



ITEM NUMBER:

13

PLANNING COMMITTEE DATE:

25th October 2023

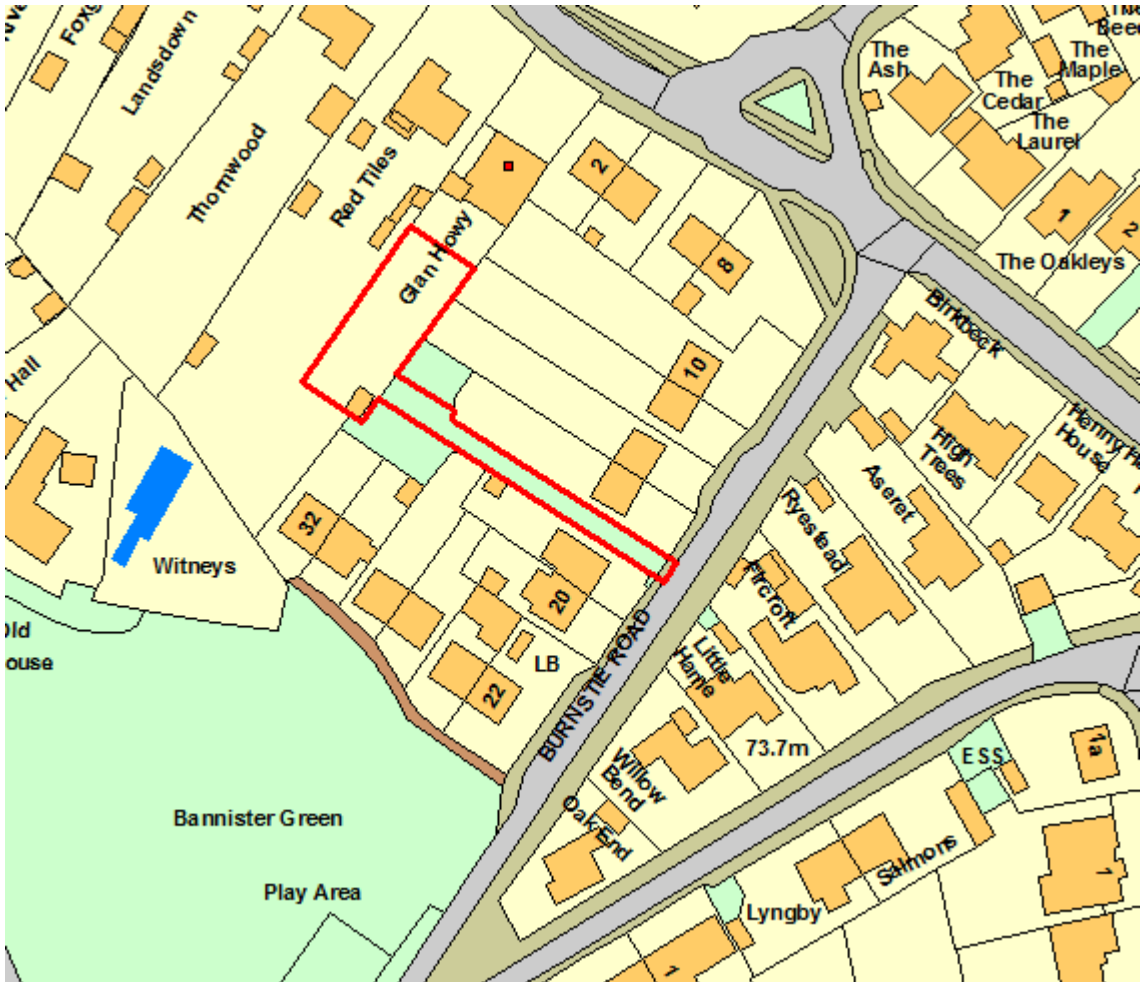
REFERENCE NUMBER:

UTT/23/0515/FUL

LOCATION:

**Glan Howy, Bannister Green,
Felsted,**

SITE LOCATION PLAN:



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Organisation: Uttlesford District Council - Date: October 2023

PROPOSAL:	Erection of a detached dwelling
APPLICANT:	Ms Malin
AGENT:	Mr Tuttlebury
EXPIRY DATE:	2 May 2023
EOT Expiry Date	31 October 2023
CASE OFFICER:	Tom Gabriel
NOTATION:	Within Development Limits
REASON THIS APPLICATION IS ON THE AGENDA:	Council's own part of access 23/0515*to the site

1. EXECUTIVE SUMMARY

- 1.1** The scheme seeks planning permission for the erection of one detached dwelling to the rear of the existing dwelling on the site. The new dwelling would be a bungalow and would be accessed via the driveway between 16 and 18 Burnstie, which serves an informal car parking area to the rear of 12 – 18 Burnstie.
- 1.2** The proposed development is unacceptable as it would represent a form of development which would have a harmful impact upon the character of the site and would not be compatible with the layout of Felsted as it would not follow the pattern of the surrounding properties. The dwelling would also not provide a suitable level of accommodation for its future occupiers by virtue of its substandard sized rooms
- 1.3** The development would, however, not have an adverse impact upon the amenities of the occupiers of the neighbouring and surrounding properties. Harm to highway safety and the setting of the nearby listed cottage would not arise from the proposal either.

2. RECOMMENDATION

That the Strategic Director of Planning Control be authorised to REFUSE planning permission for the development.
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3. SITE LOCATION AND DESCRIPTION:

- 3.1** The application site is located to the rear of the dwelling known as Glan Howy, Bannister Green, Felsted. The parcel of land to which the application relates is positioned to the rear of this property and to the rear

of 12 – 18 Burnstie. It is adjacent to the Grade II Listed heritage asset of Witneys, to the north of the site, and shares a boundary with Rd Tiles to the east. The site is set within a residential area located in south eastern part of Felsted. The dwellings in the area sit in large plots and are arranged traditionally, fronting onto established roads.

4. PROPOSAL

4.1 This planning application relates to the proposed residential development of the site for the erection of one dwelling with access from the driveway serving the informal car parking area that the site is currently used as. The dwelling would be a single storey two-bedroom bungalow measuring 6.3m by 10m and 5.1m high at the ridge with no accommodation in the roof slope. It would be provided with parking for two cars and turning and amenity space. Space for eight cars to park would remain in the existing parking area.

4.2 The application is accompanied by the following reports and documents to inform the application proposal:

- Plans and Elevations
- Planning Statement
- Design, Access and Heritage Statement
- Transport Statement
- Biodiversity Checklist

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

6.1

Reference	Proposal	Decision
UTT/21/1891/FUL	Erection of a detached dwelling	Refused Appeal dismissed

7. PREAPPLICATION ADVICE AND/OR COMMUNITY CONSULTATION

7.1 The Local Planning Authority is unaware of any consultation exercise carried out by the applicant for this proposal.

8. SUMMARY OF STATUTORY CONSULTEE RESPONSES

8.1 ECC Highways

8.1.1 From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority, subject to a condition regarding the provision of cycle parking and informatives regarding works to the highway,

no discharge of water or mud onto the highway and the provision of on-site areas for the loading/ unloading/ reception and storage of building materials and manoeuvring of vehicles, clear of the highway.

9. PARISH COUNCIL COMMENTS

9.1 This is an inappropriate location for development, and it remains in conflict with Policy GEN2 of the adopted Uttlesford Local Plan 2005, Policy FEL/HN4 of the made Felsted Neighbourhood Plan and the relevant paragraphs of the National Planning Policy Framework. The issues raised by the Council and the Planning Inspector at the time of the previous application and appeal on the site remain pertinent to this application. Unresolved issues over the access to the site remain.

10. CONSULTEE COMMENTS

10.1 UDC Housing

10.1.1 There is no right of access over the service track to the site and it is not suitable to accommodate most construction vehicles due to its width and limited turning space at the entrance. The service track is used by the cars of the residents of the bungalows, who require access at all times. Right of Access would need to be obtained PRIOR to any vehicle use for either Glan Howy or the proposed dwelling including use of construction and delivery vehicles etc. Any costs arising from this would need to be covered by the applicant. We ask this be a condition for the applicant should any planning permission being granted.

10.2 Place Services Built Heritage

10.2.1 Glan Howy and the development site within the rear garden of the property are located to the northeast of Grade II listed Witneys, a two-storey house with a plain tiled roof which has been dated to the sixteenth century or earlier.

10.2.2 The current application follows an application for the erection of a two-storey dwelling made in 2021 (UTT/21/1891/FUL) which was refused and dismissed at appeal. The Heritage advice at that time was that there was no in principle objection to the development of the site, but concerns were expressed regarding the proposed height of the new dwelling, and the design was not considered to make a positive contribution to local character and distinctiveness as per Paragraph 192 c of the National Planning Policy Framework.

10.2.3 In the appeal decision, the Inspector found that due to the visual separation and limited intervisibility between the appeal site and Witneys (due to the existence of mature trees and landscaping), the proposal would preserve the setting of the listed building. However, the Inspector considered the siting of the proposed development - which they found to be '...discordant and out of keeping with the established pattern and rhythm of development in this part of Bannister Green' - would harm the character and appearance

of the site and surrounding area (paragraph 8). This was found to be in conflict with the relevant provisions of Local Plan Policy GEN2 and Policy HN4 of the Felsted Neighbourhood Plan, which seek to ensure that development proposals are compatible with the surrounding area.

10.2.4 The current proposal is for a two-bedroom single storey dwelling with its principal elevation facing east. On the basis of the above appeal decision, I have no concerns regarding the application in terms of the impact on the setting and significance of the listed building. In my opinion, the proposal will preserve the special interest of the listed building in accordance with Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, with no harm to its significance in terms of the NPPF (2023). However, since the Inspector's appeal dismissal was based on the siting of the previous proposed development rather than its scale, height and design, concerns regarding harm to the character and appearance of the site and surrounding area contrary to local policy are unlikely to be overcome.

11. REPRESENTATIONS

11.1 Neighbours were notified of the application by letter and the application was advertised by means of a site notice and a press notice.

11.1.1 Six responses received, objecting on the following grounds;

- There is no right of way to the site for Glan Howy or for the proposed development;
- An unlawful access has been created the use of which causes a nuisance to the surrounding properties;
- Access and parking issues may arise from the proposal;
- The access is too narrow for construction traffic and the lane is sinking around the potholes along it;
- The development would cause noise and disruption;
- The development would result in the loss of a large tree and impact upon wildlife;
- Precedent for further development in the area;

12. MATERIAL CONSIDERATIONS

12.1 In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan and all other material considerations identified in the "Considerations and Assessments" section of the report. The determination must be made in accordance with the plan unless material considerations indicate otherwise.

12.2 Section 70(2) of the Town and Country Planning Act requires the Local Planning Authority in dealing with a planning application, to have regard to:

- a) the provisions of the development plan, so far as material to the application,
 - (aza) a post-examination draft neighbourhood development plan, so far as material to the application,
- b) any local finance considerations, so far as material to the application, and
- c) any other material considerations.

12.3 The Development Plan

- ### **12.3.1**
- Essex Minerals Local Plan (adopted July 2014)
 - Essex and Southend-on-Sea Waste Local Plan (adopted July 2017)
 - Uttlesford District Local Plan (adopted 2005)
 - Planning Policy for Travellers Sites (2015)
 - Felsted Neighbourhood Plan (made Feb 2020)
 - Great Dunmow Neighbourhood Plan (made December 2016)
 - Newport and Quendon and Rickling Neighbourhood Plan (made June 2021)
 - Thaxted Neighbourhood Plan (made February 2019)
 - Stebbing Neighbourhood Plan (made July 2022)
 - Saffron Walden Neighbourhood Plan (made October 2022)
 - Ashdon neighbourhood Plan (made Dec 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 Plan (2005)

- #### **13.2.1**
- Policy S3 – Other Settlement Boundaries
 - Policy ENV2 – Development affecting Listed Buildings
 - Policy H1 – Housing Development
 - Policy H4 – Backland Development
 - Policy GEN1 – Access
 - Policy GEN2 – Design
 - Policy GEN7 – Nature Conservation
 - Policy GEN8 – Vehicle Parking Standards

13.3 Felsted Neighbourhood Plan (2020)

- #### **13.3.1**
- Policy FEL/HN4 – Residential Development Within Development Limits
 - Policy FEL/ICH1 – High Quality Design

13.4 Supplementary Planning Document or Guidance

- Essex Design Guide
- Essex County Council Parking Standard (2009)

14. CONSIDERATIONS AND ASSESSMENT

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

- A) Principle of the development and the impact upon the character and appearance of the site, the street scene and the wider area**
- B) The impact upon the setting of the nearby listed building at Witneys**
- C) The impact of the proposal upon the amenities of the occupiers of the neighbouring properties**
- D) Parking and highway safety**
- E) Other Issues**

14.2 **A) Principle of the development and the impact upon the character and appearance of the site, the street scene and the wider area**

14.2.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states planning applications must be determined in accordance with the planning policies in the Development Plan unless material considerations indicate otherwise. The planning policies contained within the National Planning Policy Framework (NPPF) are also a material planning consideration, particularly where the policies in the Development Plan are considered to be out of date. The NPPF provides the statutory guidance for determining planning applications at a national level. The Development Plan for Uttlesford comprises the Uttlesford Local Plan which was adopted in January 2005 and is therefore now over 18 years old and pre-dates the NPPF (2023). Felsted has a neighbourhood plan.

14.2.2 The NPPF emphasises that the purpose of the planning system is to contribute to the achievement of sustainable development and sets out objectives for achieving this aim, including the need to deliver a sufficient supply of homes in the right place at the right time to support the government's objective of significantly boosting the supply of homes. Paragraph 8 of the NPPF confirms the 'presumption in favour of sustainable development' and explains that there are three dimensions to sustainable development, namely, economic; social; and environmental.

14.2.3 Paragraph 11d of the NPPF states where there are no relevant Development Plan policies, or the policies which are the most important for determining the application are out of date (including applications involving the provision of housing where the Local Planning Authority cannot demonstrate a five year housing land supply), the Local Planning Authority should grant planning permission unless (i) the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development; or (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole.

14.2.4 The dwelling is located within the development limits of Felsted, (Policy S3) as defined in the Uttlesford Local Plan, which states development compatible with the settlement's character and countryside setting will be permitted within the boundaries if it is in accordance with the policies of the Local Plan. Policy GEN2 of the Local Plan seeks to ensure that development is of an appropriate design compatible with the scale, form, layout, appearance and materials of the surrounding buildings and mitigates any potential harm. In addition, the NPPF seeks to ensure good design is applied to all development.

14.2.5 The proposed development accords with national policy in the NPPF in promoting sustainable development in rural areas, enhancing and maintaining the vitality of rural communities. Taking into account the PPG, it is considered that the intent of this policy is to focus new housing development within and adjacent to existing settlements. In addition, the NPPF states that development within rural areas should be granted, providing it can be shown there would be a presumption in favour of sustainable development. Paragraphs 7-10 of the NPPF state a presumption in favour of sustainable development wherein development must comply with the three overarching objectives (paragraph 8);

- a) economic (contributing to building a strong responsive and competitive economy);
- b) social (providing housing and accessible local services to support strong, vibrant and healthy communities); and
- c) environmental (protecting and enhancing our natural, built and historic environments).

14.2.6 Applying the policy tests in conjunction with paragraph 8 of the NPPF, the following assessment will demonstrate compliance or not.

14.2.7 In social and environmental terms, the site is within walking distance of bus stops (approximately 0.4 miles or 0.5 miles to the nearest bus stop – an approximate 8 -10-minute walk). However, the bus services accessible via these bus stops – no.16 – Chelmsford – Wethersfield is an irregular service offering four services a day Monday – Saturday and no services on Sunday. The no. 133 Sapphire service from Felsted Watch House Green – Stansted Airport Coach Station runs an hourly service from 3am until 11.15pm daily. It is therefore considered whilst this service is more regular, neither service would negate the need for a car and therefore the potential reliance upon vehicular use from the site to reach nearby amenities, services etc. The location is also not located conveniently in terms of proximity to the high street and the nearest supermarkets (the closest of which are 1.4 miles and 4.4 miles away). Due to the rural nature of the site, it does not benefit from pedestrian access to local amenities and therefore, vehicular travel will likely be the most utilised form of transport for the future occupiers of the site.

14.2.8 The site is not isolated from a spatial/ physical point of view, as it is located within a settlement and would be located close to the host dwelling and

other nearby dwellings. Paragraph 80 of the NPPF discourages new isolated homes in the countryside unless there are special circumstances to justify that location. As the site is not isolated, nor within the countryside, the proposal complies with paragraph 80 of the NPPF.

14.2.9 Regarding the 'proximity to services' issue, the site location is inappropriate because day-to-day services and public transport links are not regular (car journeys are seemingly therefore inevitable, and accordingly the site would promote car reliance and this therefore impacts upon the sustainability of the scheme), and while a new dwelling within the settlement would support local services, in accordance with paragraph 79 of the NPPF, it would only do so in a very limited manner.

14.2.10 In terms of housing supply, the NPPF states that where the policies which are most important for determining the application are out-of-date (Paragraph 11 (d) of the NPPF), the presumption in favour of sustainable development applies. The current five- year housing land supply figure for the Council is 4.89 years. The Council's housing policies are out of date therefore. A new dwelling would make a modest contribution to the social strand of sustainable development and the Council's housing figure. The application site is located within the development limits of Felsted where development compatible with the settlement's character and countryside setting will be permitted.

14.2.11 However, the proposal is considered to be back landform of development as the site does not have a road frontage. Local Plan Policy H4 advises that back land development will be permitted if a number of criteria are met;

- a) there is significant under- use of land and development would make more effective use of it;
- b) there would be no material overlooking or overshadowing of nearby properties.
- c) development would not have an overbearing effect on neighbouring properties; and
- d) access would not cause disturbance to nearby properties.

14.2.12 No information has submitted demonstrating that the application site is under- used (it is used an informal car park for the surrounding dwellings). However, it could be argued that the introduction of a new dwelling on the site would represent a more effective use of the land. The assessment of the character and setting is set out in later this report; however, the proposal would include the introduction of a detached bungalow. While it would include sufficient amenity in accordance with The Essex Design Guide and the national standards and the dwelling would have an overall floorspace which would comply with the national standards, the bedroom accommodation would fall short of the required standards. The Technical Housing Standards – Nationally Described Housing Standards document (2015) requires a two bed, three-person, single storey dwelling to have a gross internal area of 61 sqm. This would be achieved by the proposal. However, the guidance also requires a double bedroom to have a floorspace of 11.5 sqm and a single bedroom to have a floorspace of 7.5

sqm. Both bedrooms on plan 2588/2 are shown have a floorspace of 9 sqm. There is therefore a shortfall in the quality of the accommodation that would be provided by the development, contrary to Policy GEN2 of the Local Plan.

14.2.13 Moreover, it is considered that the development would result in a harmful impact upon the character of the site and would not be compatible with the existing layout of the settlement of Felsted. Policy FEL/HN4 of the Felsted Neighbourhood Plan (2020) stipulates residential development within residential limits must not harm the character of the area or result in adverse impacts upon the local highway network. Although within the development limits, the openness of the site performs the function of defining and containing the extent of built form of the existing dwellings. The proposed dwelling would diminish the sense of place and the local distinctiveness of the area as it would be at variance to the established character of the area with the dwellings fronting established roads. While the dwelling would only be single storey and would be sited fairly centrally within the plot, it would not be compatible with the existing pattern of development, which fronts the surrounding roads. Taking into consideration the above factors, it is considered the proposal would not be in keeping with the character and appearance of the area and is therefore contrary to Policy GEN2 of the Uttlesford Local Plan (2005), Policy FEL/HN4 of the Felsted Neighbourhood Plan (2020) and the National Planning Policy Framework (2023).

14.3 B) The impact upon the setting of the nearby listed building at Witneys

14.3.1 Policy ENV2 of the Local Plan requires that development have an acceptable impact upon the setting of listed buildings. At the time of the appeal on the site following the refusal on the previous application there (for a one and a half storey dwelling with large crown roof), the Inspector considered that the proposal would not have an adverse impact upon the setting of the nearby listed building at Witneys (to the south of the site) due to the distance between the properties.

14.3.2 The current proposal is for a smaller bungalow with no accommodation in the roofspace. It would have a ridge height about one metre lower than the refused dwelling and would have a hipped roof rather than a crown roof. While it would be a little closer to the listed Witneys than the refused dwelling, it is not considered that it would adversely affect the setting of the listed building due to its reduced size and scale, in compliance with Policy ENV2 of the Local Plan and the National Planning Policy Framework.

14.4 C) The impact of the proposal upon the amenities of the occupiers of the neighbouring properties

14.4.1 Policy GEN2 of the Local Plan requires that development, amongst other things, has an acceptable impact upon the amenity of the occupiers of the surrounding dwellings. The majority of the boundaries of the site comprise

1.8m high close boarded fences, while the boundaries along the access lane to the site comprise 1m high hedges (which extend round to the rear of the dwellings either side of the access. However, in the event that permission is granted for the dwelling, a landscaping condition would be imposed which would include boundary treatments. Given that the bungalow would only be single storey, it is not considered that overlooking or a loss of privacy for the surrounding properties would result.

14.4.2 At least one of the surrounding bungalows has accommodation in the roofspace served by a rear dormer window. This would potentially permit the reverse overlooking of the proposed dwelling. However, given the distance involved (around 25m), it is not considered that the degree of overlooking would be harmful to amenity.

14.4.3 It is therefore considered that the proposed development complies with Policy GEN2 of the Local Plan.

14.5 D) Parking and highway safety

14.5.1 Policy GEN8 of the Local Plan requires development to have an acceptable impact upon highway safety and to comply with the Council's Parking Standards. The proposed bungalow would have two bedrooms: the two parking spaces proposed would ensure compliance with the standards.

Essex County Highways have not raised objection to the application, and it is accordingly considered acceptable from a highway safety point of view.

14.6 E) Other issues

14.6.1 The objectors to the application have raised a number of concerns with the proposed development. Whether there is a right of way to the site or not and whether the access is lawful or not are not issues that need be considered in the application.

14.6.2 The existing use of the site for parking for the surrounding properties is noted. However, this appears to be an informal arrangement and the surrounding roads do not appear to be subject to parking restrictions and accordingly, those vehicles that do use the site to park on, may park on the road in the event that the site is developed.

14.6.3 While it noted that the access road is too narrow for standard construction traffic, it is possible that building materials may be conveyed to the site along the access road on smaller vehicles.

14.6.4 Noise and disturbance created during development is not an issue for consideration in determining a planning application as it is not covered in the planning legislation.

14.6.5 It seems likely that the development would result in the loss of a tree of the site and would accordingly potentially impact upon wildlife. However, this

may be offset in the event of permission being granted through a landscaping scheme.

14.6.6 It is not considered that the grant of permission would represent a precedent for further development in the area as each application is dealt within on its own merits.

14.6.7 In the event of permission being granted, it is felt reasonable to remove the permitted development rights of the property in order to control the potential for the over development of the site and harm to the neighbouring amenities.

15. ADDITIONAL DUTIES

15.1 Public Sector Equalities Duties

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

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

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

15.2 Human Rights

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

16. CONCLUSION

16.1 The proposed development would have a harmful impact upon the character of the site and would not be compatible with the layout of Felsted by virtue of the introduction of a form of development which would not follow the pattern of the surrounding properties. The dwelling would also

not provide a suitable level of accommodation for its future occupiers by virtue of a substandard sized bedroom.

- 16.2** The development would, however, not have an adverse impact upon the amenities of the occupiers of the neighbouring and surrounding properties through overlooking and loss of privacy, or overbearing impact. Harm to highway safety and the setting of the nearby listed cottage would not arise from the proposal either.

17. REASONS FOR REFUSAL

- 1.** The proposed development, by reason of its scale, height, siting and design, would result in a harmful impact upon the character of the site and would not be compatible with the existing layout of the settlement. The proposed dwelling would diminish the sense of place and the local distinctiveness of the site. The proposed development is accordingly contrary to Policy GEN2 of the Uttlesford Local Plan (2005), Policy FEL/HN4 of the Felsted Neighbourhood Plan (2020) and the National Planning Policy Framework (2023).

- 2.** The proposed development, by virtue of its sub- standard bedroom size, would result in a form of development which would fail to provide a satisfactory standard of accommodation for its future occupiers. The proposed development is accordingly contrary to Policy GEN2 of the Uttlesford Local Plan (2005) and the National Planning Policy Framework (2023).