cost to the occupier.  
**Reason:** In the interests of reducing the need to travel by car and promoting sustainable development and transport.
8. No unbound material shall be used in the surface treatment of the vehicular access within 6 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](mailto:development.management@essexhighways.org) or by post to Essex Highways, Springfield Highways Depot, Colchester Road, Chelmsford, Essex, CM2 5PU.
- ii. There shall be no discharge of surface water onto the Highway.
- iii. 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.
- 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.
- 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. Any signal equipment, structures and non-standard materials proposed within the existing extent of the public highway or areas to be offered to the Highway Authority for adoption as public highway, will require a contribution (commuted sum) to cover the cost of future maintenance following construction.

- vii. Under Building Regulations B5, access for fire tenders is required to a point not further than 45 metres from the entrance to the dwelling. Any road or private drive forming part of such a fire access must be no less than 3.7 metres wide between kerbs (this may be reduced to 3.1 metres for a gateway or similar short narrowing) and should have a minimum centre line bend radius of 6.55 metres. The access way should be capable of carrying a 12.5 tonne vehicle. A cul-de-sac which is more than 20 metres long must have a turning head of a least Size 3.

F Masnie

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pp. Director for Highways and Transportation  
Enquiries to Sophie Currey  
Telephone: 03330 133058  
Email: [sophie.currey@essex.gov.uk](mailto:sophie.currey@essex.gov.uk)

## APPENDIX 2 – ESSEX COUNTY COUNCIL LEAD LOCAL FLOOD AUTHORITY

Essex County Council  
**Development and Flood Risk  
Environment and Climate Action,**  
C426 County Hall  
Chelmsford  
Essex CM1 1QH



Avgerinos Vlachos  
Uttlesford District Council  
Planning Services

Date: 25<sup>th</sup> Feb 2022  
Our Ref: SUDS-005356  
Your Ref: UTT/21/1998/FUL

Dear Avgerinos Vlachos,

### **Consultation Response – UTT/21/1998/FUL– Land South Oxleys Close Stortford Road Clavering CB11**

Thank you for your email received on 13/1/2022 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 15<sup>th</sup> 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 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 167 and paragraph 174 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.

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>

The proposed development will only meet the requirements of the National Planning Policy Framework if the measures as detailed in the FRA and the documents submitted with this application are implemented as agreed.

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](mailto: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 15<sup>th</sup> 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,

**Rohit Singh, Development and Flood Risk Officer**  
Team: Green Infrastructure and Sustainable Drainage  
Service: Climate Action and Mitigation  
Essex County Council

Internet: [www.essex.gov.uk](http://www.essex.gov.uk)  
Email: [suds@essex.gov.uk](mailto: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.