



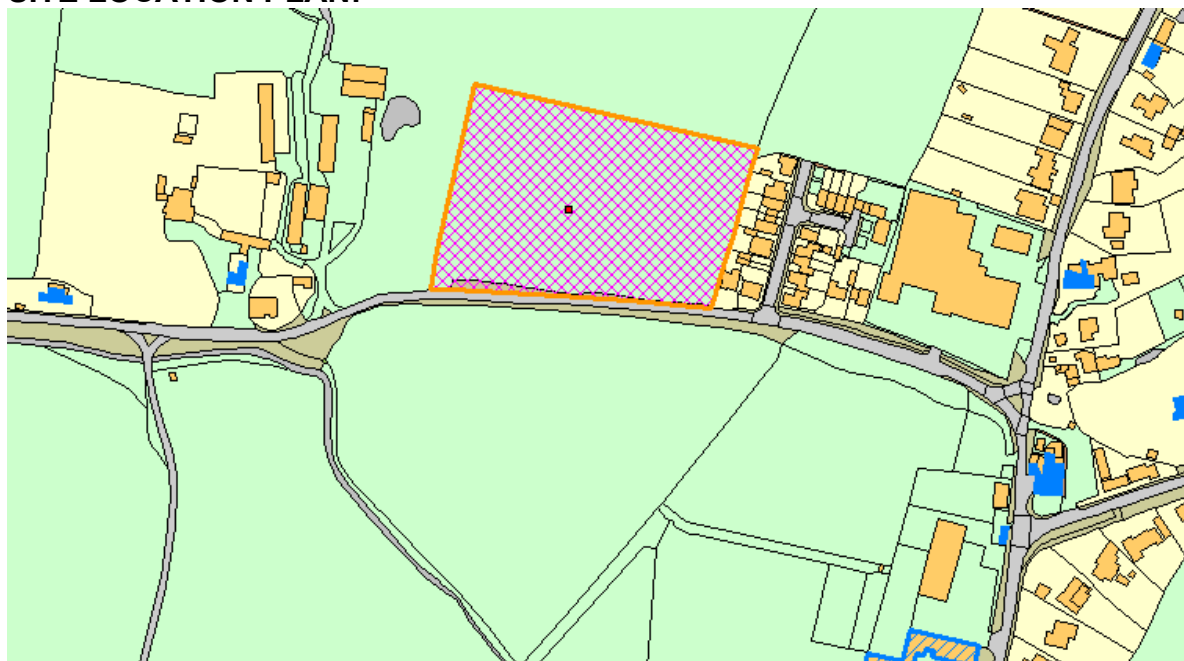
ITEM NUMBER: 9

PLANNING COMMITTEE DATE: 25 October 2023

REFERENCE NUMBER: UTT/23/1731/OP

LOCATION: Land North Of
Stickling Green
Clavering

SITE LOCATION PLAN:



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Organisation: Uttlesford District Council Date: 04 October 2023

PROPOSAL: Outline planning application with all matters reserved except access for the development of 6 no. self-build homes with a new village green, landscaping and associated infrastructure.

APPLICANT: G W Balaam & Sons

AGENT: Mr M Thomas (CODE Development Planners)

EXPIRY DATE: 14 September 2023

EOT EXPIRY DATE: 30 October 2023

CASE OFFICER: Mr Avgerinos Vlachos

NOTATION: Outside Development Limits.
Setting of Listed Building (Clavering Court Lodge).
Curtilage Listed Buildings.
Road Classification (Stickling Green – Class III).
Within 500m of Pollution Control Site.

REASON THIS APPLICATION IS ON THE AGENDA: Major application.

1. EXECUTIVE SUMMARY

- 1.1** This an outline planning application with all matters reserved except access for the development of 6 no. self-build homes with a new village green, landscaping and associated infrastructure. The application does not propose any affordable units but offers a publicly accessible 'village green' to the front of the site and landscape buffer on the eastern boundary.
- 1.2** The development site is located outside development limits. As the proposals cannot be tested against a fully up-to-date Development Plan, paragraph 11(d) of the National Planning Policy Framework (NPPF) is engaged. The heritage balance of the proposed development tilts against the scheme, offering a clear reason for refusing the proposed development under paragraph 11(d)(i) of the Framework.
- 1.3** The planning balance under paragraph 11(d)(ii) of the NPPF is also not in favour of the proposal. The proposed development would lead to heritage harm, harm to the open and rural character and appearance of the area

and inefficient use of the land, as well as provide insufficient information to demonstrate no adverse flooding implications within and/or outside the site, and a lack of an appropriate mechanism to secure the necessary planning obligations.

- 1.4 It has been concluded that the benefits of the development would not significantly and demonstrably outweigh the identified adverse effects, and thereby the application should be refused.

2. **RECOMMENDATION**

REFUSE for the reasons set out in section 17.

3. **SITE LOCATION AND DESCRIPTION:**

- 3.1 The application site comprises open, arable land, located adjacent to the development limits of Clavering between Hill Green and Stickling Green. To the west of the site there are some agricultural buildings, as well as a Grade II listed building (Clavering Court Lodge), curtilage listed buildings and a non-designated heritage asset. There are ditches to the front (south) and eastern boundaries of the site. Public footpaths (nos. 14 and 19) run in proximity of the site with clear views within and through the application site. Ground levels slope down slightly southwards. The overall area contains a distinct rural landscape setting for Clavering with some dwellings and other properties of varying architectural styles, sizes, ages and materials.

4. **PROPOSAL**

- 4.1 This an outline planning application with all matters reserved except access for the development of 6 no. self-build homes with a new village green, landscaping and associated infrastructure. The application does not propose any affordable units but offers a publicly accessible 'village green' to the front of the site and landscape buffer on the eastern boundary.

- 4.2 The application includes the following documents:

- Application form
- Biodiversity checklist
- Biodiversity impact assessment
- Heritage statement
- Land ownership certificate B
- Landscape and visual impact assessment
- Planning statement
- Preliminary ecological appraisal
- Superseded design, access and heritage statement
- Superseded submission schedule
- Transport statement

- Tree survey
- Revised design, access and heritage statement
- Revised submission schedule.

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/22/1652/PA	Outline planning permission for the development of six self-build homes, access, new village green and associated landscaping.	Closed (04.08.2022).
	UTT/0528/76	Outline application for development of seven houses	Refused (20.09.1976).

7. **PRE-APPLICATION ADVICE AND/OR COMMUNITY CONSULTATION**

7.1 The submission of this application follows a pre-application advice meeting on 22 July 2022 when the applicant met with the planning officer on site to discuss a scheme of six self-build plots. During this meeting an illustrative masterplan was discussed that showed 6 no. self-build plots set back from the road with large back gardens and a new village green fronting onto the road. The written advice received following this meeting advised that “*in conclusion, the development cannot be supported in principle*”. Concerns raised by the case officer included:

- Significant countryside harm and harm to the character and appearance of the area.
- Not previously developed land.
- Inappropriate location with heavy reliance on cars, void of services and facilities and infrequent/unreliable bus service.
- Not 'sensitive infilling of a small gap in a small group of houses'.
- Modest loss of best and most versatile (BMV) agricultural land.

7.2 The applicant supports this application represents a revised scheme that has considered and, where possible, seeks to address those issues raised by the case officer.

7.3 The Localism Act 2011 requires pre-application consultation on certain types of planning applications in England. Prior to the current application, community engagement events with some of the relevant stakeholders were held¹:

¹ Full details of the applicant's community engagement and consultation exercises conducted is discussed within the submitted Planning Statement (paragraph 7).

- The above pre-application advice.
- The applicant has carried out local consultation with the proposal site neighbours in Eldridge Close. The applicant wrote to each neighbouring property explaining the proposal and inviting residents to discuss the proposals in more detail. Residents in three of the seven properties written to responded.
- As a consequence of the consultation and particular objections to a proposed footpath running along the site's eastern boundary to the rear of Eldridge Close, we have removed the footpath from the submitted proposal.
- During the consultation one of the neighbours expressed that although the preference would be for the site to remain undeveloped, they were relieved to see a commitment to a smaller number of dwellings and landscaping. This is reflective of the care taken in preparing a scheme that effectively responds to the rural setting of Clavering and proposes suitable mitigation to reduce any impacts of the proposal and the character and setting of the site.

8. SUMMARY OF STATUTORY CONSULTEE RESPONSES

8.1 Highway Authority

8.1.1 No objections subject to conditions (see full response in Appendix 1).

8.2 Local Flood Authority

8.2.1 Holding objection as no drainage strategy or Flood Risk Assessment was submitted with the application (see full response in Appendix 2).

8.3 Environment Agency

8.3.1 No comments (see full response in Appendix 3).

9. PARISH COUNCIL COMMENTS

9.1 The Parish Council commented as follows:

Object:

- Fails policies S7, GEN1, GEN7 of the Local Plan, and the NPPF.
- Outside development limits.
- Loss of prime arable land.
- Eldridge Close was brownfield.
- Limited services and facilities.
- Lack of appropriate walking/cycling connections and public transport.
- Traffic increase.
- Full reliance on private cars.
- No bus service – only school bus service.
- Eastern hedge removed in Eldridge Close development.
- Ecological concerns.
- Highway safety concerns.

- No effective community engagement.
- 'Village green' – no responsible body identified.
- No indication of the size of the plots and streetscene.
- No demand for self-build plots or affordable houses in the village.
- Concerns over the farm access track.
- Land to the north owned by the applicant.
- Coalescence between Stickling Green and Hill Green (both parts of Clavering).
- Development sprawl.
- Loss of established hedgerow.
- Countryside harm.
- Surrounding footpaths.
- No long-term economic benefits.
- No need to introduce housing to revitalise the village.
- Unsustainable development.
- Planning balance against the scheme.
- Inspector in UTT/18/1256/OP (APP/C1570/W/19/3233882) said this part of Clavering is not sustainable.

10. CONSULTEE RESPONSES

10.1 UDC Environmental Health

10.1.1 No objections subject to conditions.

10.2 UDC Landscape Officer/Arborist

10.2.1 Objections as the location of the proposed development and the coalescence between Hill Green and Stickling Green would have detrimental impact on the openness of the countryside. The proposed 'village green' and landscape buffer to the east would not be adequate mitigation for the above harm.

10.3 Place Services (Conservation and Heritage)

10.3.1 Objections due to heritage harm to the setting and significance of one listed and two curtilage listed buildings in the vicinity of the application site.

10.4 Place Services (Ecology)

10.4.1 No objections subject to conditions.

10.5 Place Services (Archaeology)

10.5.1 No objections subject to conditions.

11. REPRESENTATIONS

11.1 A site notice was displayed on site and notification letters were sent to nearby properties. Representations have been received.

11.2 Support

- 11.2.1**
- Low density, high quality homes.
 - Self-build properties.
 - New green is a benefit.
 - Simple water attenuation water management system.
 - Demand for additional housing.

11.3 Object

- 11.3.1**
- Active agricultural land.
 - Playing field and village greens in the village.
 - Coalescence between Stickling Green and Hill Green.
 - Outside development limits.
 - Limited services and facilities.
 - Lack of appropriate walking/cycling connections and public transport.
 - Urbanisation effects.
 - Countryside harm.
 - No need for additional housing.
 - Loss of local identity.
 - Potential redevelopment of the Court Farm barns.
 - Potential further development on land owned by the applicant.
 - Greenfield land.
 - Concerns over capacity of local infrastructure.
 - Harm to the open, rural character of the area.
 - Unsustainable site, location and development.
 - Traffic increase.
 - School bus service only.
 - Already refused in Call for Sites in 2015 and 2021.
 - Eldridge Close was brownfield.
 - Fails to comply with local and national policies.
 - Public footpaths in the vicinity.
 - Landscape measure inadequate to mitigate harm.
 - No indication of the size of the plots and streetscene.
 - Full reliance on private cars.
 - Harm to designated and non-designated heritage assets.
 - Limited benefits.
 - Noise, air pollution and other disturbances.
 - It will not enhance the vitality of the local community.
 - Highway safety concerns.
 - Ecological concerns.
 - Out of character.
 - No 'squaring off' effect.
 - Public access to biodiversity enhancements reduces their value.

- Urban sprawl.
- UDC close to achieving a 5YHLS.
- Refused scheme for 32 houses to the rear of Eldridge Close.
- Pre-app advice not followed.
- Unnecessary farm access – potential for further development.
- Flood risk and drainage concerns.
- Greenfield land.
- Loss of rural views.
- Suburban estate.
- Eldridge Close has a private road.
- Loss of privacy and overlooking.
- Overbearing effects.
- Self-built houses mean construction delays and uncertainty.
- Inappropriate scale and design.
- UTT/20/1628/OP refused and appeal dismissed.
- Inefficient use of the land.
- UTT/22/1578/OP refused.
- Planning balance against the scheme.
- No pavements on Stickling Green Road.
- Visual harm from Eldridge Close does not justify further harm.
- No SUDS report submitted.
- Attenuation basin better located to the rear for the allotments.
- Loss of trees.
- Feeling of separate due to the layout (village green).
- Rising levels of the site.

11.4 Neutral

- 11.4.1**
- Greenfield land.
 - Loss of arable land.
 - Brownfield land and conversions should be prioritised.
 - Highway safety concerns.
 - Open to further development.

11.5 Comment

11.5.1 All material planning considerations raised by third parties 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, but civil 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 Section 66(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.

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, 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)

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
ENV2	Development affecting Listed Building
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

13.3 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 Planning Policy (2021)

14. CONSIDERATIONS AND ASSESSMENT

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

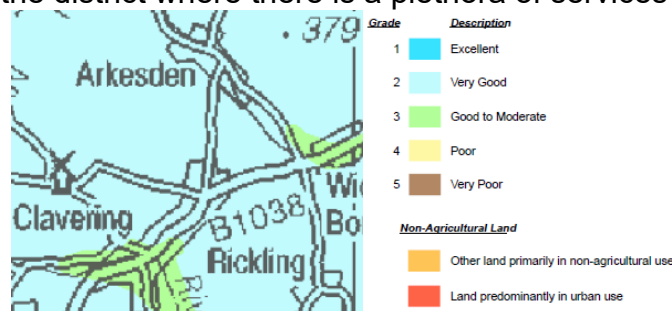
- 14.2**
- A) Principle of development**
 - B) Heritage impacts and balance / Self-build plots / Appearance, scale, layout, landscaping / Climate change**
 - C) Residential amenity**
 - D) Access and parking**
 - E) Ecology**
 - F) Contamination**
 - G) Archaeology**
 - H) Flood risk and drainage**
 - I) Housing mix and affordable housing**
 - J) Planning obligations**
 - K) Other matters**
 - L) Planning balance**

14.3 A) Principle of development

14.3.1 The development site is located outside development limits. The Council's October 2023 published land supply figure is **5.14 years**², this figure does include the necessary 5% buffer. That said the Council's (local planning authority, LPA) Development Plan cannot be viewed as being fully up to date, as such paragraph 11(d) of the National Planning Policy Framework (NPPF) is still engaged, 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 2 ('Very Good' quality) agricultural land, being part of the district's best and most versatile agricultural land (BMV). The loss of BMV land conflicts with policy ENV5 of the Local Plan. Notwithstanding that policy ENV5 is consistent with paragraph 174(b) of the NPPF, this conflict is afforded limited weight as there is plenty of BMV land in the locality. However, policy ENV5 is indicative of the Local Plan's spatial strategy that seeks to direct development to more sustainable locations in the district where there is a plethora of services and facilities.



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

In **economic** terms, the proposal would provide a modest contribution towards the wider local economy during construction, via potential 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:

14.3.5 Location – Isolation, Infill:

Recent case law³ 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 development limits of Clavering. Paragraph 80 of the NPPF is not

² Previously 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).

³ Braintree DC v SSCLG [2018] EWCA Civ. 610.

applicable. In addition, paragraph 6.14 of the Local Plan allows “*sensitive infilling of small gaps in small groups of houses outside development limits but close to settlements*” if the development is in character with the surroundings and have limited impacts on the countryside. By reason of the site’s size and position in relation to the neighbouring dwellings, the site is not an infill opportunity, as it is not a small gap but rather a defining open space that visually distinguish Hill Green to the east from Stickling Green to the west.

14.3.6 Location – Services and facilities:

Clavering offers a range of services and facilities, including, but not limited to, a supermarket. The nearest serviced bus stop⁴ (Stickling Green Road stop – 3’ walk) is 240m from the site. The nearest school (Clavering Primary School – 25’ walk) is 1.8km away from the site and the nearest supermarket (Nisa Local – 27’ walk) is 2km from the site. Notwithstanding the proposed connection to the existing footway network, there are no pedestrian footpaths, lit, continuous and maintained, that link the application site to the bus stop and the above services and facilities.

14.3.7 The occupants of the proposed dwellings would not be able to safely access sustainable public transport of a satisfactory frequency, as well as services and facilities within walking distances. It would be unreasonable to expect that the future occupants will be walking back with their groceries from the supermarket for 27’ through the existing footways that are in poor condition. Movements to and from the site would not be undertaken by means other than the private car. Opportunities to promote sustainable transport modes have not been taken up and alternative transport options are not promoted by the development. Therefore, the sustainability credentials of the location are not satisfactory in NPPF terms, and the development fails to comply with paragraphs 104(c), 110(a) of the NPPF, and policy GEN1(e) of the Local Plan.

14.3.8 Character and appearance (countryside, landscape, pattern):

The local character contains a distinct rural feel and countryside setting with views to the wider landscape and an intrinsic sense of openness (see photographs). The proposal introduces built form in the countryside with urbanising effects⁵. Therefore, the development is contrary to policy S7 of the Local Plan and paragraph 174(b) 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 of the NPPF which states that planning decisions should contribute to and enhance the natural and local environment by (b) recognising the intrinsic

⁴ Bus services include only a school bus twice a day on school days only (routes 446 and 306). The applicant concurs that “*there is a limit to the availability offered by these services*” (Planning Statement, paragraph 5.6) and accepts that these services are only operating twice daily (Transport Statement, paragraphs 2.3.4 – 2.3.5).

⁵ Domestic appearance of built form and domestic paraphernalia with which housing is associated, such as household equipment, vehicles, parking spaces and hardstandings, patios, fences, garden equipment, etc..

character and beauty of the countryside. Applying paragraph 219 of the NPPF to the above, policy S7 should be afforded significant weight.



14.3.9 The Landscape and Visual Impact Assessment submitted with the application concluded that the proposal “*will lead to a minor adverse landscape effect for the site itself and the immediate surroundings and Clavering settlement edge*”⁶ and “*presents an opportunity to reduce the harsh contrast between housing along Eldridge Close and the sensitive rural setting to Clavering by introducing a considerable landscape buffer, and providing new housing more in keeping with local settlement pattern*”⁷. On the other hand, third parties (including the community group ‘Keep Clavering Rural’) have expressed concerns over the landscape and visual effects of the proposed development and concluded that “*the level of effects should be moderate or moderate substantial at the study site and at least moderate in the local setting*”⁸.

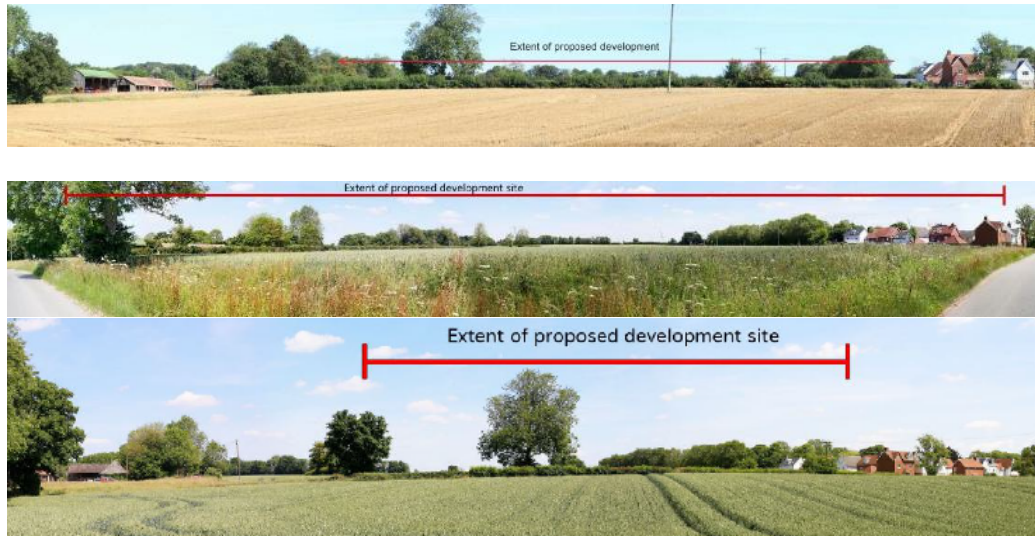
14.3.10 The visually abrupt edge in Eldridge Close would not appropriately justify further harm from the extension of urban qualities into a rural landscape that defines the edges of Hill Green and Stickling Green. It would be impossible to perceive a 1.4-hectare development with a 145m frontage as sensitive or proportionate mitigation to the adverse landscape effects of the existing housing next door. The landscape and visual effects perceived by sensitive receptors (residents in Eldridge Close, road and footpath users) would be severe due to their proximity to the site that changes fundamentally from a rural into an urbanised environment and from the lost sense of openness that is key in the landscape setting on both sides of the highway (see photographs). In addition, the proposed landscape buffer to the east of the site consists of green screening that can vary due to health, season and topography (i.e. ditch), and as such, it cannot be relied upon continuously.



⁶ Landscape and Visual Impact Assessment, pp.12-13.

⁷ Landscape and Visual Impact Assessment, p.12; see also Planning Statement, paragraphs 2.1 – 2.2; Design and Access Statement, paragraph 2.6.

⁸ Keep Clavering Rural – Application Review, paragraph 7.6.



- 14.3.11** Also, although other parts of Clavering have a more linear arrangement, the proposed linear pattern (shown in the indicative drawings) would not be spatially or visually compatible with the existing development patterns on this part of the village (east and west of the site) that have several layers of built form behind the road frontage. This is further evidence of how the proposal would fail to preserve the character and appearance of the area.
- 14.3.12** When quantified, **countryside harm** is significant. The site, by reason of its open nature and position as a gap between Hill Green and Stickling Green, positively contributes to the rural character and appearance of the area. The indicative drawings show that the proposed dwellings would extend the built form of the village to the west, as there are no other properties across the road that would justify ‘squaring off’ the local development pattern. Most importantly, the proposed development would visually and spatially merge the denser part of Clavering (Hill Green) with its looser periphery (Stickling Green). This coalescence would harm the visual amenity of the area due to the loss of the rural landscape that is distinctive in Stickling Green’s entrance and contributes to its sense of remoteness, as well as due to the extension of urban qualities within this rural landscape⁹. It would also detract from the currently open experience of the public footpaths to the north and south of the highway. The Landscape officer also raised **objections** as the location of the proposed development and the coalescence between Hill Green and Stickling Green would have detrimental impact on the openness of the countryside
- 14.3.13** Paragraph 130 of the NPPF states that planning decisions should ensure developments (c) are sympathetic to local character and history, including

⁹ The latter point is emphasised by the existing Public Right of Way network to the north and south of the road that currently allows uninterrupted views from the edge of the woodlands to the north-west of Hill Green (footpath no. 19) towards the edge of the Clavering Church Conservation Area (in winter months), as well as the agrarian setting on both sides of the road. Clear views through the site are also offered by the public footpath no. 14 to the south of the road (along the river).

the surrounding built environment and landscape setting and (d) establish or maintain a strong sense of place. The coalescence between Hill Green and Stickling Green that will result from the proposal would fail to maintain the defining characteristics of those places and/or be sympathetic to their landscape setting, and as such, the development would be contrary to paragraphs 130(c)-(d) of the NPPF.

14.3.14 The low density of the proposed development (see below) would not however reduce its significant harm to the countryside character and appearance of the site and area, as this is attributed primarily to the residential use of the site, plus the indicative drawings show significant built form (including outbuildings and 2-storey dwellings) that would cover the application site across its width, highlighting this new residential use and the inescapable domesticated appearance of the site.

14.3.15 Effective/efficient use of land:
Paragraph 119 of the NPPF states that planning decisions should promote an effective use of land in meeting the need for homes, while safeguarding and improving the environment. Paragraph 125 of the NPPF states that where there is an existing shortage of land for meeting identified housing needs, it is especially important that planning decisions avoid homes being built at low densities and ensure that developments make optimal use of the potential of each site. In these circumstances: (c) LPAs should refuse applications which they consider fail to make efficient use of land, taking into account the policies in the NPPF.

14.3.16 The application site covers an area of 14.5 hectares, and as such, the development of 6 no. units would result in a proposed density of 0.4 units per hectare for the site, which is well below the average densities in the area¹⁰. This housing density represents an entirely **inefficient use of the land** as a resource. The inefficient use of land would obstruct the continuous achievement of an appropriate supply of housing in the district and it would compromise the ability of future generations to meet their housing needs. This matter on its own is sufficient to outweigh the benefits that would result from the provision of just 6 no. self-build units. The proposal would conflict with paragraphs 119 and 125(c) of the NPPF. As there is a lack of identified land suitable for housing in the district, the proposal would also conflict with paragraph 124(a) of the NPPF. Accepting this density of housing would result in demonstrably greater demand for land, which would be likely to increase harm to the countryside.

¹⁰ For example, the density in Eldridge Close to the east is 35 units per hectare and the proposed density in the land to the rear of Eldridge Close (UTT/22/1578/OP – 32 no. dwellings) was 23 units per hectare. The Inspector in the dismissed appeal (APP/C1570/W/21/3267624 – UTT/20/1628/OP) for 9 no. units on that neighbouring site to the rear of Eldridge Close considered the density of 7 no. units per hectare to be unacceptable. The applicant concurs the proposal is a ‘low density development’ (Design and Access Statement, paragraph 4.2).

14.3.17 Notwithstanding the above, the application supports that paragraph 124(d) of the NPPF can justify a lower-density development, as it states that planning decisions should support development that makes efficient use of the land, taking into account (d) the desirability of maintaining an area's prevailing character and setting, or of promoting regeneration and change. However, as explained above, the proposed development would be harmful to the local character, and it would be unreasonable to consider that the 'village green' and the inspiration from an interwar development trend¹¹ would properly justify such a low-density development.

14.3.18 Previously developed land:

The site is not previously developed land¹² as it is actively used for agriculture¹³, and as such it is greenfield land.

14.3.19 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, notwithstanding the comments from third parties, 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 following decisions are noted:

- **UTT/22/2917/OP** (Land West of Clatterbury Lane, Clavering):
Countryside harm was found to be limited as the development was 'squaring off' the existing built form at northern edge of Hill Green.
- **UTT/22/1578/OP** (Land North of Eldridge Close, Clavering):
The application was refused by the planning committee against the officer's advice on the grounds of countryside harm, loss of BMV land and the lack of a s106 agreement to deliver the relevant contributions.
- **UTT/20/1628/OP** (Land North of Eldridge Close, Clavering):
The appeal (APP/C1570/W/21/3267624) was dismissed on harm to the countryside character and appearance of the area and because of its failure to represent sustainable development. The Inspector emphasized the inefficient use of land and the loss of open countryside, leading to harm to the character and appearance of the area.
- **UTT/22/1151/FUL** (Hedgerows, Clatterbury Lane, Clavering):
This development did not intrude onto the countryside, being an existing domestic curtilage and did not significantly harm the wider landscape character of the area.

¹¹ Planning Statement, paragraphs 6.48 – 6.50.

¹² In the context of the NPPF glossary and a Court of Appeal decision: Dartford Borough Council v Secretary of State for Communities and Local Government & Anor [2017] EWCA Civ 141.

¹³ The applicant confirms this (see Design and Access Statement, paragraphs 2.3, 6.4).

- **UTT/22/0355/FUL** (Land South of Wicken Road, Clavering):
This development was considered ‘infilling’ and the officer wrote “*although the development is outside development limits, the site’s location is tacked on to the settlement of Clavering*”.
- **UTT/21/3648/OP** (Hill House, Wicken Road, Clavering):
This site was self-contained and previously developed land that would continue the linear built form in the area within the village.
- **UTT/21/2720/FUL** (Land West of Larkrise, Clavering):
This development was considered ‘infilling’ and the officer wrote “*although the development is outside development limits, the site’s location is tacked on to the settlement of Clavering*”.
- **UTT/21/2016/FUL** (Land Adj. Spinney Cottage, Clavering):
The proposal continued the existing pattern of development in the area within the village.

14.3.20 Conclusion:

The principle of the development is subject to additional material planning considerations, such as the impact of the proposal on heritage assets (see Section B), flood risk (see Section H) and the overall planning balance (see Section L).

14.4 **B) Heritage impacts and balance / Self-build plots / Appearance, scale, layout, landscaping / Climate change**

14.4.1 Heritage impacts:

Conservation reported in the vicinity of the site there is the Grade II listed Clavering Court Lodge, as well as potentially curtilage listed buildings (such as the historic barn north of Clavering Court Lodge and The Maltings to the south) and a non-designated heritage asset (Clavering Court). The application site shares a historic and functional relationship to the listed farmhouse and the curtilage listed buildings, as its open and rural nature contributes to our experience of the heritage assets and understanding of their significance and historic context¹⁴. Conservation also reported that local topography allows for some intervisibility between the site and the heritage assets, however, setting is defined in the NPPF Glossary as the surroundings in which a heritage asset is experienced, and as such, it is not limited to direct visual connections.

14.4.2 The proposed development, by reason of its residential use/urbanising effects and (illustrative) prominent built form, would in principle harm the significance of the above heritage assets, resulting in irreversible and permanent change to their setting, which contributes positively to that significance and our ability to appreciate it.

¹⁴ The application confirms this where it states that “*The undeveloped nature of the site and its agrarian use, are both factors in the contribution that the landscape setting makes to the significance of the heritage assets at Clavering Court Farm*” (Design and Access Statement, paragraph 6.1) and adds that the heritage assets “*are connected to the farmland by the use (farmland being the reason for the location of a farmstead) and by the grouping of the buildings*” (Design and Access Statement, paragraph 6.2). See also Heritage Statement, paragraphs 3.1, 3.4.

14.4.3 Therefore, the Conservation officer raised **objections**, as the proposed development would fail to preserve the setting, special interest and significance of the above listed building and curtilage listed buildings. The level of harm would be ‘less than substantial’ and likely towards the low end of the spectrum based on the indicative drawings. The proposal would be contrary to paragraph 202 of the NPPF, and section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

14.4.4 Heritage balance:

The application concurs with the LPA that the proposed development would result in ‘less than substantial harm’ to the significance of the heritage assets¹⁵ because it would adversely affect the isolation (remoteness) of the heritage assets and intrude on the visual appreciation of the connection between the assets and the site (such as the approach from Hill Green or the public footpath to the south of the road) through the change in character of the rural landscape¹⁶. Despite this, the application maintains that such harm is on a low–medium level¹⁷ and can be minimised or mitigated through¹⁸:

- a) The set back position of the proposed dwellings.
- b) Existing and proposed landscaping (including a landscape buffer to the east, ‘village green’ to the front).
- c) The limited number of units and scale restricted to two storeys.

14.4.5 However, it has been elaborated in Section A how the indicative position of the proposed dwellings across the full width of the site, as well as the proposed residential use and subsequent urbanising effects would be harmful to the rural character and appearance of the area. In addition, despite the limited intervisibility between the heritage assets and the application site, “*the landscape setting still contributes to the perception of this being a discrete farmstead and therefore contributes to its significance*”¹⁹.

14.4.6 Paragraph 202 of the NPPF states 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

¹⁵ See Planning Statement, paragraph 6.43; Design and Access Statement, paragraphs 6.6, 6.11.

¹⁶ Design and Access Statement, paragraphs 6.3 – 6.4; Landscape and Visual Impact Assessment, paragraph 6.2.1.

¹⁷ Design and Access Statement, paragraph 6.6. In addition, the Heritage Assessment submitted by a local community group (‘Keep Clavering Rural’) concurs that the proposal will lead to ‘less than substantial harm’ to the setting and significance of the same heritage assets, however, it places that harm at the middle end of the spectrum. In short, both parties and third parties agree that the proposal will lead to ‘less than substantial harm’ but disagree on the levels of this harm, with the LPA considering it to likely be at the low end, the applicant at the low-middle end, and third parties at the middle end of the spectrum.

¹⁸ Design and Access Statement, paragraphs 6.9 – 6.10.

¹⁹ Heritage Statement, paragraph 3.4.

use. The Conservation officer did **not** identify any heritage benefits from the proposed scheme. However, the heritage balancing exercise would require the above 'less than substantial harm' to be weighed against the public benefits of the scheme, which include:

- Provision of 6 no. self-build dwellings.
- Provision of 6 no. units to the 5YHLS.
- Landscape proposals ('village green' with public access to the south and landscape buffer to the eastern boundaries).
- Sustainable location.
- Ecological and biodiversity enhancements and net gains.
- Economic benefits.

14.4.7 By reason of the limited number of units proposed and the small overall contribution to the 5YHLS of the scheme, the above public benefits would be of limited weight (see Section L). In comparison, paragraph 199 of the NPPF states 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. As such, the 'less than substantial harm' identified earlier to the listed and curtilage listed buildings would be afforded great weight. Therefore, the above public benefits would not outweigh the heritage harm of this scheme.

14.4.8 Paragraph 11(d) of the NPPF 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.

Footnote 7 of the NPPF includes policies relating to designated heritage assets. Therefore, considering the above analysis and heritage balancing exercise, the application of paragraph 202 of the NPPF that protect designated heritage assets provide a **clear reason for refusing** the development, as the scheme fails to comply with paragraph 11(d)(i) of the NPPF.

14.4.9 Self-build plots:

The proposed development seeks the erection of 6 no. self-build dwellings. Self-build or custom build helps to diversify the housing market and increase consumer choice. Self-build and custom housebuilders choose the design and layout of their home, and can be innovative in both its design and construction.

The Self-Build and Custom Housebuilding Act 2015 (as amended) has placed a statutory 'duty to grant planning permission etc' on LPAs to give suitable development permission to enough suitable serviced plots of land to meet the demand for self-build and custom housebuilding in their area. The same Act has also placed 'a duty as regards registers' on LPAs to have regard to each self-build and custom housebuilding register,

including Part 2 of the register, that relates to their area when carrying out their planning function.

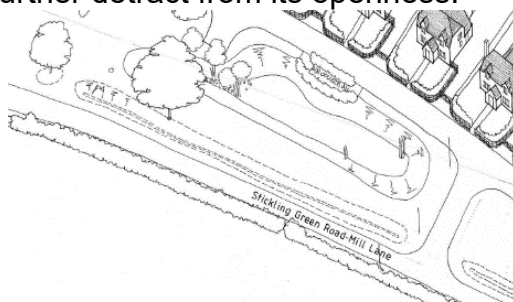
The LPA does not have a Local Plan policy on self-build and custom housebuilding; however, paragraph 62 of the NPPF states that the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including people wishing to commission or build their own homes).

Notwithstanding the applicant's comments²⁰, the LPA has a surplus of planning permissions granted for serviced plots, as shown in the most recent progress report on self-build and custom housebuilding. Section 1(3) of the Self-Build and Custom Housebuilding Act 2015 considers as relevant authorities that must keep such registers the district councils (instead of the government), and as such, the evidence in the LPA's progress report hold greater weight than the ones submitted by the applicant. Following the Inspector's thought process in the appeal²¹ provided by the applicant, the surplus of planning permissions granted for serviced plots in Uttlesford means that the proposed 6 no. self-build units would only have limited weight in favour of the proposal. However, given the adverse impacts of the scheme (see Sections A, B and L), the proposal of these self-build units would not be tilting the planning balance in favour of the development even if it would be attributed significant weight.

14.4.10 Appearance, scale, layout, landscaping:

Appearance, scale and layout are **reserved matters**. However, some preliminary comments can be made using the indicative details submitted with the outline application.

14.4.11 The indicative layout (see image) includes an attenuation basin within the publicly accessible 'village green' to the front of the site. This feature would accommodate surface water runoff from the proposed development²² and it would be located next to the vehicular access; for these reasons, the indicative layout would raise safety concerns, especially for children. Potential fencing around the attenuation basin would lead to further harm to the rural character and appearance of the area, as it would further detract from its openness.



²⁰ Planning Statement, paragraphs 6.27-6.28.

²¹ APP/W3520/W/23/3316136 (9 no. self-build/custom build dwellings, Suffolk) – appeal allowed on 27 June 2023.

²² Planning Statement, paragraph 6.40.

- 14.4.12** Notwithstanding the comments from nearby residents that the self-build nature of the project runs the risk of a mismatch of inappropriate appearance and design types for the proposed dwellings, there is no harm resulting at the current, outline stage, as the details of appearance would have to be reviewed by the LPA in reserved matters applications (if the scheme were acceptable).
- 14.4.13** Landscaping is **not** a reserved matter. The application proposes “*the retention and enhancements of large parts of the existing roadside hedge. The removal of a section of this hedge is required to provide the new access [...] A new hedgerow will be planted along the site’s northern boundary along with vegetation planting and landscaping along the site’s eastern boundary*”²³. The proposal does not include the loss of any trees or landscape features²⁴. Notwithstanding these, additional landscaping would not be appropriate mitigation for the countryside harm or the heritage harm identified above. If the scheme were acceptable, a landscaping conditions would be necessary to secure details of the proposed plantings.
- 14.4.14** Climate change:
The LPA adopted a Climate Crisis Strategy 2021-30 and an Interim Climate Change Planning Policy, which prioritises energy performance. If the scheme were acceptable, the development would need to bring forward water and energy efficiency measures and construction techniques to ensure compliance with the above policies, as well as section 14 of the NPPF, including for example solar panels and air source heat pumps. Water efficiency would need to comply with the 110 litres per person per day set out in policy 3 of the Interim Climate Change Planning Policy, and policy GEN2(e) of the Local Plan. Although these green technologies may be benefits for the scheme, they would not be considered at this stage given the self-build nature of the proposals, plus they would not be adequate to eliminate or mitigate the heritage or countryside harm identified above.
- 14.4.15** Conclusion:
Considering the above, the heritage balance of the proposed development tilts against the scheme. The proposals would be contrary to paragraph 202 of the NPPF, policy ENV2 of the adopted Uttlesford Local Plan (2005), and section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- 14.5** **C) Residential amenity**
- 14.5.1** Appearance, scale and layout are **reserved matters**, and as such, the following comments are only preliminary at this stage.

²³ Planning Statement, paragraph 4.3.

²⁴ Tree Survey, p.2.

- 14.5.2** In terms of the residential amenity of the occupants, the proposed dwellings would indicatively have 2-storeys²⁵ with unknown bedroom/persons occupancies (no internal layouts have been submitted and bedroom numbers are unknown at this stage). If the scheme were acceptable, the gross internal areas of the plots should exceed minimum thresholds set out in the Technical Housing Standards – Nationally Described Space Standard (NDSS).
- 14.5.3** The self-build dwellings must have private amenity spaces (gardens) above the 50sqm threshold for 1–2-bedroom properties and above the 100sqm threshold for any 3+ bedroom properties to comply with the Essex Design Guide.
- 14.5.4** In terms of noise, odours, vibrations, light pollution, dust and other disturbances, the Environmental Health officer raised **no objections** unconditionally to safeguard residential amenities (see Section F).
- 14.5.5** In terms of the amenity of neighbouring occupiers, the scale, design and position of the dwellings in relation to the neighbouring dwellings and amongst themselves would be tested in the reserved matters stage when more details would be available (if the scheme were acceptable) to ensure compliance with policy GEN2 of the Local Plan and paragraph 130(f) of the NPPF. This would include the application of the design and remoteness tests (see Essex Design Guide) and the 45-degree tests, to assess whether any material overshadowing, overlooking (actual or perceived) and overbearing effects are considered. Based on the indicative drawings submitted with the current application, no such assessment can be performed beyond noting that some of the indicative drawings show upper floor and side windows (east).

14.6 D) Access and parking

- 14.6.1** Access is **not** a reserved matter. From a highway and transportation perspective and notwithstanding the concerns of third parties, the Highway Authority raised **no objections** subject to conditions in the interests of highway safety, as the development would accord with the adopted Essex County Council 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** The parking layout is indicative at this stage. Parking standards require 3 no. parking spaces for dwellings of 4+ bedrooms and 2 no. parking spaces for dwellings of 2-3 bedrooms. If the scheme were acceptable, the development would need to demonstrate in the reserved matters application that it would meet the Uttlesford Residential Parking Standards (2013) and the Essex County Council Parking Standards (2009), including appropriately sized parking spaces and carports or garages.

²⁵ Design and Access Statement, paragraph 6.9 and p.14.

14.7 E) Ecology

14.7.1 The Ecology officer raised **no objections** subject to conditions to secure biodiversity mitigation and enhancement measures, as well as to avoid any harm to protected and priority species and habitats. The development would accord with paragraphs 43, 174(d) and 180 of the NPPF, and policies GEN7 and ENV8 of the Local Plan.

14.8 F) Contamination

14.8.1 In terms of contamination, the Environmental Health officer raised **no objections** subject to conditions to protect human health and the environment. The development would accord with policies ENV14, ENV12, ENV13 of the Local Plan, and the NPPF.

14.9 G) Archaeology

14.9.1 Archaeology reported that *“a lies immediately to the west of the historic linear settlement along Clatterbury Lane and east of the historic settlement of Stickling Green with listed buildings dating to the sixteenth and seventeenth centuries. [...] There is therefore the potential for surviving medieval and post medieval archaeological deposits within the proposed development area”*. The Archaeology officer raised **no objections** subject to conditions. The development would comply with paragraph 192(b) of the NPPF, and policy ENV4 of the Local Plan.

14.10 H) Flood risk and drainage

14.10.1 The NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary in such areas, making it safe for its lifetime without increasing flood risk elsewhere (see paragraphs 159-169 of the NPPF).

14.10.2 Although the site falls within Flood Zone 1, footnote 55 in paragraph 167 of the NPPF states that a site-specific Flood Risk Assessment (FRA) should accompany all proposals in Flood Zone 1 involving sites of 1 hectare or more; or land that may be subject to other sources of flooding, where its development would introduce a more vulnerable use. Both these criteria apply on this occasion; however, an FRA has not been submitted with the application. The following images show the extent of flooding from rivers and from surface water.



14.10.3 Paragraph 167 of the NPPF states, amongst other things, that development should only be allowed in areas at risk of flooding where, in the light of the site-specific flood-risk assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:

- a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;
- b) the development is appropriately flood resistant and resilient such that, in the event of a flood, it could be quickly brought back into use without significant refurbishment;
- c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;
- d) any residual risk can be safely managed; and
- e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.

14.10.4 Essex County Council (as the Lead Local Flood Authority, LLFA) raised **objections** as no FRA or drainage strategy has been submitted. The LLFA considers flood risk and drainage in relation to surface water (pluvial flooding), whereas the Environment Agency assesses fluvial flooding. The LLFA objection means that it has not been demonstrated that the proposed development would not increase flood risk on the site or elsewhere nor that the operation of the proposed SUDS would be effective, contrary to paragraph 167 of the NPPF and policy GEN3 of the Local Plan. This could place an unacceptable risk to human lives and lead to property damages, and as such, the technical objection from this statutory consultee attracts significant weight.

14.10.5 The Environment Agency **refrained** from commenting.

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; being relevant on this occasion. The self-build nature of the proposals and the indicative drawings submitted with the application would not allow for the housing mix to be assessed at the outline stage.

14.11.2 The 40% affordable housing contribution required by policy H9 of the Local Plan would not be triggered on this occasion. Despite the scheme

comprising 'major development' for the purposes of the NPPF²⁶ and Article 2(e) of the Town and Country Planning (Development Management Procedure) (England) Order 2015, exemption (c) of paragraph 65 of the NPPF is triggered as the proposal involves self-build units only. Paragraph 65 states that where major development involving the provision of housing is proposed, planning decisions should expect at least 10% of the total number of homes to be available for affordable home ownership; exemptions to this 10% requirement should be made where the site (c) is proposed to be developed by people who wish to build or commission their own homes. Therefore, affordable housing or a commensurate contribution cannot be required by this development.

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 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 LPA would seek to secure through a planning obligation in accordance with the Supplementary Planning Document – Developer's Contributions (March 2023) and the Essex County Council's Developers' Guide to Infrastructure Contributions.

14.12.2 The development fails to provide the necessary mechanism to secure the following planning obligations that comply with CIL regulations and paragraph 57 of the NPPF:

- Provision of publicly accessible 'village green' to the south and landscape buffer to the east.
- Provision of wheelchair accessible and adaptable dwellings.
- Provision of self-build plots (restrictions on occupancy and re-sale).
- Payment of the Council's reasonable legal costs.
- Payment of monitoring fee.

14.12.3 If the scheme were acceptable, a legal agreement to secure the above Heads of Terms would be expected to be signed, 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.

14.13 K) Other matters

²⁶ 'Major development' is defined in the NPPF Glossary (p.69): For housing, development where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more. For non-residential development it means additional floorspace of 1,000sqm or more, or a site of 1 hectare or more, or as otherwise provided in the Town and Country Planning (Development Management Procedure) (England) Order 2015.

14.13.1 Article 5(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015 states:

Where the authority who are to determine an application for outline planning permission are of the opinion that, in the circumstances of the case, the application ought not to be considered separately from all or any of the reserved matters, the authority must within the period of 1 month beginning with the date of receipt of the application notify the applicant that they are unable to determine it unless further details are submitted, specifying the further details they require.

14.13.2 Additional details to formally consider the matters of scale and layout were required by the LPA on 21 July 2023 (the application was validated on 20 July 2023). The applicant has repeatedly refused to provide the additional information required, contrary to the provisions of the above Order 2015. The LPA have asked for the additional information as they expressed concerns at pre-application stage, including potential impacts to the countryside character and appearance of the area, as well as potential heritage impacts due to the site's proximity to listed and curtilage listed buildings. The analysis in this report and comments from Conservation have indeed shown how the assessment would benefit from the above information.

14.14 L) Planning balance

14.14.1 The following public benefits²⁷ of the scheme are discussed in the next paragraphs:

- Provision of 6 no. self-build dwellings – limited weight.
- Provision of 6 no. units to the 5YHLS – limited weight.
- Landscape proposals ('village green' with public access to the south and landscape buffer to the eastern boundaries) – limited weight.
- Ecological and biodiversity enhancements and net gains – limited weight.
- Economic benefits – limited weight.

14.14.2 The net contribution of 6 no. units to the 5YHLS would be a meaningful but rather limited public benefit arising from the development, as it would make little difference to the overall supply of housing in the district.

14.14.3 The location of the site away from the most sustainable part of the village (south Clavering) that contains most of the local services and facilities, as well as the lack of everyday and easily accessible public transport would make the overall location of the development unsustainable, and as such, the location would not be considered a public benefit that would weigh in favour of the development.

²⁷ See Planning Statement, paragraph 6.5; see also Summary of Public Benefit; and various sections in the Design and Access Statement and the Design and Access Statement Part 2.

- 14.14.4** The proposal would provide 6 no. self-build plots. The government encourages this form of housing provision, but the available evidence indicates that there is no unmet need in the area and the scale of provision is modest. There is no shortfall for serviced plots, as per the LPA's latest progress report on self-build and custom housebuilding. Therefore, limited weight can be attached to the public benefit.
- 14.14.5** The landscape proposals with a publicly accessible 'village green' to the site's frontage and a landscape buffer to its eastern boundary would be limited as green screening cannot be relied upon continuously and the extension of urban qualities into the rural landscape would not be avoided or sufficiently mitigated, and as such, this public benefit would attract limited weight.
- 14.14.6** The proposal would be able to offer ecological and biodiversity enhancements and net gains; these matters would only attract limited weight.
- 14.14.7** The proposal would also provide a modest contribution towards the wider local economy during and post construction. However, the limited number of units proposed means that the public benefit would also be limited to its extent.
- 14.14.8** On the other hand, the adverse impacts of the proposed development include:
- Heritage harm to the setting and significance of listed and curtilage listed buildings – great weight.
 - Harm to the countryside character and appearance of the countryside and the areas of Hill Green and Stickling Green – significant weight.
 - Inefficient use of the land – significant weight.
 - Potential flood risk increase on site and/or elsewhere due to insufficient information to demonstrate otherwise – significant weight.
 - Lack of mechanism to secure the provision and management of public open spaces, the provision of and restrictions on the self-build plots, etc. – significant weight.
- 14.14.9** It has been concluded in Section B that Conservation would have in-principle concerns with the proposed development, as it would fail to preserve the setting, special interest and significance of one listed and two curtilage listed buildings²⁸, causing 'less than substantial', contrary to paragraph 202 of the NPPF, policy ENV2 of the Local Plan, and section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

²⁸ Clavering Court Lodge (Grade II).
Historic barn north of Clavering Court Lodge (curtilage listed building)
The Maltings to the south (curtilage listed building).

- 14.14.10** Paragraph 199 of the NPPF states 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. Therefore, great weight would be afforded to the heritage harm caused by the proposal.
- 14.14.11** The landscape and visual harm to the rural character and appearance of the site and area has been found to be significant in Section A of this report. As the conflict with part of policy S7 would reflect a direct conflict with paragraph 174(b) of the NPPF, the harm that the proposal would cause to the character and appearance of the area is considered significant.
- 14.14.12** The proposed housing density has been found in Section B to represent an entirely inefficient use of the land as a resource would obstruct the achievement of an appropriate supply of housing in the district and it would compromise the ability of future generations to meet their housing needs. This matter on its own is sufficient to outweigh the benefits that would result from the provision of just 6 no. self-build units. As the NPPF in paragraph 125(c) directly requires that LPAs should refuse applications which they consider fail to make efficient use of land, this policy conflict and adverse impact of the proposed development would be afforded significant weight.
- 14.14.13** As no information has been submitted to demonstrate otherwise, the proposal would potentially increase flood risk on site and/or elsewhere, which could endanger human lives and/or damage properties, which would attract significant weight.
- 14.14.14** Finally, the development would fail to provide the necessary mechanism (such as a s106 agreement) to secure the following planning obligations that comply with CIL regulations and paragraph 57 of the NPPF:
- Provision of publicly accessible 'village green' to the south and landscape buffer to the east.
 - Provision of wheelchair accessible and adaptable dwellings.
 - Provision of self-build plots (restrictions on occupancy and re-sale).
 - Payment of the Council's reasonable legal costs.
 - Payment of monitoring fee.
- 14.14.15** Consequently, when assessed against the policies in the NPPF taken as a whole, and as there are no other material considerations indicating otherwise, the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits. The proposal would not be sustainable development for which paragraph 11(d) of the NPPF indicates a presumption in favour.

15. ADDITIONAL DUTIES

15.1 Public Sector Equalities Duties

- 15.1.1** The Equality Act 2010 provides protection from discrimination in respect of certain protected characteristics, namely: age, disability, gender reassignment, pregnancy and maternity, race, religion or beliefs and sex and sexual orientation. It places the Council under a legal duty to have due regard to the advancement of equality in the exercise of its powers including planning powers.
- 15.1.2** The Committee must be mindful of this duty inter alia when determining all planning applications. In particular, the Committee must pay due regard to the need to: (1) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act; (2) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and (3) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 15.1.3** Due consideration has been made to The Equality Act 2010 during the assessment of the planning application, no conflicts are raised.

15.2 Human Rights

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

16. CONCLUSION

- 16.1** The heritage and planning balances found that the application of policies in the NPPF that protect assets of particular importance would provide a clear reason for refusing the proposed development and that the adverse impacts of the proposed scheme would significantly and demonstrably outweigh the benefits.
- 16.2** Overall, for the reasons given in this report, the proposal would conflict with the development plan as a whole, and there are no material considerations, including the provisions in the NPPF and the benefits of the proposal, which would indicate that the development should be determined other than in accordance with it.
- 16.3** It is therefore recommended that the application be refused on the grounds specified in section 17 of this report.

17. REASONS FOR REFUSAL

- 1** The application of paragraph 202 of the National Planning Policy Framework (2023) that protect designated heritage assets of particular importance provides a clear reason for refusing the proposed development under paragraph 11(d)(i) of the Framework. The principle of the development is not acceptable. Therefore, the proposal fails to comply with the National Planning Policy Framework (2023).
- 2** The proposed development, by reason of its location and residential use, would fail to preserve the setting, special interest and significance of a listed building and two curtilage listed buildings, causing 'less than substantial harm'. The harm to the significance of the designated heritage assets would not be outweighed by the public benefits of the proposal. Therefore, the proposal would fail to accord with policy ENV2 of the adopted Uttlesford Local Plan (2005), section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, and the National Planning Policy Framework (2023).
- 3** The proposed development would introduce built form in the countryside with urbanising effects, failing to contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside. The proposal, by reason of its location, residential use and linear development pattern, would harm the open and rural landscape through the extension of urban qualities into it, to the detriment of the character and appearance of the countryside and of the edges of Stickling Green and Hill Green. The adverse impacts of the development would significantly and demonstrably outweigh its minimal benefits. Therefore, the proposal would fail to comply with policies S7 and GEN1(e) of the adopted Uttlesford Local Plan (2005), and the National Planning Policy Framework (2023).
- 4** Notwithstanding the reasons for refusal above, the proposed housing density of the scheme would represent an inefficient use of the land, which would obstruct the achievement of an appropriate supply of housing in the district and it would compromise the ability of future generations to meet their housing needs. Therefore, the proposal would be contrary to paragraphs 119, 125(c) and 124(a) of the National Planning Policy Framework (2023).
- 5** Insufficient information has been submitted with the application to demonstrate that the proposed development would not increase flood risk on the application site and/or elsewhere, contrary to paragraph 167 of the National Planning Policy Framework (2023), and policy GEN3 of the adopted Uttlesford Local Plan (2005).

6 Insufficient information has been submitted with this application with respect to the scale and layout of the proposed development; the Local Planning Authority are therefore unable to accurately assess the level of 'less than substantial harm' caused by the development to a listed building and two curtilage listed buildings, as confirmed in reason for refusal 2. In the absence of this information (which was requested on 21 July 2023), the proposal is contrary to policy ENV2 of the adopted Uttlesford Local Plan (2005), and paragraph 202 of the National Planning Policy Framework (2023).

7 The application does not include a mechanism such as a S106 legal agreement to secure;

- i. Provision of Public Open Space
- ii. Provision of self-build plots
- iii. Provision of accessible and adaptable dwellings
- iv. Pay the Council's reasonable legal costs
- v. Pay the monitoring fee.

Therefore, the proposal would be contrary to policy GEN6 of the adopted Uttlesford Local Plan (2005) and the National Planning Policy Framework (2023).

APPENDIX 1 – ESSEX COUNTY COUNCIL HIGHWAYS

Your Ref: UTT/23/1731/OP
Our Ref: 57037
Date: 27th September 2023



Essex County Council

Paul Crick
Director for Highways
and Transportation

To: Uttlesford District Council
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Essex CM1 1QH

Recommendation

Application No. UTT/23/1731/OP
Applicant Mr Matthew Thomas
Site Location Land North Of Stickling Green Clavering Essex
Proposal Outline planning application with all matters reserved except access for the development of 6 no. self-build homes with a new village green, landscaping and associated infrastructure.

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. Prior to occupation of the development the vehicular access shall be constructed at right angles, appropriate radii and width to accommodate the swept path of all vehicles regularly accessing the site for the intended purpose, to the highway boundary and to the existing carriageway. **Reason:** to ensure that vehicles can enter and leave the highway in a controlled manner in the interest of highway safety.
2. Prior to occupation of the development, the access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 120 metres in both directions, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the access is first used by vehicular traffic and retained free of any obstruction at all times. **Reason:** To provide adequate inter-visibility between vehicles using the access and those in the existing public highway in the interest of highway safety
3. Prior to occupation of the development, a 2-metre footway from the site access to connect with the existing footway to the East, shall be provided. For the avoidance of

doubt, this shall include full depth construction and surfacing. Technical details to be agreed with the Highway Authority. **Reason:** In the interest of highway safety and accessibility.

4. Prior to occupation of the development, a technical scheme to be agreed with the Highway Authority for the provision of improvements to the existing carriageway, to include but not limited to, installation of kerbs, improvements in drainage of the Highway and/or carriageway widening if and where necessary, as well as any other works deemed necessary by the Highway Authority, from the site's access to the junction of Eldridge Close, shall be provided. **Reason:** In the interest of highway safety and accessibility.
5. Any gates provided at the vehicular access shall be inward opening only and shall be set back a minimum of 6 metres from the back edge of carriageway. **Reason:** To enable vehicles using the access to stand clear of the carriageway whilst gates are being opened and closed in the interest of highway safety
6. No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary. **Reason:** To avoid displacement of loose material onto the highway in the interests of highway safety
7. No development shall take place, including any ground works or demolition, until a Construction Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved plan shall be adhered to throughout the construction period. The Plan shall provide for;
 - i. vehicle routing,
 - ii. the parking of vehicles of site operatives and visitors,
 - iii. loading and unloading of plant and materials,
 - iv. storage of plant and materials used in constructing the development,
 - v. 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.

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

Informative:

- i. All work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to be agreed before the commencement of works. The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org or by post to Essex Highways, Springfield Highways Depot, Colchester Road, Chelmsford, Essex, CM2 5PU.
- ii. Under Section 148 of the Highways Act 1980 it is an offence to deposit mud, detritus etc. on the highway. In addition, under Section 161 any person, depositing anything on a highway which results in a user of the highway being

injured or endangered is guilty of an offence. Therefore, the applicant must ensure that no mud or detritus is taken onto the highway, such measures include provision of wheel cleaning facilities and sweeping/cleaning of the highway.

- iii. There shall be no discharge of surface water onto the Highway.
- iv. Prior to commencement of the development, the areas within the curtilage of the site for the purpose of loading / unloading / reception and storage of building materials and manoeuvring of all vehicles, including construction traffic shall be provided clear of the highway.
- v. 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.



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pp. Director for Highways and Transportation
Enquiries to Eirini Spyratou
Email: eirini.spyratou@essex.gov.uk

APPENDIX 2 – ESSEX COUNTY COUNCIL LEAD LOCAL FLOOD AUTHORITY

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



Avgerinos Vlachos
Uttlesford District Council
Planning Services

Date: 5th October 2023
Our Ref: SUDS-007063
Your Ref: UTT/23/1731/OP

Dear Sir/Madam,

Consultation Response – UTT/23/1731/OP - Land North Of Stickling Green Clavering Essex

Thank you for your email which provides Essex County Council (ECC) with the opportunity to assess and advise on the proposed surface water drainage strategy for the aforementioned planning application.

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

In providing advice this Council, and their appointed consultants, 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 documents which accompanied the planning application, we would recommend the **issuing of a holding objection** based on the following:

- There is no drainage strategy or flood risk assessment. Please provide us with a flood risk assessment and drainage strategy to review.

The information provided does not allow us to assess the flood risk development. Please provide information as required within the new ECC SUDS design guide: <https://www.essexdesignguide.co.uk/suds/what-we-expect/>

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>

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, ECC advise local planning authorities to formally consider the emergency planning and rescue implications of new development in making their decisions.

Should further correspondence be required, please contact the SuDS team directly using the below details.

Yours sincerely

Anna Murphy

Development and Flood Risk Officer

Team: Green Infrastructure and Sustainable Drainage

Service: Climate Action and Mitigation

Essex County Council

Internet: www.essex.gov.uk

Email: suds@essex.gov.uk

APPENDIX 3 – ENVIRONMENT AGENCY

From: EastAnglia, Planning
Sent: Thursday, October 5, 2023 2:54 PM
To: Avgerinos Vlachos
Subject: RE: [External]>> RE: Consultation response - UTT/23/1731/OP

Good afternoon Avgerinos,

Thank you for your email. I can confirm that we have no comments regardless of the size of the application site. I hope this helps.

Kind regards,

Lucy Fielder
Sustainable Places Planning Advisor | East Anglia area
Environment Agency | Icen House, Cobham Road, Ipswich, Suffolk IP3 9JD

Typical working pattern: 9:00 – 17:00 Monday to Friday



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for people and wildlife

