



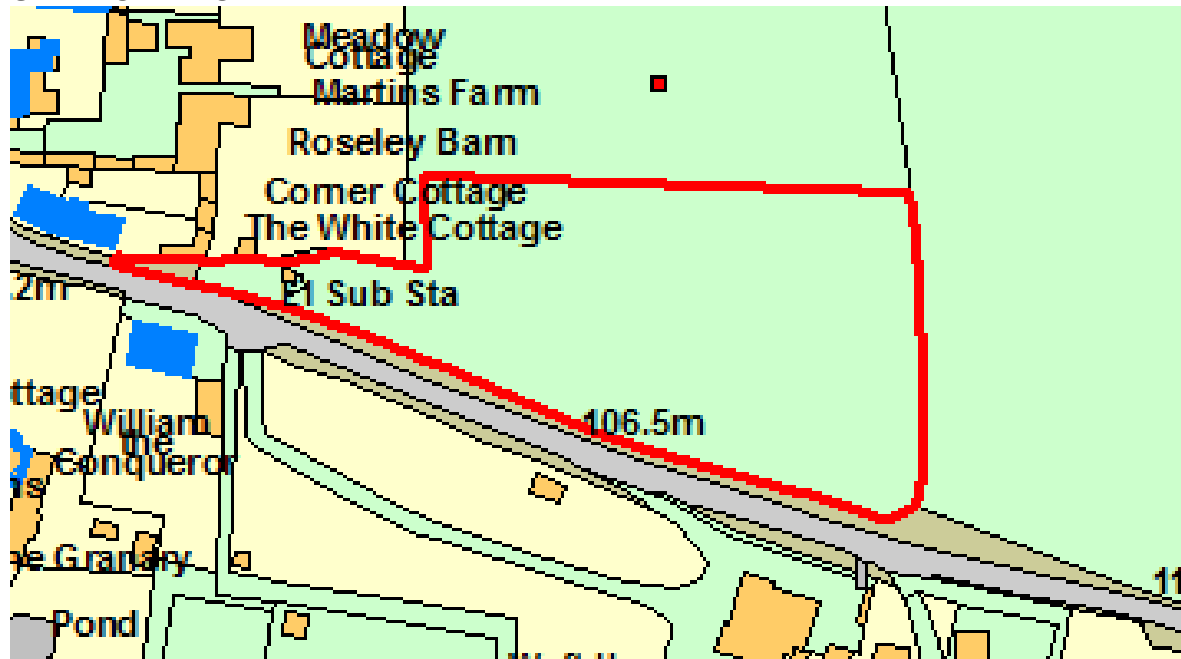
**ITEM NUMBER:** 6

**PLANNING COMMITTEE DATE:** 27 September 2023

**REFERENCE NUMBER:** UTT/22/2278/FUL

**LOCATION:** Land to the North Of Cornells Lane, Widdington,

**SITE LOCATION PLAN:**



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Organisation: Uttlesford District Council      Date: 7 September 2023

**PROPOSAL:** Erection of 4 No detached dwellings and associated works

**APPLICANT:** Dr and Mrs M. Tee

**AGENT:** Mr Chris Loon

**EXPIRY  
DATE:**

**EOT EXPIRY  
DATE:** 02.10.2023

**CASE  
OFFICER:** Femi Nwanze

**NOTATION:** Outside Development Limits.  
Protected Lane; UTT Lane 158  
Widdington Conservation Area  
Listed Building (adjacent):

**REASON THIS  
APPLICATION  
IS ON THE  
AGENDA:** The original decision was subject of a successful judicial review which has resulted in the decision being quashed and the application must now be re – determined.

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## **1. EXECUTIVE SUMMARY**

- 1.1** This is a 'full' planning application and proposes the development of the southern part of a paddock on Cornells Lane, Widdington for the erection of four detached dwellings and associated works. This application has been assessed against policies within the adopted Development Plan and other material considerations, including the National Planning Policy Framework (NPPF).
- 1.2** This application was the subject of a previous decision of the Planning Committee (decision dated 27.10.2022) wherein conditional planning permission was granted. However, the decision was subject of a successful judicial review which has resulted in the decision being quashed and the application must now be re - determined.
- 1.3** An earlier application of the same description (ref: UTT//21/2137/FUL) was refused permission on 18.03.2022. The decision to refuse planning permission was the subject of an appeal which was subsequently withdrawn prior to its determination.
- 1.4** The 3 reasons for refusal are outlined in full in section 4.3 of this report. In summary the reasons were: -

- Harm to the protected lane
- Harm to the Widdington Conservation area and nearby listed buildings
- Harm to the setting and character of the rural area.

- 1.5 In order to grant planning permission for a similar or same development it should be demonstrated that the 3 reasons for refusal have been satisfactorily addressed.
- 1.6 In response to the reasons for refusal, the proposed dwelling at Plot 1, which is closest to the Widdington Conservation Area and the adjacent listed buildings, has been altered from a 1.5 storey dwelling to a single storey dwelling (bungalow) together with the provision of additional landscaping.
- 1.7 Officers have considered this application on its merits. A certificate of lawfulness exists on the site (Ref: UTT/22/1523/CLP) which was issued on 25.07.2022 *for the proposed formation, laying out and construction of a means of access to Cornells Lane, in connection with the use of land (up to 14 days per calendar year) for the purposes of the holding of a market.* For reasons outlined in this report, negligible weight is given to the certificate of lawfulness as a 'fallback position' in terms of creating a new vehicle access to the site.
- 1.8 A further application for a certificate of lawfulness has been submitted for *the formation, laying out and construction of a means of access to Cornells Lane, Widdington, in connection with the use of land for charitable and private hire events for not more than 28 days in total in any calendar year.* This application is pending determination .
- 1.9 Therefore, notwithstanding the grant of a certificate of lawfulness (Ref: UTT/22/1523/CLP) the proposal would result in harm to a protected lane, a non-designated heritage asset, and is in conflict with Policy ENV9.
- 1.10 Officers acknowledge that the applicant has made efforts to reduce the visual impact of the proposal, by reducing the height of the proposed dwelling closest to the listed building. The proposed development still presents a low level of 'less than substantial harm' to designated heritage assets. The NPPF requires that the harm to the significance of the heritage asset be weighed against the public benefits of the proposal.
- 1.11 The public benefits associated with this proposal include a modest quantum of housing. Benefits are discussed in more detail in the body of this report.
- 1.12 However, for the reasons set out in this report, the public benefits associated with this proposal are not considered to outweigh the harm identified to designated and non-designated heritage assets. As such it is considered that the adverse impact to heritage assets warrant refusal of this application.

1.13 Finally, the location factors of the site and its proposed form and layout have not materially changed since the refused application such that it is considered that the identified harm to the rural setting of this undeveloped site and its surrounds has been overcome.

1.14 It is therefore concluded that the proposal does not comply with the Uttlesford Local Plan and there are no material considerations to justify a decision not in accordance with the plan.

## 2. **RECOMMENDATION**

<p>That the Strategic Director of Planning be authorised to <b>REFUSE</b> planning permission for the development for the reasons set out in section 17 of this report.</p>
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## 3. **SITE LOCATION AND DESCRIPTION:**

3.1 The site is located to the north of Cornells Lane (a protected lane) in, Widdington. It comprises an undeveloped field with an access in the south-west corner. A public foot path lies to its eastern boundary. The application site measures 0.48ha and comprises part of a much larger area of a managed paddock measuring approximately 1.34ha. The site slopes down to the west; offering views into the village.

3.2 The majority of the site abuts the Widdington Conservation Area with only the existing site access in the southwestern corner being within it. There are a number of grade II listed buildings within the vicinity of the site.

## 4. **PROPOSAL**

4.1 The application seeks planning permission for the erection of 4 no. detached dwellings and associated works. A new vehicular access off Cornells Lane is proposed, along with a footway to the south of the site to the public right of way which lies to the eastern boundary of the site. The proposal also includes the provision of an ecological area approximately 0.12 hectares (0.29 acres). And the provision of a public footpath from the southwestern corner of the site to link to the village/public right of way.

4.2 This application seeks to address the reasons for refusal concerning application Re: UTT/21/2137/FUL which was an application of similar character, and was refused for the following reasons:

4.3 (i) *The proposed development will result in a significant harmful impact to the character and appearance of the Protected Lane (non-designated heritage asset). The need of the development does not outweigh the harm to the historic significance of the site and the protected lane. As such the development is not in accordance with*

*ULP Policy ENV9 and paragraph 203 of the NPPF that considers the balanced judgement required to the scale of any harm or loss of the significance of the heritage asset.*

- (ii) The proposed development will not preserve or enhance the character and appearance of the Conservation Area and will result in harmful impact to the setting of the nearby listed buildings, not in accordance with ULP Policies ENV1, ENV2 and paragraph 199 of the NPPF. The public benefits of the development do not provide sufficient opportunities to enhance their significance or overall outweigh the harm of the proposal, therefore also in conflict with paragraphs 202 and 206 of the NPPF.*
- (iii) The proposal would represent an inappropriate form of development within the countryside, having an urbanising effect that would be out of context with the existing pattern of development and harmful to the setting and character of the rural location. The proposal is not in accordance with ULP Policy S7 and paragraph 174 (b) of the NPPF in terms of recognising the intrinsic character and beauty of the countryside.*

With the exception the proposed building at Plot 1 which has been reduced in scale and form from a 1.5 storey chalet to a bungalow, the scheme is broadly similar to the previous submission with the majority of proposed buildings remaining as previously submitted.

**4.4** The details of the proposed development are as follows:

	House type	Bedrooms	Tenure	Garden Size	Parking Spaces
Plot1	Bungalow	3	Market	247sqm	3
Plot2	1.5 storey	3	Market	334sqm	3
Plot 3	1.5 storey	3	Market	392sqm	3
Plot 4	Bungalow	2	Market	473sqm	3

## **5. ENVIRONMENTAL IMPACT ASSESSMENT**

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

## **6. RELEVANT SITE HISTORY**

<b>Reference</b>	<b>Proposal</b>	<b>Decision</b>
UTT/23/1918/CLP	The formation, laying out and construction of a means of access to Cornells Lane, Widdington, in connection with the use of land for charitable and private hire events for not more than 28	Pending

	days in total in any calendar year	
UTT/22/3191/FUL	Proposed erection of 4 no. detached dwellings and associated works	pending
UTT/22/1523/CLP	Certificate of lawfulness for the proposed formation, laying out and construction of a means of access to Cornells Lane, in connection with the use of land (up to 14 days per calendar year) for the purposes of the holding of a market.	Granted 25.07.2022
UTT/21/2137/FUL	Proposed erection of 4 no. detached dwellings and associated works	Refused 18.03.2022 Appeal withdrawn.
UTT/19/2623/FUL	Construction of 15 new dwellings, including 6 affordable homes, formation of new vehicular and pedestrian access, associated open space, parking and landscaping	Refused 04.03.2020.
UTT/18/0885/FUL	Construction of 20 new dwellings, including 8 affordable homes, formation of new vehicular and pedestrian access, associated open space, parking and landscaping	Refused 16.10.2018  Appeal Dismissed

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

7.1 No pre – application advice has been sought for this proposal.

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

### **8.1 Highway Authority (ECC) – No objection**

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

- Approval of visibility splays,
- Provision of parking prior to occupation,
- Compliance with recommend access gradient,
- Use of the existing vehicle access,
- Width of the existing foot path to be retained.

Full response included in Appendix 1.

## **9. PARISH COUNCIL**

### **9.1** Objection, comments include:

The material changes are very minor from the previously refused application, these include:

- Change in scale of plot 1 from chalet to bungalow.
- Additional planting to front/side garden boundaries of Plot 1.
- Additional information concerning access proposal and options.
- Additional information concerning indicative banks around the proposed access.
- Clarification of parking spaces available on plots and slight amendments to parking areas; changes to parking surfaces for contrast with the private drive.
- Clarification of proposed sized of private amenity areas to plots.
- How the scheme respects concepts endorsed by UDC's Principal Urban Design Officer.
- Additional documentation regarding heritage issues and rural character issues, addressing reasons for refusal on UTT/21/2137/FUL.
- Additional information concerning the approved means of access recently granted under a Certificate of Lawfulness.
- Information regarding recently improved bus service.
- Information concerning definitive footpath and related issues.

The change of design of one dwelling will not overcome the previous reasons for refusal.

The changes to landscaping and surface materials seem most unlikely to make a difference.

The impact of the new estate road access cutting through the banking and vegetation, which are defining features of the Cornells Protected Lane was a key part of the March 2022 UDC decision to refuse permission.

Recent appeal give weight to the importance of Protected Lanes.

Insufficient access plans have been submitted; the actual appearance of the access road is not illustrated.

The gradient is steeper than the recommendation from the Highway Authority.

The approved Certificate of Lawfulness is not a material consideration as the access can't be constructed.

There is no explanation how the proposed footpath is benefit.

The details of emission submitted do not address the 'do nothing' scenario i.e., without development on the site there would be no environmental or emissions at all.

The decision should be postponed until the decision of the appeal has been made.

Saffron Walden Town Council have a legal veto to prevent the use of the site as a market.

No explanation as to how the foot path along the site frontage will be a benefit or how the footpath will drop down to accommodate differences in ground levels.

## **10. CONSULTEE RESPONSES**



## **10.1 UDC Environmental Health**

**10.1.1** No objections subject to conditions, these include:

- Identification of contamination if found,
- Provision of a construction management plan
- Use of electric vehicle charging points, air source heat pumps
- External lighting

## **10.2 UDC Landscape Officer/Arborist**

**10.2.1** The proposed development includes the construction of a vehicular access onto Cornells Lane.

**10.2.2** The section of Cornells Lane to the south of the proposal site is a designated Protected Lane in the UDC Adopted Local Plan 2005. Essex County Council's Historic Environment Branch was commissioned by UDC in 2012 to undertake an assessment of the district's existing Protected Lanes using the new Protected Lanes criteria developed the County ECC 2009). Cornells Lane (UTT Lane 158) exceeded the threshold score of 14 and attracted the score of 20 which is at the upper end of scores for historic lanes in the district. The assessment affirmed the importance of the Protected Lane status for Cornell's Lane.

**10.2.3** A fundamentally important associated historic feature of the protected lane is the bank immediately to the south of the proposal site. The proposed new vehicular access would result in a cut of up to 2m into the bank across a minimum width of 5.5m and extending to accommodate the bell mouth. This would result in significant harm to this historic feature and the character of this section of the lane. Likewise, the introduction of necessary pavement surfacing and kerbs for the access.

**10.2.4** The existing bank is well 'tree'd' and these trees make a significant contribution to the setting of the lane. The predominant species are field maple, sycamore, hawthorn, hazel, ash, and elm. An assessment has been carried in accordance with the Tree Evaluation Method for Preservation Orders (TEMPO). This methodology is used to assess the condition and suitability of trees for protection.

**10.2.5** Whilst it is recognised that collectively the trees contribute to the setting, the poor stem taper of the trees weighted over the carriageway and their general condition makes them unsuitable for protection under a Tree Preservation Order (TPO). The trees are considered to be subject to Forestry Act felling controls.

**10.2.6** The accommodation of the new proposed access would in itself have limited impact on existing vegetation, affecting only low-quality scrub consisting of elm, blackthorn, elder, and bramble.

- 10.2.7** The proposed landscaping scheme for the development includes the planting of some 95 trees and extensive planting of mixed native species hedges to the plot boundaries and also the south boundary of the site. An 'Ecological Area' of some 0.12ha is proposed to be provided in a strip running behind the dwelling plots. Within this area a pond is proposed
- 10.2.8** The proposed four new dwellings would have a significant impact on the existing rural character of the site, although this would be localised.
- 10.2.9** The adopted Local Plan 2005 Policy ENV9 - Historic Landscapes states that development proposals likely to harm significant local historic landscapes, historic parks, and gardens, and protected lanes as defined on the proposals map will not be permitted unless the need for the development outweighs the historic significance of the site.
- 10.2.10** Recommended that the application is refused under Policy ENV9 for the significant harm the proposal is likely to have on the features of a protected lane.

### **10.3 Place Services (Conservation and Heritage)**

- 10.3.1** Built Heritage Advice pertaining to an application for the proposed erection of four detached dwellings and associated works. This application remains identical since previous advice in the letter dated, 04/10/2022, therefore this advice remains relevant and is supplied below.
- 10.3.2** 'The application site is located immediately adjacent to the Widdington Conservation Area, the boundary of which is located to the west, with access abutting the Conservation Area boundary. In close proximity to the site are the other designated heritage assets of:
- William The Conqueror, Grade II listed (list entry number: 1238376);
  - Corner Cottage/White Cottage, Grade II listed (list entry number: 1238374) and
  - Martins Farmhouse, Grade II listed (list entry number: 1238383).

Cornells Lane is also considered a non-designated heritage asset, which has been identified and designated as a protected lane (Ref: UTTLANE158). A Public Right of Way is located to the eastern boundary of the site and continues northwards. Roseley Barn is a curtilage listed building to Martins Farmhouse.

- 10.3.3** This application is widely identical to the previously refused application, UTT/21/2137/FUL, as such previous advice in the letter dated 06/09/2021 remains relevant.
- 10.3.4** The application site is an area of undeveloped agricultural land located within the setting of several heritage assets, as identified above. The existing site positively contributes to the agrarian setting and rural character of the settlement of Widdington, and the designated heritage assets, including the Conservation Area. It is felt that there would

fundamentally be an impact upon the setting of the heritage assets when assessed against Historic England's publication, The Setting of Heritage Assets, GPA Note 3 (2017). The publication provides a checklist of potential attributes of a setting which contribute to significance, this being 'surrounding landscape, views, tranquillity, land use' and other environmental factors such as noise, light pollution and general disturbance should be taken into account.

- 10.3.5** With regards to Martins Farmhouse and Roseley Barn, the application site is considered to positively contribute to the setting of the heritage assets, as undeveloped agricultural land which contributes to our experience of the assets and their rural character. As shown upon historic mapping the site has remained historically undeveloped agrarian land with views afforded across the site, to and from the assets including from the Public Right of Way. The proposed development of four dwellings in this location is considered to adversely impact how one experiences the assets, being urbanising in effect.
- 10.3.6** It is considered that there is a level of less than substantial harm to the setting of the assets, I suggest this harm is at the lowest end of the scale, Paragraph 202 being relevant.
- 10.3.7** For Corner Cottage/White Cottage, William The Conqueror and the Widdington Conservation Area, the application site as evident from historic mapping, and supported by the submitted Heritage Statement, has remained undeveloped agricultural land and that the legible pattern of development for the settlement of Widdington is that a linear manner along the High Street. The proposed development of four detached buildings and the creation of the access from Cornells Lane would be inconsistent with the pattern of development and would have an adverse impact upon the approach and views into the Conservation Area. It should also be noted that this approach into the Conservation Area, along Cornells Lane, appears to be the last undeveloped approach into the Conservation Area.
- 10.3.8** It is acknowledged that the protected lane has steep banks however the existing undeveloped nature of the site preserves the tranquil and rural character of the non-designated heritage and the abovementioned designated heritage assets. With regards to The Setting of Heritage Assets guidance note from Historic England, environmental factors such as light spill, noise and general disturbance must also be taken into consideration as this adversely impacts how one experiences the heritage assets. The proposals would result in the harmful urbanisation of the site, resulting in several impacts to the setting of William The Conqueror, Corner Cottage/The White Cottage, the Widdington Conservation Area and the non-designated heritage asset of Cornells Lane. This harm would be less than substantial, Paragraphs 202 and 203 of the NPPF (2021) being relevant. This harm would be at the low end of the scale.

**10.3.9** The NPPF also affords great weight to the conservation of the heritage assets under Paragraph 199 and Paragraph 206 states that ‘Local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites, and within the setting of heritage assets, to enhance or better reveal their significance.’ The proposals are considered inconsistent with this.

**10.3.10** It is noted that a Certificate of Lawfulness for the access to Cornells Lane, in conjunction with the use of the land (up to 14 days per calendar year) for the purposed of holding a market has been approved (UTT/22/1523/CLP). However, the change in land use from this application, the permanence of the development and the impact upon the heritage assets must still be considered, including the Protected Lane’

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

**10.4.1** No Objection,  
We have reviewed the Preliminary Ecological Appraisal (Southern Ecological Solutions, June 2021) relating to the likely impacts of development on designated sites, protected species and priority species/habitats. We are satisfied that there is sufficient ecological information available for determination.  
It is recommended mitigation and biodiversity enhancement are secured by condition

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

**10.5.1** No objection, subject to the following conditions:

**10.5.2** No development or preliminary groundworks of any kind shall take place until a programme of archaeological investigation has been secured in accordance with a written scheme of investigation.

**10.5.3** No development or preliminary groundworks of any kind shall take place until the completion of the programme of archaeological investigation identified in the WSI defined above.

**10.5.4** The applicant will submit to the local planning authority a post excavation assessment (to be submitted within six months of the completion of the fieldwork, unless otherwise agreed in advance with the Planning Authority). This will result in the completion of post excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.

#### **10.6 National Air Traffic Safeguarding**

**10.6.1** No safeguarding objection to the proposal.

#### **10.7 Anglian Water**

**10.7.1** No objection.

## **11. REPRESENTATIONS**

**11.1** A site notice was displayed on site and 103 notifications letters were sent to nearby properties. The planning application was also advertised in the local press.

### **11.2 Object**

#### **11.2.1**

- The site is located beyond the Development Limits of the village.
- Harmful effect on the character and appearance of the area, including the Protected Lane (a 'non-designated heritage asset')
- Adverse effect on the setting of the Widdington conservation area and numerous listed buildings
- Increased vehicle movements on inadequate roads
- Increased traffic congestion and associated pollution
- Unsuitable vehicular and pedestrian access points
- Adverse effect on the safety of road users
- Increased risk of flooding
- Lack of services and facilities e.g. shop, post office
- Lack of sustainable transport options
- Loss of biodiversity – and no undertaking given for maintenance of proposed measures
- No need for the development, no support [Officer note: there remains a need for housing in the district]
- The proposal does not provide the homes required e.g. affordable homes, starter homes [Officer note: there is no policy requirement to do so in this case]
- The development would cause nuisance and damage to roads and property during the construction period
- No local support for the development
- Approval would set a precedent for further residential development.
- In conflict with the village design statement,
- Increase in carbon emissions,
- Highway safety implications,
- Loss of rural views,
- The approved certificate of lawfulness for a new access has no weight.
- The change of one dwelling to a bungalow does not significantly change the scheme,
- Drainage implications,
- Details within the Planning Statement is misleading.
- If approved, the scheme could revert to the 20-dwelling scheme. [Officer note: The application is for four dwellings only].
- The traffic survey was carried out during lock down,
- Loss of trees
- Details of the public right of way are irrelevant,

- New homes bonus and payment of council tax is not a benefit,
- Insufficient access for larger vehicles,
- No artist impression or visual of the proposed access,
- Impact to existing views,
- Disturbance from noise during construction.
- The site surveys for the ecology report were undertaken in March and October. As this is outside the flowering season of many grassland plants, this is not the appropriate timing for an ecological survey.

## **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 February 2020)  
 Great Dunmow Neighbourhood Plan (made December 2016)  
 Newport and Quendon and Rickling Neighbourhood Plan (made June 2021)

Thaxted Neighbourhood Plan (made February 2019)  
 Stebbing Neighbourhood Plan (made July 2022)  
 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 (2023)

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

<b>13.2.1</b>	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
	H1	Housing Development
	H3	New Houses within Development Limits
	H10	Housing Mix
	ENV1	Design of Development within Conservation Area
	ENV2	Development affecting Listed Building
	ENV3	Open Space and Trees
	ENV5	Protection of Agricultural Land
	ENV13	Exposure to Poor Air Quality
	ENV14	Contaminated land

#### **13.3 Supplementary Planning Document or Guidance**

Uttlesford Strategic Flood Risk Assessment (SFRA) (2016)  
 Widdington Conservation Area Appraisal and Management Proposals (2013)  
 Widdington Village Design Statement (2009)  
 Uttlesford Protected Lanes Assessment (2012)  
 Uttlesford Local Residential Parking Standards (2013)  
 Essex County Council Parking Standards (2009)  
 Supplementary Planning Document – Accessible homes and playspace  
 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, and location of the proposed development**
  - B) Character, appearance and heritage**
  - C) Neighbouring Amenity**
  - D) Access, Parking and Transport**
  - E) Light pollution**
  - F) Nature Conservation**
  - G) Flooding**
  - H) Climate Change**
  - I) Planning Balance**

**14.3 A) Principle of, and location of the proposed development**

**14.3.1** The southwestern corner of the site (approx.2% of it) is located within Development Limits and within the Widdington Conservation Area. The majority of the site (98%) is located beyond the Development Limits for Widdington. In settlement terms this site is therefore defined as being in the countryside wherein Policy S7 of the Uttlesford Local Plan 2005 is applicable. Policy S7 states amongst other things that planning permission will only be given for development that needs to take place or which is appropriate to the rural area. It goes on to state that development should 'protect or enhance the particular character of the part of the countryside in which it is set'.

**14.3.2** In principle the proposal would therefore be contrary to the settlement policies ( H1 and H3) of the Local Plan and Policy S7.

**14.3.3** The proposal would provide good quality additional (market) housing in the District wherein the Local Planning Authority is currently unable to demonstrate a 5YHLS (4.89 years as of December 2022) accordingly there is a presumption in favour of the development subject to other considerations.

**14.3.4** There is a presumption in favour of sustainable development in the NPPF. Sustainable development is defined as being based on three dimensions. – economic, social and environmental. The NPPF specifically states that these roles should not be undertaken in isolation, because they are mutually dependent. To achieve sustainable development economic, social and environmental gains should be sought jointly and simultaneously.

**14.3.5** The settlement's spatial relationship with other nearby settlements includes the larger village of Newport which lies approximately 3km north-west of the site and the main urban area of Saffron Walden which lies approximately 7km to the north of the site. Neighbouring villages with a variety of facilities lie within a few kilometres of the site. The local bus service connects various large and small settlements as well as most of the railway stations (serving London to Cambridge), including those at Newport, Audley End and Bishops Stortford.



**14.3.6** This site has an extensive planning history including applications for a larger quantum of residential development (20 units) than is currently proposed; a scheme that was refused planning permission and was dismissed at appeal. The Planning Inspector raised concern regarding the sustainability of the site and the significant increase in journeys that would result. The Planning Inspector also raised concerns about the long-term provision bus services at the site. However, it is noted that since late 2022 bus service provision has been increased by 50% and as such, this is not a matter of concern.

**14.3.7** The recent planning history of the site is a material consideration, in that planning permission has been refused (application UTT/21/2137/FUL) for a similar form of development on grounds that include harm arising from the location of the site in the countryside and the urbanising effect that the proposal presents. A subsequent appeal against this decision was withdrawn prior to its determination). The proposal presents inappropriate countryside development and is contrary to Policy S7 (NPPF 78,79,174).

#### **14.4 B) Character, appearance and heritage**

**14.4.1** This planning application is for 4 dwellings; they are proposed to be sited on an undeveloped paddock that lies adjacent to the Widdington village boundary, the Conservation Area and at an elevated ground level compared to much of the village. There are also a number of listed buildings within the vicinity of the site. In a previous decision concerning this site, the Planning Inspector commented that that the paddock was part of the rural setting of Widdington.

**14.4.2** The proposed dwellings would be sited to the south of the paddock and retain much of the current paddock as a 'transition', between the existing village and open countryside to the east of the site. The 4 proposed dwellings would be positioned in a linear arrangement on the site which will be accessed from a newly created entry from Cornells Lane (Protected Lane). The location and arrangement of the dwellings would be at odds with the existing historic linear plan form of Widdington which is particularly evident along the High Street, and actively contributes to the historic interest of the conservation area. This weighs against the proposal. In relation to the pattern of development on Cornells Lane, this would be the only development of housing on the north side of the Lane.

**14.4.3** The proposed single access drive from Cornells Lane would provide vehicular (and pedestrian) access to each plot. In addition, a footway link is proposed running east to west through the site and connect with the Public Right of Way network to the east (Cornells Lane to Church Lane) to the High Street. This would improve public safety and provide a more accessible link to the village from the Public Right of Way. This is a benefit of the proposal.

**14.4.4** The proposed dwellings will be of a traditional appearance using materials that are not unfamiliar in this locality:

- soft red brick with lime rich mortar
- conservation colour painted sand cement render
- black timber weatherboarding
- clay plain tiles
- clay pantiles
- natural slates.

**14.4.5** The proposed dwellings will be set within spacious development plots which includes gardens that exceed the minimum size standards set out in the Essex Design Guide.

**14.4.6** In response to previous concerns about height and visibility, plot 1 has been altered to a bungalow (with an overall height of 5.5 metres) compared to its previous height as a 1.5 storey dwelling (7 + metres). This results in an acceptable form of development in itself and provides a modest improvement in terms in terms of impacts on the nearby heritage assets, although it does not overcome harms previously identified.

**14.4.7** Internal layouts of the proposed dwellings are considered to be well designed.

The proposed development includes a significant provision of new trees and landscaping (hedgerows) at the rear of the houses to provide a transition into the remainder of the paddock. However, it is considered that this provision does not sufficiently mitigate the identified harms to heritage assets.

**14.4.8** The views from the public right of way to the east of the site into the conservation area and the village are partially restricted by the existing close board fencing which has been erected along the boundary. However, this does not alter the views from the Conservation Area or other heritage assets to the existing rural back drop which is considered to form part of their setting.

**14.4.9** In its entirety, it is considered that the proposed development would impact the setting and appearance of the Conservation Area. In addition, it is also considered that there will be harm to the setting of listed buildings.

**14.4.10** The proposed vehicle access to the site will require the incursion into the back alongside Cornell Lane, which is a protected lane.

**14.4.11** The Uttlesford Protected Lanes Assessment was prepared by Essex County Council in March 2012. This document formalises the identification and assessment process and sets clear criteria for assessing the importance of Protected Lanes. It should be noted that the Lanes are selected not only for their historic interest, but also for their biodiversity, group value and aesthetic value. The full criteria are:

- Diversity
- Group value (association)

- Archaeological association
- Archaeological potential
- Historic integrity
- Biodiversity
- Aesthetic

- 14.4.12**
- In the Protected Lanes Assessment Form (Appendix D) Cornells Lane is identified as UTTLANE158 which scores a total of 20 out of 28.
  - It scores 4 out of 4 for Group value, its association with historic or landscape features of 'broadly the same date'.
  - It scores 3 out of 3 for archaeological association, its link with 'noncontemporary archaeological features'.
  - It scores 2 out of 3 for archaeological potential.
  - 2 out of 6 for Historic integrity.

This notes that the Lane has experienced 'moderate improvements or loss to historic fabric of the lane (excluding significant hedgerow loss)'. Therefore, while Cornells Lane scores highly for archaeological potential and connections, its integrity has clearly been significantly undermined by later alterations and interventions.

- 14.4.13**
- The proposal would result in harm to the protected lane as identified by the Landscaping Officer in para 10.2.1 – 10.2.10 above. A previous planning application has been refused on the grounds of adverse impact to Cornells Lane (non-designated heritage asset). It is acknowledged that the site benefits from a certificate of lawfulness (CLP) for an access linked to the holding of a market. The applicant refers to this as a fallback position. The access shown in the CLP is analogous to that proposed under this application and would thus have the same impact on the lane in terms of its presence and visual impact. Indeed, various types of temporary markets may be permissible under the GPDO, as would motor-racing and related activities, and these may necessitate the construction of an access to the site. This is a material consideration. However, based on third party evidence and a general assessment of the likelihood of a permitted event(s) to be held on the site which would prompt such an access to be constructed under the provisions of the GPDO, officers consider it is not a likely prospect. Accordingly, officers give negligible weight to the fallback. It is considered that there has been no change to the circumstances regarding the proposal and the effect that it would have on the non-designated heritage asset. The previous reason for refusal has not been satisfactorily addressed and the proposal remains contrary to policy ENV9 of the Uttlesford Local Plan 2005.

- 14.4.14**
- Part of the application site is located within Widdington Conservation Area; however, the majority of the site is located adjacent to it. There are a number of listed buildings located within the vicinity of the application site which stand to be affected by the proposed development.

- 14.4.15**
- Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 require decision makers to have special regard to the

desirability of preserving listed buildings and conservation areas respectively.

**14.4.16** The NPPF advises at para 199, that ‘when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

**14.4.17** Paragraph 11(d) of the NPPF states as follows:

11. Plans and decisions should apply a presumption in favour of sustainable development. For decision-taking this means d) 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 policies in this Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed [footnote 7]; or

ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Footnote 7 includes “policies relating to designated heritage assets.

**14.4.18** Given the identified low level of ‘less than substantial harm’ to heritage assets, it is therefore necessary to consider the less than substantial harm to the heritage asset against the public benefits of the scheme.

Paragraphs 189 - 208 of the NPPF describes the importance of protecting heritage assets). Paragraph 202 of the NPPF advises that:

“Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.”

**14.4.19** Therefore, in accordance with paragraph 202 of the NPPF an assessment should be made of the identified heritage harm against the public benefits of the scheme.

**14.4.20 Assessment of heritage harm against the public benefits**

<b>Heritage harm</b>	<b>Public benefits</b>
Loss of undeveloped agricultural land located within the setting of	Small contribution of market housing to District’s 5YHLS

<p>William The Conqueror, Grade II listed (list entry number: 1238376).          Corner Cottage/White Cottage, Grade II listed (list entry number: 1238374) and Martins Farmhouse, Grade II listed (list entry number: 1238383).</p>	
<p>Loss of undeveloped agricultural land located within the setting of Widdington Conservation Area.</p>	<p>Provision of smaller housing units as required by 2015 Strategic Housing Market Assessment (SHMA)</p>
<p>Loss of attributes that contribute to the setting of Heritage Assets: surrounding landscape, views, tranquillity, land use.</p>	<p>Proposal will result in the provision of new public access to the southwest of the site providing east west access to the Public Right of Way</p>
<p>Proposed development of four detached buildings and the creation of the access from Cornells Lane would be inconsistent with the pattern of development and would have an adverse impact upon the approach and views into the Conservation Area. It should also be noted that this approach into the Conservation Area, along Cornells Lane, appears to be the last undeveloped approach into the Conservation Area.</p>	<p>Biodiversity net gain in the form of the proposed off site ecological area measuring 0.29 acres</p>
<p>Introduction of light spill, noise and general disturbance which will impact heritage assets.</p>	<p>Short term benefits during the construction phase, with benefit to local companies e.g., contractors, sub-contractors, trades and suppliers.</p>
	<p>Occupiers of the houses would contribute to the local economy in the long term, in Widdington and surrounding areas</p>
	<p>Quality build and design, fabric to dwellings and the provision of air source heat pumps and photo voltaic panels. The development will save over 5 tonnes of carbon dioxide emissions to the atmosphere compared to a scheme which meets Building Regulations</p>

	Removal of overhead power line and apparatus by grounding cables, for visual benefit
	New tree and hedgerow planting and landscaping which will bring
	Additional residents will add to the social vitality of the village, for example providing extra patronage of clubs and societies

#### **14.4.21 Balancing exercise**

The proposal will provide public benefits as set out above. However, based on the limited number of dwellings proposed, and the small overall contribution to 5 YHLS that would result these are considered to be limited in their extent. Many of the economic and social benefits would be applicable to any development of this nature; again, they are limited by the small size of this development proposal. Specific environmental proposals are of particular of merits. The proposed removal of overhead power lines is cited as a public benefit. The proposed east west footpath is a benefit to pedestrian safety. It has been cited as a benefit that will also improve views of the conservation area, but this new view would be at the expense of a loss of appreciation of the conservation area from the part of the site that is to be developed. However some of the other benefits need to be considered in the light that they are required in order to make the proposed development work on the site e.g. the proposed ecological area needs to be considered against the loss of the rural openness of the site and the proposed east west path needs to be considered against the introduction of built form on this part of the site and the loss of the rural setting to and the conservation area.

**14.4.22** Conversely, it is considered that the preservation of the heritage assets and the natural environment that contributes to their appreciation/setting are of greater public benefit for existing and future generations.

**14.4.23** Even with the suggested mitigation measures, it is considered that the scale of permanent change here will result in less than substantial harm to the to the identified heritage assets, as a whole. Given the limited public benefits identified above this is matter that is considered as having a greater public impact. The protection of views to and appreciation of the identified heritage assets cannot be fully mitigated by this proposal.

**14.4.24** Therefore, it is considered that the heritage harm identified outweighs the public benefits of this scheme.

**14.4.25** The proposal fails to accord with Uttlesford Local Plan Policy ENV2, Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and the National Planning Policy Framework.

#### **14.5 C) Neighbouring Amenity**

- 14.5.1** The proposed development does not compromise neighbouring amenity in terms of unacceptable loss of light, over shadowing or overbearing impacts due to the distances between proposed dwellings and distance between the neighbouring sites.
- 14.5.2** In terms of neighbouring amenity only the proposed development is considered to be appropriately sited. Neighbour amenity was not cited previously as a cause of concern; with the nearest dwellings being some distance away from Plot 1, including White Cottage (at 48m), Roseley Barn (45m), William the Conqueror (53m). Weft House is closest to Plot 4 and is sited 42m distant.
- 14.5.3** It is advised there are no proposed windows at the first-floor level- western elevation of plot 1 given that it now comprises of a bungalow. As such taking into consideration the separation distance, siting/ orientation of the proposed dwellings and existing boundary treatment the proposed development will not result in any overlooking or loss of privacy that will have a harmful impact on the occupants of surrounding properties. It is therefore concluded that the proposed scheme accords with the above policies with respect to neighbouring amenity.
- 14.5.4** Policy GEN4 of the Local Plan advises that development will not be permitted where noise would cause a material disturbance to occupiers to surround properties. The introduction of the dwellings will result in an increase of noise and disturbance, mainly due to the increase of vehicular movement within the site, that being said this would be consistent with the other residential development along Cornells Lane, it is noted noise objections have not been raised by the Council's Environmental Health Officer and noise was not highlighted as a specific cause of concern. As such it is considered that subject to conditions the proposal would not be in conflict with Policy GEN4. Of the Local Plan.

#### **14.6 D) Access, Parking and Transport**

- 14.6.1** Policy GEN1 requires development to the main road network that does not compromise road safety, there is an existing access to the site off Cornells Lane is by way of a gated field access located in the south-western corner of the This access also serves an electricity substation. At the site location, Cornells Lane is subject to a 30mph speed limit and comprises a single carriageway with a verge and bank.
- 14.6.2** The access requires 2.4m by 43m visibility splays, based on the speed zone and prevailing speed of traffic which has been surveyed. Long sections show that these splays are achievable without further removal of the bank along Cornells Lane to create them.
- 14.6.3** The access will meet highway requirements with a 5.5m width for the first 10m, radii kerbs and suitable gradient, as designed by highway consultants. It has also been designed to accommodate the manoeuvres

of fire tenders, as well as the large refuse vehicles.

**14.6.4** The Highway Authority has been consulted as part of the planning application process; no objection has been raised subject to conditions. Highway safety was not cited as a ground to refuse the previous application. Considering the comments of the Highway Authority and recommended conditions, it is considered that the proposal would not adversely affect road safety or highway capacity. Accordingly, the proposal would not be in conflict with ULP Policy GEN1 and the Essex Design Guide and the Highway Authority Development Management policies.

**14.6.5** ULP Policy GEN8 requires proposed development to have appropriate parking provision, this also in accordance with the adopted Uttlesford Neighbourhood Parking Standards (2013), and Essex County Council Vehicle Parking Standards (2009).

**14.6.6** Each dwelling will include off street parking that is in accordance with adopted standards. The parking provisions also accord with the recommended parking sizes within the Essex County Council Vehicle Parking Standards (2009) and the Uttlesford Residential Parking Standards (2013). As such it is considered the proposal complies with ULP Policy GEN8 and the Uttlesford Neighbourhood Parking Standards (2013).

## **14.7 E) Light pollution**

**14.7.1** Policy GEN5 of the Local Plan advises development will not be permitted if the scheme results in glare and light spillage from the site. It is not considered the residential development will result in any harmful impact from light pollution subject to conditions. Light pollution was not cited as a reason to refuse the previous application.

## **14.8 F) Nature Conservation**

**14.8.1** Policy GEN7 and paragraph 174 of the NPPF seeks to ensure that development would not have a harmful effect on wildlife and Biodiversity. Appropriate mitigation measures must be implemented to secure the long-term protection of protected species. Policy ENV8 requires the protection of hedgerows, linear tree belts, and semi-natural grasslands.

**14.8.2** A preliminary ecological assessment (PEA) has been carried out and submitted with the planning application. The Council's Ecology Consultant has been consulted and raises no objections to the proposal subject to conditions.

**14.8.3** All significant impacts on biodiversity, including potential adverse impacts upon specific protected species, habitats and designated sites can likely be wholly mitigated, based on the detailed findings of the PEA.



**14.8.4** In terms of biodiversity enhancement, the proposal includes the provision of an ecological area measuring 0.12 ha (0.29 acres) comprising part of the 2 acres of retained paddock land immediately north of the site. As noted above, this is a benefit and is afforded limited weight. The detailing of the ecological area could be subject to a condition had this scheme been recommended for approval.

**14.8.5** Biodiversity was not cited as a reason for refusal in the previous submission. Subject to the imposition of conditions it is considered the proposed development will not have a harmful impact on protected species or biodiversity and is in accordance with Policies GEN7, ENV8 of the Local Plan and the National Planning Policy Framework.

## **14.9 G) Flooding**

**14.9.1** Policy GEN3 contains the Local Plan policy for flooding, although this has effectively been superseded by the more detailed and up to date flood risk policies in the NPPF and the accompanying PPG. The Strategic Flood Risk Assessment confirms that the site is not in an area at risk of flooding and, as the proposed development is for less than 10 dwellings, national policy does not require the use of a sustainable drainage system. The application site is in flood zone 1 and therefore it is concluded that the proposal would not give rise to any significant adverse effects with respect to flood risk. In this regard the proposal would not conflict with Policy GEN3 of the Local Plan, and the NPPF.

## **14.10 H) Climate Change**

**14.10.1** The application includes a Planning Statement and Sustainability Statement which has made due consideration to the adopted Interim Climate Change Policy, which advises the proposed development has been designed to address the Climate and Ecological Emergency declared by UDC in 2019 and more recent Interim Policy regarding Climate Change (February 2021).

**14.10.2** Appropriate climate change interventions are proposed in this scheme including: - fabric efficiency well above standard requirements in order to reduce energy provision of electric vehicle charging, air source heat pumps and photo voltaic panels for each dwelling. These measures are in line with professional recommendations and will mean that the development would save over 5 tonnes per annum of carbon dioxide emissions to the atmosphere, compared to a development built to standard building regulations.

**14.10.3** The sustainable design of the development has considered numerous factors. These include:

- a) Reducing carbon dioxide through renewable energy and reduced energy demand, including fabric improvements, solar panels, and air source heat pumps

- b) Water Conservation Measures
- c) Flood Risk
- d) The use of recycled, responsibly sourced and sustainably manufactured building materials
- e) Waste and Recycling
- f) Landscape Design
- g) Ecological measures, including a substantial off site Ecology Area in addition to onsite ecological measures.
- h) Promoting sustainable travel choices e.g. Electric Vehicle Charging points, Home Working facilities, new footpath linking the site to High Street bus stops and provision of Travel packs with vouchers for use on public transport
- i) Resource and water efficiency have been maximised, whilst the production of waste and pollution is to be kept to a minimum, ensuring the impact of the proposals on its surroundings and the environment is reduced.

## **14.11 I) Planning Balance**

**14.11.1** Paragraph 11(d) of the NPPF states as follows:

11. Plans and decisions should apply a presumption in favour of sustainable development...For decision-taking this means: d) 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 policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed [footnote 7]; or

ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Footnote 7 includes “policies relating to...designated heritage assets”.

**14.11.2** That presumption, however, does not displace the statutory requirement of the Local Planning Authority to determine the planning application in accordance with the Development Plan unless material considerations indicate otherwise.

**14.11.3** The heritage balance undertaken above has identified the heritage harm and considered them against the public benefits of the scheme. For the reasons set out above it is considered that the low level of less than substantial harm is not outweighed by the public benefits of the scheme and accordingly it is considered that on their own, there are heritage reasons to refuse this planning application.

Given the above, there is not considered a need to proceed to the tilted balance.

## **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** A previous determination regarding a similar scheme has concluded that there is conflict with the Development Plan and the NPPF.

**16.2** This application seeks to address the 3 reasons for refusal that are set out in UTT/21/2137/FUL.

**16.3** However, for the reasons as set out above, there are heritage grounds to refuse this application in accordance with the advice given in paragraph 11 (d) (i) of the NPPF.

**16.4** There is no requirement to proceed to the tilted balance in such circumstances. Notwithstanding, it is considered that the application

details have not addressed previous reasons for refusal and as such the application should be refused.

**17. REASONS FOR REFUSAL**

- 17.1** The proposed development will not preserve or enhance the character and appearance of the Conservation Area and will result in harm to the setting of the nearby listed buildings, contrary to the adopted Uttlesford Local Plan Policies ENV1, ENV2 and paragraph 199 of the NPPF. The public benefits of the development do not provide sufficient opportunities to enhance their significance or overall outweigh the harm of the proposal, therefore also in conflict with paragraphs 202 and 206 of the NPPF.
- 17.2** The proposal would represent an inappropriate form of development within the countryside, having an urbanising effect that would be out of context with the existing pattern of development and harmful to the setting and character of the rural location. The proposal is not in accordance with adopted Uttlesford Local Plan Policy S7 and paragraph 174 (b) of the NPPF in terms of recognising the intrinsic character and beauty of the countryside.
- 17.3** The proposed development will result in a significant harmful impact to the character and appearance of the Protected Lane (non-designated heritage asset). The need for the development does not outweigh the harm to the historic significance of the site and the protected lane. As such the development is not in accordance with adopted Uttlesford Local Plan Policy ENV9 and paragraph 203 of the NPPF that considers the balanced judgement required to the scale of any harm or loss of the significance of the heritage asset.