



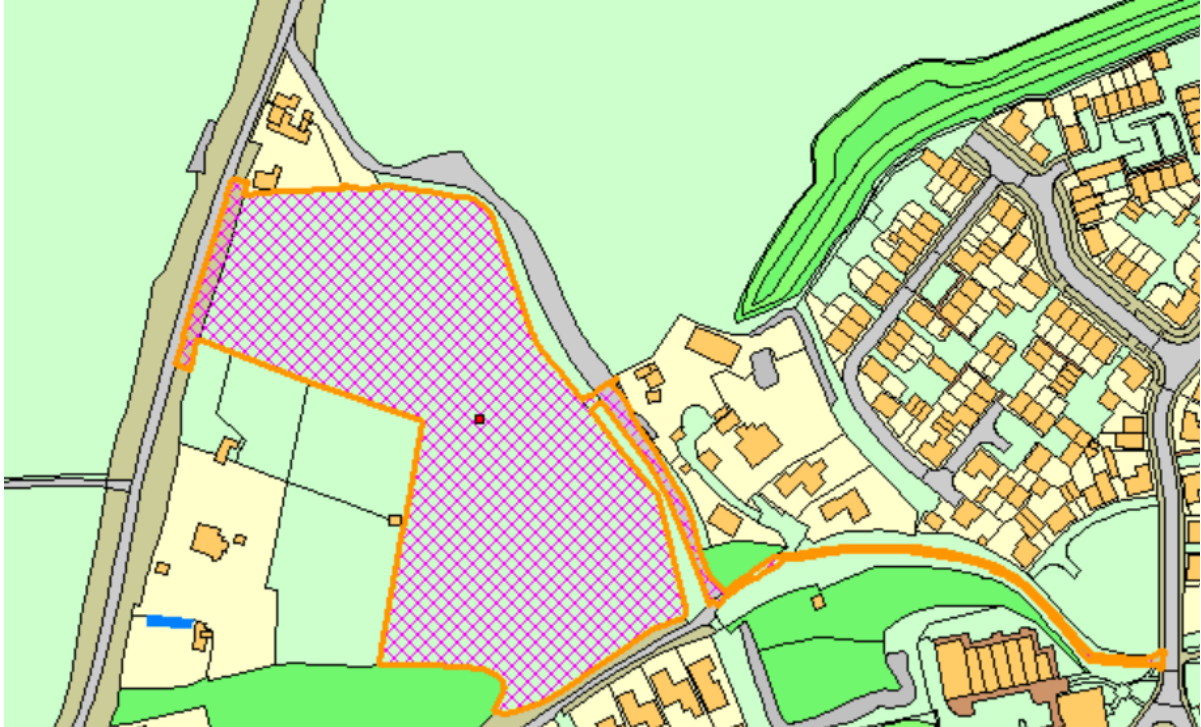
**ITEM NUMBER:** 7

**PLANNING COMMITTEE DATE:** 13 December 2023

**REFERENCE NUMBER:** S62A/2023/0027 and UTT/23/2682/PINS

**LOCATION:** Land At Warish Hall Farm, North Of Jacks Lane  
Takeley

**SITE LOCATION PLAN:**



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Organisation: Uttlesford District Council Date: 29<sup>th</sup> October 2023

**PROPOSAL:** Erection of 40no. dwellings, including open space landscaping and associated infrastructure

**APPLICANT:** Mr Jarrod Spencer

**AGENT:** N/A

**DATE CONSULTATION RESPONSE DUE:** Extension of time given to 15<sup>th</sup> December 2023.

**CASE OFFICER:** Rachel Beale

**NOTATION:** Outside Development Limits. Countryside Protection Zone, protected Lane (Warish Hall Road), within 250m of Ancient Woodland (Priors Wood) Grade 1, Grade II \*, Grade II Listed buildings adjacent to site. Within 6km of Stansted Airport. Within 2KM of SSSI. County and Local Wildlife site (Priors Wood). Scheduled Ancient Monument (Warish Hall).

**REASON THIS CONSULTATION IS ON THE AGENDA:** This is a report in relation to a major planning application submitted to the Planning Inspectorate (PINS) for determination.

Uttlesford District Council (UDC) has been designated by Government for poor performance in relation to the quality of decision-making on major applications.

This means that the Uttlesford District Council Planning Authority has the status of a consultee and is not the decision maker. There is limited time to comment. In total 21 days

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**1. RECOMMENDATION**

That the Strategic Director of Planning be authorised to advise the Planning Inspectorate that Uttlesford District Council make the following observations on this application:

Details are to be outlined by the Planning Committee.

**2. SITE LOCATION AND DESCRIPTION**

**2.1** The application site relates to a 2.1ha pasture field located on the eastern side of Smiths Green Lane and north of Jacks Lane. The site abuts the northern edge of the settlement of Priors Green, Takeley and

is largely flat and level.

**2.2** A section of Smiths Green Lane, north of Jacks Lane, is a protected lane. The area of land to the north of Jacks Lane is bounded by mature trees and hedges, with the development along Warish Hall Road/Smiths Green Road is linear in nature and has several listed buildings along it. Three public rights of way are in close proximity to the site. One west of the site running parallel to Priors Wood, and two leading off Jacks Lane, one along the eastern boundary of the site and one to the south leading towards Dunmow Road.

**2.3** The site is not located within a conservation area. However, there are heritage assets adjacent to the site that include Grade II listed buildings. To the north of the site is the scheduled monument of Warish Hall moated site and the remains of Takeley Priory, sited within the Scheduled Monument is the Grade I listed Warish Hall and moat.

### **3. PROPOSAL**

**3.1** Construction of 40 dwellings (Class C3), including open space, landscaping, and associated infrastructure.

**3.2** Access to the site would be from Smiths Green Lane using the existing access point. The design provides a link from the East side of the Jacks site, to connect into an existing PROW, which leads into Little Canfield. This was not previously part of the red line but it is now included. There are also Public Rights of Way on the west of Smiths Green Lane which connect with Parsonage Road to the west.

**3.3** The application site covers 2.1 hectares, with the proposal having a density of approximately 19 dwellings per hectare. The site would feature an area of open space, including a Local Area of Play. This would total 1,900m<sup>2</sup>.

### **4. ENVIRONMENTAL IMPACT ASSESSMENT**

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

### **5. RELEVANT SITE HISTORY**

#### **Application Site:**

**5.1** UTT/21/1987/FUL - Mixed use development including: revised access to/from Parsonage Road between Weston Group Business Centre and Innovation Centre buildings leading to: light industrial/flexible employment units (c.3568sqm) including health care medical facility/flexible employment building (Use Class E); 126 dwellings on Bulls Field, south of Prior's Wood: 24 dwellings west of and with access from Smiths Green

Lane; 38 dwellings on land north of Jacks Lane, east of Smiths Green Lane including associated landscaping, woodland extension, public open space, pedestrian and cycle routes - Land At Warish Hall Farm Smiths Green, Takeley – Refused – 20/12/2021. Appeal reference: APP/C1570/W/22/3291524 – Appeal Dismissed – 09/08/2022.

**5.2** UTT/22/3126/FUL - Erection of 40 no. dwellings, including open space landscaping and associated infrastructure - Land At Warish Hall Farm North Of Jacks Lane Smiths Green Lane Takeley – Not yet determined.

**5.3** S62A/2023/0016 (UTT/23/0902/PINS) - Full planning application for Erection of 40 no. dwellings, including open space landscaping and associated infrastructure – Refused – 09/08/2023.

## **6. PRE-APPLICATION ADVICE AND/OR COMMUNITY CONSULTATION**

**6.1** The Localism Act requires pre-application consultation on certain types of planning applications made in England. As such the following consultation events have been held by the applicants:

- Leaflet drops to local residents detailing a consultation webpage;
- Online consultation page with information on the proposals and a portal for submitting comments;
- Further leaflet drop following amendments, detailing an updated consultation webpage;
- Updated online consultation page with information on the amendment and a portal for submitting comments; and
- Public Exhibition on the proposals for people to understand the proposals and ask any questions as well as raising any concerns with the design team.

Full details of the applicant’s engagement and consultation exercises conducted is discussed on Page 43 the supporting Planning Statement.

## **7. STATUTORY CONSULTEES**

**7.1** All statutory consultees are required to write directly to the Planning Inspectorate (PINS) (and not the Local Planning Authority) with the final date for comments being 1 June 2023.

**7.2** Accordingly, it should be noted that a number of considerations/advice normally obtained from statutory consultees to assist the Local Planning Authority in the consideration of a major planning application have not been provided and are thereby not included within this report.

## **8. PARISH COUNCIL COMMENTS**

**8.1** These should be submitted by the Parish Council directly to PINS within the consultation period are thereby not informed within this report.

## **9. CONSULTEE RESPONSES**

**9.1** All consultees' comments should be submitted directly to PINS (and not the Local Planning Authority) within the 21-day consultation period, which closes 8 December 2023. Accordingly, it should be noted that considerations/advice normally obtained from consultees to assist in the determination of a major planning application have not been provided and are thereby not included within this report. Notwithstanding this, the following comments have been received:

**9.2** **Place Services Archaeology**  
No objections subject to conditions.

**9.3** **Environmental Health**  
No objections subject to conditions.

**9.4** **Essex Police**  
No objections subject to details.

**9.5** **NHS**  
No objection subject to S106.

## **10. REPRESENTATIONS**

**10.1** The application was publicised by sending letters to adjoining and adjacent occupiers and by displaying a site notice. Anyone wishing to make a representation (whether supporting or objecting) are required to submit their comments directly to PINS within the 21-day consultation period which closes 8 December 2023. All representations should be submitted directly to PINS within the consultation period.

**10.2** UDC has no role in co-ordinating or receiving any representations made about this application. It will be for PINS to decide whether to accept any representations that are made later than the extended consultation period

## **11. MATERIAL CONSIDERATIONS**

**11.1** 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.

**11.2** 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.

**11.3** Section 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the local planning authority, or, as the case may be, the Secretary of State, in considering whether to grant planning permission (or permission in principle) for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses or, fails to preserve or enhance the character and appearance of the Conservation Area

#### **11.4 The Development Plan**

**11.5** Essex Minerals Local Plan (adopted July 2014)  
Essex and Southend-on-Sea Waste Local Plan (adopted July 2017)  
Uttlesford District Local Plan (adopted 2005)  
Felsted Neighbourhood Plan (made Feb 2020)  
Great Dunmow Neighbourhood Plan (made December 2016)  
Newport and Quendon and Rickling Neighbourhood Plan (made June 2021)  
Thaxted Neighbourhood Plan (made February 2019)  
Stebbing Neighbourhood Plan (made 19 July 2022)  
Saffron Walden Neighbourhood Plan (made 11 October 2022)  
Ashdon Neighbourhood Plan (made 6 December 2022)  
Great & Little Chesterford Neighbourhood Plan (made 2 February 2023)

### **12. POLICY**

#### **12.1 National Policies**

National Planning Policy Framework (2021)

#### **12.2 Uttlesford District Plan 2005**

S7 – The Countryside  
S8 – The Countryside Protection Zone  
GEN1 – Access  
GEN2 – Design  
GEN3 – Flood Protection  
GEN4 – Good Neighbourliness  
GEN5 – Light Pollution  
GEN6 – Infrastructure Provision  
GEN7 – Nature Conservation  
GEN8 – Vehicle Parking Standards  
ENV2 – Development Affecting Listed Buildings

ENV3 – Open Spaces and Trees  
ENV4 – Ancient monuments and Sites of Archaeological Importance  
ENV5 – Protection of Agricultural Land  
ENV7 – Protection of the Natural Environment  
ENV8 – Other Landscape Elements of Importance  
ENV10 – Noise Sensitive Developments  
ENV12 – Groundwater Protection  
ENV14 – Contaminated Land  
H1 – Housing development  
H9 – Affordable Housing  
H10 – Housing Mix

### **12.3 Supplementary Planning Document or Guidance**

Uttlesford Local Residential Parking Standards (2013)  
Essex County Council Parking Standards (2009)  
Supplementary Planning Document- Accessible homes and play space  
homes Essex Design Guide  
Uttlesford Interim Climate Change Policy (2021)

## **13. CONSIDERATIONS AND ASSESSMENT**

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

- A) Background**
- B) Principle of Development**
- C) Countryside Impact**
- D) Design & Lighting**
- E) Amenity**
- F) Heritage impacts and Archaeology**
- G) Affordable Housing Mix and Tenure**
- H) Access and Parking**
- I) Nature Conservation & Trees**
- J) Climate Change**
- K) Air Quality & Contamination**
- L) Flooding**
- M) Planning Obligations**
- N) Other matters**
- O) Planning Balance and Conclusion**

### **13.2 A) Background**

**13.2.1** This application follows on from a S62a application under reference S62A/2023/0016 for the erection of 40 no. dwellings, including open space landscaping and associated infrastructure.

**13.2.2** The application was dismissed by the Inspector for the following grounds:

1. It has not been adequately demonstrated that lighting and loss of vegetation, particularly in relation to access works and off-site



proposals to improve the restricted byway Takeley 48/25 would not result in unacceptable harm to the established character and appearance of the surrounding area and to the significance of Smiths Green Lane (Warish Hall Road), a protected lane and non-designated heritage asset. This is contrary to policies S7, ENV9 and GEN2 of the Uttlesford Local Plan and paragraphs 130 c), 185 c) and 203 of the National Planning Policy Framework.

2. It has not been adequately demonstrated that safe and suitable access to and from the site for pedestrians and cyclists could be achieved which meets highway design standards whilst responding to local character and biodiversity considerations, contrary to Uttlesford Local Plan policy GEN1 and paragraphs 92, 110 and 112 of the National Planning Policy Framework.

**13.2.3** As part of the S62a, the following were considered to be the main issues. Beneath each is a summary of the Inspector's conclusions.

**13.2.4** • whether the location of the development is acceptable, having regard to the development strategy in the development plan, and its location in the countryside protection zone;

**13.2.5** The Inspector found there was a sufficient range of services to meet day-to-day needs within a reasonable distance of the site and concluded she was satisfied that the development of the site is commensurate with the position of Takeley in the settlement hierarchy and that the location is broadly compatible with the Key Rural Settlement status of Takeley in the context of Local Plan Policy S3. She concluded the site represents a small proportion of the best and most versatile agricultural land in the district and that its loss would not be significant. Furthermore, she was satisfied that the proposed development would not conflict with part a) of policy S8 in terms of avoiding coalescence between Stansted Airport and existing development in the surrounding countryside.

**13.2.6** • whether the proposed development is accessible for non-motorised users and would be acceptable in terms of highway safety;

**13.2.7** In line with ECC Highways, the Inspector concluded there would not be severe cumulative impacts on the road network.

**13.2.8** Nevertheless, she did conclude there would be an impact in terms of highway safety relating to safe and suitable access for non-motorised users, concluding *"I am not satisfied that a scheme to upgrade the byway could be dealt with post-consent, either through the UU or by Grampian type conditions. Without the link, I am unconvinced that the site could be safely and suitably accessed by non-motorised users"*. This is due to the conflict between the works required to secure a safe access route and the impacts these works would have on the surrounding character, biodiversity and wildlife.

- 13.2.9** • the effects of the proposed development on the character and appearance of the area;
- 13.2.10** In terms of the bulk of the development and the proposed dwellings, the Inspector concluded the design and layout of the proposed development would broadly meet the Framework’s aims for achieving well-designed places as set out in section 12. She was also satisfied that there would be no significant conflict with policy S8 in relation to both the coalescence and openness aspects of the CPZ.
- 13.2.11** Due to a lack of information in terms of works to the access/visibility splays, works to the restricted by-way and proposed lighting requirements, the Inspector was not satisfied that there would not be unacceptable harm to the established character and appearance of the surrounding area and to the significance of Smiths Green Lane (Warish Hall Road), a protected lane and non-designated heritage asset.
- 13.2.12** • the effects of the development on the significance of designated and non-designated heritage assets; and
- 13.2.13** In regard to heritage assets the Inspector concluded *“having regard to the lack of direct interrelationship with Hollow Elm Cottage as a result of its separation by intervening land and a copse of trees, I would agree with the applicant that there would be no harmful effects arising from the proposed development on its wider rural setting, and that the heritage balance exercise in paragraph 202 of the Framework is therefore unnecessary”*.
- 13.2.14** In regard to non-designated heritage assets, namely the protected lane, the Inspector concluded *“Matters of lighting, visibility splays and associated vegetation removal are matters which are capable of being resolved by conditions which require further details. However such details are fundamental to the effects of the development on both the character and appearance of the area and the significance of the lane as a non-designated heritage asset. I am unable to assess the scale of harm and weigh it against the need for the development, and as such there is conflict with Local Plan policy ENV9 relating to historic landscapes as well as paragraph 203 of the Framework”*.
- 13.2.15** The Smiths Green Conservation Area was still in development at the time of this S62a application, and so was not a consideration. As it has not been formally designated, this now forms part of the below assessment of this current S62a application.
- 13.2.16** • effects of noise on the living conditions of future occupiers.
- 13.2.17** The Inspector concluded that she was satisfied that the effects of noise on the future occupiers of the proposed development would be acceptable subject to conditions as recommended by Environmental Health relating

to a noise mitigation scheme for both habitable rooms and external amenity spaces.

### **13.3 B) Principle of development**

- 13.3.1** The development plan for the site is the Uttlesford District Local Plan (2005) (the Local Plan). A new Local Plan was released on the 11<sup>th</sup> November for Regulation 18 Preferred Options consultation. However, at such an early stage in the process, it carries negligible weight when considering the proposed development. As such the relevant saved policies contained within the Local Plan are the most relevant to the assessment of this application. Those of most relevance should be given due weight according to their degree of consistency with the NPPF under paragraph 219.
- 13.3.2** Although the Council can demonstrate a 5YHLS (5.14 years), the proposals cannot be tested against a fully up-to-date Development Plan. Thereby paragraph 11 of the NPPF is engaged. As such, a detailed “Planning Balance” has been undertaken of the proposals against all relevant considerations.
- 13.3.3** The “Planning Balance” is undertaken further below in this report, but before doing so a wider assessment of the proposal has been undertaken against all relevant considerations to determine if there are impacts, before moving to consider if these impacts are adverse and would ‘significantly and demonstrably’ outweigh the benefits of the proposal in the planning balance.
- 13.3.4** The application site is located outside the development limits of Takeley within open countryside and is therefore located within the Countryside where policy S7 applies.
- 13.3.5** This specifies that the countryside will be protected for its own sake and planning permission will only be given for development that needs to take place there or is appropriate to a rural area. Development will only be permitted if its appearance protects or enhances the particular character of the part of the countryside within which it is set or there are special reasons why the development in the form proposed needs to be there. A review of policy S7 for its compatibility with the NPPF has concluded that it is partially compatible but has a more protective rather than positive approach towards development in rural areas.
- 13.3.6** It is not considered that the development would meet the requirements of Policy S7 of the Local Plan and that, consequently the proposal is contrary to that policy. This should be afforded weight in the planning balance.

#### Countryside Protection Zone

- 13.3.7** The site is also located within the Countryside Protection Zone for which Uttlesford Local Plan Policy S8 applies. Policy S8 states that in the Countryside Protection Zone planning permission will only be granted for development that is required to be there or is appropriate to a rural area. There will be strict control on new development. In particular development will not be permitted if either of the following apply:
- 13.3.8** a) New buildings or uses would promote coalescence between the airport and existing development in the surrounding countryside.  
b) It would adversely affect the open characteristics of the zone.
- 13.3.9** Policy S8 is more restrictive than the balancing of harm against benefits approach of the NPPF, noting that the NPPF at paragraph 170 advises that decisions should recognise the intrinsic character and beauty of the countryside and that the ‘protection’ afforded to the CPZ in Policy S8 is not the same as the Framework’s ‘recognition’.
- 13.3.10** The application site is currently agricultural land with planting around the boundaries and they therefore contributes to the character and appearance of the countryside around the airport and the Countryside Protection Zone as a whole. However, it does adjoin development in Takeley and Priors Wood and the A120 creates a barrier between the proposed development and Stansted Airport.
- 13.3.11** The conclusions of the Inspector in the previous S62a (ref. S62A/2023/0016) are a material consideration. In respect to part a) of Policy S8, the Inspector concluded: *“Given the proximity of the site to existing built development and the large areas of intervening open land between the site and the airport and having regard to the decision on the appeal scheme, I am satisfied that there would not be conflict with part a) of policy S8”*.
- 13.3.12** In respect to part b). the Inspector concluded: *“I do not consider that the open character of the area, and the aims of the policy as set out in supporting text paragraph 2.2.9 of the Local Plan, would be significantly compromised by the proposed development”*.
- 13.3.13** As the proposed development fundamentally remains unchanged, this is considered to remain relevant, and therefore the proposals are not considered to significantly conflict with Policy S8.
- 13.3.14** Loss of Agricultural Land
- 13.3.15** The site is designated as Grade 2 Agricultural Land. Paragraph 174(b) of the Framework states “Planning policies and decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystems services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland’.

- 13.3.16** Annex 2 of The Framework defines “best and most versatile land” as land in grades 1, 2 and 3a of the Agricultural Land Classification”.
- 13.3.17** Local Plan policy ENV5 (Protection of Agricultural Land) states that development of the best and most versatile (BMV) agricultural land will only be permitted where opportunities have been assessed for accommodating development on previously developed sites or within existing development limits. It further states that where development of agricultural land is required, developers should seek to use areas of poorer quality except where other sustainability considerations suggest otherwise.
- 13.3.18** In the previous S62a application (ref S62A/2023/0016) the Inspector concluded: *“The applicant’s Planning Statement indicates that the site is Grade 2 and is therefore classified as ‘best and most versatile’ (BMV) land, of which there would be a loss of around 2.3ha. The land is currently laid to grass and given its contained nature and awkward shape it is likely to be less suitable and accessible for large farm machinery. Nonetheless, the site represents a small proportion of the BMV land in the district as a whole and its loss would not be significant”.*
- 13.3.19** Suitability and Location
- 13.3.20** Paragraph 79 of the NPPF states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. New homes create additional population, and rural populations support rural services and facilities through spending.
- 13.3.21** Takeley is identified within the Local Plan settlement hierarchy as being a “Key Rural Settlement.” Located on main transport network as well as there being local employment opportunities.
- 13.3.22** Although outside the ‘development limits’ of Takeley as designated by the Local Plan, the new built form would be constructed towards the northern edge of the settlement and therefore the proposals provide a logical relationship with the existing settlement. The siting of the development would not be unreasonable in respect to its location when taking into account the site’s proximity to local services and facilities and therefore considered to be an accessible and sustainable location.
- 13.3.23** Within the decision of application S62A/2023/0016, the Inspector concluded: *“the scale and location is broadly compatible with the Key Rural Settlement status of Takeley in the settlement hierarchy as defined in policy S3, having particular regard to its proximity to the existing settlement and local services”.*

**13.3.24** Having regard to the previous S62a decision at the site, the details set out in the submitted Landscape and Visual Appraisal, and the location of the application site to nearby services, the proposal is considered likely to be acceptable in principle.

**13.4** **C) Countryside Impact**

**13.4.1** A core principle of the NPPF is to recognise the intrinsic and beauty of the countryside. Paragraph 174 of the Framework further states that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes.

**13.4.2** Landscape Character is defined as 'a distinct, recognisable and consistent pattern of elements in the landscape that makes one landscape different from another, rather than better or worse'. The landscape character is that which makes an area unique.

**13.4.3** Although not formally adopted as part of the Local Plan or forms a Supplementary Planning Document, the Council as part of the preparation of the previous local plan prepared a character assessment which provides the detailed 'profiles' of Landscape Character Areas within Uttlesford District, known as 'Landscape Characters of Uttlesford Council'.

**13.4.4** The application site lies within the character area known as the Broxton Farmland Plateau, which lies between the upper Chelmer and upper Stort River Valleys and stretches from Henham and Ugley Greens eastwards to Molehill Green and the rural fringe to the west of Great Dunmow.

**13.4.5** The area is characterised by gently undulating farmland on glacial till plateau, dissected by River Roding. The assessment describes the key characteristics for the landscape area as being the open nature of the skyline of higher areas of plateau is visually sensitive, with new development potentially visible within expansive views across the plateau. There are also several important wildlife habitats within the area which are sensitive to changes in land management. Overall, this character area has moderate to- high sensitivity to change. The assessment also highlights that any new development should responds to historic settlement pattern, especially scale and density, and that use of materials, and especially colour, is appropriate to the local landscape character and that such development should be well integrated with the surrounding landscape.

**13.4.6** The following paragraphs are taken from the Inspector's decision on the previous S62a application (ref S62A/2023/0016):

**13.4.7** *"The site benefits from dense and mature screening to all boundaries including a heavily vegetated copse to the south west. I noted on my site visit that direct views of the site are restricted from most viewpoints, and that only limited glimpses are achievable from a few short-range locations*

*where there are gaps in vegetation. The principal vista of the of the site is via the existing agricultural access onto Smiths Green Lane, and due to the limited width of the gap, the interior of the site can only be seen when directly passing. Whilst the trees and hedgerows were in full leaf on my summer site visit, I note that the LVIA was undertaken in winter and the visuals indicate a greater visibility of the site in short range views, albeit still of a filtered nature. The photographs indicate that wider public views into the site were still limited. Nonetheless, the existing pastoral nature of the site and its vegetated boundaries undoubtedly form a positive feature in the landscape of the area”.*

**13.4.8** *“Residents of many of the nearby dwellings on Jacks Lane directly face the site but are well separated both by the road and vegetation. The dwellings on Smiths Green predominately benefit from large gardens which are well contained by trees and hedgerows, so enjoy good levels of privacy. Without the presence of development on the opposite Bull Field site, I find that the change in their views would be minor adverse rather than the moderate adverse affects noted in the LVIA and this would further reduce as additional boundary landscaping matures”.*

**13.4.9** Given that the proposed scheme remains fundamentally the same in relation to the proposed development on the site, and that the Planning Inspector of the previous S62a application (S62A/2023/0016) considered the impact on this part of the site to be ‘minimal’, no further concerns are raised in relation to the proposal regarding the visual impact and effect on the wider landscape character area, as a result of the built form.

**13.4.10** Notwithstanding, issues arising from the proposed lighting of the byway are discussed further in the following section.

## **13.5 D) Design and Lighting**

### **13.5.1 Design**

**13.5.2** In terms of design policy, good design is central to the objectives of both National and Local planning policies. The NPPF requires policies to plan positively for the achievement of high quality and inclusive design for the wider area and development schemes. Section 12 of the NPPF highlights that the Government attaches great importance to the design of the built development, adding at Paragraph 124 ‘The creation of high-quality buildings and places is fundamental to what the planning and development process should achieve’. These criteria are reflected in policy GEN2 of the adopted Local Plan.

**13.5.3** The layout of the proposal features a ‘rural lane’ with 2 dwellings fronting on to Smiths Green Lane, with a ‘garden village’ and ‘green’ set behind. The proposed density has been designed to reflect the existing patterns of development and designed for each separate character area, providing well defined streets and active frontages.

- 13.5.4** The layout comprises a mix of attached, detached and semi-detached houses and bungalows. All of the proposed houses are provided with generous outdoor amenity space in the form of rear gardens, which have been designed to ensure they are not overlooked by neighbouring dwellings.
- 13.5.5** The general scale of the buildings would be two storey, other than the provision of bungalow dwellings at of 1 & 1 and ½ storeys in height. The proposed dwellings would range from between approximately 5.5m and 10m from finished floor level to roof ridge level. The smaller, bungalow dwellings would be located to the southern edge of the site, closest to the neighbouring residential dwellings located on the southern side of Jacks Lane.
- 13.5.6** The proposed scale of the dwellings would appropriately reflect the context of the area and the surrounding buildings, whilst providing adequate reference to the local built form which comprises a mix of single and two storey dwellings.
- 13.5.7** The proposed development draws upon the characteristics of the local vernacular to reinforce the sense of place established by the layout of the development. The appearance of the proposed residential units has been informed by the development of the different character areas identified above. The proposed choice of materials will give a good variety of treatments across the site, which would enhance the setting of the development.
- 13.5.8** As the design of the scheme has not changed since the previous S62a application (S62A/2023/0016), the following comments made by the Inspector in their decision are a material consideration: *“It would appropriately include a mix of dwelling types and heights (including bungalows) and represent a relatively low density contemporary development, with a design which would not compete with either the historic core of the village nor the more recent developments. As such, I find the design, scale, form and layout of the dwellings to be acceptable and in general accordance with Local Plan policy GEN2”*.
- 13.5.9** Lighting
- 13.5.10** In the decision for the previous S62a (S62A/2023/0016), the Inspector stated: *“There is a historic absence of lighting in this area of Takeley, and as such there is potential for the appearance of the development to be more noticeable during hours of darkness. Lighting of the application site and the associated byway improvements would be required to meet Highway Authority requirements. However, there is an inherent conflict between the need for lighting for reasons of safety, and its potential effect on area character and appearance. There are also potential effects on biodiversity, including bats, the nearby Stansted Airport, and living conditions.*



- 13.5.11** The Inspector continues: *“The applicant has indicated that no street columns are proposed, and that it would be likely to comprise low level bollard type lighting as requested by ECC Place Services’ Ecological Consultant to reduce effects on bats. Such lighting would also be less harmful to area character. However, the Highway Authority indicated that their specifications may differ from this to meet safety and highway agreement requirements. The parties indicated at the hearing that an acceptable solution would be possible. Nonetheless without any lighting details before me, and the lack of detailed assessment in the LVIA, I am unconvinced that a lighting scheme should be agreed post-consent given that it forms a fundamental part of my considerations of effects on area character.*
- 13.5.12** The Inspector concludes: *“I am unconvinced that wider effects of the development and the associated byway improvements on landscape and visual character and appearance during hours of darkness have been adequately considered by the applicant. This is of particular importance given the historic lack of lighting in the vicinity of Jacks Lane and Smiths Green Lane. I am not persuaded that such matters should be left to a condition, and without an acceptable agreed lighting scheme there would be harm to the character and appearance of the area in conflict with policy GEN2 of the Local Plan”.*
- 13.5.13** At the time of writing this report, the applicant is yet to propose acceptable by-way improvement works and a lighting design scheme that satisfies both ECC Highways and ECC place Services (Ecology). The Officer has attended a number of meetings where proposals have been discussed, and the applicant has submitted a number of revised plans following these discussions. Nevertheless, there remains a conflict between Highways and Place Services who have both requested additional information and revised plans in order that their concerns can be addressed. Therefore, an acceptable scheme is yet to be agreed.
- 13.5.14** Additionally, from the submitted plans, specifically the plan prepared by MMA Lighting Consultancy (dated 22 September 2023) detailing the light spill from the proposed lighting columns, the Officer has similar concerns to the Inspector as to the level of harm this lighting will cause on the character and appearance of the area in the context of the current lack of such lighting. The plans show some significant light spill onto the existing vegetation, particularly to the south of Jacks Lane. Concurrently, the Officer would find it unacceptable for no lighting to be proposed to the by-way due to impacts on user safety given that this is to be relied upon as the only pedestrian connectivity to the main settlement of Takeley.
- 13.5.15** Therefore, at the time of writing, it is considered that the proposals fail to demonstrate that there would be no impact on the established character and appearance of the surrounding area as a result of the proposed lighting, or that the proposal can provide safe and suitable access to and from the site for pedestrians and cyclists.

## **13.6**      **E Residential Amenity**

### **13.6.1**      **Neighbouring Amenity**

**13.6.2**      The NPPF requires a good standard of amenity for existing and future occupiers of land and buildings. Policies GEN2 and GEN4 of the Local Plan states that development shall not cause undue or unacceptable impacts on the amenities of nearby residential properties.

**13.6.3**      The proposal would be up to two storeys in scale. The proposed site would be located due north / north-east of closest neighbouring residential development, where the proposed dwellings would be separated from the houses to the south by Jacks Lane. There would also be a substantial distance and soft-landscaped buffer between the site and the closest properties to the south-west and north of the site that would adequately off-set any potential adverse impacts in terms of daylight / sunlight or appearing overbearing or resulting in loss of outlook.

**13.6.4**      Given the generous spacings between the proposed units within the development and to that of the closest neighbouring residential developments, the proposal would have an acceptable impact upon the residential amenity of neighbouring occupiers. As such, the proposal would comply with Policies GEN2 and GEN4 of the Local Plan.

### **13.6.5**      **Standard of Accommodation**

**13.6.6**      In terms of the amenity of future occupiers, the proposed units would be dual aspect and would provide sufficient levels of outlook, daylight and natural ventilation for the future occupiers. All of the proposed houses and bungalows will have direct access to private amenity space in the form of gardens that comply with the relevant Essex Design Guide standards of 100sqm for 3 bed + houses, and 50sqm for 1 or 2 bed Houses. The apartments would have access to landscaped communal spaces. The proposed dwellings would also meet the minimum internal floor space requirements for each unit.

**13.6.7**      In terms of noise, it is noted that the Council's Environmental Health Team have commented on the application, highlighting that the submitted noise assessment does not consider noise impacts from Essex and Herts Shooting School, which is which is located approximately 400m to the north-east of the proposed development.

**13.6.8**      However, it is noted that there were no such concerns raised as part of the previous S62a and it is likely that the potential levels of noise to the dwellings and the majority of external areas could be adequately mitigated through the installation or reasonable noise protection measures to ensure compliance with policy GEN2 of the Local Plan.

## **13.7**      **F) Heritage impacts and Archaeology**

**13.7.1**      Designated Heritage Assets

**13.7.2**      Policy ENV 2 (Development affecting Listed Buildings) seeks to protect the historical significance, preserve and enhance the setting of heritage assets. The guidance contained within Section 16 of the NPPF, 'Conserving and enhancing the historic environment', relates to the historic environment, and developments which may have an effect upon it.

**13.7.3**      The site is not located within a conservation area. However, the development has the potential to adversely impact the setting of several designated and non-designated heritage assets including:

- Hollow Elm Cottage, Grade II listed (list entry number: 111220),
- Cheerups Cottage, Grade II listed (list entry number: 1112207) and
- The Protected Lane, 'Warrish Hall Road' (non-designated heritage asset).

**13.7.4**      The NPPF defines significance as 'the value of a heritage asset to this and future generations because of its heritage interest'. Such interest may be archaeological, architectural, artistic or historic'.

**13.7.5**      Paragraphs 199, 200 and 202 of the NPPF state: 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. Any harm to, the significance, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.

**13.7.6**      In the decision for the previous S62a application (S62A/2023/0016), the Inspector concluded: "*Having regard to the lack of direct interrelationship with Hollow Elm Cottage as a result of its separation by intervening land and a copse of trees, I would agree with the applicant that there would be no harmful effects arising from the proposed development on its wider rural setting, and that the heritage balance exercise in paragraph 202 of the Framework is therefore unnecessary*".

**13.7.7**      Non-designated heritage assets

**13.7.8**      In respect of non-designated heritage assets, paragraph 203 of the Framework requires effects on significance to be taken into account, and in weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of harm or loss and the significance of the heritage asset. Smiths Green Lane (also known as Warish Hall Road) is a protected lane and these are referred to in Local Plan policy ENV9 relating to historic landscapes. The policy states that development proposals likely to harm

such landscapes will not be permitted unless the need for the development outweighs the historic significance of the site.

- 13.7.9** Its significance is derived from its historic context in the village of Takeley, its narrow width and wide unlit grassed verges without footways and limited street furniture. It is punctuated in numerous locations to provide access to dwellings which line the lane, and around its junction with Jacks Lane. The part of the lane along which the application site is located has narrower verges which are restricted by dense vegetation. The lane is very lightly trafficked, with a consequent a sense of tranquillity and rural character, notwithstanding the background noise arising from the nearby A120 and Stansted Airport. The contained nature of the application site means that only glimpses of the field are currently appreciable. The site makes a moderate contribution to the significance of the non-designated heritage asset, and this is largely due to its undeveloped and verdant nature.
- 13.7.10** The only part of the proposed development directly affecting the lane would be the single access road into the site, and this is proposed in the same location as the existing agricultural access. Here, there is a relatively small gap in the dense hedgerow boundary along Smiths Green Lane. The proposed access, together with the footway/cycleway link into the site, would be wider than the existing gap and involve a mass of hardstanding uncharacteristic of the lane.
- 13.7.11** In the decision for the previous S62a application (S62A/2023/0016), the Inspector raised concerns that there could be greater erosion of the village green and boundary vegetation than is indicated to allow for the visibility splays, resulting in harm to the significance of the Protected Lane as a non-designated heritage asset.
- 13.7.12** There was no clear plan submitted within the previous S62a that identified the work required to the proposed visibility splays, which lead to the Inspector's uncertainties. However, as part of this application, a plan has been submitted that demonstrates there will be no significant removal of vegetation as part of the proposed vis splays. Additionally, detailed plans have been submitted for proposed access and it is now considered that the protected lane will be protected from harms resulting from works to the proposed access.
- 13.7.13** Smiths Green Conservation Area
- 13.7.14** On the 2<sup>nd</sup> November 2023 the Council formally designated a new Smiths Green Conservation Area. Whilst the site does not sit within this area, or on the immediate boundary, it does sit within the setting and therefore impacts to the significance of the setting of the Conservation Area must now be assessed.
- 13.7.15** Paragraphs 206 and 207 of the NPPF states that proposals that preserve those elements of the setting that make a positive contribution to the asset

(or which better reveal its significance) should be treated favourably, acknowledging that not all elements of a Conservation Area will necessarily contribute to its significance. Loss of an element which makes a positive contribution to the significance of the Conservation Area should be treated either as substantial harm under paragraph 201 or less than substantial harm under paragraph 202, as appropriate, taking into account the relative significance of the element affected and its contribution to the significance of the Conservation Area.

- 13.7.16** As part of application UTT/22/3126/FUL, the applicant submitted a Heritage Addendum which takes account of the newly designated Conservation Area. Place Services have been consulted and confirmed the following:
- 13.7.17** *“The proposed development of 40 houses and associated access road and hard and soft landscaping will be in proximity to the northern part of the Conservation Area and will appear in key views from the north into the Conservation Area from the Protected Lane and fields on the eastern side of the lane to the south of Parker’s Farm. The development will be conspicuous in the rural setting of the Conservation Area and have an urbanising effect on the general character of the setting, representing a change in land use, all with permanent effect”.*
- 13.7.18** Place services concluded that the proposal will cause a low level of less than substantial harm to the designated heritage asset in terms of the National Planning Policy Framework (NPPF 2023) making paragraph 202 relevant.
- 13.7.19** Archaeology
- 13.7.20** In terms of archaeology, policy ENV4 of the adopted local plan, the preservation of locally important archaeological remains will be sought unless the need for development outweighs the importance of the archaeology. It further highlights that in situations where there are grounds for believing that a site would be affected, applicants would be required to provide an archaeological field assessment to be carried out before a planning application can be determined, thus allowing and enabling informed and reasonable planning decisions to be made.
- 13.7.21** The application was formally consulted to Place Services Historic Environment, who note that the proposed development lies within an area of known archaeological potential. As such, it is recommended that an Archaeological Programme of Trial Trenching followed by Open Area Excavation with a written scheme of investigation would be required. This would be secured by way of conditions, as suggested by the Place Services Historic Environment Consultant.
- 13.7.22** As such, subject to the imposition of conditions relating to an Archaeological Programme of Trial Trenching followed by Open Area

Excavation with a written scheme of investigation, the proposal would comply with policy ENV4 of the Local Plan.

### **13.8 G) Affordable Housing Mix and Tenure**

#### **13.8.1 Affordable Housing**

**13.8.2** In accordance with Policy H9 of the Local Plan, the Council has adopted a housing strategy which sets out Council's approach to housing provisions. The Council commissioned a Strategic Housing Market Assessment (SHMA) which identified the need for affordable housing market type and tenure across the district. Section 5 of the Framework requires that developments deliver a wide choice of high-quality homes, including affordable homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities.

**13.8.3** The delivery of affordable housing is one of the Councils' corporate priorities and will be negotiated on all sites for housing. The Councils policy requires 40% on all schemes over 0.5 ha or 15 or more properties. The affordable housing provision on this site will attract the 40% policy requirement as the site is for 40 properties. This amounts to 16 affordable housing properties.

**13.8.4** The proposed 40% affordable housing should be split with 25% being First Homes, in accordance the government's guidance minimum target. 5% should be Shared Ownership units with 70% being for Affordable Rent. This would represent a substantial contribution to the Council's affordable housing objectives as described above and would help meet the stated need for low-cost Council rented housing in this part of Uttlesford. The current proposal does not include any First Homes.

**13.8.5** The affordable housing units would be located towards the rear of the site. However, given the varied range of dwelling types and the relatively small scale of the development, the proposal would contribute to the creation of a mixed and balanced community in this area and would be acceptable in this regard.

#### **13.8.6 Housing Mix**

**13.8.7** Policy H10 requires that developments of 3 or more dwellings should provide a significant proportion of small 2- and 3-bedroom market dwellings. However, since the policy was adopted, the Council in joint partnership with Braintree District Council have issued the 'Housing for New Communities in Uttlesford and Braintree (ARK Consultancy, June 2020)'.

**13.8.8** The study recommends appropriate housing options and delivery approaches for the district. It identifies that the market housing need for 1 bed units is 11%, 2-bedunits 50%, 3-bed units 35.6% and 4 or more bed units being 3.4%

**13.8.9** The accommodation mix proposed is as follows: 1 bed units at 0%, 2 bed units at 35%, with five of these being 2-bedroom bungalows, 3 bed units at 35%, 4 bed units at 20% & 5 bed units at 10%.

**13.8.10** It is also the Councils' policy to require 5% of the whole scheme to be delivered as fully wheelchair accessible (building regulations, Part M, Category 3 homes). The Council's Housing Strategy 2021-26 also aims for 5% of all units to be bungalows delivered as 1- and 2-bedroom units. This would amount to 2 bungalows across the whole site delivered.

**13.8.11** The proposed housing mix would provide a significant proportion of smaller 2 & 3 bedroom market dwellings (40%) and is considered to be appropriate in planning policy and housing strategy terms. As such, it is considered that the proposed provision of affordable housing, and the overall mix and tenure of housing provided within this development, is acceptable and in accordance with policies H9 of the Local Plan.

## **13.9 H) Access and Parking**

### **13.9.1** Access

**13.9.2** Paragraph 110 (b) of the NPPF states that development should ensure that 'safe and suitable access to the site can be achieved for all users', whilst Paragraph 112 (c) states that development should 'create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards.'

**13.9.3** Policy GEN1 of the Local Plan requires developments to be designed so that they do not have unacceptable impacts upon the existing road network, that they must compromise road safety and take account of cyclists, pedestrians, public transport users, horse riders and people whose mobility is impaired and also encourage movement by means other than a vehicle.

**13.9.4** The main access to the site would be via Smiths Green Lane, where there is an existing access / opening to the site. There would also be a pedestrian link from the site to the PROW located along the eastern boundary to the site, and the proposal now includes the PROW within the red-line, with improvement works proposed.

**13.9.5** The acceptance of the proposed vehicle access point and highway impacts, including the Construction Management Plan will ultimately be assessed by the Highway Authority in respect to matters of highway safety, traffic congestion, intensification, and accessibility. The Highway Authority will directly provide written advice of their findings and conclusions directly to PINS.

## **13.10 I) Nature Conservation & Trees**

**13.10.1** Nature Conservation

**13.10.2** Policy GEN2 of the Local Plan applies a general requirement that development safeguards important environmental features in its setting whilst Policy GEN7 seeks to protect wildlife, particularly protected species and requires the potential impacts of the development to be mitigated.

**13.10.3** The application site itself is not subject of any statutory nature conservation designation being largely used for agriculture. However, Priors Wood, which is a Local Wildlife Site (LoWS) which comprises Priority habitat Lowland Mixed Deciduous Woodland and is also an Ancient Woodland, an irreplaceable habitat, is located approximately 175m west of the site.

**13.10.4** The site is also within the 10.4km evidenced Zone of Influence for recreational impacts at Hatfield Forest Site of Special Scientific Interest (SSSI)/National Nature Reserve (NNR). Therefore, Natural England's letter to Uttlesford DC relating to Strategic Access Management and Monitoring Strategy (SAMM) – Hatfield Forest Mitigation Strategy (28 June 2021) should be followed to ensure that impacts are minimised to this site from new residential development. However, as this application is less than 50 or more units, Natural England do not, at this time, consider that is necessary for the LPA to secure a developer contribution towards a package of funded Strategic Access Management Measures (SAMMs) at Hatfield Forest.

**13.10.5** The Place Services Ecology will directly provide written advice of their findings and conclusions directly to PINS.

**13.10.6** Trees

**13.10.7** The proposed development would result in the loss of 3 individual trees and small sections of hedging. It is noted that 2 of the trees are category B trees. However, these are required to facilitate the development and these losses would be mitigated by proposed new tree and hedge planting. Extensive planting of street trees is proposed throughout the development and will largely comprise of varieties of different species of indigenous trees.

**13.10.8** In addition, the use of hedgerows and trees throughout the scheme to garden areas would off-set the loss of the proposed vegetation to be removed. A fully detailed scheme of protective measures for existing vegetation to be retained would be recommended as a condition as part of any approval.

**13.10.9** Overall, it is considered that the proposal would not have any material detrimental impact in respect of protected species or unacceptable impacts in terms of trees / hedging of special amenity value, subject to condition and s106 obligations accords with ULP policies GEN7 & ENV8.



## **13.11 J) Climate Change**

**13.11.1** Policy GEN2 of the Local Plan seeks to ensure that the design of new development It helps to minimise water and energy consumption. Uttlesford Interim Climate Change Policy sets out a list of Policies of note a demonstration of how developments demonstrate the path towards carbon zero. The NPPF seeks to ensure that new development should avoid increased vulnerability arising from climate change. More so, developments should help to reduce greenhouse gas emissions.

**13.11.2** The applicant has submitted a Sustainability Statement which highlights that the proposal has adopted a 'fabric First' approach to maximise the performance of the components and materials that make up the building fabric itself, before considering the use of mechanical or electrical building services systems. The statement also highlights that development would incorporate air source heat pumps as a main source of renewable energy. Full details of the potential reduction in CO2 emissions have not been detailed and could be secured by way of condition.

**13.11.3** Overall, the scheme would be consistent with the Councils Interim Climate Change policy and its Energy & Sustainability strategies are therefore supported, subject to conditions.

## **13.12 K) Air Quality & Contamination**

**13.12.1** An air quality assessment has been submitted as part of the application and the Council's Environmental Health Officer has been consulted as part of the application and raises no objection to the proposed development in this regard, subject to the imposition of conditions. These would include appropriate remedial measures and actions to minimise the impact of the surrounding locality on the development and the operation of the development on the local environment including during construction.

**13.12.2** Policy ENV14 of the Local Plan states that any proposal on contaminated land needs to take proper account of the contamination. Mitigation measures, appropriate to the nature and scale of the proposed development will need to be agreed.

**13.12.3** The Environmental Health Officer will directly provide written advice of their findings and conclusions directly to PINS. Notwithstanding, based on their response to application UTT/22/3126/FUL which includes the same plans, matters regarding contamination could be adequately dealt with by way of condition, ensuring that further assessment of the nature and extent of contamination should be submitted to and approved in writing by the Local Planning Authority.

**13.12.4** Therefore, the application is considered acceptable in terms of its land contamination risks and in accordance with the aforementioned policies.

## **13.13 L) Flooding**

- 13.13.1** The NPPF states that inappropriate development in areas of high-risk flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere.
- 13.13.2** The Environmental Agency's website and the Councils policy maps has identified the site is within a fluvial Flood Zone 1 where there is a minimal risk of flooding.
- 13.13.3** New major development for housing need to include a flood risk assessment as part of their planning application, to ensure that the required form of agreed flood protection takes place. Additionally, all major developments are required to include sustainable drainage to ensure that the risk of flooding is not increased to those outside of the development and that the new development is future proofed to allow for increased instances of flooding expected to result from climate change.
- 13.13.4** The submitted Flood Risk Assessment concludes that the site is at a low risk of flooding and the proposals would not increase flood risk onsite or elsewhere. The proposed SuDS strategy, including the use of permeable surfaces, would effectively manage the surface water runoff associated with the roof, roads and other impermeable areas, by using infiltration methods. Essex County Council who are the lead local flooding authority have reviewed the submitted revised details which accompanied the corresponding full application (UTT/22/3126/FUL) and do not object to the granting of planning permission subject to imposing appropriately worded conditions. Given the similarities between the two proposals, it is considered that issues of flood risk could also be dealt with adequately by way of conditions as part of this application.
- 13.13.5** The proposals, for this reason is therefore considered to comply with policy GEN3 of the adopted Local Plan and the NPPF.

## **13.14 M) Planning Obligations**

- 13.14.1** 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 identifies those matter that the Council would seek to secure through a planning obligation, if it were proposing to grant it permission.
- 13.14.2** Relevant statutory and non-statutory consultees will directly provide PIN's their formal consultation response in respect to the proposals which may

or may not result in the need for obligations to be secured by a Section 106 Legal Agreement. Such matters that may arise include:

- 13.14.3**
  - i. Affordable housing provision (40%)
  - ii. Payment of education financial contributions; Early Years, Primary and Secondary Schools
  - iii. Financial contribution for Libraries
  - iv. School Transport
  - v. Provision and long-term on-going maintenance of public open space and play area.
  - vi. Highways obligations and associated financial contributions towards sustainable transport measures

## **13.15 N) Other Matters**

**13.15.1** From 1 October 2013 the Growth and Infrastructure Act inserted two new provisions into the Town and Country Planning Act (1990) ('the Act'). Section 62A allows major applications for planning permission, consents and orders to be made directly to the Planning Inspectorate (acting on behalf of the Secretary of State) where a local planning authority has been designated for this purpose.

**13.15.2** The Planning Inspectorate will appoint an Inspector to determine the application. The Inspector will be provided with the application documents, representations and any other relevant documents including the development plan policies. Consultation with statutory consultees and the designated LPA will be carried out by the Planning Inspectorate.

**13.15.3** The LPA also must carry out its normal notification duties, which may include erecting a site notice and/or writing to the owners/occupiers of adjoining land.

**13.15.4** The LPA is also a statutory consultee and must provide a substantive response to the consultation within 21 days, in this case by 16th March 2023. This should ideally include a recommendation, with reasons, for whether planning permission should be granted or refused, and a list of conditions if planning permission is granted. However, as indicated above, the Local Planning Authority are not in possession of all the required information that would be available to it to make an informed assessment of this development proposal.

**13.15.5** The Planning Inspectorate will issue a formal decision notice incorporating a statement setting out the reasons for the decision. If the application is approved the decision will also list any conditions which are considered necessary. There is no right to appeal.

## **13.16 O) Planning Balance and Conclusion**

**13.16.1** Although the Uttlesford District Council can demonstrate a 5-year housing land supply, there is currently no up-to-date Local Plan.

- 13.16.2** As a consequence, NPPF paragraph 11(d) is triggered as the policies most important for determining the proposal are out of date. NPPF paragraph 11(d)(i) is not relevant as there are no policies in the NPPF that protect areas or assets of particular importance which provide a clear reason for refusing the development. Instead, NPPF paragraph 11(d)(ii) states that planning permission should be granted unless 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.
- 13.16.3** Benefits of the development:
- 13.16.4** The development would result the delivery of 40 dwellings. The Council can demonstrate a 5-year housing land supply although it is acknowledged that this is marginal and just over the required supply being 5.14 years. The number of dwellings proposed would make a minor contribution to maintaining the supply of housing locally.
- 13.16.5** The proposal would provide additional affordable housing at 40%. This would equate to 16 affordable homes.
- 13.16.6** The provision of public open space and a play area would also represent a social benefit of the scheme, along with the inclusion of a pedestrian link provision to Public Rights of Way.
- 13.16.7** The development would also provide economic benefits in terms of the construction of the dwellings and supporting local services and amenities providing investment into the local economy. Further consideration would also been given in respect to net gains for biodiversity.
- 13.16.8** Adverse impacts:
- 13.16.9** Harm on the character and appearance of the area from proposed lighting to by-way.
- 13.16.10** Currently, the lack of an agreed scheme that satisfies the Council, ECC Highways and ECC Place Services in terms of safe and secure pedestrian access and protection of local biodiversity and wildlife.
- 13.16.11** Low level of less than substantial harm to the significance of the Smiths Green Conservation Area.
- 13.16.12** Neutral:
- 13.16.13** Cumulative impact of the development proposals on local infrastructure can be mitigated by planning obligations and planning conditions.
- 13.16.14** Landscaping plans indicate an intention to provide landscape features at the site to compensate for the loss of soft landscaping.

## **14. Conclusion**

- 14.1** Due to the nature of this application process, it is not possible to provide a detailed assessment of all of the relevant material considerations to this proposal. Neighbour comments have also not been factored into this assessment.
- 14.2** However, as noted above, given the site history and that some consultee comments have been provided regarding the current full application for the same development at the site, these elements would help to inform the assessment of the proposal.
- 14.3** All other factors relating to the proposed development will need to be carefully considered by relevant statutory and non-statutory consultees in respect to the acceptance of the scheme and whether the scheme is capable of being satisfactorily mitigated, such that they weigh neutrally within the planning balance. These factors include biodiversity, highways, drainage and flooding, local infrastructure provisions and ground conditions.
- 14.4** The unique application process that is presented by this submission, requires the Local Planning Authority to advise the Planning Inspectorate whether or not it objects to this proposal. Having regard to the limited opportunity to consider the proposals the Planning Committee is invited to provide its comments on this proposal.

## **DRAFT LIST OF CONDITIONS**

### **COMPLIANCE CONDITIONS**

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

REASON: In accordance with Section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the approved plans.

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

3. All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Ecological Assessment (Ecology

Solutions, October 2021), Ecology Briefing Note (Ecology Solutions, May 2023) and Bat Survey Report (Ecology Solutions, November 2021) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination. This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.”

Reason: To conserve and enhance protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species) and in accordance with Policy GEN7 of the Adopted Local Plan and the National Planning Policy Framework.

4. Notwithstanding the provision of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order), all exterior lighting shall be capped at the horizontal with no upward light spill.

Reason: In the interests of flight safety and to prevent distraction and confusion to pilots using Stansted Airport.

5. Notwithstanding the provision of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order) no reflective materials other than clear or obscure glass, including solar PV panels, shall be added to the building without the express consent of the local planning authority. An aviation perspective Glint & Glare assessment may be needed.

Reason: Flight safety - to prevent ocular hazard and distraction to pilots using STN.

### **PRIOR TO COMMENCMENT CONDITIONS**

6. No development shall take place until a Reptile Mitigation Strategy addressing the mitigation targeting reptiles has been submitted to and approved in writing by the local planning authority. The Reptile Mitigation Strategy shall include the following.
  - Purpose and conservation objectives for the proposed works.
  - Review of site potential and constraints.
  - Detailed design(s) and/or working method(s) to achieve stated objectives.
  - Extent and location/area of proposed works on appropriate scale maps and plans.
  - Type and source of materials to be used where appropriate, e.g. native species of local provenance.
  - Timetable for implementation demonstrating that works are aligned with the proposed phasing of development.
  - Persons responsible for implementing the works.

- Details for monitoring and remedial measures.
- Details for disposal of any wastes arising from works.

The Reptile Mitigation Strategy shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

Reason: To allow the LPA to discharge its duties under the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority habitats & species) and in accordance with Policy GEN7 of the Adopted Local Plan and the National Planning Policy Framework.

7. Prior to commencement, a Great Crested Newt Method Statement shall be submitted to and approved in writing by the local planning authority. This will contain precautionary mitigation measures and/or works to reduce potential impacts to Great Crested Newt during the construction phase. The measures and/works shall be carried out strictly in accordance with the approved details and shall be retained in that manner thereafter.

Reason: To conserve protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority habitats & species) and in accordance with Policy GEN7 of the Adopted Local Plan and the National Planning Policy Framework.

8. No works shall take place until a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works and prevent pollution has been submitted to, and approved in writing by, the local planning authority. The scheme shall subsequently be implemented as approved.

**PRIOR TO ABOVE GROUND SLAB CONDITIONS**

9. No development above slab level shall commence until the external materials of construction for the development have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved details.

REASON: In the interests of the appearance of the development and to accord with Policy GEN2 of the Uttlesford Local Plan 2005.

**PRIOR TO OCCUPATION CONDITIONS**

10. A Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority prior to the occupation of the development. The content of the LEMP shall include the following:
  - Description and evaluation of features to be managed.
  - Ecological trends and constraints on site that might influence management.
  - Aims and objectives of management.
  - Appropriate management options for achieving aims and objectives.
  - Prescriptions for management actions.

- Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- Details of the body or organisation responsible for implementation of the plan.
- Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

Reason: To allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority habitats & species) and in accordance with Policy GEN7 of the Adopted Local Plan and the National Planning Policy Framework.

11. Prior to occupation of the development, the access as shown in principle on submitted drawing shall be provided to include the following:
  - The provision of a suitable bellmouth access with appropriate radii to accommodate the swept path of vehicles regularly using the site access.
  - Clear to ground visibility splays with dimensions of 2.4 metres by 43 metres to both the north and south along Smiths Green. Such vehicular visibility splays shall be retained free of any obstruction at all times thereafter.
  - Clear to ground visibility splays with dimensions of 2.4 metres by 43 metres to both the north and south along Smiths Green at its junction with the shared use cycleway. Such vehicular visibility splays shall be retained free of any obstruction at all times thereafter.
  
12. Development shall not be occupied until such time as their associated vehicle parking areas indicated on the approved plans, have been hard surfaced, sealed and marked out in parking bays. The vehicle parking area and associated turning area shall be retained in this form at all times. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the development unless otherwise agreed with the Local Planning Authority.
  
13. Development shall not be occupied until such time as secure, covered, convenient cycle parking has been provided in accordance with the Essex Parking Standards, such parking shall be connected to the proposed cycleways by cycleway connections.
  
14. Prior to occupation of the proposed development, the Developer shall be responsible for the provision and implementation of Residential Travel Information Pack per dwelling, for sustainable transport, approved by Essex



County Council, to include six one day travel vouchers for use with the relevant local transport operator.

### **OTHER CONDITIONS**

15. (a) The development shall be carried out in accordance with the Written Scheme of Investigation for Archaeological Evaluation by RPS (January 2023) Version 3.
- (b) Following the completion of the works set out in the Written Scheme of Investigation, A mitigation strategy detailing the excavation / preservation strategy shall be submitted to the local planning authority for approval in writing.
- (c) No development or preliminary groundworks can commence on those areas containing archaeological deposits until the satisfactory completion of fieldwork, as detailed in the mitigation strategy, and which has been approved in writing by the local planning authority.
- (d) The applicant will submit to the local planning authority a post excavation assessment (to be submitted within six months of the completion of the fieldwork, unless otherwise agreed in advance with the Planning Authority). This will result in the completion of post excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.
16. Prior to installation, a lighting design scheme for biodiversity shall be submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans, Isolux drawings and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory. All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

Reason: To allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species) and in accordance with Policy GEN7 of the Adopted Local Plan and the National Planning Policy Framework.

17. No landscaping development to take place until a detailed planting plan is submitted for approval to the LPA in consultation with the aerodrome safeguarding authority for Stansted Airport.

Reason: Flight safety – Birdstrike risk avoidance; to prevent any increase in the number of hazardous birds in the vicinity of Stansted Airport (STN) that would increase the risk of a Birdstrike to aircraft using STN.